



# Community Infrastructure Levy Revised Draft Regulation 123 List

Consultation  
February 2015



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

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## Part 1 Background

### 1: Community Infrastructure Levy (CIL)

#### What is CIL?

- 1.1. The Community Infrastructure Levy (CIL) is a tool for local authorities in England and Wales to help deliver infrastructure to support the development of the area<sup>1</sup>.
- 1.2. When it takes effect, CIL will run alongside Section 106 agreements ('S106s') which will continue to operate where it is necessary to make developments acceptable.
- 1.3. CIL is established by the following legislation and statutory guidance issued by the Secretary of State (which the Council must have regard to) which are referenced throughout this consultation document:
  - Planning Act 2008 (as amended) ('Sx', where *x* refers to a Section of the Act);
  - Localism Act 2011 (which amends the Planning Act 2008);
  - The Community Infrastructure Levy Regulations 2010 (as amended) ('Rx', where *x* refers to a CIL Regulation)
  - National Planning Practice Guidance: Community Infrastructure Levy (February 2014) ('NPPGx', where *x* refers to a paragraph).

#### What pays CIL?

- 1.4. CIL may be payable on development which creates net additional floorspace, where the gross internal area (GIA) of new build exceeds 100m<sup>2</sup>. That limit does not apply to new dwellings, and the charge can be levied on a single house or flat of any size, unless it is built by a 'self builder'<sup>2</sup>.

#### What does not pay CIL?

- 1.5. The following do not pay CIL<sup>3</sup>:
  - Development of less than 100m<sup>2</sup> – unless this is a whole dwelling, in which case the levy is payable<sup>4</sup>;
  - Houses, flats, residential annexes and residential extensions which are built by 'self-builders'<sup>5</sup>;
  - Social housing that meets the relief criteria<sup>6</sup>;
  - Buildings into which people do not normally go<sup>7</sup>;
  - Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery<sup>8</sup>;
  - Structure which are not buildings, such as pylons and wind turbines;
  - Specified types of development which local authorities have decided should have a 'zero' rate and specified as such in their Charging Schedules; and
  - Vacant buildings brought back into the same use<sup>9</sup>.

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<sup>1</sup> NPPG001

<sup>2</sup> NPPG002

<sup>3</sup> NPPG003

<sup>4</sup> R42

<sup>5</sup> R42A, 42B, 54A, 54B

<sup>6</sup> R43-48

<sup>7</sup> R40(11)

<sup>8</sup> R40(11)

<sup>9</sup> R40(11)

## **Who pays CIL?**

- 1.6.** Landowners are ultimately liable to pay CIL, but anyone involved in a development may take on the liability to pay<sup>10</sup>.

## **How does CIL relate to planning permission?**

- 1.7.** CIL is charged on new development. Normally this requires planning permission from the Council, the Planning Inspectorate or the Secretary of State on appeal. CIL may also be payable on permitted development<sup>11</sup>. CIL is capable of being a material ('financial') consideration in determining planning applications<sup>12</sup>.

## **What are the stages in the collection process?**

- 1.8.** The stages in the collection process for CIL are<sup>13</sup>:
- Developments become liable for CIL upon planning permission at which point the Council issues a Liability Notice to the applicant<sup>14</sup>.
  - The relevant person(s) then submits a Commencement Notice to the Council setting out when development is going to start<sup>15</sup>.
  - The Council then issues a Demand Notice to the relevant person(s) setting out the payment due dates in line with the payment procedure (including the possibility of paying by Instalments)<sup>16</sup>.
- 1.9.** There are certain important statutory responsibilities for person(s) liable for CIL. Further information is provided on the Council's webpage at [www.rbkc.gov.uk/cil](http://www.rbkc.gov.uk/cil).

## **How is CIL liability calculated?**

- 1.10.** Once rates are set for an area, a CIL liability for a development is calculated in accordance with Part 5 of the CIL Regulations 2010 (as amended) which takes into account what is and is not liable (see above) and other factors such as reliefs and exemptions<sup>17</sup>, existing floorspace and an indexation for inflation. Further information is provided on the Council's webpage at [www.rbkc.gov.uk/cil](http://www.rbkc.gov.uk/cil).

## **Mayor of London's ('Mayoral') CIL**

- 1.11.** It should be noted that the Mayor of London's ('Mayoral') CIL Charging Schedule for Greater London came into effect on 1 April 2012 for which a rate of £50/m<sup>2</sup> is levied in the Borough, although medical/health services and schools/colleges have a zero or nil rate (£0/m<sup>2</sup>). The Mayor's CIL is intended to raise £300m towards the cost of Crossrail from across all of London's Boroughs.
- 1.12.** The Council, as the statutory collecting authority, has been collecting the Mayor's CIL in the Borough since it came into effect in accordance with the above nationally-prescribed provisions.

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<sup>10</sup> R31-39; NPPG005

<sup>11</sup> R5; R64; NPPG006

<sup>12</sup> S70(2)+(4) Town and Country Planning Act 1990, as amended by S143 of Localism Act 2011

<sup>13</sup> NPPG046

<sup>14</sup> R65

<sup>15</sup> R67

<sup>16</sup> R69; R69B; R70

<sup>17</sup> NPPG Section 7

## What can CIL be spent on?

- 1.13.** CIL can be spent on infrastructure identified in the Regulation 123 (R123) List and on projects identified for Neighbourhood CIL (NCIL) (see later sections).

## Borough CIL

- 1.14.** The Borough CIL was approved by Full Council on 21 January 2015 to come into effect on 6 April 2015. The rates (£/m<sup>2</sup>) have been set as:

Use  Map available at www.rbkc.gov.uk/ cil  Zone	Residential (C3 & short term lets)	Extra Care Housing	Hotels	Student Accommodation	Industrial / Warehousing
					Offices (B1)
					Retail Uses
					D1 and D2 Uses
					All Other Uses
Zone A	£750	£510	£160 (all zones)	£125 (all zones)	Nil (all zones)
Zone B	£590	£230			
Zone C	£430	£300			
Zone D	£270	£160			
Zone E	£190	Nil			
Zone F	£110	Nil			
Zone G (Earl's Court)	Nil (all uses)				
Zone H (Kensal Gasworks)	Nil (all uses)				

- 1.15.** The **Borough CIL rates are not the subject of this consultation**. They have been set and approved following public consultation, examination and relevant Council decisions:

5 Jan 2012	Cabinet decision to agree to the Royal Borough becoming a CIL Charging Authority
10 Jan 2013	Cabinet decision to agree the CIL Preliminary Draft Charging Schedule (PDCS) for public consultation
23 Jan – 20 Feb 2013	PDCS public consultation <sup>18</sup>
2 May 2013	Cabinet decision to agree the CIL Draft Charging Schedule (DCS) for public consultation
21 Jan – 23 Feb 2014	DCS public consultation <sup>19</sup>
31 Mar 2014	Submission <sup>20</sup> of the DCS to the Planning Inspectorate <sup>21</sup>
9 Jun 2014	First Examination Hearing
14 Oct 2014	Second Examination Hearing
22 Dec 2014	Receipt of Examiner's Report <sup>22</sup>
21 Jan 2015	Approval of the CIL Charging Schedule for Publication <sup>23</sup>
6 Apr 2015	Effect of the CIL Charging Schedule <sup>24</sup> and R123 List

<sup>18</sup> R15; NPPG028

<sup>19</sup> S211(1); R12 E16; R17(3); NPPG012; NPPG030-031

<sup>20</sup> R19; NPPG032

<sup>21</sup> S212; R19-22; NPPG033

<sup>22</sup> S212A; R23-24

<sup>23</sup> S213; R25

<sup>24</sup> S214; R28

## 2: Section 106 (S106) Agreements

- 2.1. S106s are planning obligations or undertakings which can be agreed between a landowners and Council relating to a planning permission and are normally used where planning conditions cannot adequately control the development and/or to secure the provision of necessary infrastructure.
- 2.2. Any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into an obligation:
- (a) restricting the development or use of land in a specified way;
  - (b) requiring specified operations or activities to be carried out in, on, under or over land;
  - (c) requiring the land to be used in any specified way; or
  - (d) requiring a sum or sums to be paid to the authority on a specified date or dates periodically.<sup>25</sup>
- 2.3. A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:
- (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development;
  - (c) fairly and reasonably related in scale and kind to the development.<sup>26</sup>
- 2.4. Planning obligations are intended to “mitigate the impact of unacceptable development to make it acceptable in planning terms”<sup>27</sup>.
- 2.5. There is a general expectation that when CIL is introduced, S106s “should be scaled back to those matters that are directly related to a specific site, and are not set out in a R123 list”<sup>28</sup> (see next section). However, “the Government considers there is still a legitimate role for development-specific planning obligations to enable a local planning authority to be confident that the specific consequences of a particular development can be mitigated”<sup>29</sup>.
- 2.6. When CIL is in effect it will still be possible to have S106s where these are necessary to make developments acceptable, provided that it is not for purposes which the Council intends to spend CIL as shown in a published R123 List. S106s can continue to be sought in addition to any CIL liabilities where necessary to secure contributions for infrastructure purposes (providing they are not on the R123 List and meet the restrictions for pooling – see next section) for affordable housing, site-specific requirements and non-physical infrastructure purposes (for example, employment and training schemes).
- 2.7. This means that when the CIL Charging Schedule takes effect on 6 April 2015, most developments will pay the fixed CIL rates (as well as Mayoral CIL) and some developments will also be required to make S106 contributions, but overall S106 contributions will be scaled down.

### Restrictions to pooling S106s

- 2.8. It is also important to note that, in accordance with CIL Regulation 123, when the

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<sup>25</sup> S106 Town and Country Planning Act 1990 (as amended)

<sup>26</sup> The S106 ‘tests’. R122(2); NPPF para.204; NPPG Planning Obligations para.1; NPPG094

<sup>27</sup> NPPG Planning Obligations para.001

<sup>28</sup> NPPG097

<sup>29</sup> NPPG094



Borough CIL takes effect from 6 April 2015 (or nationally from 6 April 2015), limitations on pooling contributions from S106s will come into effect, meaning that “no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a S106 agreement, if five or more obligations for that project or type of infrastructure have been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy”<sup>30</sup>. (Infrastructure that is capable of being funded by CIL is defined by the Planning Act 2008 in terms of physical facilities so does not encompass some social and employment purposes that are often the subject of S106s).

### **Section 278 Agreements (S278s)**

- 2.9.** S278 agreements are agreements between a highway authority and a person who agrees to pay all or part of the cost of highways works under the Highways Act 1980 (as amended). Similar to S106s, S278s cannot be required for works that are intended to be funded through CIL, i.e. works in the R123 List. However, the pooling restrictions for S106s do not apply to S278s<sup>31</sup>.

### **Interface between CIL and S106s**

- 2.10.** The Council must ensure there is clarity “about the [Council’s] infrastructure needs and what developers will be expected to pay for through which route [CIL or S106]. There should be no actual or perceived ‘double dipping’ with developers paying twice for the same item of infrastructure”<sup>32</sup>.

## **3: Regulation 123 (R123) List**

- 3.1.** To assist with providing clarity about S106s and the interface with CIL, CIL Regulation 123 allows the Council, upon publication of the CIL, “to set out a list of those projects or types of infrastructure that it intends to fund, or may fund, through the levy”<sup>33</sup> – a R123 List. This list does not need to include items which may be the subject of funding from Neighbourhood CIL (NCIL – see later section in this report).
- 3.2.** If an item of infrastructure is on the R123 List, the Council cannot require a S106 to make provision or fund it as part of approving a planning application. If no R123 List is published, the Council cannot require a S106 for any infrastructure and all infrastructure would be funded by CIL.
- 3.3.** As part of the “appropriate evidence to inform the preparation of [the CIL] charging schedule”<sup>34</sup>, and for the purposes of consultation, the Council published a Draft R123 List (Appendix 2) which was also submitted as part of the Examination of the CIL Draft Charging Schedule. Whilst “it is not the purpose of the examination to challenge the [R123] list”<sup>35</sup>, the Examiner’s Report into the CIL Draft Charging Schedule provided some feedback on the Council’s Draft R123 List (see section 9). In response to this, the Council is now consulting on a Revised Draft R123 List (Appendix 1) through “appropriate local consultation”<sup>36</sup>.
- 3.4.** Once raised, CIL must be spent on “supporting development by funding the provision,

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<sup>30</sup> NPPG099; see R123

<sup>31</sup> NPPG104; 107

<sup>32</sup> NPPG095; see also NPPG Planning Obligations para.2

<sup>33</sup> NPPG096; see also S216(5); R2(1) “infrastructure list... a list published by the charging authority”; R123 “charging authority has published on its website a list...” subsection (4)

<sup>34</sup> R14(5); see also Crossrail SPG paras.6.12, 6.14

<sup>35</sup> NPPG017

<sup>36</sup> NPPG098

improvement, replacement, operation or maintenance of infrastructure<sup>37</sup>. The focus should be on “new infrastructure and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development”, meaning that CIL “can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure<sup>38</sup>. ‘Infrastructure’ is defined by S216(2) of the Planning Act 2008 as including:

- Roads and other transport facilities;
- Flood defences;
- Schools and other educational facilities;
- Medical facilities;
- Sporting and recreational facilities; and
- Open spaces<sup>39</sup>.

**3.5.** Once the CIL Charging Schedule is in effect, it will take some time for significant amounts of CIL to accumulate. This is because developments will only be liable, in most cases, where planning permission is granted from the ‘effect’ date (6 April 2015) and then CIL is not payable until when development commences on site – which can in many cases be within months or years.

**3.6.** Decisions on expenditure of CIL will need to be made with regard to the Council’s wider financial and decision-making structures, and will likely need to be aligned with the Council’s other spending programmes, namely, the Capital Programme. Further details on this will be published by the Council in due course.

### **Neighbourhood CIL (NCIL)**

**3.7.** As part of the Council’s CIL expenditure, it “must allocate at least 15% of levy receipts to spend on priorities that should be agreed with the local community in areas where development is taking place” (capped at £100 per council tax registered dwelling), and this can increase to 25% if a Neighbourhood Plan is adopted for an area. This ‘Neighbourhood CIL’ (‘NCIL’) does not have to be spent on just ‘infrastructure’, but may also be spent on “anything else that is concerned with addressing the demands that development places on an area<sup>40</sup>”.

**3.8.** To help decide on what Neighbourhood CIL should be spent on, the Council should “use existing community consultation and engagement processes” to engage with communities and neighbourhoods, as well as involving local businesses and ward councillors<sup>41</sup>.

**3.9.** Whilst it will take some time for significant amounts of CIL to accumulate (see above), the Council intends to consult on possible NCIL expenditure in due course. For the avoidance of doubt, **potential Neighbourhood CIL projects are not the subject of this consultation**. Further details on this will be published by the Council in due course with consultation anticipated later in 2015. **NCIL projects do not have to be identified in the R123 List for the Council to spend CIL receipts on them.**

**3.10.** It is important to note that the amount available for NCIL is heavily-dependent on the actual quantum, type and location of CIL-liable development which commences in the future, and is therefore complicated to forecast.

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<sup>37</sup> S216(1); see R59

<sup>38</sup> NPPG071

<sup>39</sup> S216(2)

<sup>40</sup> S216A-B; R59A-59F; see also NPPG072

<sup>41</sup> NPPG073



## Monitoring

- 3.11. After the CIL Charging Schedule takes effect, the Council must prepare short reports on CIL by the end of each calendar year for the previous financial year covering information including: CIL receipts and expenditure on items of infrastructure and NCIL<sup>42</sup>.
- 3.12. It is intended that these monitoring requirements will be reported through the Council's Monitoring Report which monitors the implementation of the Council's planning policies and development patterns and is currently published on an annual basis<sup>43</sup>.

## 4: Planning Obligations SPD

- 4.1. Because the R123 List (see previous section) will impact on what is capable of being negotiated in S106s, to assist with providing clarity about S106s and the interface with CIL, the Council intends to consult on a Revised Draft Planning Obligations Supplementary Planning Document (SPD) in due course to replace the existing SPD (August 2010). Such a revised SPD is anticipated to be adopted by means of a Key Decision by the Cabinet Member for Planning Policy, Transport and the Arts.
- 4.2. The Revised Draft Planning Obligations SPD will also need to take into account the restrictions to pooling S106s (see above section) and also a new government policy and guidance on S106s for small-scale developments and affordable housing<sup>44</sup>, alongside other necessary updates.

## 5: Timetable & how to comment

- 5.1. **Comments are invited on any aspect of the Revised Draft R123 List (Appendix 1) and the Draft Equalities Impact Assessment (EqIA – Appendix 3) and must be received by **midday on Wednesday 11 March 2015**.**
- 5.2. Comments are encouraged to be made via the Council's online consultation portal at <https://planningconsult.rbkc.gov.uk> which can also be accessed via [www.rbkc.gov.uk/planningpolicy](http://www.rbkc.gov.uk/planningpolicy) or [www.rbkc.gov.uk/cil](http://www.rbkc.gov.uk/cil).
- 5.3. Matters which are **not** the subject of this consultation include the Borough CIL rates (which have been approved following public consultation and examination) and potential Neighbourhood CIL (NCIL) projects (for which consultation is anticipated later in 2015).
- 5.4. Further information the timetable and how to comment is provided in Part 3.

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<sup>42</sup> R62(4); see also R34(5) of The Town and Country Planning (Local Planning) (England) Regulations 2012

<sup>43</sup> [www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/monitoringreport2013.aspx](http://www.rbkc.gov.uk/planningandbuildingcontrol/planningpolicy/monitoringreport2013.aspx)

<sup>44</sup> Available from [www.gov.uk/government/news/pickles-cuts-stealth-taxes-on-new-homes-and-boosts-small-builders](http://www.gov.uk/government/news/pickles-cuts-stealth-taxes-on-new-homes-and-boosts-small-builders)

## Part 2: Approach to the Revised Draft R123 List

### 6: Approach

6.1. The approach to producing the Revised Draft R123 List is as follows:

1. Consider the categories and types of S106s sought as part of the Council's existing **Planning Obligations SPD** (August 2010) – see section 7;
2. Consider the categories and types of infrastructure required to support the Council's existing Core Strategy (December 2010) as identified in the **Infrastructure Delivery Plan (IDP)** (March 2014) which was produced to support the submission of the CIL Charging Schedule – see section 8;
3. Consider **comments made so far** regarding the emerging R123 List, arising from consultation which was previously undertaken for the CIL Charging Schedule – see section 9;
4. Consider the approach to **strategic sites which have a zero CIL charge**, namely Earls Court and Kensal Gasworks – see section 10; and
5. Consider the approach to **uses which have a zero CIL charge**, largely including commercial uses – see section 11.

### 7: Planning Obligations SPD

- 7.1. The existing Planning Obligations SPD (August 2010) sets out a range of categories and types of S106s which may be sought from developments as set out in the table on the following page.
- 7.2. Because the R123 List (see section 3) will impact on what is capable of being negotiated in S106s, to assist with providing clarity about S106s and the interface with CIL, the Council intends to consult on a Revised Draft Planning Obligations Supplementary Planning Document (SPD) in due course to replace the existing SPD (August 2010). Such a revised SPD is anticipated to be adopted by means of a Key Decision by the Cabinet Member for Planning Policy, Transport and the Arts.
- 7.3. The Revised Draft Planning Obligations SPD will also need to take into account the restrictions to pooling S106s (see section 2) and also a new government policy and guidance on S106s for small-scale developments and affordable housing<sup>45</sup>, alongside other necessary updates.
- 7.4. Nevertheless, the existing Planning Obligations SPD is useful to understand the range of categories and types of S106s that the Council currently requires and how and whether such provisions can continue once the CIL Charging Schedule (and the R123 List) take effect.

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<sup>45</sup> Available from [www.gov.uk/government/news/pickles-cuts-stealth-taxes-on-new-homes-and-boosts-small-builders](http://www.gov.uk/government/news/pickles-cuts-stealth-taxes-on-new-homes-and-boosts-small-builders)

## Categories and types of S106s in the Planning Obligations SPD

Categories	Further details	
<b>A Affordable Housing</b>	A1 Affordable Housing	
<b>B Education</b>	B1 Education	<ul style="list-style-type: none"> <li>Nursery education</li> <li>Primary education</li> <li>Secondary education</li> </ul>
<b>C Community Facilities</b>	C1 Health	<ul style="list-style-type: none"> <li>Primary care</li> <li>Secondary care</li> </ul>
	C2 Libraries	<ul style="list-style-type: none"> <li>Libraries</li> <li>Archives</li> </ul>
	C3 Sport & Leisure	<ul style="list-style-type: none"> <li>Swimming pools</li> <li>Sports halls</li> <li>Gym stations</li> </ul>
	C4 Community Facilities	<ul style="list-style-type: none"> <li>Facilities for local community groups</li> <li>Facilities for young people</li> </ul>
	C5 Policing Resources & Emergency Services	
	C6 Revenue Contributions	
<b>D Public Realm</b>	D1 Parks & Open Space	<ul style="list-style-type: none"> <li>General</li> <li>Children &amp; Young Person's Play</li> </ul>
	D2 Streetscape	<ul style="list-style-type: none"> <li>New or improved footways and/or hard or soft landscaping improvements</li> <li>Replacing paving or landscape material on existing public realm including carriageway and footways</li> <li>Improvements to mews entrances</li> <li>Improvement of pedestrian links to local facilities and public transport</li> <li>Street lighting</li> <li>Tree planting</li> <li>Appropriate new street furniture, railings and signage</li> <li>Enhancements to the historic street environment and public realm within conservation areas and to enhance the setting of listed buildings</li> <li>Restoration and enhancement works to listed buildings linked to development within conservation areas or with listed status</li> <li>Research into the historic environment of a given area and interpretative signage to convey the area's history</li> <li>Removal of street clutter</li> </ul>
	D3 Public Art	
	D4 Community Safety	<ul style="list-style-type: none"> <li>Street lighting</li> <li>CCTV</li> </ul>
	D5 Revenue Payments	
<b>E Transport</b>	E1 Public Transport	<p>Local public transport improvements:</p> <ul style="list-style-type: none"> <li>Revenue 'pump priming' of new/extended local bus routes/services and/or increased service frequencies</li> <li>Bus priority measures and improvements to bus stop facilities</li> <li>Access and other improvements to rail and underground stations</li> <li>Facilities to assist interchange between modes</li> <li>Associated street furniture</li> <li>Associated carriageway and pavement measures</li> <li>Associated pedestrian and cycle links</li> <li>Cycle parking</li> </ul> <p>Improvements to transport interchanges and capacity at strategic hubs including:</p> <ul style="list-style-type: none"> <li>Overground stations</li> <li>Underground stations</li> </ul> <p>Major public transport infrastructure projects, including the following possible schemes:</p> <ul style="list-style-type: none"> <li>North Pole Road rail station</li> <li>Chelsea-Hackney Line (Crossrail 2) stations</li> <li>New Crossrail station</li> <li>River transport piers and access</li> </ul>

Categories		Further details
	E2 Highways & Traffic Works	Examples: <ul style="list-style-type: none"> <li>• Traffic calming measures</li> <li>• New road realignments</li> <li>• Junction improvements</li> <li>• Footway improvements</li> </ul>
	E3 Parking Restrictions	
	E4 Travel Plans & Car Clubs	
<b>F Natural Resource Management</b>	F1 Energy Efficiency	
	F2 Renewable Energy	<ul style="list-style-type: none"> <li>• Solar water heating</li> <li>• Ground source heating</li> <li>• PV cells</li> <li>• Wind turbines</li> <li>• Bio mass heating</li> <li>• Decentralised energy networks</li> </ul>
	F3 Flood Risk	
	F4 Air Quality	<ul style="list-style-type: none"> <li>• Air Quality Monitoring</li> <li>• Air Quality Action Fund</li> </ul>
<b>G Employment &amp; Training</b>	G1 Local Training In Construction	<ul style="list-style-type: none"> <li>• Trainee placement</li> <li>• Financial trainee contribution</li> <li>• Notification of vacancies</li> <li>• Local trainee recruitment</li> <li>• Accredited training</li> <li>• On-site resources: recruitment centre and/or employment broker</li> <li>• Jobs fairs</li> <li>• New training facilities</li> </ul>
	G2 General Employment & Training Contributions	
	G3 Securing Employment Premises	
	G4 Town Centres, Regeneration & Affordable Shops	
<b>Monitoring &amp; Programme Costs</b>		

**7.5.** The existing Planning Obligations SPD (August 2010) is supplementary to the policies set out in the Development Plan, which at a local level is currently the Core Strategy (December 2010, as amended) Policy C1 'Infrastructure Delivery and Planning Obligations' (amongst other relevant policies).

**7.6.** It should be noted that The London Plan (2011, as amended 2013, 2015), as part of the Development Plan, also includes a range of policies (with a range of supporting Supplementary Planning Guidance – SPG) which refer to infrastructure, planning obligations and CIL, particularly Policies 8.2 and 8.3.

## **8: Infrastructure Delivery Plan (IDP)**

**8.1.** The Council produced an Infrastructure Delivery Plan (IDP) (March 2014) to support the emerging CIL Charging Schedule (which was based on earlier iterations, including a version produced in 2010 to support the adoption of the Core Strategy).

**8.2.** The IDP estimated a funding gap of approximately £121.76 million for the period up to 2028. It has been estimated that the CIL Charging Schedule rates could contribute approximately £3 million per year towards this funding gap (although this is dependent on the quantum, type and location of development coming forward in the future, and is therefore complicated to forecast).

**8.3.** This demonstrates that CIL will only be able to make a contribution towards the Borough's total infrastructure funding gap and it will not be able to cover the costs for all schemes. It would be expected that other sources of funding (including other developer contributions such as S106s) will become available over time and these could reduce the funding gap, however, it would be unrealistic to expect that the overall resultant funding gap would not be substantial. This is not an unusual finding

for Councils when researching infrastructure funding gaps for CIL charge-setting purposes.

**8.4.** The IDP sets out a range of categories and types of infrastructure necessary to support the Core Strategy as set out in the below table (adapted from IDP Figure 5.1):

**Categories and types of infrastructure in the Infrastructure Delivery Plan (IDP)**

IDP Section	Categories	Further details
7	Transport	<ul style="list-style-type: none"> <li>• Public transport</li> <li>• Highways</li> <li>• Cycle routes</li> <li>• Public rights of way</li> </ul>
8	Utilities & Waste	<ul style="list-style-type: none"> <li>• Telecoms</li> <li>• Gas</li> <li>• Electricity</li> <li>• Water</li> <li>• Waste water</li> <li>• Waste</li> <li>• Renewable energy</li> </ul>
9	Social infrastructure	<ul style="list-style-type: none"> <li>• Health</li> <li>• Education (including adult &amp; community learning)</li> <li>• Emergency services (including police, fire, ambulance)</li> <li>• Community centres</li> <li>• Voluntary services</li> <li>• Custodial services</li> <li>• Post offices</li> <li>• Social housing</li> </ul>
10	Environmental & Green Infrastructure	<ul style="list-style-type: none"> <li>• Biodiversity</li> <li>• Cemeteries</li> <li>• Flooding prevention</li> <li>• Open spaces (including parks)</li> <li>• Sport &amp; leisure (including play areas)</li> <li>• Outdoor sports pitches</li> <li>• Play areas</li> </ul>
11	Culture & Leisure	<ul style="list-style-type: none"> <li>• Conservation areas &amp; historic buildings</li> <li>• Libraries</li> <li>• Cultural facilities</li> </ul>

## 9: Comments made so far

- 9.1. The comments made on the CIL Draft Charging Schedule which relate to the R123 List and spending of CIL are summarised below, with the Council's response:

Source	Comment	Council response as part of this Revised Draft R123 List consultation
Transport for London	A draft R123 List is encouraged as early as possible and should reflect the Borough's transport needs	A Revised Draft R123 List is now being consulted on, which includes transport infrastructure
	TfL will not support the case for funding strategic transport infrastructure which it does not regard as important or justified for the delivery objective of the local plan or assist in funding itself	The Revised Draft R123 List is related to the objectives of the Core Strategy through the Infrastructure Delivery Plan (IDP) evidence base, including the strategic sites
Notting Hill Gate KCS Limited	Public realm improvements, a health centre and a town centre manager for Notting Hill Gate should be added to the R123 List	Public realm and health infrastructure categories have been added to the Revised Draft R123 List. Town centre managers are not 'infrastructure' so have not been added to the Revised Draft R123 List, but are still capable of being sought through S106s
Environment Agency	... no infrastructure requirements to add at this time	Noted
English Heritage	The historic environment should be a recipient of CIL	'Historic environment' is not strictly 'infrastructure' for the purposes of CIL and so has not been added to the Revised Draft R123 List. Historic environment considerations are, as standard, dealt with in planning policies and in considering planning applications
The Kensington Society	There is a need for greater transparency on how CIL income will be allocated to neighbourhoods and public consultation on those funds	A Revised Draft R123 List is now being consulted on. Neighbourhood CIL (NCIL) will be consulted on later in 2015 (see section 3)
St Helens' Residents Association	The submission documents should include a brief reference to the arrangements on neighbourhood planning and confirm that the Council will act in accordance with the statutory regulations	Neighbourhood CIL (NCIL) will be consulted on later in 2015 (see section 3)
Martyn Baker	Developers of significant schemes want tangible community gains through spending near the development site	Noted
	Local communities expect compensation for development and the percentage of CIL returned to communities should be more than 15%	A Revised Draft R123 List is now being consulted on. Neighbourhood CIL (NCIL) will be consulted on later in 2015 (see section 3)
Natural England	The Council should consider how it will comply with para 114 of the NPPF requiring a strategic approach to biodiversity and green infrastructure. The infrastructure proposals do not deliver a strategic response	Biodiversity and Parks & Open Space have been added to the Revised Draft R123 List, following consideration of the Infrastructure Delivery Plan (IDP) infrastructure categories (see section 8)
Examiner's Report into the CIL Draft Charging Schedule	Draft R123 List omits reference to transportation infrastructure	A Revised Draft R123 List is now being consulted on, which includes transport infrastructure
	Draft R123 List lacks close connection to infrastructure priorities in the Infrastructure Delivery Plan (IDP)	The IDP evidence base and infrastructure Categories have been considered in producing the Revised Draft R123 List (see section 8)
	Redraft the R123 List to improve transparency and clarity and to clearly demonstrate the positive purpose of CIL	The IDP evidence base and infrastructure Categories been considered in producing the Revised Draft R123 List (see section 8)



## 10: Strategic Sites

- 10.1. The CIL Charging Schedule sets a zero or 'nil' (£0/m<sup>2</sup>) rate for all uses in Zone G (Earl's Court) and Zone H (Kensal Gasworks).
- 10.2. It will still be possible for the Council to negotiate S106s where the S106 'tests' and other requirements are met (including pooling requirements – see section 2), and so overall there is not an exemption from making developer contributions, subject to viability.
- 10.3. The Core Strategy and IDP provide information on S106s / infrastructure requirements generally expected from development of these two strategic sites, which are summarised below. The Revised Draft R123 List must reflect this to ensure that such S106s are not prejudiced as part of any future planning applications for the sites.

### Earl's Court

- 10.4. Core Strategy Policies CV10 'Vision for Earl's Court in 2028' and CP10 'Earl's Court' provide the place-based policies for Earl's Court and are complemented by Policy 2.13 of The London Plan which designates the Earl's Court and West Kensington Opportunity Area (Table A1.1, #10).
- 10.5. Core Strategy Policy CA7 'Earl's Court Exhibition Centre' sets out the detailed policy for Earl's Court, including the following extracts which cover the S106s / infrastructure requirements expected from development of the site:
  - A significant cultural facility to retain Earl's Court's long standing brand as an important cultural destination, located on the area of the Opportunity Area nearest to public transport accessibility;
  - Social and community uses;
  - On-site waste management facilities to handle waste arising from the new uses of the site (including recycling facilities and/or anaerobic digestion)...;
  - Low or carbon neutral developments and a Combined Cooling, Heating and Power (CCHP) plant or similar, of a suitable size to serve the site with the potential to contribute to the heat and energy demand of the wider community as part of a district heat and energy network...;
  - An open urban square, fronting onto Warwick Road, with land uses that provide positive active edges to the building frontages;
  - Social and community facilities;
  - Additional new public open space, including considering opportunities to create biodiversity;
  - Securing highway contributions including... implementation of [highway] measures... and significant improvements to quality of residential amenity, the pedestrian environment and public transport access in the area of the Earl's Court one-way system;
  - Improvements to tube, bus and rail access, including interchange from the West London Line to the underground network and the extension of bus services into the site;
  - Improved pedestrian links from and through the site and the surrounding area to public transport facilities and improved cycle links to enhance north/south cycle accessibility;
  - Affordable housing as part of residential requirement;
  - Educational facilities; and
  - Other contributions as identified in the Planning Obligations Supplementary Planning Document and site specific Supplementary Planning Document.

**10.6.** The IDP Schedule (Annex 1 of the IDP) is based on the original Infrastructure Table of the Core Strategy (Chapter 37) and also draws upon the Earls Court and West Kensington Opportunity Area Joint SPD (March 2012), including references to the following S106s / infrastructure requirements:

- Affordable housing as part of residential requirement;
- Community facilities;
- Additional new public open space, including considering opportunities to create biodiversity;
- Provision of a CCHP network, or similar;
- Investigating and contributing to returning the one-way to two-way working;
- Potential for improved public transport interchange at Earl's Court and West Brompton Stations; and
- Health facility.

**10.7.** It should be noted that there is already an Earl's Court S106 for 'Application 1' within RBKC for which contributions have already been agreed and committed to (and have started to be paid). The S106 includes the following provisions:

- 64 units of intermediate affordable housing;
- £2,027,000 for highway works;
- £5,401,496 public transport and sustainable transport measures;
- Provision of public open space (Lost River Park – developer's cost £6m)
- £350,000 public realm improvements to Brompton Cemetery frontage;
- £898,162 education contributions;
- Provision of day nursery for capacity of 30 children;
- Provision of 150m<sup>2</sup> of community floorspace;
- £744,000 towards health facilities;
- Delivery of 1,500m<sup>2</sup> of cultural floorspace
- £500,000 towards establishment of cultural fund for Earl's Court;
- £934,684 towards leisure facilities;
- £1,760,000 towards employment and training; and
- £880,000 for monitoring fee including environmental impacts.

### **Kensal Gasworks**

**10.8.** Core Strategy Policies CV5 'Vision for Kensal in 2028' and CP5 'Kensal' provide the place-based policies for Kensal and are complemented by Policy 2.13 of The London Plan which designates the Kensal Canalside Opportunity Area (Table A1.1, #18).

**10.9.** Core Strategy paragraph 5.4.3 states that the following infrastructure is specifically required to deliver the vision for Kensal:

- Crossrail Station;
- Contribution to social and community uses;
- Affordable housing;
- Construction and maintenance of bridges over the canal and railway;
- Improvements to Little Wormwood Scrubs, Kensal Green Cemetery (subject to access through the cemetery and linking bridge over the canal) and other public open spaces;
- Street trees;
- Public art;
- Improved transport infrastructure including better bus links;
- Landscaping and amenity improvements to the Grand Union Canal;

- Enhanced pedestrian links towards Notting Hill Gate via Portobello Road

**10.10.** Core Strategy Policy CA1 'Kensal Gasworks' sets out the detailed policy for Kensal, including the following extracts which cover the S106s / infrastructure requirements expected from development of the site:

- A Crossrail station, subject to approval by Crossrail Limited;
- A Combined Cooling, Heating and Power (CCHP) plant or similar, of a suitable size to serve the site with the potential to contribute to the heat and energy demand of the wider community as part of a district heat and energy network;
- The provision of on-site waste management facilities to deal with the development's waste arisings from the new uses of the site (including recycling facilities and/or anaerobic digestion);
- Improved infrastructure including new pedestrian and cycling links, new roads which connect the site into its surrounding context and other public transport links, including improved connections over both the railway lines and the canal;
- An usable, vibrant and responsive public realm around a mixed-use canalside...;
- The improvement and relocation of the facilities currently provided by Canalside House and the Boathouse Centre on-site if relocation of these facilities is required to achieve a comprehensive redevelopment along the canalside and Ladbroke Grove;
- The retention of the area west of the gas holders for the provision of electricity infrastructure, Part of this site may also be required for a gas pressure reduction station, replacing the gas holders...;
- The ongoing access to the memorial site of the victims of the Paddington rail disaster through a redevelopment which will maintain its dignity;
- A Crossrail station (subject to agreement in principle and detail with Crossrail Limited);
- Social and community uses (including health, education and police);
- Affordable housing;
- Construction and maintenance of bridges over the canal and railway;
- Improvements to Little Wormwood Scrubs and Kensal Green Cemetery (subject to access through the cemetery and linking bridge over the canal);
- Improved transport infrastructure including better bus links and new roads;
- Landscaping and amenity improvements to the Grand Union Canal; and
- Other contributions as set out in the Planning Obligations SPD and the site specific SPD.

**10.11.** The IDP Schedule (Annex 1 of the IDP) is based on the original Infrastructure Table of the Core Strategy (Chapter 37), including references to the following S106s / infrastructure requirements:

- Crossrail station;
- Bridges over the canal and railway;
- Improved transport infrastructure;
- Contribution to improved Little Wormwood Scrubs and cemetery;
- Enhanced pedestrian links;
- Police facilities;
- Health facilities;
- Education facilities; and
- Canal environmental improvements.

## **11: Uses with zero CIL rates**

- 11.1.** The CIL Charging Schedule sets a zero or 'nil' (£0/m<sup>2</sup>) rate for certain and unspecified uses including *inter alia* industrial / warehousing, offices and retail.
- 11.2.** Where there is a resulting zero CIL liability arising from these 'nil' rated uses, it will still be possible for the Council to negotiate S106s where the above S106 'tests' and other requirements are met (including pooling requirements – see section 2), and so overall there is not an exemption from making developer contributions, subject to viability).
- 11.3.** The S106s listed in the Planning Obligations SPD (see section 6), except for Affordable Housing and Education, are all currently required for non-residential / commercial uses (which have a zero or 'nil' CIL rate) above a certain threshold. The Revised Draft R123 List must reflect this to ensure that such S106s are not prejudiced as part of any future planning applications for such uses.

## **12: Revised Draft R123 List**

- 12.1.** The Revised Draft R123 List is provided as Appendix 1 to this consultation document, which has been drafted following the approach set out in the above sections.
- 12.2.** The Revised Draft R123 List (Column A) sets out potential Categories for CIL expenditure and is shown alongside a list (Column B) of 'exceptions' which would remain potential Categories for S106/S278/on-site provision to provide clarity for the purposes of consultation on how CIL and S106s/S278s are expected to work together in the future.
- 12.3.** The Council intends to consult on a Revised Draft Planning Obligations Supplementary Planning Document (SPD) in due course to replace the existing SPD (August 2010) and to reflect the implications of the Revised Draft R123 List.

## Part 3: Timetable & how to comment

### 13: What is the timetable?

13.1. The timetable for the Revised Draft R123 List and associated provisions is:

Wed 11 Feb 2015 midday	Revised Draft R123 List consultation commences
Wed 11 Mar 2015 midday	Revised Draft R123 List consultation closes (4 weeks)
End of Mar 2015	Key Decision to approve R123 List for publication on the Council's website <sup>46</sup>
6 Apr 2015	Effect of the CIL Charging Schedule and the CIL R123 List
Later in 2015	Consultation on Revised Draft Planning Obligations SPD and potential Neighbourhood CIL projects

### 14: What can I comment on?

14.1. **Comments are invited on any aspect of the Revised Draft R123 List (Appendix 1) and the Draft Equalities Impact Assessment (EqIA – Appendix 3). Matters which are not the subject of this consultation include:**

- **Borough CIL rates** – which have been set and approved following public consultation, examination and relevant Council decisions (see section 1); and
- **Potential Neighbourhood CIL (NCIL) projects** – further details on this will be published by the Council in due course with consultation anticipated later in 2015.

### 15: How can I comment?

15.1. Comments are encouraged to be made via the Council's online consultation portal at <https://planningconsult.rbkc.gov.uk/> which can also be accessed via [www.rbkc.gov.uk/planningpolicy](http://www.rbkc.gov.uk/planningpolicy) or [www.rbkc.gov.uk/cil](http://www.rbkc.gov.uk/cil).

15.2. Reference copies have also been made available for inspection at the following locations:

The Customer Service Centre, Kensington Town Hall, Hornton Street, W8 7NX

Libraries (for opening hours, see [www.rbkc.gov.uk/libraries](http://www.rbkc.gov.uk/libraries)):

- Kensington Central Library, Phillimore Walk, W8 7RX
- Chelsea Library, Chelsea Old Town Hall, King's Road, SW3 5EZ
- North Kensington Library, 108 Ladbrooke Grove, W11 1PZ
- Brompton Library, 210 Old Brompton Road, SW5 0BS
- Notting Hill Gate Library, 1 Pembridge Square, W2 4EW
- Kensal Library, 20 Goldborne Road, W10 5PF

<sup>46</sup> S216(5); R2(1) "infrastructure list... a list published by the charging authority"; R123 "charging authority has published on its website a list..." subsection (4); NPPG096

## Appendix 1 Revised Draft Regulation 123 List (Feb 2015)



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

### Royal Borough of Kensington and Chelsea CIL Draft Regulation 123 List

In accordance with Regulation 123 of the CIL Regulations 2010, as amended, the following table contains a list of the types of infrastructure (an 'infrastructure list') that the Council intends, will be, or may be, wholly or partially funded by CIL.

The list will take effect from 6 April 2015.

#### Column A: Revised Draft R123 List

The council intends that it will or may spend CIL on part or all of the cost of provision, improvement, replacement, operation or maintenance of the following infrastructure, as listed in Column A, to support development in the Borough. The list is alphabetical by category. Inclusion of items in the Revised Draft R123 List does not imply priority, or that the Council will spend CIL on every item, or not spend CIL on other unlisted items.

There are a number of exceptions to the Revised Draft R123 List where the Council intends to negotiate S106s/S268s/on-site provision for infrastructure as defined in the Planning Act 2008. In general, this is where that infrastructure is required to make a specific development proposal acceptable, subject to the 'S106 tests' and pooling requirements.

#### Column B: Exceptions from the Revised Draft R123 List

When CIL is brought into effect in the Borough, the Council still intends to negotiate S106s/S278s/on-site provision where the 'S106s' tests and pooling requirements are met. Such S106s could include provision for affordable housing, infrastructure not included within the Revised Draft R123 List, infrastructure items specifically excluded from the R123 List, and other purposes (which may or may not be defined as infrastructure). Column B lists examples of items that could typically be the subject of S106s/S278s/on-site provision. The list is not exclusive and obligations or agreements may be sought for other purposes that are appropriate to particular sites.

The items listed in Column B may also be funded by Neighbourhood CIL (NCIL) as appropriate. NCIL can be spent on infrastructure or anything else that is concerned with addressing the demands that development places on an area. NCIL projects do not have to be identified in the R123 List for the Council to spend CIL receipts on them



Category	Column A Revised Draft R123 List	Column B Exceptions from the Revised Draft R123 List i.e. draft list of provisions to be made by means of S106s/S278s/on-site provision (or possibly NCIL)
A Affordable Housing		<b>A1 Affordable Housing*</b>
B Education	<b>B1 Education</b>	
C Community Facilities	<b>C1 Health</b> <b>C2 Libraries</b> <b>C3 Sport &amp; Leisure</b> <b>C4 Community Facilities</b> <b>C5 Policing Resources &amp; Emergency Services</b> <b>C6 Revenue Contributions</b> <i>Cultural facilities</i>	
D Public Realm	D1 Parks & Open Space <b>D2 Streetscape</b> <b>D4 Community Safety</b> <b>D5 Revenue Payments</b>	<b>D3 Public Art</b>
E Transport	<b>E1 Public Transport</b> <b>E2 Highways &amp; Traffic Works</b>	On-site provision of new or enhanced access from the highway or public transport facilities to a development site (S106/S278) Highway measures necessary to directly mitigate the impact of particular development proposals (S106/S278) Changes to, or introduction of, local traffic management or controlled parking (S106/S278) Removal, relocation or replacement of street furniture, dropped kerbs, crossovers, street trees (S106/S278) <b>Revenue 'pump priming' of new/extended local bus routes/services and/or increased service frequencies**</b> <b>E3 Parking Restrictions</b> <b>E4 Travel Plans &amp; Car Clubs</b>
F Natural Resource Management	<b>F3 Flood Risk</b> <b>F4 Air Quality</b> <i>Waste</i> <i>Biodiversity</i>	<b>F1 Energy Efficiency</b> <b>F2 Renewable Energy</b>
G Employment & Training		<b>G1 Local Training In Construction</b> <b>G2 General Employment &amp; Training Contributions</b> <b>G3 Securing Employment Premises</b> <b>G4 Town Centres, Regeneration &amp; Affordable Shops</b> ***
Monitoring & Programme Costs	****	<b>Monitoring &amp; Programme Costs</b>
<b>Exceptions from the Revised Draft R123 List for which provision will be made by S106s/S278s/on-site provision</b>		
<ol style="list-style-type: none"> <li>1. An item of infrastructure (or the improvement, replacement, operation or maintenance of any infrastructure) that is <u>specifically required to make a development acceptable</u>, subject to the 'S106 tests' and the pooling restrictions, including the below requirements</li> <li>2. <u>On-site</u> provision of infrastructure required in accordance with the Development Plan</li> <li>3. For development in the <u>Earl's Court and West Kensington Opportunity Area / Earl's Court Strategic Site</u> and/or the <u>Kensal Gasworks Strategic Site / Kensal Canalside Opportunity Area</u>, any infrastructure from all Categories required in accordance with the Development Plan (such as infrastructure specified in SPDs or the IDP)</li> <li>4. For <u>commercial floorspace</u> subject to zero Borough CIL rates, any infrastructure from all Categories (except A Affordable Housing and B Education) required in accordance with the Development Plan (such as infrastructure specified in SPDs or the IDP)</li> </ol>		

**Bold = Sourced from the existing Planning Obligations SPD**

*Italics = Sourced from the IDP*

**Bold Italics = Sourced from both the existing Planning Obligations SPD and the IDP**

\* CIL cannot be spent on affordable housing as it is specifically excluded from the definition of 'infrastructure' in S216(2) of the Planning Act 2008 (as amended)

\*\* CIL cannot be spent on bus services as such services, by definition, are likely to be considered as 'services' rather than 'infrastructure'. Other E1 Public Transport projects, are, however, likely to be considered as 'infrastructure', such as bus stop facilities, stations etc.

\*\*\* CIL cannot be spent on employment & training initiatives because they are not 'infrastructure'

\*\*\*\* The Council may spend CIL on administrative expenses incurred by it in connection with CIL in accordance with CIL Regulation 61, but this does not need to be specified on the R123 List

## Appendix 2 Draft Regulation 123 List (Mar 2014)



THE ROYAL BOROUGH OF  
**KENSINGTON  
AND CHELSEA**

### Royal Borough of Kensington and Chelsea CIL Draft Regulation 123 List

In accordance with Regulation 123 of the CIL Regulations 2010, as amended, the following table contains a list of the types of infrastructure that the Council intends, will be, or maybe, wholly or partially funded by CIL.

<b>Types of Infrastructure</b>
Schools and Education Facilities
Medical Facilities
Sports and Recreational Facilities
Open Space
Flood Defences

In accordance with Regulation 73 of the CIL Regulation 2010, as amended 2014, the Council may accept the following infrastructure projects as the provision of infrastructure payments.

<b>Infrastructure Projects</b>
None identified at this time

## Appendix 3 Draft Equalities Impact Assessment (EqIA)



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

### Full Equality Impact Analysis Tool

Overall Information	Details of Full Equality Impact Analysis																								
Financial Year and Quarter	2014-15 Q4																								
Name and details of policy, strategy, function, project, activity, or programme	<p><b>Community Infrastructure Levy (CIL) Revised Draft Regulation 123 (R123) List</b></p> <p>The Community Infrastructure Levy (CIL) is a tool for local authorities in England and Wales to help deliver infrastructure to support the development of the area.</p> <p>The Revised Draft Regulation 123 (R123) List is intended to provide clarity about Section 106 agreements (S106s) and the interface with CIL by setting out a list of projects or types of infrastructure that the Council intends to fund, or may fund, through CIL.</p>																								
Lead Officers	<p>Name: Rob Krzyszowski</p> <p>Position: Planning Policy Team Leader</p>	<p>Email: robert.krzyszowski@rbkc.gov.uk</p> <p>Telephone No: 020 7361 2588</p>																							
Date of completion of final Full EIA	<p>TBC March 2015. The equality duty is a continuing duty and consideration of equality impacts has continued throughout the preparation of the CIL Charging Schedule and consideration of infrastructure requirements. The key dates are:</p> <table border="1"> <tr> <td>5 Jan 2012</td> <td>Cabinet decision to agree to the Royal Borough becoming a CIL Charging Authority</td> </tr> <tr> <td>10 Jan 2013</td> <td>Cabinet decision to agree the CIL Preliminary Draft Charging Schedule (PDCS) for public consultation</td> </tr> <tr> <td>23 Jan 2013 – 20 Feb 2013</td> <td>PDCS public consultation</td> </tr> <tr> <td>2 May 2013</td> <td>Cabinet decision to agree the CIL Draft Charging Schedule (DCS) for public consultation</td> </tr> <tr> <td>21 Jan 2014 – 23 Feb 2014</td> <td>DCS public consultation</td> </tr> <tr> <td>31 Mar 2014</td> <td>Submission of the DCS to the Planning Inspectorate</td> </tr> <tr> <td>9 Jun 2014</td> <td>First Examination Hearing</td> </tr> <tr> <td>14 Oct 2014</td> <td>Second Examination Hearing</td> </tr> <tr> <td>22 Dec 2014</td> <td>Receipt of Examiner's Report</td> </tr> <tr> <td>21 Jan 2015</td> <td>Approval of the CIL Charging Schedule for Publication</td> </tr> <tr> <td>6 April 2015</td> <td>Effect of the CIL Charging Schedule and R123 List</td> </tr> </table>			5 Jan 2012	Cabinet decision to agree to the Royal Borough becoming a CIL Charging Authority	10 Jan 2013	Cabinet decision to agree the CIL Preliminary Draft Charging Schedule (PDCS) for public consultation	23 Jan 2013 – 20 Feb 2013	PDCS public consultation	2 May 2013	Cabinet decision to agree the CIL Draft Charging Schedule (DCS) for public consultation	21 Jan 2014 – 23 Feb 2014	DCS public consultation	31 Mar 2014	Submission of the DCS to the Planning Inspectorate	9 Jun 2014	First Examination Hearing	14 Oct 2014	Second Examination Hearing	22 Dec 2014	Receipt of Examiner's Report	21 Jan 2015	Approval of the CIL Charging Schedule for Publication	6 April 2015	Effect of the CIL Charging Schedule and R123 List
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Section 02	Scoping of Full EIA
Plan for completion	Resources: Staff time
Analyse the impact of the policy, strategy, function, project, activity, or programme	<p>The Revised Draft R123 List sets out a list of projects or types of infrastructure that the Council intends to fund, or may fund, through CIL.</p> <p>There is a general expectation that when CIL is introduced, S106s “should be scaled back to those matters that are directly related to a specific site, and are not set out in a R123 list”<sup>47</sup>.</p> <p>The Revised Draft R123 List means that it will no longer be possible for the Council to seek some ‘categories’ of infrastructure through S106s as set out in the existing Planning Obligations Supplementary Planning Document (SPD), but may instead use CIL receipts to fund such infrastructure categories.</p> <p>It is important to note that, in accordance with CIL Regulation 123, when the Borough CIL takes effect from 6 April 2015 (or nationally from 6 April 2015), limitations on pooling contributions from S106s will come into effect, meaning that “no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a S106 agreement, if five or more obligations for that project or type of infrastructure have been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy”<sup>48</sup>. (Infrastructure that is capable of being funded by CIL is defined by the Planning Act 2008 in terms of physical facilities so does not encompass some social and employment purposes that are often the subject of S106s).</p> <p>This means that, regardless of whether the Council introduced CIL or not, there would be changes in the ways in which developer contributions to infrastructure were made. In the absence of a R123 List from 6 April 2015, the Council’s ability to seek S106s from developments would be even more limited. It is therefore appropriate that the Council introduces a R123 List to provide clarity on what CIL could be spent on, and what S106s are still capable of being sought.</p>
Section 03	Analysis of relevant data
Documents and data reviewed	<p><b><u>NATIONAL DOCUMENTS</u></b>  <i>Inter alia</i>, the following national documents have been considered for the purposes of preparing the Charging Schedule:</p> <ul style="list-style-type: none"> <li>• Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991 and others)</li> <li>• Planning Act 2008 (as amended)</li> <li>• The CIL Regulations 2010 (as amended)</li> <li>• Localism Act 2011</li> <li>• National Planning Policy Framework (NPPF)</li> </ul>

<sup>47</sup> NPPG097

<sup>48</sup> NPPG099; see R123

- National Planning Practice Guidance (NPPG): Local Plans
- National Planning Practice Guidance (NPPG): Planning Obligations
- National Planning Practice Guidance (NPPG): Viability
- National Planning Practice Guidance (NPPG): CIL

In addition to these, other national documents have also been considered for the purposes of considering equalities issues for the Charging Schedule:

- CIL: Initial Impact Assessment (November 2007)
- CIL: Impact Assessment (November 2008)
- CIL: Partial Impact Assessment (July 2009)
- CIL: Final Impact Assessment (February 2010)
- Explanatory Memorandum to the CIL Regulations (March 2010)
- Explanatory Memorandum to the CIL (Amendment) Regulations 2011 No.987 (March 2011)
- Explanatory Memorandum to the CIL (Amendment) Regulations 2014 No.385 (February 2014)

#### **Localism Bill CIL Impact Assessment**

The Localism Bill CIL Impact Assessment provides a general overview at a national level of the impact of CIL. Page 1 states:

“The Community Infrastructure Levy was introduced as an alternative to planning obligations. It provides a simpler, fairer and more transparent system of standard charges to unlock additional funding for infrastructure and respond to the needs of local communities. The planning obligations system by which developers contribute funding for infrastructure is slow and unpredictable, based on ad hoc negotiations conducted in private. Research shows the burden of funding is unfair, falling primarily on major residential developments.”

It also describes a further benefit of CIL as ensuring “funding for vital infrastructure projects for communities that might otherwise not be delivered and thereby help to deliver further development and the benefits associated with this” (page 3). Page 8 lists several advantages of CIL over the current system of planning obligations including: simplicity; predictability; transparency; fairness; and efficiency.

#### **REGIONAL DOCUMENTS**

*Inter alia*, the following regional documents have been considered for the purposes of preparing the Charging Schedule:

- The London Plan: Spatial Development Strategy for Greater London (July 2011, as amended)
- Mayor of London CIL Charging Schedule (April 2012)
- Mayor of London CIL Instalments Policy (March 2013)

In addition to these, other regional documents have also been considered for the purposes of considering equalities issues for

	<p>the Charging Schedule:</p> <ul style="list-style-type: none"> <li>• Report to the Mayor of London: Mayoral CIL: Approval of Charging Schedule (February 2012)</li> </ul> <p><b><u>LOCAL DOCUMENTS</u></b>  <i>Inter alia</i>, the following local documents have been considered for the purposes of preparing the Charging Schedule:</p> <ul style="list-style-type: none"> <li>• Unitary Development Plan (UDP) (as amended) (May 2002)</li> <li>• Core Strategy Development Plan Document (DPD) (December 2010, as amended)</li> <li>• Infrastructure Delivery Plan (IDP) (March 2014)</li> <li>• CIL Charging Schedule (January 2015)</li> </ul> <p>The Revised Draft R123 List has been drafted taking into account the context set by all of the above documents.</p> <p><b>Equalities Implications</b>  The Council when taking decisions in relation to any of its functions must comply with its public sector equality duty as set out in Section 149 of the Equality Act 2010 ('the Act'). Section 149 provides that the Council must in the exercise of its functions (including its functions exercised as local planning authority) have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act, advance equality of opportunity between persons who share a protected characteristic and persons who do not share it and foster good relations between persons who share a protected characteristic and persons who do not share it. An equality impact assessment is the tool by which the authority can assess the impacts on various groups and the decision maker must then have due regard to the results of that assessment.</p>
New research	It is considered that no new research is required for this EqIA.

Section 04	Consultation
Consultation and analysis of consultation outcomes	<p>The key dates relating to the development of the Charging Schedule and consideration of infrastructure requirements are set out in Section 01. The Council has previously welcomed comments on the (emerging) CIL Charging Schedule EqIA. As part of the PDCS and the DCS, the Council has consulted:</p> <ul style="list-style-type: none"> <li>• Local residents, businesses, business bodies, voluntary bodies;</li> <li>• Councils adjoining the Council's area;</li> <li>• The Mayor of London;</li> <li>• The Local Enterprise Partnership;</li> <li>• Local developers and the property industry; and</li> </ul>



	<ul style="list-style-type: none"> <li>• Infrastructure providers.</li> </ul> <p>A Consultation Statement, published as part of the Submission of the CIL Draft Charging Schedule, is available to view on the Council's website at <a href="http://www.rbkc.gov.uk/cil">www.rbkc.gov.uk/cil</a>. Comments made on the CIL Draft Charging Schedule which relate to the R123 List and spending of CIL are summarised, with the Council's response, in section 9 of the Revised Draft R123 List consultation document.</p> <p>Notification of the Revised Draft R123 List consultation has been sent via the Council's 'Planning Bulletin' to all subscribed persons and also to addresses on the Council's Forward Planning Consultation Database. A summary of the consultation comments, along with the Council's responses, will be provided as part of the final Key Decision report.</p>
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Section 05	Analysis of impact and outcomes
Analysis	<p><b><u>PROTECTED CHARACTERISTICS AND THE PUBLIC SECTOR EQUALITY DUTIES (PSED)</u></b></p> <p>This EqIA analyses the likely impacts of the Revised Draft R123 List on statutorily identified protected characteristics, human rights and children's rights. It also assesses the Revised Draft R123 List against the public sector equality duties (PSED) in Section 149 of the Equality Act 2010 which states that in the exercise of our functions the Council must have due regard to the need to:</p> <ul style="list-style-type: none"> <li>• Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited under the Act;</li> <li>• Advance equality of opportunity between people who share a protected characteristic and those who do not; and</li> <li>• Foster good relations between people who share a protected characteristic and those who do not.</li> </ul> <p>Having due regard for advancing equality involves:</p> <ul style="list-style-type: none"> <li>• Removing or minimising disadvantages suffered by people due to their protected characteristics;</li> <li>• Taking steps to meet the needs of people from protected groups where these are different from the needs of other people; and</li> <li>• Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.</li> </ul> <p>The Act states that meeting different needs involves taking steps to take account of disabled people's disabilities. It describes fostering good relations as tackling prejudice and promoting understanding between people from different groups. It states that compliance with the duty may involve treating some people more favourably than others.</p>

**PSED ANALYSIS**

**Category A: Affordable Housing**

<b>Protected characteristic</b>	<b>Analysis</b>	<b>Impact</b>
	The Revised Draft R123 List simply clarifies that developer provision of / contributions to Affordable Housing will continue through S106s. The viability impact of CIL (and residual S106s) was tested as part of the CIL Charging Schedule which demonstrated a neutral impact	Neutral
Age	Neutral impact on Affordable Housing for any age group	Neutral
Disability	Neutral impact on Affordable Housing for any level of ability/disability	Neutral
Gender reassignment	Neutral impact on Affordable Housing for all people whether experiencing gender reassignment or not	Neutral
Marriage and Civil Partnership	Neutral impact on Affordable Housing for all people whether single-person, couple or family	Neutral
Pregnancy and maternity	Neutral impact on Affordable Housing for all people whether experiencing pregnancy, maternity, parenthood or not	Neutral
Race	Neutral impact on Affordable Housing for any race, including where race/culture may have an influence on household size	Neutral
Religion/belief (including non-belief)	Neutral impact on Affordable Housing for any religion/belief/non-belief, including where religion/belief/non-belief may have an influence on household size	Neutral
Sex	Neutral impact on Affordable Housing for either sex	Neutral
Sexual Orientation	Neutral impact on Affordable Housing for any sexual orientation	Neutral

**Category B: Education**

<b>Protected characteristic</b>	<b>Analysis</b>	<b>Impact</b>
	The Revised Draft R123 List proposes that CIL can be spent on Education infrastructure, which means that S106s for Education will no longer be possible to be sought through S106s (subject to the exceptions). Whilst there may (or may not) be a short-term impact on Education receipts from developments as CIL receipts start to build up, this is likely to be outweighed by the increased flexibility of spending CIL receipts across the Borough for Education infrastructure in the long-term. If the Revised Draft R123 List did not suggest CIL receipts could be used for Education infrastructure, S106s for Education would be restricted by pooling limits.	Neutral
Age	Neutral impact on Education for any age group	Neutral
Disability	Neutral impact on Education for any level of ability/disability	Neutral
Gender reassignment	Neutral impact on Education for all people whether experiencing gender reassignment or not	Neutral
Marriage and Civil Partnership	Neutral impact on Education for all people whether single-person, couple or family	Neutral
Pregnancy and maternity	Neutral impact on Education for all people whether experiencing pregnancy, maternity, parenthood or not	Neutral
Race	Neutral impact on Education for any race, including where race/culture may have an influence on household size	Neutral
Religion/belief (including non-belief)	Neutral impact on Education for any religion/belief/non-belief, including where religion/belief/non-belief may have an influence on household size	Neutral
Sex	Neutral impact on Education for either sex	Neutral
Sexual Orientation	Neutral impact on Education for any sexual orientation	Neutral

**Category C: Community Facilities**

<b>Protected characteristic</b>	<b>Analysis</b>	<b>Impact</b>
	The Revised Draft R123 List proposes that CIL can be spent on Community Facilities infrastructure, which means that S106s for Community Facilities will no longer be possible to be sought through S106s (subject to the exceptions). Whilst there may (or may not) be a short-term impact on Community Facilities receipts from developments as CIL receipts start to build up, this is likely to be outweighed by the increased flexibility of spending CIL receipts across the Borough for Community Facilities infrastructure in the long-term. If the Revised Draft R123 List did not suggest CIL receipts could be used for Community Facilities infrastructure, S106s for Community Facilities would be restricted by pooling limits.	Neutral
Age	Neutral impact on Community Facilities for any age group	Neutral
Disability	Neutral impact on Community Facilities for any level of ability/disability	Neutral
Gender reassignment	Minimal impact on the availability of hotel accommodation across the borough for all people whether experiencing gender reassignment or not	Neutral
Marriage and Civil Partnership	Neutral impact on Community Facilities for all people whether single-person, couple or family	Neutral
Pregnancy and maternity	Neutral impact on Community Facilities for all people whether experiencing pregnancy, maternity, parenthood or not	Neutral
Race	Neutral impact on Community Facilities for any race, including where race/culture may have an influence on household size	Neutral
Religion/belief (including non-belief)	Neutral impact on Community Facilities for any religion/belief/non-belief, including where religion/belief/non-belief may have an influence on household size	Neutral
Sex	Neutral impact on Community Facilities for either sex	Neutral
Sexual Orientation	Neutral impact on Community Facilities for any sexual orientation	Neutral

**Category D: Public Realm**

<b>Protected characteristic</b>	<b>Analysis</b>	<b>Impact</b>
	The Revised Draft R123 List proposes that CIL can be spent on Public Realm infrastructure, which means that S106s for Public Realm will no longer be possible to be sought through S106s (subject to the exceptions). Whilst there may (or may not) be a short-term impact on Public Realm receipts from developments as CIL receipts start to build up, this is likely to be outweighed by the increased flexibility of spending CIL receipts across the Borough for Public Realm infrastructure in the long-term. If the Revised Draft R123 List did not suggest CIL receipts could be used for Public Realm infrastructure, S106s for Public Realm would be restricted by pooling limits.	Neutral
Age	Neutral impact on Public Realm for any age group	Neutral
Disability	Neutral impact on Public Realm for any level of ability/disability	Neutral
Gender reassignment	Neutral impact on Public Realm for all people whether experiencing gender reassignment or not	Neutral
Marriage and Civil Partnership	Neutral impact on Public Realm for all people whether single-person, couple or family	Neutral
Pregnancy and maternity	Neutral impact on Public Realm for all people whether experiencing pregnancy, maternity, parenthood or not.	Neutral
Race	Neutral impact on Public Realm for any race, including where race/culture may have an influence on household size	Neutral
Religion/belief (including non-belief)	Neutral impact on Public Realm the borough for any religion/belief/non-belief, including where religion/belief/non-belief may have an influence on household size	Neutral
Sex	Neutral impact on Public Realm for either sex	Neutral
Sexual Orientation	Neutral impact on Public Realm for any sexual orientation	Neutral

**Category E: Transport**

<b>Protected characteristic</b>	<b>Analysis</b>	<b>Impact</b>
	The Revised Draft R123 List proposes that CIL can be spent on Transport infrastructure, which means that S106s for Transport will no longer be possible to be sought through S106s (subject to the exceptions). Whilst there may (or may not) be a short-term impact on Transport receipts from developments as CIL receipts start to build up, this is likely to be outweighed by the increased flexibility of spending CIL receipts across the Borough for Transport infrastructure in the long-term. If the Revised Draft R123 List did not suggest CIL receipts could be used for Transport infrastructure, S106s for Transport would be restricted by pooling limits	Neutral
Age	Neutral impact on Transport for any age group	Neutral
Disability	Neutral impact on Transport for any level of ability/disability	Neutral
Gender reassignment	Neutral impact on Transport for all people whether experiencing gender reassignment or not	Neutral
Marriage and Civil Partnership	Neutral impact on Transport for all people whether single-person, couple or family	Neutral
Pregnancy and maternity	Neutral impact on Transport for all people whether experiencing pregnancy, maternity, parenthood or not	Neutral
Race	Neutral impact on Transport for any race, including where race/culture may have an influence on household size	Neutral
Religion/belief (including non-belief)	Neutral impact on Transport for any religion/belief/non-belief, including where religion/belief/non-belief may have an influence on household size	Neutral
Sex	Neutral impact on Transport for either sex	Neutral
Sexual Orientation	Neutral impact on Transport for any sexual orientation	Neutral

**Category F: Natural Resource Management**

<b>Protected characteristic</b>	<b>Analysis</b>	<b>Impact</b>
	The Revised Draft R123 List proposes that CIL can be spent on Natural Resource Management infrastructure, which means that S106s for Natural Resource Management will no longer be possible to be sought through S106s (subject to the exceptions). Whilst there may (or may not) be a short-term impact on Natural Resource Management receipts from developments as CIL receipts start to build up, this is likely to be outweighed by the increased flexibility of spending CIL receipts across the Borough for Natural Resource Management infrastructure in the long-term. If the Revised Draft R123 List did not suggest CIL receipts could be used for Natural Resource Management infrastructure, S106s for Natural Resource Management would be restricted by pooling limits	Neutral
Age	Neutral impact on Natural Resource Management for any age group.	Neutral
Disability	Neutral impact on Natural Resource Management for any level of ability/disability.	Neutral
Gender reassignment	Neutral impact on Natural Resource Management for all people whether experiencing gender reassignment or not.	Neutral
Marriage and Civil Partnership	Neutral impact on Natural Resource Management for all people whether single-person, couple or family.	Neutral
Pregnancy and maternity	Neutral impact on Natural Resource Management for all people whether experiencing pregnancy, maternity, parenthood or not.	Neutral
Race	Neutral impact on Natural Resource Management for any race, including where race/culture may have an influence on household size.	Neutral
Religion/belief (including non-belief)	Neutral impact on Natural Resource Management for any religion/belief/non-belief, including where religion/belief/non-belief may have an influence on household size.	Neutral
Sex	Neutral impact on Natural Resource Management for either sex.	Neutral
Sexual Orientation	Neutral impact on Natural Resource Management for any sexual orientation.	Neutral



**Category G: Employment & Training**

<b>Protected characteristic</b>	<b>Analysis</b>	<b>Impact</b>
	The Revised Draft R123 List simply clarifies that developer provision of / contributions to Employment & Training initiatives will continue through S106s. The viability impact of CIL (and residual S106s) was tested as part of the CIL Charging Schedule which demonstrated a neutral impact	Neutral
Age	Neutral impact on Employment & Training for any age group	Neutral
Disability	Neutral impact on Employment & Training for any level of ability/disability	Neutral
Gender reassignment	Neutral impact on Employment & Training for all people whether experiencing gender reassignment or not	Neutral
Marriage and Civil Partnership	Neutral impact on Employment & Training for all people whether single-person, couple or family	Neutral
Pregnancy and maternity	Neutral impact on Employment & Training for all people whether experiencing pregnancy, maternity, parenthood or not	Neutral
Race	Neutral impact on Employment & Training for any race, including where race/culture may have an influence on household size	Neutral
Religion/belief (including non-belief)	Neutral impact on Employment & Training the borough for any religion/belief/non-belief, including where religion/belief/non-belief may have an influence on household size	Neutral
Sex	Neutral impact on Employment & Training for either sex	Neutral
Sexual Orientation	Neutral impact on Employment & Training for any sexual orientation	Neutral

**Exceptions including for S106s/S278s/on-site provision, Earl's Court, Kensal Gasworks and commercial uses**

<b>Protected characteristic</b>	<b>Analysis</b>	<b>Impact</b>
	The Revised Draft R123 List simply clarifies that developer (on-site) provision of / contributions to S106s/S278s and infrastructure related to Earl's Court, Kensal Gasworks and commercial uses will continue through S106s. The viability impact of CIL (and residual S106s) was tested as part of the CIL Charging Schedule which demonstrated a neutral impact	Neutral
Age	Neutral impact on infrastructure for any age group	Neutral
Disability	Neutral impact on infrastructure for any level of ability/disability	Neutral
Gender reassignment	Neutral impact on infrastructure for all people whether experiencing gender reassignment or not	Neutral
Marriage and Civil Partnership	Neutral impact on infrastructure for all people whether single-person, couple or family	Neutral
Pregnancy and maternity	Neutral impact on infrastructure for all people whether experiencing pregnancy, maternity, parenthood or not	Neutral
Race	Neutral impact on infrastructure for any race, including where race/culture may have an influence on household size	Neutral
Religion/belief (including non-belief)	Neutral impact on infrastructure for any religion/belief/non-belief, including where religion/belief/non-belief may have an influence on household size	Neutral
Sex	Neutral impact on infrastructure for either sex	Neutral
Sexual Orientation	Neutral impact on infrastructure for any sexual orientation	Neutral

**HUMAN RIGHTS**

Will it affect Human Rights, as defined by the Human Rights Act 1998?

No

It is worth noting that the amendments to the CIL legislation assessed in the Localism Bill CIL Impact Assessment were deemed by the government to "not have an adverse impact on human rights" (page 25). Further, the explanatory memorandum for the 2014 amendments to the CIL Regulations 2010 states that the amendments "are compatible with the [European] Convention [on human] rights" (para.6).

**CHILDREN'S RIGHTS**

Will it affect Children's Rights, as defined by the UNCRC (1992)?

No

**OTHER ANALYSES**

It is also considered important to consider the potential impacts of the Revised Draft R123 List for other general groups as set out below:

Social groups	<p>The Localism Bill CIL Impact Assessment considers that CIL “is unlikely to have an adverse impact on any social group” (page 25).</p> <p>Further to the PSED analysis above, it is considered that the Revised Draft R123 List will not have any significant adverse impacts on any social groups, and in fact will have a positive impact when potential CIL-funded infrastructure schemes are considered.</p>	Neutral
Health	<p>The Localism Bill CIL Impact Assessment suggests that CIL will not “have an adverse impact on health” (page 25).</p> <p>Further to the PSED analysis above, it is considered that the Revised Draft R123 List will not have any significant adverse impacts on health, and in fact will have a positive impact when potential CIL-funded infrastructure schemes are considered.</p>	Neutral
Charities	<p>CIL (Amendment) Regulations 2014 Explanatory Memorandum “The impact on... charities or voluntary bodies is limited to those who develop land or own land that is developed. The changes improve flexibility in the application of the levy and update and add to both discretionary and mandatory reliefs from the levy” (para.10.1).</p> <p>It is acknowledged that charities can help advance equality issues for protected characteristics and groups.</p> <p>Further to the PSED analysis above, it is considered that the Revised Draft R123 List will not have any significant adverse impacts on charities, and in fact will have a positive impact when potential CIL-funded infrastructure schemes are considered.</p>	Neutral
Businesses / Developers / Landowners	<p>The Localism Bill CIL Impact Assessment considers that CIL will provide a number of benefits to businesses, developers and landowners, including:</p> <ul style="list-style-type: none"> <li>• Simplicity;</li> <li>• Reducing risk and providing upfront certainty about liability;</li> <li>• Speeding up the development process;</li> <li>• Avoiding only the minority of (typically larger) developments contributing to the infrastructure needed to support growth as with the existing system of planning obligations; and</li> </ul>	Neutral

		<ul style="list-style-type: none"> <li>Avoiding rewarding developers' ability to negotiate as with the existing system of planning obligations.</li> </ul> <p>It goes on to conclude "We expect that any additional upfront costs on developers should be offset by the benefits..." (page 20); "We do not anticipate the Community Infrastructure Levy having an adverse impact upon fair and open business competition" and "This impact assessment therefore assumes that there will be a neutral effect overall in terms of the administrative burdens on developers" (page 24).</p> <p>CIL (Amendment) Regulations 2014 Explanatory Memorandum states that "The impact on business... is limited to those who develop land or own land that is developed. The changes improve flexibility in the application of the levy and update and add to both discretionary and mandatory reliefs from the levy" (para.10.1).</p>	
	Small and Medium Sized Businesses	<p>The CIL Regulations Explanatory Memorandum states that the CIL legislation "applies to small businesses in the same way that it applies to larger businesses" (11.1).</p> <p>Both the CIL Regulations Explanatory Memorandum and the Localism Bill CIL Impact Assessment emphasise the provisions in the CIL Regulations which are partly intended to help small businesses.</p> <p>The Localism Bill CIL Impact Assessment acknowledges that "as the Community Infrastructure Levy is payable on almost all new developments, there will be a small administrative burden on some developers who did not previously contribute towards infrastructure through section 106 agreements" (page 12). However, it goes on to state that "we would ultimately expect these costs, for small and big businesses alike, to be passed back to landowners through reduced prices for land" (page 24).</p>	Neutral

Section 06	Reducing any adverse impacts and recommendations
Outcome of Analysis	<p>The Revised Draft R123 List is not considered to have any negative impacts on equality. It is likely to have an overall positive impact when the potential CIL-funded infrastructure schemes which could be supported are assessed.</p> <p>It is therefore not anticipated that any specific actions will be needed to remove or mitigate against the risk of unlawful discrimination. However, despite this, the Council will undertake the following actions set out in Section 07 Action Plan.</p>

Section 07		Action Plan				
Action Plan	Issue identified	Action (s) to be taken	When	Lead officer and borough	Expected outcome	Date added to business/service plan
	Impact of Revised Draft R123 List on Borough development, viability (including of residual S106s costs) and delivery of infrastructure across all 'categories'	Monitor as part of (Annual) Monitoring Reports (AMRs)	In relevant AMRs after the CIL Charging Schedules takes effect	Rob Krzyszowski	Information and analysis on impact of CIL	N/A

Section 08	
Chief Officers' sign-off	Name: Jonathan Bore Position: Executive Director, Planning & Borough Development Email: <a href="mailto:jonthan.bore@rbkc.gov.uk">jonthan.bore@rbkc.gov.uk</a> Telephone No: 020 7361 2075
Key Decision Report (if relevant)	TBC March 2015
Lead Equality Manager (where involved)	N/A