

SPD2 Refresh - Summary of Changes (May 2014)

Title:

- Amend title (including footnotes) to read:
supplementary planning document 2
planning obligations: a guide to
section 106 and developer contributions
2015

Contents:

- New heading inserted at start of Section 1 - "National Policy Framework"
- "Regional and Sub-Regional Policy Framework" and "Community Infrastructure Levy" headings deleted
- New heading inserted at end of Section 1 – "Southend Borough Council's response to the CIL Regulations"
- Appendix 1 heading amended

Section 1:

- Paragraph 1.2 replaced
- Paragraph 1.3 deleted
- Paragraphs 1.4, 1.5 and 1.6 replaced
- Paragraphs 1.8 and 1.9 deleted
- Paragraph 1.10 amended
- Insert new paragraph after paragraph 1.12
- Paragraph 1.14 amended
- Paragraph 1.17 deleted
- Paragraphs 1.18 and 1.19 amended
- Paragraphs 1.20 and 1.21 replaced
- Paragraph 1.22 amended
- Paragraph 1.24 deleted

Section 2:

- Insert the following new paragraphs at the start of Section 2 (including amended paragraph 2.1):

To some extent CIL replaces planning obligations. From April 2015, or once a CIL charging schedule is adopted, whichever is sooner, it will not be possible for a local authority to enter into s.106 planning obligations that pool together developer contributions from more than five schemes for any particular infrastructure item. However, site specific impact mitigation may still be necessary in order for a development to be granted planning permission, and this will continue to be secured through Section 106 agreements, Section 278 agreements or planning conditions (in addition to CIL payments). Further guidance on how CIL relates to other developer contributions can be found in Section 2.6 of the Department for Communities and Local Government (2014) Community Infrastructure Levy Guidance.

To ensure that local authorities do not charge twice through seeking contributions through S106, S278 and CIL, CIL Regulation 123 states that a planning obligation cannot be entered into where it would fund or provide relevant infrastructure listed on the Council's website that may be funded through CIL. The potential infrastructure projects that CIL will contribute funding to will be set out in what is referred to as the 'Regulation 123 Infrastructure List', and planning obligations will not be sought for any item of infrastructure included in this list.

Type of infrastructure that will continue to be required through S106, S278 or planning condition:

- Schools and other educational facilities (where facility will primarily meet demand arising directly from a large site)
- Health, social wellbeing and emergency services (where facility will primarily meet demand arising directly from a large site)
- Site specific utility requirements such as infrastructure to ensure water quality and supply is protected such as Sustainable Urban Drainage Systems where appropriate
- Highway and public transport (such as crossovers, junction improvements, connections to the network, improved pedestrian facilities, provision of hardware and/or contribution to service expansion) where related to site specific mitigation or demand directly arising from a site
- Local flood defence and mitigations required to ensure a development meets national requirements
- Any site specific mitigation measures required to manage unstable land
- Any site specific mitigation measures relating to waste
- Social and community facilities (where facility will primarily meet demand arising directly from a large site)
- Leisure and recreational facilities (where facility will primarily meet demand arising directly from a large site)
- Green infrastructure and open space/public realm – provision and management on-site, or off-site if mitigating for the loss of existing provision
- Other requirements related to a specific site such as local employment schemes
- Any other site specific measures (not identified above) to ensure that the site is acceptable in planning terms

The Council will normally require a planning obligation where it is felt that a proposed development of whatever nature or scale, will in itself give rise to unacceptable pressure on public infrastructure or where the development is of such a nature or scale that it is considered that it should contribute to the supply of affordable housing in the Borough. The Council may also seek an obligation in pursuit of adopted policy, such as the provision of public art on large sites in the Southend Central Area, which seeks to provide for quality natural and built environments and sustainable communities. The precise scale and scope of a planning obligation will be determined, by negotiation, in relation to the specific circumstances of the development, including viability. In all instances, planning obligations will only be sought where they satisfy the tests set out in The Community Infrastructure Levy Regulations 2010 (as amended) i.e. 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.

- Paragraph 2.2 deleted
- Paragraph 2.3 amended

- Paragraph 2.7 amended
- Text added to paragraph 2.10
- Paragraphs added after paragraph 2.12
- Paragraph 2.13 deleted
- Paragraph 2.14 amended
- Paragraph 2.19 amended
- Paragraph 2.20 amended
- Paragraph 2.21 amended
- Paragraph 2.28 amended
- Paragraph 2.32 amended
- Paragraph 2.40 amended
- Paragraph 2.41 amended

Section 3:

- New paragraph added after paragraph 3.2
- Reference to web pages updated from 'Environment and Planning' to 'Planning and Building'
- Any references to S106 Monitoring Officer amended to 'Section 106 and CIL Officer'
- Paragraph 3.15 replaced

Section 4:

- Section 4 FAQ amendments:
 - 'Why are financial contributions Index Linked' – reference to 'Index of Civil Engineering Contracts' deleted
 - 'Can a legal agreement cover more than one obligation' – paragraph deleted
 - 'How do I make payments to the Council' – paragraph updated
 - Any references to S106 Monitoring Officer amended to 'Section 106 and CIL Officer'

Appendices:

- Appendix 1 replaced with the following

List of relevant national and local planning policies and other guidance

(Note: This is a non-exhaustive list that was last updated on 20th May 2014)

- National Planning Policy Framework (NPPF) 2012
- National Planning Practice Guidance (NPPG) 2013
- Community Infrastructure Levy Regulations 2010 (as amended)
- Department for Communities and Local Government (2014) Community Infrastructure Levy Guidance
- South East LEP: Growth Deal and Strategic Economic Plan March 2014
- Thames Gateway South Essex: Fundamental Review of Strategic Housing Market Assessment Review 2013 – Report of Findings December 2013
- Environment Agency Medium Term Plan (MTP)
- Essex and South Suffolk Shoreline Management Plan (SMP)

- Essex Waste Partnership, Joint Municipal Waste Management Strategy for Essex (2007 to 2032)
 - Local Transport Plan Strategy (LTP3) and Implementation Plan, 2011/2012-2026
 - South East Local Enterprise (SELEP) Strategic Economic Plan (SEP)
 - Southend on Sea Strategic Housing Land Availability Assessment (SHLAA) 2012 Update
 - Southend on Sea Core Strategy (2007) policies KP1 'Spatial Strategy', KP2 'Development Principles', KP3 'Implementation and Resources', CP1 'Employment Generating Development', CP4 'The Environment and Urban Renaissance', CP6 'Community Infrastructure', CP7 'Sport, Recreation and Green Space', CP8 'Dwelling Provision'
 - Southend on Sea Design and Townscape Guide (2009)
 - Southend-on-Sea Borough Council (2004) Open Space and Recreation Assessment in Southend-on-Sea Borough
 - Southend-on-Sea Borough Council (2004) A Study of Playing Pitches in Southend-on-Sea Borough
 - Southend-on-Sea Borough Council (2005) Green Spaces Strategy: Draft, Executive Summary, Leisure, Culture & Amenity Services Department
 - Southend-on-Sea Borough Council (2006) Public Art Strategy – Summary and Recommendations
 - Southend-on-Sea Borough Council (2007) Southend-on-Sea Play Strategy
 - Southend on Sea Borough Council (2013) Corporate Plan and Annual Report 2013
 - Southend-on-Sea Borough Council (2013) Culture-on-Sea: A Cultural Strategy for Southend-on-Sea, 2012-2020
 - SOSBC (2013) Southend-on-Sea Sport & Leisure Strategy, 2013-2020
 - Sport England (2013) Planning Pitch Strategy Guidance: An approach to developing and delivering a playing pitch strategy
 - Sport England Sports Facilities Calculator: <https://www.sportengland.org/facilities-planning/planning-for-sport/planning-tools-and-guidance/sports-facility-calculator/>
 - Sport England Facilities Costs, Q4 2013: <https://www.sportengland.org/media/198443/facility-costs-4q13.pdf>
 - Sport England guidance document on football pitches: <http://www.sportengland.org/media/197610/kitbag-nt-football-senior-2-2013.pdf>
 - Source: Sport England guidance document on rugby pitches: <http://www.sportengland.org/media/197640/kitbag-nt-rugby-union-senior-2013.pdf>
 - Sport England Strategic Facilities Fund: <http://www.sportengland.org/media/189581/strategic-facilities-prospectus.pdf>
 - Thames Estuary 2100 Plan
 - Thames Gateway South Essex (2005) Thames Gateway South Essex Green Grid Strategy
- Appendix 2 – job title amended
 - Appendix 3 – updated contact details
 - Appendix 4 – definition of 'Circulars', 'Government Office for the East of England' and 'Regional Spatial Strategy (RSS) deleted; definition of RSL replaced