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AGENDA

Committee	ENVIRONMENTAL SCRUTINY COMMITTEE
Date and Time of Meeting	TUESDAY, 16 JANUARY 2018, 4.30 PM
Venue	COMMITTEE ROOM 4 - COUNTY HALL
Membership	Councillor Patel (Chair) Councillors Philippa Hill-John, Owen Jones, Lancaster, Lay, Mackie, Owen, Wong and Wood

Time approx.

1 **Apologies for Absence**

To receive apologies for absence.

2 **Declarations of Interest**

To be made at the start of the agenda item in question, in accordance with the Members' Code of Conduct.

3 **Minutes** (*Pages 1 - 8*)

To approve as a correct record the minutes of the meeting held on 5 December 2017.

4 **Cabinet Response to Managing Section 106 Funding for the Development of Community Projects** (*Pages 9 - 166*) 4.40 pm

(a) Officers from the City Operations Directorate have been invited to attend, deliver a presentation and answer Member questions. Councillor Keith Jones, Chair of Cardiff's Planning Committee has also been invited to support the item;

(b) Questions by members of the Committee.

5 **City Operations Digitalisation Projects** (*Pages 167 - 174*) 5.20 pm

(a) Officers from the City Operations Directorate have been invited to attend, deliver a presentation and answer Members' questions;

(b) Questions by members of the Committee.

6 Improving Cardiff's Air Quality - Task & Finish Exercise - Verbal Update 6.20 pm

- Principal Scrutiny Officer to provide a verbal update on the Improving Cardiff's Air Quality task & finish exercise, to answer any Member questions and to identify a way forward for the report.

7 Environmental Scrutiny Committee Work Programme 2017/18 6.50 pm
(Pages 175 - 184)

- (a) Principal Scrutiny Officer to talk Members through the current content of the Environmental Scrutiny Committee Work Programme 2017/18;
- (b) Members will need to consider, suggest and agree future items for the Environmental Scrutiny Committee Work Programme 2017/18.

8 Way Forward 7.00 pm

9 Date of next meeting

Davina Fiore

Director Governance & Legal Services

Date: Wednesday, 10 January 2018

Contact: Graham Porter, 029 2087 3401, g.porter@cardiff.gov.uk

This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg

ENVIRONMENTAL SCRUTINY COMMITTEE

5 DECEMBER 2017

Present: County Councillor Patel(Chairperson)
County Councillors Philippa Hill-John, Owen Jones, Lancaster,
Lay, Mackie, Owen, Wong and Wood

19 : APOLOGIES FOR ABSENCE

Apologies were received from Councillor Lay.

20 : DECLARATIONS OF INTEREST

The following declarations of interest were made in accordance with the Members Code of Conduct:

Councillor Owen	Item 5	Personal Interest
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21 : MINUTES

The minutes of the meetings held on 5 October and 7 November 2017 were approved by the Committee as a correct record and were signed by the Chairperson.

22 : ROLES AND RESPONSIBILITIES FOR FLOOD RISK MANAGEMENT IN CARDIFF

The Committee received a report providing Members of the Committee with an opportunity to review the roles and responsibilities of the Council and its statutory partners in terms of managing flood risk in Cardiff.

The Chairperson welcomed Councillor Michael Michael, Cabinet Member for Clean Streets, Recycling and Environment; Andrew Gregory, Corporate Director; Matt Wakelam, Operational Manager; Tim England of Natural Resources Wales; and Nick Holt and Redmond Jenkins of Dwr Cymru/Welsh Water; to the meeting.

Councillor Michael was invited to deliver a brief statement. Councillor Michael stated that during the winter flooding was often at the forefront of people's minds. Flooding seems to be getting worse and the threat of flooding is taken seriously by the authority and its partners.

Members were advised that as a result of changing weather patterns and more localised high intensity rainfall events flooding risks have grown in recent years. Flooding can have a significant impact on property and businesses and flooding can come from a number of courses, including rivers, streams, the sea and more commonly from blocked drains and old sewers that are unable to cope with the volumes of water from heavy rainfall.

The Council and its partners share a commitment to reduce the risk of flooding in Cardiff and, although Cardiff has not had many significant flooding incidents, there are an increasing number of flooding incidents that occur in periods of heavy rain.

The Council acts as the Lead Local Flood Authority and has prepared a 'Local Flood Risk Management Strategy'. A copy of this document was appended to the report. The Strategy details the roles and responsibilities of the organisations working in Cardiff that contribute to flood risk management and explains how we aim to work together to reduce the consequences of flooding. As Lead Authority the Council is responsible for surface water, streams, culverts and ground water flooding. The Strategy also outlines the responsibilities of key partners such as Welsh Water, NRW and the Internal Drainage Board. An overview of the roles and responsibilities of each of the 'Risk Management Authorities' was contained within Table 2.1 of Appendix A to the report.

In addition to the external partners, a variety of service areas have a role in supporting the prevention of, and preparations for, flooding events, including Emergency Management, Harbour Authority, Highways, Housing, Planning, Social Services and Street Cleansing.

The objectives, priorities and statutory requirements of the Local Flood Risk Management Strategy were summarised in the report. Members were advised that the authority spends approximately £1 million annually on activities directly related to managing flood risk through the services provided by the Highways Drainage teams. Without maintenance it is estimated that in any given year the potential economic impact of local flood risk to properties will be over £13.2 million.

The Chairperson invited Tim England of NRW and Nick Holt of Dwr Cymru/Welsh Water to deliver presentations setting of their roles and responsibilities. Members were invited to comment, raise questions or seek clarification on the information received. Those discussions are summarised as follows:

- Members asked which body would act as the lead authority in the event of a major flooding event. Members were advised that in the event of a major flood a multi-agency Local Resilience Forum would be established which would be chaired by colleagues in South Wales Police. All partners would participate. For smaller flooding events NRW would lead and for flooding from water courses the local authority would take the lead.
- Members were advised that an Emergency Management plan is in place to respond to local flood events. Silver Command Officers will work to manage such events; to dedicate resources to limit the extent of flood damage; and to advise residents. As there are systems in place that provide good data in terms of the likelihood of flood events, the authority has up to 12 hours to prepare in the event of flooding.
- Responding to a question from the Committee, Nick Holt of Dwr Cymru/Welsh Water advised that he did not have the figures available for the operational capacity of local sewage treatment plants, but he gave an undertaking to advise Members accordingly in due course.
- A Member asked whether the authority has sufficient resources available to provide the additional services required in the future. Officers stated that in terms of the strategic element of the service there were sufficient resources in place, with the only area of growth being sustainable drainage systems (SuDS). The operational element must expand as the City expands and resources will need to

be made available to manage the City's growth. Improved asset management will enable those resources to be best utilised. Members were also advised that the authority is aware of the flood risk assessments in the LDP and it was seeking to get developers to provide resources to manage flood risk.

- Efforts were also being made to raise awareness and preparedness amongst members of the public in flood risk areas. The authority and its partners are targeting high-risk locations with a view to raising awareness and providing advice and guidance. A Member asked whether there were any local 'flood groups' – groups of residents who are trained to react during flood events – established in Cardiff. Members were advised that there is 1 flood group in Roath and NRW have carried out awareness raising sessions in Riverside. NRW have consulted the Council's Emergency Management Team in order to prioritise where the awareness raising sessions should be delivered. Work in this area was ongoing and would continue.
- Members asked how proactive or responsive the authority was when clearing drains blocked by 'leaf drop'. Officers stated that cleansing and drainage teams have improved engagement and work together to target areas identified as hot-spots. The Directorate is looking to further improve a strategic approach by improving software and intelligence in order to better identify major risk areas and target resources accordingly. Furthermore, it is also possible to prioritise resources at times of high demand and use cleansing operatives to back up drainage teams when necessary.
- Members noted that the authority spends approximately £1 million per annum on activities related to flood management and that if the Council stopped carrying out these actions then it is estimated that the potential economic impact of local flood risk to properties would be over £13.2 million. Members asked how the latter figure was calculated. Officers advised that the figure reflects the estimated insurance liabilities for flood damage to property and loss of earnings.
- Members asked whether sufficient resources were being allocated to gulley clearance. Officers indicated that additional resources would allow flood risk to be reduced further. 26,000 properties were at risk of flooding and officers asked how that figure can be reduced within the finite resources available. The Cabinet Member added that new developments will have better drainage systems built in, which will help to further mitigate flood risk.
- In relation to the 348 sewer flooding incidents listed in the report, Members asked whether it has been possible to identify any commercial causes. Nick Holt stated that it was difficult to attribute such flooding incidents to specific premises, but Dwr Cymru/Welsh Water provide advice to business regarding the best methods to dispose of fat, oil and grease. Matt Wakelam advised the Committee that commercial premises that do need to have a waste transfer contract in place risk being issued with a Fixed Penalty Notice.
- Officers confirmed that Cardiff compares favourably with other authorities in terms of its flood defences.

RESOLVED – That the Chairperson writes on behalf of the Committee to the Cabinet Member to convey the Committee's comments and observations.

23 : ROATH FLOOD SCHEME

The Committee received a report providing an opportunity to review the progress of the development and implementation of the Roach Flood Scheme.

Members were advised that in many homes and businesses in the Roath area of the City are at risk from flooding. Roath Brook burst its banks in 2007, 2009, 2010 and 2012 during high river flows and high tides. It is anticipated that flooding will increase over time, as sea levels rise and more frequent and intense heavy rainfall are predicted. The Welsh Government has made a commitment to provide funding to flood risk management schemes in Wales in order to minimise the risk and mitigate the impact of flooding events. Natural Resources Wales (NRW) are in the process of delivering a Flood Risk Management Scheme in the Roath area at several locations along the Roath Brook between Roath Brook Gardens and the River Rhydney at Newport Road. Flood risk mitigation measures consisted of flood walls and embankments, to include landscaping. NRW were also to widen the channel in Roath Brook Gardens and enhance a number of bridges to increase the brook's flow capacity.

In order to achieve the required flood protection the removal of some trees along the banks of Roath Brook is necessary. NRW commissioned a survey of all trees in the four gardens and identified the trees to be removed, those that would need protecting and where additional planting is required.

Members were advised the NRW acknowledges the concerns of the local community and the design of the scheme has attempted to minimise the impacts. However, the scheme will involve the removal of 149 trees and to compensate for this NRW will plant 105 trees. Of the 149 trees identified for removal 111 are categorised as low quality, decaying, dead or young and 38 are categorised as mature, good quality or high quality.

NRW aims to ensure that the Roath Flood Scheme provides a positive contribution to the community by planting additional trees in parkland throughout Cardiff and by working with a local school offering tree saplings to school children for home planting. This will allow NRW to increase the overall planting to offset those trees which are removed and cannot be replaced. The integration of public art into the scheme will also support the goals of the Well-Being of Future Generations (Wales) Act.

The report provided details of the public consultation undertaken as part of the scheme. The feedback received from the consultation exercise was used to shape the final design. Public consultation included:

- Door knocking and public meetings
- Public drop-in sessions
- Stand at Waterloo Gardens Fete
- Walkover the site with local residents
- Press adverts, site notices and consultation letters to properties bordering the gardens
- Regular updates via newsletters, posters, webpage and social media

The Chairperson welcomed Tim England, Gareth Jones and Paul Isaac from Natural Resources Wales and Dr Johansson, representing local residents. Gareth Jones was invited to deliver a presentation on the Roath Flood Scheme. Dr Johansson was invited to deliver her presentation on possible alternative solutions. The Committee also receive representation from a number of local residents.

The Chairperson invited Member of the Committee to comment, seek clarification or raise questions on the information received. Those discussions are summarised as follows:

- A Member asked if the works proposed in 2 gardens did not proceed, how many trees would have been cut down anyway and how much money would be saved. Gareth Jones advised that the costs for separate models were not available and therefore the costs of not proceeding as some locations were unclear. It was also not clear how many of the trees would have been cut down. The approximate cost of cutting one tree is £1,000.
- Members were advised that 122 mature trees would replace the 140 scheduled to be cut down. Gareth Jones stated that it was proposed to replace the trees to be lost with quality trees with room to establish themselves rather than replace the quantity of trees lost.
- Members acknowledged that this was an emotive issue and members of the public were concerned. However, the Committee were assured that the trees lost are to be replace with mature specimens. Gareth Jones confirmed that in order to minimise the impact of the scheme on local residents a high quality design, with good diversity and stock would be provided.
- The Committee was advised that the lifespan for the scheme was 100 years. The standard of flood protection can be raised if the flood risk increases in the future. Any such decision would be evidence based and climate change statistics and guidance will be kept under review.
- Gareth Jones confirmed that CADW were consulted as a formal stakeholder. CADW did not object to the planning application.
- Member considered that contrasting representations were received regarding the necessity of the flood defence scheme. Gareth Jones stated that NRW decisions were evidence based and NRW were confident that their evidence was robust and accurate. There were 432 along the length of the scheme, of which 140 were to be felled, representing 1/3. 122 were be replanted and therefore 5% would be lost. Gareth Jones did not consider this to be a significant number and it was considered in the design of the scheme. Trees would be replanted in the same or similar locations in order to reduce the visual impact of the scheme.
- Members were advised that it was not possible to delay the implementation of the scheme as the bird nesting season begins in April and in a worst case scenario the scheme would be delayed until birds have fledged.
- Gareth Jones confirmed that the original budget for the scheme was £15.7 million – this was reduced to £11.5 million. The main costs were in the construction and

design of the scheme.

- Responding to a question from the Committee, NRW agreed to provide a summary of the range of public consultation undertaken.
- There are other similar schemes including examples in Dolgellau and Hereford. NRW have committed to undertake maintenance in all parks for a 3-year period and beyond that financial support will be provided to the Council.
- Members asked whether retractable flood barriers have been considered as a solution. Gareth Jones stated that this approach was considered as part of the options appraisal exercise, but barriers are expensive and their use would require the diversion of other services and therefore barriers would not be considered viable.
- Members were advised that a compensation scheme was available for small businesses in areas affected. The cost of the compensation scheme was included within the £11.5 million budget. Interim payments have been made to a number of businesses.

RESOLVED – That the Chairperson writes on behalf of the Committee to the Cabinet Member to convey the Committee's comments and observations.

24 : CITY OPERATIONS DIRECTORATE AND COMMERCIAL & COLLABORATIVE SERVICES - QUARTER 1 & 2 PERFORMANCE REPORTS 2017/18

The Committee received the City Operations and Commercial and Collaborative Services Quarterly Performance reports for Quarters 1 and 2 2017/18. Members were asked to consider and comment on the contents of the performance reports.

A number of key observations from the performance reports for each directorate were summarised in the cover report.

The Chairperson welcomed Councillor Michael Michael, Cabinet Member for Clean Streets, Recycling and Environment; Andrew Gregory, Corporate Director; and Tara King, Assistant Director; to the meeting. The Cabinet Member made a brief statement and the officer provided a presentation on the performance report results.

Members were asked to comment, seek clarification or raise questions on the information received. Those discussions are summarised as follows:

City Operations

- Members asked what percentage of total overspend related to sickness absence and whether it would be possible for officers to provide a comparative breakdown of the costs of long term and short term sickness absence. Officers did not have the information available but offered to provide these details with the Committee.
- A Member asked how many vehicles were fitted with in-cab technology. Officers stated that discussion around moving to mobile and in-cab technology were ongoing.

- Members welcomed technological improvements such as the car parking monitoring system. However, Members were concerned that technology was lacking in other areas, such as parking enforcement, which still relied on a paper based system. The Corporate Director agreed and stated that the service area is focussing on the systematic digitalisation of parking enforcement.
- Members were surprised that 95% of streets were rated as high or acceptable in terms of cleanliness. Officers accepted that some streets are below standards and the service is attempting to tackle issues earlier by adopting a total street scene approach.
- Members asked what the objectives of the 20mph zones were and whether they were being met. Officers stated that the aim was to ensure that areas that are most trafficked are safe environments. The 20mph zones underpin active travel, model shift and other benefits.

Commercial Services

- The Committee welcomed the proposal to move towards hybrid fleet vehicles.
- Concerns were expressed regarding the 18,000 missed collections reported. Members asked what proportion of the overspend related to missed collections. Members were advised that in-cab technology will assist in reducing and preventing service failures. Many missed collections are the result of access issues and some waste is presented late by residents. In the future if missed collections are reported quickly then the new system will allow operatives to return. The Cabinet Member stated that of 24 million collections, 18,000 were missed – or 0.25%. There were a variety of reasons for missed collections including fallen trees and roadworks. The target was to reduce the 18,000 missed collections to zero.
- Responding to a point made by a Member of the Committee, officers indicated that when repeat failures occur were often acute issues to consider, such as access issues.
- Members asked whether the in-cab technology can also be used by operatives to report issues on the ground, such as fly-tipping. Officers confirmed that there was a mechanism by which issues could be reported.
- Members requested feedback on the scheme to improve the quality of garden waste. Members were advised that contamination levels have been reduced and there was a marked improvement in the quality of garden waste. Officers agreed to provide further information on this point.
- Members asked how sickness absence rates in waste collection teams compared with other local authorities. Members were advised that Cardiff's the sickness absence rates in these teams were similar or lower than in other local authorities. However, in the private sector rates are lower but they have different policies with a harsher line attendances.

RESOLVED – That the Chairperson writes on behalf of the Committee to the Cabinet Member to convey the Committee’s comments and observations.

25 : ENVIRONMENTAL SCRUTINY COMMITTEE - WORK PROGRAMME
REVIEW

RESOLVED – That:

- (1) Future meetings would focus on fewer items so that to ensure that items are thoroughly scrutinised;
- (2) A Member made a request that future agenda items should be reviewed to ensure that there was a practical purpose for the scrutiny. In making this point the Member questioned the merits of the Roath Flood Scheme scrutiny and suggested that future items should be assessed to make sure that the scrutiny could add value;
- (3) To reflect the requests made in (1) and (2) above, the Committee agreed to receive a revised work programme at its meeting on 16 January 2018.

26 : DATE OF NEXT MEETING - 16 JANUARY 2018

Members were advised that the next Environment Scrutiny Committee is scheduled for 16 January 2018.

The meeting terminated at 9.20 pm

This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg

**CYNGOR CAERDYDD
CARDIFF COUNCIL**

ENVIRONMENTAL SCRUTINY COMMITTEE

16 JANUARY 2018

**CABINET RESPONSE – MANAGEMENT OF SECTION 106 FUNDING FOR THE
DEVELOPMENT OF COMMUNITY PROJECTS**

Background

1. The Environmental Scrutiny Committee agreed as part of their work programme to undertake an inquiry into the Managing Section 106 Funding for the Development of Community Projects. As a result, the Committee agreed to set up Task and Finish Group Inquiry. The terms of reference were agreed as follows:

The aim of the inquiry is to provide Members with the opportunity to explore and consider how Section 106 funding can be used to fund the development of community projects. This will include reviewing:

- *The definition of Planning Obligations / Section 106 funding – to include the constituent parts of this funding mechanism;*
- *The regulations governing what type of community projects can be sought through the Section 106 funding process;*
- *An overview of Section 106 contributions received by the Council including financial payments and in-kind provision;*
- *The resources used by the Council in managing the Section 106 funding process;*
- *The mechanisms used for recording Section 106 funding contributions and ensuring that the terms of these developer contributions are met, for example, they are not returned due to failure to meet deadlines;*
- *How Section 106 funding has historically been calculated and allocated to fund identified projects;*
- *The consultation and engagement which takes place between councillors, officers and the public;*

- *The impact of the Community Infrastructure Levy Regulations on the Section 106 funding process. How community projects are identified through the Section 106 process and potential improvements which could be introduced;*
- *The strengths and weaknesses of gathering Section 106 funding for the development of community projects;*
- *The developer view of the Section 106 funding process;*
- *Examples of good practice in using Section 106 funding to develop community projects.*

2. The task group Inquiry was informed by evidence and advice from the following:

- Councillor Ramesh Patel, Cabinet Member for Transport, Planning & Sustainability;
- Councillor Michael Michael, Chair of Cardiff's Planning Committee;
- Simon Gilbert - Operational Manager, Development Management (Strategic & Place Making), Cardiff Council;
- Michael Barnett – Planner, Cardiff Council;
- Vesna Coles, Solicitor, Cardiff Council;
- Don Davidson, Group Leader – Neighbourhood Regeneration, Cardiff Council;
- Gladys Hingco, Scrutiny Research Manager, Cardiff Council;
- Luke Catterson, Scrutiny Research Officer, Cardiff Council.

3. The report was presented to Cabinet on the 21st September 2017; a copy of the report has been attached to this report as **Appendix 1**. A full response was agreed by Cabinet on the 16th November 2017; a copy of the full response has been attached to this report as **Appendix 2**.

Cabinet Response to Recommendations

4. The scrutiny report made a single process recommendation that required a Cabinet response; the recommendation was accepted. The recommendation was based on eight basic elements, these were:

- The creation of a project list;
- An identified project point of entry for new ideas;

- A project validation & assessment process;
 - Project decision making (approval or rejection);
 - A project list to act as a storage point for ward based projects;
 - Specified geography for each project list;
 - An access point for complementary services;
 - Supporting resources.
5. Full details of the response and future actions are contained in **Appendix 2** of this report.
6. Since the meeting on the 16th November 2017 officers have started developing the details required to address proposal. A report will be submitted to Cabinet in the near future setting out how the new process for managing section 106 for community projects will operate. Subject to Cabinet approval, the new process will be introduced in the 2018/19 financial year.

Way Forward

7. Officers from the City Operations Directorate have been invited to attend the meeting. They will provide a summary of the Cabinet response and answer any questions that Members may have. The Chair of Planning has also been invited to support the item
8. Members may consider the response contained in the attached **Appendix 2** and provide any comments, advice or recommendations relevant to the contents of this report.

Legal Implications

9. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not making policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to the Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be

within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

10. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not making policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATIONS

11. The Committee is recommended to consider the Cabinet response, the information presented at the meeting and then provide the Cabinet Member and City Operations Directorate with any comments, concerns or recommendations.

Davina Fiore

Director of Governance and Legal Services

10 January 2018

s c r u t i n y



Report of the Environmental Scrutiny Committee

Management of Section 106 Funding for the Development of Community Projects

March 2017



City and County of Cardiff

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Appendices

- **Appendix 1** – Scrutiny Research Report – ‘Selected Local Authorities’ – Section 106 & CIL Community Project Consultation’
- **Appendix 2** – Funding for Community Projects – Flow Chart

CHAIR'S FOREWORD

Over the last decade local authority funding has suffered as a series of budget cuts have been thrown in our direction. These reductions have had a direct impact on the services that we provide and the support that we offer to the communities we serve. Unfortunately, it seems as though these austerity measures are here to stay and that Councils will have to continue to take difficult decisions. We are on a journey that is moving us from being a service provider to becoming a service facilitator and as such, we need to think carefully about how we use all of our limited resources to best support the services we provide and our local communities.

With this thought in our minds the 'Management of Section 106 Funding for the Development of Community Projects' task group reviewed how best to use 'planning obligations' or 'developer contributions' to support vitally important community projects. We explored a range of key factors including the recent legislative changes, how funds are distributed and the current decision making process. Having considered this information we created a recommendation which I hope will be implemented as an improvement on the current approach and that puts local councillors at the forefront of the decision making process.

Finally, I would like to thank everyone involved with this inquiry. This includes the councillors on the task & finish exercise, all of the witnesses and the staff from Scrutiny Services. The input from the witnesses was exceptionally useful – particularly from the Planning Service, the Cabinet Member for Transport Planning & Sustainability and the Chair of Cardiff's Planning Committee. I hope that the recommendations of this report are supported and that it results improvements in the provision of community projects in Cardiff.



Councillor Paul Mitchell

Chairperson – Environmental Scrutiny Committee

INQUIRY METHODOLOGY

This Environmental Scrutiny Committee task & finish exercise considered a topic titled 'Management of Section 106 Funding for the Development of Community Projects'. In reviewing the various options the group drew upon a number of information sources including:

- Witnesses from Cardiff Council's Planning Service; Cardiff Council's Legal Services; Cardiff Council's Neighbourhood Regeneration Team and Cardiff Council's Scrutiny Research Team;
- Cardiff Council's Cabinet Member for Transport, Planning & Sustainability and the Chair of Cardiff's Planning Committee;
- Evidence gathered by Cardiff's Scrutiny Research Team and presented in a report titled '*Selected Local Authorities' Section 106 and CIL Community Project Consultation*' – which is attached to this report as **Appendix 1**.

From this body of evidence the Members identified a series of key findings and created one single process-based recommendation to drive forward the management of Section 106 funding for the development of community projects.

The Environmental Committee received the draft task & finish report and its recommendations at a meeting in March 2017. They accepted the content of the report and its findings and delegated authority to the Chair of the Committee to make any alterations he felt were appropriate to finalise the document so that it could be sent to the Council's Cabinet for consideration.

The task & finish exercise was based on the terms of reference for the inquiry which can be seen on page five of this report.

INQUIRY TERMS OF REFERENCE

The aim of the inquiry is to provide Members with the opportunity to explore and consider how Section 106 funding can be used to fund the development of community projects. This will include reviewing:

- The definition of Planning Obligations / Section 106 funding – to include the constituent parts of this funding mechanism;
- The regulations governing what type of community projects can be sought through the Section 106 funding process;
- An overview of Section 106 contributions received by the Council including financial payments and in-kind provision;
- The resources used by the Council in managing the Section 106 funding process;
- The mechanisms used for recording Section 106 funding contributions and ensuring that the terms of these developer contributions are met, for example, they are not returned due to failure to meet deadlines;
- How Section 106 funding has historically been calculated and allocated to fund identified projects;
- The consultation and engagement which takes place between councillors, officers and the public;
- The impact of the Community Infrastructure Levy Regulations on the Section 106 funding process. How community projects are identified through the Section 106 process and potential improvements which could be introduced;
- The strengths and weaknesses of gathering Section 106 funding for the development of community projects;
- The developer view of the Section 106 funding process;
- Examples of good practice in using Section 106 funding to develop community projects.

SUMMARY KEY FINDINGS

Management of Section 106 Funding for the Development of Community Projects – Meeting 1 – Tuesday 23 February 2016

This meeting set the background and context for the task & finish exercise. It focused on the following key areas:

- Background - Section 106 Agreements & Community Facilities;
- The recent changes applied to Section 106 Agreements.

Councillor Ramesh Patel (Cabinet Member for Transport, Planning & Sustainability), Councillor Michael Michael (Chair of Cardiff's Planning Committee), Simon Gilbert (Operational Manager, Development Management - Strategic & Place Making) and Michael Barnett (Planner) attended the meeting and provided the inquiry with background information on the 'Management of Section 106 Funding for the Development of Community Projects'.

In particular a suggested approach for identifying potential ward-based community projects was put forward. Information was provided around how the Council currently uses Section 106 contributions for the development of community projects and the recent legislative changes impacting on Section 106 contributions were referenced. The key findings and recommendations relating to these areas are set out below:

- Section 106 Contributions (Planning Obligations) are sought either through in-kind provision or as a financial contribution. They need to be for site-specific infrastructure which is required as a result of development or to mitigate the impacts of development. Section 106 Agreements are defined as bilateral agreements, i.e. both parties have to agree to the signed agreement.

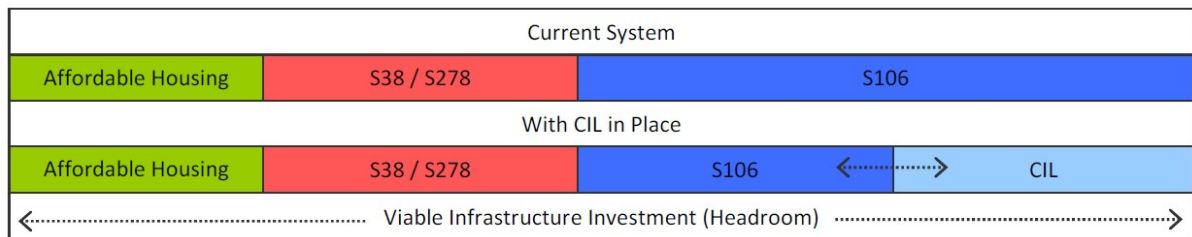
- There are several different types of Section 106 Contributions, these include those made for:
 - Affordable Housing;
 - Transportation;
 - Education;
 - Open Space;
 - Community Facilities;
 - Other (Economic Development Initiatives, Waste Management, Public Realm).

- For a Section 106 Contribution to be accepted it must pass three legal tests, these are that they have to be:
 - Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.

- The scope of S106 Contributions from a policy context is defined by the following policy documents:
 - Planning Policy Wales;
 - Cardiff Local Development Plan 2006-2026;
 - Supplementary Planning Guidance;
 - Cardiff Infrastructure Plan;
 - Service Area Strategies and Action Plans.

- Since April 2010 a new developer contribution called the Community Infrastructure Levy (CIL) has been available to local authorities in England and Wales. The CIL sits alongside Section 106 Contributions, i.e. it is not additional funding to Section 106 monies and must be found from the same 'viable infrastructure investment headroom'. This is illustrated in **Figure 1** of this report.

Figure 1 – Viable Infrastructure Investment (Headroom)



- The basic rule for these two types of developer contribution are that Section 106 Contributions are tied to the development site, i.e. must provide local infrastructure, while the majority of the CIL can be spent across the county, i.e. it is not linked to the site / strategic infrastructure.
- 15% of the funding generated through CIL within a particular ward / local neighbourhood boundary has to be spent within the area. When there is a community council within the area the 15% funding is allocated to them so that the money can be spent on whatever the community council deems appropriate. The 15% funding allocation to community councils is capped at a £100 contribution per dwelling across the overall area.
- The CIL is a non-negotiable fixed charge on development (£ per sqm); it is anticipated that the CIL will be introduced into Cardiff in 2017. Officers explained that the new CIL Regulations would affect Section 106 Contributions in Cardiff in the following way:
 - **Pre April 2015** – the Section 106 contributions were calculated using a formula based approach toward requests for contributions ($X \times Y = Z$); there was no restriction on the pooling of contributions, i.e. most agreements used the phrase ‘in the vicinity’ to support the action. Priorities for expenditure could be determined after contributions had been received.
 - **Post April 2015** – for Section 106 agreements new expenditure priorities need to be identified up front to meet the tests in the CIL Regulations (i.e. within the eight week planning application period).

Projects need to be site specific (not 'in the vicinity') and pooling is restricted to five contributions for any one project or type of infrastructure ('pooling of 5').

- The Council published a Planning Obligations Supplementary Planning Guidance document in the autumn of 2016 and hopes to achieve CIL Adoption and the Publication of Regulation 123 List in 2017.
- Data Gathering - In the future the Council will need to collect an annual list of member priorities to help support how the CIL Regulation 123 list is created and identify how other developer contributions are used. They are also working on a system to collect a list of 'Top five' projects – this would be collated and circulated to Service Areas to inform requests for Section 106 contributions and the preparation of strategies and action plans. The detail on this approach needs to be established and agreed.
- Planning obligations can come in the form of financial contributions or as the provision of a facility in lieu of a financial contribution. Both options have their respective benefits, and assessing the best option for meeting the required planning obligation needs to be assessed on a development by development basis.
- The current definition of community facilities is very loose and can potentially involve providing facilities for third parties. The value allocated for community facilities is calculated using a standard formula.
- The definition on how Section 106 contributions are applied is very interesting, for example, if the description is too specific then it can create difficulties when trying to match a scheme to the actual funding source, i.e. the slightest variation from the specific terms could make a scheme ineligible.

- Several Councillors and Planning Officers are of the opinion that it would be very useful for the Council to develop a method for recording Member priorities so that funding from planning obligations can be quickly and appropriately applied. For example, an established list of Councillor priorities would ensure that planning obligations for community facilities are matched to schemes that satisfy the terms of the planning obligation in the early stages of the planning process.
- Funding from Section 106 Agreements which is not used within a certain timescale can result in a clawback equal to the value of the agreement – this clawback period is defined within the Section 106 Agreement.
- Being well organised and having an established list of projects is a very good approach for informing planning obligations. It means that when new planning obligation funding becomes available it can be quickly matched to the appropriate people and projects.
- Some Councillors felt that there was a tendency for service areas to use funding from planning obligations to fund items that fall within the category of ‘business as usual’. They felt that this was not really what the funding was designed for and that local councillors were better placed to identify where the funding should be spent.
- Planning Officers reiterated that the use of funding from planning obligations was process driven and that the successful projects that received funding always had to be necessary, directly related and fair in scale and kind.
- The fact that it was no longer possible to pool five or more Section 106 contributions for one project was reiterated, however, it was emphasised that this could be overcome by specific / detailed creation of the new agreements, for example, breaking S106 funded projects into smaller parts.

- The planning system currently includes a three-week window to define priorities for Section 106 Agreements. It was felt that this was a challenge and that the current approach leaves officers having to second guess Councillor priorities regarding where the money is spent. A ready-made list of projects would help address this problem.
- Councillors agreed that there was an obvious need to define clear guidelines for the use of funding from Section 106 contributions. This would ensure that Members were always aware of the funding available from planning obligations and that a prioritised list of projects is always available. A good process would take any conflict of interest out of a decision making exercise which would help all parties involved.
- A Councillor felt that a good process would remove the need to have early meetings with developers regarding how monies from planning obligations are spent. Instead they could be referred to the process and the list which could then feed into the planning process. The reduction in the number of Council meetings with developers would create a staff / time saving for the Planning Service.
- Councillors felt that a key quality of a good project is that it should be achievable; there is no point in having projects which are impossible to deliver and maintain on the list. Any adopted process would need to include a through project evaluation process.
- A Planning Officer emphasised that it was important not to over empower and raise community expectations too much, i.e. there would be a need to remind people that an adopted community projects list would only be for community projects and that the other categories of Section 106 funding were very much off limits. The only areas in scope for community input are community facilities, upgrades to open spaces and environmental improvements and incidental or local highways work.

- Councillors agreed that it is essential for any proposed community project to be supported by a proper and detailed business plan. It is important to understand how the community project is going to be delivered and managed so that it doesn't fail.

- Some Councillors felt that moving to a system of third party management of community facilities was essential given the current financial pressures on the Council budget.

- Councillors felt that it was vitally important to have a central source for storing information on the development of community facilities. This should include:
 - A list of suitable funding sources for the development and support of community facilities (to include funds from planning obligations and other sources);
 - Details of how these funding sources can be accessed;
 - Details as to how projects can be added to the register and the process that needs to be followed;
 - The central source for storing this information should be supported by a co-ordinating officer who would be responsible for supporting the process.

Management of Section 106 Funding for the Development of Community Projects – Meeting 2 – Wednesday 13 April 2016

This meeting received information from three separate sources, these were:

- Vesna Coles, a solicitor for Cardiff Council who was invited to attend the meeting to brief Councillors on the legal aspects of Section 106 Agreements;
- Simon Gilbert – Operational Manager, Development Management (Strategic & Place Making) and Michael Barnett – Planner were invited to attend to provide Councillors with an update on the development of the new Supplementary Planning Guidance for Planning Obligations;
- Don Davidson, Group Leader – Neighbourhood Regeneration was invited to attend the meeting to brief Councillors on the use of Section 106 Funding to develop community projects.

During the first part of Meeting 2 Vesna Coles briefed Councillors on a number of legal aspects relating to Section 106 Agreements.

These included:

- How a Section 106 agreement is written;
- The obligations placed on the relevant parties by Section 106 Agreements;
- What can and cannot be included in the various aspects of a Section 106 Agreement (with particular reference to the community funding);
- The changes to the process since the implementation of the Planning (Wales) Act 2015 and the impact that has had on writing new Section 106 Agreements;
- The challenges involved in writing a Section 106 Agreement.

The key findings and relating to this part of Meeting 2 are set out below:

- A Legal Services Officer explained that a Section 106 Agreement is an agreement made under Section 106 of the Town and Country Planning Act 1990. These agreements are sometimes called 'Planning Obligations' or 'planning gain'. A Section 106 Agreement is a legally binding private contract between a developer (or a number of interested parties) and a Local Planning Authority (LPA) that operates alongside a statutory planning permission. Such agreements require developers to carry out specified planning obligations when implementing planning permissions and are the result of negotiations on these matters between the parties. An agreement may be entered into to prescribe the nature of development, to secure a contribution from a developer to compensate for any loss or damage caused by a development, or to mitigate a development's wider impact.
- Obligations can be delivered either by providing what is needed to a standard set out in the agreement or by paying a sum to the LPA which will then itself provide the facility, or by a combination of both. The LPA may use formulae and standard charges as a means of making quantitative estimates of the level of contributions that are likely to be sought for a particular type of planning obligation from an individual development.
- Planning permission is sometimes granted subject to the signing of a Section 106 Agreement. No final decision notice will be issued for the application until the Section 106 Agreement has been signed. The date that the Section 106 Agreement is signed becomes the decision date for the permission. The Section 106 Agreement is a legal charge on the land, so it will transfer automatically with any subsequent change in ownership.

The Purpose of a Section 106 Agreement

- For the majority of planning decisions, LPAs rely upon planning conditions attached to a planning permission to control development. Section 106 Agreements differ from planning conditions in that they can apply to matters on and off the development site. They can also extend to the payment of a sum of money to an LPA. In a situation where there is a choice between imposing planning conditions and entering into a Section 106, the imposition of a planning condition should be chosen.
- Section 106 Agreements assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. They are useful arrangements to overcome obstacles that may otherwise prevent planning permission from being granted. Contributions from developers may be used to offset negative consequences of development, to help meet local needs, or to secure benefits that will make development more sustainable.
- An agreement may only be included as a condition of granting planning permission if it meets the statutory tests that any planning obligations in the agreement are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. Examples could include providing direct site access, flood protection and wildlife protection measures and on-site leisure provision such as open space.
- Section 106 Agreements can be used to secure the provision of affordable housing or financial contributions towards the provision of affordable housing. Contributions from developers collected through Section 106 Agreements can also be pooled towards infrastructure developments such as a local school, but the scope to do this is now more limited since the introduction of the CIL regulations.

How are Section 106 Agreements Agreed?

- LPAs should include in their Local Development Plans general policies about the principles and use of planning obligations; including matters to be covered by planning obligations and factors to be taken into account when considering the scale and form of contributions or the level of affordable housing provision. Supplementary Planning Guidance also prepared by the LPA will normally go into greater depth about the likely level and type of obligations that will be sought, either across the LPA or within a particular geographical area. LPAs should make available sufficient information on their planning obligations policies to enable applicants to understand clearly what type and level of planning obligations the LPA is likely to seek from them.
- Discussions about planning obligations should take place as early as possible in the planning process, including at the pre-application stage. This should prevent delays in finalising those planning applications granted subject to the completion of Section 106 Agreements. LPAs and developers have sometimes used independent expert mediators to help in the process of negotiating the detail of planning obligations for complex or major applications, to help to facilitate in dispute resolution where disputes are unduly delaying negotiations.
- LPAs should ensure that all agreed planning obligations are registered as local land charges. The local land charges register is open to public inspection and should contain a description of the charge and details of where the relevant documents may be inspected.

How are Section 106 Agreements Enforced?

- In order to ensure that agreed planning obligations are implemented effectively LPAs should have systems in place to be able to monitor the timely and efficient delivery of obligation and take any enforcement action where necessary.
- If a Section 106 Agreement is not complied with, it is enforceable by injunction against the person that entered into the obligation and any subsequent landowner. The decision whether, and how, to enforce a planning obligation is one for the LPA having regard to its planning objectives. The LPA has powers to enter onto the land to carry out the works itself and to recover its reasonable expenses for so doing.

How does the Community Infrastructure Levy (CIL) differ from Section 106 Agreements?

- Where the CIL is introduced by an LPA, it is expected in part to replace the funding previously provided under S106 agreements. The CIL is intended to provide infrastructure to support the development of an area rather than to make individual planning applications acceptable in planning terms. Planning Policy Wales states that there is still a legitimate role for development-specific planning obligations to enable a LPA to be confident that the specific consequences of development can be mitigated. Unlike CIL, contributions under Section 106 agreements are negotiable.
- The CIL Regulations introduced statutory restrictions on the use of S106. The main reason for this is to avoid the potential situation where a developer could be paying through both the CIL and a S106 for the same thing.
- Regardless of whether or not CIL has been introduced in an area, from April 2015 the UK Government has also restricted the number of S106 contributions that can be “pooled” to pay for new infrastructure. Previously such contributions from a number of different developments could be collected together to help pay for new infrastructure, such as a new school, but now a maximum of five such contributions from April 2010 onwards are allowed. This is to encourage further take-up of CIL by LPAs.
- Authorities introducing CIL should publish a list of those projects or types of infrastructure that it intends to fund, or may fund, through the levy (known as a Regulation 123 list). S106 agreements can then only be used for matters that are directly related to a specific site, and are not set out in a Regulation 123 list. As part of the planning system, S106 agreements are a devolved matter, whilst the CIL is not.

How do Section 106 Agreements for Affordable Housing Work?

- National planning policy states that both planning conditions and S106 agreements may be used, where justified, to achieve the development and use of land in a way that contributes to meeting the identified need for affordable housing and to achieving mixed and sustainable communities. The CIL cannot be used to collect contributions for affordable housing.
- The Welsh Government published its practice guidance on this in July 2008. Its aim was to assist LPAs improve the development, negotiation and implementation of S106 agreements so that more affordable housing is delivered through the planning system. An update to this guidance was issued in 2009 following the economic downturn.
- Local Development Plans must include an authority-wide target (expressed as numbers of homes) for affordable housing to be provided through the planning system, based on the housing need identified in the Local Housing Market Assessment. Development plans should also set out site-capacity thresholds above which a proportion of affordable housing will be sought. Negotiating the amount and type of affordable housing to be provided should take account of a scheme's viability and any other planning obligations (e.g. road access improvements).
- Development plans and/or Supplementary Planning Guidance (SPG) should set out the circumstances where LPAs will use planning conditions or S106 agreements to ensure that the affordable housing provided is occupied in perpetuity by people falling within particular categories of need.
- Onsite provision of affordable housing is preferred, but in exceptional circumstances the provision can be off-site. In some cases a financial contribution in lieu of on-site provision (a commuted sum) is preferred. The

Welsh Government's guidance suggests that such Section 106 Agreements should include some or all of the following:

- Defining what is affordable;
 - Determining the tenure of affordable housing;
 - The mix and timing of delivery, specification and standards;
 - Access and management;
 - The rules on affordable housing in perpetuity;
 - Use of developer contributions (off-site or commuted sums); and
 - Small rural exception sites solely for affordable housing.
-
- Councillors were reminded that the adoption of the LDP meant that the Council is now in the process of reviewing its Statutory Planning Guidance documents to assess the types of obligations required in different areas. Having a clear set of rules provides certainty for developers.

 - It was stated that it is always important to enter into discussions with developers about Section 106 Agreements at the earliest possible opportunity.

 - A Councillor asked for confirmation as to how large a development needed to be to trigger a Section 106 Agreement. He was told that Section 106 Agreements for affordable housing used to be triggered by ten units; however, this has now been reduced to five. The amount of open space provided as a result of the development depends on the number of persons generated by the development.

 - A Section 106 Agreement only comes into force once the planning permission is actually agreed. Section 106 Agreements typically last for five years however; this depends on the content of the Section 106 Agreement. If a planning permission lapses then the Section 106 Agreement lapses with it. In Wales it is possible to apply for additional time for delivery of a planning consent; this isn't possible in England.

- How a Section 106 Agreement is constructed and negotiated is down to the local authority, however, the process is subject to guidelines and has to pass a series of three statutory tests to be acceptable in planning terms. Infrastructure is necessary if the need is actually created by the development.
- Maintenance of any infrastructure is generally borne by the local authority. Where open space is provided as a part of a Section 106 Agreement then this will normally be supported by a commuted sum to cover maintenance costs.
- A planning officer assesses whether a project to be funded via S106 meets the three legal (planning) test. Developers can challenge a Section 106 Agreement if they deem it to be unfair.
- The 'Planning Wales Act' has not had much impact on the actual writing of a Section 106 Agreement. The main difference is that pre consultation work now needs to take place at an earlier point.
- Community councils are often the first port of call for members of the public on planning matters. On behalf of local communities, community council's can comment on planning applications. This is an opportunity for any concerns to be made known about a planning application – this can include views on Section 106 Agreements, for example, are there sufficient plans in place for the long term management of new community facilities.
- Community councils are never decision making parties in the planning process, they are merely consultees, i.e. they help balance the case. The open space management scheme forms a part of the 'reserved matters' discussion. Check to find out the value of commuted sums held by the local authority and how these are used.

Simon Gilbert – Operational Manager, Development Management (Strategic & Place Making) and Michael Barnett – Planner provided Councillors with an update on the development of the new Supplementary Planning Guidance for Planning Obligations.

The key findings relating to this part of Meeting 2 are set out below:

- They explained that the Local Development Plan was adopted in January 2016. To support this new document many existing policies now needed to be revised. In particular a number of Supplementary Planning Guidance (SPG) documents relating to Planning Obligations needed to be revised and consolidated into one easily accessible document. The Planning Service was in the process of creating a new Planning Obligations Supplementary Planning Guidance that would accommodate the following documents:
 - SPG: Affordable Housing - March 2007;
 - SPG: Biodiversity Part 1 - June 2011;
 - SPG: Community Facilities & Residential Development - March 2007;
 - SPG: Developer Contributions for School Facilities - March 2007;
 - SPG: Developer Contributions for Transport - Jan 2010
 - SPG: Open Space - March 2008;
 - SPG: Public Art - June 2006;
 - SPG: Trees and Development - March 2007;
 - SPG: Waste Collection & Storage Facilities -Mar 2007.

All previous documents relating to planning obligations will be included in the new Planning Obligations Supplementary Planning Guidance. The document is due to be published in 2017.

Don Davidson, Neighbourhood Regeneration Manager, Housing & Communities provided Councillors with a presentation on how Section 106 Agreements can be used to develop Community Projects.

The key findings and recommendations relating to this part of Meeting 2 are set out below:

- The Neighbourhood Regeneration Team as a part of its work makes regular reference to the Supplementary Planning Guidance for Community Facilities & Residential Development (March 2007). They also use other complementary Supplementary Planning Guidance to cover other areas of community provision, for example, open space and education.
- An Officer reminded Councillors that it is important to remember that Section 106 Contributions (i.e. planning obligations) are required to meet the legal tests, one of which is the necessity test.
- An officer explained that Supplementary Planning Guidance provides guidance on circumstances in which developers are expected to contribute to provision of community facilities. Off-site financial contributions are generally sought from residential developments greater than 25 units. On-site provision may be required for larger developments – generally greater than those over 200 units.
- Community facilities are defined as facilities used by local communities for leisure and social purposes, for example, community centres, meeting places, leisure centres and local shopping centres.
- Contributions for community facilities are calculated using a formula based calculation, i.e. community space per person * construction cost of community building * estimated population. These contributions are agreed through negotiations with developers as a part overall section 106 package, this involves working within viability considerations (particularly on brown field sites. Developer contributions need to be spent within the

locality (generally within the ward, although assessed on a case by case basis).

- Process Prior to CIL Regulations – The funding request was based on formula calculation with the actual contribution being spent in the vicinity of the site. The request would be reported to the Planning Committee as a part of a drafted Section 106 Agreement. Ward Members are consulted on the use of the funding once the funding has been received by the Council. Once everything is agreed the funding is allocated – the only task left from this point on is to track and monitor the contributions.

- Examples of Section 106 Contributions for Community facilities prior to April 2015 included:
 - The St Mellons Hub, where four Section 106 Contributions were pooled totalling £205,000 to part fund an extension to a community hub;
 - The Clarendon Road Shops in Penylan, where two contributions of £57,000 assisted with funding an improvement scheme to the parade of shops;
 - The Cathays Community Centre, where a contribution of £26,000 was allocated for improvements to the centre on Cathays Terrace.

- The Councillors were again reminded that the CIL Regulations came into effect in Wales in April 2015. They mean that planning obligations now need to meet the CIL tests; this creates a stronger justification for this planning obligation.

- The Council now needs to identify specific project(s) into which the Section 106 Contribution will be invested from the outset. Pooling is now restricted to five contributions for any one project. Ward Member consultation on potential projects will need to take place at an earlier stage; a potential solution might be to draw up a list of projects at the earliest possible

opportunity and ask for Member feedback at the earliest possible opportunity.

- The benefits of Section 106 Contributions were set out in the Officer presentation as:
 - They mean that the developer contributes to community infrastructure in mitigation of the needs generated by their development;
 - Contributions have delivered a variety of projects, from community building improvements to upgrading neighbourhood shopping centres;
 - The funding can be used alongside a range of other funding sources to deliver the overall facility (for example, European Funding, Welsh Government Funding, Private Finance, Grants, UK Government Funding, Workplace charging levy);
 - The Council has received approximately £400,000 in Section 106 Contributions for community projects in the past five years.

- The challenges of Section 106 Contributions were set out in the Officer presentation as:
 - Individual Section 106 Contributions are generally small and time consuming in terms of managing with staff resources;
 - Uncertainty – receipt of Section 106 Contributions is dependent on implementation of planning consent;
 - Achieving effective Ward Member involvement in determining priorities – a list would make life much easier and support policy justification;
 - Planning Obligations Supplementary Planning Guidance – Opportunity to update and improve guidance;
 - Significant change in the potential introduction of the CIL in 2017.

Management of Section 106 Funding for the Development of Community Projects – Meeting 3 – Monday 9 May 2016

This meeting was broken into two separate parts, these were:

- Gladys Hingco, Scrutiny Research Manager was invited to the meeting to brief Councillors on the findings of the Scrutiny Research report titled 'Selected Local Authorities Section 106 and CIL Community Project Consultation';
- Richard Bowen, Principal Scrutiny Officer supported Councillors in a discussion around systems and approaches which could be used in Cardiff to allocate planning obligations and other funding sources for the development of community projects.

Gladys Hingco, Scrutiny Research Manager briefed Councillors on the findings of the Scrutiny Research report titled 'Selected Local Authorities Section 106 and CIL Community Project Consultation'. The key findings and recommendations relating to this part of Meeting 3 are set out below:

- The research objectives of the Scrutiny Research Team report titled 'Selected Local Authorities Section 106 and CIL Community Project Consultation' were defined as:
 - To identify local authority approaches and process to determine Section 106 and CIL spend;
 - To highlight consultation approaches that have been adopted in relation to allocation of Section 106 Agreements and CIL Monies.
- The presentation provided a summary of the key findings of the report titled 'Selected local Authorities' Section 106 and CIL Community Project Consultation'. A copy of this report has been attached as **Appendix 1**.

The presentation focused on the following key areas, provided a number of examples that are referenced in **Appendix 1**:

- **Pre - Agreement or Statutory Consultation** - This provided case studies from Breckland Council (page 6 of Appendix 1); King's Cross Railways Land Development (pages 10 to 12 of Appendix 1); Blythe Valley Park Solihull (pages 14 to 15 of Appendix 1) and Lewes District Council (page 6 of Appendix 1).
- **Non – Statutory Consultation** - This provided case studies from Oxford & Caerphilly Councils - where no consultation was provided (pages 4 to 5 of Appendix 1); Portsmouth Council – where consultation was provided on a case to case basis (page 5 of Appendix 1); Vale of Glamorgan Borough Council – on how consultation was undertaken with ward Members (page 5 of Appendix 1); Sheffield Council and Caerphilly County Borough Council & Rhonda Cynon Taff Borough Council – how consultation was made with Neighbourhood Partnerships, Town / Parish Councils in determining local infrastructure priorities (page 4 of Appendix 1).
- **Evaluation or Bidding process** - This provided case studies from Swindon Borough Council (page 8 of Appendix 1); East Cambridgeshire District Council (pages 8 to 9 of Appendix 1); Sheffield Council (page 7 of Appendix 1) and Southampton City Council (page 30 of Appendix 1).

Richard Bowen, Principal Scrutiny Officer supported Councillors in a discussion around systems and approaches which could be used in Cardiff to allocate planning obligations and other funding sources for the development of community projects.

The key findings relating to this part of Meeting 3 are set out below:

The 'Brainstorming Session' explored the whole process around the systems and approaches which could be used in Cardiff to allocate planning obligations and other funding sources for the development of community

projects. Councillors were posed a series of questions about a potential process – the questions and responses are set out below:

Is it a good idea and if so why?

- All Councillors involved with the task & finish exercise felt that having a process for allocating planning obligations and other funding sources for the development of community projects was a good idea. It would provide a transparent approach for nominating and delivering community projects when using planning obligations and other funding sources. Councillors, community groups, community councils, individuals, Council officers and any other interested parties would be able to submit potential community projects.

What should a list achieve?

- Councillors felt that a list should identify and set out a series of nominated projects that would be made available for funding from future Section 106 Contributions for community projects and other funding sources. It should be fed from a range of idea sources (for example, the public, councillors, community groups, Council officers or other interested parties) which would be assessed using a standardised approach before being approved or rejected by local ward councillors.

Should the list focus just on Section 106 Contributions for community projects or should it be available for a larger range of funding sources (for example, CIL, European Funding, Welsh Government Funding, Private Finance, Grants, UK Government Funding, Workplace charging levy)?

- Councillors felt that the list of projects should be made available for funding from Section 106 Contributions for community projects and other funding sources (for example, CIL, European Funding, Welsh Government

Funding, Private Finance, Grants, UK Government Funding, Workplace charging levy). Having the widest possible range of funding sources would increase the chances of a project being delivered – which is obviously the main goal.

Should councillors be the major consultee, a normal consultee or the sole decision maker?

- It was felt that the decision as to whether a project is placed on the list should be taken by the local councillors. They should be permitted to approve or reject potential project ideas relevant to their local ward and submit a project idea into the process for an assessment.

How should projects be geographically allocated? What if there are cross border issues? What are the geographical options?

- Councillors felt that projects should be allocated a geographical categorisation based on ward (or wards if the project was so significant that it had an impact on more than one ward). All councillors within the ward(s) should have equal voting rights.

Is it important for projects to tie into corporate priorities / objectives?

- Councillors felt that the validation & assessment process should include a section that scored the potential project against the Council's corporate priorities / objectives. This would mean that most of the successful projects would reflect the Council's corporate priorities / objectives and provide a degree of consistency with other service provision.

Is it important for projects on the list to support the 'Co-operative Council' approach? If so how can this be done? Could the list sit with a range of 'community / volunteer support services'?

- Yes. Being a 'Co-operative Council' means developing stronger collaborative links with the local people and communities to improve the way that we work for the benefit of the community. In the current financial climate the role of the Council is shifting from 'provider' to 'facilitator'; developing a clearly defined approach for providing community funding to support community initiatives is clearly in line with the ethos of the 'Co-operative Council' approach.

This would involve creating a process where community ideas can be submitted, they would then be assessed and either approved or rejected by local ward councillors. The successful project would then be added to a list of projects to await a suitable funding source. It is felt that the list of projects would be well complemented by a range of community and volunteer support services, for example, access to time banking and other grant finding facilities.

How do projects arrive on the list? Who can submit a project? How should a project be assessed / vetted? How are projects prioritised? How are projects selected? Who can select a project?

- As previously stated the projects could arrive on the list by using the following process:
 - Idea is submitted by community organisations, individuals, councillors, officers, partner organisations or other interested parties.
 - A third party could assess the application using a standardised process, for example, using a document similar to the 'Neighbourhood Projects Form'.
 - Projects which receive a successful assessment could then be moved to the project decision phase for approval or rejection by local ward councillors. Feedback should be provided for the unsuccessful project applications.
 - The successful project should remain on the list until it is matched to a suitable funding source, however, there should be an option for the

local councillors to review the list (an annual review was suggested).
Such a review could be used to remove projects from the list.

What should an application / bidding form look like? What categories should be included on a vetting list?

- The Committee felt that the application / bidding form should be similar to the 'Neighbourhood Projects' form which is currently used by the Council.

How should details of the list be promoted?

- The project lists could be stored on Council webpages and promoted through the various communications tools of the Council and any other associated third party organisations.

Who should be responsible for managing the list?

- The Council and local councillors should be responsible for managing the list.

RECOMMENDATION

Having considered the evidence provided during the inquiry the Members have made a single process recommendation to drive forward the Management of Section 106 Funding for the Development of Community Projects.

The parts of this recommendation are set out below, and are supported by **Appendix 2**.

a) **Creation of a Project List** – All of the Members agreed that a project list and supporting process should be created to identify, validate, endorse and store projects that are appropriate for funding from Section 106 Contributions for Community Projects. A suggested approach is set out in the process chart, which is set out in **Appendix 2**. Members agreed that the Project List process needed a standardised basic structure so that it could be consistently applied across Cardiff. They felt that a formal approach and structure would create a transparent process that would ultimately ensure a fair distribution of resources for appropriate projects. Members agreed that the standardised process should include the following basic elements:

- **Project Point of Entry** - They agreed that there should be a supported point of entry where projects could be submitted by a range of parties including community groups, councillors, community councils, officers and individuals.
- **Project Validation & Assessment** – At this point submitted projects should receive a pre decision validation and assessment by a third party. This part of the process would ensure that projects met a minimum basic criteria and were suitable for taking forward to the project decision making process.

- **Project Decision – Approval or Rejection** – At this point councillors would receive the successfully validated projects and take a decision as to if they should be added to the project list.
- **Project List** – Successful projects would be stored on a ward based ‘Project List’. This would form a ready to go list of community projects, which could be matched to appropriate funding as and when it became available. Funding sources should not be limited to Section 106 Contributions for Community Projects and should include other financial contributions including the 15% Local CIL contribution, other appropriate planning obligations, available private monies and grants.
- **Project List Geography** – Submitted projects should be linked to the ward(s) that they are situated in or have a significant impact on. Lists containing projects for each of Cardiff’s 29 wards should be created.

Having provided a brief description the basic outline structure the next part of the recommendation provides more detail on the individual parts of the model, this is set out in points b), c), d), e), f) and g):

- b) Project Point of Entry** – As explained in part a), the ‘Project Point of Entry’ should be a supported point of entry where projects could be submitted by a range of parties including community groups, councillors, community councils, officers and individuals. The opportunity for support and funding for community based projects should be promoted through the usual Council communications tools and supported by key partner organisations, for example, Cardiff Third Sector Council.

In the first instance, interested parties should approach the nominated Council and ask for information about how to submit a project idea. They should receive support, information and a standardised project validation & assessment form that would be used to document the project idea. All applicants should receive a summary of the overall Project List Process and an explanation that submitting a project (even if it is successfully added to the Project List) is not a guarantee of funding.

The project validation and assessment form should contain a range of sections which the Council view as essential for delivering a successful community project. Sections around access to sufficient resources (including financial), a well constructed business plan and illustrating clear linkages to Cardiff's / the Council's priorities were considered important. Members felt that a document like the 'Neighbourhood Projects' form used by Cardiff's current Neighbourhood Management Boards could be appropriate.

- c) Project Validation & Assessment** – As explained in part a), at this point submitted projects should receive a pre decision validation and assessment by a third party. This part of the process would ensure that projects met a minimum basic criteria and were suitable for taking forward to the project decision-making process.

The scoring of each project should follow a standardised structure, for example, criteria and scoring options should be provided for each section within the Project Validation & Assessment Form.

Applicants who receive a successful project validation & assessment should be informed that their project is being taken forward to the 'Project Decision – Approval or Rejection' part of the process for consideration by local councillors.

Applicants who receive an unsuccessful project validation & assessment should be informed that their project application is not being taken forward along with feedback as to why their application was not successful.

- d) Project Decision – Approval or Rejection** – As explained in part a), at this point councillors would receive the successfully validated projects and take a decision as to if they should be added to the project list. Applicants of approved projects should be notified that their project is being added to the Project List for that area. They should also be reminded that having an approved project on the Project List does not guarantee that funding is

available. Applicants of rejected projects should be notified that their project is not being added to the Project List for that area. At this point they should receive feedback as to why this is the case and advice on submitting a revised / new application.

- e) **Project List** – As explained in part a), the successful project would be stored on the ward based 'Project List'. This would become a part of a ready to go list of community projects, which could be matched to appropriate funding as and when they became available. This approach would be particularly beneficial for dealing with the Section 106 Contributions for community projects under the post April 2015 CIL Regulations where expenditure priorities would need to be identified early on in the planning process, i.e. planners and developers could work together to identify a suitable project from the Project List at the point of receiving an application.

Funding sources should not be limited to Section 106 Contributions for Community Projects and should include other financial contributions including the 15% Local CIL contribution, other appropriate planning obligations, available private monies and grants. The greater the availability of funding the better the potential outcome for community projects.

The committee view the 15% Local CIL contribution as a very positive development for potential community projects; this basically means that 15% of any overall value collected in the locality has to be provided to community councils, or if there isn't a community council, spent within the local area. This could result in significant amounts of money becoming available for local community projects; to take the example of Bristol City Council, they anticipated collecting £4million in CIL receipts during 2015/16. 15% of this, i.e. £600,000 would translate into additional monies for potential community projects.

Any projects on the list that are matched to suitable funding should be removed from the list at the point that the funding is received. Removal of

a project would create additional space for further projects. It would seem sensible for any Project List process to include a review process to establish if projects are still considered suitable for the Project List, for example, this review could take place annually or bi annually. Following a review any projects deemed unsuitable would be removed from the list and the relevant applicants informed.

- f) Complementary Services** – Supporting community projects through funding from planning obligations and other sources represents a good example of how the Council is increasingly becoming a ‘facilitator’ of services. Members felt that the Project List process was effectively a Council ‘facilitator’ tool to support the development of community facilities by the community, for the community. Beyond this, the Council, in association with other key third sector partners, provides a wider range of community and volunteer support services to develop community initiatives. For example, the Council, through the Cardiff Third Sector Council provides access to services like GrantFinder and time banking facilities. As a consequence, Members recommend that a review of community facility development services is undertaken to establish exactly what the Council provides and that these community facility development services are in some way aligned or linked to the Project List.
- g) Supporting Resources** – The Project List approach will only work if a suitable staff resource is identified to manage the scheme. Such a post would involve receiving new project ideas; sharing process information and feedback with applicants; project validation & assessment; transferring applications for project decision; adding and removing from the list and updating the list of available funds. They would also need to signpost applicants to a range of complementary services. To this end the inquiry recommends that the Council works with key third sector partners to identify a suitable resource to support this community facility development role.

WITNESSES TO THE INQUIRY

During the inquiry the task group was grateful to the following witnesses who provided verbal evidence or written contributions:

- Councillor Ramesh Patel, Cabinet Member for Transport, Planning & Sustainability.
- Councillor Michael Michael, Chair of Cardiff's Planning Committee.
- Simon Gilbert - Operational Manager, Development Management (Strategic & Place Making), Cardiff Council.
- Michael Barnett – Planner, Cardiff Council.
- Vesna Coles, Solicitor, Cardiff Council.
- Don Davidson, Group Leader – Neighbourhood Regeneration, Cardiff Council.
- Gladys Hingco, Scrutiny Research Manager, Cardiff Council.
- Luke Catterson, Scrutiny Research Officer, Cardiff Council.

LEGAL IMPLICATIONS

The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without modification. Any report with recommendations for decision that goes to Cabinet / Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal power of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

FINANCIAL IMPLICATIONS

The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

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s c r u t i n y



Scrutiny Research Team

Selected Local Authorities' Charging Structures, Strategies and Experiences on the Community Infrastructure Levy (CIL)

**Research report for the
Environment Scrutiny Committee**

January 2016



City of Cardiff Council

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1. Introduction

This research report was commissioned by the Environmental Scrutiny Committee's Community Infrastructure Levy (CIL) Task and Finish Group to provide Members with an overview of the progress of CIL implementation in selected comparator local authorities.

The first section of this report will provide the following information for each of the 35 local authorities regarding the introduction of CIL that came into force in 2010:

- Progress that each local authority has made so far (adoption, consultation, draft charging schedule published etc.) in the process of introducing CIL
- Amount of CIL revenue generated to date (where applicable and available)
- Current or intended charging rates (where applicable)
- Current or intended charging zones (where applicable)

This report will also cover the following topic areas which are of interest to Scrutiny Committee Members and officers in the Planning Unit of Cardiff Council:

- Local authorities' rationale for their CIL charging schedule
- Recommended guidelines and case studies in implementing CIL
- Local Authority Supplementary Planning Documents on New Planning Obligations
- Case studies on consultation approaches adopted on the use of Section 106 funding

2. Methodology

2.1. Selection of comparator local authorities sample

A total of 35 local authorities have been selected to provide the comparable information presented in this report. These local authorities are grouped into four primary categories:

- Core Cities
- Neighbouring Welsh Authorities
- Comparable Local Authorities by Job Growth Rate
- Comparable Authorities by Housing Price

2.1.1. Core Cities

Included in the sample are the Core Cities¹. These are a collective of cities that deliver 28% of the combined economic output of England, Wales and Scotland (26.5% of the UK economy) and are home to almost 19 million, 30.7% of the combined English, Welsh and Scottish population (29.8% of the UK population). They are:

Birmingham

Bristol

Cardiff

Leeds

Liverpool

Manchester

Newcastle

Nottingham

Sheffield

¹ Glasgow have not been included because the CIL legislation has not been introduced in Scotland

2.1.2. Neighbouring Welsh Local Authorities

The Welsh local authorities selected are those that make up the South East Wales Regional Partnership Board as implemented by the Welsh Local Government Association (WLGA). The South East Wales Regional Partnership Board brings together local authority leaders, Chief Executives and Managing Directors with representation to direct oversee and steer regional joint working in South East Wales as well as act as a reference point for future policy development. The local authorities in the partnership are:

Blaenau Gwent
Bridgend
Caerphilly
Cardiff
Merthyr Tydfil
Monmouthshire
Newport
Rhondda Cynon Taf
Torfaen
Vale of Glamorgan.

2.1.3. Comparable Local Authorities by Job Growth Rate

Advice was sought from officers in the Planning Team and Corporate Policy Team on relevant indicators that could be used for selecting comparator local authorities. For this research the research team took the advice of using figures on job growth taken from the Centre for Cities² 2015 report to select those local authorities with similar growths to Cardiff. Cardiff's job growth (change in jobs between 2004 and 2013) was 3%. The local

² Centre for Cities 'Cities Outlook 2015' <http://www.centreforcities.org/wp-content/uploads/2015/01/Cities-Outlook-2015-Change-in-jobs-04-13.pdf>

authorities chosen as comparators are those with a growth of +/- 1% of Cardiff's over that period.

The selected comparator authorities are:

Bolton
Hastings
Peterborough
Plymouth
Telford
Blackburn
Cardiff
Leicester
Worthing
Birmingham
Bristol
Glasgow
Liverpool
Southampton

Appendix 1 shows a copy of the change in job figures (in numerical value and percent) for each of the local authorities that were selected as comparators for this research.

2.1.4. Comparable Authorities by Housing Stock Change

House prices were initially considered as the indicator that would be used to select comparator local authorities. With this in mind, the research team consulted house price figures from the 2015 report published by Hometrack³. Following consultation with colleagues from the Planning Team, it was recommended that the figures on housing stock change⁴ should be used rather than house prices. In the period 2004-2013 Cardiff's housing stock increased by 15,740 which was an increase of 12%. The local authorities

³ Hometrack, 'UK Cities House Price Index' <https://www.hometrack.com/uk/insight/uk-cities-house-price-index/>

⁴ Centre for Cities 'Cities Outlook 2015' <http://www.centreforcities.org/wp-content/uploads/2015/01/Cities-Outlook-2015-Change-in-housing-affordability-04-14.pdf>

selected as comparators are those that had demonstrated a housing stock change +/- 3% of Cardiff's (12%) figures. and included the following authorities:

Swindon

Cardiff

Gloucester

Peterborough

Ipswich

Cambridge

Bristol

Warrington

Barnsley

A copy of the Table with the values (between 2004-2013) on percent change of housing stock for the local authorities selected for this research are shown in Appendix 2.

2.1.5. Other local authorities included as comparators

Officers in the Planning Team also recommended that local authorities such as Bournemouth, Oxford and Portsmouth should also be included as comparators as these authorities are often identified as having good practice. These local authorities will appear as an appendix to in the 'Core Cities' group.

2.2 Data Collection

The data for this research report was taken from different sources. A key source of information was the figures that were reported by individual local authorities in the CIL Watch report provided by Planning Resource. An on-line search of the draft charging schedules of the selected local authorities was also undertaken. In addition, a short questionnaire was sent out to the relevant officers of selected local authorities and where necessary follow-up telephone interviews were conducted to collect the information required.

Of the selected local authorities, only a small number have CIL in place, while other local authorities are at different stages in the process of adopting/administrating CIL. This accounts for the limited data on those local authorities who are able to report the total amount of CIL receipts that they have collected to date. The data on the CIL receipts for Leeds was unavailable as the relevant officer is on leave, however the figures for 2014/15 may be made available soon.

3. CIL Charging Rates in selected comparator local authorities

The results that are presented here illustrate that there is a lot of variation in the charging rates for CIL that has been adopted by the selected local authorities presented in this report. There is variation in the zoning schemes (both retail and residential developments) that each local authority has adopted, i.e. including the number of charging zones (from none to as many as 8 zones) that they have, and the rates that they charge (from £0psqm to £100psqm) for the various individual zones that have been identified.

Some local authorities have different zones and charging for different types of retail activity and/or development while others have adopted zones that specify limits for the size of development that can be accommodated.

The justification for the zoning scheme that each local authority has adopted and the charging that they have adopted will be examined in greater detail in a report to follow.

3.1. Core Cities CIL Status and Comparative Charging Data

Table 1. Core Cities and other Comparable Cities CIL Adoption Status⁵

Authority	Status	Date of/for implementation	CIL receipts 13/14	CIL receipts 14/15	CIL receipts 15/16
Bristol	Adopted	18th December 2012	£510,797.58	£2,768,571.50	(to Nov) 2,504,057.97
Leeds	Adopted	12th November 2014	N/a	-	Pending
Sheffield	Adopted	3rd June 2015	N/a	N/a	Pending
Birmingham	Examination report published	4th January 2016	N/a	N/a	N/a
Newcastle	Preliminary draft schedule	Summer 2016	N/a	N/a	N/a
Cardiff	Preliminary draft schedule	2017	N/a	N/a	N/a
Nottingham	Feasibility study is ongoing as part of local plan	N/a	N/a	N/a	N/a
Liverpool	Will look at viability as part of local plan	N/a	N/a	N/a	N/a
Manchester	Have no plans to implement CIL	N/a	N/a	N/a	N/a
Portsmouth	Adopted	21st January 2012	£320,248.00	£2,186,503.00	Pending
Oxford	Adopted	21st October 2013	£7,064.00	£1,378,999.82	Pending
Bournemouth	Charging schedule submitted	N/a	N/a	N/a	N/a

Three of the core cities have already adopted CIL, with three more (Birmingham, Newcastle and Cardiff) publishing concrete plans to do the same in the next year or two. Liverpool and Nottingham plan to undertake viability studies as part of work on their Local Development Plans next year, and only Manchester have said they have no interest in CIL at the current time.

Bristol was one of the first authorities to implement CIL. In 2013-2014 Bristol's CIL receipts were modest in their first year at £510,797.58 and have significantly increased (more than quadrupled) in 2014-15 next year and are on course to be slightly higher again for this financial year. As with Bristol, both Portsmouth and Oxford saw modest initial CIL receipts in 2013/14 but saw large percentage increases the following year.

⁵ All data taken from each individual local authority's charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

Table 2. Core Cities Residential CIL Rates⁶ (prices are per sqm)

Authority	Zones				
Sheffield	Zone 5 £80 (outer)	Zone 4 £50 (city centre)	Zone 3 £30 (spans city)	Zone 2 £0 (adjacent to centre)	Zone 1 £0 (outer)
Leeds	Zone 1 £90 (outskirts)	Zone 2a £45 (outer)	Zone 2b £23 (outskirts)	Zone 3 £5 (adjacent to centre)	Zone £5 (city centre)
Newcastle	Zone A £60 (3 sites outer)	Zone B £30 (adjacent to city centre)	Zone 1 £0 (central)	Other £0	-
Bristol	Inner zone £70 (city centre)	Outer zone £50 (outer)	-	-	-
Birmingham	Value zones £69 (outer, adjacent to centre and centre)	Other £0	-	-	-
Cardiff	All £100	-	-	-	-
Bournemouth	Outer zone large £70 (Outer centre 11 units or more)	Outer zone small £70 (Outer centre 10 units or fewer)	Inner zone £0 (City centre)	-	-
Oxford	All £100	-	-	-	-
Portsmouth	All £105	-	-	-	-

⁶ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

The charging for residential zones varies greatly amongst the Core Cities group with some local authorities such as Sheffield and Leeds who have adopted a scheme wherein its residential zones are further subdivided into five different pricing zones. In contrast, Cardiff, Portsmouth and Oxford have adopted one blanket charge (in the range of £100-£105 per sqm) for its residential zone.

Sheffield, Leeds, Newcastle and Bournemouth, charge the highest CIL rates for residential development in zones on the outer reaches of the city while the rates for charging in the zones in the city centre are significantly lower or in some cases have no charge at all. In contrast, the charging rates in Bristol, is higher in the inner zone (city centre) compared to the outer.

Birmingham's charging rates, however, show that there appears to be no correlation between the cost/value of charging with the proximity of the zone to the city centre. As shown in the Table above, there are some local authorities who do not apply a CIL charge (£0 in Newcastle and Bournemouth) or have a minimal charge (£5 in Leeds) for residential zones that are central or within the city centre. The charging schedules of some local authorities (Sheffield, Newcastle, Birmingham and Bournemouth) show that there have selected/specified zones where they do not apply any CIL charge.

Appendix 1

Table 3. Core Cities Retail CIL Rates⁷ (prices are per sqm)

Authority	Large	Small	Restaurants/Bars	Supermarket
Birmingham	£260 >2700sqm	£0 <2700sqm	£0	£260 >2700sqm
Bristol	£120 all sizes	£120 all sizes	£120	£120
Cardiff	£250 all sizes	£250 all sizes	£0	£250
Leeds				
City Centre	£135 ≥ 1000sqm	£0 <1000sqm	£5	£110 ≥ 500sqm
Outside City Centre	£55 ≥ 1000sqm	£0 <1000sqm	£5	£175 ≥ 500sqm
Newcastle				
City Centre	£0 >280sqm	£0 ≤280sqm	£0	£30
Gateshead Zone 1	£80 >280sqm	£30 ≤280sqm	£80 >280sqm £30 ≤280sqm	£30
Newcastle Zone 2	£80 >280sqm	£30 ≤280sqm	£80 >280sqm £30 ≤280sqm	£30
Outside the above	£80 >280sqm	£0 ≤280sqm	£80 >280sqm £0 ≤280sqm	£30
Sheffield				
City Centre Prime Area	£30 all sizes	£30 all sizes	£0	£30
Meadowhall Prime Area	£60 all sizes	£60 all sizes	£0	£60
Major Retail Scheme	£60 all sizes	£60 all sizes	£0	£60
Bournemouth				
Town Centre	£0 Comparison £250 Convenience	£0 Comparison £250 Convenience	£0	£250
Outside Town Centre	£250 Comparison £250 Convenience	£250 Comparison £250 Convenience	£0	£250
Oxford	£100 All sizes	£100 All sizes	£100	£100
Portsmouth	£105 >280sqm	£53 <280sqm	£105 >280sqm £53 <280sqm	£105

⁷ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

There is a lot of variation in the CIL charging rates for retail development. Bristol Cardiff and Oxford apply a blanket charge (of a specified value) to different types of retail development whereas the charging rates for retail development in Birmingham and Portsmouth depend on the size of that type of development.

For Leeds and Bournemouth an additional factor (apart from size of development) that has an impact on the retail development charging rates is location i.e. whether it is located in the centre or outside of the centre, Newcastle and Sheffield have different charging rates for different locations and type of retail development.

In most cases or categories of retail development, Newcastle and Bournemouth do not have CIL charge in city or town centres whereas Leeds apply different charges for different types of development within the centre or city. Some local authorities i.e. Birmingham, Leeds, Newcastle, Portsmouth also charge a relatively smaller CIL rate for smaller retail development which are often determined by specified area measurements. In most of the local authorities shown above, the highest CIL charging rates for retail development are for supermarkets.

Sheffield and Newcastle apply the lowest retail CIL charging rates at £60psqm and £80psqm respectively. Birmingham has the highest retail CIL charging rate at £260psqm for a large unit or supermarket while Cardiff's £250 blanket rate appears to be the second highest within this comparator group.

Different authorities apply different charging rates to restaurants and bars retail development.

Appendix 1

Table 4. Core Cities Other CIL Rates⁸ (prices are per sqm)

Authority	Student Accommodation	Offices	Industrial/Warehouse	Care Homes	Retail Warehouse	Mixed Leisure (inc hotels)	Public Service and Community Facilities	Other
Birmingham	£0 Greenbelt areas £69 All other areas	£0	£0	£0	£0	£27 City Centre Hotel £0 All other leisure	£0	£0
Bristol	£100	£0	£0	£0	£0	£50	£0	£50
Cardiff	£0	£0	£0	£0	£250	£0	£0	£0
Leeds	£5	£35 In city centre	£5	£5	£5	£5	£0	£5
Newcastle	Central Area Zone 1 £80 Commercial Zone 2 £80 Commercial Zone 3 £0	£0	£0	£0	Central Area Zone 1 £0 Commercial Zone 2 £80 Commercial Zone 3 £80	Central Area Zone 1 £0 Commercial Zone 2 £40 Commercial Zone 3 £0	£0	£0
Sheffield	£30	£0	£0	£0	£0	£40	£0	£0
Bournemouth	£50	£0	£0	£0	£0	£0	£0	£0
Oxford	£100	£20	£20	£20	£20	£20	Non-residential institutions £20	£20

⁸ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

Appendix 1

Portsmouth	£105	£0	£0	£53	£0	£53 Hotels	£0	£105
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The charging categories identified in the Table above have not been specified in the charging schedule of some local authorities. In some cases the categories identified above will fall under a general heading referred to as ‘all other uses’. In Sheffield, the charging rate for ‘other’ development category is £0psqm whereas in Portsmouth the charging rate for this category is £105 and £50 in Bristol.

Cardiff is the only local authority amongst the Core Cities group that does not apply a CIL charge to student accommodation. Although Birmingham applies a £0psqm CIL charge for student accommodation developments on greenfield sites, this local authority charges a rate of £69psqm in other locations. Newcastle has proposed different charging rates for the commercial zones identified above.

Leeds is the only authority to specify a charging rate for “office” use that only applies to the city centre location and is set at £35psqm. Newcastle has no charge for retail warehouses in the city centre and but the levy is £80 in each of its outer commercial zones and is the only authority to implement a specific charge. Sheffield applies offers a specific charging rate for mixed leisure at £40psqm. Birmingham only charges £27psqm if a hotel is in the city centre and Portsmouth charges £53psqm for all hotels.

Most of the local authorities in this group apart from Oxford do not apply a CIL charge for public service and community. Oxford and Leeds are the only authorities to issue charges for care homes but these are under their ‘all other’ rates.

3.2. Welsh Neighbouring Local Authorities CIL Status and Comparative Charging Data

Table 5. Neighbouring Local Authorities Progress in Adopting CIL⁹

Authority	Status	Date of/for implementation	CIL receipts 13/14	CIL receipts 14/15	CIL receipts 15/16
Merthyr Tydfil	Adopted	2nd June 2014	N/a	£0	£111,500 (to Dec)
Caerphilly	Adopted	10th June 2014	N/a	N/a	Pending
Rhondda Cynon Taf	Adopted	10th December 2014	N/a	N/a	Pending
Cardiff	Preliminary draft schedule	2017	N/a	N/a	N/a
Monmouthshire	Preliminary draft schedule	-	N/a	N/a	N/a
Newport	Preliminary draft schedule	-	N/a	N/a	N/a
Torfaen	Waiting on viability study	N/a	N/a	N/a	N/a
Vale of Glamorgan	Initial evidence base gathered	N/a	N/a	N/a	N/a
Blaenau Gwent	Not adopted	N/a	N/a	N/a	N/a
Bridgend	No plans to implement	N/a	N/a	N/a	N/a

Merthyr Tydfil, Caerphilly and Rhondda Cynon Taf have all adopted the CIL. So far only Merthyr Tydfil has been able to provide the figures on their total CIL receipts of £111,500 from April to December of this financial year. Three authorities (Cardiff, Monmouthshire and Newport) are working on their preliminary draft schedule with a view to implementing in the next year or two.

⁹ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

Appendix 1

Torfaen and the Vale of Glamorgan are both waiting on viability studies and initial evidence gathering before proceeding while both Blaenau Gwent and Bridgend have reported that currently they have no plans to adopt CIL.

Table 6. Residential CIL Rates¹⁰ for Neighbouring Local Authorities to Cardiff (prices are per sqm)

Authority	Zones				
Monmouthshire	£110 Non-strategic town site	£60 Strategic LDP site	£60 Non-strategic Severnside	£0 Sudbook paper mill	£0 Main and minor villages
Caerphilly	Higher viability area £40 (South - closest to M4)	Mid-range viability area £25 (Central)	Lower viability area £0 (North farthest from M4)	-	-
Rhondda Cynon Taf	Zone 3 £85 (South - closest to M4)	Zone 2 £40 (Central)	Zone 1 £0 (Farthest from M4)	-	-
Merthyr Tydfil	Merthyr Tydfil £25 (North - farthest from M4)	Mid Valleys £0 (Central)	Lower Valley £0 (South - closest to M4)	-	-
Newport	Zone 1 £60 (Rest of the city and rural areas)	Zone 2 £25 (West)	(All apartments) £0	-	-
Cardiff	All £100	-	-	-	-

There is a lot of variation on the residential CIL rates that have been adopted by neighbouring local authorities to Cardiff. Some of them (Caerphilly, RCT and Merthyr) have charging zones are identified in relation to its distance or proximity to the M4. Caerphilly and RCT charge the highest CIL rate for developments in the zone closest to the M4 and the lowest CIL rate is in the zoned areas

¹⁰ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

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farthest from the M4. In contrast, Merthyr charges the highest rate for the residential zone farthest from the M4 and does not apply a CIL charge for the zone closest to the M4. Newport has identified has two charging zones – Zone 2 that encompasses two areas in the west of the city and carries a lower CIL rate of £25psqm and Zone 1 that covers the rest of the city and rural areas at a rate of £60psqm.

Monmouthshire has identified 5 different zones with rates with corresponding charges for only 3 of these zones. The categories for these zones are sites outlined by their LDP. The highest rate is applied to the zone referred to as ‘non- strategic town site’. No CIL charges apply to the Sudbook Paper Mill site nor to the zone that fall under the category Main and Minor villages.

Table 7. Retail CIL Rates¹¹ for Neighbouring Local Authorities to Cardiff (prices are per sqm)

Authority	Large	Small	Restaurants/Bars	Supermarket
Cardiff	£0 All sizes	£0 All sizes	£0	£0
Monmouthshire				
Out-of-centre	£200 All sizes	£200 All sizes	£0	£200
Centre	£0 All sizes	£0 All sizes	£0	£0
Caerphilly	£100 All sizes	£100 All sizes	£25	£100
Newport	£100	£100	£100	£100
Merthyr Tydfil	£100 All sizes	£100 All sizes	£25	£100
Rhondda Cynon Taf	£100 All sizes	£100 All sizes	£0	£100

¹¹ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

Unlike the CIL charging schedules of some English authorities, most neighbouring local authorities to Cardiff do not differentiate charging rates by the size of retail units. The charging schedule for Monmouthshire has however differentiated charging for retail zones in the Centre (£0psqm) and Out-of-Centre thereof (£200psqm) . Merthyr and Caerphilly have also adopted a lower CIL charge rate for Restaurants and Bars

The results above show that Cardiff's has adopted the highest CIL rates for retail developments including restaurants and bars compared to its neighbouring local authorities.

Table 8. CIL Charging Rates¹² for other Retail Developments in Neighbouring Local Authorities (prices are per sqm)

Authority	Student Accommodation	Offices	Industrial/Warehouse	Care Homes	Retail Warehouse	Mixed Leisure (inc hotels)	Public Service and Community Facilities	Other
Caerphilly	-	£0	£0	£0	£0	£0	£0	-
Cardiff	£0	£0	£0	£0	£250	£0	£0	£0
Merthyr Tydfil	£0	£0	£0	£0	£0	£0	£0	£0
Monmouthshire	£0	£0	£0	£0	£0	£0	£0	£0
Newport	£0	£0	£0	£0	£0	£0	£0	£0
Rhondda Cynon Taf	£0	£0	£0	£0	£0	£0	£0	£0

¹² All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

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The local authorities in the Table above reported that they have not adopted CIL charges for all the types of developments that are outlined above.

3.3. Comparator Local Authorities (by Job Growth rates) CIL Status and Charging Data

Table 9. Progress in Adopting CIL amongst Comparator Local Authorities (by Job Growth Rates)¹³

Authority	Status	Date of/for implementation	CIL receipts 13/14	CIL receipts 14/15	CIL receipts 15/16
Bristol	Adopted	18th December 2012	£510,797.58	£2,768,571.50	£2,504,057.97 (to Nov)
Plymouth	Adopted	22nd April 2013	£43,436.12 (from Jun)	£435,436.12	Pending
Southampton	Adopted	17th July 2013	£69,936	-	Pending
Worthing	Adopted	17th February 2015	N/a	-	-
Peterborough	Adopted	15th April 2015	N/a	N/a	-
Birmingham	Examination report published	4th January 2016	N/a	N/a	N/a
Cardiff	Preliminary draft schedule	2017	N/a	N/a	N/a
Leicester	Charging Schedule Submitted	N/a	N/a	N/a	N/a
Bolton	Draft charging schedule published	N/a	N/a	N/a	N/a

The local authorities outlined in the Table above have either adopted CIL or all working towards introducing CIL. Of the five local authorities who have adopted CIL, only 3 local authorities (Bristol, Plymouth and Southampton) have provided data on their total annual CIL receipts. The two other local authorities have not been able to provide the figures requested, Bristol took modest receipts for CIL in the first year at £510,797.58, these had more than quadrupled the next year and are on course to be slightly higher again this year. Plymouth took £43,436.12 in the first nine months of charging CIL but saw this figure increase tenfold in the

¹³ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

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first full year of charging. Birmingham will be the next to implement CIL in early 2016 and Cardiff, Leicester and Bolton will follow in the next 12 months or so.

Table 10. Residential CIL Rates¹⁴ of Comparator Local Authorities (by Job Growth Rates) (prices are per sqm)

Authority	Zones		
Peterborough	High value zone	Moderate value zone	Low value zone
< 15 units	£140	£120	£100
15 ≥ units	£70	£45	£15
Apartments < 15 units	£70	£45	£15
Over 500 dwellings	£0	£0	£0
	(West of centre)	(Surrounding and east of centre)	(town centre)
Bristol	Inner zone	Outer zone	
	£70	£50	-
	(City centre)	(outer)	
Plymouth	Outside zone 1	Zone 1	
	£30	£0	-
	(rest of city)	(South east of city close to some of waterfront)	
Worthing	Charging area	Zone 2	
	£100	£0	-
	(South central on the coast)	(Elsewhere)	
Birmingham	Value zone	Other	
	£69	£0	-
	(outer, adjacent to centre and centre)	(Elsewhere)	
Leicester	Strategic regeneration area	Other	
	£0	£0	-
	(City centre)	(Elsewhere)	
Cardiff	All		
	£100	-	-

¹⁴ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

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Southampton	All	£70	-	-
Bolton	All	£45	-	-

There is a lot of variation in the CIL rates for residential developments amongst local authorities identified in the Table above. Five of these local authorities (Peterborough, Bristol and Plymouth, Worthing and Birmingham) have differentiated their residential zones into various categories and have adopted different charges for each designated area. The charging schedule that has been adopted by Peterborough not only differentiates by zones (3 zones/location) but also differentiates the charging by type/number of units of development. Residential developments in the West of the Centre (Higher Value Zones) have the highest CIL Charges compared to other zones/areas, including the “Town Centre” area where development have the lowest CIL charges. In addition, developments of fewer than 15 units are charged more compared to other development types (sizes) regardless of location/zone. Any development of over 500 dwellings has no CIL charge in any location in the authority.

In contrast with Peterborough, the charging schedule for Bristol (City Centre) and Worthing (South Central) show that the highest CIL rate charges are in the centre/central areas. Three local authorities, Cardiff, Southampton and Bolton apply a single blanket CIL charge to all residential developments in their area. Leicester does not make a CIL charge for residential developments.

Table 11. Retail CIL Rates¹⁵ of Comparator Local Authorities (by Job Growth Rates) (prices are per sqm)

Authority	Large	Small	Restaurants/Bars	Supermarket
Birmingham	£260 >2700sqm	£0 <2700sqm	£0	£260 >2700sqm
Cardiff	£0 All sizes	£0 All sizes	£0	£0
Worthing	£150 All sizes	£150 All sizes	£150	£150
Peterborough	£150 >500sqm	£15 <500sqm	£0	£150
Bristol	£120 All sizes	£120 All sizes	£120	£120
Plymouth	£100 >1000sqm	£0 <1000sqm	£0	£100
Southampton	£43 All sizes	£43 All sizes	£43	£43
Bolton	£5 All sizes	£5 All sizes	£5	£135
Leicester	£0 All sizes	£0 All sizes	£0	£150

Birmingham, Peterborough and Plymouth had adopted a higher CIL charge rate for retail developments that fall under “Large” category including supermarkets. With the exception of Peterborough, these other local authorities (Birmingham and Plymouth) do not have a CIL charge for “Small” developments including “Restaurants and Bars” . Bristol, Cardiff, Worthing, and Southampton

¹⁵ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

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have a blanket CIL charge rate across all forms of retail development. Leicester only charge CIL for supermarkets and Bolton have a low CIL rate of £5psqm for most types retail development apart from supermarkets where they adopted a a CIL charge of £135 psqm. Peterborough’s charging schedule specifies that their retail rates are for convenience stores or stores with an element of comparison retail. Plymouth’s charging schedule specifies that their retail rates are for superstores and that all other rates will be £0 psqm.

Table 12. CIL Rates¹⁶for Other Types of Development amongst Comparator Local Authorities (Job Growth Rates) (prices are per sqm)

Authority	Student Accommodation	Offices	Industrial/Warehouse	Care Homes	Retail Warehouse	Mixed Leisure (inc hotels)	Public Service and Community Facilities	Other
Birmingham	£0 Greenbelt areas £69 All other areas	£0	£0	£0	£0	£27 City Centre Hotel £0 All other leisure	£0	£0
Bolton	£45	£5	£5	£0	£45	£5	£0	£5
Bristol	£100	£0	£0	£0	£0	£50	£0	£50
Cardiff	£0	£0	£0	£0	£250	£0	£0	£0
Leicester	£100	£0	£0	£0	£150	£0	£0	£10 Distribution
Plymouth	£0 Zone 1 £60 All other areas	£0	£0	£0	£0	£0	£0	£0

¹⁶ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

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Peterborough	£0	£0	£0	£0	£70	£0	£0	£0
Southampton	£70	£0	£0	£0	£0	£0	£0	
Worthing	£0	£30	£30	£0	£30	£0	£0	£0

Most of the local authorities identified in the Table above have adopted different CIL charge rates for student accommodation. Of these local authorities, Leicester (£100) has adopted the highest CIL charge for this type of development.

Cardiff, Peterborough and Worthing’s charging schedules do not have a CIL rate for student accommodation development regardless of location, whereas Birmingham do not have a CIL charge for this type of development in greenbelt areas and similarly in Plymouth for Zone 1 areas or in their designated residential zone.

Worthing and Bolton specify CIL charges for “Offices” , ”Industrial/Warehouses and “Retail/Warehouse”. Of the local authorities who have CIL charge for retail warehouses, Leicester had adopted the highest charging of £150 psqm. None of the authorities have a CIL charge for care homes or public service and community facilities. Bolton has adopted a standard CIL charge of £5psqm for ‘all other uses’ while Bristol charges £50 psqm for a similar category. The only other specified miscellaneous CIL charge is Leicester’s £10psqm for distribution centres that is distinguished from retail warehouses.

3.4. Comparator Cities (by Housing Stock Change) CIL Status and Comparative Charging Data

Table 13. Progress in Adopting CIL amongst Comparator Local Authorities (by Housing Stock Change)¹⁷

Authority	Status	Date of/for implementation	CIL receipts 13/14	CIL receipts 14/15	CIL receipts 15/16
Bristol	Adopted	18th December 2012	£510,797.58	£2,768,571.50	£2,504,057. 97 (to Nov)
Swindon	Adopted	26th March 2015	N/a	£0	Pending
Peterborough	Adopted	15th April 2015	N/a	N/a	Pending
Ipswich	Preliminary draft schedule	4th December 2013	N/a	N/a	N/a
Cambridge	Preliminary draft schedule	March 2014	N/a	N/a	N/a
Gloucester	Preliminary draft schedule	29th May 2015	N/a	N/a	N/a
Barnsley	Preliminary draft schedule	15th June 2015	N/a	N/a	N/a
Cardiff	Preliminary draft schedule	2017	N/a	N/a	N/a
Warrington	Preliminary draft schedule	-	N/a	N/a	N/a

Of the comparator (by housing stock change) local authorities identified in the Table above, Bristol, Swindon and Peterborough have fully implemented CIL. So far only Bristol had been able to provide the value of their total annual CIL receipts. We are still waiting to receive the reported value of CIL receipts that has been received to date from Swindon and Peterborough. All other local in this group are working on their preliminary draft schedule with a view to implementing CIL in the not too distant future.

¹⁷ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

Table 14. Residential CIL Rates¹⁸ of Comparator Local Authorities (by Housing Stock Change) (prices are per sqm)

Authority	Zones					
Barnsley	Zone 1	Zone 2	Zone 3	Zone 4	Zones 5 +6	Zones 7+8
1- 14 dwellings	£100	£100	£100	£50	£30	£0
15+ dwellings	£100	£100	£50	£30	£5	£0
Peterborough	High value zone	Moderate value zone	Low value zone			
< 15 units	£140	£120	£100			
15 ≥ units	£70	£45	£15			
Apartments < 15 units	£70	£45	£15			
Over 500 dwellings	£0	£0	£0	-	-	-
	(West of centre)	(Surrounding and east of centre)	(town centre)			
Ipswich	Zone 1	Zone 2	Zone 3			
1- 9 dwellings	£120	£85	£50			
10+ dwellings	£120	£50	£0			
	(Central)	(North and east of centre)	(South and south west)	-	-	-
Bristol	Inner zone	Outer zone				
	£70	£50				
	(City centre)	(outer)	-	-	-	-
Warrington	High charge zone	Medium charge zone	Low charge zone			
Market housing	£80	£80	£25			
Market apartments	£30	-	-			
	(South)	(North surrounding centre)	(Town centre)	-	-	-

¹⁸ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

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Swindon	Zone 2 £55 (Outside new communities)	Zone 1 £0 (New communities)	-	-	-	-
Cambridge	All £125	-	-	-	-	-
Cardiff	All £100	-	-	-	-	-
Gloucester	All £0	-	-	-	-	-

The CIL Charging schedules for Barnsley, Peterborough and Ipswich Bristol, Warrington and Swindon have identified different residential zones with different specified charges for each area or location. Barnsley has identified as many as eight different charging zones with rates from £100psqm to £0psqm depending on the viability of the area as stated in their Local Development Plan. Bristol and Ipswich have the highest CIL charge rate for residential development in the “City Centre” or in “Central” location. On the contrary Warrington’s CIL Charges is lowest in the “Town Centre”. In Swindon where they only have two residential zones, there is no CIL charge in “Zone 1” (New Communities) , while a CIL charge rate (£55) is specified for areas “Outside of new Communities” ((Zone 2) .

Three of the local authorities (Barnsley, Peterborough and Ipswich) further differentiate their CIL charges by the size/number of developments. In Barnsley the CIL rate in Zones1&2 are set at £100 regardless of the size of development. For this local authority the CIL rate only varies by the number of dwellings in Zones 4,5+6,7+8. In Peterborough residential development with larger numbers (≥ 15 units), have a lower CIL charge in all designated zones.. In Ipswich larger residential developments 10 dwellings have a lower CIL charge outside of the “Central” zone with a lower charge of £50 (instead of £120) in Zone 2 and £0 in Zone 3.

In Warrington the CIL charging schedule not only differentiates between zones but also differentiates by type of residential development i.e. “Market Housing” and “Market Apartments” zone.

Table 15. Retail CIL Rates¹⁹ of Comparator Local Authorities (by Housing Stock Change) (prices are per sqm)

Authority	Large	Small	Restaurants/Bars	Supermarket
Cardiff	£250 all sizes	£250 all sizes	£250	£250
Peterborough	£150 >500sqm	£15 <500sqm	£0	£150
Gloucester	£150 all sizes	£150 all sizes	£150	£150
Ipswich	£120 all sizes	£120 all sizes	£120 Restaurants £0 Bars	£120
Bristol	£120 all sizes	£120 all sizes	£120	£120
Swindon				
Zone 2	£100 all sizes	£100 all sizes	£100	£100
Zone 1	£0 all sizes	£0 all sizes	£0	£0
Cambridge	£75 all sizes	£75 all sizes	£75	£75
Barnsley				
Other areas	£70 all sizes	£70 all sizes	£70	£70
Town centre and principal shopping areas	£0 all sizes	£0 all sizes	£0	£0

¹⁹ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

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Warrington	£0 supermarket	£40 Neighbourhood convenience	£0	£120
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Apart from Peterborough and Warrington, the majority of the local authorities identified in the Table above apply a single CIL charge rate for various types of developments (i.e. “Large”, “Small”, “Restaurants/Bars” & “Supermarkets”) as well as in designated location or zones within the local authority.

The charging schedule for retail development in in Barnsley and Swindon differentiates by location where in Barnsley they are no CIL charges for any retail in the town centre and its identified principal shopping areas and Swindon has no charge in “Zone 1” (‘New Communities zone’). As with the majority, both local authorities charge a blanket CIL for different types of retail development in designated locations. The CIL charging in Peterborough differentiates between retail development size with a higher charge (£150) for retail developments that are > 500.

With the exception of Peterborough and Warrington most local authorities have adopted a CIL Charge for “Restaurants and/or Bars with Ipswich only specifying a CIL charge of £120psqm for restaurants but has no charge for bars.

Table 16. CIL Rates for other types of developments amongst Comparators local authorities (by Housing Stock Change)²⁰ (prices are per sqm)

Authority	Student Accommodation	Offices	Industrial/Warehouse	Care Homes	Retail Warehouse	Mixed Leisure (inc hotels)	Public Service and Community Facilities	Other
Barnsley	£0	£0	£0	£0	£0	£0	£0	£0
Bristol	£100	£0	£0	£0	£0	£50	£0	£50
Cardiff	£0	£0	£0	£0	£0	£0	£0	£0
Cambridge	£125	£0	£0	£0	£0	£0	£0	£0
Gloucester	£0	£0	£0	£0	£0	£0	£0	£0
Ipswich	£0	£0	£0	£0	£0	£0	£0	£0
Peterborough	£0	£0	£0	£0	£70	£0	£0	£0
Swindon	£0	£0	£0	£0	£0	£0	£0	£0
Warrington	£0	£0	£0	£0	£75	£0	£0	£0

Of the comparator (by Housing Stock change) local authorities identified in the Table above, only Cambridge and Bristol charge a CIL rate for student accommodation with rates of £125psqm and £100psqm respectively. Bristol also has a CIL charge for “Mixed leisure, including hotels” and has specified a CIL charge of £50 for any other type of development not identified in the Table above.

Only Peterborough and Warrington had specified a CIL charge for retail warehouses with charges £70psqm £75psqm respectively.

²⁰ All data taken from local authority charging schedules, draft charging schedules, email questionnaires or telephone interviews. More details in references section.

Table 17a. Local Authority Section 106 Collections 2010-2015 by Comparator Groupings

Core Cities Group	2014/15	2013/14	2012/13	2011/12	2010/11
Birmingham	£1.7m (2014)	£1.5m (2013)	£5.4m (2012)	£3.7m (2011)	£5.1m (2010)
Bristol	£3,788,684.35	£3,363,318.81	£3,435,607.10	£3,889,062.09	£3,462,502.89
Cardiff	£2,522,753	£2,601,762	£2,006,428	£1,969,397	£2,869,341
Leeds	Average of £3.5m between 2007 and 2012				
Liverpool	Unable to provide the figures				
Manchester	£223,455	Info Unavailable	£4,205,179	£1,252,307	£1,453,493
Newcastle	£1,380,493 (to end of 2014)	£3,734,707	£4,007,342	£1,223,789	£188,638
Nottingham	Data not provided				
Sheffield	Averaged £1m since 1994. Receipts peaked at £3m in 2006, so average 2005-2015 is £1.5m £1.5m				
Portsmouth	Stopped recording once CIL started			£935,995.67	£345,417.94
Oxford	£505,295.95	£577,907.10	£556,374	£651,576.19	£520,219.53
Bournemouth	Data not supplied	£2,027,000	£1,368,000	£1,505,000	£985,000
Adjacent Local Authorities	2014/15	2013/14	2012/13	2011/12	2010/11
Blaenau Gwent	Data not supplied				
Bridgend	Data not supplied		£1,000,556.50	£866,182.70	£20,000
Caerphilly	Data not supplied		£927,255.40	£301,188	£3,623,917
Cardiff					
Merthyr Tydfil	£2,500	£104,990	£57,838	£15,000	£0
Monmouthshire	£2,031,692	£313,315	£283,199	£373,367	£1,155,527
Newport	Data not supplied				
Rhondda Cynon Taf	Unable to provide within timescale				
Torfaen	Data not supplied	£178,878	£588,714	£0	£161,000
Vale of Glamorgan	£3,876,452.81	£5,431,630.24	£511,873	£10,263,858.68	£5,700,691.50

Table 17b. Local Authority Section 106 Collections 2010-2015 by Comparator Groupings

Comparator Cities by Job Growth Rates	2014/15	2013/14	2012/13	2011/12	2010/11
Birmingham	£1.7m (2014)	£1.5m (2013)	£5.4m (2012)	£3.7m (2011)	£5.1m (2010)
Bolton	Data not supplied		£212,658.44	£971,722.86	£186,825.15
Bristol	£3,788,684.35	£3,363,318.81	£3,435,607.10	£3,889,062.09	£3,462,502.89
Cardiff					
Hastings	Data not supplied		£0	£0	£300
Leicester	Data not supplied	£829,218.05	£549,575.68	£240,296.18	£451,581.96
Plymouth	Data not supplied		£2,395,934.28	£693,944.76	£785,593.74
Southampton	Data not supplied		£1,741,762	£3,387,572	£2,384,995
Telford	Data not supplied	£1,826,425 (to Nov)	£2,397,451.00	£2,973,702.00	£1,609,818.00
Worthing	£71,484	£63,844	£56,532	£496,672	£265,038
Peterborough	Data not supplied		£5,988,678	£4,404,321	£2,398,433
Comparator Cities by Percent of Housing Stock Change	2014/15	2013/14	2012/13	2011/12	2010/11
Barnsley	Data not supplied		£398,183	£498,107.50	£564,814
Bristol	£3,788,684.35	£3,363,318.81	£3,435,607.10	£3,889,062.09	£3,462,502.89
Cambridge	£3,826,000 (2014)	£2,877,000 (2013)	£2,597,000 (2012)	£1,431,000 (2011)	£7,072,000 (2010)
Cardiff					
Gloucester	£405,567	£299,361	£660,990	£147,991	£997,733
Ipswich	Data not supplied				
Peterborough	Data not supplied		£5,988,678	£4,404,321	£2,398,433
Swindon	Data not supplied		£135,973.29	£310,937.47	£516,862.15
Warrington	From Apr 2010 to Mar 2015, signed Section 106 agreements have an annual average value of £1,003,613.80				

It is worth noting that reported figures on the Section 106 receipts for Cardiff in the Table above are based only on financial contributions that the Council has received in each year. These S106 receipts also may not fully reflect the optimal level of development activity in Cardiff as the local authority is still awaiting the adoption of its LDP. The reported S106 figures for other local authorities may not take into account or reflect the monetary value of planning obligations in cases where the developers undertake the work themselves e.g. building affordable housing, providing open space or undertaking highway improvements etc. The above figures from other local authorities would need to be validated to confirm whether these only represent the monetary receipts that the local authority has received annually or whether these figures would include the value of the planning obligation works that had been undertaken by the developers themselves.

4. Local authorities' rationale for their CIL charging schedule

It is a requirement for the implementation of the Community Infrastructure Levy (CIL)²¹ that there is viability evidence that can be used to ensure that your CIL proposed rate or rates would not threaten delivery of the relevant Plan as a whole (National Planning Policy Framework paragraph 173). Table 1 below shows where this evidence was gathered for each of the selected authorities.

Authority	Title of Study	Date of Study	Producer of Study
Birmingham City Council	CIL Economic Viability Assessment	October 2012	GVA Grimley Ltd
Bristol City Council	CIL Viability Study	February 2012	BNP Paribas Real Estate
Leeds City Council	CIL Economic Viability Study	January 2013	GVA Grimley Ltd
Newcastle City Council	Gateshead and Newcastle Viability and Deliverability Report	October 2015 (update)	In-house chartered surveyors

²¹ http://www.pas.gov.uk/3-community-infrastructure-levy-cil/-/journal_content/56/332612/4070829/ARTICLE

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Sheffield City Council	CIL Viability Study	February 2014 (update)	BNP Paribas Real Estate
Bournemouth Borough Council	CIL Economic Viability Study	August 2014	Peter Brett Associates
Oxford City Council	The examiner's report says the council 'commissioned a number of viability studies to support the CIL charging rates but these have not been made available.		
Portsmouth City Council	CIL Viability Assessment	March 2011	Dixon Searle LLP
Merthyr Tydfil County Borough Council	Study into the economic viability of charging community infrastructure levy in Caerphilly, Merthyr & Rhondda Cynon Taf County Borough Councils		DVS Property Specialists
Merthyr Tydfil County Borough Council			
Rhondda Cynon Taf County Borough Council			
Monmouth County Council	Viability evidence for development of a Community Infrastructure Levy Charging Schedule	July 2014	Three Dragons with Peter Brett Associates
Newport City Council	Preliminary Draft Charging Schedule and CIL Viability Assessment	June 2015	National CIL Service
Bolton Council	CIL Residential Viability –Addendum Report	April 2013	
	CIL Non-residential Viability –Addendum Report	March 2013	Peter Brett Associates
Leicester City Council	Leicester, Leicestershire and Rutland CIL Viability Study	January 2013	HDH Planning and Development

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Peterborough City Council	CIL Draft Charging Schedule Viability Study	April 2014	Peter Brett Associates
Plymouth City Council	CIL Viability Evidence Report	January 2012	GVA Grimley Ltd
Southampton City Council	CIL Viability Assessment	April 2012 (updated)	
Worthing Borough Council	CIL Viability Assessment	August 2012	Nationwide CIL Service
Barnsley Metropolitan Borough Council	Draft CIL Viability Report	April 2015 (updated)	Andrew Golland Associates
Cambridge City Council	CIL Viability Assessment	February 2013	Dixon Searle LLP
Gloucester City Council	Joint Core Strategy Viability Assessment	February 2015 (updated)	Peter Brett Associates
Ipswich Borough Council	CIL Viability Study	November 2013	Peter Brett Associates
Swindon Borough Council	CIL Development Viability Study	June 2012	GVA Grimley Ltd
Warrington Borough Council	CIL Viability Study Final Report	September 2015	Peter Brett Associates

4.1. Birmingham²²

The CIL Charging structure in Birmingham aims to avoid complexity by adopting a two-tier structure that's based on postcodes.

Residential

²² Birmingham CIL Examiners Report (June 2015) pp 9-15

http://www.birmingham.gov.uk/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobheadername1=Content-Disposition&blobkey=id&blobtable=MungoBlobs&blobwhere=1223587549555&ssbinary=true&blobheadervalue1=attachment%3B+filename%3D564615BIRMINGHAM_-_CIL_REPORT_-_FINAL.pdf

There are three high value areas for residential development which have higher charges compared to other residential areas in the city. Overall, the viability model demonstrates there is 'generally strong positive viability in the high value charging zones' and it has been suggested that smaller developments could withstand higher charges. The overall charge took all development types into account and was reduced to £69psqmafter a 40% buffer from the maximum viable rate was added. The results of the viability study also prescribes that low value zones could adopt a lower viable rate of £55psqm (£33 after 40% buffer). However, the local authority decided there will be no charge for these areas. Some concerns had been raised over new homes having no charge when there could be one, especially in light of limited role for Section 106. However, the proposal remains with the view of maintaining viability and maximising affordable housing. The viability study found that developments for retirement housing could also withstand a charge; however, other factors such as required support associated with this type of development would make them less viable and a decision was made to have no charge for this type of development.

Retail

Due to the Council's perception that the city is already well-catered for by a network of centres and supermarkets, a higher charge of £260psqm is proposed for large (over 2000sqm) convenience stores. The charges for other retail types are zero to reflect the council's priority to increase comparison shopping floor space. The Council also has a CIL charge for smaller supermarket formats and discount operators because it is acknowledged that it is important to meet existing meeting demand, plug gaps in provision and drive consumer choice.

Other

A charge is assigned for hotel development the city centre as the study results show that it has better viability in that area. Although the student housing market is regarded as mature, the indicative development in this area justifies a proposed charge for this type of development with the 40% buffer in place.

4.2. Bristol²³

²³ Bristol Completed questionnaire from Jim Cliffe, Planning Officer and CIL Examiner's Report (July 2012)
<https://www.bristol.gov.uk/documents/20182/239200/Bristol%20CIL%20Report.pdf/3ef1925f-14f7-405b-903d-84cda4609931>

Bristol wanted to keep the charging schedule as simple as possible, which is why they aimed for citywide zones wherever possible.

Residential

The charging for residential development is divided into two zones that are broadly based on the SHMA (Strategic Housing Market Assessment). The higher value area is where 40% affordable housing is sought whereas the lower value areas is where 30% is sought. Bristol chose a conservative approach with a 50% buffer from the maximum identified in viability assessments. This was to leave a negligible impact on viability and allow space for site specific characteristics that may affect costs.

Retail

The £120psqmCIL rate for retail was implemented based on robust evidence that it would be sustainable and would not affect the new shopping provision envisioned in the Core Strategy. There was not enough evidence to suggest anything other than a flat rate could be applied.

Other

The results of their viability study also provided evidence which suggests that new hotel and student accommodation provision will continue to come forward and be highly viable despite the application of CIL charges for this type of development.

4.3. Leeds²⁴

The charging rates were determined by viability and although the buffer is only 10% below the maximum viable rate, a cautious approach and conservative estimates is seen as an in-built buffer.

Residential

The Economic Viability study undertaken for Leeds built on its previous work on affordable housing requirements and identified five different residential zones. Average market values for a range of densities were established and over 140 sites including greenfield and previously developed sites were modelled.

²⁴ Leeds CIL Examiners Report (September 2014) pp 3-6
<http://www.leeds.gov.uk/docs/Leeds%20CIL%20Final%20Report%20050914.pdf>

Retail

A cautious approach was taken on retail CIL rates, however the buffer was still increased to 37% from the maximum sustainable rate. Large stores outside the city centre proved the most viable in contrast to smaller supermarkets and comparison stores that were subsequently given discounted rates. Considering the number of town centres in Leeds, it was decided that differential geographical rates, though feasible, would be unduly complex and cumbersome.

Other

The charges for Offices outside the city centre are lower as they are deemed less attractive and this is reflected in the proposed CIL rates. Other developments such as hotels, care homes or gyms have generated a revenue ranging from £5psqm and £23psqm through section 106 payments, so in keeping with the cautious approach of viability study, the CIL rate has been set at the bottom end of that scale.

4.4. Newcastle²⁵

Newcastle has described their approach as 'cautious but optimistic' to reflect the current economic climate and low confidence in the housing market. They have acknowledged that the viability evidence is a 'snapshot in time' and that the selected rates must allow for those developments that have abnormally high costs. In the interest of caution wherever viability is only marginal, no charge will be issued.

Residential

Land and development values differ significantly across Newcastle and Gateshead, meaning there is variance in the level of charge that can be sustained for residential developments. The proposed zones were identified by their levels of viability. The two that were deemed capable of sustaining a charge were the High Mid Non Urban Value Area and the High Urban Value Area with the city centre. The remaining parts of the city were deemed unviable for development with a CIL charge. A buffer of just over 70% has been applied from the maximum average charge that would be viable.

Retail

Viability assessments have shown that a flat CIL rate/charge across different forms of retail development and different geographical areas was neither equitable nor appropriate. The city centre has a significant number of listed buildings, high density/mixed uses, complex ownership patterns and restrictions. It was extremely challenging to identify a realistic threshold which has led to the proposed £0psqm rate. Some locality centres were found to be 'at risk' and it was acknowledged that smaller stores have a valuable role in supporting these areas and therefore no CIL rate will be applied for these types of development. Supermarket rates are set to reflect changes in the industry and the type of planning applications received where discounter supermarkets go to low/medium value areas and local supermarkets are more central and generally across value areas.

Other

The student accommodation and hotel rates are a reflection of the existing market conditions and the recent strong increase in enquiries for such accommodation. Conversely market for office space

²⁵ Newcastle CIL Background Paper (April 2015) pp 16-26

https://www.newcastle.gov.uk/sites/drupalncc.newcastle.gov.uk/files/wwwfileroot/planning-and-buildings/planning-policy/ncc_and_gc_cil_pdcs_background_paper_april_2015.pdf

is regarded as weak and new developments have been postponed so the charges assigned for this type of development is zero.

4.5. Sheffield²⁶

Residential

The Viability Study concluded that the ability for residential developments to make CIL contributions was found to depend on area, current use of the site and the amount of affordable housing the council would seek to develop. This has resulted in five different charging zones within the local authority area where two have been deemed as unable to sustain a charge and the other three given a percentage buffer for charging to avoid working on the border of viability.

Retail

The area of Meadowhall has the retail developments that produce the highest residual values according to the viability study, which is reflected in its CIL charge rate. Another justification of the higher CIL rate is that there is no proposed development and it does not qualify as a strategic site for development, so the strategy would not be affected if CIL were to serve as a deterrent. Viability is greatest for large stores, so they incur a rate across the city whereas smaller stores are only viable within the marked prime retail areas. For this reason smaller stores outside those areas are counted as 'other types of development' and subjected to no charge.

Other

A 46% buffer is applied to CIL rates for student accommodation. The rate is based on an assumed rent of £120 per week that the council believes will not deter students because of the quality of the accommodation on offer. There was an initial proposal to charge £10psqm for 'out of town' leisure facilities, however there has since been a proposal to delete the charge and leave the area categorised as 'all other development' which has zero CIL charge. This was a result of problems in defining zones, a lack of viability evidence to support such a charge, and the implementation of these type of developments are regarded as contrary to the core strategy of being located in the greenbelt area

²⁶ Sheffield CIL Examiners Report (February 2015) pp 2-12

<https://www.sheffield.gov.uk/planning-and-city-development/applications/community-infrastructure-levy/adopt-cil/examination.html>

4.6. Bournemouth²⁷

Two charging zones have been created in relation to the Town Centre Area Action Plan (AAP). One of the zones is the area designated to be part of this plan and the other is the rest of the town. Following the submitted schedule for examination, the examiner suggested that Bournemouth lower all its CIL rates to create a more suitable viability margin. The most notable change following this recommendation was for student accommodation where the proposed rate of £50psqm only gave a buffer from the maximum of 24% so it was dropped to £40psqm (39%).

Residential

It was initially proposed that two different rates will be charged for residential developments outside the AAP zone, one for developments with 11 units or more and one for ten or less. Due to the removal of the requirement for the provision of affordable housing on developments of ten units or fewer, the initial proposal was overturned and instead a flat rate for residential development was proposed.

Retail

Only convenience retail and student accommodation and will have a CIL rate within the Action Plan area to facilitate development that will assist delivery of the plan. The Council has held the position that small convenience stores that are generally under 100sqm or developments that are conversion projects would not be subject to CIL. Land in Bournemouth is at a premium and it is therefore deemed unlikely that a net gain in new convenience floor space will take place. However, the CIL rate was lowered from the initial proposal to encourage such a development (though unlikely) come forward.

²⁷ Bournemouth CIL Examiners Report (October 2015) pp 2-5
<http://www.bournemouth.gov.uk/PlanningBuilding/PlanningPolicy/PlanningPolicyFiles/CILAdoption/appendix-1-cil-examiners-report.pdf>

4.7. Oxford²⁸

When testing viability, Oxford did not include provision for section 106 income because they didn't expect it to be significant once CIL was approved.

Residential

The results of the viability study found that the majority of areas in the city was deemed viable at the proposed charging rate for residential development. Although three sites were regarded as unviable regardless of any CIL charges, a blanket or city wide CIL rate for residential development has been adopted. The Viability Study showed that the likely residential development values in a relatively compact urban area covered by the city boundary did not justify any differential charging on an area basis. The approach of setting a fairly simple structure of charges complies with government guidance and is appropriate in this case.

Retail

The Viability Evidence Report (VER) indicated that out of centre convenience superstores would be at the margin of viability if CIL were imposed at £100psqm. This is attributed to the very high value assumed for existing uses. According to the CIL examination, a marginal improvement in either rents or yields in the model used would comfortably support the proposed CIL rate and with consideration of comparable developments elsewhere in the sub region. The examiner considered the rate to not be unduly high in relation to costs and would be most unlikely to create a threat to retail development generally.

Other

Locally, BMW is regarded as a major employer which contributes significantly to the local economy. The adoption of CIL charge could result in a substantial charge and impact on any proposed expansion at the BMW premises. The examiner considered that on balance a CIL rate of £20psqm, which is likely to be a small proportion of overall costs, would be unlikely to threaten development at BMW, given the Council's commitment to supporting such a major employer

²⁸ Oxford CIL Examiners Report (July 2013) pp 3-6
https://www.oxford.gov.uk/downloads/file/1390/cil_examiners_report

As the County Council argued, it is clear that charging CIL on uses for community facilities such as education premises would merely add to the costs of development that would have to come from the public purse. However, in practice the additional costs on the small amount of development likely to come forward in this way could be funded through use of the levy itself or through other grant funding.

4.8. Portsmouth²⁹

In developing their CIL charging schedule, the council considered different rates in different geographical areas, but have however concluded that in such a small and compact area, variations in terms of property values cannot be clearly defined. The only variation is that residential institutions will have a lower rate.

Retail

The viability assessment concluded that out-of-centre retail schemes could charge a CIL rate of as much as of £105psqm. The viability of smaller proposals is deemed to be marginal and a reduced levy has been applied for this type of development. The threshold under which are deemed 'small' and therefore incur a lower CIL rate has been set at because it is a reflection of the threshold for Sunday trading laws. In-centre retail will be charged the same lower rate because its viability suggests that a higher rate would put such development at risk regardless of the size

Other

Only extremely optimistic assumptions would make CIL charges viable for office development so the council is proposing that no CIL be charged. It was found that CIL charges for hotels may be viable up to a rate of £105psqm. However a conservative rate of £53psqm is proposed as hotel provision is seen as a key priority for the council and other specific factors (such as size, location and type) make broad assumptions difficult. A similar approach is being taken to care homes.

²⁹ Portsmouth CIL Examiners Report (January 2012) pp 2-5

<https://www.portsmouth.gov.uk/ext/documents-external/pln-cil-examiners-report.pdf>

4.9. Caerphilly³⁰

Residential

The viability study found that sales values and development viability for residential developments are much stronger in the south of the borough than in the north. The three charging zones proposed approximate to, but do not mirror, the three strategic areas defined in the Local Development Plan. The geographical zones also reflect earlier work defining housing market areas, and related viability testing which informed the LDP's approach to location specific affordable housing targets. It is noted that one area, Risca, is an anomaly to this trend.

The Council's existing Local Development Plan seeks to encourage development northwards but the greater share of housing is proposed in the south where viability is regarded as stronger due to proximity to Cardiff and the M4. Three sites with affordable housing obligations of 40%, 10% and 40% showed strong viability resulting in a rate of £40psqm which incorporates a healthy buffer of at least 38% from the maximum viable rate.

Retail

The viability study also provided clear evidence that certain commercial development types were not currently viable and could not sustain CIL charges. In terms of class A1 (shops), four sites were tested and two provided positive results. These were deemed more representative of potential development whereas the two that yielded negative results were thought unlikely to occur with or without a CIL charge. Therefore a flat £100psqm rate has been applied. It is worth noting that the council does not envisage a significant new retail development in the course of the current LDP.

4.10. Merthyr Tydfil³¹

Residential

The residential charging zones in Merthyr Tydfil County Borough Council are based on economic viability and also tie in with the different growth areas identified within the adopted Local

³⁰ Caerphilly CIL Examiners Report (February 2014) pp 7-11

http://offlinehbpl.hbpl.co.uk/NewsAttachments/RLP/Caerphilly_CIL_Inspectors_Report.pdf

³¹ Merthyr Tydfil CIL Examiners Report (February 2014) pp 7-11

<http://www.merthyr.gov.uk/media/1226/merthyr-tydfil-cbc-cil-examination-report.pdf>

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Development Plan. The viability study found that sales values and development viability are much stronger in the north of the borough (around Merthyr Tydfil itself) and the south of the borough (around Treharris and Trelewis) than in the mid valleys area. The middle part of the borough have demonstrated lower land and sales values and development viability is more challenging.

The mid valleys zone sites tested were both greenfield sites that either have no affordable housing obligations or at most 5% and all showed that a CIL charge is simply not viable. Initially, the lower valley zone had a proposed rate of £25psqm, however the examiner recommended that any charge would not leave a suitable enough buffer and as such, the proposed charge was dropped and there will be no CIL charge for residential development in that zone. The area around the Merthyr Tydfil itself area has a £25psqm CIL charge which is comfortably below the viability level indicated by the evidence gathered. The examiner recommended that smaller housing schemes should be monitored to see if they continue to come forward and if affordable housing pressures are reduced.

Retail

The Economic Viability Study provided clear evidence that certain commercial development types were not currently viable and could not sustain CIL charges. Large format shops were tested for viability in two sites and returned high achievable CIL rates (£348psqm and £507psqm). It is anticipated that there will be no development for small format retail and as a result the examiner concluded that the limited retail development that may come forward should be able to comfortably afford the £100psqm CIL charge i.e. there would be significant headroom to accommodate a range of schemes

The Council does not envisage any significant Class A3 (bars and restaurants) development in the planned period. However, its testing of a modelled 400 square metre restaurant development generated a £76psqm theoretical residual CIL. The setting of the CIL rate of £25psqm would be well below the theoretical maximum of the one example tested, and it is thought this will leave sufficient scope for other Class A3 development types to remain viable.

4.11. Monmouthshire³²

Residential

Proposed residential charging zones are based on viability evidence, influenced by house price data, land values and costs associated with meeting planning requirements (e.g. affordable housing and site specific infrastructure).

The viability study undertaken suggests that a theoretical maximum CIL rate for residential development in main towns and rural 'rest of Monmouthshire' might be around £160psqm. This proposed maximum value also acknowledges that the lower density development in Monmouth will not be viable at this level. The lower values in Severnside suggest that only a lower CIL can be supported for these types of site up to £40psqm (acknowledging that the lower density development will not be viable). However, it is cited in the LDP that these sites will only make up a small proportion of the planned development. The analysis for the viability study suggests that it is appropriate to set a CIL for residential development in Monmouthshire and that this should vary by location and type of site. Each zone has been given a 30% buffer below the maximum identified CIL rate.

Retail

In light of the good national performance of supermarkets and following an appraisal on this in Monmouthshire show that there is scope for a CIL charge for out of town centre convenience retail development without affecting viability. The results of the viability testing indicated very little scope for charging CIL for town centre comparison and convenience retail units and there is insufficient value in town centre comparison development to set a levy. Whilst town centre convenience testing does show a positive value, it is not significant and may be considered as more marginal than out of centres retail uses.

Local convenience stores are another type of development that is being considered for inclusion in the charging schedule, but not on the same scale as supermarket development and retail warehouse units. Due to the rural nature of Monmouthshire it is anticipated that a lot of new convenience store floor space will either utilise existing floor space or be under 100 sq. m.

³² Monmouthshire CIL Viability Assessment (September 2015) 99 34-40
<http://www.monmouthshire.gov.uk/app/uploads/2015/07/Monmouthshire-CIL-Viability-Final-Report-July-2014.pdf>

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Therefore the authority has opted for a simpler levy regime with a catch all charge for out of centre retailing, which is higher than a smaller convenience store has shown as viable. However, it is not considered that this will put at risk the provision of smaller units for the reasons set out above.

Other

The viability report also suggests that it would not be helpful to set a CIL for the type of facilities that will be paid for by CIL (amongst other sources). The view on this issues is that there is no or £0 commercial value for community uses although there are build costs of around £1,800 psqm plus the range of other development costs. Therefore a zero CIL rate has been proposed.

4.12. Newport³³

Residential

As part of their Affordable Housing Policy, Newport City Council has identified housing sub-markets, based on average house price data and postcode grouping. It was also noted that the value “spread” is relatively limited across the authority, particularly if Caerleon / Rural Newport is assessed in isolation and would generally (although not exactly) demonstrate something of an urban / rural split.

The results of the Council’s survey of the new build property market did not identify sufficient variability in new build values to robustly warrant more than a two-zone split. New build property drives similar values across the study area, and it was decided that there isn’t enough clear and differential evidence to value new build differently across 4 affordable housing sub-markets. They have suggested that similar new build values can be attributed to the areas grouped under the heading ‘zone 1’. Slightly higher values are deemed appropriate for Caerleon / Rural Newport (Zone 2).

Retail

The research has identified a much less noticeable range for commercial property, with only limited information available. This has been partly attributed to a general lack of new build activity in the commercial market as a result of the on-going economic downturn. Furthermore within the study

³³ Newport Preliminary Draft Charging Schedule and CIL Viability Assessment (June 2015) pp 4-5
<http://www.newport.gov.uk/documents/Planning-Documents/Community-Infrastructure-Levy-/Appendix-A---Preliminary-Draft-Charging-Schedule-and-Viability-Assessment.pdf>

area the majority of commercial activity is contained within the urban area. This largely comprises some office / industrial and other uses combined with a retail offering.

The rural areas have limited commercial activity across all sectors, mainly convenience retailing. In summary, the council do not believe that there is sufficient 'fine grained' evidence to warrant a subdivision of what is already a relatively small charging area into separate CIL charging zones for commercial property.

4.13. Rhondda Cynon Taf³⁴

Residential

Providing an appropriate balance between helping to fund necessary new infrastructure and the potential effects on economic viability of development across the area was the main consideration when setting residential charging zones.

Zone 3 is in the south of the borough and has the strongest sales values and viability. This has been attributed to its proximity to the M4 and major urban centres. The study found that sales values and development viability are much stronger in the south of the county borough than in the north and therefore the CIL charging is higher in this area. Although Tonyrefail produced better viability than the rest of the area in zone 2, this area was not included in the higher charging rate of zone three because the council wanted to keep its approach simple and decided that Tonyrefail was not as strong as zone 3 in the south.

Retail

The Economic Viability Study (EVS) also provided clear evidence that certain commercial development types were not currently viable and could not sustain CIL charges. The EVS tested the viability of relatively large format shops in three sites. In results in the two of the sites for the type of development is , deemed most representative of retail development that may happen in the LDP period have produced potential maximum CIL rates of over £1000psqm. However it has therefore been decided that a £100psqm CIL charge is reasonable and would leave significant headroom for the most retail development scenarios.

³⁴ RCT CIL Examiners Report (June 2014) pp 4-12

<http://www2.rctcbc.gov.uk/en/relateddocuments/publications/developmentplanning/communityinfrastructurelevyexamination/cil-finalinspectorreport.pdf>

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The preliminary draft charging schedule included a £25psqm rate for bars and restaurants however the examiner saw no evidence to suggest this charge is supportable. There was only one area available for study and the results have shown that CIL charges were deemed to scrap a CIL charge for this type of development .

Other

There was also a proposal for a CIL charge on primary healthcare developments. Research suggests it would be a very small cost burden on the larger 'commercial' variants of development in this

Category. However , the examiner felt there was insufficient evidence to justify the imposition of a charge on the less commercial variants. As the Council was unable to justify whether or not a CIL charge was viable and with consideration the health and deprivation profiles of parts of the borough it was agreed to scrap the proposal for a CIL charge.

4.14. Bolton³⁵

Following consultation with developers, Bolton Council considered introducing differential CIL rates, which may help to ensure sites with more marginal viability are not unduly impacted. On consideration of evidence from developers it was found that this was insufficient to fully justify the inclusion of boundaries for differential rates. Without robust evidence for geographically varied rates, the council believes that it is more practical to implement a levy with flat rates, rather than introducing differential rates and passing any additional administrative expenses onto the development industry.

Retail

Bolton considered that their proposed response of a £5 base rate for all non-specified development approach is an appropriate response to the viability evidence that balances the need to fund the infrastructure required to enable growth, with the need to maintain development viability. This

³⁵ Bolton Community Infrastructure Levy Background Document (April 2013) pp 12-14

<http://www.bolton.gov.uk/sites/DocumentCentre/Documents/Bolton%20DCS%20background%20document.pdf>

CIL Residential Viability Addendum (April 2013) pp A16-A17

<http://www.bolton.gov.uk/sites/DocumentCentre/Documents/Residential%20viability%20addendum%202013.pdf>

CIL Non-residential Viability Addendum (March 2013) pp 3-9

<http://www.bolton.gov.uk/sites/DocumentCentre/Documents/Non%20residential%20development%20viability%20study%20addendum%20report.pdf>

conclusion was based on revised research and guidance, and the findings of recent Examiner's Reports on CIL charging schedules that included a similar approach. Supermarkets and retail warehouses showed by far the greatest viability which is reflected in the CIL rates that they have applied.

4.15. Leicester³⁶

The recommended strategy for Leicester is to set their CIL charges low. This is to ensure that they are able to maximise the developers' total contribution through managing the Regulation 123 List and ensure that developers continue to make further contributions through a well-developed section 106 strategy and support the delivery of affordable housing. Leicester reports that they are not trying to maximise CIL receipts – but rather to develop a strategy to ensure that development continues and stressed the uncertainty in their housing market in their viability study

Other

With consideration of the viability study results, retail warehouses and supermarkets (including discount supermarkets) are recommended at £150psqm and other retail at a zero rate so as to not run the risk of threatening development.

4.16. Peterborough³⁷

Residential

The results of the CIL viability study has shown that that there are clear and marked differences in the average values of various types of dwellings in different parts of the City. This has therefore justified the differential rates for residential developments of up to 500 dwellings in the different charging zones identified.

There had been representations to suggest that the low value residential zone should be extended to the west to include all of the city centre area defined in the recently adopted Development Plan document. However, the three defined zones have all been done so strictly based on their viability.

³⁶ Leicester CIL Viability Study (January 2013) pp v-ix

<http://www.rutland.gov.uk/pdf/CIL%2031%20Leicestershire%20and%20Rutland%20CIL%20Viability%20Study%201%2013.pdf>

³⁷ Peterborough CIL Examiners Report (February 2015) pp 8-12

<https://www.peterborough.gov.uk/upload/www.peterborough.gov.uk/council/planning-and-development/Planning-CIL-ExaminersCILReport.pdf?inline=true>

The viability study concluded that residential developments with fewer than 500 dwellings, other than larger scale apartment developments, in all three areas could viably contribute towards CIL. Smaller scale developments were found to have the greatest degree of viability. The nil rate for apartment developments comprising 15 units or more reflects the VS finding that developments of apartments this size could not viably contribute towards CIL.

Retail

The viability evidence concludes that supermarkets (including for typical discount operators), retail warehouses, and neighbourhood convenience stores are all viable, whereas high street comparison retail development could not viably contribute towards CIL.

The proposed charging rates all provide a significant margin of 25% or more to allow for inevitable variations in the costs and value of particular retail developments. They are therefore, unlikely to threaten the viability of retail development across the City.

4.17. Plymouth³⁸

Residential

Analysis of residential values across Plymouth has shown variation however the council concluded that it would be extremely difficult to convincingly evidence and justify a set of boundaries for the implantation of a differential CIL rate system. The zone identified as carrying no charge broadly reflects the “Zone of Opportunity for Tall Buildings” in the Council’s Design Supplementary Planning Guidance (SPD).

This zone is the city centre and adjacent areas where it has been determined that tall buildings for residential and student accommodation are most likely to be built. The viability evidence suggests that tall buildings have higher build costs and the return on investment is not realised until completion. The remaining areas of Plymouth is however subject to a £30psqm charge for residential development and £60psqm for student accommodation, both of which are deemed viable an unlikely to affect any affordable housing obligations.

³⁸ Plymouth CIL Viability Report (January 2012) pp 7-14
http://www.plymouth.gov.uk/plymouth_cil_viability_evidence_report.pdf

Retail

In assessing the capacity of various types of development category to pay a CIL charge, they have also carefully considered the state of Plymouth's retail economy. Data from an annual retail survey shows a decline in retail occupancy from 2008 to 2011. There has been either the entry into administration or outright closure of a number of national and regional retail outlets who have a significant presence in Plymouth. For this reason only supermarkets are deemed viable for a charge. Those 'superstores' with floor space >1000sqm (the size threshold deemed by the authority to differentiate between types of retail in terms of viability) can comfortably sustain the suggested CIL rate according to the study.

4.18. Southampton³⁹

The Council's decision to set flat rates for both retail and residential developments across the city is based on assumptions about current local development values and likely costs. The evidence suggests that retail and residential development will remain viable across most of the area if the charges, as modified, are applied. Only if development sales values were to beat the lowest end of the predicted spectrum would development in some parts of the city be at risk.

In setting the two CIL charging rates the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Southampton, albeit a reduction is required in relation to new housing. The Council has tried to be realistic in terms of achieving a reasonable income to help address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable in the city.

4.19. Worthing⁴⁰

Residential

Two residential pricing zones have been identified based on viability. Updated appraisals indicate that the proposed £100psqm CIL levy could be viably charged, with a "buffer" of between £24 and

³⁹ Southampton CIL Examiners Report (April 2013) pp 8-10

https://www.southampton.gov.uk/Images/Southampton-CIL-Final-Inspector-Report_tcm63-368654.pdf

⁴⁰ Worthing CIL Examiners Report (November 2014) pp 4-9

<http://www.adur-worthing.gov.uk/media/media,129583,en.pdf>

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£491psqm, for all categories of residential development in what are deemed the 'medium and high value areas' and for executive housing on greenfield sites in low value areas.

Updated appraisals of general purpose housing have indicated that in low value areas only executive housing on greenfield land would be viable with the proposed £100psqm CIL charge. On the basis that little residential development would be likely to come forward in these locations, the Council has concluded that a separate rate should not be set for these areas. However, the updated appraisals show that the proposed £100psqm CIL charge would make unviable executive housing on brownfield land, suburban housing on greenfield land and mixed residential development on both greenfield and brownfield land in low value areas. Consequently, by imposing a £100 CIL charge it is very likely that this development would not materialise and thus no CIL income would be secured. Conversely, if no CIL were to be charged on residential development in low value areas, little or no CIL income would be foregone but the potential for otherwise viable residential development to come forward to contribute towards housing needs would be significantly increased.

Retail

Following an assessment of a range of different retail types including a 100sqm general retail store, a 15sqm food store, a 2000sqm supermarket and a 5000sqm retail warehouse, it was found that, assuming the higher on-going s106 cost, all the appraised retail developments could comfortably pay a proposed £150psqm CIL rate. The appraisal also shows that, even on brownfield land, a minimum 'buffer' of £30psqm between the maximum CIL which would be viable and as well as the rate proposed.

The maximum viable CIL rates indicated by the appraisals generally vary more by type of retail use (e.g. food retail versus general retail) than they do by size of development and, thus, the evidence does not support a differential CIL rate for smaller and larger retail development. The appraisals indicate that a higher than proposed CIL charge could be viably levied on certain types of retail development (e.g. general retail). However, the council has found no specific evidence to indicate that not doing so affects finding an appropriate balance in setting its rate, bearing in mind the need to avoid selective assistance resulting from differential rates and the desirability of an uncomplicated schedule.

4.20. Barnsley⁴¹

Residential

CIL residential charging zones have been based on the established housing submarkets zones. This ensures that CIL is linked to the housing policy.

The viability study showed that the economics of development in the lowest value sub markets do not support a CIL, and the Council has decided to take this on board. The evidence suggests that the Council should set a differential CIL, based on the threshold at which Affordable Housing is triggered. Where Affordable Housing and other Section 106 contributions is not required residual values are found to be higher.

The council doesn't believe this should mean that a CIL should be set for smaller sites in the weaker sub markets, but that it should be set differentially in the sub markets where there is a surplus. The point at which CIL is set should reflect a level of cautiousness, since inevitably the land value benchmark will be higher in some instances than assumed in the viability study.

The evidence indicates that for residential development, it is considered that CIL will not render the majority of development throughout the borough unviable. However, it is acknowledged that different rates may have to be set for different parts of Barnsley in order to reflect the viability of residential developments within local areas.

Retail

For non-residential uses, the only types of development which could support CIL and remain viable (at present) are A1 uses(shops). The Council recognises the importance of the redevelopment of the Town Centre and therefore it is proposing that a zero non-residential CIL rate will be applied for the regeneration area within the context of this charging schedule.

The importance of Principal Town shopping district centres and the associated contribution to local communities has also been recognised. It is therefore proposed that a zero non-residential CIL rate will be applied to those zones also.

⁴¹ Barnsley CIL Viability Study (September 2012) pp 23-25
<http://consult.barnsley.gov.uk/portal/development/planning/cil/cil?tab=files>

4.21. Cambridge⁴²

The council proposed to have singular residential and retail rates. decision was taken bearing in mind that a differential charging approach across a small city like Cambridge could get quite complicated, unwieldy and difficult to administer; that there is not much planned growth in the higher value area and so a higher charge in that area would be of little value; and, taking the emerging development strategy into account. This was considered the most appropriate solution because it best represents the mix and balance of local circumstances within the relatively small overall city area, and the blurring between very localised characteristics.

The Council also considered the wider CIL implications, such as the difficulties associated with arriving at suitable differential rates boundaries (in itself telling in terms of weighing up the options), the clarity of the system, administrative side and potential CIL receipts estimates. The opposing tension to viability and finding optimal contributions towards infrastructure need in light of the funding gap were also part of the consideration of balance and the selected single rate approach.

Residential and Retail

The Council proposed to have a single city wide residential CIL charging rate of £125psqm and a single approach based on a retail rate set at the relatively low level of £75psqm. This rate was agreed after consideration of the type of retail development that is most relevant for delivery of the city's local plan And city centre retail needs.

Other

The CIL Viability Assessment found that purpose built student accommodation in Cambridge was to be broadly equivalent to residential (market housing) development in viability terms so is therefore subject to the same CIL rate.

⁴² Cambridge CIL Supporting Information Summary (March 2014) pp 12-16
<https://www.cambridge.gov.uk/public/Idf/CIL/Examination/CIL020%20-%20Draft%20CIL%20Charging%20Schedule%20-%20Supporting%20Information%20Summary.pdf>

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The viability assessment concluded that, in the current depressed market conditions, many commercial uses would not be viable if a CIL charge was applied to them at this time. These findings were deemed a reflection of the poor relationship between development values and costs, compounded by uncertain market conditions, and are consistent with a wide range of other Local Authority areas.

4.22. Gloucester⁴³

Residential

In Gloucester, the viability appraisal undertaken to date (across generic sites) does not support a CIL charge for residential uses. A CIL rate of £0 is therefore proposed but may be reviewed following further viability appraisal and testing.

Retail

The District Valuer Services (DVS) undertook the viability study and found that 'all retail schemes in Gloucester, Cheltenham and Tewkesbury are viable with degrees of surplus except for the Gloucester out of centre scheme'. Using a similar methodology to the residential testing, and applying the headroom to a per square metre figure it was shown that all retail developments can accommodate a rate of £150psqm (with the exception of the Gloucester out of town scheme).

Although CIL may make some developments such as the Gloucester out of centre scheme unviable, the Department for Communities and Local Government guidance recognises the importance of considering economic viability as a whole across the area rather than many different permutations of charges. This is to ensure the rate setter strikes an appropriate balance between the likely development that may arise and a consideration of complexity in variable rates. It is therefore recommended that the £150 rate is sought on retail developments across the three Joint Core Strategy authorities (Gloucester, Cheltenham and Tewkesbury)

4.23. Ipswich⁴⁴

⁴³ Gloucester Preliminary Draft Charging Schedule (April 2015) pp 11-15

<http://www.gct-jcs.org/Documents/CIL/Tewkesbury-Borough-PDCS-Final.pdf>

⁴⁴ Ipswich CIL Viability Study (November 2013) pp 35-50

https://www.ipswich.gov.uk/sites/default/files/Ipswich_CIL_Viability_Study.pdf

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Residential

The Preliminary Draft Charging Schedule split the CIL Charging Map into four residential zones. One zone is for an urban extension which will be dealt with through Section 106 agreements. The other three zones relate to a low, mid and high charge based upon the sales values of properties in these areas.

To avoid potential problems in defining boundaries, Ipswich set out two conditions for creating a robust set of differential charging zones:

- The zones should be separated by substantial and clear-cut price differences.
- They should also be separated by substantial and clear-cut geographical boundaries – for example with zones defined as individual settlements or groups of settlements, as urban or rural parts of the authority. We avoid any charging boundaries which might bisect a strategic site or development area.

The council looked at house prices, talked to agents, developers and officers and together with Land Registry data generated a main hypothesis, which was then tested through formal development appraisals.

The result was a three-tiered charging structure. A variety of viabilities were then tested in each of the zones and the result was that smaller developments provided greater potential profit and could therefore withstand higher CIL charges. To reflect this it is proposed that each zone charges more CIL for developments comprised of 1-9 dwellings, apart from the town centre where there is a flat rate.

Retail

The recommended CIL charge for convenience retail is significantly below all overages produced, allowing for a significant buffer. Viability results show that there are some differences in viability of development for different sized units. However, only limited levels of convenience retail are expected in Ipswich so to avoid undue complexity a single rate charge has been suggested.

Other

Other developments were found to not generate a surplus that could be captured by CIL.

4.24. Swindon⁴⁵

Residential

Swindon's housing provision over the planned period is primarily focused on five new urban extensions, or New Communities, which are programmed to deliver the lion's share of housing, employment and supporting community facilities and infrastructure for the Borough. Three of these areas already benefit from outline planning permission. This refers to zone 1 where there will be a CIL rate of £0 and the existing section 106 regime will be continued. The proposed CIL rate for zone 2 applies to the remaining 5,701 new dwellings which are expected to come forward over the planned period within the rest of the Borough.

Retail

The updated retail Viability Study assessed a number of retail scenarios. Town centre retailing in Swindon is in some difficulty, and has been for a number of years. The town's principal shopping area – the Brunel Centre – went into receivership in December 2011. In common with many town centres, Swindon has seen a reduction in letting activity and rental values as vacancy rates have risen since 2008. Current town centre retail projects, such as Regent Circus and Kimmerfields, are planned to be mixed use developments which typically require an anchor store. This brownfield redevelopment would involve significant costs and a heavy financial burden on scheme viability. For all these reasons, the retail CIL rate has been set at £0 psm within the town centre.

The Council has applied a standard retail CIL rate to all sites outside the town centre, including sites within the New Communities, which are to continue with the existing Section 106 regime. The examiner suggested that the new communities areas also have a £0psqm CIL rate because hypothetical evidence in the VS and retail VS update seems to bear little resemblance to the likely retail development within these areas, such schemes would still be expected to make S 106 contributions towards a range of infrastructure schemes, a separate CIL rate for retail development would add unjustified complication to the CIL geographic zoning, and the additional CIL receipts from the inclusion of the £100psqm rated within Retail Zone 2 would be a relatively minor contribution towards the overall CIL total for Swindon.

⁴⁵ Swindon CIL Examiners Report (February 2015) pp 6-14

http://offlinehbpl.hbpl.co.uk/NewsAttachments/RLP/Swindon_Examination_Final_Report.pdf

Other

The Council has commissioned the testing of a range of other uses, including various employment uses (office, industrial and warehousing); hotels; leisure; health; education; and community facilities. The viability study found there is evidence to show that there are early signs of recovery in the employment and leisure sectors, however the information also shows that this recovery is not yet sufficient to justify applying a rate above £0psqm.

4.25. Warrington⁴⁶

The approach taken by Warrington is to set CIL charge rates at between 50% and 75% of the identified theoretical maximum. This range is applied to show that the charge rate is based on an equitable proportion of the 'surplus' development value and is contributing to the Charging Authority's CIL revenues, whilst also demonstrably drawing down from the ceiling of viability. The Council also adopted the view that simplicity in the charging schedule is also extremely desirable. As such, the approach taken in seeking to set a charge rate for each market area, is to adopt the lowest common denominator of the typologies assessed for each value scenario.

Residential

Using a combination of the sales value heat mapping and other aspects of the evidence base along with the viability assessments undertaken, three residential zones have been defined within Warrington where there is variation in viability

Retail

Based on viability evidence alone, it has been concluded that that only retail developments can comfortably accommodate a charge when looked at on a speculative basis. Assessments showed that high street comparison retail and neighbourhood convenience retail to be viable, however only marginally so.

In the case of each type of development, the council have proposed a range for any CIL charge that takes account of the size of buffer there should be from the set rate and the maximum that would be viable. The extent of which the charge draws away from this theoretical maximum is

⁴⁶ Warrington CIL Viability Study (September 2015) pp47-52

https://www.warrington.gov.uk/download/downloads/id/9052/community_infrastructure_levy_viability_study.pdf.

informed by the Council's attitude to development risk, confirmed by discussions with the project steering group and the feedback received.

5. Recommended guidelines and case studies in implementing CIL

The Local Government Association and Planning Advisory Service (April 2013) has published some case studies based on the experiences of 10 local authorities who have developed and adopted CIL. These authorities are:

- Bristol City Council
- Elmbridge Borough Council
- Havant Borough Council
- London Borough of Croydon
- London Borough of Redbridge
- London Borough of Wandsworth
- Newark and Sherwood District Council
- Plymouth City Council
- Shropshire Council
- Wycombe District Council.

Specific details of these case studies can be found at: http://www.pas.gov.uk/web/pas1/3-community-infrastructure-levy-cil/-/journal_content/56/332612/6073804/ARTICLE

Based on the findings of the case studies the following recommended guidelines have been developed for those local authorities who have already adopted CIL.

5.1. Lessons learned and recommended guidelines

5.1.1. Developing and adopting a CIL⁴⁷

⁴⁷ http://www.pas.gov.uk/c/document_library/get_file?uuid=793acdf8-cdf1-4f0f-8060-79eb89a574f6&groupId=332612

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The first case study looks at the experience that 10 authorities had when developing and adopting CIL. The following are some of the key things those authorities have highlighted to inform good practice:

- Brief and involve members from the outset
- Take time to plan
- Consider carefully how best to use consultant support
- Don't have preconceived ideas about a CIL charge
- Gather and manage evidence carefully
- Allow time at preliminary draft and draft charging schedule stages
- Don't fear examination – be prepared
- Think about a joint local plan/CIL examination.

5.1.2. Implementing the CIL⁴⁸

The key things identified to consider when implementing a CIL are:

- Start preparing as early as possible.
- Allow plenty of time before commencement of charging.
- Information, information, information.
- Make CIL information a validation requirement of a planning application.

⁴⁸ http://www.pas.gov.uk/c/document_library/get_file?uuid=cdf49099-b1ae-4769-99d2-b6502eb036ac&groupId=332612

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- Involve services across the council – this is a corporate project.
- Training is time consuming.
- Structure the CIL implementation team carefully.
- IT is often where the teething problems occur.
- Ensuring consistency.

5.1.3. Governance and spending the CIL⁴⁹

- Governance is still a work in progress for many
- All roads invariably lead back to the Corporate Programme
- Geography and approach can influence spending decisions
- Governance needs to incorporate partnership working with parish councils and other mechanisms in non-parished areas
- Acceptance that CIL is not the 'silver bullet'.
- Think about the intricacies of the Regulation 123 list.
- CIL represents new opportunities for governance.

⁴⁹ http://www.pas.gov.uk/c/document_library/get_file?uuid=cf7f93e4-e0e1-4d2e-9cdb-3f497b302545&groupId=332612

5.1.4. Local authorities' experiences on the impact of CIL on Section 106 charging

As part of a study into Section 106 Planning Obligations in England⁵⁰ that was commissioned by the Department for Communities and Local Government, five local authorities were asked a short list of questions about their operation of the Community Infrastructure Levy (CIL) and its impact on Section 106. The key points under each question are as follows:

Q1. What motivated the local authority to proceed with the levy and how far was the decision driven by the changes to Section 106 pooled contributions from 2014?

The change (post April 2014) in limiting the 'pooling' of Section 106 contributions was a key motivator for introducing the levy for some, but not all, of the authorities. Other factors included, the capture of small contributions from a much wider range of developments (often where it had not been realistic to negotiate planning contributions previously), the reduction of previously available funding pots, and the ability in these early stages of the Community Infrastructure Levy to demonstrate that funding would be in place to support growth alongside a new local plan. The levy was seen to be capable of speeding up the process for securing payments from sites (especially smaller schemes) where previously there would need to be a negotiation to arrive at a Section 106 agreement. Again, this advantage focused on the process for smaller schemes.

Q2 How is the system operating and where is the line drawn between the levy and Section 106?

How the line is drawn between strategic infrastructure to support growth and site specific/local infrastructure is a matter of judgement (but recognising that the authority must not seek Section 106 contributions for something that is levy-funded). Two authorities also prepared "Developer Contributions" Supplementary Planning Documents alongside Community Infrastructure Levy preparation to provide clarity and to identify those obligations still required for large strategic sites. An interesting comment was that in reviewing its Regulation 123 list, one authority said that it was likely to refocus the list on their top priorities.

⁵⁰

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/314066/Section_106_Planning_Obligations_in_England_2011-12_-_Report_of_study.pdf

-Authorities operating the levy are very aware of the importance of the way their Regulation 123 list is drawn up and that items excluded from the list are capable of being delivered by Section 106 agreements for schemes.

Q3 Are there early indications that the amount collected from the levy and Section 106 from developments is different than from under the previous Section 106 regime?

Where authorities report an uplift of income since implementing the levy, it is not because they are collecting more from each scheme but because the levy applies to (nearly) all development. Getting income from smaller sites was cited as being a fairer system than before as these sites would not previously have attracted a Section 106 contribution

But not all the local planning authorities in the (very small) sample reported an immediate sign of an uplift in money collected - two authorities stated that it was difficult to say due to low amounts actually paid to date (although a significant number of liability notices have been issued) and large sites were being treated the same as pre-levy with regard to obligations required.

Low actual income to date outside of London/south east was attributed to the wider financial climate.

Q4a How many Section 106 agreements have been signed since the local authority started charging in 2012 and what were they for?

Q4b How does this compare with the pre-levy world?

The number of Section 106s negotiated and signed has reduced for the sample of authorities since the levy was introduced; in some cases, the fall has been dramatic. It is difficult to say whether this is due to the introduction of the levy and a period of transition for the authority, or due to a slowing down of development due to the wider financial climate. A couple of authorities, for example, had signed around ten Section 106 agreements in the past year compared with more than 50 per annum in pre-levy days. These first signs of the impact of the levy suggest a potential scaling back of Section 106 negotiations and could be the start of a longer term trend. This is an aspect that the Department for Communities and Local Government can keep under review as the levy is more widely implemented – it could, for example, be readily picked up in a future study of the type undertaken in 2011/12.

Affordable housing was the majority component of Section 106s that were used, which is not unexpected as it is excluded from levy funding.

Q5 What happens when viability concerns are raised and to what extent does the negotiation become a discussion about affordable housing?

When questions of viability are raised, the key issue is almost always affordable housing and this is also the element with most flexibility in any agreement. However, one authority said that other contributions such as education, open space, etc. could be affected as well.

6. Local Authority Supplementary Planning Documents on New Planning Obligations

As of April 2015 there are restrictions on the pooling of planning obligations. Now, local authorities can no longer pool more than five s106 obligations together (dating back to March 2010) to pay for a single infrastructure project or type of infrastructure⁵¹. One of the objectives of the research team was to see what difference, if any, this has made to the Section 106 negotiation and consultation process. With the limited time frame in place, the authorities that have already adopted CIL were targeted to give an overview of how these changes fit into the adoption of CIL.

For most authorities, there is a form of Supplementary Planning Document that includes guidelines for the negotiation and consultation process. The most recent, relevant document relevant document for each authority can be found in the table below. These were either shared via email or are currently publically available on the local authorities planning website.

Table 1. Local Authority Planning Obligations Documents

Authority	Document	Date	Notes
Bristol	Planning Obligations Supplementary Planning Document	January 2013	The new SPD was created to coincide with the adoption of CIL
Leeds			Since the adoption of CIL Leeds no longer uses its 'tariff style' supplementary planning documents guidance although elements of these are still active under CIL.
Sheffield	Community Infrastructure Levy and Planning Obligations	December 2015	Since the adoption of CIL, Sheffield now will only ask for 106 for affordable housing or on large schemes. They have recently adopted a new SPD to provide guidance for this.

⁵¹ Planning Advisory Service - CIL – April 2015 pooling restrictions

http://www.pas.gov.uk/web/pas1/3-community-infrastructure-levy-cil/-/journal_content/56/332612/6251592/ARTICLE

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	Supplementary Planning Document ⁵²		
Portsmouth			There are no published or formalised section 106 processes. Negotiations are conducted in light of pooling restrictions, but with CIL operational for some years this issue has not been particularly problematic.
Oxford	Affordable Housing and Planning Obligations – Supplementary Planning Document ⁵³	September 2013	The SPD explains the basis on which planning obligations will be sought and the process by which they will be negotiated and calculated where appropriate. These have superseded pre-CIL guidance and were published at the same time that CIL was adopted.
Merthyr Tydfil	Supplementary Planning Guidance Note No. 2 Planning Obligations ⁵⁴	March 2012	This guidance forms part of the LDP that runs until 2021 and there is no sign of an updated version since the adoption of CIL in 2014.
Caerphilly	Affordable Housing Obligations ⁵⁵	2015 (Updated)	Following the implementation of CIL, it is only really affordable housing that is subject to negotiation therefore this supplementary document

⁵² <https://www.sheffield.gov.uk/planning-and-city-development/planning-documents/sheffield-plan/supplementary-planning-documents.html>

⁵³ <http://www.oxford.gov.uk/Library/Documents/Planning/AHPO%20Adopted%20SPD.pdf>

⁵⁴ <http://www.merthyr.gov.uk/media/1211/spg-2-planning-obligations.pdf>

⁵⁵ <http://www.caerphilly.gov.uk/CaerphillyDocs/Planning/LDP1-Affordable-Housing-Obligations.aspx>

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			covers the process. It is part of the LDP that runs until 2021 but was updated June 2021
RCT	Supplementary Planning Guidance: Planning Obligations ⁵⁶	December 2014	This guidance aims to clarify what the obligations process and was published at the time that RCT adopted CIL.
Plymouth	Planning Obligations and Affordable Housing Supplementary Planning Document (SPD) ⁵⁷	July 2012	The guidelines describing the approach that the Council planned to apply in its negotiations during the transitional period into CIL adoption are in this document from 2012. No updated document exists.
Southampton	Supplementary Planning Document (SPD) on Planning Obligations ⁵⁸	June 2012	The city council's Planning Service leads the Developer Contributions process, with input from a range of other city council service areas and other public bodies. The guidance provided in this Developer Contributions SPD has not been updated since the adoption of CIL in 2013.
Worthing	Developer Contributions	July 2015	This was adopted by the Council prior to the implementation of CIL so that it could inform the consideration

⁵⁶

<http://www.rctcbc.gov.uk/EN/Resident/PlanningandBuildingControl/LocalDevelopmentPlans/RelateddocumentsSupplementaryplanningGuidanc/PlanningObligationsSPG.pdf>

⁵⁷ http://www.plymouth.gov.uk/planning_obs_affordable_housing_spd_2nd_review.pdf

⁵⁸ <https://www.southampton.gov.uk/policies/Developer-Contributions-SPD.pdf>

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	Supplementary Planning Document (SPD) ⁵⁹		of planning contributions for relevant schemes.
Peterborough	Developer Contributions Supplementary Planning Document ⁶⁰	April 2015	This document is set within the context of the council's adoption of a Community Infrastructure Levy (CIL) by April 2015
Swindon	Development Control Guidance Note ⁶¹	2011	Most of the content of the guidance note became defunct with the introduction of CIL. At present SBC intends to publish a more relevant Planning Obligations SPD.

6.1. Examples of changes in Section 106 obligations with the adoption of CIL

6.1.1. LEEDS⁶²

Following the change in planning regulations in April 2015, infrastructure which is directly required to make development acceptable in planning terms will continue to be sought through Section 106. This means S106 obligations will remain alongside CIL but will be restricted to infrastructure required to directly mitigate the impact of the proposal.

According to the Community Infrastructure Levy Leeds Local Development Framework, on adoption of the CIL, the Council will no longer use its 'tariff style supplementary planning documents

⁵⁹ http://www.adur-worthing.gov.uk/media/media_135907,en.pdf

⁶⁰ <https://www.peterborough.gov.uk/upload/www.peterborough.gov.uk/council/planning-and-development/CILDeveloperContributionSPD.pdf?inline=true>

⁶¹ <http://www1.swindon.gov.uk/ep/Environment%20Document%20Library/Information%20-%20Developer%20Contributions.pdf>

⁶² Community Infrastructure Levy Leeds Local Development Framework pp 15-16

http://www.leeds.gov.uk/docs/CIL_Adt_01%20Adopted%20Charging%20Schedule%20April.pdf

guidance (although affordable housing pooled contributions will remain the same). Parts of these documents will still be extant under the CIL, i.e. sections relating to design guidance and broad planning principles. The Council's website provides further detailed guidance.

Larger scale developments typically have larger and more concentrated impacts on the local community and infrastructure network. Under the CIL regime, there will still therefore be a need for provision of infrastructure on-site as part of the determination of a planning application. For instance, major sites are one of the main opportunities to increase the quantity of open space and will be required to provide open space on site in accordance with Core Strategy policies. Similarly, education infrastructure is an integral component of balanced sustainable communities. New housing creates a need for more school places, and these may in some instances be accommodated across the existing school network through payments from the CIL for extensions. Where a scheme in itself creates such a level of need for school places that it cannot be easily accommodated elsewhere, it follows that the site should provide the land for a school on site. On large scale major sites therefore it is likely to be necessary to provide schools directly on site to meet the needs of the development, or it may be appropriate to locate the school on a nearby site where the school will meet the needs of a number of medium to large scale developments. In such cases an appropriate Section 106 contribution will be secured.

The Council will ensure that these schools will not be funded through CIL receipts, that the obligations meet the statutory tests and that no more than five separate planning obligations will be secured for the same school. The Site Allocations Plan will provide more detail and will consider which large sites may require significant on site facilities and be of sufficient scale to fund these through S106 obligations.

Where CIL and Section 106 payments are both required, viability may be taken into account through the exceptional circumstances policy⁶³.

⁶³ Community Infrastructure Levy Leeds Local Development Framework pp 15-16
http://www.leeds.gov.uk/docs/CIL_Adt_01%20Adopted%20Charging%20Schedule%20April.pdf

6.1.2. SHEFFIELD

According to Principal Planning Officer Richard Holmes, Sheffield now usually only ask for section 106 for affordable housing or on large schemes. Although CIL is expected to replace certain Section 106 contributions, there are still affordable housing and site specific contributions that may be appropriate to keep Section 106 charges. The CIL charges include an assumption, as set out in the CIL Viability Study that Section 106 contributions will continue to be made⁶⁴.

The Council's collection of Section 106 Planning Obligations will only be sought for new requirements where they meet the three statutory tests and do not appear in the Regulation 123 List.

6.1.3. PORTSMOUTH⁶⁵

The council's draft charging schedules states that, the Council operated a system of pooled contributions for certain types of Section 106 monies, including provision for open space and sustainable transport. Once the CIL charging schedule was adopted the scope for pooling Section 106 contributions was dramatically reduced, becoming restricted to contributions from no more than five developments for each infrastructure project in line with the new regulations.

Many developments are liable to both pay CIL and enter into a Section 106 agreement. The CIL payment and Section 106 obligations cover different things, and developments are not being charged for the same items of infrastructure through both obligations and the levy.

CIL became the main source of developer contributions towards infrastructure beyond the immediate needs of the development site. While CIL replaced Section 106 agreements in many cases, Section 106s are still used for local infrastructure requirements on development sites, such

⁶⁴ Community Infrastructure Levy and Planning Obligations Supplementary Planning Document p 11.
<https://www.sheffield.gov.uk/planning-and-city-development/planning-documents/sheffield-plan/supplementary-planning-documents.html>

⁶⁵ CIL Consultation on Draft Charging Schedule p. 2
<https://www.portsmouth.gov.uk/ext/documents-external/pln-cil-consultation-charging-schedule.pdf>

as local access or connection to services. Some of these requirements may be physically off site, but are secured under Section 106 where they are clearly linked to the development site and needed to make that particular site acceptable..

6.1.4. OXFORD

According to the Affordable Housing and Planning Obligations Supplementary Planning Document, as a result of the changes in Section 106 pooling from April, planning obligations will be scaled back to cover the provision of affordable housing and site specific measures required to mitigate the impact of development. In circumstances where a development proposal directly results in the loss of an existing community facility that is used by the public, or an important site feature such as a habitat of high biodiversity value, the City Council may require the replacement of that facility or site feature either directly by the developer or through a financial contribution that would be set out in a planning obligation.

CIL will be the mechanism by which contributions are pooled to help pay for items of infrastructure that are needed to support growth. CIL will therefore replace planning obligations as the means of funding off-site infrastructure, such as additional school places, transport improvements or improved leisure facilities, which are required in connection with new development and consequent population or economic growth.

In relation to Core Strategy strategic sites that are likely to include significant on-site infrastructure provision, the City Council will be careful to ensure that the combination of CIL and S106 obligations does not threaten delivery of the sites.⁶⁶

⁶⁶ Affordable Housing and Planning Obligations Supplementary Planning Document pp12-13
https://www.oxford.gov.uk/downloads/file/596/ahpo_adopted_spd

6.1.5. MERTHYR TYDFIL AND CAERPHILLY

In order to ensure that planning obligations and the CIL can operate in a complementary way, the CIL Regulations scale-back the way planning obligations operate. According to each local authority's Regulation 123 List of Infrastructure, Limitations are therefore placed on the use of planning obligations in three respects:

- Putting the policy tests on the use of planning obligations on a statutory basis for developments which are capable of being charged the CIL
- Ensuring the local use of the CIL and planning obligations do not overlap
- Limiting pooled contributions from planning obligations towards infrastructure, which may be funded by the CIL.

The CIL regulations place into law the policy tests on the use of planning obligations. The statutory tests are intended to clarify the purpose of planning obligations in light of the CIL.

Conversely, the CIL is intended to provide infrastructure to support the development of an area, rather than to make individual planning applications acceptable in planning terms. As a result, there is likely to be site-specific impact mitigation requirements without which a development should not be granted planning permission. Some of these needs may be provided for through the CIL but others may not, particularly if they are very local in their impact. There is therefore still a legitimate role for development-specific planning obligations to enable the Council to be confident that the specific consequences of a development can be mitigated.

The Council will therefore continue to secure Planning Obligations where they are necessary to remove obstacles to planned development and are therefore critical to the delivery of the site, for example to provide direct site access, flood protection and wildlife protection measures and for on-site leisure provision such as open space, local areas for play (LAPs), local equipped areas for play (LEAPs) and on-site education provision (schools). Further, s106 contributions may still be sought for infrastructure, where:

- It can meet the above tests
- The Council has indicated that this type of infrastructure item will not be funded through CIL.

Affordable housing will continue to be funded through S106 Obligations. The Charging Schedule has set CIL at a level that has been assessed as viable with the provision of affordable housing and it is, therefore, expected that on-site provision of affordable housing will be achievable⁶⁷.

6.1.6. RCT

Some Q&As published by the authority say that the ability to use Section 106 planning obligations (in line with the Council's Supplementary Planning Guidance: Planning Obligations) has not been removed now CIL has taken effect. The CIL Regulations do, however, introduce statutory restrictions on the use of planning obligations once CIL takes effect.

The restrictions include the provision that the Council cannot secure planning obligations through Section 106 arrangements for a type of infrastructure once it is identified for delivery through CIL on the Regulation 123 list. This provision is to ensure the Council will not double charge for the same item of infrastructure; it will either be delivered through CIL or Section 106, not both.

The purpose of these restrictions is to ensure that the Council will only use Section 106 to secure planning obligations that are directly related to the development, not being delivered through CIL and are necessary to enable the grant of planning permission. Examples being to secure affordable housing, which is outside of CIL or a pedestrian crossing required to mitigate a specific impact. The Council's Planning Obligations: Supplementary Planning Guidance (SPG) (currently subject to Council approval) provides guidance on the circumstances in which planning obligations will be sought, along with advice on the likely nature of the obligations⁶⁸.

⁶⁷ Caerphilly Regulation 123 List of Infrastructure pp 3-4

http://www.caerphilly.gov.uk/CaerphillyDocs/Planning/Regulation_123_List_replacement_Aug2015.aspx

Merthyr Tydfil Draft regulation 123 List of Infrastructure p 4. <http://www.merthyr.gov.uk/media/1208/mctcbc-reg-123-list-of-infrastructure.pdf>

⁶⁸ Community Infrastructure Levy FAQ's

<http://www.rctcbc.gov.uk/EN/Resident/PlanningandBuildingControl/CommunityInfrastructureLevy/CommunityInfrastructureLevyFAQs.aspx>

6.1.7. PLYMOUTH

The Community Infrastructure Levy (CIL) Guide for Developers Depending on the nature, scale and location of the development, the Council may seek planning obligations through the Section 106 mechanism, in addition to the payment of CIL.

Affordable Housing provision will continue to be sought through the Section 106 mechanism. (In particular, it is likely that Section 106 agreements will be negotiated to ensure that other on-site infrastructure requirements are met).

In some cases, Section 106 agreements may be negotiated to deliver strategic infrastructure, where the development gives rise to or contributes to the need for that infrastructure, and where the requirements of the tests set out in CIL Regulation 122 are met⁶⁹.

6.1.8. SOUTHAMPTON

The Developer Contributions Supplementary Planning Document states that following the adoption of the Charging Schedule, CIL will become the main source of funding available through development management decisions for the majority of sites.

The provision of affordable housing currently lies outside of the remit of CIL and will continue to be secured, in the main, through Section 106 Agreements as well as some exception sites. Section 106 Agreements and planning conditions will also continue to be used for local infrastructure requirements on development sites, such as site specific highway improvements, local provision of public open space, connection to utility services (as required by legislation), habitat protection, access footpaths and roads, and archaeology. The principle is that all eligible developments must pay towards CIL as well as any site specific requirement to be secured through Section 106 Agreements. Further details on the levy charge can be found in the Community Infrastructure Levy Charging Schedule, or successor documents, and should be read in conjunction with this document.

⁶⁹ Plymouth Community Infrastructure Levy (CIL) Guide For Developers
April 2014 p4. www.plymouth.gov.uk/cil_guide_for_developers.pdf

Large scale major developments usually also necessitate the provision of their own development specific infrastructure, which are dealt with more suitably through a Section 106 agreement, in addition to the CIL charge. It is important that the CIL Charging Schedule differentiates between these infrastructure projects to ensure no double counting takes place between calculating the city wide CIL rate for funding of infrastructure projects and determining Section 106 Agreements for funding other development site specific infrastructure projects.

It is advisable for each large scale major development to come forward in its entirety at outline application stage in order for the scheme as a whole to be considered. Outline applications will need to agree phases of development in order for each phase to be considered as a separate development and enable CIL to be levied per agreed phase⁷⁰.

6.1.9. WORTHING

The Developer Contributions Supplementary Planning Document states that development should make appropriate provision of services, facilities and infrastructure to meet its own needs. This means that where sufficient capacity does not exist the development should contribute what is necessary either on-site or by making a financial contribution towards provision elsewhere. These site specific developer contributions are secured by applying a Planning Obligation, secured by either a Section 106 Agreement or Unilateral Undertaking, which is prepared and concluded as part of the planning application process.

The NPPF supports the continued use of these mechanisms and it states that local planning authorities can consider whether otherwise unacceptable development could be made acceptable through the use of conditions or Planning Obligations to provide mitigation or compensation. However, it is also emphasised that agreements should only be used where it is not possible to address unacceptable impacts of a development through a planning condition and, if used, they should be sufficiently flexible to prevent planned development being stalled.

⁷⁰ Developer Contributions Supplementary Planning Document pp 8-9.
https://www.southampton.gov.uk/Images/Developer%20Contributions%20Supplementary%20Planning%20Document_tcm63-360904.pdf

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The NPPF (paragraphs 203-206) reiterates the statutory requirements set out in regulation of the 122 of the CIL Regulations that states that Planning Obligations should only be sought where the requirements are:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

Therefore, the Council can continue to use Planning Obligations alongside CIL for affordable housing and to mitigate the potential adverse impacts of development. As such, the Council will continue to negotiate financial or other contributions for site related infrastructure improvements that are required to: mitigate the impact of development; enable planning permission to be granted; and to make a new development acceptable or successful.

To achieve this, and in accordance with Section 106 of the Town and Country Planning Act 1990 (as amended), Planning Obligations can be used to:

- Restrict the development or use of the land in any specified way
- Require specified operations or activities to be carried out in, on, under or over the land
- Require the land to be used in any specified way
- Require a sum or sums to be paid to the authority on a specified date(s) or periodically.

Planning Obligations can therefore be used to: prescribe the nature of the development (e.g. a proportion of the housing must be affordable); compensate for loss caused by a development (e.g. loss of open space); or mitigate a development's impact (e.g. increase public transport provision). Agreements must be governed by the fundamental principle that planning permissions may not be bought or sold and they cannot be used to secure a share in the profit from development.

Unless it is agreed otherwise, Planning Obligations run with the land in perpetuity and are usually enforced against those with a legal interest in the land at the time of any breach of the planning obligations until such time as they are discharged or otherwise modified.⁷¹

⁷¹ Developer Contributions Supplementary Planning Document pp 6-7. http://www.adur-worthing.gov.uk/media/media_134951.en.pdf

6.1.10. PETERBOROUGH

Following the adoption of a CIL Charging Schedule in Peterborough, the use of S106 Planning Obligations will be scaled back significantly, and it is expected that, for the majority of development, CIL will become the main source of infrastructure funding obtained through the development management process. However, on sites of 500 dwellings or more Planning Obligations will continue as the primary mechanism for securing infrastructure associated with these developments⁷².

6.1.11. SWINDON

Section 106 negotiations are directly informed by the Reg 123 List and pooling restrictions. This means that the Council can no longer negotiate a S106 package using its previous tariff based approach to planning obligations prior to CIL. The approach was contained in the guidance note referenced in table 1⁷³.

The Council's Validation Checklist now requires the submission of an 'Infrastructure Requirements Statement' for relevant development proposals and the validation of these will be held up without it. For more information on this please see the Checklists for Planning Applications

⁷² Peterborough City Council Developer Contributions Supplementary Planning Document p 11.
<https://www.peterborough.gov.uk/upload/www.peterborough.gov.uk/Council/planning-and-development/CILDeveloperContributionSPD.pdf?inline=true>

⁷³ Continued Use of Section 106 Obligations <http://ww1.swindon.gov.uk/ep/ep-planning/planningpolicy/communityinfrastructurelevyadopted/Pages/About%20CIL%20and%20How%20it%20Operates.aspx>

7. Case studies on consultation approaches adopted on the use of Section 106 funding

The following case studies are some examples of consultation approaches that had been adopted by various local authorities in relation to the use of Section 106 funding.

The first three case studies were summarised from the publication produced by the Town and Country Planning Association entitled a “A guide to effective Section 106 agreements & Statements of Community Involvement” published in July 2008.

The succeeding case studies are some examples of the use of a participatory approach in East Devon Council to determine the use of Section 106 funding.

7.1. London - King’s Cross Railway Lands Development⁷⁴

Background

The King’s Cross Railways Lands Development scheme is regarded as one of the largest regeneration projects in the UK. It covers land released by construction of the Channel Tunnel Rail Link into St Pancras. In existence were proposals to regenerate the site during the last twenty years. The developer Argent took over the development scheme and proposed to build offices, new homes (40% affordable), student accommodation, new retail, hotels, and leisure, health and community facilities in this area.

There was a very active community campaign led by the campaign led by the campaign led by the Kings Cross Railway Lands Group (KXRLG) umbrella organisation. This organisation led the campaign, challenged and informed the planning process, and had sought to ensure that the scheme meets the needs of local people and the voluntary and community sector more effectively.

⁷⁴ http://www.tcpa.org.uk/data/files/planning_community_needs_website_version.pdf p10

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This group also and became the vehicle for much of the negotiation and engagement with the developer. Following extensive consultation and design development, the developer had evolved a masterplan (Argent masterplan) for the area for the area which included the production of the Design and Development Brief.

In 2006, the Council granted consent subject to completion of a Section 106 agreement.

Community Engagement

Extensive engagement took place between Argent, the community and statutory authorities for over 3 years. The nature of the consultation was broadly seen as innovative and appealing to a wide audience with emphasis on children, schools and communities. Methods included:

- Vox pops (street interviews)
- Schools workshops
- Discussions via local radio
- An open ended 'Fluid Design' process using cartoon imagery was adopted.

This approach was adopted to overcome the difficulties of articulating to the community a masterplan that became progressively more detailed at each stage. The developers also recognised that understanding the principle of Reserved Matters was a particular challenge for non-planners. The engagement with community groups enabled the developers to hear key messages regarding their views on safety against crime; maintenance of a clean environment and generation of new jobs.

Argent also felt that politicians needed to engage better with the developer during the pre-application process.

KXRLG believed that a key limitation of the engagement process was the Councillors often did not have the technical ability to participate meaningfully, and sometimes felt that there would be a conflict of interest in relation to their independence at decision making time. The local organisation KXRLG also held the view that local government politics is now prone to too much top down control, with dominance of the Council leadership over development committees and local ward Councillors' representation of their constituents.

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The developer Argent had difficulty in engaging with the community and community groups (including businesses), particularly because of their lack of awareness and capacity to engage. They were disappointed not to see a Local Strategic Partnership formed to cover the area as they felt that this would have provided a more coherent and accountable structure for engagement with all stakeholders.

As part of the local authority's engagement process for this development, the Council had undertaken dialogue with about 100 such groups over the course of the planning process. The Council aimed to broaden engagement in the planning process to be able to reach out to a constituency of about 30,000 people, instead of dealing solely with KXRLG which they believed were a self-appointed and non-representative group.

Community Benefits

As a result of the consent for this development, the community were able to accrue social 'benefits' including affordable housing (approximately 40% of the total) and a combined University of Arts, Local Employment Training Centre, Primary Care Trust (PCT) Walk-In Centre, Old Persons Home and Sports/Leisure Centre. Much benefit is not quantifiable (e.g. the location of a Police Station in the centre of site through the design process to encourage visibility of 'police on the streets' and access to them; a Joiners Pack for new tenants promoting use of local businesses; and changes to housing space standards for extended family occupancies).

Despite the opportunities that were made available for engagement with the community and organised groups, KXRLG expressed significant dissatisfaction with the negotiation process for conditions to be attached to the planning consent. They felt that they were excluded from the negotiation. They believed that the Section 106 agreement was not consulted on at all, and agreed 'behind closed doors'. KXRLG's believe that the final Section 106 agreement should be subject to democratic sign-off, to ensure the benefits negotiated by officers meet the needs identified by the community.

A key concern raised by KXRLG was the lack of transparency from the Council in relation to the timescales that were involved in the submission of the revised plan and when decision was made on the revised plan. KXRLG believe that the duration of four days notice of this change prior to decision making, have left third parties very little time to consider them properly. Consequently, the

organisation believes that the revised plans led to a significant reduction in office floor space standards, reducing the quality of jobs within the project.

KXRLG produced their own community plan for the site. They believe that their 'Planning for Real' exercises effectively engaged wide Sections of the community, creating 'normal' tensions with the developer, as part of the negotiating process. They believe that developers are generally amenable to open negotiation over stringent Section 106 terms in return for certainty, but that Argent were never stretched on this principle by the Council and "got away lightly". Despite the criticisms from the community organisations, the local authority, L.B. Camden prides itself on the delivery of an optimised scheme in terms of social benefits to the community, job generation, new homes, and including the time taken to deliver results. They point to the RTPI Planning Award secured for the scheme as giving some independent justification to this view.

Learning and Recommendations

According to the Town and Country Planning Association many community groups feel that affordable housing and many Section 106 issues should be funded through central taxation. These groups fear that the economic downturn will give developers like Argent scope to fail to deliver on their commitments, and that the community will bear the consequences. It's thought that a genuine openbook project accounting would allay many suspicions of the developer 'paying too much' or 'too little' for the grant of consent.

The case study also draw attention to an arrangement wherein the community organisation KXRLG advocated the appointment of a powerful Development Trust which served to interface with the developer and the Council during planning and construction and take over management and maintenance of communal assets of scheme when operational. It was believed that Transfer of community assets to such a development trust would allay fears in the community of unaccountable management and would relieve developers of ongoing management and maintenance obligations.

Due to the breakdown of trust between the Council and KXRLG as the umbrella community organisation, the developer and the community sector advocated a 'double devolution' principle, pushing influence over decision-making towards grass roots level through a tripartite partnership decision-making process involving the developer, Local Planning Authority (Camden) and community.

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At that time, Argent and KXRLG felt that this arrangement would create greater community influence, and Argent felt it would formalise community engagement towards swifter decision making and more certain outcomes.

This was less popular with Camden Council due to the risk of ultimately ceding the powers and responsibilities of their elected Development Control Committee. Such tripartite agreements for decision making would not be deemed necessary if local Councillors and Development Control committees could be seen to represent their constituencies adequately. Third parties are always open to challenge on the basis of being unrepresentative

It was suggested that the balance between top down leadership control and grass roots representation and promotion of interests, needs constant monitoring to ensure one does not dominate the other. The mechanisms to achieve these are deemed difficult to define, often invisible and thus open to accusations of manipulation and being anti-democratic. The TCPA conclude that it ultimately depends on sound judgment of elected Councillors to do “the right thing for the right reasons” – judgment on which will rarely achieve consensus.

It was also suggested that technical and governance training and extensive support for Councillors in high profile development circumstances is needed to ensure they optimise community representation with delivering timely and effective decisions on major development schemes. They also believe that more facilitators trained in the planning process should be funded to work with community groups.

7.2. Salford - Lower Broughton Regeneration⁷⁵

Background

As part of the redevelopment of Lower Broughton, a development partnership with Countryside Properties was secured by the Council to regenerate the neighbourhood situated within the housing market renewal area.

In this particular case, there was no Section 106 agreement as Salford City Council own 90% of the site and therefore were not be able to sign a Section 106 agreement as both planning authority and landowner. However, the nature of the consultations and community engagement could easily be applicable to Section 106 projects, hence its inclusion as a case study in The Town and Country Planning Association's report.

Community Engagement

According to the report, the consultation intended to raise awareness of regeneration, build capacity around the masterplan and achieve positive and participative support. Countryside Properties designed and wrote the Lower Broughton Design Code SPD, in consultation with the City Council.

The statutory consultation undertaken on the document, was greatly informed by the capacity building work undertaken by consultants Kevin Murray Associates, who directed the early stage community engagement and consultation. Countryside Properties believe that the Consultation process that took place before the SPD was produced, was a positive process as in effect the community did "endorse the plans that had been produced because they all knew them".

The consultation utilised a wide range of techniques that were structured specifically to the profile of the community. In particular the following were deemed particularly innovative /effective:

- Listening Event 2004, introducing the process and the principle of regeneration and to receive feedback about peoples' likes, dislikes and aspirations for Lower Broughton.

⁷⁵ http://www.tcpa.org.uk/data/files/planning_community_needs_website_version.pdf p12

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- Regular steering group meetings later known as the Lower Broughton
 - Regeneration Partnership (with opportunity for community leadership).
 - Study Visits to Countryside sites including Peckham, Blackpool and Birmingham, to demonstrate what can be achieved.
 - Community based Drop-in Centre opened one day a week Aug – Sept 2004
 - Youth interviews Aug - Sept 2004
 - Collaborative Design Event 5 days – Aug 2004
 - Consultation Bus – toured for 10 months Aug 2005

Following on from the previous consultation work undertaken by Kevin Murray and Associates, further community consultation was undertaken in relation to phase 2 and 3 of the development. The consultants worked closely with the Lower Broughton Regeneration Partnership, undertaking informal meetings with stakeholders and topic based workshops, after which community feedback was provided. During this stage, the City Council's draft Statements of Community Involvement (SCI) requirements were given consideration and a further support SCI document produced.

The Council's Statement of Community Involvement (SCI⁷⁶) emerged late in the development process for Lower Broughton, and had little influence over the nature of engagement with the community and local voluntary sector organisations. However, the City Council commented that "Countryside far exceeded the requirements of the document".

Although it was recognised that the consultation process had many successes, Broughton Trust, had concerns that some groups have not been fully involved in the consultation process, in particular the parent and toddler group. It was reported that this was a source of anxiety this stakeholder group as "the current building that the group are using will disappear through the development process and at present they have no identifiable move on space". The Trust also believed that traders on the periphery of the development are equally not fully involved in the process. They state that the development process is long and actually engaging people over that length of time "just doesn't happen".

⁷⁶ Statements of Community Involvement are documents prepared by the Local Planning Authority which aim to set out how and when the LPA proposes to engage with the public when preparing Development Plans Documents and considering planning applications.

Community Benefits

The consultation process during the early stages resulted in the” community identifying their “wish list” to be incorporated into the development. According to the developer this had formed the basis of a community benefits strategy which was used to identify priorities with the Council. Although some of the physical community infrastructure including community centre and indoor sports provision has not been delivered yet by the publication of this case study, this remained mandatory by virtue of the development agreement and outline planning consent.

The developer has also raised some concerns over the Council’s ability to negotiate positively on the behalf of the community. The example they cited relates to the requirement for a new library in Lower Broughton which was high on the community’s wish list. The developer stated that that the City Council has not required this facility, however they intended to provide a library outside of the planning system, and had stated that the library provision “it would have never come through Section.106 and yet it is high on the communities wish list”.

Learning Points

Some examples of good practice coming out of the project were:

- Developer commitment to early and continuous consultation, so that they identify and understand the needs of the community and local Voluntary and Community Sector (VCS) groups. This has allowed the community to appreciate their contribution to the masterplan.
- Appropriate consultation to the nature and scale of the community using a range of innovative methods, including provision to support community members where appropriate to lead forums and meetings.
- Developer support for both social and physical community infrastructure (coordinated by a full time officer funder by the developer in Lower Broughton).

The lessons that have been taken from the project are:

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- It is necessary for Local Authority Planners to be aware of the needs and aspirations of their communities through proactive forward planning and engagement, and to negotiate positively with developers.
- Developers need to ensure that project specific consultation is continuous and inclusive so that momentum and the trust of the community are not lost. This is achieved with a committed and skilled professional team.
- It is necessary to identify all community and voluntary sector groups. If there is no representative community body the developer and Council should work together to build capacity in the community.
- It is necessary to provide positive feedback to the community.
- Honesty and accountability by all professionals is required at every stage of the planning process.
- It is necessary to coordinate consultation with development partners to avoid consultation fatigue (partner RSL's undertook their own consultations in Lower Broughton).

7.3. Solihull - Blythe Valley Park⁷⁷

Background

Blythe Valley Park Phase 2 was a greenfield development extension to an existing business park located in Shirley, Solihull. The site is situated within the Coventry, Solihull, Warwickshire High Technology corridor and helps serve the East Birmingham North Solihull regeneration Zone. It has a total area of 267 acres and will include 13 office buildings totalling approximately 600,000 square ft. in phase 1 and it was also reported that the second phase of the development will provide 800,000 of employment space. The site includes 122 acre Countryside Park, private gym and nursery facilities.

⁷⁷ http://www.tcpa.org.uk/data/files/planning_community_needs_website_version.pdf p14

With the intention of informing community and local stakeholders of the emerging proposals from an early stage, public consultation was undertaken as part of the preparation for the outline planning application. This was intended as an opportunity for them to influence the master planning process. Local residents, community organisations, existing employees and Councillors engaged in the consultation stage which had involved:

- Negotiations with the Council prior to the submission of the outline planning application. A development team for Phase 2 was established consisting of Council Officers and members of the development team.
- An initial presentation of the proposals was given to the Blythe Valley Working Party
- Following revisions to the masterplan the scheme was presented to the public at a two week exhibition, which provided an opportunity for people to comment on the scheme. Seminar sessions were held during this time with invited stakeholders. A total of 64 people attended the exhibition and briefing sessions.
- A newsletter was circulated widely and distributed to local residents, community groups, existing tenants and Council members.

During submission of the outline planning application, a supporting consultation statement was submitted stating that the response to the proposals was very encouraging with substantial support for the scheme. Included in the submission was a summary of the developer's response to consultation comments, most of which related to environmental and landscaping matters.

A key driver to the developer's (British Land) approach was the company's strong commitment to pre-application community consultation whose, the detail and structure is led by their comprehensive in-house sustainability manual that is used to inform the development process. It is reported that this document covers the full range of sustainability matters from design to construction, including stakeholder relations and community engagement. British Land highlighted that "it is usual for the company to spend upwards of £4 million on pre-application consultation and the company takes a long term view in most cases". British Land also encourages staff to "get out and get involved" with communities seeking to support relevant organisations where possible.

Community Benefits

Via the Section 106 agreement a number of community benefits were negotiated and secured alongside the outline planning application. The planning authority granted the outline permission subject to the completion of the Section 106 agreement.

The benefits secured are as follows:

- The procurement of new bus services subject to stage of development
- The provision of business investment contributions totalling £250,000, payable to the Council over a 10 year period. This money will be used to support Council officers in developing, marketing and promoting business liaison activity to secure additional investment and jobs.

Learning and Recommendations

The following recommendations have been inferred from the lessons learned on the consultation and delivery of this project:

- Consultation should be appropriate to the nature and scale of development.
- Developer commitment to early engagement with community groups, planners and Councillors, to identify community needs helps to ensure better development and public acceptance.
- Negotiations are smoother where the planning authority is supportive of the application and / or are part of the development team.
- Negotiation of Section 106 agreement should take place prior to and alongside the determination of the planning application, to ensure that implementation of planning permission is not delayed.

7.4. Participatory budgeting approach in using Section 106 funding⁷⁸

East Devon Council had adopted the **Participatory Budgeting** approach in determining the use of Section 106 funding. Specifically Participatory Budgeting (PB) has been defined as a process of democratic decision-making, in which residents become involved in deciding how to allocate part of a public budget. It allows the residents of an area to participate in allocating part of the local Council's or other statutory agency's budget. Its aim is to make local government more accountable and transparent and to encourage understanding of its affairs amongst local people. It also creates social inclusion by encouraging involvement from all parts of the community. The process involves engaging residents and community groups from across the community and giving them the opportunity to discuss spending priorities, make spending proposals, and vote on these.

According to a case study presented to the Participatory Budgeting Unit the use of the participatory budgeting approach has so far demonstrated to be successful in five projects distributing a total in excess of £200,000 of Section 106 funds.

Some examples of specific projects reported in May 2015 by East Devon Council, where the Participatory Budgeting approach has been used are presented as follows:

7.4.1. Budleigh Salterton: Sport

A major consultation exercise took place to spend £35,000 of Section 106 money on sport in Budleigh Salterton. Five eligible, affordable and possible projects were put forward by the community

To ensure the age profile of the town's residents was fully represented, a number of engagement events and activities took place. Officers and town Councillors had a voting stall at the very well attended Budleigh Salterton Gala, residents were asked to vote for the projects they most wanted to see in the town.

Budleigh Salterton town clerk visited the library and a coffee morning to encourage more people aged over 60 to vote, as they weren't adequately represented.

⁷⁸ http://www.swcouncils.gov.uk/media/RIEP/Stronger%20Communities/PB_Case_Study_Final_Version.pdf

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A total of 308 people had voted on the projects by the end of the consultation identifying the desired or most popular projects i.e. £15,000 outdoor gym and the widening of the path across the Green and turning one side of it into a cycle path at a cost of £20,000.

Budleigh Salterton Town Council, East Devon District Council and the proposers of the projects have worked hard to make the projects happen. The design for the outdoor gym was chosen by the community at a Christmas late night shopping event in the town and had now been installed on The Green and near Lime Kiln car park. At the time of reporting of these case studies, they are still working on widening the footpath.

7.4.2. Exmouth: sports

In 2011, East Devon District Council and Exmouth Town Council asked community groups, residents and other organisations to put forward their ideas as to how £150,000 of the sports funding accumulated from recent Exmouth housing developments (Section 106 money) should be spent. Devon and Cornwall Police covering the Littleham area proposed the idea of a multi-use games area in Littleham.

The residents voted on 18 eligible, affordable and possible ideas at the Exmouth Festival and Kite Festival on which ones they wanted to happen in Exmouth.

Exmouth Town Council group and East Devon District Council worked together to deliver what residents voted for. The following have already happened through this project and were already in place for residents to use:

- the outdoor gym equipment in Phear Park and on the seafront (£25,000)
- the multi-use games area and refurbished tennis courts in Phear Park (£50,000 towards the £200,000 project)
- making Exmouth skate park larger and re-designing it with new ramps (£60,000)
- outdoor showers on the seafront (£15,000)

When more money became available at the end of 2013, Exmouth Town Council decided to keep working down the residents' priority list and fund the multi-use games area in Littleham in Exmouth.

Local children and parents came along to East Devon District Council's community festival in The Crescent in Littleham, Exmouth in May 2014. As part of the day the new £40,000 outdoor multi-use games area with lines and goals for netball, basketball and football was officially opened.

7.4.3. Woodbury: play

Early November 2013 saw the official opening of the re-vamped Woodbury Village Green play area for children aged under eight years. A total of £17,500 was contributed by Section 106 money and Woodbury Parish Council decided to add £7,500 to make the facilities bigger and better.

Woodbury Parish Council and East Devon District Council started off their consultation by going into Woodbury Primary School and Woodbury Pre-school and found out that children under the age of eight wanted swinging, climbing and spinning activities. These specifications were sent off to several play companies along with the budget.

All 177 children at Woodbury Church of England Primary School and Woodbury Pre-School voted for which of the three designs they wanted in their play area. The winning design received 55 per cent of the votes and included a basket swing, climbing frame and a spinning item.

7.4.4. Payhembury: play

Much anticipated improvements to Payhembury's play area are now complete after improvements chosen by local children were installed.

Payhembury Playing Field Committee and East Devon District Council worked closely with Payhembury Primary School to spend £6,700 of Section 106 money on improvements.

To find out what activities the children wanted East Devon District Council visited Payhembury Primary School and Payhembury Playing Field Committee visited the youth club. The designs that the children chose from were provided by companies who followed the children's design brief for the area.

Children had a choice of four designs and voted for their favourite in a special assembly at Payhembury Primary School. Of the 66 children who voted, 38% chose the winning design which included a climbing wall, climbing net and a spinning item.

The following case studies are also some examples of the use of the participatory budgeting approach that had been cited by the Public Budgeting Organisation:

7.4.5. Budleigh Salterton, Children's Activities

With a new housing development in Budleigh Salterton, £30,000 from developers was available to spend on a new play area. Working with residents, officers found out they wanted the play area to be made of natural materials in natural colours. By talking to local schoolchildren officers also identified the sort of activities children wanted for play area, such as climbing. This feedback was included in tender documentation sent to play companies. Three of the designs that came back from the companies met all the requirements. The District Council organised a play event and invited all the residents in the development to participate. As part of the event, adult and children residents voted on which of the three play area designs they wanted. The winning play area received over half of the votes and is now being installed.

7.4.6. Axminster, Community Projects

There was £100,00 of Section 106 money to spend on play and recreation in Axminster. Axminster Town Council asked local community groups to submit proposals on how they would like the money to be spent. The proposals were looked at for technical details by the Section 106 officer. The Town Council wrote a questionnaire asking residents to prioritise the projects and placed it in the local newspaper for people to fill in and send back. To gain a wider range of views, the District Council organised and ran a face to face voting event with local residents by taking over a market stall at one of the town's market days. A total of 227 people voted on the projects, and the Council are now working, to make them happen.

<http://www.bolton.gov.uk/sites/DocumentCentre/Documents/Non%20residential%20development%20viability%20study%20addendum%20report.pdf>

Bolton Council - Freedom of Information Request

https://www.whatdotheyknow.com/request/payments_under_section_106_agree_18

Bournemouth Borough Council CIL Examiners Report (October 2015)

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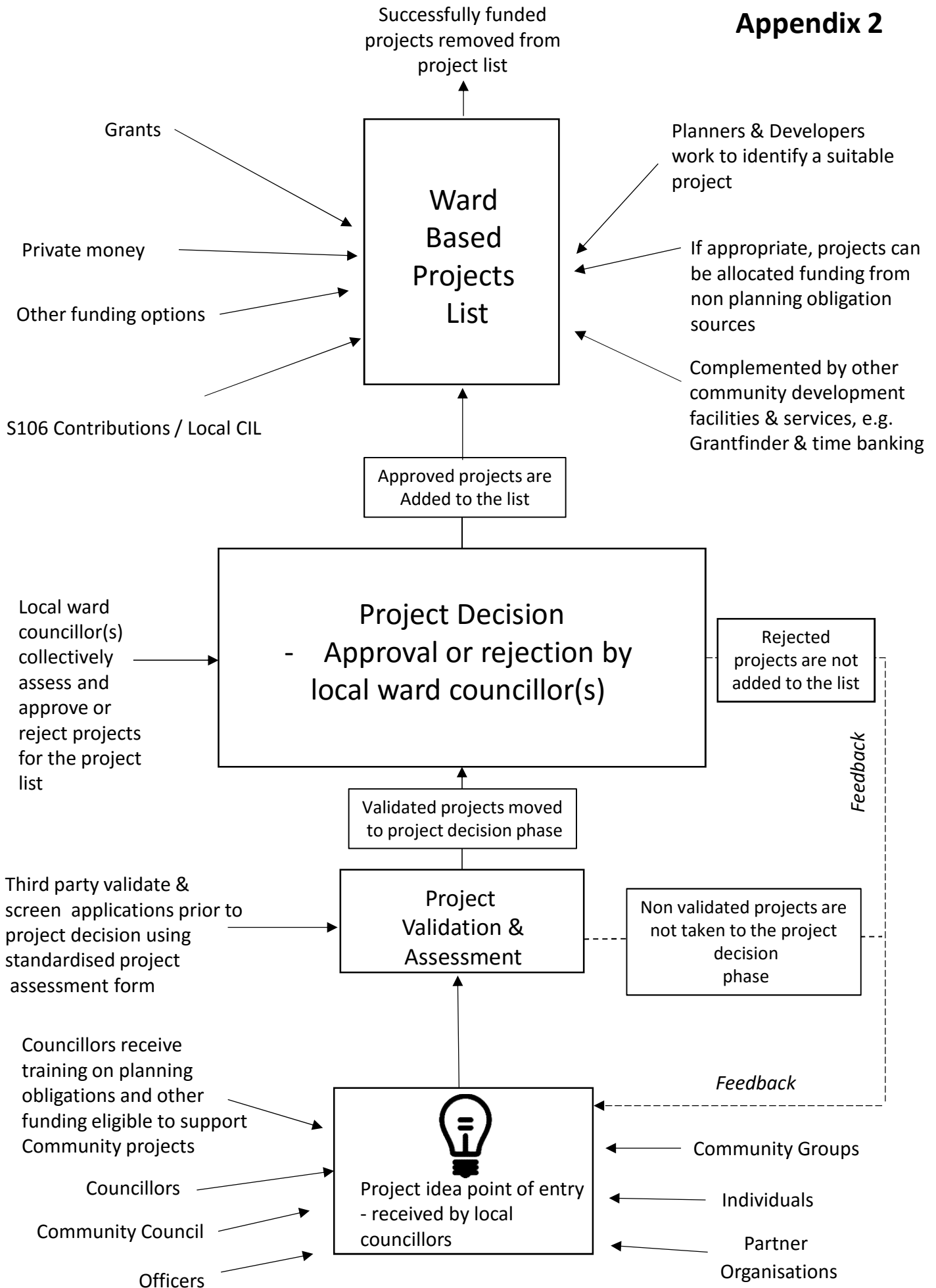
9. APPENDICES

Job Growth Comparators

Authority	Change in Jobs 2004-2013	Change in Jobs 2004-2013 (%)
Bolton	4,100	4%
Hastings	1,100	4%
Peterborough	3,600	4%
Plymouth	4,100	4%
Telford	3,300	4%
Blackburn	2,000	3%
Cardiff	6,100	3%
Leicester	6,200	3%
Worthing	1,400	3%
Birmingham	23,400	2%
Bristol	6,500	2%
Glasgow	13,000	2%
Liverpool	5,300	2%
Southampton	2,900	2%

Housing Comparators

Authority	Change in Housing Stock (£)	% Change
Swindon	12,030	15
Cardiff	15,740	12
Gloucester	5,640	12
Peterborough	8,130	12
Ipswich	6,480	12
Cambridge	4,710	11
Bristol	26,920	10
Warrington	8,150	10
Barnsley	8,350	9



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CABINET MEETING: 16 NOVEMBER 2017

CABINET RESPONSE TO THE REPORT BY THE ENVIRONMENTAL SCRUTINY COMMITTEE ENTITLED MANAGEMENT OF SECTION 106 FUNDING FOR THE DEVELOPMENT OF COMMUNITY PROJECTS

STRATEGIC PLANNING AND TRANSPORT (COUNCILLOR CARO WILD)

AGENDA ITEM: 11

DIRECTOR OF CITY OPERATIONS

Reason for this Report

1. To respond to a report published by the Environmental Scrutiny Committee (and presented to Cabinet in September 2017) entitled 'Management of Section 106 Funding for the Development of Community Projects'.

Background

2. As part of the Environmental Scrutiny Committee work programme, the Committee undertook a task & finish exercise to explore and consider how Section 106 funding can be used for the development of community projects.
3. The inquiry included the review of:
 - The definition of Planning Obligations (S106 Contributions),
 - The regulations governing what type of community projects can be funded through the S106 process,
 - The resources used by the Council in managing the S106 funding process,
 - The consultation and engagement which takes place between Councillors, officers and the public,
 - How community projects are identified through the Section 106 process and potential improvements that could be introduced,
 - Examples of good practice in using S106 funding to develop community projects.

Issues

4. Having considered the evidence provided during the inquiry, the Scrutiny Report makes a single process recommendation. It identifies that the process should include the following basic elements:
 - The Creation of a Project List – That a project list and supporting process should be created to identify, validate, endorse and store projects that are appropriate for funding from Section 106 Contributions for Community Projects.
 - Project Point of Entry - That there should be a supported point of entry where projects could be submitted by a range of parties including community groups, councillors, community councils, officers and individuals.
 - Project Validation & Assessment – That submitted projects would receive a pre decision validation and assessment process. This part of the process would ensure that projects met a minimum basic criteria and are suitable for taking forward to the project decision making process.
 - Project Decision (Approval or Rejection) – At this point Ward Councillors would receive the successfully validated projects and take a decision as to if they should be added to the project list.
 - Project List – Successful projects would be stored on a ward based 'Project List'. This would form a ready to go list of community projects, which could be matched to appropriate funding as and when it became available.
 - Project List Geography – Submitted projects should be linked to the ward(s) that they are situated in or have a significant impact on. Lists containing projects for each of Cardiff's 29 wards should be created.
 - Complementary Services – Members felt that the Project List process was effectively a Council 'facilitator' tool to support the development of community facilities. Members recommend that a review of community facility development services is undertaken to establish exactly what the Council provides and that these community facility development services are in some way aligned to the project list.
 - Supporting Resources - That the Project List approach will only work if a suitable staff resource is identified to manage the scheme.

5. The principles of the process as set out in the recommendation of the Scrutiny Report are accepted. In order to implement the recommendation, Officers will need to work up full details of the new process outlining how it can be established and thereafter maintained. It is therefore recommended that Officers report back to Cabinet in early 2018 with these details and aim to initiate the process in Spring 2018.

Reason for Recommendations

6. To enable the Cabinet to respond to the report entitled 'Management of Section 106 funding for the development of community projects', published by the Environmental Scrutiny Committee.

Financial Implications

7. No direct financial implications are expected to arise from the implementation of the recommendation from this report. The management of the process outlined will be met from within existing resources. The delivery of successful community projects will continue to be dependent on securing appropriate levels of S106 resources or alternative external funding sources.

Legal Implications

8. Welsh Office Circular 13/97: Planning Obligations sets out the Welsh Government's policy for the use of planning obligations. The Community Infrastructure Levy Regulations 2010 (as amended) places statutory restrictions on the use of Section 106 Agreements. Section 106 agreements assist in mitigating the impact of unacceptable development to make it acceptable in planning terms.
9. Any planning obligations in the section 106 Agreement must be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. There are also restrictions on the number of s106 contributions that can be pooled to pay for new infrastructure
10. Any relevant legal implications will be identified and considered as part of the work to progress the responses to the recommendations that are accepted.

RECOMMENDATIONS

Cabinet is recommended to agree to the principles of the process contained in the Environmental Scrutiny Committee's recommendation and that Officers are instructed to report back to Cabinet in early 2018 with full details of how the process can be established and thereafter maintained as summarised in Appendix A

ANDREW GREGORY

Director of City Operations
10 November 2017

The following appendix is attached:

Appendix A: Cabinet response to the report by the Environmental Scrutiny Committee entitled 'Management of Section 106 funding for the development of community projects'.

The following background papers have been taken into account:

March 2017 report published by the Environmental Scrutiny Committee entitled 'Management of Section 106 funding for the development of community projects'.

CABINET RESPONSE TO THE REPORT BY THE ENVIRONMENTAL SCRUTINY COMMITTEE ENTITLED MANAGEMENT OF SECTION 106 FUNDING FOR THE DEVELOPMENT OF COMMUNITY PROJECTS

1. Cabinet agree to the principles of the process as set out in the Environmental Scrutiny Committee's recommendation.
2. In order to implement the recommendation, Officers will need to work up full details of the new process outlining how it can be established and thereafter maintained. It is therefore recommended that Officers report back to Cabinet in early 2018 with these details and aim to initiate the process in Spring 2018.
3. The Environmental Scrutiny Committee's recommendation sets out the basis of a new process primarily based on the need to more effectively capture community-derived projects. Whilst this represents a very useful starting point, it is considered that the process could also address the points listed below. In this way, the opportunity can be taken to establish the most effective way forward and provide a readily manageable and robust system which takes account of all relevant factors in relation to the transparent operation of the Section 106 process:
 - Recognition that the scope for S106 spend is governed by statutory 'tests' and that existing policy as set out in the LDP and supporting Supplementary Planning Guidance (SPG) will play a key role in allocating S106 spend. The process will need to explain that the scope for S106 spend will be established through the assessment of planning applications including the consideration of input from Local Members, Community Councils and other consultation responses. This will help inform the scope for spend on community projects, if applicable, on any given proposal;
 - Ensuring that the process is effectively co-ordinated by Officers, is capable of regular review/updating and does not become unwieldy and/or over-resource intensive;
 - Officers provide a range of material to help fully explain the process and how Local Members, Community Councils and other parties can effectively engage. This may include a new webpage together with guidance documents relating to the S106 process in general and also to the 'Project List' more specifically;
 - Providing further guidance on eligible projects including both strategic and local projects along with how the 'Project List' will be used to help inform S106 negotiations ; and
 - Providing an update on the relationship of S106 and Community Infrastructure Levy (CIL) noting that CIL is not yet adopted pending the considerations of the Welsh Government with regard to CIL once the function is devolved to Wales in 2018;

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**CYNGOR CAERDYDD
CARDIFF COUNCIL**

ENVIRONMENTAL SCRUTINY COMMITTEE

16 JANUARY 2018

CITY OPERATIONS DIGITALISATION PROJECTS

Reason for the Report

1. To provide Members with the opportunity to review a number of digitalisation projects currently being developed and delivered for services within the City Operations Directorate.

Background

2. At the Committee meeting on the 3rd October 2017 Members considered an item titled 'Environmental Scrutiny Committee – Work Programme 2017/18'. As a part of this item Members were asked 'to consider, suggest and agree future items for the Environmental Scrutiny Committee Work Programme 2017/18'. During the debate some Members felt that it would be worthwhile scrutinising how services are being improved through the use of modern technologies and so asked the Principal Scrutiny Officer to arrange an item on the topic.

Digitalisation

3. The Council is in the process of defining a digitalisation agenda to help modernise and shape a wide range of Council services. The intention to take this path is clearly set out in the new Cardiff Capital Ambition. The Cabinet received a report titled 'Delivering Capital Ambition' at its meeting on the 14th December 2017. This report contained a section titled 'Digital First' that set out the background, context and future direction for digitalisation in the Council.
4. The report explained that technology is transforming local public services and that increasingly, local authorities are seeking to:

- Automate processes;
 - Shift customer transactions and services into online channels of communication;
 - Migrate council systems into cloud-based solutions.
5. The adoption of new technologies is providing more responsive access for residents who wish to engage digitally, delivering efficiencies and placing a downward pressure on the cost of delivering transactional services in the face of rising demand, and providing intelligence on service demand which can be analysed to drive improvement.
6. The Administration has signalled in Capital Ambition that the Council will adopt a Digital First agenda, providing digital, 24/7 access to services which is 'indistinguishable from that available to citizens in every other aspect of their lives'.
7. Over recent years, the Council has begun to respond to this trend, with an increasing number of interactions with citizens managed via digital platforms, for example:
- 69.4% of parking permits are now applied for online;
 - 75.7% of recycling bags and waste caddies are requested online;
 - 90% of school applications are made online (an increase of 20%);
 - 150% increase (from 32,000 to 78,000) in Twitter followers over the last two years, and the establishment of a presence on Facebook which has grown to over 11,000 followers.
8. Digital technologies have successfully delivered efficiencies, both in staff time and accommodation costs. For example, through the implementation of mobile working and scheduling, agile working and process redesign, front-line staff in housing maintenance (approximately 250 staff) and social care (approximately 650 staff) are able to spend more time with service users, with savings released in office accommodation.
9. However, this represents only a partial adoption of technology and new ways of working. It is therefore proposed that a comprehensive programme of digital transformation will now be pursued by the Council.

10. Whenever practicable, digital needs to be the default means of accessing Council services and a concerted move will be made towards e-payments across the full range of services, balanced by continuing commitment to engaging with citizens that do not have access to digital technology.
11. A focus will also be placed on streamlining and automating business processes. Across a number of councils, steps are being taken to push boundaries through the automation of business processes, yet in Cardiff few services have achieved thorough going end-to-end digitisation. Too often digital solutions have been bolted onto existing processes which, allied to a 'patchwork quilt' of channels through which citizen interactions with Council can take place, has sometimes led to an increase in administration and demand on services. For example, the citizen interface with services, such as waste management and street scene, will need to be routed increasingly via digital platforms with high levels of back office automation.
12. These changes will be supported by a single data platform for all services enabling the Council (and public service partners) to tailor services to the needs of individual citizens and families. This will enhance the Council's ability to bring previously unconnected data sets together, and to analyse them, to better understand the nature of current demand on services and to predict where demand will occur in the future.
13. Moreover, digital councils are increasingly seeking to shape the technology environment of the local areas. Cardiff has one of the best developed fibre networks in the UK, yet its profile as a 'Smart City' – one that uses technology to solve complex problems, particularly in relation to how smart technologies can more efficiently help manage city infrastructures – is limited, with further steps needed to draw on the expertise of the city's technology cluster.
14. The proposed post of Chief Digital Officer will provide a vital role in ensuring that this programme of change is coordinated and delivered consistently across council services. As an immediate preparatory step, it is proposed that a review of the Council's ICT services, including hardware, software and resources, be undertaken.

City Operation Digitalisation Projects

15. 'Digital First' and the new digitalisation process is not the start of the journey for services that fall within the remit of the City Operations Directorate. In a drive to improve services and generate efficiencies the City Operations Directorate has for a number of years been developing and delivering a number of digitalisation projects, these are set out below:

City Operations Digitalisation Projects - Undertaken

- Digital Advertising on Parking Meters (concession agreement for advertising);
- Smart Sensors installed in 3,300 parking bays across the city. The system provides real time occupancy data to a cloud based back office system which is used to maximise turnover of parking in Cardiff;
- Parking App – new bespoke app for Cardiff introduced Autumn 2017, provides real time parking availability information to the public about Cardiff Council parking facilities, and links to MiPermit (on line parking payment system);
- Introduction of MiPermit (on line parking payment system);
- G Cell Beacons (push Bluetooth notification to phones for advertising & information);
- Parking & Moving Traffic Offences – view fine evidence and pay on line;
- Digitalised the current ways of applying & paying for Highway licences / permits;
- Digitalised Environmental Enforcement process - introduction of Startraq system;
- Central Monitoring System(CMS) for LED street lighting.

City Operations Digitalisation projects - In Progress/Planned

- Review all cheque/cash payment processes – with a view to introducing virtual on line payments for all areas (for example, Bereavement/ Street Naming Numbering etc.);
- Introduce fingerprint ID for school bus passes in line with methods of payment for school lunches;
- E Commerce for all services and supplies for City Operations customers;
- Introducing virtual licensing/permits (non paper) for all Highways/Parking applications;
- Introduce of ARCUS system for Building Control;

- Continued development and roll out of Asset Management System – AMX;
- Introduction of hybrid printing in high volume printing areas in City Operations (enforcement, parking, planning etc.) tender submissions due 25th January;
- Development of digital staff training system, for operational staff training records and inspections (Papertrail).

Budget Savings Consultation - Digitalisation

16. The Cabinet meeting held on the 2nd November 2017 received an item titled '2018/19 Budget Proposals – For Consultation'. This report set out the proposed budget proposals for 2018/19 and once agreed triggered the start of a public consultation exercise that ran until 14 December 2017. The report identified a wide range of potential savings, some of which relate to digitalisation.
17. Overall the consultation identified £327,000 of savings from the City Operations Directorate that have the potential to be (at least in part) delivered through digitalisation. £212,000 of the potential savings relate to services that fall within the terms of reference of the Environmental Scrutiny Committee (£115,000 relate to 'Children's Play' which falls under the terms of reference of other committees).
18. The £212,000 saving is referenced as 'CONSULT 1', it falls against the category of 'Income Generation' and is described as *'Improve Charging & Income Generation Projects – Generate additional income through an increase in fees and charges across City Operations in addition to maximising opportunities for recharging for services, particularly through digitalisation'*. The saving is consistently risk rated as 'Green' and falls within the Strategic Planning & Transport Cabinet portfolio.
19. In addition to the digitalisation savings potentially linked to the City Operations Directorate the '2018/19 Budget Proposals – For Consultation' references 'Consult 38' as a £1.206 million saving that has been allocated against the Corporate Management budget. This is allocated against the 'Business Processes including Digitalisation' category and is described as:

'Council Wide Efficiencies – In line with the Council's digital strategy, this saving will be achieved through delivering business efficiencies through third party spend,

charging processes, technology and staff resources. This will put the use of digital forms of communication and service delivery at the heart of how the Council operates and interacts with the people it serves’.

20. This saving is consistently risk rated as ‘Red – Amber’ and is placed under the saving category ‘TBC’. It is anticipated that these savings will be applied ‘Council Wide’, and as such a part of the £1.206 million saving could be applied against the City Operations Directorate or other services that might fall within the remit of the Environmental Scrutiny Committee.

Way Forward

21. Officers from the City Operations Directorate have been invited to attend for this item. They will be available to brief Members on the range of digitalisation projects that the Directorate has delivered, is delivering or has plans to deliver.

Legal Implications

22. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

23. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to

consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i. Note the contents of the attached report;
- ii. Consider whether they wish to pass on any comments to the Cabinet following scrutiny of the item titled 'City Operations Digitalisation Projects'.

DAVINA FIORE

Director of Governance & Legal Services

10 January 2018

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CYNGOR CAERDYDD

CARDIFF COUNCIL

ENVIRONMENTAL SCRUTINY COMMITTEE

16 January 2018

**ENVIRONMENTAL SCRUTINY COMMITTEE – WORK PROGRAMME
REVIEW**

Background

1. The Constitution states that each Scrutiny Committee will set their own work programme. This is undertaken at the beginning of a municipal year and updated as the work progresses. The work programme needs to be carefully constructed so that the time available to the Committee is used most effectively.
2. The Environmental Scrutiny Committee's Terms of Reference provide the Committee with the responsibility for the scrutiny of a number of specific service areas. A copy of the terms of reference has been attached to this document as **Appendix 1**. This will remind Members of the scope of ideas that can be considered.
3. The Committee is responsible for the scrutiny of a number of policies and strategies that affect the sustainability and environment of Cardiff. It can also undertake investigations into any of these areas.
4. The construction of a work programme involves obtaining information from a range of sources, these include:
 - Information from the relevant Directorate;
 - Relevant extracts from the current Corporate Plan;
 - Suggestions and ideas put forward by the previous Environmental Scrutiny Committee;
 - Member suggestions and observations;
 - Citizen and third party comments and observations;

- Performance Information.

5. The topics gathered from the sources identified above were recorded in a document titled 'Environmental Scrutiny Committee Work Programme – Potential Work Programme Items 2017/18'; this document was first considered at a meeting on the 18th July 2017 and then used to create the version of the 'Environmental Scrutiny Committee Work Programme 2017/18' that was approved at the meeting on the 5th September 2017.
6. The Environmental Scrutiny Committee Work Programme 2017/18 document reviewed at the December 2017 meeting (**Appendix 2**) nominated items for the period October 2017 to March 2018. In an effort to create a more relevant and reactive work programme the Chair of the Committee has decided to review the work programme on a monthly basis using an 'Environmental Scrutiny Committee – Work Programme Review'.
7. At the meeting on the 5th December Members made some suggestions around restructuring the Environmental Scrutiny Committee Work programme – in particular this involved scrutinising fewer items in greater detail. The suggested changes have been noted and a number of alterations been made to the work programme – for details please see **Appendix 3**.
8. In addition to the programme of schedule of meetings the Committee has agreed to undertake two task & finish exercises during the 2017/18 municipal year. The report for 'Improving Cardiff's Air Quality' task & finish exercise is currently being drafted and it is anticipated that this will be finalized in February 2018. With this in mind it would seem sensible to start discussing the scope of a task & finish exercise on litter which was identified as an Environmental Scrutiny Committee priority during the work programming process.

Way Forward

9. Members should consider the 'Draft Environmental Scrutiny Committee Work Programme 2017/18' (**Appendix 3**) and decide if they are happy to accept the updated proposals. In addition to this they should discuss future arrangements for a task & finish exercise on litter.

Legal Implications

10. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

11. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i. Consider the contents of this report; and
- ii. Agree a way forward for the work programme.

DAVINA FIORE

Director of Governance & Legal Services

10 January 2018

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Environmental Scrutiny Committee – Terms of Reference

The role of this Committee is to scrutinise, measure and actively promote improvement in the Council's performance in the provision of services and compliance with Council policies, aims and objectives in the area of environmental sustainability including:

- Strategic Planning Policy
- Sustainability Policy
- Environmental Health Policy
- Public Protection Policy
- Licensing Policy
- Waste Management
- Strategic Waste Projects
- Street Cleansing
- Cycling and Walking
- Streetscape
- Strategic Transportation Partnership
- Transport Policy and Development
- Intelligent Transport Solutions
- Public Transport
- Parking Management

To assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Government, joint local government services, Welsh Government Sponsored Public Bodies and quasi-departmental nongovernmental bodies on the effectiveness of Council service delivery.

To report to an appropriate Cabinet or Council meeting on its findings and to make recommendations on measures which may enhance Council performance and service delivery in this area.

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	Tuesday 3rd October 2017	Tuesday 7th November 2017	Tuesday 5th December	Tuesday 16th January 2018	Wednesday 14th February 2018	Tuesday 6th March 2018
Corporate items		Meeting Adjourned	Monitoring Quarterly Performance 2017/18		Scrutiny of the Budget & Corporate Plan for 2018/18	
Information reports	Cardiff's Taxi Services	Meeting Adjourned	Roles & Responsibilities of Flood Risk Management in Cardiff	City Operations - Digitalisation Plan		Greener Grangetown - Member Update
	Managing Food Hygiene in Cardiff	Meeting Adjourned	Roath Flood Defence Scheme	Waste Management Strategy Update		British Cycling HSBC Core Cities Cycling Partnership
	Member Briefing Paper - First Cardiff local Development Plan Annual Monitoring Report	Meeting Adjourned	Environmental Scrutiny Committee - Work Programme Review	Receiving Draft Task & Finish Report - Improving Cardiff's Air Quality		Tree Management
	Environmental Scrutiny Committee - Work Programme Review	Meeting Adjourned	Environmental Scrutiny Committee - Work Programme Review			
Cabinet responses		Meeting Adjourned		Cabinet Response to Restore Our Rivers		
				Cabinet Response to Managing Section 106 Funding for the Development of Community Projects		

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