

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

19 JULY 2016

COMMUNITY INFRASTRUCTURE LEVY ('CIL')

REPORT OF THE DIRECTOR REGENERATION & PLANNING IN DISCUSSIONS WITH THE RELEVANT PORTFOLIO HOLDER (COUNCILLOR ROBERT BEVAN)

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1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to seek Cabinet approval of the CIL Annual Monitoring Report, amend the Regulation 123 List, approve the Payment in Kind policy, and note the request from Llanharan Community Council set out in paragraphs 4.14 to 4.17 below.

2. RECOMMENDATIONS

- 2.1 It is recommended that Cabinet:

- (1) Approve the CIL Annual Monitoring Report (Appendix A)
- (2) Approve the amended Regulation 123 List (Appendix B) for publication on the Council website for a period of 28 days and consultation as set out in paragraph 4.11.
- (3) Approve the subsequent adoption of the amended Regulation 123 List if no adverse comments are received.
- (4) Approve the Payment In Kind – Land and Infrastructure Policy (Appendix D).
- (5) Agree that CIL payments to Llanharan Community Council be made in accordance with the current CIL Regulations.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To enable the Council to continue to operate a Community Infrastructure Levy in accordance with the statutory regulations.

4. BACKGROUND

- 4.1 The Community Infrastructure Levy Regulations 2010 (as amended) require the Council to produce an **annual report detailing CIL income and expenditure** (Appendix A). Set out in paragraph 4.1 below is the details of

the first of these annual reports since the Council introduced CIL in December 2014

- 4.2 The Community Infrastructure Levy Regulations 2010 (as amended) also require the Council to publish an Infrastructure List (known as the Regulation 123 List). The List should set out the infrastructure which the Council considers it is likely to apply Community Infrastructure Levy (CIL) revenue to.
- 4.3 At the meeting of the Cabinet held on 23 July 2015, Cabinet approved for consultation and subsequent adoption the first updated version of the Regulation 123 List.
- 4.4 At that meeting of Cabinet, Members also agreed the process for formulating, monitoring and revising the Regulation 123 list, which includes that the relevant Scrutiny Committee/Group review the operation of the list and consider the annual 123 list and annual CIL financial monitoring report and make recommendations to Cabinet where appropriate.
- 4.5 The CIL Annual Monitoring report was considered by the Finance and Performance Scrutiny Committee on 13 June 2016. The Committee agreed the recommendations in the report other than recommendation (3) where Members considered that the new education provision to serve specific development should only be included on the Regulation 123 List if the Council's Development Control Committee has resolved to approve planning permission for the development.

5.0 MATTERS FOR CONSIDERATION

CIL INCOME & EXPENDITURE

- 5.1 The Regulations require that CIL income must be split into three parts:
 - 80% to be applied to infrastructure to support growth of the Council's area (known as the 'Strategic CIL' and is to be spent on items on the Regulation 123 List).
 - 15% to be passed to the Community/Town Council in whose boundary the development that paid CIL is located for the provision of local infrastructure improvements of other measures that support the development of the area.
 - 5% to be applied towards implementation and ongoing administration.
- 5.2 The total CIL income in **2014/15** was **£0** and in **2015/16** was **£279,467.17**
 - 80% as Strategic income = £223,956.24
 - 15% Local income = £41,537.58
 - 5% Administration income = £13,973.35

- 5.3 The **annual monitoring report** at Appendix A provides a breakdown of the CIL receipts received and the distribution of 15% of CIL receipts to Community/Town Councils.
- 5.4 There has been no expenditure of **CIL** to date

THE REGULATION 123 LIST

- 5.5 Whilst some amendments are needed to the Council's updated **Regulation 123 List** (considered at Cabinet on 23rd July 2015) the broad thrust of the List remains the same in that it proposes highway and education projects that support and mitigate the growth anticipated through the Council's Local Development Plan.
- 5.6 There are two proposed changes to the highway projects part of the list. The first is to remove the A470 Upper Boat scheme from the List as it has been funded by the Welsh Government via a grant under Metro Phase 1 and is complete. The second is the addition of the South Coed Ely Link Dualling scheme, which is an upgrade of the A4119 between Talbot Green and Coedely (known locally as Stinkpot Hill) to dual carriageway standard. This scheme would help facilitate the Coed Ely Employment site immediately to the north and open up further opportunities for investment in that area.
- 5.7 There are two proposed changes to the education elements in the List. The first relates to the legal agreement signed alongside the planning permission for 1850 houses and associated development at Llanilid. This agreement requires an early CIL payment of £5,784,092 for the construction of the first phase of an 18 class Primary School on the site. As such, the school will need to be added to the Regulation 123 List to enable the related early payment of CIL to be spent providing the primary school building at the development.
- 5.8 The Council's Development Control Committee has considered, and resolved to approve, an application for significant residential development at Ystrad Barwig Farm, Llantwit Fardre. The applicant is offering to construct a school on the site as one way of accommodating the need for additional classroom space that the development would generate. The applicant has further suggested that the school is then passed to the Council as CIL 'payment in kind'. Before this could happen the school needs to be put on the Regulation 123 List.
- 5.9 It should be noted that this planning application is required to be referred to Welsh Government as it is a departure from the Development Plan. Permission is also subject to the completion of a S106 agreement. However, given that the Council has resolved to approve the development, it is appropriate to include the education provision on the Regulation 123 List at

this time. It is recommended that this is done in order to avoid piecemeal additions to and consultations on the List.

- 5.10 Attached at Appendix C is a table which sets out in detail what schemes have been removed, which have been added or amended, and the reasons for the change.
- 5.11 It is recommended that Cabinet approve the updated **Regulation 123 List** (Appendix B) for publication on the Council web-site for 28 days and if there are no adverse comments received then the 123 List can be adopted. It is further recommended the notification of the consultation is sent to all elected Members, Town and Community Councils and to the Members of the Council's Developers Forum.

PAYMENT IN KIND

- 5.12 '**Payment in kind**' is a mechanism introduced within the CIL Regulations that allows the Council to accept the payment of all or part of a CIL liability through the provision of land or infrastructure. In its first year of operating CIL it has become evident that going forward there may be circumstances where the Council as charging authority and the person liable for the levy will wish land and/or infrastructure to be provided, instead of money, to satisfy a charge arising from the levy. For example, where the Council has already planned to invest levy receipts in a project there may be time, cost and efficiency benefits in accepting completed infrastructure from the party liable for payment of the levy. Another benefit of a payment in kind is it can enable developers, users and the Council to have more certainty about the timescale over which certain infrastructure items will be delivered.
- 5.13 It is therefore recommended that Cabinet approve the introduction of a Payment in Kind policy. A copy of the draft Payment in Kind policy is attached at Appendix D and sets out the circumstances in which the Council may allow developers to provide land and/or infrastructure in lieu of all or part of their CIL payment.
- 5.14 Payment in kind would have to be the subject of a legally binding agreement before the development starts. This agreement would provide the opportunity to address any issues of specification in delivery of the intended payment in kind. For example, this could encompass the build specification of any road or building to be provided or the assurance that any land provided would be suitable or could be made suitable for its intended end use.

REQUEST FROM LLANHARAN COMMUNITY COUNCIL

- 5.15 The request from the Community Council relates to the planning agreement signed in relation to the Llanilid planning permission described in 4.7 above. The agreement requires an early 'lump sum' CIL payment of £5,437,092 for the first phase of the school on the site rather than the CIL being paid in instalments. In addition to the early CIL payment for the school the developer needs to pay a further £347,000 which will then be transferred to Llanharan Community Council as the 15% Local CIL payment.
- 5.16 The CIL Regulations cap the 15% Local CIL payment £100 per household per annum in the Community Council area. At the time of preparing the Committee report in relation to the Llanilid application there were 3,470 dwellings in Llanharan and therefore the capped amount that could be written into the planning agreement is £347,000 even though 15% of the £5,437,092 school payment which equates to £867,613.80, a difference of £520,613.80.
- 5.17 Llanharan Community Council understand the reason this has been done but has submitted a formal request that the £520,613.80 'additional CIL' be ring fenced to be spent on infrastructure work in Llanharan.
- 5.18 In considering this request, it should be noted that the upfront payment of CIL to fund the school will itself provide infrastructure solely within the Llanharan area and there is no requirement within the Regulations to have to 'ring fence' this part of the early CIL payment. Given that in reality the first phase school money is already ring fenced to be spent in Llanharan and that considerable further elements of the Council's CIL is likely to ultimately be spent in Llanharan, supporting Phase 2 of the school at Llanilid and the Llanharan bypass then it is not considered necessary to specifically ring fence the £520,613.80 'additional CIL' to the Llanharan area.

6. EQUALITY AND DIVERSITY IMPLICATIONS

- 6.1 There are no direct implications as a result of this financial report, however, the equality and diversity implications of any infrastructure schemes that will be funded by CIL will be considered in the development of those projects.

7. CONSULTATION

- 7.1 As set out in paragraph 4.11 above.

8. FINANCIAL IMPLICATION

- 8.1 No additional budget requirements and the CIL receipts and spend for the years 2014/15 and 2015/16 is set out at Appendix A.



9. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- 9.1 The report and appendices have been prepared in accordance with the Community Infrastructure Levy Regulations 2010 (as amended).

10. LINKS TO THE COUNCILS CORPORATE PLAN / OTHER CORPORATE PRIORITIES / SIP / FUTURE GENERATIONS - SUSTAINABLE DEVELOPMENT

- 10.1 Infrastructure funded through CIL will support the Building a Strong Economy and Creating Neighbourhoods Where People are Proud to Live and Work priorities in the Corporate Plan.

11. CONCLUSIONS

- 11.1 It is to be expected that the CIL receipts would be relatively low over the first two years of its implementation as the majority of development that is currently being undertaken in the County Borough was granted planning permission prior to CIL being implemented.
- 11.2 The minor changes to the Regulation 123 and the introduction of a Payment in Kind Policy are considered appropriate to improve the efficiency of the CIL process and to assist in funding schemes that support growth in the County Borough.
- 11.3 In terms of the request from Llanharan Community Council, it is not considered necessary to ring fence the 'additional Community Council CIL' that in theory results from the planning permission on the Llanilid Strategic site for the reasons described in paragraph 4.17 above.

Other Information:-

Relevant Scrutiny Committee

Finance and Performance Scrutiny Committee

Contact Officer

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(CIL)

CIL Regulations 2010 (as amended)

Regulation 62

Monitoring Report 2014/15 and 2015/16

Published July 2016 (subject to Cabinet Approval)

Regulation 62 – Monitoring Report 2014/15 and 2015/16

Background

Rhondda Cynon Taf (RCT) Council's Community Infrastructure Levy (CIL) Charges took effect on 31 December 2014 and the Council is both a CIL Charging and a CIL Collecting Authority. Regulation 62 of the CIL Regulations 2010 (as amended) requires CIL Charging Authorities to produce an annual report detailing CIL income and expenditure. This is Rhondda Cynon Taf's first annual report covering the period 31 December 2014 to 31 March 2015 and 1 April 2015 to 31 March 2016.

Allocation of CIL

CIL income is required to be allocated as follows:

- Up to 5% of CIL can be applied towards implementation and ongoing administration
- 15% of CIL is passed to the Community/Town Council in whose boundary the development that paid the CIL is located, for the provision of local infrastructure improvements or other measures to support the development of the area (referred to as local CIL).
- 80% of CIL is to be applied to strategic infrastructure to support the growth of the CIL Charging Authority's area (referred to as Strategic CIL).

Total CIL Income

Total CIL income in 2014/15 was £0.

Total CIL income in 2015/16 was £279,467.17

Details of each CIL receipt and how it is apportioned is attached at Appendix A.

Strategic 80% (to be spent on items on Regulation 123 List)

Strategic Income in 2015/16 was £223,956.24

Local 15%

Total Local CIL income in 2015/16 was £41,537.58

Rhondda Cynon Taf has 12 Community/Town Council areas, which are: Gilfach Goch, Hirwaun, Llanharan, Llanharry, Llantrisant, Llantwit Fadre, Pontyclun, Pontypridd, Rhigos, Taffs Well, Tonyrefail and Ynysybwl

Local CIL (15% passed to Community/Town Councils) in 2014/15 was £0

Local CIL (15% passed to Community/Town Councils) in 2015/16 was: £36,956.05

Balance £4,581.53 received between 1st October 2015 and 31st March 2016 will be passed to the relevant Community/Town Council by 28th April 2016.

Areas where there is no Community/Town Council 2014/15 and 2015/16 was £0

The amount passed to each Community/Town Council is set out in Appendix B.

Administration 5%

Administrative Income in 2014/15 was £0

Administrative Income in 2015/16 was £13,973.35

CIL Expenditure

There was no Strategic CIL expenditure in 2014/15 or 2015/16

CIL Administrative Expenses

The sum of £13,973.35 2015/16 was applied to the set up and administration of CIL, which is 5% of total CIL income for the year. This will be used to fund ongoing consultation on the Regulation 123 List, printing and publication costs and potentially contribute to an IT system which could support the administration of CIL.

CIL carried forward to 2016/17

The amount of CIL carried forward to 2016/17 is set out in the following table:

CIL CARRIED FORWARD	AMOUNT
Strategic CIL	£223,956.24
Local CIL	£4,581.53 (paid in April 2016)
Administrative CIL	£13,973.35

Appendix A –CIL INCOME RECEIVED IN 2015/2016

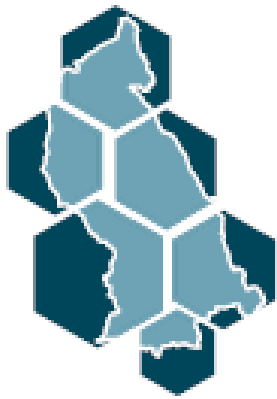
Date received	Planning Application Reference	Site Address	CIL Charge Development Type	Amount	Admin	Strategic	Local (Community/ Town Council)
14/05/15	14/0620	Land off Cardiff Rd, Rhydyfelin	Residential zone 2	£241,007.99 Full amount	£12,050.39	£193,188.90	£35,768.70 Pontypridd CC
09/08/15	14/1380	Land adjacent Thomastown Social Club, Francis St, Thomastown	Residential zone 2	£7,915.65 First Instalment	£395.78	£6,332.52	£1,187.35 Tonyrefail CC
09/10/15	14/1386	Former Glantaff Infants School, Powys Place, Rhydyfelin	Residential zone 2	£11,313.94 First Instalment	£565.70	£9,051.15	£1,697.09 Pontypridd CC
09/12/15	14/1386	Former Glantaff Infants School, Powys Place, Rhydyfelin	Residential zone 2	£11,313.94 Final Instalment	£565.70	£9,051.15	£1,697.09 Pontypridd CC

15/02/16	14/1380	Land adjacent Thomastown Social Club, Francis St, Thomastown	Residential zone 2	£7,915.65 Final Instalment	£395.78	£6,332.52	£1,187.35 Tonyrefail CC
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*Note: Application 14/0620 included a £2,550 surcharge paid as a result of a deemed commencement. Under Regulation 88, surcharges cannot be apportioned to community/town councils and must be split 5% administration and 95% strategic infrastructure.

Appendix B – CIL INCOME LOCAL INFRASTRUCTURE COMMUNITY/TOWN COUNCILS

Community/Town Council	15% to be passed to local council	Date passed	Amount Passed	Balance
Gilfach Goch	£0	n/a	n/a	
Hirwaun	£0	n/a	n/a	
Llanharan	£0	n/a	n/a	
Llanharry	£0	n/a	n/a	
Llantrisant	£0	n/a	n/a	
Llantwit Fadre	£0	n/a	n/a	
Pontyclun	£0	n/a	n/a	
Pontypridd	£39,162.88	13 November 2015	£35,768.70	£3,394.18 (paid in April 2016)
Rhigos	£0	n/a/	n/a	
Taffs Well	£0	n/a	n/a	
Tonyrefail	£2,374.70	13 November 2015	£1,187.35	£1,187.35 (paid in April 2016)
Ynysybwl	£0	n/a	n/a	



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Regulation 123 List of Infrastructure
List Updated July 2016

In accordance with the requirement of Community Infrastructure Levy Regulations 2010 (as amended) the following table comprises the Rhondda Cynon Taf County Borough Council Infrastructure List. The list includes the infrastructure the Council considers it is likely to apply Community Infrastructure Levy (CIL) revenue to:

Education Projects:

- New/additional education provision to serve the land at Mwyndy / Talbot Green;
- New/additional education provision to serve Trane Farm, Tonyrefail;
- Rebuild / remodel and extend Y Pant Comprehensive School;
- New/additional education provision to serve Station Road, Church Village
- New/additional education provision to serve Taffs Well
- New/additional education provision at the former open cast site north of A473, Llanilid
- New/additional education provision at Ystrad Barwig Farm, Llantwit Fadre

Transportation Projects:

- A4119/A473 roundabout – capacity improvements;
- Partial signalisation of the A473 Cross Inn roundabout;
- A4119/B4595 signals – provision of direct link between the A4119(n) and the B4595(e), removal of corresponding left turn at the junction and optimisation of the signals;
- Provision of the A473/A4119 Talbot Green to Ynysmaerdy Relief Road;
- A4119/A4093 roundabout, Tonyrefail – partial signalisation, widening of northbound approach, entry and circulatory widths and widening of the A4093 entry;
- A4059/A4233 Tesco roundabout Aberdare – Dualling of A4059 from the Abernant Road roundabout and extension of widening for A4059 southbound approach.
- Llanharan By-pass
- Cynon Gateway (A465)
- Mountain Ash Cross Valley Link
- Stag Square Improvements, Treorchy
- South Coed Ely Link Dualling - upgrade the A4119 between Talbot Green and Coedely to dual carriageway standard

Please note:

The Regulation 123 list is not prioritised and projects can be added to the list or removed at the discretion of the Council, subject to appropriate consultation.

The inclusion of a project or type of infrastructure on the list does not signify a commitment from the Council to fund (either in whole or part) the listed project or type of infrastructure. The order of the list does not imply any preference or priority



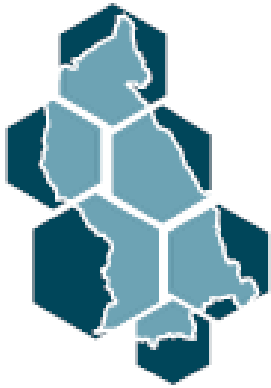
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The proposed changes to the Council's Regulation 123 list are set out in the following table:

Infrastructure Requirement (Original List)	Proposed Amendment	Reason For Amendment
Education Projects		
New/additional education provision to serve the land at Mwyndy / Talbot Green;	To remain unaltered	N/A
New/additional education provision to serve Trane Farm, Tonyrefail	To remain unaltered	N/A
Rebuild / remodel and extend Y Pant Comprehensive School	To remain unaltered	N/A
New/additional education provision to serve Station Road, Church Village	To remain unaltered	N/A
New/additional education provision to serve Taffs Well	To remain unaltered	N/A
New/additional education provision at the former open cast site north of the A473, Llanilid	Add to list	To tie-in with early payment of CIL to provide education provision on the site
New/additional education provision at Ystrad Barwig Farm	Add to list	Dependent on DC Committee decision on application for new residential development
Transportation Projects:		
A4119/A473 roundabout – capacity improvements	To remain unaltered	N/A
Partial signalisation of the A473 Cross Inn roundabout	To remain unaltered	N/A
A4119/B4595 signals – provision of direct link between the A4119(n) and the B4595(e), removal of corresponding left turn at the junction and optimisation of	To remain unaltered	N/A

Appendix C

the signals		
Provision of the A473/A4119 Talbot Green to Ynysmaerdy Relief Road	To remain unaltered	N/A
A4119/A4093 roundabout, Tonyrefail – partial signalisation, widening of northbound approach, entry and circulatory widths and widening of the A4093 entry	To remain unaltered	N/A
A470 Upper Boat junction – signalise the A470 off-slips and associated improvements to the circulatory carriageway and other entry arms	Remove from list	Work funded via a grant under Metro Phase 1 and is complete
A4059/A4233 Tesco roundabout Aberdare – Duelling of A4059 from the Abernant Road roundabout and extension of widening for A4059 southbound approach.	To remain unaltered	N/A
Llanharan By-Pass	To remain unaltered	N/A
Cynon Gateway (A465)	To remain unaltered	N/A
Mountain Ash Cross Valley Link	To remain unaltered	N/A
Stag Square Improvements, Treorchy	To remain unaltered	N/A
South Coed Ely Link Dualling - upgrade the A4119 between Talbot Green and Coedely to dual carriageway standard	Add to List	This scheme would help facilitate the Coed Ely Employment site immediately to the north



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Rhondda Cynon Taf Community Infrastructure Levy (CIL): Charging Schedule

Payment in Kind – Land and Infrastructure Payment Policy

This statement is made in line with Regulations 73, 73A, 73B and 74 of the Community Infrastructure Regulations 2010 (as amended).

Rhondda Cynon Taf County Borough Council ('the Council') as the charging authority for the area hereby gives notice that it will allow land and infrastructure payments in lieu of part, or all, of a CIL liable development.

This policy will be effective from xxxxxxxxx .

Anyone wishing to make payment in this way must follow the procedure set down in Regulations 73 and 73A of the Community Infrastructure Levy Regulations 2010 (as amended).

The 'payment in kind' mechanism is offered at the Council's discretion and the Council reserve the right to refuse any application.

Paying CIL in the form of land

In certain circumstances you may be able to pay a part of or the entire CIL chargeable amount in respect of a chargeable development in the form of land. This is subject to all the following conditions being met:

- The Council agree to the transfer;
- The land is to provide or facilitate the provision of infrastructure to support the development of the area;
- The person transferring the land to the Council has assumed liability to pay CIL beforehand;

- The land proposed to be transferred has been valued by a suitably qualified and experienced independent person. The Council has given their approval to the valuation of the land by this person. The valuation represents the fair market price for the land on the day it was valued;
- Development on the site has not commenced. A written agreement with the Council to pay some or the entire CIL amount in the form of the land must be entered into before the development is commenced. This agreement must state the value of the land being transferred.

Any outstanding CIL amount left after the transfer of land must be paid in the form of money in line with the payment due dates contained in the relevant demand notice.

Paying CIL in the form of infrastructure

In certain circumstances you may be able to pay a part of or the entire CIL chargeable amount in respect of a chargeable development in the form of one or more items of infrastructure. This is subject to all the following conditions being met:

- The Council agree to the infrastructure payment;
- The infrastructure provided will be used to support the development of the area; and must be identified on the Council's Regulation 123 List;
- The person providing the infrastructure to the Council must have, or is likely to have, sufficient control over the land on which the infrastructure is to be constructed to enable them to provide the infrastructure;
- The person providing the infrastructure to the Council has assumed liability to pay CIL beforehand;
- The person providing the infrastructure must have provided the Council with evidence that he/she has obtained, or will be likely to be able to obtain, any relevant statutory authorisations that are necessary to enable the infrastructure to be constructed;
- Development on the site has not commenced. A written agreement with the Council to pay some or the entire CIL amount in the form of infrastructure must be entered into before the development is commenced. This agreement must state the value of the infrastructure being transferred.

Any outstanding CIL amount left after the transfer of infrastructure must be paid in the form of money in line with the payment due dates contained in the relevant demand notice.

Both forms of payment in kind have to be the subject of a legally binding agreement before the development starts. It is this agreement that would provide the opportunity to address any issues of specification in delivery of the intended payment in kind. For example, this could encompass the build specification of any road or building to be provided or the assurance that any land provided would be suitable or could be made suitable for its intended end use.

Next steps

If you are interested in paying CIL in either or both of these ways, and have not commenced development on the site in question, you should discuss this possibility with the Council as soon as possible.

Note

It should be noted that the agreement to pay in-part or in full the CIL chargeable amount in the form of land and/or infrastructure may not form part of a planning obligation entered into under Section 106 of the Town and Country Act 1990.