

# Trafford Community Infrastructure Levy: Draft Charging Schedule – Statement on CIL and Section 106



**TRAFFORD**  
COUNCIL

May 2013



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PUNJABI

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## **1. Background**

1.1 This statement has been produced to clarify how the Council intends to use planning obligations and Section 106 (S106) agreements after the adoption of the Community Infrastructure Levy (CIL). It demonstrates that there will be no “double counting” between CIL and S106 (developers paying twice towards the same item of infrastructure) and that there is a clear and transparent system for identifying what infrastructure should be funded through CIL, and in what circumstances an item of infrastructure would be in addition to the CIL payment, as a planning obligation.

1.2 The National Planning Policy Framework (NPPF) states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (paragraph 206, NPPF). Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition and where they meet the three tests:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development, and,
- fairly and reasonably related in scale and kind to the development.

1.3 In line with CIL regulations 122 and 123, once the CIL Charging Schedule is adopted, or after 6 April 2014, the Council will only be able to pool up to five S106 contributions towards the implementation of a specific item of infrastructure. This item of infrastructure must be clearly exempt from the Council’s Regulation 123 list. The Council has produced a draft Regulation 123 list, which is available to view on its website alongside the CIL draft charging schedule at: [www.trafford.gov.uk/cil](http://www.trafford.gov.uk/cil).

1.4 The following sections set out how the current SPD1: Planning Obligations will be revised, and also demonstrates that once CIL is implemented the amount developers will pay under the new system is similar to (and in the majority of cases, less than) that payable under the existing S106 regime.

## **2. The current SPD1: Planning Obligations**

2.1 The Council adopted the current SPD1: Planning Obligations in February 2012 to support the implementation of Policy L8 of the Trafford Local Plan: Core Strategy.

2.2 The SPD provides detailed guidance for all those involved in the submission and determination of planning applications where planning obligations will be required. It also details the type of obligations that are required, sets thresholds where appropriate and indicates the relative importance that the Council might place on the varying types of obligation in different parts of Trafford.

2.3 Policy L8 of the Trafford Core Strategy sets out the Council's policy on planning obligations. This makes it clear that in accordance with Circular 5/2005, the Community Infrastructure Levy Regulations 2010, policies in the

Core Strategy and the supporting Local Infrastructure Plan, the Council will seek planning obligations towards the delivery of environmental, economic and social infrastructure. The policy seeks contributions for all new development including mezzanines, redevelopment, and changes of use, the nature and level of which will be established on a site by site basis.

2.4 The Council's approach to planning obligations is based on two elements: the 'Trafford Developer Contribution' and a bespoke 'Negotiated Element'. Policy L8 provides an indicative list, for which the Council will seek contributions towards, this includes:

- Affordable Housing (TDC1);
- Highways infrastructure (TDC2);
- Sustainable transport schemes, including bus, tram, rail, pedestrian and cycle schemes (TDC3);
- Measures to reduce the impact of climate change (TDC4);
- Specific Green Infrastructure, such as tree planting (TDC5);
- Spatial Green Infrastructure, such as parks, play areas and outdoor sports facilities (TDC6a, 6b, 6c and 6d);
- Indoor sports facilities, including swimming pools and gyms (TDC7a and 7b);
- Education facilities (TDC8); and
- Health facilities (TDC9).

2.5 Contributions collected under the current SPD1 are closely related to the delivery of infrastructure required to support development in the Trafford Core Strategy and are representative of what CIL is seeking to achieve. However, given the Council's commitment to the CIL, a draft Revised SPD1: Planning Obligations has been prepared and is available for public consultation alongside the CIL draft charging schedule. Once CIL is adopted, the Council proposes that the Revised SPD1 will be adopted (subject to changes necessary following public consultation) and implemented at the same time as the CIL Charging Schedule, with the majority of planning obligations replaced by CIL.

2.6 As set out in the consultation on the draft Revised SPD1, planning obligations will cover affordable housing (TDC1) and site-related mitigation measures. These will include, scaled back, sustainable transport schemes (TDC3), measures to reduce the impact of climate change (TDC4), specific green infrastructure (TDC5), and spatial green infrastructure (TDC6) obligations. In all but exceptional circumstances, these will be delivered on-site. This will ensure that there is no "double counting".

2.7 There will no longer be a requirement for developers to enter into tariff based planning obligations in respect of highways infrastructure (TDC2), indoor sports facilities (TDC7a and 7b), education (TDC8) or health facilities (TDC9), as these will be provided through CIL.

2.8 The draft Revised SPD1: Planning Obligations can be accessed via the Council's website: [www.trafford.gov.uk/cil](http://www.trafford.gov.uk/cil).

### **3. Tariffs collected under the present SPD1: Planning Obligations compared to those proposed for CIL**

3.1 The Council has reviewed the complete range of S106 contributions collected over the last 3 years<sup>1</sup>. Over this period, a total of approximately £7 million has been received in S106 payments, which averages £2.35 million per year. A further £2.7 million is outstanding from signed S106 agreements within this 3-year period, with payments yet to be received. The estimated CIL is approximately £41 million over 15 years, which equates to £2.7 million per year.

3.2 A comparison has been undertaken between the contributions that would be required under the current SPD1 and the levy under the proposed CIL rates. This comparison is based on residential development, in particular minor residential development. These types of application are less likely to include negotiated S106 elements and large site-related requirements that may be delivered on-site, and are therefore considered more typical of the majority of applications received by the Council.

3.3 Table 3.1 below shows the S106 contributions payable for residential development (per house) within the most accessible, accessible and least accessible areas under the current SPD1 adopted in February 2012.

*Table 3.1 Contributions under the current SPD1 (adopted February 2012)*

| House         | Most Accessible | Accessible | Least Accessible |
|---------------|-----------------|------------|------------------|
| <b>1-bed</b>  | £2,390          | £2,467     | £2,544           |
| <b>2-bed</b>  | £7,267          | £7,344     | £7,421           |
| <b>3-bed</b>  | £12,194         | £12,271    | £12,348          |
| <b>4-bed+</b> | £16,618         | £16,695    | £16,772          |

3.4 In comparison, an average payment for residential development (per house) under CIL will vary depending on the sub market location of the development, as set out in Table 3.2.

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<sup>1</sup> It should be noted that the Council adopted a new SPD1 in February 2012, with higher tariffs than the previous suite of Supplementary Planning Documents/Guidance Notes.

*Table 3.2 CIL and S106 Payments by Sub Market Location*

| Sub Market Location | CIL     | CIL & S106 |
|---------------------|---------|------------|
| <b>Cold</b>         | £2,000  | £3,000     |
| <b>Moderate</b>     | £4,800  | £5,800     |
| <b>Hot</b>          | £11,200 | £12,200    |

3.5 This shows that even when adding the residual S106 cost to the CIL payment, in the majority of cases, the total CIL and S106 payment will be significantly lower than that required under the existing S106 regime.

3.6 In addition to the CIL payment, the viability study allowed for a cost of £1,000 per house and £10 per square metre for industrial or office developments as an estimated average S106 planning obligation/S278. This has been calculated to make allowance for infrastructure delivery that is likely to remain outside CIL. Table 3.3 below outlines the breakdown of maximum possible costs in the existing SPD Planning Obligations per unit or per square metre as a basis to arrive at the average costs used in the viability appraisals.

*Table 3.3 Breakdown of Average S106 Costs*

| Development                                 | Open space,<br>play,<br>outdoor<br>sports | S278 | Specific green | Total   |
|---------------------------------------------|-------------------------------------------|------|----------------|---------|
| <b>Housing 1-<br/>100 units</b>             | £0                                        | £104 | £620           | £824    |
| <b>Housing 100-<br/>300 units</b>           | £127.03                                   | £104 | £620           | £851.03 |
| <b>Housing<br/>units 300+</b>               | £988                                      | £104 | £620           | £1,712  |
| <b>Average of<br/>above 3<br/>scenarios</b> |                                           |      |                | £1,129  |
| <b>Office</b>                               | £0                                        | £2   | £10            | £12     |
| <b>Industrial</b>                           | £0                                        | £1   | £4             | £5      |

3.7 More detailed information in relation to the approach to CIL and S106, with particular regard to the impact of the implementation of CIL on major development areas, is set out in sections 5 and 6 of the Trafford CIL: Economic Viability - Addendum Report. It is considered that the introduction of CIL will have a beneficial impact on the viability of the strategic locations over the continuation of the current S106 regime.

#### **4. When Planning Obligations/Section 106 agreements will still be used**

4.1 CIL payments will be sought in line with the Council's adopted CIL Charging Schedule. In addition, developers will be expected to mitigate any impact on the environment or local infrastructure that arises directly as a result of the development. Affordable housing will also continue to be provided through planning obligations. Therefore, although the number of planning obligations will be scaled back, they will still be sought in relation to the 4 main types of matter listed below:

- a. Affordable housing (as this falls outside of the scope of CIL)
- b. Infrastructure which is required as a result of specific development (and which is not included in the CIL Regulation 123 list)
- c. Commuted sums for the maintenance of facilities/infrastructure that the developer would like another body to adopt
- d. Mitigating the impacts of development (for example, relating to environmental mitigation and transport and access etc.)

4.2 Core Strategy Policy L2: Meeting Housing Needs sets out the Council's policy to ensure that there is an adequate mix of housing types and sizes to meet the needs of the community. The Policy sets a target split of 60:40 market: affordable housing, with 50% of the affordable housing provision required to be accommodation suitable for families. This will be achieved through the application of geographically variable site thresholds and contribution levels.

4.3 Planning obligations will continue to be required (in addition to CIL payments) for larger scale developments, which are likely to have a greater impact on the locality. Wherever possible, the provision of site-related infrastructure will be required on-site, as in most cases provision will be integral to the design of the development. For example, a large housing development will be required to layout new open space for the residents of its development on-site. However, there will be cases where this is neither practicable nor appropriate, for example when development is phased and this may be delivered as part of a later phase. In these instances the Council will require financial contributions towards the provision of open space. In exceptional circumstances, if the open space cannot be delivered on-site, the Council would require contributions towards off-site provision that would be provided close to the development.

4.4 Where provision is made for a new facility, for example new open space, provision for the long term maintenance of the site must be provided by the developer either by way of handing the site over to a third party, by ensuring a maintenance contract with a management company or, where an acceptable commuted sum is agreed with the Council's operational staff.

4.5 In terms of change of use, redevelopment and mezzanines (which are exempt from CIL), these types of development can have an impact that may be required to be mitigated in order to make the application acceptable in planning terms. These applications may need to enter into a Section 106 agreement to address any site-related mitigation measures required.

4.6 The Council will ensure that no ‘double counting’ takes place and that developers will not be charged twice for the same infrastructure (in line with the CIL Regulations). Table 4.1 below seeks to clarify the split between CIL and S106 agreements, by listing the key forms of contributions likely to be sought. It should be noted that this list of infrastructure types is not exhaustive. The draft Revised SPD1: Planning Obligations contains more information and can be viewed via the Council’s website: [www.trafford.gov.uk/cil](http://www.trafford.gov.uk/cil).

*Table 4.1 Infrastructure types delivered through CIL and Section 106*

| Type of Infrastructure                | S106 infrastructure/mitigation                                                                                                    | CIL funded infrastructure                                                                                                                                                                                                           |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Affordable Housing</b>             | Provision of units on-site or contributions towards off-site provision                                                            | -                                                                                                                                                                                                                                   |
| <b>Transport (highways)</b>           | Local site-related road/transport requirements                                                                                    | Other road and transport infrastructure projects                                                                                                                                                                                    |
| <b>Public transport</b>               | Local site-related public transport requirements                                                                                  | Other public transport infrastructure projects                                                                                                                                                                                      |
| <b>Specific green infrastructure</b>  | Site-related tree planting and landscaping                                                                                        | Strategic tree planting                                                                                                                                                                                                             |
| <b>Spatial green infrastructure</b>   | Provision of on-site or site related informal open space, land, play facilities and recreational equipment on large housing sites | Improvement of informal open space, land, play facilities and recreational equipment not on large strategic sites or related to a large strategic site<br><br>Improvements to strategic green infrastructure e.g. The Mersey Valley |
| <b>Sports facilities</b>              | Development specific formal sports land and facilities on large housing sites                                                     | Formal sports land and facilities not on large strategic sites or related to a large strategic site                                                                                                                                 |
| <b>Community facilities</b>           | Development specific new community facilities within strategic locations                                                          | Improvement of existing community facilities not within strategic locations                                                                                                                                                         |
| <b>Education</b>                      | -                                                                                                                                 | School and educational places/facilities                                                                                                                                                                                            |
| <b>Health</b>                         | Development specific new health facilities within strategic locations                                                             | Other healthcare provision                                                                                                                                                                                                          |
| <b>Ecological/historical features</b> | Local site-related habitat/nature/heritage requirements                                                                           | Other environmental/heritage provisions and infrastructure                                                                                                                                                                          |
| <b>Flood defence</b>                  | Site-related flood defence infrastructure (such as SUDS)                                                                          | Other flood defence infrastructure                                                                                                                                                                                                  |