

DOCUMENT CILR3



New Forest District Council Local Development Framework

Community Infrastructure Levy

New Forest District outside the National Park January 2013

NFDC Response to Examiner's further questions on S106 and CIL: ED-4

- 1 This note is prepared by NFDC in response to the issues raised by the Examiner in 'Examiner's request for further clarification regarding the assumption about S106 requirements with CIL in place ED-4 January 2013'. The questions posed by the Examiner are in boxed text. The Examiner has asked:

2.1 To ensure that I have properly understood the Council's position and can come to reasonable conclusions in relation to the assumption made in the VA and the wider justification for CIL in terms of necessary infrastructure, I would be grateful if the Council could answer the following questions. I have made the questions detailed and specific in the hope of avoiding any misunderstanding. I would expect that they can be answered briefly.

2.2 *Are the existing pooled S106 contributions sought in relation to open space calculated solely on a pro-rata basis of the extent to which the CS7 standard (in all respects) is not being provided on-site? If not, please explain how, broadly, they are calculated.*

- 2 Yes

2.3 *Does the list of open space projects in Appendix A of the IDP enable the policy CS7 standard to be met by a financial contribution for off-site provision in relation to both informal and formal open space in each settlement? If not, what are the implications?*

- 3 The projects in Appendix A of the IDP¹ are those that have been identified with a clear cost and programme. They will work towards the identified deficiency but will not meet it. Further opportunity sites will need to be identified.

Once CIL came into effect:

2.4 *Would small residential development sites of less than 0.5ha, where policy CS7 does not require any on-site provision (but to which the overall open space standard still applies), have their open space requirements fully met solely by paying CIL? If not, please explain why not.*

- 4 Yes, this is the case. No further open space contributions will be sought from these developments.

2.5 *For larger residential development sites (0.5ha or more):*

(i) would the provision of the CS7(c) on-site requirement be required to be provided and funded by a S 106 in addition to the standard CIL charge or would it be treated as a payment in kind for CIL?

¹ Document EV2: Infrastructure Delivery Plan 2012

- 5 Yes, the provision of onsite informal open space is a separate policy requirement from the CIL charge. Policy CS7² states for sites over 0.5ha:

Policy CS7 (extract):

(c) All new residential developments on sites of 0.5ha or over to provide appropriately designed informal public open space on site and to include the provision of designed good quality play spaces;

- 6 The Council's viability modelling has taken into account the requirement for this onsite provision on sites of 0.5ha (archetypes A,B, C and D) or more within the defined archetypes³ and states:

"In terms of the viability modelling allowance has been made for on-site open space requirements in the density assumptions for archetypes A, B, C and D. The off-site open space and the majority of the transport requirements are associated with S106 pooled contributions."

(ii) if offered by the developer or required by an allocation policy, would the provision on-site of the formal play element of the standard be required to be funded by a S106 in addition to the standard CIL charge or would it be treated as a payment in kind for CIL?

- 7 If offered by a developer it could be treated as a payment in kind in accordance with Regulation 73 of the CIL Regulations⁴.

(iii) where the formal play element of the standard cannot be provided or is not required to be provided on-site and it is to be provided off-site, would this be required to be funded by a S106 in addition to the standard CIL?

- 8 No, this is within the scope of CIL.

2.6 If the Council expects some or all of the open space standard to be funded by S106 financial contributions in addition to CIL, to what extent does that undermine the viability modelling in the VA?

- 9 It does not undermine the viability modelling in the Viability study as the provision of onsite open space was considered and allowed for as part of the modelling, as set out above.

2.7 Where there is any difference between the answers given and the statements made in the Context and Rational Document please briefly explain the reasons for the differences and to what answers/statements I am invited to give most weight.

- 10 This statement should be regarded as superseding any conflicting statements in the Context and Rationale Document. The only conflicting statement the Council is aware of is paragraph 7.10 which states⁵:

7.10 Regulation 73 provides the potential for transfer of land as CIL payment in kind. Where land is required within a development to provide built infrastructure and/or onsite open space to support that development it will be expected that land transfer will be at no cost to the Council and will not be accepted as a CIL payment in kind.

- 11 This paragraph should have only made reference to 'informal' open space and not just 'onsite open space'.

² Document S14: Core Strategy 2009, page 41

³ Document EVI3: (Community Infrastructure Levy Viability Assessment New Forest District Council and New Forest National Park Authority December 2011) paragraph 2, page 32

⁴ Document POL2: CIL Regulations 2010 Regulation 73, page 45

⁵ Draft Charging Schedule Context and Rationale Document April 2012, page 19