



SOLIHULL MBC

COMMUNITY INFRASTRUCTURE LEVY (CIL)

SECTION 106 POLICY STATEMENT

October 2015

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What are Section 106 planning obligations?

Section 106 planning obligations are legal agreements that are sought to make an otherwise unacceptable development acceptable in planning terms. They can be entered into unilaterally or multilaterally and most often relate to financial contributions, restrictions on the use of land or transfer of land. Since April 2010, Section 106s that could alternately be provided for by the Community Infrastructure Levy must meet statutory tests set out in the Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). These state that a planning obligation may only be a reason for granting planning permission for the development if the obligation is:

- 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.

In Section 205 of the National Planning Policy Framework, these tests were extended to all types of Section 106. These principles are underlined in the Policy P21 of the adopted Solihull Local Plan.

Types of Section 106 planning obligations

The list below sets out the most commonly sought obligations but should not be considered exhaustive, as each site has its own characteristics and issues. However, the Council's planning team endeavour to secure good design principles through the application process and planning obligations are generally only required on larger sites. The planning obligations for affordable housing are further explained in the Meeting Housing Needs SPD (July 2014).

- Affordable housing provision
- Site specific transport measures
- Children's play space
- Public open space
- Employment and enterprise: Jobs during construction and final development
- Employment and enterprise: General and end-user phase: skills, training and employment
- Public Realm improvements
- Bus stops and any dedicated bus service improvements
- Cycle routes
- Conservation, creation and enhancement of habitat to enhance biodiversity
- Flood risk management, including SUDs
- Health contributions to local providers
- Management and maintenance payments
- Measures to improve and address negative impacts on air quality and noise
- Phasing of development
- Police and fire service
- Restrictions on the use of the land, public access and public rights of way

How will CIL and Section 106 planning obligations work together?

The Community Infrastructure Levy Regulations (2010) (as amended) restrict the use of Section 106 planning obligations, so that they cannot be collected for infrastructure items in the Regulation 123 list. Since April 2015, the regulations also prevent the use of planning obligations where five or more separate planning obligations relating to that project, or type of infrastructure within the area of the charging authority, have been entered into since 6 April 2010. E.g. No more than five education contributions can go towards a particular school.

Historically, Solihull MBC has not had a tariff-based system for charging Section 106s and the pooling of contributions has been the exception rather than the rule. Furthermore, Section 106s should be there to address site-specific impacts and not be unduly burdensome on the delivery of development.

CIL payments and section 106 planning obligations will be used to fund different infrastructure items and developments will not be charged for the same items of infrastructure through both section 106 planning obligations and the CIL. Since amendments made to the CIL Regulations in 2014, the same principle applies to Section 278 agreements made under Highways Act 1980 (as amended). However, there is no limit on the number of Section 278s that can be pooled together. This is to prevent 'double-dipping' of infrastructure payments.

Regulation 123 list

The Council has published a list of those infrastructure projects or types for which we will not seek to negotiate section 106 planning obligations. This is called a Regulation 123 list (from CIL Regulation 123). The Regulation 123 list contains projects or types of infrastructure which may be funded partly or wholly by CIL. In general, Section 106 planning obligations will be negotiated where items sought are clearly linked to the development site and are needed to make that particular development acceptable. CIL on the other hand will be used to fund local and strategic infrastructure required to support growth across the borough.

The list is based upon the infrastructure projects or types set out in the Infrastructure Delivery Plan (September 2012), and updated to include items that will support growth over the Local Plan period (2011- 2028). It will be kept up to date to take into account any changes in circumstances and/or infrastructure needs identified in the future.