

## PLYMOUTH CITY COUNCIL

**Subject:** Community Infrastructure Levy Regulation 123  
List

**Committee:** Cabinet

**Date:** 2 April 2013

**Cabinet Member:** Councillor Vincent

**CMT Member:** Anthony Payne (Director for Place)

**Author:** Jonathan Bell (Head of Development Planning)

**Contact details:** Tel: 01752 307944  
e-mail: jonathan.bell@plymouth.gov.uk

**Ref:** JAB/CIL

**Key Decision:** Yes

**Part:** I

---

### **Purpose of the report:**

This report is concerned with how Community Infrastructure Levy (CIL) receipts are spent, and with the process by which these decisions are made and reviewed.

CIL is a new levy that local authorities in England and Wales can choose to charge on developments in their area to help fund infrastructure improvements. It was first introduced in April 2010 and is now a major plank of the localism agenda, with provisions identified in the Localism Act, and with detailed Regulations having been put in place to provide for its implementation. It is the Government's intention that CIL replaces 'tariff' type approaches to Section 106 agreements.

The money raised through CIL can be used to support new development by funding infrastructure that the city, local communities and neighbourhoods need – for example, new road schemes, park improvements or improvements to local school capacity. The Local Planning Authority is required to publish what is known as a 'Regulation 123 List' (named after Regulation 123 of the CIL Regulations) to set out what it intends to spend CIL receipts on.

The specific outcomes sought in this report include approval of a set of principles to govern how the Council will utilise CIL receipts and for publication of an initial Regulation 123 List. Recommendations are also included in relation to monitoring and review of the Regulation 123 List.

---

## **Corporate Plan 2012-2015:**

The report directly supports the Council's vision for the city as well as its priority for delivering growth. The Community Infrastructure Levy will deliver resources towards the infrastructure required to unlock the City's growth potential. For example, CIL receipts can be used to:

- Help create the conditions for growth and therefore the achievement of sustainable growth in jobs and GVA (Level 1 indicators).
- Support the achievement of a good range of houses (Level 1 & 2 indicators).
- Assist with the delivery of employment land (Level 2 indicator).

In addition, CIL receipts will support the Council's other three priorities in the following ways:

- 'Providing value for communities' - by ensuring that development contributes to and does not harm local communities, and by securing resources to help deliver improvements in communities.
- 'Raising aspirations' – particularly through securing additional resources that can support the wider learning infrastructure of the city.
- 'Reducing inequalities' – particularly through securing additional resources for infrastructure investments that improve community well-being.

---

## **Implications for Medium Term Financial Plan and Resource Implications:**

### **Including finance, human, IT and land**

The introduction of CIL will ensure that the Council is able to continue to secure developer contributions to address the community infrastructure implications of development and the growth of the city. CIL receipts will not entirely replace the use of Planning Obligations through the Section 106 process, and when considered alongside those Planning Obligations that are still able to be negotiated, there should be a significant increase on what has historically been delivered through the Section 106 process alone. However, CIL receipts will take time to build up into a significant resource.

The Council is able to charge an administration fee of up to 5% in levying CIL, which will substantially meet the costs of operating CIL. Cost pressures arising are primarily staffing related and will in the first instance need to be met from the Planning Department revenue budget. There is currently £20,000 in the Planning approved capital programme 2013/14 to acquire a CIL database. Options surrounding its implementation and the need to develop the most cost-effective administration and monitoring system are currently under consideration.

CIL is subject to new enforcement procedures, and there is therefore be a requirement for new legal procedures to be put in place and acted upon.

---

### **Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

The Community Infrastructure Levy may support community cohesion, community safety, addressing child poverty or health and safety by, for example, assisting with the implementation of infrastructure that improves road safety, improves defences

against flooding, improves healthcare provision, improves open space through better lighting, etc.

An Equalities Impact Assessment has been carried out and this confirms that, by having the effect of helping to mitigate the adverse impacts of development, the impacts of CIL are entirely positive in equalities terms.

The introduction of CIL offers the best prospect of optimising income generated from developer contributions whilst at the same time safeguarding the overall viability of development in the city. Tariff-based approaches to securing developer contributions through Section 106 Agreements are very constrained by the CIL Regulations, which in any case provide for the demise of such approaches by April 2014. CIL will therefore significantly reduce risks associated with Risk No. 80 identified on the Council's Strategic Risk Register (*Planning obligations – implications of new legal framework and current economic circumstances*).

---

## **Equality and Diversity**

Has an Equality Impact Assessment been undertaken? Yes

Key findings are included in the main body of the report.

---

## **Recommendations & Reasons for recommended action:**

It is recommended that the Cabinet:

1. Approve the principles set out in the report to govern the allocation of Community Infrastructure Levy receipts.

**Reason:** To ensure that CIL receipts are appropriately and effectively spent in accordance with legal requirements, the parallel operation of the Section 106 process and the Council's growth priority.

2. Approve the publication of a Community Infrastructure Levy Regulation 123 List incorporating the infrastructure projects identified in Section 5.3 of the report.

**Reason:** To set out the Council's proposed use of CIL receipts in accordance with Regulation 123 of the CIL Regulations.

3. Delegate authority to the Assistant Director (Planning), in consultation with the Cabinet Member for Finance, the Cabinet Member for Environment and the Capital Delivery Board to consult upon and publish amendments to the Regulation 123 List.

**Reason:** To achieve a flexible, efficient and effective process for optimising the use of developer contributions through CIL and planning obligations.

4. Instruct Officers to prepare an annual report on the collection and use of CIL and of planning obligation revenues.

**Reason:** To provide for transparency and wider scrutiny of the Council's governance of developer contributions, and to meet the requirements of Regulation 62 of the Community Infrastructure Levy Regulations 2010 (as amended).

---

### **Alternative options considered and rejected:**

The main alternatives are:

- Not to publish a Regulation 123 List at all. The implication of this action would be that no infrastructure contributions could be lawfully sought through the Section 106 process, as the legal assumption would be that the Regulation 123 List is inclusive of all infrastructure types and projects.
- To include different projects or infrastructure types in the Regulation 123 List. There are clearly a wide range of choices that the Council could make in relation to the List. However, the particular Regulation 123 List proposed as the initial List has been recommended in the context of the complexity of the legal framework, restrictions on borrowing against future CIL receipts, the parallel operation of the Section 106 process and the period of time that it will take to generate significant funds.

---

### **Published work / information:**

- 12 July 2011 Cabinet Report on CIL and the Plymouth Infrastructure Needs Assessment - <http://www.plymouth.gov.uk/mgInternet/documents/s29834/Community%20Infrastructure%20Levy%20and%20Plymouth%20Infrastructure%20Needs%20Assessment.pdf>
- 17 January 2012 Cabinet Report on the Community Infrastructure Levy – Draft Charging Schedule - [http://www.plymouth.gov.uk/mgInternet/documents/s34749/Community%20Infrastructure%20Levy-%20draft\\_charging\\_schedule.pdf](http://www.plymouth.gov.uk/mgInternet/documents/s34749/Community%20Infrastructure%20Levy-%20draft_charging_schedule.pdf)
- 12 June 2012 Cabinet Report on the Community Infrastructure Levy – Revised Draft Charging Schedule - <http://www.plymouth.gov.uk/mgInternet/documents/s38398/Community%20Infrastructure%20Levy%20Revised%20Draft%20Charging%20Schedule.pdf>
- CLG Community Infrastructure Levy: An Overview – May 2011- see [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6313/1897278.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6313/1897278.pdf)
- CLG Community Infrastructure Levy Relief Information Document – May 2011 – see <https://www.gov.uk/government/publications/community-infrastructure-levy-relief-guidance>
- Community Infrastructure Regulations, April 2010 – see [http://www.legislation.gov.uk/ukdsi/2010/9780111492390/pdfs/ukdsi\\_9780111492390\\_en.pdf](http://www.legislation.gov.uk/ukdsi/2010/9780111492390/pdfs/ukdsi_9780111492390_en.pdf)
- Community Infrastructure Levy (Amendment) Regulations, April 2011 – see [http://www.legislation.gov.uk/uksi/2011/987/pdfs/uksi\\_20110987\\_en.pdf](http://www.legislation.gov.uk/uksi/2011/987/pdfs/uksi_20110987_en.pdf)
- Community Infrastructure Levy (Amendment) Regulations, April 2012 – see [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/8452/2004771.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8452/2004771.pdf)

- Community Infrastructure Levy (Amendment) Regulations, November 2012 – see [http://www.legislation.gov.uk/ukdsi/2012/978011529270/pdfs/ukdsi\\_978011529270\\_en.pdf](http://www.legislation.gov.uk/ukdsi/2012/978011529270/pdfs/ukdsi_978011529270_en.pdf)
- Plymouth Community Infrastructure Levy Public Examination Examiner’s Report - [http://www.plymouth.gov.uk/121212\\_plymouth\\_cil\\_cs\\_examination\\_report.pdf](http://www.plymouth.gov.uk/121212_plymouth_cil_cs_examination_report.pdf)
- CLG Community Infrastructure Levy Guidance, December 2012 – see <https://www.gov.uk/government/publications/community-infrastructure-levy-guidance>
- CLG Announcement of Planning Minister, Nick Boles, on Community Infrastructure Levy, 10 January 2013 – see <https://www.gov.uk/government/news/communities-to-receive-cash-boost-for-choosing-development>
- The Community Infrastructure Levy (Amendment) Regulations 2013 – Draft - <http://www.legislation.gov.uk/ukdsi/2013/978011534465/contents>

**Background papers:**

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7

**Sign off:**

Fin	SG/PlaceFPC12 13017. 270213	Leg	LT/170 50/180 313	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member Paul Barnard, Assistant Director for Planning, Directorate of Place													
Has the Cabinet Member(s) agreed the contents of the report? Yes													

## **1.0 BACKGROUND**

- 1.1 An earlier report to this Cabinet has dealt with the adoption of the Community Infrastructure Levy (CIL) Charging Schedule. This report is concerned specifically with the processes by which CIL receipts will be spent.
- 1.2 Regulation 123 of the CIL Regulations 2010 is critical to this matter. It sets out key legal requirements and implications of the adoption of a CIL Charging Schedule. Of particular relevance to the current report is:
  - The need to publish at or before a CIL Charging Schedule takes effect a List of infrastructure types and/or projects that the Council intends to use CIL Revenues on (the Regulation 123 List)
  - Limitations on how the existing Section 106 process can be used once a CIL Charging is adopted and operational.
- 1.3 This report proposes an approach to govern the allocation of CIL receipts, including identifying a recommended first Regulation 123 List for Plymouth.

## **2.0 CONTEXT AND KEY CONSIDERATIONS**

- 2.1 This section sets out some important context and key considerations that will govern the Council's approach to identifying its Regulation 123 List.
- 2.2 Why CIL was introduced. CIL was introduced by the Government as a means of scaling back the use of planning obligations through the Section 106 process for infrastructure contributions. The intention was for CIL to support the delivery of development by providing a fairer, more efficient and effective way of meeting the infrastructure needs that developments create. Regulation 123 of the CIL Regulations will make it impossible to mitigate all of the infrastructure impacts of development through the planning application process, and therefore CIL funds must also be used to help mitigate these impacts. The Localism Act 2011 provides that CIL can be spent on anything defined as 'infrastructure', but also on 'anything other than infrastructure that is concerned with addressing demands that development places on an area'.
- 2.3 The use of CIL should be plan-led. The National Planning Policy Framework anticipates that CIL Charging Schedules will be produced and tested alongside a council's Local Plan. They should be linked to the delivery of infrastructure plans which support the overall planning strategy of an area. Plymouth's CIL Charging Schedule was considered against the current Plymouth Core Strategy, and this approach was found sound by a Planning Inspector at the recent public examination (see separate Cabinet report). However, it is important to ensure that the use of CIL receipts is seen as part of the implementation of the Core Strategy and local plans adopted in Plymouth since its production. In addition, it will be appropriate to review the CIL Charging Schedule alongside the current Core Strategy Review process (the Plymouth Plan). Section 206 (2) of the Planning Act 2008 identifies the Local Planning Authority as the CIL Charging Authority for its area.
- 2.4 The flexible nature of the current legal framework for preparing a Regulation 123 List. The CIL Regulations provide for a relatively simple approach in approving a Regulation 123 List, and for reviewing and changing this List in the future. The legal requirement is to publish the List on the Council's website, and government guidance requires that consultation is undertaken as

part of the process of reviewing a List. In essence, the process is to be determined locally by the relevant local planning authority. This means that the List can be changed relatively quickly and at any time, subject to the governance and consultation arrangements the local authority itself puts in place.

- 2.5 CIL spend is less constrained than Section 106 spend. One of the key advantages of the move to CIL is that it is free of the legally binding constraints on how Section 106 contributions are used. This enables the Council to take a more strategic view of priority needs, within the context of fulfilling its responsibility to spending CIL receipts on infrastructure which mitigates the impact of development and growth overall and having regard to any new requirements relating to neighbourhood planning (see para.2.12 below).
- 2.6 Relationship of CIL to Section 106 process. Once CIL becomes operational, it will not be lawfully possible to secure Section 106 contributions for any infrastructure type or project which is included in the Regulation 123 List. Furthermore, for those types/projects which are not included on the List, there will be limitations imposed which mean that a maximum of five contributions dating back to April 2010 can be used. This has a very significant bearing on what the most effective use of the Regulation 123 List would be. If an infrastructure type or project is included in the List too early, it will prevent the use of Section 106 contributions even when such contributions can still be negotiated because the pooling limits have not been reached. Additionally, CLG guidance requires that Section 106 contributions are scaled back to those matters directly related to a site, making it much harder to use Section 106 for strategic infrastructure contributions in the future. The clear intention here is that CIL is the primary means of securing developer contributions for strategic infrastructure.
- 2.7 The scale of receipts anticipated Given that CIL is only collected once development commences, there will be a period of about one year after adoption of CIL before the Council can expect to receive significant levels of receipts. Furthermore, on the basis of currently forecast development trajectories, the profiling of CIL receipts show a fairly modest level of receipt anticipated in the early years (perhaps in the order of £400,000 - £1m per annum, depending of the scale and mix of development taking place).
- 2.8 However, it needs to be remembered that the Section 106 process will continue alongside CIL, albeit at a reduced level. Furthermore, any significant upturn in the economy will result in potentially a substantial increase in these sums, and could also lead to a future review of the Charging Schedule which could increase the CIL charges.
- 2.9 Consideration therefore needs to be given to allowing funds to pool over a period of time, and to using CIL as gap funding to supplement other sources.
- 2.10 Provisions relating to borrowing against future CIL receipts. Regulation 60 of the CIL Regulations makes it unlawful for the Council to borrow against future CIL receipts without a specific direction from the Secretary of State. This is a matter that has already been raised with the Government through Plymouth's City Deal submission and other channels. However, it is perfectly legal for CIL receipts to be used to repay infrastructure forward funded by a third party, or for the Council to use its own funds to deliver infrastructure

which can then be repaid using CIL (the principle of recycling of funds which is at the heart of the Investment Fund initiative). One implication of these borrowing restrictions for CIL is that the funds are best suited to smaller scale projects, or to provide gap funding to other projects where CIL is not the primary source.

- 2.11 Flexibility in how the Regulation 123 List is used. The CIL Regulations allow a considerable degree of flexibility in how the Regulation 123 List is used. The requirement is to identify infrastructure projects or types that the Council 'intends will be, or may be, wholly or partly funded by CIL ...'. Although it will be important to include some infrastructure projects or types on the initial Regulation 123 List, this does not need to be a long or a comprehensive list. CIL receipts could be allowed to accumulate over a period of time, with projects being added to the List later. The most important thing is to avoid double counting of developer contributions (i.e. to make sure that no developer is contributing twice to infrastructure costs - once through a planning obligation and the other time through their CIL contribution). However, Government guidance presumes against items being removed from a CIL list so that they can be funded through Section 106. Within this context, it would make sense not to include things on the List too early, given that this will prevent the negotiation of any planning contributions towards these projects through the Section 106 process.
- 2.12 'Meaningful proportion' guidance. Further guidance has been anticipated from the Government for some time on its proposal that a meaningful proportion of CIL receipts from any particular development be spent in the neighbourhood where the development takes place. An announcement was made by the Planning Minister on 10 January 2013 which suggested that the contribution will be as high as 25% for areas with a neighbourhood plan, and 15% for other areas (capped at £100 per Council tax dwelling), to be included in a neighbourhood fund. However, the announcement and subsequent draft legislation seems to apply these provisions to parished areas only and it is not clear yet what the position will be in relation to non-parished areas. Further guidance is promised in Spring 2013. For the purposes of this Cabinet report, it can be noted that although the full implications are not yet known, they are outside of the scope of and separate to the Regulation 123 List.
- 2.13 Use of CIL receipts to cover the costs of administering CIL. Regulation 61 of the CIL Regulations provides for the use of CIL receipts to cover administration costs. In years 1-3, this can be apportioned over a three year period. From year 4 the total amount of CIL applied to administrative expenses shall not exceed 5% of the total CIL receipt for that year. These provisions are outside of the scope of and separate to the Regulation 123 List.



### 3.0 RECOMMENDED PRINCIPLES FOR THE USE OF CIL RECEIPTS

3.1 Taking into account the above context and considerations, the following key principles are recommended to govern the use of CIL receipts.

Principle	Comments
Principle 1: CIL is used to help meet the infrastructure needs and priorities necessary for the sustainable development of Plymouth, as set out in the city's planning strategy and associated delivery plans.	The NPPF provides for the development of CIL Charging Schedules and associated infrastructure planning as an integral part of the local planning process. A plan-led approach to the use of CIL is anticipated to ensure that it meets the Government's objectives of facilitating development. Plymouth's growth related infrastructure needs are identified in the Infrastructure Needs Assessment.
Principle 2: CIL is used to mitigate infrastructure impacts of development which have in the past been mitigated through the Section 106 process.	This means that CIL should be used to help fund infrastructure improvements that have traditionally been negotiated as part of the planning application process. This includes for example: schools, transport, sports & leisure facilities, green infrastructure and open space, public realm, libraries, local health facilities, low carbon infrastructure and flood protection infrastructure.
Principle 3: CIL is used to help fund infrastructure improvements where the Section 106 process would be ineffective in meeting these needs	There will be a number of situations where the most effective route to delivering necessary infrastructure improvements will be to continue to utilise the Section 106 process until the pooling restrictions of Regulation 123 have been met. In addition, CIL can be used to deliver improvements in lower value areas of the city where there is unlikely to be sufficient value in development to successfully negotiate Section 106 contributions.
Principle 4: The effectiveness of CIL will be optimised through prioritising its use as a match funding / gap funding source, linked to other infrastructure funding	The benefits of CIL will be enhanced if CIL is not considered as a primary funding source. The infrastructure needs of the city are significantly greater than the funding likely to be realised through CIL or planning obligations or a combination of both.
Principle 5: The effectiveness of CIL will be optimised through prioritising its use on projects which help unlock further growth	The delivery of infrastructure which helps to unlock the potential for growth will create a virtuous cycle. It will result in increases in development values and new development which itself will produce CIL as well as increases in other revenues such as New Homes Bonus and Business Rates.

3.2 An Equality Impact Assessment has been undertaken in relation to these principles. Its main findings are that:

- Principle 3 is likely to have a positive impact on inequalities through the re-distributional benefits of the CIL regime
- CIL is supportive of community cohesion through its generation of resources for allocating to community infrastructure.

### 4.0 INFRASTRUCTURE NEEDS ASSOCIATED WITH THE DELIVERY OF PLYMOUTH'S PLANNING STRATEGY

4.1 Plymouth's Core Strategy 2006 set out a radical agenda for growth, promoting 30,000 new homes and 40,000 new jobs in the period 2006-2021 and beyond. This Core Strategy has since been supplemented by a number of

delivery focussed plans, including Area Action Plans for the City Centre & University, Derriford & Seaton, Devonport, Millbay & Stonehouse, Central Park and North Plymstock, as well as other types of plan such as the North Prospect Area Planning Statement and the Planning Obligations & Affordable Housing Supplementary Planning Document.

- 4.2 Such a radical agenda for growth, which will deliver an extra 40,000 plus population for the city, can only be achieved if the necessary infrastructure is put in place. This includes, for example, investment in public transport and new roads, new and improved schools, leisure and sports facilities and other community infrastructure, and delivery of major green infrastructure improvements to meet the requirements of European legislation for growth to be sustainably managed.
- 4.3 The Council published its first Infrastructure Needs Assessment in 2011, to provide an overall picture of the infrastructure the city needs to plan for in the long-term in order to deliver sustainable growth. This was followed by a Plymouth Infrastructure Needs Assessment Funding Gap Analysis, which was a required evidence base document for the Community Infrastructure Levy Charging Schedule public examination. This identified a gap of over £240m for the critical infrastructure needs of the city, thus helping to justify the need for a CIL in Plymouth.
- 4.4 It is important to note that the Infrastructure Needs Assessment is not a delivery plan or a funding strategy. It does not set the Council's investment priorities. Rather, it is an analysis of what is needed in order to inform the preparation of delivery plans and funding strategies. The process of prioritisation needs to be undertaken through the Plymouth Plan process and associated investment planning processes. It is anticipated that the Plymouth Plan and an associated medium term investment plan will play a vitally important role in the future allocation of CIL receipts, setting CIL within the context of a range of other delivery and funding mechanisms. In the interim, the Infrastructure Needs Assessment will be a valuable form of evidence to support the initial Regulation 123 List and early reviews of the List.

## **5.0 PLYMOUTH'S FIRST REGULATION 123 LIST**

- 5.1 The fact that a particular infrastructure project is prioritised or needed now is sufficient to justify its inclusion on the Council's initial Regulation 123 List. However, an equally critical consideration is whether inclusion of the project on the List is the most effective means to secure funding. In many cases the answer to this question will be 'no', or at least 'not yet'.
- 5.2 The context and considerations set out in Section 2.0 of this report are of vital importance to ensuring the most effective use of CIL. For example, where Section 106 contributions remain an effective means to help secure funding for an infrastructure project, the early inclusion of that project on the Regulation 123 List would result in a less effective use of CIL. Additionally, although there will be occasions where it will be appropriate to do so, there is no requirement to include a project on the List before the project is ready to be financially delivered. The advice of Officers is that therefore that the initial Regulation 123 List should be a limited to a small number of projects

where it is clear that CIL is currently the most effective means of securing developer contributions and where CIL is particularly suited as a support source of funding. This will enable a significant proportion of the overall fund to be left unspent to accumulate to help fund other projects when they are ready to be included on the List.

5.3 The following infrastructure projects or types have been identified as being appropriate for inclusion in Plymouth’s first Regulation 123 List. Each has been tested against the 5 principles set out in Section 3.0 of this report.

Infrastructure project / type	Summary of reason for selection	How it meets the principles
Public realm improvements in City Centre shopping precinct	This is a strategic priority related to the growth agenda, and by its very nature (a series of smaller projects / interventions) particularly suited to CIL where funds accumulate over time. Section 106 contributions are no longer an effective contributor to this need.	<p>Principle 1. The City Centre is a major priority of the current planning strategy (Core Strategy and City Centre &amp; university Area Action Plan).</p> <p>Principle 2. Planning obligations to address the cumulative impact of development on City Centre public realm are negotiated through the current Section 106 process, as set out in the Planning Obligations &amp; Affordable Housing Supplementary Planning Document.</p> <p>Principle 3. Since April 2010, 13 planning obligations with contributions towards the cost of City Centre public realm improvements have been agreed. This exceeds the pooling restrictions and therefore it is no longer possible to seek planning obligations for City Centre public realm.</p> <p>Principle 4. Planning obligations and CIL will help form a source of match funding for further City Centre public realm improvements.</p> <p>Principle 5. Improvements to City Centre public realm is one of the most important interventions to enhance values and the growth potential of the City Centre</p>
Projects to mitigate the impacts arising from increased recreational use of the European Marine Site	This fulfils a legal requirement derived from the Habitat Regulations to put in place measures to safeguard the European Marine Site from the impacts of growth. The level of	Principle 1. These measures are a requirement of the Core Strategy as derived from its associated Habitats Regulation Assessment.

Infrastructure project / type	Summary of reason for selection	How it meets the principles
	<p>spend required is relatively modest (ranging from £17 for a one-bed dwelling to £40 for a five-bed dwelling). Section 106 contributions are no longer an effective contributor to this need.</p>	<p>Principle 2. Planning obligations to address the cumulative impact of development on the EMS are negotiated through the current Section 106 process, as set out in the Planning Obligations &amp; Affordable Housing Supplementary Planning Document.</p> <p>Principle 3. Since April 2010, 21 planning obligations with contributions towards the cost of mitigating EMS impacts have been agreed. This exceeds the pooling restrictions and therefore it is no longer possible to seek planning obligations for EMS mitigation.</p> <p>Principle 4. Planning obligations and CIL will help form a source of match funding for further EMS initiatives.</p> <p>Principle 5. Investment in these measures is of importance to defending any legal challenge in relation to the growth agenda and will need to be demonstrated in relation to achieving a sound Plymouth Plan.</p>
Central Library	<p>Central library plays a strategic role in relation to the city's growth agenda. Pooling restrictions in relation to contributions for this facility have been reached and therefore CIL is the only viable means of securing future developer contributions.</p>	<p>Principle 1. Central library plays both a local and a strategic role, as acknowledged through the Infrastructure Needs Assessment.</p> <p>Principle 2. Mitigation of the impact of development on library services has been a standard requirement of the S106 process in Plymouth.</p> <p>Principle 3. The S106 pooling restrictions have been exceeded, with 8 planning obligations negotiation since April 2010.</p> <p>Principle 4. CIL contributions will be able to be pooled with current s106 contributions to support wider funding packages for the library facilities.</p>

Infrastructure project / type	Summary of reason for selection	How it meets the principles
		Principle 5. The project will not directly facilitate the unlocking of development, although it will contribute to the overall sustainability of the growth agenda for Plymouth.
North Prospect Community Infrastructure: (1) open space improvements (Cookworthy Green; Titchy Park; new open spaces); (2) public realm and environmental improvements to streets; (3) transport related improvements - parking, traffic calming, access	The successful regeneration of North Prospect depends on the provision of community infrastructure alongside the housing redevelopment. Section 106 is unlikely to be an effect route to funding for this infrastructure.	<p>Principle 1. North Prospect regeneration is a high priority housing initiative and supported through an Adopted Area Planning Statement.</p> <p>Principle 2. The community infrastructure that is necessary as part of this regeneration would have previously been sought through the S106 process.</p> <p>Principle 3. Although the S106 pooling restrictions have not been exceeded, the development values in this area are such that s106 is unlikely to be an effective source of securing developer contributions.</p> <p>Principle 4. CIL contributions will be able to be pooled with current s106 contributions as support funding for projects in North Prospect.</p> <p>Principle 5. The use of CIL will ensure that additional development can take place given that the infrastructure needed will be provided for.</p>

## 6.0 GOVERNANCE, MONITORING AND REVIEW

- 6.1 There are two key matters to consider in relation to governance arrangements. The first relates to the spending of CIL receipts on a project identified on the Regulation 123 List. The second relates to the making of amendments to the Regulation 123 List itself.
- 6.2 It is important to ensure that these governance issues are considered as part of the wider review of governance currently proposed in relation to the capital programme and investment fund. However, there are a number of factors from the legal framework for CIL and planning that need to be taken into account in relation to this review:
- The strong presumption that CIL spend should be aligned to a clear understanding of priorities through a plan-led approach. Although Plymouth’s growth priorities are well articulated through

the Core Strategy and Local Economic Strategy, these plans are currently under review through the Plymouth Plan process. A medium term local investment plan will need to be put in place as part of this process, setting out infrastructure planning priorities and identifying options for funding and delivery. The co-operative council model of operation, as well as legal requirements relating to plan-making and the 'duty to cooperate', require that there is a collaborative approach to investment planning.

- The need for reliable and up to date information in relation to the pooling of Section 106 contributions. This is important as once the statutory pooling threshold of planning obligations is reached, Section 106 contributions will no longer be able to be secured for a particular infrastructure project or type. At this point, it may be appropriate to add the project / type to the CIL Regulation 123 List. The Planning Department will oversee a schedule of pooled contributions to meet this need.
- The importance of being able to amend the Regulation 123 List quickly to overcome constraints to development. There are likely to be occasions where use of CIL could make the difference between a development project proceeding and stalling. This situation is most likely to occur where development is taking place in a deprived location where values are low and where there is insufficient viability to mitigate development impacts through planning obligations. Additionally, it is possible that a quick amendment to the List may be required in the event of a gap funding or match funding opportunity that arises at short notice.
- Acknowledgement that CIL is an additional function given explicitly to the Local Planning Authority relating to the development of the city and mitigating infrastructure impacts.

6.3 Pending any integrated review of governance, the Planning Department be the custodians of Regulation 123 List and associated databases and evidence base. This will include the schedule of pooled contributions and an evidence base report on infrastructure capacity throughout the city, to enable to impacts of particular developments to be tested. It will also include compliance with the annual monitoring requirements of the CIL Regulations.

6.4 Regular reports will be taken to the Capital Delivery Board and the Planning Obligations Forum (to be redefined as the CIL & Planning Obligations Forum) to ensure that good lines of communication are maintained with service providers / other programmes, and to deliver the most effective use of CIL receipts. In addition, the Assistant Director (Planning) will include review of CIL spend and the Regulation 123 List as a regular items on his liaison meetings with the Cabinet Members for Finance and for Environment, and consult the Cabinet Members before publishing any future amendments to the List. Furthermore, a process of engagement with stakeholders and partners will be established in relation to determining future infrastructure priorities, as part of the Plymouth Plan process.