



Lewes District Council

Community Infrastructure Levy (CIL)

Town and Parish

Frequently Asked Questions

November 2015

Town & Parish Council Guidance

Community Infrastructure Levy (CIL) Neighbourhood Portion

1. What is the neighbourhood portion of the Community Infrastructure Levy?

Fifteen per cent of Community Infrastructure Levy charging authority receipts is passed directly to those Parish and Town Councils where development has taken place (see [Regulation 59A](#) for details). Where chargeable development takes place within the local council area, up to £100 per existing council tax dwelling can be passed to the Parish or Town Council (see [Regulation 58A](#) for details) this way each year to be spent on local priorities (see [Regulation 59C](#) for details).

In England, communities that draw up a neighbourhood plan or neighbourhood development order (including a community right to build order), and secure the consent of local people in a referendum, will benefit from 25 per cent of the levy revenues arising from the development that takes place in their area.

Figure 1: Relationship between the levy and neighbourhood plans

Parish Council ✓ Neighbourhood Plan ✓ = 25% uncapped, paid to Parish	Parish Council ✓ Neighbourhood Plan ✗ = 15% capped at £100/dwelling, paid to Parish
Parish Council ✗ Neighbourhood Plan ✓ = 25% uncapped, local authority consults with community	Parish Council ✗ Neighbourhood Plan ✗ = 15% capped at £100/dwelling, local authority consults with community

2. Can more than 25% be passed to Town and Parish Councils?

In areas where there is a neighbourhood plan or neighbourhood development order in place, charging authorities can choose to pass on more than 25% of the levy, although the wider spending powers (see Qu 6) that apply to the neighbourhood funding element of the levy will not apply to any additional funds passed to a Parish or Town Council. Those additional funds can only be spent

on infrastructure, as defined in the Planning Act 2008 for the purposes of the levy.

3. How does CIL differ from and relate to Section 106 planning obligations (S106)?

CIL money does not need to be used for providing infrastructure on the site it is collected from. The relationship therefore between a site's infrastructure requirements and level of contributions made is broken; although any infrastructure which is directly required as a result of a development will continue to be sought through Section 106, as will affordable housing provision. S106 obligations will therefore remain alongside CIL but will be restricted to that infrastructure required to directly mitigate the impact of a proposal. The regulations restrict the use of planning obligations to ensure that individual developments are not charged for the same items of infrastructure through both planning obligations under S106 and CIL.

If a parish council has failed to spend CIL funds passed to it within 5 years of receipt, or has applied the funds not in accordance with the Regulations then the District Council can serve a notice on the parish council requiring it to repay some or all of the receipts passed. The District Council will be required to spend any recovered funds in the parish council's area.

4. What happens to the neighbourhood portion if the CIL is paid 'in kind'?

Developers may offer to pay the levy as land or infrastructure as well as by cash, if the charging authority chooses to accept these alternatives. However, the relevant percentage of the cash value of levy receipts must be passed on to a Parish or Town Council in cash.

5. What happens where a development straddles a Town or Parish administrative boundary?

Where development straddles the boundaries of Parish, Town or Community Councils' administrative areas, each council receives a share of the levy which is proportionate to the gross internal area of the development within their administrative area. For example, if a development crosses two Parish, Town or Community Council administrative areas with 50 per cent in one parish and 50 per cent in the other, each council receives 50 per cent of the neighbourhood portion, up to the level of the annual limit for their area. The total Levy liability across the development is used to calculate the neighbourhood funding figure, to take account of sites with variable rates.

There may be occasions when development crosses more than one Parish or Town Council administrative area and where one or more of those areas has a neighbourhood development plan in place (so receives 25 per cent) and one or more of those areas does not. There may also be occasions where part of a development is granted planning permission by a neighbourhood development order, and part is not. In these cases, the Parish or Town Council receives a

proportionate amount of the levy payment based on how much of the gross internal area of the development is in an area for which there is a neighbourhood plan, or was granted permission by a neighbourhood development order.

6. When will the money be passed to the town / parish?

The District Council may come to an agreement with a parish council on when CIL funds may be passed to the parish council. Where no agreement is in place the District Council must make payment in respect of CIL it receives from 1st April to 30th September in any financial year to the parish council by 28th October of that financial year and pay the CIL received from 1st October to 31st March in any financial year by the 28th April of the following financial year.

7. What can the neighbourhood portion be spent on?

Regulations state that the neighbourhood proportion of funds must be used *'to support the development of the local area by funding*

(a) the provision, improvement, replacement, operation or maintenance of infrastructure; or

(b) anything else that is concerned with addressing the demands that development places on an area.'

The neighbourhood portion of the levy can be spent on a wider range of things than the rest of the levy, provided that it meets the requirement to 'support the development of the area'. The wider definition means that the neighbourhood portion can be spent on things other than infrastructure. For example, the pot could be used to fund affordable housing where it would support the development of the area by addressing the demands that development places on the area.

Areas could use some of the neighbourhood pot to develop a [neighbourhood plan](#) where it would support development by addressing the demands that development places on the area.

8. What is infrastructure?

'Infrastructure' is a broadly defined in the Town and Country Planning Act 2008 but the CIL regulations do not specify the types of infrastructure which the planning authority can fund. We have identified 3 broad categories of infrastructure: -

- Physical infrastructure: e.g. highways, transport links, cycleways, energy supply, water, flood alleviation, waste management
- Social infrastructure: e.g. education, health, social care, emergency services, art and culture, sports halls, community halls, faith, crematoria
- Green infrastructure: e.g. parks, woodlands, play areas, public open space

9. Is there a process for agreeing how the neighbourhood portion should be spent?

Once the levy is in place, Parish and Town Councils should work closely with their neighbouring councils and the charging authority to agree on infrastructure spending priorities. The Government does not prescribe a specific process for agreeing how the neighbourhood portion should be spent. Charging authorities can use existing community consultation and engagement processes. This should include working with any designated neighbourhood forums preparing neighbourhood plans that exist in the area, theme-specific neighbourhood groups, local businesses (particularly those working on business led neighbourhood plans), and using networks that ward councillors use. Crucially this consultation should be at the neighbourhood level. It should be proportionate to the level of levy receipts and the scale of the proposed development to which the neighbourhood funding relates.

Where a neighbourhood plan has been made, the charging authority and communities should consider how the neighbourhood portion can be used to deliver the infrastructure identified in the neighbourhood plan as required to address the demands of development. They should also have regard to the infrastructure needs of the wider area.

The charging authority and communities may also wish to consider appropriate linkages to the growth plans for the area and how neighbourhood levy spending might support these objectives.

10. What are the reporting requirements for Town and Parish Councils?

To ensure transparency Town and Parish Councils must publish each year their total CIL receipts; total expenditure; a summary of what the CIL was spent on; and the total amount of receipts retained at the end of the reported year from that year and previous years.

Reports can be combined with reports already produced by Parish Councils and should be placed on their websites and a copy of the report should be sent to the District Council.

11. What financial arrangements must be in place?

Parish and Town Councils must make arrangements for the proper administration of their financial affairs (see Section 151 of the Local Government Act 1972). They must have systems in place to ensure effective financial control (see Accounts and Audit (England) Regulations 2011 and Accounts and Audit (Wales) Regulations 2005). These requirements apply when dealing with neighbourhood funding payments under the levy.