

# Tewkesbury Borough Council

Community Infrastructure Levy

## **Regulation 123 List**

## 1 Introduction

- 1.1 Regulation 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) indicates that a Charging Authority can publish on its website a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL (other than CIL to which regulation 59E or 59F applies).
- 1.2 Infrastructure listed below – Regulation 123 list - Infrastructure Projects or Type (that may be wholly or partly secured through CIL) – will no longer be secured through S106 planning obligations or through S278 of the Highways Act (unless as part of the Highways England network). The exceptions to this are set out below in Exclusions from the Regulation 123 List (to be secured through S106, S278 or alternative means).
- 1.3 The intention is to ensure that there is no duplication in the use of both CIL and S106 from the same application for development for the same infrastructure project.
- 1.4 The list does not signify a commitment by the Council to deliver the project, nor does it indicate the Council’s CIL spending priorities.

## 2 Regulation 123

### 2.1 The Regulation 123 List

<b>Regulation 123 list – Infrastructure Projects or Type (that may be wholly or partly secured through CIL)</b>	<b>Exclusions from the Regulation 123 List – (to be secured through S106, S278 or alternative means)</b>
Primary Education (including Early Education Child Care) that is <b>NOT ‘directly related to an individual development’<sup>1</sup></b>	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development acceptable in planning terms’ <sup>2</sup> and ‘fairly and reasonably related in scale and kind to that development’ <sup>3</sup> and <b>IS ‘directly related to that development’</b>
Secondary Education (including Sixth Form within a Secondary School) that is <b>NOT ‘directly related to an individual development’</b>	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and <b>IS ‘directly related to that development’</b>
Further Education (outside	Provision that meets the CIL Regulation 122 tests.

<sup>1</sup> The Community Infrastructure Levy Regulation 2010 (as amended) Regulation 122,(2),(b)

<sup>2</sup> The Community Infrastructure Levy Regulation 2010 (as amended) Regulation 122,(2),(a)

<sup>3</sup> The Community Infrastructure Levy Regulation 2010 (as amended) Regulation 122,(2),(c)

of Secondary Schools) that is <b>NOT “directly related to an individual development”</b>	that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and <b>IS ‘directly related to that development’</b>
Special Educational Needs Facilities that are <b>NOT “directly related to an individual development”</b>	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and <b>IS ‘directly related to that development’</b>
<p>Social and Community facilities including:</p> <ul style="list-style-type: none"> <li>• Community halls</li> <li>• Indoor sports and leisure facilities</li> <li>• Libraries</li> <li>• Faith and spiritual</li> <li>• Museums</li> <li>• Youth facilities</li> <li>• Health</li> </ul> <p>that are <b>NOT “directly related to an individual development”</b></p>	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and <b>IS ‘directly related to that development’</b>
Road network, cycle ways, & footpaths that are <b>NOT “directly related to an individual development”</b>	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and <b>IS ‘directly related to that development’</b>
Other transportation infrastructure that is <b>NOT “directly related to an individual development”</b>	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and <b>IS ‘directly related to that development’</b>
Public realm that is <b>NOT “directly related to an</b>	Provision that meets the CIL Regulation 122 tests- that is ‘necessary to make a specific development

<b>individual development”</b>	acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and <b>IS ‘directly related to that development’</b>
Open Space and green infrastructure that is <b>NOT “directly related to an individual development”</b>	Provision that meets the CIL Regulation 122 tests. that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and <b>IS ‘directly related to that development’</b>
Strategic flood mitigation measures that is <b>NOT “directly related to an individual development”</b>	Provision that meets the CIL Regulation 122 tests. that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and <b>IS ‘directly related to that development’</b>
Waste recycling that is <b>NOT “directly related to an individual development”</b>	Provision that meets the CIL Regulation 122 tests. that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and <b>IS ‘directly related to that development’</b>
Economic Development Infrastructure that is <b>NOT “directly related to an individual development”</b>	Provision that meets the CIL Regulation 122 tests. that is ‘necessary to make a specific development acceptable in planning terms’ and ‘fairly and reasonably related in scale and kind to that development’ and <b>IS ‘directly related to that development’</b>

2.2 The Council may seek to secure S106/S278 contributions towards other projects where it is satisfied that the need meets the tests in Regulation 122 (2) of the CIL Regulations 2010 (as amended) and Paragraph 56 of the NPPF (2018) and it is not referred to above in the Regulation 123 List as funding for infrastructure to be wholly or partly funded by CIL.

2.3 The Council may spend CIL on projects not specified in the Regulation 123 list, above, where it funds infrastructure to support the development of its area.

2.4 The Council will regularly review the list to ensure that it reflects the Infrastructure Delivery Plan (IDP).

END