Havant Borough Council
Developer Contributions Guide



COMMUNITY INFRASTRUCTURE LEVY
HAVANT BOROUGH CIL

Havant
BOROUGH COUNCIL

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1.0 Introduction

1.01 The purpose of this document is to provide information about developer contributions in Havant Borough. It provides detail on the council's Community Infrastructure Levy (CIL) and also identifies cases where contributions through Section 106 (S106) planning obligations and Section 278 highway agreements will be sought.

1.02 Policy CS21 of the Havant Borough Local Plan (Core Strategy) sets out the policy basis for the collection of developer contributions, this is copied below for ease of reference. Please note a new Local Plan is being prepared: www.havant.gov.uk/local-plan.

Policy CS21 Developer Requirements

Development will be permitted if on-site and/or off-site infrastructure requirements are met.

Where new or improved infrastructure is essential for planning permission to be granted the council will require the on-site or off site provision and/or contributions through planning obligations, agreements or tariffs in accordance with the relevant legislation for off-site provision. The need for contributions will depend on information and advice from infrastructure providers on the expected impacts of the development on all the infrastructure types.

Where appropriate the council will seek on-site provision or financial contributions to ensure the timely off-site or on-site delivery of all types of infrastructure as detailed in Table 9.1 under the following headings:

1. Transport
2. Housing
3. Education
4. Health
5. Social Infrastructure
6. Green Infrastructure
7. Public Services
8. Utility Services
9. Flood Defences
10. Public Realm

Where on-site provision or financial contributions are made, arrangements for the ongoing maintenance of facilities will be required.

Where the necessary contributions are not agreed by the developer, planning permission will be refused.

A Supplementary Planning Document will be prepared setting out the mechanisms that will be used for taking development contributions together with details of the types and priorities of infrastructure provision.

1.03 In the past, Havant Borough Council secured developer contributions through the use of S106 planning obligations. In April 2010 the government introduced CIL with the intention that it might replace S106 Agreements. However, S106 contributions may be sought in addition to CIL where site specific measures are required to make a development acceptable. This could include such items as specific highway or flood alleviation measures. As the council implemented a CIL Charging Schedule on the 1st August 2013, any S106 agreements need to meet the three tests set out in the CIL Regulations 2010 (as amended):

- Necessary to make the development acceptable in planning terms
- Directly related to the development and
- Fairly and reasonably related in scale and kind to the development

1.04 Further information on the application of S106 is provided in Section 5 of this guide.

The Havant Borough Community Infrastructure Levy (CIL) Charging Schedule came into effect on the 1st August 2013 and development permitted on or after this date will be liable to pay the rates set out in the Charging Schedule.

1.05 This guide explains the background to CIL, the level of CIL charges in Havant Borough, the processes involved in the collection of the levy and any exemptions that will be applied. The guidance also sets out the council's policy for the payment of CIL by instalments. It provides clarification on the relationship between CIL and Section 106 and sets out the circumstances in which each will be used.

What is CIL?

1.06 CIL is a levy which allows the council to raise funds from developers undertaking new building projects in the borough. The purpose of the levy is to give councils more choice and flexibility in how they fund the infrastructure needed to support local growth. CIL income can be used to fund a range of infrastructure, including transport, flood defence and open space.

1.07 The levy provides developers with 'up front' certainty about how much each development is expected to contribute towards infrastructure. The rates have been assessed by an independent examiner and have been found to provide an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect on the borough.

1.08 CIL is intended to supplement, rather than replace other funding streams to provide infrastructure and support local growth. CIL income can be used to fund new infrastructure. It can also be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development. The levy is intended to support the development of an area, rather than making individual planning applications acceptable in planning terms.

2.0 Charging CIL

The Havant Borough CIL Charging Schedule

2.01 The Charging Schedule sets out the rates which different types of development will be expected to pay towards infrastructure in the borough. The rates came into effect on the 1st August 2013 and are subject to annual indexation, based on the RICS BCIS index. This indexation has the effect of increasing the CIL rate according to the year planning permission was granted and should be manually added to the rates below, and the table is updated by 31 December each year. The indexation rates are given in table format in Paragraph 4.11 later in this document and can also be viewed online: www.havant.gov.uk/community-infrastructure-levy-charging-schedule.

Development Type	CIL Rate (£ per sq m)
Residential* (one dwelling or more)	
- Emsworth and Hayling Island	**£100**
- Rest of Borough **	**£80**
Hotel	**£0**
Industrial	**£0**
Offices	**£0**
Retail	
- Town centre	**£0**
- Edge of centre > 280 sq m	**£80**
- Out of centre < 280 sq m	**£40**
Community uses***	**£0**

* The residential rate excludes extra care housing.

** The charging zone boundaries are shown on the Councils CIL web page: www.havant.gov.uk/sites/default/files/documents/Differential%20Rate%20Zones%20.pdf

*** For the purpose of this Charging Schedule, community uses are those falling within Use Class D1 (as referred to prior to The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020). The justification for this is provided at paragraph 6.42 of the CIL Economic Viability Assessment, December 2011.

2.02 The town centre boundaries are shown on the Local Plan Policies Map, which can be found on the council's website, towards the bottom of the page: Core Strategy and Allocations Plan (adopted Local Plan) | Havant Borough Council

2.03 Residential floorspace includes new dwellings, extensions, conversions, garages or any other buildings ancillary to residential use. In flatted developments, this includes communal entrances, landings and any related internal parking.

2.04 The 280 sqm threshold for retail rates is based on the thresholds used to define small shops for Sunday trading purposes in England and Wales. The > 280sqm category includes shops up to and including 280 square metres. These values are aligned to 'Trading house for retailers: the law': www.gov.uk/trading-hours-for-retailers-the-law and apply to the net retailing space.

2.05 The rates in the Charging Schedule are based on evidence produced in the Havant Borough CIL Economic Viability Assessment (December 2011). The Viability Assessment looked at the rates which can be charged on different types of development in different parts of the borough, while still allowing development to come forward. The Viability Assessment and the rates have been subject to two rounds of public consultation. An independent examination was held in August 2012 and the Examiner's report was published in November 2012. The report concluded that the Havant Borough Council Community Infrastructure Levy (CIL) Charging Schedule provides an appropriate basis for the collection of the levy in the borough. The Examiner goes on to say that the council has sufficient evidence to support the schedule and can show that the levy is set at a level that would not put the overall development of the area at risk. The full Examiner's report can be viewed at www.havant.gov.uk/sites/default/files/documents/CIL%20Draft%20Charging%20Levy%20-%20Examiners%20Report.pdf.

Extra Care Housing

2.06 The residential rate is not payable on extra care housing. Extra care housing is different from sheltered housing, which is CIL liable. The council will consider each application on its merits, but the guidelines in paragraph 2.07 will be applied when determining whether an application is for extra care or sheltered housing.

2.07 Extra care housing should allow occupants to live independently, with accommodation typically having its own front door, kitchen and sitting room. However, care and support is also available and can be accessed progressively by people as their needs increase. Extra care housing usually offers one or two bedroom units within a larger scheme and has the benefit of allowing couples, who may have very different care needs, to stay together. Much of the extra care housing in the borough will be provided by Hampshire County Council. Further details about extra care and the differences between extra care and other options can be found on the Hampshire County Council Website: www.hants.gov.uk/socialcareandhealth/adultsocialcare/professionals/extra-care

Nursing and Residential Homes

2.08 Nursing and residential homes differ from sheltered and extra care housing, often offering high level care with fewer facilities for independent living. While the distinction between sheltered and extra care housing was accepted at the Havant Borough CIL examination, there was no evidence presented to support the collection of CIL for residential or nursing home accommodation. Consequently, CIL will not be charged on either of these uses.

When will CIL be charged?

2.09 CIL will be charged on development which:

- Involves a building that people will normally use
- Involves new build of at least 100 square metres (gross internal area floorspace)

- Involves the creation of one or more dwellings, even if the gross internal area floorspace is less than 100 square metres
- Involves change of use to residential where floorspace has not been in continuous use for 6 months of the previous 3 years on the day planning permission is granted
- Includes development permitted by a 'general consent' (including permitted development) commenced on or after 6th April 2013
- Is holiday accommodation[1] (note however that hotels are zero rated)

2.10 CIL will not usually be charged where:

- It is for a structure or use which people do not usually go into or only go into occasionally for maintenance
- It is for a use for which a zero rate has been set in the Havant Borough Council CIL Charging Schedule
- It involves only the change of use, conversion or subdivision of, or creation of mezzanine floors to non-residential use
- It is for social housing and a claim for social housing relief is made and accepted, before development commences or
- It is for and occupied by a charity for charitable purposes and a claim for charitable relief is made and accepted, before development commences
- It is for a mezzanine floor of less than 200 square metres, inserted into an existing building, unless it forms part of a wider planning permission that seeks to provide other works as well
- Regulation 40 of the CIL Regulations 2010 (as amended) state that CIL will not be charged for any part of the original building which is to be re-used in the new development, provided it has been in continuous lawful use for a period of six months out of the previous three years. In these circumstances, CIL is only payable on the new additional floorspace
- It is self-build housing and meets the requirements set out in Regulations 54A – D of the CIL Regulations 2010 (as amended)
- The development is a mobile home. Mobile homes are not normally buildings as defined by law therefore no CIL will be charged on them unless the proposal is considered to be a building
- It is for an external open-sided balcony

2.11 Levy payments made in respect of a development that has commenced but has not been completed can be credited against the liability of a revised scheme under a new planning permission, on all or part of the same land. This credit cannot be applied for once a development is completed. The requirements set out in Regulation 74B of the CIL Regulations 2010 (as amended) must be met.

Information relating to demolition, change of use and permitted development can be found in Section 3 of this document. Information relating to exemptions for self build development can be found in Section 4 of this document.

Who is liable to pay CIL?

2.12 Landowners are ultimately liable for the levy, but anyone involved in a development may take on the CIL liability.

[1] As per appeal decision dated 23/11/2016, Appeal ref: 1610544

Form 2: Assumption of Liability Form should be submitted to the council at the time of making the planning application alongside the CIL: Planning Application Additional Information Requirement Form.

All relevant forms can be found here:
www.planningportal.co.uk/planning/policy-and-legislation/CIL/download-the-forms

Parties may transfer their liability to pay at any time up to the day before the date when final payment is due using Form 4: Transfer of Assumed Liability.

When is CIL Charged?

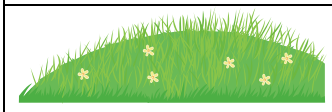
CIL will be charged on planning permissions granted on or after the 1st August 2013.

CIL will not be charged if planning permission was granted before the Charging Schedule came into effect on the 1st August 2013.

CIL will not be charged in the case of outline planning permissions which were granted approval before the 1st August 2013.

CIL will be payable where there is a resolution to grant planning permission (subject to a S106 agreement) but permission is not formally granted until after 1st August 2013.

2.13 The following table illustrates some of the more common development scenarios and lists whether or not the proposal will be CIL liable, this is for general guidance purposes only and cannot cover every possible scenario (your case officer will be able to advise you definitively):

Existing Use	Proposed Use	Potential Liability	
 **Development site**	 **Dwelling (self build)**	CIL is not charged on self-build development, provided the relevant forms are submitted to the council before development commences	Not liable
 **Development site**	 **Dwelling**	CIL charged on all **new** floorspace Charge is based on total new floorspace (no minimum)	CIL liable
 **Development site**	 **Affordable housing**	Affordable housing **may not** be CIL liable or chargeable (subject to the relief process)	May not be liable
 **Development site**	 **Office**	Office development is **not** CIL liable	Not liable
 **Office in use**	 **Change of use to dwelling**	CIL liable and chargeable for any **additional** floorspace (no minimum) For example, if existing office is 110sqm and in use, then only additional floorspace above 110sqm is chargeable	Liable and potentially chargeable
 **Not in use (vacant for past 3 years)**	 **Dwelling**	CIL liable and chargeable for the **entire** floorspace of the dwelling, as the existing building has not been in lawful use for 6 months out of the previous 3 years. Charge is based on total floorspace (no minimum)	Liable and chargeable
 **Office**	 **Affordable housing**	Affordable housing **may not** be CIL liable or Chargeable (subject to the relief process)	May not be liable

 **Office**	 **Office extension**	Office development is **not** CIL liable or chargeable This is irrespective of size	Not liable
 **Demolished dwelling**	 **Replacement new dwelling**	A credit is given for the demolished floorspace so CIL is only payable on the **net additional** floorspace	CIL liable
 **Dwelling**	 **Extension less than 100 sqm**	CIL is only chargeable for extensions over 100sqm (not counting the original dwelling) Therefore, any extension of **less than** 100sqm is **not** chargeable	Not liable
 **Dwelling**	 **Extension more than 100sqm**	CIL is charged for the **entire new** floorspace where an extension is **greater than** 100sqm (not counting the original dwelling) Chargeable as extension is **greater than** 100sqm	Liable and chargeable
 **Dwelling**	 **Internal mezzanine**	Any floorspace that is created by a mezzanine floor within an existing building is **not** CIL chargeable	Not Liable
 **Dwelling**	 **Annexe**	The additional floorspace is CIL Liable but an exemption for a self build annexe may be granted on receipt of CIL Form 8	CIL liable

 **Dwelling**	 **Dwelling + 130 sqm extension - 80 sqm demolition**	CIL liability is calculated **prior** to making any deductions for existing floorspace that is to be converted or demolished However, CIL is chargeable for extensions **after** deducting existing 'in use' floorspace to be converted or demolished Therefore, if a scheme involves the creation of 130sqm and demolition of 80sqm, it is **liable,** but only **chargeable for 50sqm**, as the proposed extension is **greater than** 100sqm before deductions, but 80sqm of proposed floorspace is offset by deductions Charge is based on total floorspace prior to deductions (minimum of 100sqm)	Liable and potentially chargeable
 **Dwelling**	 **Sub division into two dwellings**	The sub-division of a dwelling is **not** CIL liable If proposals also involve extension(s), CIL is only chargeable for extensions **over** 100sqm, calculated **prior** to deducting existing 'in use' floorspace If any existing buildings/ floorspace is currently in use and to be demolished/converted, it can be **deducted** from the **chargeable** floorspace of the new building (not counting the original dwelling)	Not liable

How much CIL will be charged?

2.14 The CIL payable is referred to as the Chargeable Amount. It is determined by the size and use of the proposed development. CIL is calculated per square metre of net additional internal floorspace. A credit is given for the floorspace of existing buildings, providing the existing building has been in continuous lawful use for at least six months in the three years prior to the development being permitted.

2.15 RICS in their guidance on the measurement of gross internal area (GIA) confirm Attic/loft space over 1.5m in height that is easily accessible (i.e. from a fixed staircase) and usable as habitable living accommodation should be included.

2.16 The charge will be calculated based on the rates set out in the Havant Borough Council CIL Charging Schedule. Zero rates have been set for new hotel, office, industrial and community uses. New development falling into these categories will not pay CIL, based on the viability considerations set out in the Economic Viability Assessment.

Applicants will be expected to complete Form 1: CIL Additional Information, listing the GIA of existing and proposed development. This is the internal area of the building and should include rooms, circulation and service space such as lifts and floorspace devoted to corridors, toilets, and ancillary floorspace such as underground parking.

Form 2: Assumption of Liability is also required when the application is submitted.

Both forms can be downloaded from:
https://www.planningportal.co.uk/planning/policy-and-legislation/CIL/download-the-forms

RICS offer guidance on the measurement of GIA:
https://www.rics.org/profession-standards/rics-standards-and-guidance/sector-standards/real-estate-standards/code-of-measuring-practice. **This RICS definition is subject to exclusions set out within the CIL Regulations.**

Will the CIL Charging Schedule be reviewed?

2.17 The current CIL Charging Schedule was being reviewed, as government guidance recommends that CIL charging regimes are reviewed at the same time as Local Plans.

2.18 A review of the adopted 2013 CIL Charging Schedule took place between 2018 and 2021. On 30 January 2019 the Extraordinary Council approved the new CIL Draft Charging Schedule for consultation, and subsequent examination, alongside the consultation on the Pre-Submission Havant Borough Local Plan 2036. Consultation took place between 1 February and 18 March 2019. The Council considered the representations made on the Draft Charging Schedule, together with the evidence supporting the schedule. Some modifications were made as a result, and the schedule was submitted for examination. On 18 December 2017, the Council's Cabinet approved the new CIL Preliminary Draft Charging Schedule for consultation, alongside the consultation on the Draft Havant Borough Local

Plan. The consultation period ran from Monday 8 January 2018 until Friday 16 February 2018.

2.19 The Council received a favourable examiners report on 27 August 2021. However, since its contents related to a Local Plan, which has since been withdrawn, the revised Charging Schedule has not been adopted and the 2013 Charging Schedule remains in force. More information can be found on our website: www.havant.gov.uk/community-infrastructure-charging-schedule-review

3.0 Demolition, change of use and permitted development

Demolition and Change of Use

3.01 Where buildings are demolished to allow for new development, CIL is only payable on the net **additional** floorspace. A credit is given for the demolished floorspace (provided the buildings were in lawful use prior to demolition and shown within the red line site plan of your planning permission on the day permission first permits your development). If the floorspace of the demolished building is greater than the new building, there will be no CIL liability.

3.02 Where the proposal involves a change of use and there is no additional floorspace, there will be no CIL liability. CIL is only payable on **additional** floorspace. The existing use must have been in continuous lawful use for at least six months in the previous three years prior to the development being permitted (The 2014 CIL amendments increased this from the previous 12 months). In both cases, it will be for the applicant to demonstrate lawful use by using appropriate evidence. The case of R (oao Hourhope Ltd) Shropshire Council [2015] EWHC 518 (Admin) establishes that for a building to qualify as 'in-use' the developer must show that the building was in **actual lawful use** for the relevant period. It is not sufficient to show that there was a lawful use to which the building could have been put during that period.

3.03 The CIL Regulations provide guidance where only a small part of a building to be demolished has been in use over the last six months. The Regulations state that a building is in use if **a part** of the building is in use for a continuous period of at least six months within the period of three years, ending on the day planning permission first permits the development. Therefore, all the floorspace in the building would be deductible from the floorspace of the new buildings, even if only a small part of the original building was in lawful use.

3.04 Even if there is no CIL payable in the case of demolition or a change of use, applicants should be aware that S106 obligations or works under S278 of the Highways Act may still be sought to address site specific issues such as a new access.

Permitted Development

3.05 Some proposals will be CIL liable, even when they can be developed under permitted development rights.

It is the responsibility of the applicant to notify the council that works are being carried out under permitted development rights.

3.06 Where a CIL liable development is being carried out under permitted development, the applicant must submit a **Notice of Chargeable Development** to the council and the notice must include all the relevant floor area details. The council will treat the information in exactly the same way as if a planning permission has been granted. The notice is registered and acknowledged, the CIL liability is calculated, and a Liability Notice is issued to the applicant. The applicant must then submit a Commencement Notice (when development commences) and the council will issue a Demand Notice, informing the applicant of payment details.

3.07 If the development is subject to the Prior Notification Procedure, applicants are encouraged to submit a **Notice of Chargeable Development** at the same time as the Prior Notification details. The Notice of Chargeable Development Form can be downloaded from the council's website or: https://www.planningportal.co.uk/planning/policy-and-legislation/CIL/download-the-forms

3.08 A Lawful Development Certificate is often sought to confirm permitted development rights. In itself, it does not trigger a levy payment because it is not a planning permission as defined in Regulation 5. It simply confirms that no further application for planning permission is required for that development. Therefore, the normal levy provisions in respect of permitted development rights apply.

Section 73 Applications (S73)

3.09 Where planning permission is granted for a development before a CIL Charging Schedule is in place, but a further permission is granted in relation to the same development by way of a S73 Application (i.e. to vary or remove a condition) after a charging schedule comes into effect, CIL will only be payable upon any increase in chargeable floorspace from the Section 73 Application. Therefore, the original consented floor area will fall outside of the scope of CIL. If the S73 Consent does not result in an increased floorspace compared to the original consent, no CIL will be payable. If CIL becomes payable this will be in accordance with the rates set out in the Charging Schedule.

3.10 If a S73 Application is received for a planning permission which is CIL Liable and there is an increase in chargeable floorspace, the indexation to be applied to the rates set out in the CIL Charging Schedule will be in accordance with the date of the decision, this will apply only to the increase in floorspace.

4.0 The CIL Process

4.01 Forms the applicant must submit appear below in **bold**
Forms/actions the council must issue appear below in underline

A) No planning application but development is liable to CIL

4.02 If there is no planning application but development is liable to CIL (i.e. permitted development over 100sqm):

- The applicant must submit a **Notice of Chargeable Development** prior to the commencement of development. If a Prior Approval Notice is required, we would encourage the applicant to submit the Notice of Chargeable Development together with the Prior Approval Notice
- The council must record and acknowledge the Notice of Chargeable Development and issue a Liability Notice
- If no Prior Approval Notice is required, it is the responsibility of the applicant to submit the Notice of Chargeable Development before commencement
- The council must record and acknowledge receipt of Notice of Chargeable Development and issue a Liability Notice

B) When a planning application is liable to CIL

Step 1

4.03 When a planning application is received and is liable to CIL:

- The applicant must submit **Form 1: CIL Additional Information** and **Form 2: Assumption of Liability** with the application
- The council must record and acknowledge with issue of Assumption of Liability Notice
- The council must calculate the CIL liability based on the floorspace figures indicated on this form providing they are accurate

4.04 Social housing and charities relief

- Exemptions can only be made if a claim for relief is made on **Form 10: Charitable and/or Social Housing Relief Claim Form**
- Claim must be assessed by the council and claimant must be notified of decision
- Full details about claiming such exemptions are set out in sections 41 – 54 of the Community Infrastructure Levy Regulations

Step 2

4.05 When planning permission is granted:

- The council must send out a Decision Notice and issue a Liability Notice to
  - The applicant
  - Anyone who has assumed liability
  - Each person known to be an owner of the land (where leasehold, owner is assumed to be anyone with a leasehold of over 7 years left to run)

Step 3

4.06 Before commencement of development (see below for definition of commencement):

- Applicant must send **Form 6: Commencement Notice** to the council (this must be received by the council at least one day before development is due to commence.
- The council must scan and register/record this notice
- If there is no Commencement Notice or it contains incorrect dates, the council can calculate the deemed commencement date before issuing a Demand Notice

- Receipt of a Commencement Notice from the applicant triggers the council to send a Demand Notice to each liable person, based on the details in the Liability Notice
- Based on the deemed commencement date, the council can re-calculate CIL liability to add applicable surcharges before issuing the Demand Notice
- CIL liability should then be paid in accordance with the council's instalments policy
- If CIL is not paid, the recovery process should commence
- Commencement of development is defined in Section 7 (2) of the Community Infrastructure Levy Regulations 2010 (as amended) as:

  "Development is to be treated as commencing on the earliest date on which any material operation begins to be carried out to the relevant land."

  "Material operations include:
  (a)any work of construction in the course of the erection of a building;

  (aa)any work of demolition of a building;

  (b)the digging of a trench which is to contain the foundations, or part of the foundations, of a building;

  (c)the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);

  (d)any operation in the course of laying out or constructing a road or part of a road;

  (e)any change in the use of any land which constitutes material development."

4.07 Regulation 7 of the CIL Regulations 2010 (as amended) provides full details on the commencement of development.

4.08 Where a development has a party who has assumed liability, the development will be entitled to payment through instalments, provided other CIL procedures such as the Commencement Notice are followed.

4.09 It should be noted that the details above outline the basic CIL process, but do not include every possible scenario. If you are in doubt about any of the steps, please speak to your Development Management Case Officer.

Calculating the chargeable amounts

A CIL calculator is available on the council's website which can be used to provide an estimate of what will be charged for each type of development. This does not provide the final charge as set out in the Liability Notice. The amount in the Liability Notice will be calculated by the council once a planning application has been permitted and the applicant will be informed and will take into account any indexation applied (see below).

The CIL calculator can be found at www.havant.gov.uk/cil-calculator

4.10 The CIL Regulations set out the formula for calculating the chargeable amount at Regulation 40 of the CIL Regulations 2010 (as amended) and this will be used to calculate the charge set out in the Liability Notice:

$$\frac{R \times A \times Ip}{Ic}$$

R = relevant CIL rate (see the Havant Borough CIL Charging Schedule in Table 1)
A = chargeable area
Ip = index figure for year of permission
Ic = index figure for year Charging Schedule took effect (2013)

4.11 CIL payments must be index linked from the year that CIL was implemented to the year that planning permissions are granted. The CIL Regulations require the council to use the national All-in Tender Price Index published by the Build Cost Information Service (BCIS)[2]. This index has now increased by over 83.92% (at November 2026). Therefore, the CIL payable on planning permissions granted after 2013 based on the year of the decision date will be increased by the approximate amounts shown in the table below (from the base figures shown in the adopted charging schedule):

[2] This index is now openly accessible from Oct 2019 and can be viewed: https://bcis.co.uk/news/community-infrastructure-levy-cil-index-bcis/

Year in which planning permission is granted	Approximate % increase on figures set out in HBC Charging Schedule (rounded)	BCIS Index
2013	No increase	224
2014	6.69%	237
2015	13.39%	254
2016	20.04%	269
2017	27.23%	285
2018	34.82%	302
2019	39.73%	313
2020	49.107%	334
2021	48.66%	333
2022	48.21%	332
2023	58.48%	355
2024	70.09%	381
2025	74.553%	391
2026	78.57%	400
2027	83.928%	412

The online CIL calculator does not take into account the indexation figures above. The relevant percentage increase must be added to the figure provided by the calculator to achieve the correct CIL liability.

4.12 If the proposed development is a single use development, CIL liability will be calculated using the formula set out in Regulation 40. If you have a mixed-use development, the formula will be applied for each use, and the results added up to get the total CIL liability. Three examples are provided below:

Worked Example 1
Two houses with a total of 200 sqm of floorspace are to be built on a clear site in Havant. As the site is clear the chargeable area does not need to be calculated; it is 200sqm.

The residential CIL rate in Havant is shown in the Havant Borough Charging Schedule (£80/sqm). The CIL liability is calculated as follows:

£80 x 200sqm = £16,000 (plus indexation)

Worked Example 2
The demolition of an existing dwelling in lawful use on Hayling Island and the construction of a block of flats in its place. The existing dwelling is 120sqm and the block of flats is 1000sqm.

The development of the block of flats results in the creation of new dwellings, therefore CIL applies. However, because the existing dwelling is in lawful use, its floorspace is deducted when calculating CIL liability.

The CIL charge for residential development on Hayling Island is £100 per sqm. The CIL liability is calculated as follows:

Stage 1: Deduct existing floorspace form new floorspace
The chargeable area is 1000sqm – 120sqm = 880sqm

Stage 2: Calculate CIL liability based on the net increase in floorspace
880sqm x £100 per sqm = CIL liability of £88,000 (plus indexation)

Worked Example 3
The demolition of a 5,000 sqm building, of which 1,000 sqm is in lawful use, and its replacement with a 10,000 sqm building comprising 1,000 sqm of retail development, 5,000 sqm of office development and 4,000 sqm of residential development. The development is located in Waterlooville (out of centre).

The key issue in this example is that part of the existing building (1,000 sqm) is in lawful use, meaning that the building qualifies as an existing in-use building for CIL purposes. As a result, the gross internal area of the entire existing building (5,000 sqm), rather than only the 1,000 sqm in lawful use, can be deducted when calculating the CIL liability.

As the proposed development comprises a mix of uses, the deductible existing floorspace is apportioned on a pro rata basis across the new retail, office and residential floorspace when calculating the chargeable amount.

The CIL charge for office development is £0 per sqm
The CIL charge for retail development is £80 per sqm (Waterlooville out of centre)
The CIL charge for residential development is £80 per sqm.

The CIL liability is calculated as follows:

Stage 1: Calculate the deduction factor for the existing floorspace
5000sqm (existing floor-space) / 10,000sqm (new floor space) = 0.5

Stage 2: Calculate the office liability existing floorspace
5000sqm x £0 per sqm x 0.5 = £0

Stage 3: Calculate the retail liability
1000sqm x £80 per sqm x 0.5 = £40,000

Stage 4: Calculate the residential liability
4000sqm x £80 per sqm x 0.5 = £160,000

Stage 5: calculate the total liability
Office (£0) + Retail (£40,000) + Residential (£160,000) = CIL liability of £200,000 (plus indexation)

4.13 A building is in use if a part of that building has been in use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development.

4.14 Certain uses which are ancillary to residential development will be CIL liable. This includes outbuildings which are capable of being used as home offices, summer houses, gyms, play rooms and those used as additional bedrooms[3]. It excludes greenhouses, garden stores and fuel stores. Full details of the formula and calculations can be found at www.legislation.gov.uk/uksi/2010/948/regulation/40/made

[3] Where the building concerned is self-contained and includes a bedroom, bathroom and kitchen facilities it should be regarded as an annexe. See later paragraphs.

Reliefs and Exemptions

4.15 On the 17th April 2013, Havant Borough Council agreed **not** to adopt discretionary relief for exceptional circumstances as set out in Regulation 55 of the CIL Regulations 2010 (as amended). This supersedes the information contained at paragraph 1.7 of the adopted Charging Schedule, which states that the council would intend to grant discretionary relief. Notwithstanding this, if part of the development is for social housing or charitable purposes, relief is available subject to the appropriate procedures.

If part of the development includes social housing or is for charitable purposes, it will not be necessary to pay CIL on this part of the development, provided exemption is claimed prior to commencement of development. To claim mandatory social housing relief or charitable relief, CIL Form 10 (Charitable and/or Social Housing Relief Claim Form must be completed. The Relief Form can be downloaded from the Planning Portal.
https://www.planningportal.co.uk/planning/policy-and-legislation/CIL/download-the-forms

4.16 Charitable relief applies where the development will be mainly or wholly used for charitable purposes and is under the control of a charity.

4.17 Social housing relief applies where social housing is to be provided by a registered social landlord, a registered provider of social housing or a local housing authority and meets all of the conditions set out in Regulation 49 of the CIL Regulations 2010 (as amended). The 2014 amendments extend the relief to include affordable rent, provided the rents are at least 20% below the open market levels, and discount market sale homes so long as they meet the defined criteria as set out at the European and National level. The Regulations can be viewed at www.legislation.gov.uk/uksi/2010/948/regulation/49/made.

An application for social housing or charitable relief must demonstrate that it meets the criteria for that relief, as set out in Part 6 of the CIL Regulations 2010 (as amended). Part 6 can be viewed at www.legislation.gov.uk/uksi/2010/948/part/6/made

If development commences without social housing relief or charitable relief having being granted, the applicant may be liable for the full CIL liability.

4.18 The amount of social housing relief will be calculated using the following formula as set out in Regulation 50 of The Community Infrastructure Levy Regulations 2010:

$$\frac{R \times Nr \times Ip}{Ic}$$

4.19 *Nr* = the deemed net area chargeable at rate R;
Ip = the index figure for the year in which planning permission was granted; and
Ic = the index figure for the year in which the Charging Schedule containing rate R took effect.

4.20 The index figures are the same as those referred to in paragraph 4.10 above. The formula will be applied and the amount of relief will reflect the year in which planning permission was granted.

4.21 Further guidance on charitable and social housing relief is contained on the Planning Portal Community Infrastructure Levy Relief and Exemption webpages which can be found at: www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/4

Exemptions for Self Build

4.22 The CIL Regulations 2010 (as amended) allow people who are building their own home (to live in themselves), extending their own home or building an annexe, to apply for exemption from CIL. CIL Regulation 42a provides further detail: www.legislation.gov.uk/ukdsi/2014/9780111106761/regulation/7

4.23 The exemption will apply to anybody who is building their own home or has commissioned a home from a contractor, house builder or sub-contractor. Individuals claiming the exemption must own the property and occupy it as their principal residence for a minimum of three years after the work is completed. Community group self-build projects also qualify for the exemption where they meet the required criteria.

4.24 In order for an application for self-build exemption to be considered, the applicant must complete the relevant self-build exemption form, which must be received by the council and written confirmation of receipt received **before commencement of the chargeable development begins**. A claim will lapse if the development is commenced before the council has notified the claimant of its decision.

4.25 Within six months of completing the home, the applicant must submit additional supporting evidence to confirm that the project is self build. **If this is not submitted within the six month time period, the levy becomes payable in full**. Evidence must be submitted together with **Form 7: Self Build Exemption Claim Form – Part 2.**

4.26 In the case of a self-build extension (100sqm or more) or annexe, the applicant must submit a self-build annex or extension claim form. The relevant forms are **Form 9: Residential Extension Exemption Claim Form and Form 8: Residential Annex Exemption Claim Form.**

All CIL forms mentioned in this document can be found on the Planning Portal:
https://www.planningportal.co.uk/planning/policy-and-legislation/CIL/download-the-forms

Havant Borough Council CIL Instalments Policy

4.27 On the 17th April 2013, Havant Borough Council adopted a CIL Instalments Policy in accordance with the CIL Regulations 2010 (as amended). The policy will come into effect on August 1st 2013. The policy allows CIL liability to be paid in instalments, depending on the amount of liability. The policy is shown overleaf:

4.28 Where there is agreement amongst all parties, the Regulations allow for a planning application to be subdivided into phases for the purposes of the levy. This is expected to be particularly helpful for large scale developments. The principle of phased delivery must be apparent from the planning permission. Developers are advised to contact the council at the earliest opportunity to discuss requirements for a phased approach.

Havant Borough Council CIL Instalments Policy

Band	Amount of CIL liability	Number of instalments	Payment periods and amounts
1	Less than £20,000	0	• 100% within 120 days of commencement of development
2	Equal to or greater than £20,000 and less than £100,000	3	• 25% within 60 days of commencement of development • Additional 25% within 180 days • Final 50% within 240 days
3	Equal to or greater than £100,000 and less than £250,000	3	• 25% within 60 days of commencement of development • Additional 25% payable within 180 days of commencement of development • Final 50% within 360 days of commencement of development
4	Equal to or greater than £250,000 and less than £750,000	4	• 25% payable within 60 days of commencement of development • Additional 25% payable within 180 days of commencement of development • Additional 25% payable within 240 days of commencement of development • Final 25% payable within 360 days of commencement of development
5	Equal to or greater than £750,000	4	• 25% payable within 90 days of commencement of development • Additional 25% payable within 180 days of commencement of development • Additional 25% payable within 360 days of commencement of development • Final 25% payable within 540 days of commencement of development

If a Commencement Notice is not received before the development commences or if a Commencement Notice was received but the council believes the development was commenced earlier, the council will determine the Deemed Commencement Date. In these circumstances, the Instalment Policy may not apply unless the appropriate surcharge is paid. The surcharge is equal to 20% of the applicable CIL charge up to a maximum of £2500.

4.29 Where a person has assumed liability to pay CIL, the council will notify each owner of the imposition of the surcharge. Where there are multiple owners the surcharge is apportioned between them according to their share of the total value of the land.

Payments in kind

4.30 There may be circumstances where it will be more desirable for a charging authority to receive land instead of monies to satisfy a charge arising from the levy. This may be where the most suitable land for the infrastructure is within the ownership of the party liable for payment of the levy. An agreement in writing to make an in-kind payment must be entered into before commencement of the development and must be provided to the same timescales as cash payments. However, the agreement cannot form part of a planning obligation entered into under Section 106. A charging authority cannot accept a land payment unless the CIL liability is greater than £50,000.

4.31 The CIL Regulations 2010 (as amended) make provision for charging authorities to accept payments in kind through the provision of infrastructure either on or off-site, for the whole or part of the levy. This amendment introduces a greater degree of flexibility and allows developers to provide infrastructure themselves, rather than just the payment or land. For further details on payments in kind, please see Regulation 73 of the CIL Regulations 2010 (as amended). The Regulations specify that the council must agree to make infrastructure payments available in their area and publish this agreement on their website. Havant Borough Council has published a statement to allow a specific infrastructure payment only, more details can be viewed here: www.havant.gov.uk/planning-services/planning-policy/community-infrastructure-levy-cil/community-infrastructure-levy

Phasing

4.32 The CIL Regulations 2010 (as amended) also make provision for the phasing of levy payments to all types of planning permission (including hybrid) to deal fairly with more complex developments. While this will not affect the total amount of CIL payable for a development, it will have a positive impact on cash flow for developers, who previously had to pay the entire levy on commencement of development (see CIL Regulation 2010 8(3A) (as amended).

4.33 Phasing differs from instalments. Each phase is a separate chargeable development for the purposes of paying CIL and the instalments policy applies to each phase. Therefore, it is likely to apply to larger schemes which can easily be divided into a series of distinct phases and which may be delivered over a number of years. Applicants are advised to speak to their case officer at an early stage to agree any phasing details and how these will affect payments.

Surcharges and Interest

4.34 Part 9 of the CIL Regulations allow the council to apply surcharges and/or interest in respect of a chargeable development, under certain circumstances, including:

- Where nobody has assumed liability
- Where the council is required to apportion liability
- Where a notice of chargeable development has not been submitted
- Where a chargeable development is commenced before the council has received a commencement notice
- Where a payment is late
- Where there is a failure to comply with an information notice

4.35 Where it is considered appropriate to apply surcharges or interest, the council will have regard to the calculations provided by Regulations 80 to 88 of the CIL Regulations 2010 (as amended) when applying charges.

How will the payment of the levy be enforced?

4.36 When planning permission is granted, the council will send out a CIL Liability Notice, setting out the expected CIL liability. This will be based on the floorspace details submitted by the applicant which are checked by the council. On receipt of a Commencement Notice from the applicant, the council will then send out a Demand Notice, indicating that CIL is now payable. However, where the levy is not paid in accordance with the Demand Notice, the Regulations provide for a range of proportionate enforcement measures, such as surcharges and interest on late payments.

4.37 In most cases, these measures should be sufficient. However, in cases of persistent non-compliance, the Regulations also enable collecting authorities to take more direct action to recover the amount due. One such measure is the Community Infrastructure Levy Stop Notice, which prohibits development from continuing until payment is made. Another is the ability to seek a court's consent to seize and sell assets of the liable party. In the very small number of cases where a Collecting Authority can demonstrate that recovery measures have been unsuccessful, a court may be asked to commit the liable party to a short prison sentence.

4.38 If a developer goes out of business during the life of a development, the CIL liability defers to the landowner.

4.39 Full details of enforcement procedures can be found in Part 9 of the CIL Regulations 2010 (as amended) which can be viewed at:
www.legislation.gov.uk/uksi/2010/948/part/9/made

Community Infrastructure Levy Appeals

4.40 An adopted CIL rate is non-negotiable and the council is not required to justify its application of CIL on a case by case basis. However, the CIL Regulations do allow appeals about matters of fact, such as a mistake in the calculation of the CIL liability or the date on which development commenced.

4.41 Appeals may be made in the circumstances listed below:

Review of the chargeable amount

4.42 A person may ask the council to review the calculation of the chargeable amount set out in the liability notice. The appeal must be made in writing to the collecting authority no more than 28 days after the Liability Notice was issued. A review may be requested after the relevant development has been commenced only if planning permission was granted after the development was commenced.

Chargeable amount appeal

4.43 Where a person is not satisfied with the outcome of their review of the chargeable amount, or has not received a reply from the council within 14 days, they may appeal. The appeal must be made no more than 60 days after the Liability Notice was issued and an appeal cannot be made if the development has commenced. The appeal will be heard by a valuer. If they allow the appeal, they must calculate the revised charge. Only one appeal is allowed.

Apportionment of liability

4.44 A person who is an owner of the land may appeal against the apportionment of liability within 28 days of the Demand Notice being issued. This type of appeal is also heard by the valuer and if they allow the appeal, they may quash a surcharge and/or reapportion liability between the owners of the land.

Charitable relief appeal

4.45 A person may appeal the council's decision to grant charitable relief on the ground that it incorrectly determined the value of the interest in land in respect of which the claim was allowed. This sort of appeal is also heard by a valuer and must be made no more than 28 days after the council has made its decision to grant charitable relief. It will lapse if the development is commenced before the appeal is decided. If the appeal is allowed the valuer can amend the amount of charitable relief granted.

Surcharge Appeal

4.46 A person may appeal against a surcharge imposed by the council on any of the following grounds:

1. That the claimed breach which led to the imposition of the surcharge did not occur;
2. That the council did not serve a Liability Notice in respect of the chargeable development to which the surcharge relates; or
3. That the surcharge has been calculated incorrectly.

4.47 The appeal must be made no more than 28 days after the surcharge is imposed. This type of appeal will likely be heard by a Planning Inspector. If the appeal is allowed the inspector may quash or recalculate the surcharge.

Deemed Commencement Appeal

4.48 A person who is served with a Demand Notice that states a 'deemed commencement' date may appeal on the ground that the date is wrong. The appeal must be made no later than 28 days after the Demand Notice is issued and will likely be heard by a Planning Inspector. If the appeal is allowed the inspector may revise the deemed commencement date and quash any surcharge.

CIL Stop Notice Appeal

4.49 A person may appeal against a CIL Stop Notice on the grounds that the council did not serve a warning notice or that the development has not commenced. The appeal must be made no more than 60 days after the Stop Notice takes effect. The person who hears this type of appeal is likely be a Planning Inspector and the Stop Notice continues to have effect while the appeal is outstanding. The inspector may correct, vary or quash the Stop Notice.

Cost of Appeals

4.50 Regulation 121 states that the appointed person may make orders regarding the cost of appeals. An appointed person is a valuation officer, a district valuer, the secretary of state or a person appointed by the secretary of state; depending on the type of appeal.

4.51 For full information about the CIL appeals process please refer to Part 10 of the CIL Regulations 2010 (as amended) which can be viewed at: /www.legislation.gov.uk/uksi/2010/948/part/10/made and additional information on the GOV.UK Website: www.gov.uk/guidance/community-infrastructure-levy-how-to-make-an-appeal

Vacant Building Credit

4.52 National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use or is demolished to be replaced by a new building, the developer may be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. The Council has published guidance on its approach to implementing the provisions in National Planning Policy Guidance and this can be viewed on our website: *https://www.havant.gov.uk/sites/default/files/2026-03/Vacant%20Building%20Credit%20V1.1%2011%20Mar%2026.pdf*

5.0 CIL and Section 106

The relationship between CIL and S106 planning obligations

5.01 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms.

5.02 Planning obligations may only constitute a reason for granting planning permission if they meet the tests set out below. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework.

Since April 2010, a lawful planning obligation must meet the following tests:

- **Be necessary to make the development acceptable in planning terms**
- **Be directly related to the development**
- **Be fairly and reasonably related in scale and kind to the development**

5.03 Before the 1 September 2019, The Regulations restricted the use of planning obligations so there is no duplication between projects funded by CIL and those subject to S106 obligations. The council's 'Regulation 123 List' set out the infrastructure which may be wholly or partly funded by the levy. The council cannot seek a planning obligation for infrastructure that is on this list. The replacement List will be incorporated in the Council's Infrastructure Funding Statement due to be published by 31 December 2020.

5.04 Planning Practice Guidance offers further advice on the relationship with CIL and other developer contributions: www.gov.uk/guidance/community-infrastructure-levy. The relevant paragraphs are:

Paragraph Title	Location
How does the Community Infrastructure Levy relate to other developer contributions?	Paragraph: 166 Reference ID: 25-166-20190901
When should planning obligations be sought?	Paragraph: 167 Reference ID: 25-167-20190901
Are there any specific circumstances where contributions through planning obligations should not be sought from developers?	Paragraph: 168 Reference ID: 25-168-20190901
How can planning obligations and the levy operate together to fund and deliver infrastructure?	Paragraph: 169 Reference ID: 25-169-20190901
How can planning conditions and the levy operate together?	Paragraph: 171 Reference ID: 25-171-20190901

5.05 It is therefore expected that Section 106 contributions will continue to be used for site specific requirements, where they are needed to make a development acceptable. This could, for example, include highway works, public realm improvements or employment and skills plans (see paragraph 5.48-5.51 for details on employment and skills plans). Hampshire County Council have produced advice on developer

contributions[4] and this resource can be viewed: https://democracy.hants.gov.uk/documents/s116065/5i%20Guidance%20on%20Planning%20Obligations%20and%20Developer%20Infrastructure%20Contributions%20-%20Appendix%201-2024-01-.pdf. We have drawn information on some of the most frequent topics into this document for convenience.

Transport

5.06 Funding for transport infrastructure required as a result of incremental growth will normally be provided by CIL and other mainstream funding programmes. Alterations to the local highway network which are necessary to promote a safe, efficient or sustainable relationship between development and the public highway may be secured through planning (Section 106) and/or highway legal agreements (Section 278). Improvements could include the provision, removal or relocation of street furniture, dropped kerbs, crossovers, pedestrian crossings, bus stops and links to the cycle network.

5.07 Where a development is required to make specific contributions towards improvements, amendments or additions to public transport services (which are not identified or expected to be met by CIL) contributions may be secured through a S106 legal agreement.

5.08 Hampshire County Council has produced a table which illustrates what will happen to S106 transport contributions and the existing Transport Contributions Policy (TCP) once CIL is adopted. This has been amended to reflect the current position in Havant and can be found at Appendix 1. As CIL has been adopted by Havant Borough Council, the TCP no longer applies in the borough.

5.09 The CIL Regulations 2010 (as amended) introduced a further restriction in respect of Section 278 highway agreements. This prevents S278 agreements from being used to fund infrastructure for which CIL is also earmarked. However, highway agreements which are drawn up by the Highways Agency relating to the trunk road network will still be exempt. See www.hants.gov.uk/transport/developers/financialcontribution

Travel Plans

5.10 Contributions towards non-infrastructure provision are still permitted under S106 and are not restricted by the CIL Regulations. Travel plans are required for all planning applications where a Transport Assessment is required. The exception is residential applications where a travel plan is required for an application of 100 or more households. A travel plan must be included when submitting the planning application. Not all planning applications need a travel plan, but the County Council may request a developer provides a travel plan even if the proposed development doesn't meet the usual thresholds. This is because some smaller scale developments can have significant transport impacts. Typically, a travel plan monitoring fee is charged for year one and then for a further 4 years. A bond may also be required. More information on travel plans is available from: www.hants.gov.uk/transport/developers/travelplans

[4] 22 January 2024

A travel plan will be required for:

- development in or near an air quality management area;
- development in an area that has been identified for specific initiatives for the reduction of traffic, or the promotion of alternative transport;
- any area where it is known that the cumulative impact of development proposals is a cause for concern;
- provision of new or extended school and other educational facilities;
- an extension to an existing development that causes the site to exceed the threshold.

5.11 Transport Assessments will identify the potential adverse transport impacts of development. Travel Plans will set out, as far as possible, how development proposes to mitigate its adverse transport impacts and promote sustainable travel, and may include measures relating to encouraging sustainable transport behaviour and infrastructure provision. A summary of the thresholds for transport assessments and site travel plans can be found at Appendix 2. Further information can be found on the Hampshire County Council website: www.hants.gov.uk/transport/developers/travelplans

Network impacts

5.12 There will be occasions where transport demand created by development may not be satisfactorily mitigated by the measures in a travel plan or site-specific highway improvements. While the council will endeavour to improve the wider transport network through CIL and other mainstream funding, there will be occasions where a particular site requires public transport services or highway/traffic management mitigation to the wider network, which has not been identified for investment. This may include increased highway capacity within the network and/or traffic management measures, including the potential introduction or extension of parking controls, subject to consultation.

5.13 It is essential that travel plans, infrastructure and traffic management measures are provided in a timescale commensurate with the proposed phasing of the development and the council will seek to approve trigger points through the appropriate legal agreements.

5.14 The council expects major transport service or infrastructure improvements to be rare and that for most development, on-site works, improvements to the immediate highway, travel plans and CIL funding will be sufficient to mitigate adverse transport impacts. However larger developments or those that generate over the 'Standard Travel Plan' thresholds may be required to directly contribute to wider transport improvements where required to enable delivery of the site and where they meet the three tests set out in CIL Regulation 122 (2010) (as amended). Regulation 122 can be viewed at: www.legislation.gov.uk/uksi/2010/948/regulation/122/made

Education

5.15 Havant Borough Council will consult Hampshire County Council on all residential applications for 10 or more dwellings. Hampshire County Council has produced a guide (March 2022) setting out developer contributions towards children's services facilities. The recommendations set out in this guide will be used as the basis for calculating contributions towards education in the borough: www.hants.gov.uk/educationandlearning/strategic-development/schoolplacesplan For developments of over 500 eligible dwellings, an assessment will be made of the need to secure additional accommodation for pupils with SEND from the development.

Green Infrastructure and Public Open Space

5.16 The council has also traditionally collected contributions towards public open space. This contribution will largely be replaced by CIL and it is not expected that S106 obligations will be routinely used for contributions towards public open space. However, where there is a quantitative deficiency in a type of open space or related facility and the proposed development is suitable, then on-site provision will still be sought under S106. There is additional guidance on this subject in the Council's Open Space Strategy: www.havant.gov.uk/media/8440/download?inline.

5.17 Where a proposal requires off-site planting, a S106 agreement must be entered into. This should cover the cost of any site purchase required for the new planting, the cost of the plants, any associated management and maintenance where the council will not be adopting the land and sufficient funding for replacements for a period of five years. The costs will be calculated on a site-by-site basis and be based on current prices at the time of the application.

Public Realm

5.18 The public realm is defined as public spaces between buildings. It includes transport and green infrastructure features as well as hard and soft landscaping, street furniture and lighting.

5.19 The improvement and enhancement of the public realm can positively affect the image and identity of an area, the local economy and attracting new investment. Addressing the public realm is particularly important in areas of deprivation and decline where it is important not only to improve the local economy but also to raise standards and generate civic pride in a community.

5.20 Opportunities for enhancing the public realm will vary significantly depending on the amount of available space, the location and the relationship with surrounding development. As a minimum, developers will be expected to make provision either on-site or through a financial contribution, for appropriate landscaping within or close to, the development site.

5.21 It is widely recognised that public art can significantly enhance the public realm. Public art refers to permanent or temporary works of art created for the public realm whether it is the built or natural environment. Public art has the ability to enhance the environment by providing identity, character and a sense of place. The most obvious benefit of public art is the visual enhancement of an area, encouraging ownership and pride and reducing vandalism and crime and therefore increasing the value of developers' investment.

5.22 Where public art is required as part of a proposal, applicants should discuss their proposed scheme during pre-application discussions. This will allow the art to be properly integrated into the development and enable it to respond to changes that may take place as a result of negotiations. In significant developments, applicants will be expected to outline a strategic/masterplan for public art, heritage and culture as part of the masterplanning process or Design and Access Statement.

5.23 Applicants are advised to consult the Havant Borough Council Public Realm Design Framework, the Havant Town Centre Urban Design Framework and the Havant Borough Design Guide for additional guidance. Public realm improvements which are required to make a development acceptable and meet the tests outlined in Regulation 122, will usually be secured through a S106 Obligation. Particular consideration of the public realm should be made for proposals in the regeneration

areas identified by Policy CS6 of the Local Plan (Core Strategy). All these documents can be viewed on the council's website at: www.havant.gov.uk/

Flood Defence

5.24 It is expected that the majority of contributions towards flood defence in the borough will be made through CIL. However, in certain situations, it will be necessary to provide site specific flood protection measures and these may be secured through a S106 obligation.

5.25 Owing to the coastal location of the borough, a significant proportion of land is at risk from tidal flooding. In addition, parts of the borough lie in areas at risk from fluvial flooding. Based on historical flooding information, coupled with the Environment Agency's indicative flood plain maps, the council has carried out an assessment of the risk of flooding from the ordinary watercourses in the borough. The main areas at risk of fluvial flooding are the flood plains associated with the Hermitage and Lavant Streams in Leigh Park and Havant, and across Hayling Island. There may be circumstances when additional measures will be required in order to make a development safe. Measures will normally be identified by the Environment Agency and will usually be secured by planning conditions. However, where the measures involve off-site improvements, the need for a S106 agreement, negotiated on a case-by-case basis, will be considered.

5.26 Where on site measures are required, the type and location of the works should be justified and agreed with the council's Coastal Management Team and/or the Environment Agency prior to any works or funding being implemented. In some cases, it may be more appropriate to consider on-site mitigation measures such as the positioning of electrical sockets at a higher level or using more water resistant materials. The use of such measures will normally be secured through planning conditions rather than a legal agreement.

5.27 The cost of flood defences will vary widely depending on the topography of the site, exposure to wave action and the condition of the existing defences. Applicants must seek the advice of the Coastal Management Team and/or the Environment Agency prior to the submission of a planning application, to ensure that measures can be put in place which will protect the site without causing unacceptable harm to coastal or fluvial processes and existing defences, elsewhere. It is expected that developers will enter into a S106 agreement which agrees either a level of appropriate funding or the provision of appropriate flood defence works or mitigation measures.

Bird Aware Solent Revised Strategy

5.28 The Solent coastline provides a haven for thousands of protected birds, making the area of worldwide importance to wildlife. They need to be able to feed and rest undisturbed if they are to survive the winter and complete long migrations twice yearly. In summer, coastal birds need to be left undisturbed so they can successfully breed and raise their young.

5.29 Around 147,500 new homes are anticipated around the Solent up to 2050. This is likely to lead to more people visiting the coast for recreation and this has the potential to cause more bird disturbance. This strategy aims to mitigate likely impact of bird disturbance as a result of these additional homes and the resulting increase in recreational visits. It focuses on educating people about the birds and encouraging positive behaviour change.

5.30 The strategy has been put together by Bird Aware Solent, a partnership made of Natural England, wildlife conservation bodies and local authorities. This updated Strategy benefits from the practical experience gained so far in delivering mitigation and builds on the success and learning of the Partnership to date. The work of the Partnership is funded by developer contributions calculated according to the bedroom numbers of the property. It applies to homes built within 5.6 kilometres of the Solent's Special Protection Areas (SPAs). Some developments may require additional mitigation due to their size or proximity to an SPA. Some of the money received will be set aside to fund the measures 'in-perpetuity' (calculated on an 80 year basis) after 2050.

5.31 For your ease of reference, the rates table (including the council's monitoring and administration fee) from the Strategy can be found in the table below, please note these figures are updated annually. The next update being due 1 April 2027 in accordance with the Retail Prices Index as advised by the Bird Aware:

No. of bedrooms	Amount	5% monitoring fee	Administration Fee	Total
1	£501	£25.05	£28	£554.05
2	£723	£36.15	£28	£787.15
3	£942	£47.10	£28	£1,017.10
4	£1,108	£55.40	£28	£1,191.40
5+	£1,299	£64.95	£28	£1,391.95

Table 5.0: Bird Aware Solent Strategy Payment 1 April 2026 (known within the Strategy as Table 2)

Worked example:
A development of 4 dwellings comprising 2no. 2 bedroom dwellings and 2no. 3 bedroom dwellings would be calculated as follows:

2 x £723 =	£1,446.00
2 x £942=	£1,884.00
	£3,330.00
5% monitoring fee	£166.50
Admin Fee	£ 28.00
TOTAL	**£3,524.50**

There is also a flat rate where calculation of the mitigation needed using the number of bedrooms would not be appropriate. The current net flat rate amount is £836.

5.32 Other forms of overnight accommodation which can be considered residential-related use, with the potential to generate additional recreational visits to the SPA(s) will need to be assessed on an individual basis by the local planning authority. There is also an alternative scale of charges for use:

Bedroom Size	Winter Only[5]	Summer Only[6]
1	£451	£201
2	£651	£290
3	£848	£377
4	£998	£444
5+	£1,170	£520
Flat Fee	£753	£335

5.33 As a non-standard S106 legal agreement can be costly and time consuming to process, the Council has agreed a standard unilateral undertaking under S106 to secure the contribution. This will cost £28 per agreement to administer and more information can be found: www.havant.gov.uk/unilateral-undertaking-solent-recreation-mitigation-strategy. Applicants are advised to contact their case officer at the earliest opportunity to agree the most appropriate method of securing the contribution. Payments made are passed on the partnership at the end of the financial quarter following collections of the payment. As the collected payments are an intrinsic part of the permission, payment cannot be refunded; where mitigation payments are collected and permission is not granted the sum collected can be refunded less the £28 administration fee to set up the unilateral undertaking (per mitigation type) and a £108.80 handling fee to process the refund[7]. For larger applications payment can be incorporated in the S106 Agreement.

Mitigation Plan for Nutrient Neutral Development

5.34 New development necessitates the provision of connections to the foul water drainage network. This will increase nutrient load at the Solent European Sites. Nutrient enrichment can arise from wastewater treatment required in support of new development, even if it is a proportionately small contribution. New housing schemes and other proposals which include a net gain in overnight accommodation need to prevent any net increase in nutrients into the harbour for them to be 'nutrient neutral'. If this is not put in place, there would be a significant effect on the Solent's European Sites and it would not be lawful for the Council to grant planning permission to the scheme.

5.35 The Council's Position Statement and Mitigation Plan (www.havant.gov.uk/nitrogen) set out how a nutrient budget should be calculated using the latest methodology provided by Natural England[8] and the Council's occupancy calculator. The nutrient budget is used to inform the scale of mitigation needed in kilograms of nitrogen per year. As such, the contribution will be calculated based on the number of kilograms of nitrogen needed in order to ensure the development is 'nutrient neutral'.

5.36 As of August 2020, the first phase of Warblington Farm Mitigation Scheme has been available for development to use within Havant Borough which has limited capacity. The first phase provided 805kg/N and as of 10 March 2026 there was around 96kg/N remaining available for development.

5.37 The market for private sector mitigation has now flourished to the point where there is sufficient supply for the East Hampshire catchment for at least five years. Larger new developments in Havant Borough will therefore be expected to use third party

[5] Homes within 'winter only' zone of the SPA with winter only obligations - applies to less than 1% of all applications, and these will be based within Winchester, Fareham and Gosport only.
[6] Applies to the likes of camp sites which would only operate between 1st April and 30th September.
[7] This principle applies equally to payments collected for Nutrient Neutral Development
[8] https://www.havant.gov.uk/nutrient-neutrality-what-developers-need-know

mitigation schemes to ensure their development is nutrient neutral. Details of these schemes are published on the Partnership for South Hampshire (PfSH)'s website[9].

5.38 Currently for development which drains to Budds Farm Waste Water Treatment Works (WwTWs), there are three mitigation schemes available. For development that drains to Thornham WwTWs, there is one strategic mitigation option available. Alternatively, applicants can also propose on-site mitigation measures to offset the impact on the Solent European Sites.

The Council's Strategic Mitigation Scheme

5.39 Only planning applications for 15 dwellings or less (net) (C3) or are regeneration projects within the regeneration areas (as defined at Appendix 1 of the Council's Position Statement and Mitigation Plan) granted on or after 18 November 2022 will be eligible to use the Council's mitigation plan at Warblington Farm.

5.40 A rate of £3,642 will be payable per kilogram of nutrient mitigation (as at 1/4/2026). This will be reviewed annually in line with inflation (CPI is the index used) and as future phases of the mitigation scheme are brought forward. The nutrient load of development will vary from across all development schemes. The cost of mitigation per kilogram for development schemes eligible to use the Council's mitigation scheme can be found below. A £28 administration fee will be added to the total cost of mitigation required. Please note these figures are updated annually, the next update being due 1 April 2027.

Per kilo contribution	Total nitrogen discharged (kg N per year)	Cost per kilo contribution
	1	£3,642

Table 5.1: Cost of Nutrient Mitigation 1 April 2026

5.41 As a non-standard S106 legal agreement can be costly and time consuming to process, the Council has agreed a standard unilateral undertaking for its own mitigation scheme to secure the contribution. This will cost £28.00 per type of mitigation to administer. Where a query concerns payment or the submission of the Unilateral Undertaking, enquiries should be directed to the CIL Team: cil@havant.gov.uk.

Other forms of overnight accommodation

5.42 Other forms of development which result in a net gain of overnight accommodation, and some types of commercial development will result in an additional nutrient load. The type of development affected is outlined in the Council's Position Statement and Mitigation Plan. Applicants will need to calculate and confirm what the expected mitigation package will be by completing and submitting a nutrient budget, using Natural England's guidance and Natural England's nitrogen calculator which can be found on the Council's website at: www.havant.gov.uk/nitrogen. This nutrient budget will then be assessed by the Council in consultation with Natural England through a Habitats Regulations Assessment. For such developments, early pre-application discussions are recommended.

5.43 Off-Site Mitigation Options where the Council has signed an overarching legal agreement

Havant Borough Council has entered into overarching legal agreements with both Warnford Park Estate and Knowle Farm. The Council is likely to enter into legal

[9] https://www.push.gov.uk/work/mitigation-schemes-available-to-developers/

agreements with other mitigation providers in due course to ensure choice and availability of mitigation to developers in Havant Borough.

5.44 If a developer wishes to use third party mitigation where the Council has signed an overarching legal agreement as a mitigation provider for nutrient neutrality there are two options:

a. The developer submit prior to the grant of a planning permission a 'Notice of Purchase' which is a written notification of the purchase of credits which will include the following information:
    i. Name of developer purchasing the Credits;
    ii. Details of the Development to benefit from the Credits, to include application number, description and location;
    iii. Number of Credits purchased;
    iv. Nitrogen budget for the Credits Linked Land [as defined in the agreement, i.e. the parcel of mitigation land that will be linked to the development];
    v. A plan with the Credits Linked Land clearly identifiable and specifying the size of the Credits Linked Land in hectares.
b. Alternatively, the developer will submit a 'Nutrient Mitigation Proposal Pack'. This information contains the same information as a 'Notice of Purchase' however it includes a letter which sets out a proposal or an agreement to purchase in other words reserving the credits. If this option is used then a Grampian condition will be imposed, and the applicant will need to submit the 'Notice of Purchase' evidence. The Grampian condition which will be used will read as follows:
'The development hereby permitted shall not commence unless the Council has received the Notice of Purchase in accordance with the legal agreement between Havant Borough Council and XXX dated XXX in respect of the Credits Linked Land identified in the Nitrates Mitigation Proposals Pack.
***Reason:** To demonstrate that suitable mitigation has been secured in relation to the effect that nitrates from the development has on the Protected Sites around The Solent.'*

5.45 Third Party Nutrient Mitigation Monitoring Fee

Havant Borough Council is responsible for ongoing monitoring of Third Party Nutrient Mitigation Schemes. When accepting mitigation from such schemes for example Warnford Park Estate, the Council will need to seek a payment from the applicant to contribute towards these costs. The amount payable will be 1% of the total overall kilogramme (kg) purchase cost. Where this is calculated to be less than £108.80, a minimum fee of £108.80 will be payable.

5.46 Houses in Multiple Occupation (HMO)and Mitigation

Mitigation in respect of both Bird Aware Solent Revised Strategy and Nutrient Neutrality needs to be considered in respect of HMOs. For the Bird Aware Solent Revised Strategy this is advised in the Appendix to the Strategy. For convenience this is paraphrased below and, the sum mentioned within has been updated for the 2026-2027 financial year:

Mitigation would need to be provided for permissions for new HMOs, (excluding change of use from existing C3 (dwelling house) to C4 (small HMO). Mitigation will need to be provided for increased occupancy of an existing HMO to within sui generis (large HMO). If the resultant HMO is C4 the number of bedrooms for that property is used to calculate the contribution in line with that for C3 dwelling houses as set out in table 2. The whole property is treated as one dwelling. If the resultant HMO is classed as Sui Generis each additional bedroom over and above 5 bedrooms is charged at a rate of £348 per bedroom in addition to the 5-bed rate.

5.47 In respect of Nutrient Neutrality, the occupancy rate of a HMO will be calculated by using the 5+ occupancy rate and every additional bedroom is treated as 1 person per room.

Employment and Skills

5.48 Havant Borough Council requires Employment and Skills Plans for larger developments, to maximise opportunities for improving local employment and training. This has helped address long standing problems in the borough with poor skills and qualifications, which act as barriers to people accessing work and the wider determinants of health.

5.49 Employment and Skills Plans use the Construction Industry Training Board (CITB) framework, endorsed by the National Skills Academy, to generate the required outputs in terms of on-site measures towards providing training and jobs for local people and ensuring that supply chain members are engaged in regular training, especially in green skills and literacy. Employment and Skills Plans will be required for developments of 50 dwellings (gross or more) and commercial developments of at least 2,000 sqm floorspace (gross external area). For developments below these thresholds Havant Borough Council's Economic Development Team would welcome enquiries from developers to work towards a voluntary Employment & Skills Plan with suitable KPIs to embed social value throughout the project regardless of size.

5.50 Plans are sought for the construction phase of the development. This commitment will be set out in a S106 agreement. The Council's Economic Development Team will write site specific Employment and Skills Plans, in consultation and in agreement with the developer, to ensure that they are aligned to local need and stakeholders' aspirations. This could involve securing on-site apprenticeships and educational opportunities for young people. The detailed measures will be in the appendix to the S106 and monitored through the Employment and Skills Plan and agreed before the commencement of work on site.

5.51 Where on site measures are not possible, an alternative option is to make a suitably scaled financial contribution to enable an equivalent programme of training to take place off-site. This will be calculated from KPIs from the Social Value Portal[10] or a suitable equivalent if this is replaced.

Community, Cultural and Heritage Uses

5.52 Community, cultural and heritage uses will largely be funded or part funded through CIL. If a proposal affects an historic building, applicants are advised to contact the council's conservation officer prior to submitting a planning application, as there may be site specific requirements which will need to be secured through a S106 planning agreement. In addition, larger developments may justify the need for specific infrastructure such as a community centre or a community worker. Applicants are encouraged to contact the council at the earliest opportunity. A Community Worker/ Community New Development Officer can be instrumental in providing essential liaison between the Developer, Council, Councillors and members of the public and will also assist in the integration of the proposed site with the existing community. For Community Workers for sites where there are 40 or more dwellings[11], the contribution

[10] https://www.socialvalueportal.com/

[11] although some schemes smaller than this may by their nature require this measure as well. This could for example be due to a sensitive use such as a school being in proximity to the new development.

is £375.36 per dwelling at 1/4/26 (indexed in accordance with the CPI). This flat rate applies to developments of up to 150 dwellings. For sites being delivered on a phased basis, or with more than 150 dwellings this should be regarded as a base figure and will be the subject of negotiation to ensure that the payment covers the duration of delivery of the site. The trigger for payment will be prior to commencement, however for larger sites this payment can be divided into separate instalments, the first payable prior to commencement. For particularly large or Strategic Sites there may be a need for a dedicated Community New Development Officer.

Wastewater Infrastructure

5.53 New and improved sewers are essential requirements in all new development. Southern Water seek developer contributions towards local on-site and off-site wastewater infrastructure required to service individual sites. The costs associated with this infrastructure depend on site-specific circumstances and can vary significantly from site to site. These costs could be additional to those incurred through CIL and/or other S106 Planning Obligations.

SuDs and SuDS Bonds

5.54 Sustainable drainage systems (also known as SuDS, SUDS, or sustainable urban drainage systems) are a collection of water management practices that aim to align modern drainage systems with natural water processes. Most elements of a SuDS system can now be adopted by the Water and Sewerage Undertaker (Southern Water) under the terms of the Sewerage Sector Guidance[12]. The Council would expect the default position to be that the SuDS system would be adopted, and justification for not so doing will be required. A S106 may include delivery requirements for the SuDS. If not being offered to Southern Water for adoption, a bond will be required unless the development will, from site clearance and throughout its life, deliver significantly increased permeable area within the development 'red line' over that which applied prior to the proposed development[13].

5.55 Where a bond is required an example of a model bond can be requested from cil@havant.gov.uk. The value of the bond should be for 25% of SuDS related groundworks sum (such sum to be shared with the council under 'open book' discussions) and should be set up before any commencement relating to groundworks. Where a sum of money is collected by the council in lieu of a bond[14] the monies be repaid following a satisfactory inspection by our engineer and a written request to reimburse monies received.

Affordable Housing

5.56 Contributions towards affordable housing are not covered by CIL and contributions will continue to be collected using S106 obligations, under Policies CS9 and CS21 of the Adopted Local Plan (Core Strategy) and emerging Policy H2 of the Havant

[12] https://www.water.org.uk/sewerage-sector-guidance-approved-documents/

[13] Although the intention of SuDS schemes is to increase permeability and to offer attenuation and storage, for the avoidance of doubt the contribution of the SuDS scheme itself is excluded from any consideration of permeable area within the development 'red line', which will be considered on the basis of changes in actual permeable and impermeable surface areas before and after development.

[14] Please note that the council do not return SuDS monies held with interest accrued, but only return the original sum where applicable

Borough Local Plan. Adopted policy states that an affordable housing contribution of 30-40% will be sought.

5.57 Affordable housing is sought on sites of 10 units or more in accordance with Paragraph 63 of the National Planning Policy Framework. This includes sites in the Chichester Areas of Outstanding Natural Beauty which constitutes a 'designated rural area', where a lower threshold may be set in the context of Annex 2 of the NPPF.

Management Company and Management Plan

5.58 For larger applications, especially in relation to new housing developments, there is likely to be a requirement to set up a management company[15] and to supply a management plan for the long-term management of the site. This plan could include, but would not be limited to items requiring ongoing maintenance such as: SuDS, lighting, open space, mowing and 'hedgerow/shrub/tree/planted bed care', unadopted roads and pavements, fences, parking outside of the individual curtilages i.e. communal areas, ecological features e.g. Bat Boxes, removal of rubbish, cleaning of communal flats and maintenance of play equipment. Each management plan should provide plan/s of the development clearly showing each individual element which is being adopted or maintained; and a schedule of works clearly stating individual maintenance operations, the frequency of works/inspections as well as the time of year that works/inspections will be undertaken. Management Plans are also expected to consider the impact of an management provisions on the surrounding area and make provision for off-site maintenance and management where reliance is placed on off-site infrastructure.

Other S106 Contributions

5.59 Other site specific S106 contributions such as health or biodiversity mitigation measures may arise out of the consultation process.

The S106 Process

5.60 Where a S106 planning obligation is required to make a development acceptable, applicants are encouraged to obtain relevant copies prior to the submission of a planning application and where appropriate, complete the agreement(s) so that they can be considered alongside the application. Any agreements can be signed but not dated at this stage. The council must have received properly completed and signed unilateral undertakings in time to issue the decision before the expiry date. To achieve this, unilateral undertakings should be received at the latest, 10 working days before the expiry date of the application. The completion of a unilateral undertaking does not in any way guarantee that planning permission will be forthcoming. It is essential that the document is signed by all owners of the land and any mortgagee(s) with a current mortgage or charge over the land.

5.61 Where the use of a standard unilateral agreement is not appropriate, emphasis should be placed on pre-application discussions to establish the requirements for financial and on-site contributions. Negotiations should establish the most appropriate format for securing these contributions and timescales should be identified at an early stage to avoid unnecessary delays.

5.62 There is a legal cost per agreement for the council's solicitor to check that a unilateral undertaking has been properly completed; draft other Section 106 agreements; and check they are legal. The costs vary with the complexity of the agreement and are updated annually in the Havant Borough Council Prices List. In addition, the council

[15] The appointed management company must be registered with Companies House and comply with the Companies Act 2006 (as amended).

charges a fee to monitor all planning obligations, and this is decided at a cost per head of term contained within the obligation. This is a fixed fee per non-financial head of term and a percentage of financial heads of term. As Havant Borough Council monitors and discharges all Hampshire County Covenants on behalf of the County, the charges will also apply to each Hampshire County Council Head of Term. These costs are again set out in the Havant Borough Council Fees and Charges List. The amended CIL Regulations effective 1/9/19 state the legitimacy of the collection of S106 monitoring fees. There are also charges for monitoring Biodiversity Net Gain (BNG), Third Party Nutrient Mitigation Schemes. More information can be found: www.havant.gov.uk/monitoring-fees

CIL and Neighbourhoods

5.63 Local authorities may allocate 15% of levy receipts to spend on priorities agreed with local communities, in areas where development is taking place. As there are no town or parish councils in the borough, the council will retain levy receipts and engage with local communities where development has taken place to agree how best to spend the neighbourhood funding. The neighbourhood portion of the levy can be spent on a wider range of things than the rest of the levy, provided it supports the development of the area. The Emsworth Neighbourhood Plan was made on 22 September 2021[16].

How will spending priorities be determined?

5.64 Havant Borough Council is responsible for making the final decision on the allocation of CIL income. This will be done through an annual process that includes consultation with stakeholders and aligns with the council's annual capital spending programme. The aim is to identify and agree priorities for the use of CIL (and S106 planning obligations funds) over a three-year programme, and to agree the release of funds on an annual basis.

5.65 The council has prepared a CIL Spending Protocol. This sets out the process by which infrastructure providers can bid for CIL funding, the consultation involved and the process by which the spending programme is agreed. The current CIL Spending Protocol is currently under review particularly in respect of the Strategic CIL Spending Process. Full details of the current Protocol can be found on the Council's website: https://www.havant.gov.uk/cil-spending-protocol-2025-v12pdf

5.66 There is a dedicated CIL Annual Monitoring page: www.havant.gov.uk/cil-s106, and a list of CIL spends: www.havant.gov.uk/cil-spending-decisions. From the end of 2020, all this information has been incorporated into an Infrastructure Funding Statement on an annual basis.

Further Information

5.67 Further information about the Havant Borough CIL including the Charging Schedule, Instalment Policy, forms etc. can be obtained from:

The Havant Borough Council Website: www.havant.gov.uk/planning-services/planning-policy/community-infrastructure-levy-cil

The Planning Portal:
https://www.planningportal.co.uk/planning/policy-and-legislation/CIL/about-CIL

[16] The Emsworth Neighbourhood Plan has now been made, an additional 10% of neighbourhood portion is earmarked for spending in the Plan area: www.havant.gov.uk/planning-services/planning-policy/neighbourhood-planning

The Department for Levelling Up, Housing and Communities:
www.gov.uk/government/organisations/ministry-of-housing-communities-and-local-government

Development Infrastructure Team Leader
Planning Services
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant PO9 2AX
Telephone 023 9244 6545 Email: cil@havant.gov.uk

Appendices

Appendix 1: Transport Contributions

Guidance on the future use of Section 106 contributions for transport and the Hampshire County Council Transport Contributions Policy (TCP), after CIL comes into effect in Havant Borough on the 1st August 2013.

Use of S106 contributions for transport and TCP	*Scenario 1: Borough wishes CIL to pay for all transport schemes:* ➢ Section 106 cannot be used to secure contributions for any infrastructure that is intended to be funded through CIL ➢ The Transport Contributions Policy will become unlawful **Example:** If the borough intend to use CIL for transport infrastructure (as identified in the Regulation 123 List[17]) then S106 cannot be used to secure any contributions for transport. *Scenario 2: Borough does not intend to collect CIL to pay for all transport schemes:* ➢ Section 106 can be used in addition to CIL to secure contributions for transport provided it is in accordance with the three tests[18] and provided that item/type of infrastructure is not on the Reg 123 List[19] BUT; ➢ The Transport Contributions Policy cannot be used to calculate contributions – any contribution must be calculated on the basis of the cost of the improvements it is intended to fund on a case by case basis
~~**Restrictions on pooling of S106 agreement contributions towards infrastructure**~~	~~➢ No more than five agreements may be entered into for contributions towards the same infrastructure type or scheme (back dated to 6th April 2010)~~ ~~➢ The restriction relates to S106 agreements that have been signed so, even if the agreements related to a permission that have lapsed or the contributions have been paid, it still counts towards the five~~ ~~➢ The restriction is only triggered when CIL is adopted so it is acceptable to continue to enter into multiple agreements with the same wording up until that time (provided CIL is adopted by 6th April 2014)~~

[17] Renamed the 'Indicative List of Infrastructure Projects that may be wholly or partly funded by the CIL', following The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 which deleted the Regulation 123 List

[18] Necessary to make the development acceptable in planning terms; directly related to the development; reasonably and fairly related in scale and kind to the development (Reg 122 of CIL Regs 2010)

[19] See footnote 8

	~~**Example:** If once CIL is adopted there are already five or more agreements that were entered into after 6th April 2010 that secure contributions towards one type of infrastructure, no further agreements can be entered into with this wording. The same applies if the agreement says 'transport, 'integrated transport', 'transport works' etc.~~ ~~**Example:** If once CIL is adopted there are five or more agreements entered into after 6th April 2010 that secure contributions towards Phase 1 of an infrastructure project then no further agreements can be entered into with this wording. However, an agreement could be entered into for Phase 2 of that project.~~
Extant S106 agreement contributions	➢ All agreements entered into prior to CIL being adopted are still valid for as long as the planning permission is valid and the contributions towards infrastructure can be collected in the normal way
Other uses of S106 of the Town & Country Planning Act 1990[20]	➢ Section 106 agreements can still be used to secure non-infrastructure items such as bus service contributions and travel plans ➢ It can also be used to secure off site highway works as an alternative to a Grampian condition if appropriate
Section 278 of the Highways Act 1980	➢ Section 278 is unaffected by CIL

[20] Act online at: www.legislation.gov.uk/ukpga/1990/8/contents

Appendix 2: Summary of thresholds for transport assessments and site travel plans

The information below is taken from:
https://democracy.hants.gov.uk/documents/s116065/5i%20Guidance%20on%20Planning%20Obligations%20and%20Developer%20Infrastructure%20Contributions%20-%20Appendix%201-2024-01-.pdf

Thresholds for parking standards, transport assessments and site travel plans
The parking standards apply to developments of all sizes. However, for larger developments a transport assessment and a company or site travel plan will be required.

Land use	Threshold above which transport assessment required
Residential	50 units
Commercial: B1 and B2	2500 sqm
Commercial: B8	5000 sqm
Retail	1000 sqm
Education	2500 sqm
Health establishments	2500 sqm
Care establishments	500 sqm or 50 bedrooms
Leisure: general	1000 sqm
Leisure: stadia, ice rinks	All (1500 seats)
Miscellaneous commercial	500 sqm

Note: Where appropriate the local planning authority can require a transport assessment or company/site travel plan below the thresholds specified, for example where there are potential cumulative effects.