

The relationship between CIL and section 106 and section 278 planning contributions

After 1 September 2015, when CIL takes effect in the borough, the council still intends to negotiate section 106 obligations and section 278 agreements (for highway works) where necessary and appropriate to mitigate the local impact of developments and to make them acceptable.

Section 106 obligations could include provision for affordable housing, infrastructure not included within the CIL regulation 123 List ('the r123 list'), infrastructure items specifically excluded from the r123 List, and other purposes (which may or may not be defined as infrastructure).

The table below illustrates the potential relationship between CIL and s106 contributions. **Column A** of the table contains the r123 list. Section 106 contributions cannot be sought for the types of infrastructure detailed in the r123 list. **Column B** of the table below lists examples of items that could typically be the subject of section 106 or section 278 agreements, subject to these satisfying the statutory tests in regulations 122 & 123 of the CIL Regulations 2010. Importantly, the list in Column B is not exhaustive and obligations or agreements may be sought for other purposes that are appropriate to particular sites.

The items listed in Column B may also be funded by Neighbourhood CIL as appropriate. Neighbourhood CIL can be spent on infrastructure or anything else that is concerned with addressing the demands that development places on an area. The CIL Regulations do not require the Neighbourhood CIL to be detailed in the r123 List.

Table - The relationship between CIL and section 106 and section 278 obligations

Infrastructure Category		Column A r123 List	Column B Potential future s106 & s278 list (or possibly part of Neighbourhood CIL)
	Health	<ul style="list-style-type: none"> Primary healthcare and out of hospital care team facilities 	
	Early Years, Schools, Youth	<ul style="list-style-type: none"> Primary, secondary and special education and youth facilities. 	<ul style="list-style-type: none"> Early years (nursery) contributions Youth outreach contributions
	Community Safety	<ul style="list-style-type: none"> Community safety facilities (including local policing facilities) Public realm CCTV infrastructure 	<ul style="list-style-type: none"> Enhanced policing contributions CCTV within a development scheme and connections to the council's system

Infrastructure Category		Column A r123 List	Column B Potential future s106 & s278 list (or possibly part of Neighbourhood CIL)
	Leisure & Parks	<ul style="list-style-type: none"> Public leisure facilities including parks and other public open space, outdoor sports pitches, courts and greens, play and other spaces for children and teenagers, swimming pools, gyms and indoor sports halls, allotments and Linford Christie Stadium 	<ul style="list-style-type: none"> Provision of public open space or play areas within a development scheme required to comply with a policy of the Development Plan
	Biodiversity		<ul style="list-style-type: none"> On-site provision, maintenance or improvement of nature conservation areas and green corridors to comply with a policy of the Development Plan
	Waste & Street Enforcement	<ul style="list-style-type: none"> Household and public waste recycling and waste management facilities 	<ul style="list-style-type: none"> Provision of on-site facilities and bins on the highway required to service a specific development proposal
	Community Investment	<ul style="list-style-type: none"> Community facilities including community centres, voluntary sector meeting places and centres, and public cultural facilities 	
	Economic Development, Adult Learning & Skills	<ul style="list-style-type: none"> Learning and training facilities, job shops, business hubs/incubators 	<ul style="list-style-type: none"> Employment, training and workplace coordinators, business engagement services, business procurement
	Libraries & Archives	<ul style="list-style-type: none"> Libraries and archives 	
	Energy		<ul style="list-style-type: none"> Decentralised energy networks Carbon reduction & energy efficiency (e.g. boiler insulation, LED lights)
	Environmental Health	<ul style="list-style-type: none"> Air quality, noise and contaminated land monitoring infrastructure 	<ul style="list-style-type: none"> On-site air quality monitoring infrastructure required to assess or help mitigate a development proposal Air quality monitoring costs On-site contaminated land mitigation On-site noise reduction measures and infrastructure Noise monitoring costs

Infrastructure Category	Column A r123 List	Column B Potential future s106 & s278 list (or possibly part of Neighbourhood CIL)
Drainage & Flooding	<ul style="list-style-type: none"> • Flood mitigation and defences. • Borough Sustainable Urban Drainage Systems (SUDS) 	<ul style="list-style-type: none"> • Works required to mitigate flood risk to a specific development (including on-site Sustainable Urban Drainage Systems (SUDS)) (considered alongside SUDS Approval Body arrangements), or works to the Thames Wall where the responsibility lies with a riparian landowner
Highways & Transport	<ul style="list-style-type: none"> • Transportation infrastructure for walking, cycling, public transport and highways. 	<ul style="list-style-type: none"> • Provision of new or enhanced access from the highway or public transport facilities to a development site. (S106 &/or S278) • Highway measures necessary to directly mitigate the impact of particular development proposals. (S106 &/or S278) • Provision, relocation, replacement or improvement of pedestrian cycle and bus facilities on-site or in the highways immediately surrounding the site (S106 &/or S278) • Changes to, or introduction of, local traffic management or controlled parking (S106 &/or S278) • Removal, relocation or replacement of street furniture, dropped kerbs, crossovers, street trees (S106 &/or S278) • Bus service contributions • River bus service contributions • Provision or enhancement of the Thames Path or canal path, and access to the river or canal. • Provision of electric car charging parking spaces within a development scheme to comply with a policy of the Development Plan • Car club contributions
Environmental Improvements	<ul style="list-style-type: none"> • Environmental improvements to enhance the appearance, safety and security of the public realm, especially in town centres. 	<ul style="list-style-type: none"> • Action related to the public realm provided within a development site, or action in the area surrounding a site to mitigate the impact of development.

Infrastructure which is excluded from the r123 List and for which provision will be made by means of s106 obligations or s278 agreements

Infrastructure Category	Column A r123 List	Column B Potential future s106 & s278 list (or possibly part of Neighbourhood CIL)
		<ol style="list-style-type: none"> 1. For development in White City East: the essential mitigation infrastructure listed in the White City Opportunity Area Planning Framework Supplementary Planning Document ('WCOAPF SPD') and the White City Development Infrastructure Funding Study ('WC DIFS') and any other infrastructure required to make development in the White City East area acceptable in accordance with the development plan. 2. For development in the Earls Court & West Kensington Opportunity Area: any infrastructure necessary to comply with the Phasing & S106 Strategy set out in the Earls Court & West Kensington Supplementary Planning Document ('ECWK SPD') or which is otherwise required to make a development acceptable in accordance with the development plan. 3. For development in the South Fulham Riverside Regeneration Area, the provision of the northern link road through the National Grid site as required by the South Fulham Riverside Supplementary Planning Document and any necessary other works to mitigate the development of that site including but not limited to any necessary works within Highways Package 2 as defined by the South Fulham Riverside Development Infrastructure Funding Study ('SFR DIFS'). 4. An item of infrastructure (or the improvement, replacement, operation or maintenance of any infrastructure) that is specifically required to make a planning application acceptable (subject to there being no more than five planning obligations (already entered into since April 2010) for that item at the time). 5. Provision of on-site accommodation for infrastructure purposes where the cost of occupation is met from sources external to the development (e.g. occupation on commercial terms). 6. Replacement of any existing infrastructure facility that is proposed as part of a development proposal. 7. Provision of infrastructure which is required to ensure compliance by a development with a policy of the Development Plan and any relevant SPDs which specifically requires provision on the relevant site.