



To: Executive Councillor for Planning and Climate Change:
Councillor Tim Ward

Report by: Head of Planning Services

Relevant scrutiny committee: Development 25/03/2013
Plan Scrutiny
Sub-Committee

Wards affected: All

Draft Planning Obligations Strategy Supplementary Planning Document

Not a key decision

1. Executive summary

- 1.1 The current Planning Obligations Strategy Supplementary Planning Document (SPD) was adopted in 2010. Due to changes in the legislative and planning policy framework this now needs to be updated. The revised Planning Obligations Strategy SPD and Community Infrastructure Levy (CIL) Charging Schedule are mutually dependant policy documents that need to be put in place and updated alongside the emerging Local Plan. Councillors are asked to consider the Draft Planning Obligations Strategy Supplementary Planning Document (SPD) prior to its submission to the planning inspectorate in support of the Council's Draft CIL Charging Schedule and also prior to formal public consultation on the Draft SPD.
- 1.2 In order to adopt a CIL the Council has to produce a draft list of infrastructure which could benefit from CIL funds. Any infrastructure on that list cannot receive any funds from a S.106 planning obligation. This list is known as the 'Reg.123 list' (this title being taken from the Regulation number which requires publication of such a list). The Council took the opportunity to consult on a Draft Regulation 123 List during the public consultation on the Draft Cambridge CIL Charging Schedule. Councillors are now asked to consider updates to the list to reflect responses received during the public consultation and also developments in the Draft Planning Obligations Strategy SPD.

2. Recommendations

- 2.1 The Executive Councillor for planning and climate change is recommended to:

- 2.2 Approve the Revised Draft Planning Obligations Strategy SPD, as set out in Appendix 1, for a six week consultation public consultation period between June and July 2014.
- 2.3 Approve the Revised Draft Planning Obligations Strategy SPD for submission to the planning inspectorate in support of the Submission Draft CIL Charging Schedule on 28 March 2014.
- 2.4 Approve the updated Draft CIL Regulation 123 List, as set out at Appendix 3, for submission to the planning inspectorate in support of the Draft CIL Charging Schedule on 28 March 2014.
- 2.5 To agree, as of the 1 April 2014, the approach towards monitoring fees outlined in paragraph 3.23 is implemented.
- 2.6 Agree that if any amendments are necessary, these should be agreed by the Executive Councillor in consultation with Chair and Spokes of Development Plan Scrutiny Sub-Committee.

3. Background

- 3.1 The City Council has an adopted Planning Obligations Strategy SPD (October 2010) which needs to be updated to reflect changes in national legislation and policy guidance. Namely, the introduction of the Community Infrastructure Levy (CIL) in 2015.
- 3.2 The CIL is a charge that local authorities can levy on all new development in their area to fund infrastructure improvements needed to support development. CIL partially replaces S.106 planning obligations.
- 3.3 The CIL was introduced by the Planning Act 2008 and came into force through the CIL Regulations 2010 (as amended) on 6 April 2010. As of that date it became unlawful for a planning obligation to be taken into account when determining a planning application for development, or any part of a development, if the obligation does not meet all of the following tests:
 - It is necessary to make the development acceptable in planning terms;
 - It is directly related to the development; and,
 - It is fairly and reasonably related in scale and kind to the development.

- 3.4 The purpose of the tests are to distinguish the different roles that both CIL and planning obligations have when used together to support new development. The CIL Regulations (as amended) also specify that upon the adoption of a CIL, or by 6th April 2015, whichever is the sooner, the use of planning obligations must be scaled back. This means that, once the CIL is in place, a planning obligation cannot be used to fund a project or type of infrastructure if there have been 5 separate obligations on or after 6 April 2010 which fund that project or type of infrastructure.
- 3.5 CIL breaks the link between the development and the development site. Unlike S.106 planning obligations CIL funds are not earmarked for particular types of infrastructure. CIL funds are pooled into a central pot from which they can be used for any infrastructure needed to support development across the City Council's administrative area.
- 3.6 Planning obligations remain for on-site mitigation required to make a development acceptable in planning terms, including the provision of affordable housing. The principle is that all eligible developments must pay a CIL as well as, any site-specific requirement to be secured through Section 106 Agreements.
- 3.7 These changes make it impossible to continue with a tariff style system for collecting planning obligations. The Council's Planning Obligations Strategy (POS) SPD 2010 sets out a tariff style approach. Once the Council introduce CIL or April 2015, whichever is sooner, it will no longer be possible to enforce the approach set out in the current SPD. As a result it is necessary to update the Council's Planning Obligations Strategy SPD. The purpose of this report therefore is to present a revised Draft Planning Obligations Strategy SPD (attached at Appendix 1), and to seek approval to submit the Draft POS SPD to the planning inspectorate in support of the Council's CIL Draft Charging Schedule and also to publish the Draft POS SPD for a formal 6 week period of public consultation.
- 3.8 The Draft Planning Obligations Strategy SPD will give all involved in the planning process a clear understanding as to what charges may be applicable for different forms of development as well as demonstrating to an inspector considering the Council's CIL approach that there will be no double charging for infrastructure.
- Cambridge City Council Community Infrastructure Levy**
- 3.9 The introduction of a CIL for Cambridge City Council is now reaching advanced stages, with formal submission of the Charging Schedule to the planning inspectorate expected at the end of March 2014 alongside the Local Plan.

- 3.10 The Council consulted on its Draft CIL Charging Schedule for six weeks from 28th October 2013 to 9th December 2013. This was following approval for consultation at Environment Scrutiny Committee on 08th October 2013. The Draft POS SPD should be read alongside the Council's Draft CIL Charging Schedule and Supporting Information (which includes the City Council's Draft CIL Regulation 123 list). The combination of these documents sets out a clear guide to developers, landowners and stakeholders on the likely scope of planning obligations applicable to developments.
- 3.11 The table at Appendix A of the Draft Cambridge CIL Charging Schedule and Supporting Information Consultation Document set out broadly how CIL might work alongside S.106 in Cambridge once CIL is adopted.
- 3.12 Appendix A of the Draft Charging Schedule and Supporting Information Consultation Document has formed the basis for the revised Planning Obligations Strategy SPD and comments received during the consultation have been taken into account when formulating the Draft SPD.
- 3.13 Key issues raised in response to the consultation on Appendix A are outlined in Appendix 2 of this report, alongside the draft council response on these issues, which outlines if and how these issues have been taken into account in the development of the Draft Planning Obligations Strategy SPD.
- 3.14 A summary of the main points raised in the consultation are listed below with a summary a draft response:

Consultation Comments (summary)	Draft Response (Summary)
The Planning Obligations SPD should be published immediately to give assurances that developers won't pay for the same infrastructure through CIL and S.106	<i>The purpose of this report is to get approval for a Draft Planning Obligations SPD</i>
The Draft Reg.123 list is overly brief and generic	<i>The Council has yet to identify which specific projects will benefit from CIL funds but the infrastructure categories identified in the Draft Regulation 123 List should ensure that CIL funds will</i>

Consultation Comments (summary)	Draft Response (Summary)
	<i>contribute meaningfully to infrastructure and Local Plan delivery</i>
There is no evidence that public art could be funded by S.106 and CIL	<i>Public Art will be secured by planning condition or CIL funds. S.106 will not be used</i>
There needs to be a CIL approach to the natural environment	<i>The approach to the natural environment is clarified in the SPD</i>
There is an underestimation of S.106 contributions when assessing CIL rates	<i>This is not the case. See more detailed response in Appendix 2</i>
There needs to be clarification of where S.106 and CIL will be used to fund the delivery of infrastructure within the same categories	<i>The Draft SPD provides this clarification</i>

Proposed use of S106 Planning Obligations and CIL

- 3.15 The Council will continue to use S.106 planning obligations where site-specific infrastructure is required to make a development acceptable in accordance with the tests outlined at paragraph 3.3 above. This is appropriate as site-specific infrastructure requirements are difficult to define fully in advance of an appraisal of a planning application or because of the impracticability of delivering certain infrastructure effectively through CIL.
- 3.16 ***Draft Cambridge City Council Planning Obligations Strategy SPD 2014*** – The Draft SPD is attached at Appendix 1 to this report. The document sets out the background of the local and national planning policies which are applicable to planning obligations. It then identifies topic areas where planning obligations may be applicable. Finally it sets out the Council’s general procedural approach to planning obligations.
- 3.17 The SPD outlines that CIL, and where appropriate, other funding (capital funding, city deal), can be used to fund infrastructure which includes:
- Strategic transport infrastructure;

- Education infrastructure;
- Strategic household waste recycling;
- Libraries and lifelong learning facilities;
- Community facilities (community rooms, public library, primary care facility, community centre, place of worship, function room, acute health care, civic and court buildings);
- Strategic public realm improvements (strategic projects to improve the streetscene and built environment of the city);
- Public art projects that have a citywide benefit;
- Indoor sports facilities (Formal provision such as sports halls and swimming pools);
- Outdoor sports facilities (playing pitches, courts and greens);
- Allotments; and,
- Strategic green infrastructure projects.

3.18 The Council will continue to use S.106 to ensure the delivery of (This list is not exhaustive):

- Affordable housing (dealt with in a separate Draft Affordable Housing SPD)
- Site-specific transport infrastructure (e.g. Travel Plans; Site specific works, access roads etc.; Site specific pedestrian cycle facilities; dropped kerbs, contributions to car clubs etc.)
- Open space provision for children and teenagers (play areas, kickabout areas, adventure playgrounds, multi-use games area, skate-park, bike-park etc.)
- Site-specific informal open space (Hard landscaping, benches, trees, shrubbery, surfaces for sitting out or dog walking, casual playspace, improvements to existing informal open)
- Household waste and recycling receptacles
- Site specific public realm improvements
- Site specific ecological mitigation

3.19 The revised SPD details the circumstances under which a S.106 Agreement may be appropriate to mitigate the impacts of development. A separate Draft Affordable Housing SPD will be published alongside this document.

3.20 **Monitoring and Implementation Fees** - The development of the new draft Planning Obligations Strategy SPD has also provided the opportunity to take stock of the way that monitoring fees are being applied under the current strategy. This is important because the current strategy will continue to operate during 2014/15 until the adoption of the new strategy.

- 3.21 The current Planning Obligations Strategy SPD (adopted in March 2010) allows the Council to charge a £150 monitoring fee per financial contribution clause and a £300 monitoring fee per infrastructure provision clause/condition (as set out on pages 44-45 of the current strategy). These fees were similar to the practice at other authorities at the time. It has become clear, however, that the monitoring fees received in practice by the City Council has fallen some way short of the costs incurred in monitoring and managing planning obligations.
- 3.22 There is an now opportunity for the Council to increase its monitoring fees as part of **new** Section 106 agreements entered into during the coming year under the current strategy.
- 3.23 It is therefore proposed that, from 1 April 2014, the Council updates its monitoring fees structure under the current Planning Obligations Strategy SPD so that:
- a. monitoring fees for all financial planning obligations (eg, for community facilities, informal open spaces, indoor and outdoor sports and waste facilities) and non-financial planning obligations would be 5% of the total value of those financial contributions (up to a maximum of £50,000);
 - b. Large scale developments may have their fees agreed by negotiation a case by case basis but the default position for a monitoring charge will be 5% of total contributions
- 3.24 The introduction of 5% monitoring fees for financial contributions could be a significant help in offsetting the costs of monitoring and managing developer contributions and would enable the Council to make better use of resources.
- 3.25 Please note that this will not affect Section 106 agreements that have already been signed (including those where the payment of monitoring fees has not yet been triggered).
- 3.26 **Consultation on the Draft CIL Regulation 123 List** – Linked intrinsically to its strategy on planning obligations the Council needs to agree and publish its intentions for how revenue raised from the CIL will be spent. This is done through the publication of an infrastructure project list known as the ‘Reg.123 list’ (this title being taken from the Regulation number which requires publication of such a list). It should be noted that simply because a project or infrastructure theme goes on the Reg.123 list it does not mean the project will definitely happen or get paid for through CIL funds. However, it does mean that the said

project must not receive any funds direct from a S.106 planning obligation.

- 3.27 The Council took the opportunity to consult on a Draft Regulation 123 during the public consultation into the Draft Cambridge CIL Charging Schedule between 28 October 2013 and 9 December 2013. It is now recommended that the Draft Regulation 123 List is updated to reflect the consultation responses and the development of the Draft Planning Obligations Strategy SPD.
- 3.28 Key issues raised in response to the consultation on the Draft Regulation 123 list, alongside the draft Council response on these issues. The Draft Council response, attached at Appendix 2 of this report, outlines if and how these issues have been taken into account in the development of the Draft Planning Obligations Strategy SPD.
- 3.29 A summary of the main points raised in response to the consultation is listed below with a summary of a Draft Response:

Consultation Comments (summary)	Draft Response (Summary)
More detail is required to make it clear how critical infrastructure from the Council's Infrastructure Delivery Study will be delivered	<i>The Council has yet to identify which specific projects will benefit from CIL funds but the infrastructure categories identified in the Draft Regulation 123 List should ensure that CIL funds will contribute meaningfully to critical infrastructure and Local Plan delivery</i>
Infrastructure identified in the Council's Infrastructure Delivery Study as critical and necessary in relation to the northern fringe east, as well as a list of potential schemes submitted by Brookgate as part of their representation, should be included in the R.123 list	<i>Detailed infrastructure requirements, site capacity, viability, timescales and phasing will be established through the preparation of AAP for the Northern Fringe East</i>
The R.123 list is overly brief and generic	<i>The Council has yet to identify which specific projects will benefit from CIL funds but the infrastructure categories identified in the Draft Regulation 123 List</i>

Consultation Comments (summary)	Draft Response (Summary)
	<i>should ensure that CIL funds will contribute meaningfully to infrastructure and Local Plan delivery</i>
Double counting can only be avoided once the Draft Planning Obligations SPD is published	<i>The Draft SPD will be published alongside the submission Draft Charging Schedule</i>
It is unclear where the line will be drawn between what is development specific and strategic in relation to transport	<i>The Draft SPD provides further clarification</i>
CIL should include the arts	<i>Under the proposed approach Public Art projects could benefit from CIL funds. Arts and cultural facilities (excluding public art) could benefit from S.106.</i>

- 3.30 As the Draft Planning Obligations Strategy SPD and the Draft Regulation 123 list are inextricably linked it is logical that the developments in the Council's approach to the interaction between S.106 and CIL that have taken place since the consultation on the Draft CIL Charging Schedule and Supporting Information are reflected in the Submission Regulation 123 List.
- 3.31 A balanced approach needs to be taken as to what goes on the Reg.123 list. First, it needs to be comprehensive enough so that it is demonstrable that CIL funds will contribute towards the implementation of the Local Plan and support development of the area. Second, it needs to leave scope so that planning obligations can be used to make a development acceptable in planning terms. For example, if the Regulation 123 list is so comprehensive (or broad) as to list (or cover) every single piece of infrastructure that is needed the Council would not be able to negotiate any S.106 funding even when it would otherwise be perfectly sensible or reasonable to do so.
- 3.32 The starting point for the prioritisation of projects, or broad areas of infrastructure, to go on the Draft Reg.123 list is the Cambridge City Council and South Cambridgeshire District Council Infrastructure Delivery Study. The subsequent decision as to which infrastructure projects receive CIL funding from the finalised Reg.123 List will

ultimately lie with the City Council. However, input from the County Council and other key stakeholders will be essential on all these matters. As such, sound governance arrangements around maintaining the Reg.123 list, the prioritisation of CIL spend and the policy mechanism around developer contributions in general are essential.

- 3.33 The proposed Submission Regulation 123 List is attached at Appendix 3 to this report and Appendix 2 to the Draft Planning Obligations Strategy SPD. This sets out recommendations as to which sorts of infrastructure will be delivered via CIL or other public funds, and therefore NOT funded by S.106 Planning Obligations.
- 3.34 The key changes from the Reg. 123 list published at Draft Charging Schedule Consultation Stage are the inclusion of outdoor sports facilities, allotments, strategic informal open space and strategic green infrastructure.

Public Consultation and Next steps

- 3.35 The Council's CIL approach will be go through examination directly after the examination into the Cambridge Local Plan 2014. The Draft Planning Obligations Strategy SPD and Draft Regulation 123 list will be submitted to the planning inspectorate in support of the Draft CIL Charging Schedule. Relevant consultees will be invited to comment on the new draft planning obligations strategy SPD between June and July 2014.
- 3.36 Consultation responses will be summarised and considered, then changes made to the document where necessary. A draft final version will then be presented to DPSSC for consideration and comment prior to its adoption alongside the CIL Charging Schedule.

4. Implications

(a) Financial Implications

- 4.1 The cost of the consultation and further work on the Draft SPD will be met from within the current resources of the Planning Policy team.
- 4.2 Monitoring Fees - The exact amount of extra income that the proposed new approach could generate will depend on the value of S106 agreements entered into over the next year: these increased monitoring fees will be received over the next five years or so as new developments commence and payments are triggered. It is worth noting, however, that if - hypothetically - 5% monitoring fees had been

in place over the last four years, the Council would have received around £60,000 more towards its monitoring and management costs.

(b) Staffing Implications

4.2 There are no direct staffing implications arising out of this report.

(c) Equal Opportunities Implications

4.3 There are no implications arising directly from this report.

4.4 An Equalities Impact Assessment has been published alongside the Draft CIL Charging Schedule Consultation Document.

(d) Environmental Implications

4.5 There are no direct environmental implications arising from this report. Once introduced CIL together with the Planning Obligations Strategy SPD will assist in the delivery of high quality sustainable new developments, alongside the protection and enhancement of the built and natural environments of the city. As such it is anticipated that the SPD will have a positive climate change rating, although the precise nature of this positive impact will be dependent on the detailed proposals.

(e) Procurement

4.6 There are no direct procurement implications arising from this report.

(f) Consultation and communication

4.7 Appropriate consultation with residents and developers and other key stakeholders will be undertaken at key stages.

(g) Community Safety

4.8 There are no direct community safety implications arising from this report.

5. Background papers

Cambridge Community Infrastructure Levy – Draft CIL Charging Schedule and Supporting Information – Consultation Document, October 2013, <https://www.cambridge.gov.uk/sites/www.cambridge.gov.uk/files/documents/Draft%20Charging%20Schedule%2015102013.pdf>

Cambridge and South Cambridgeshire Infrastructure Delivery Study, Peter Brett Associates on behalf of Cambridge City Council, September 2012, <https://www.cambridge.gov.uk/public/ldf/CIL/Appendix%20B%20-%20Infrastructure%20Delivery%20Study%20FINAL%20REPORT%20and%20Appendices.pdf>

Cambridge and South Cambridgeshire Infrastructure Delivery Study Update 2013 <https://www.cambridge.gov.uk/public/ldf/CIL/Infrastructure%20Delivery%20StudyUpdate%20%28Final%20Report%20Amended%20with%20Appendices%29.pdf>

Draft Cambridge City Council Local Plan Review – Viability, Community Infrastructure Levy Viability Assessment, Dixon Searle LLP on behalf of Cambridge City Council <https://www.cambridge.gov.uk/public/ldf/CIL/Appendix%202%20-%20CIL%20Viability%20Assessment%20FINAL%20DRAFT.pdf>

Community Infrastructure Levy Guidance, 2013, DCLG <https://www.gov.uk/government/publications/community-infrastructure-levy-guidance>

Community Infrastructure Levy Guidance, 2014, DCLG http://www.planningportal.gov.uk/uploads/cil/cil_guidance_main.pdf

6. Appendices

Appendix 1 – Cambridge City Council Draft Planning Obligations Strategy Supplementary Planning Document 2014

Appendix 2 – Summary of representations received on the Draft CIL Charging Schedule and supporting Information consultation in relation to question 5 on the proposed interaction between S.106 and CIL and question 6 on the proposed Draft CIL Regulation 123 List

Appendix 3 – Cambridge City Council Draft CIL Regulation 123 List

7. Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

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Appendix 2 – Summary of representations received on the Draft CIL Charging Schedule and Supporting Information consultation in relation to question 5 on the Council’s proposed interaction between S.106 and CIL and question 6 on the Council’s proposed Draft Community Infrastructure Levy Regulation 123 List

- 1.1 On 28 October 2013 Cambridge City Council invited representation on its Community Infrastructure Levy Draft Charging Schedule. The consultation ran for a period of 6 weeks and ended on 09 December 2013
- 1.2 A summary of the comments raised by the representations and officers’ response to issues raised is contained in tables A2.1 and A2.2 below.
- 1.3 **Question 5 – Do you support, object or have any comments to make in relation to Appendix A – The interaction between Section 106 and CIL following the adoption of a charging schedule?** A total of 6 representations were received in response to this question. The key issues raised are summarised below:
- The Planning Obligations SPD should be published immediately to give assurances there will be no double dipping
 - The Draft R.123 list is too brief and generic
 - There is no evidence why public art could be funded by S.106 and CIL
 - There needs to be a CIL approach to the natural environment
 - There is overreliance on the assumption that no more than 5 developments will fund infrastructure items and therefore contributions will continue to be collected via S.106
 - There is an underestimation of S.106 contributions when assessing CIL rates
 - There needs to be clarification where S.106 and CIL will be used to fund the delivery of infrastructure within the same categories
- 1.4 **Question 6: Do you support or object to the Draft Regulation 123 list outlined at Appendix B of the consultation document?** A total of 6 representations were received in response to this question. The key issues raised are summarised below:
- More detail is required to make it clear how critical infrastructure from the Infrastructure Delivery Study will be delivered
 - Infrastructure identified in the Infrastructure Delivery Study as critical and necessary in relation to the northern fringe east, as well as a list of potential schemes submitted by Brookgate as part of their representation, should be included in the R.123 list
 - The R.123 list is too short and generic
 - Double counting can only be avoided once the Draft Planning Obligations SPD is published
 - It is unclear where the line will be drawn between what is development specific and strategic in relation to transport
 - CIL should include the arts

Table A2.1 – Question 5: Do you support, object or have any comments to make in relation to Appendix A – The interaction between Section 106 and CIL following the adoption of a charging schedule? – Summary of representations and officer response

Respondent	Representation number	Summary of Representation	Draft Council Response
Bidwells on behalf of Brookgate Ltd	28454	<p>There are a number of infrastructure categories within Appendix A where it is suggested that both S.106 and CIL will be used to fund the delivery of infrastructure within these categories. However, without further guidance this provides insufficient clarity as to how infrastructure necessary to deliver the Local Plan will be provided.</p> <p>In the <u>absence of an SPD</u> it is difficult for developers to be confident '<u>double dipping</u>' will not occur.</p> <p>Appendix A suggests transport infrastructure will be funded both through S.106 and CIL but little clarity is given to when such projects would be development specific and when infrastructure requirements would be addressed through CIL funding. This position is exacerbated by the <u>lack of detail or specific projects within the Draft Regulation 123 list</u>.</p> <p>No evidence has been provided as to why <u>Public Art</u> could be regarded as strategic infrastructure which could be funded by CIL as well as S.106. There are no references within the Infrastructure</p>	<p><u>Absence of an SPD</u>: Further guidance on how S.106 will continue to operate alongside CIL is provided in the Draft Planning Obligations Strategy SPD which was published alongside the Submission CIL Charging Schedule on March 28th 2013.</p> <p><u>Double Dipping</u>: Double dipping refers to funding an infrastructure project using S.106 and CIL. Appendix A has provided assurance that the Council does not intend to 'double dip' to fund infrastructure. This is an approach that has been supported by a number of developers responding to the consultation, however, for the avoidance of any doubt, the Council will publish a Draft Planning Obligations Strategy SPD alongside the Submission Draft Charging Schedule to further clarify its position.</p> <p><u>Lack of detail or specific projects within the Draft Regulation 123 list</u>: The Draft R.123 covers a broad range of infrastructure. Infrastructure on the R.123 list cannot then be funded via S.106.</p> <p>The starting point for the prioritisation of projects, or broad areas of infrastructure, on the Reg. 123 list has been the Draft Local Plan</p>

Respondent	Representation number	Summary of Representation	Draft Council Response
		<p>Delivery Study to Public Art infrastructure requirements.</p> <p>It is unclear what <u>strategic biodiversity enhancements</u> refer to. No explanation has been given as to what 'other' infrastructure might refer to.</p> <p>Brookgate therefore consider that the Council's approach to s106 and CIL is not consistent with the Government's CIL Guidance. It is considered that there are inconsistencies between the approach outlined in Appendix A and the Regulation 123 List in Appendix B and that insufficient clarity has been provided as to how various infrastructure requirements will be funded.</p>	<p>2014 and the Cambridge City Council and South Cambridgeshire District Council Infrastructure Delivery Study Update 2013.</p> <p>The Council has yet to identify which specific projects will benefit from CIL funds. The final decision as to which infrastructure projects receive CIL funding from the finalised Regulation 123 list will ultimately lie with the City Council. However, input from the County Council and other key stakeholders will be essential on all these matters.</p> <p>Given that it is likely to be early 2016 before the Council has collected a meaningful amount of CIL funds it would be premature at this stage to outline detailed spending priorities and so the Draft Reg. 123 list concentrates on broad areas of infrastructure where there will be growth related infrastructure requirements over the Local Plan period.</p> <p><u>Public Art</u>: Public art will either be secured by CIL or planning condition. S.106 will not be used and so there will be no double counting.</p> <p>Public art provides social, economic and cultural benefits and can improve the quality of the built environment and provide distinction and character. Public art infrastructure can</p>

Respondent	Representation number	Summary of Representation	Draft Council Response
			<p>mitigate the impacts of new development through measures that help to re-establish local identity and sense of place. The City Council's Arts Strategy 2011-2014 (soon to be updated) and the Report to the City Council on the Audit and Needs Analysis of the Arts Infrastructure in the City of Cambridge 2013 provide the evidence base for arts infrastructure in Cambridge.</p> <p><u>Strategic Biodiversity Enhancements</u>: The Draft Planning Obligations SPD contains a chapter on the Natural Environment</p>
Boyer Planning on behalf of Berkeley Homes	28436	Conditional support. Guidance, contained in Appendix A, on the relationship between S.106 and CIL is welcomed. The adequacy of this guidance and the degree to which double-counting will definitely be avoided can only reasonably be concluded once the Draft SPD has been made available.	Noted. The Draft SPD will be published alongside the Submission Draft CIL Charging Schedule on March 28 th 2013.
Countryside Properties	28427	<p>Object: Appendix A is objected to.</p> <p>The <u>Draft R.123 list</u> is too brief and generic.</p> <p>It is considered that there is <u>over-reliance</u></p>	<p><u>R.123 List is overly brief and generic</u>: The Draft R.123 covers a broad range of infrastructure. Infrastructure on the R.123 list cannot then be funded via S.106.</p> <p>The starting point for the prioritisation of projects, or broad areas of infrastructure, on</p>

Respondent	Representation number	Summary of Representation	Draft Council Response
		<p><u>on the assumption that no more than 5 developments will fund infrastructure items</u> and therefore contributions can continue to be collected through S106.</p> <p>For example, in respect of outdoor sports facilities and allotments. It is questioned whether the Council would be able to guarantee delivery should less than 5 developments come forward.</p> <p><u>There is no definition of what constitutes Strategic Transport Infrastructure</u></p> <p>Tables 2 and 3 appear to show that if to date CIL had been collected, rather than S106 contributions, a significantly lower level of total contribution would have been collected by the Council. It is assumed that the desire to continue to fund infrastructure through pooled contributions, as set out in Appendix A, is driven by this potential shortfall in future contributions.</p>	<p>the Reg. 123 list is outlined in the Draft Local Plan 2014 and the Cambridge City Council and South Cambridgeshire District Council Infrastructure Delivery Study Update 2013.</p> <p>The Council has yet to identify which specific projects will benefit from CIL funds. The final decision as to which infrastructure projects receive CIL funding from the finalised Regulation 123 list will ultimately lie with the City Council. However, input from the County Council and other key stakeholders will be essential on all these matters.</p> <p>Given that it is likely to be early 2016 before the Council has collected a meaningful amount of CIL funds it would be premature at this stage to outline detailed spending priorities and so the Draft Reg. 123 list concentrates on broad areas of infrastructure where there will be growth related infrastructure requirements over the Local Plan period.</p> <p><u>Overreliance on the assumption that no more than 5 developments will fund infrastructure items:</u></p> <p>After consideration of the comments received during the Draft CIL Charging Schedule consultation and on further consideration of delivery of open space the Council</p>

Respondent	Representation number	Summary of Representation	Draft Council Response
			<p>recommends a change of approach towards Open Space other than that recommended in Appendix A of the Draft Charging schedule.</p> <p>It is considered that it would no longer be possible to deliver, via off-site financial contributions, larger pieces of open space infrastructure such as outdoor sports facilities, allotments and strategic informal open space (parks, strategic green infrastructure) because of the restrictions on pooling planning obligations imposed by the CIL Regulations 2010 (as amended). This change, which is reflected in the Draft Planning Obligations SPD and the Submission Draft Reg.123 List, takes into consideration the scale of development coming forward through the Draft Local Plan 2014 and also the administrative difficulties associated with the 5 planning obligation rule.</p> <p><u>There is no definition of strategic infrastructure:</u> Noted. However, Policy 5 of the Submission Cambridge Local Plan 2014 defines Strategic Transport Infrastructure. Development proposals must be consistent with and contribute to the implementation of the transport strategies and priorities set out in the Cambridgeshire Local Transport Plan and the Transport Strategy for Cambridge and South Cambridgeshire.</p>

Respondent	Representation number	Summary of Representation	Draft Council Response
			<p><u>The (Council's) desire to continue to fund infrastructure through pooled contributions is driven by a potential shortfall in future contributions:</u></p> <p>It is acknowledged that it would be difficult to fund infrastructure from pooled contributions in the future hence the proposed change of approach towards formal open space.</p>
Savills on behalf of Marshalls of Cambridge	28464	<p>There is a <u>gross underestimation of the cost of Section 106 contributions</u> when assessing the viability of the CIL rates. This then feeds into an overestimate as to the scale of CIL that is viable. The amount of Section 106 per dwelling can be seen to be increasing year on year and in 2012 it stood at £1,326.9 This means that the £1,000 per dwelling assumption within the Viability Assessment underestimates the cost of Section 106 by nearly 25%, which could have a significant impact on viability. The Planning Obligations SPD should be published immediately.</p>	<p>Noted. The assumption used in respect of S.106 in the CIL viability study is a typical assumption at this study level, as found suitable and robust in other cases and studies of this nature. It is considered on the basis that CIL will largely replace s.106 and particularly across smaller and non-strategic type schemes as are representative of the planned supply. The Draft Planning Obligations Strategy SPD will be published alongside the Submission Local Plan and Submission Draft Charging Schedule on 28 March 2013.</p>
Cambridgeshire	28419	Support. We would welcome the opportunity to work with the City on	Noted. The County Council has been a key consultee in the development of the City

Respondent	Representation number	Summary of Representation	Draft Council Response
County Council		<p>opportunities for funding. This is critically important given that there is expected to be a large infrastructure funding gap of £1.8bn (or £700m without strategic infrastructure).</p>	<p>Council's infrastructure and contributions policies. The County Council has contributed to the development of the Cambridge and South Cambridgeshire Infrastructure Delivery Study, the Cambridge Draft CIL Charging Schedule and Supporting Information Consultation Document and the Draft Planning Obligations SPD 2014. The City Council will continue to work with the County Council on priorities for infrastructure spending.</p> <p>The funding gap mentioned is across Cambridge City and South Cambridgeshire and includes the A14 upgrade scheme which is listed in the infrastructure delivery study as a South Cambridgeshire District Council Infrastructure requirement.</p>
Natural England	28471	<p>In the absence of a <u>CIL approach to enhancing the natural environment</u>, we are concerned that the only enhancements to the natural environment would be ad hoc, and not deliver a strategic approach, and that as such the local plan may not be consistent with the NPPF paragraph 114.</p> <p>Potential strategic infrastructure requirements may include:</p>	<p>Noted. The Draft Planning Obligations SPD will make an allowance for strategic improvements to the strategic green infrastructure projects to be funded via CIL.</p> <p>Allotment provision and strategic green infrastructure now appear on the Draft CIL Regulation 123 List.</p>

Respondent	Representation number	Summary of Representation	Draft Council Response
		<ul style="list-style-type: none"> • Access to natural greenspace. • Allotment provision. • Infrastructure identified in the local Rights of Way Improvement Plan. • Infrastructure identified by any Local Nature Partnerships and or BAP projects. • Infrastructure identified by any Green infrastructure strategies. • Infrastructure identified to deliver climate change mitigation and adaptation. 	

Table A2.2 - Question 6: Do you support or object to the Draft Regulation 123 list outlined at Appendix B of the consultation document? – Summary of representations and officer response

Respondent	Representation number	Summary of Representation	Draft Council Response
<p>Bidwells on behalf of Brookgate Ltd.</p>	<p>28455</p>	<p>The <u>Draft Regulation 123 list provides very limited information</u> with regard to the types of projects that will be funded through CIL. There are a number of <u>types of infrastructure where it is suggested both s.106 and CIL will be used</u> for their delivery – transport, community infrastructure.</p> <p>It is unclear <u>what critical infrastructure will be delivered through CIL</u> and this lack of clarity undermines confidence in investing in key projects such as Northern Fringe East.</p> <p>To comply with the NPPF the R.123 list should support delivery of the Local Plan and the key developments identified within it. More detail is required to make it clear how critical infrastructure will be funded. Whilst these projects are generally identified within the Infrastructure Delivery Study Update, no reference is made in the Draft R.123 list.</p> <p>Brookgate consider that critical CIL eligible infrastructure identified within the Infrastructure Delivery Study is included</p>	<p>The Draft Regulation 123 list provides <u>limited information and it is unclear where critical infrastructure will be delivered through CIL</u>: The Draft R.123 covers a broad range of infrastructure. Infrastructure on the R.123 list cannot then be funded via S.106.</p> <p><u>Further detail on the mechanisms for securing S.106 and CIL funding</u> will be provided in the Draft Planning Obligations Strategy SPD which will be published alongside the Submission CIL Charging Schedule on March 28th 2013.</p> <p><u>Critical CIL Infrastructure</u> - The starting point for the prioritisation of projects, or broad areas of infrastructure, on the Reg. 123 list has been the Draft Local Plan 2014 and the Cambridge City Council and South Cambridgeshire District Council Infrastructure Delivery Study Update 2013.</p> <p>The Council has yet to identify which specific projects will benefit from CIL funds. The final decision as to which infrastructure projects receive CIL funding from the finalised Regulation 123 list will ultimately lie with the City Council. However, input from the County Council and other key stakeholders will be</p>

Respondent	Representation number	Summary of Representation	Draft Council Response
		<p>within the Regulation 123 list. <u>Moreover, Brookgate wish to have critical and necessary infrastructure that is of relevance to Northern Fringe East included on the R.123 list.</u> They also submit a number of potential schemes they suggest should also be included in the Reg 123 list</p>	<p>essential on all these matters.</p> <p>Given that it is likely to be early 2016 before the Council has collected a meaningful amount of CIL funds it would be premature at this stage to outline detailed spending priorities and so the Draft Reg. 123 list concentrates on broad areas of infrastructure where there will be growth related infrastructure requirements over the Local Plan period.</p> <p><u>Brookgate wish to have critical and necessary infrastructure that is of relevance to Northern Fringe East included on the R.123 list:</u></p> <p>With particular reference to the Northern Fringe East the quantum of development, specific infrastructure requirements, site capacity, viability, timescales and phasing will be established through the preparation of an Area Action Plan (AAP) for the site. It would be premature to include specific infrastructure requirements related to this site on the R.123 list at this stage but that is not to say they could not be included in a future iteration.</p>
Boyer Planning on behalf of Berkeley	28437	Conditional Support. Welcome the publication of a Regulation 123 list but certainty double counting can be avoided will only be capable of being readily	Noted. The Draft Planning Obligations SPD will be published alongside the Submission CIL Charging Schedule on March 28 th .

Respondent	Representation number	Summary of Representation	Draft Council Response
Homes		understood once the Draft Planning Obligations SPD has been published.	
Countryside Properties	28428	<p>The Draft R.123 list is <u>overly brief and generic</u> leading to the risk of double counting and ambiguity over what will be funded.</p> <p><u>It is unclear where the line will be drawn between what is development specific and strategic in relation to transport.</u></p>	<p><u>The Draft R.123 list is overly brief and generic:</u> The Draft R.123 covers a broad range of infrastructure. Infrastructure on the R.123 list cannot then be funded via S.106.</p> <p>The starting point for the prioritisation of projects, or broad areas of infrastructure, on the Reg. 123 list has been the Draft Local Plan 2014 and the Cambridge City Council and South Cambridgeshire District Council Infrastructure Delivery Study Update 2013.</p> <p>The Council has yet to identify which specific projects will benefit from CIL funds. The final decision as to which infrastructure projects receive CIL funding from the finalised Regulation 123 list will ultimately lie with the City Council. However, input from the County Council and other key stakeholders will be essential on all these matters.</p> <p>Given that it is likely to be early 2016 before the Council has collected a meaningful amount of CIL funds it would be premature at this stage to outline detailed spending priorities and so the Draft Reg. 123 list concentrates on</p>

Respondent	Representation number	Summary of Representation	Draft Council Response
			<p>broad areas of infrastructure where there will be growth related infrastructure requirements over the Local Plan period.</p> <p><u>It is unclear where the line will be drawn between what is development specific and strategic in relation to transport:</u> The Draft Planning Obligations Strategy SPD provides more information in relation to development specific and strategic transport infrastructure.</p>
Savills on behalf of Marshalls of Cambridge	28465	The Reg 123 list currently refers to types of infrastructure. We would prefer to see the inclusion of the critical projects set out within the Infrastructure Delivery Study Update on the Regulation 123 list. This will provide reassurances that certain types of infrastructure will be funded by CIL and not S.106. Any double counting could render sites undeliverable.	See response to Countryside Properties above (rep number 28428).
ShrimplinBrown on behalf of Howard Osborne LLP	28451	The list (R.123 List) covers very broad themes and is therefore of very limited use until it can be worked up in more detail.	See response to Countryside Properties above (rep number 28428).

Respondent	Representation number	Summary of Representation	Draft Council Response
Cambridgeshire County Council	28420	<p>Support. We would welcome the opportunity to work with the city on the prioritisation of infrastructure. The County Council wishes to work with CCC on the development of a protocol to clarify further how infrastructure will be prioritized and to agree how funding will be transferred to the County Council to deliver the essential infrastructure related to growth.</p> <p>Concerns that the R.123 list will not comply with Regulation 122.</p>	<p>The county council have been consulted at every stage in the production of the Cambridge City Council and South Cambridgeshire Infrastructure Delivery Study 2012 and Infrastructure Delivery Study Update 2013. We will continue to involve the county council as key stakeholders with any further prioritisation of CIL funds.</p> <p>Regulation 122 applies to planning obligations, it does not apply to the R.123 list of infrastructure.</p>
Cambridge Past, Present and Future	28440	<p>In relation to <u>heritage sites, green infrastructure, green space and outdoor sports facilities</u> we can envisage scenarios where there are existing deficits within neighbourhoods, perhaps remote from proposed development sites where funding is needed to provide new or enhanced facilities, including ongoing maintenance. <u>These facilities are currently not covered on the Regulation 123 List.</u> Cambridge PPF believes this omission should be amended, otherwise important networks of greenspace, existing</p>	<p>Noted. The Draft R.123 list has been updated to include strategic green infrastructure and outdoor sports facilities.</p>

Respondent	Representation number	Summary of Representation	Draft Council Response
		deficiencies or important heritage facilities may be neglected in the future	
Cambridge International Arts	28414	Cambridge International Arts objects on the grounds that the list of infrastructure types and/or projects that will, or may, be funded in whole or in part by CIL should include the Arts. The arts should stop being seen as a luxury - but should be considered crucial to well-being and a useful tool for engagement where deployed properly.	Noted. City wide Public Art projects could benefit from CIL funds as set out in the Draft Planning Obligations Strategy SPD. Arts and cultural facilities (excluding public art) could benefit from S.106 if they are in accordance with the test outlined in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).
Mr Hugh Chapman	28412	I object on the grounds that in my view the list of infrastructure types and/or projects that will, or may, be funded in whole or in part by CIL should include the Arts. I do not object to any of the other areas identified on that list being funded by CIL. I propose that the inclusion of the Arts in this list be worded "The Arts, especially where projects overlap with and/or compliment other areas on this list"	See above
Dr Edward Lloyd Jenkins	28413	One of the most important reasons for disenchantment and disillusionment, currently in large sections of the residents of Cambridge city, is the lack of	See above

Respondent	Representation number	Summary of Representation	Draft Council Response
		<p>recognition of the untapped talent, particularly in the arts. So many people, artists and public alike, would experience life enhancement through active involvement, preferably in a multi use arts centre affordable to all sections of the public. This need should/must be included in the 123 list, and under CIL.</p>	

Appendix 3

Cambridge City Council Community Infrastructure Levy Draft Regulation 123 List (Version to accompany the Community Infrastructure Levy Draft Charging Schedule consultation)

The infrastructure listed below will be eligible to be funded through the Community Infrastructure Levy. The Draft Regulation 123 list, as set out below, defines which projects and/or types/sections of infrastructure that the Council will fund through CIL revenues. It will take effect upon the implementation of the Council's CIL Charging Schedule.

The list is not definitive, and in no order of priorities, as no formal decisions have yet been taken to confirm how CIL funds will be allocated amongst the listed infrastructure projects. It is a list of infrastructure that CIL could be used to fund, subject to Council priorities and the levels of available CIL funding.

Ultimately, it will be necessary to prioritise both within theme areas (e.g. strategic/on-site transport) and also between theme areas (e.g. education and community facilities). Factors such as whether an infrastructure element is essential or even required by legal statute or regulation if a development was to go ahead would be taken into account.

CIL Draft Regulation 123 List – Infrastructure types and/or projects that will, or may, be funded in whole or in part by CIL:

Strategic Transport Infrastructure (excluding development specific mitigation works on, or directly related to, a development site)
Education Infrastructure
Strategic household waste recycling facilities
Libraries and lifelong learning facilities
Community Facilities (excluding where a new development leads to the loss of a community facility and re-provision is required on-site or directly related to that site)
Strategic public realm improvements
Indoor Sports Facilities (excluding where a new development leads to the loss of a sports facility and a re-provision is required on-site or directly related to that site)
Outdoor Sports Facilities (excluding where a new development leads to the loss of a sports facility and a re-provision is required on-site or directly related to that site)
Allotments
Strategic Green Infrastructure

