

Wiltshire Community Infrastructure Levy

Revised Draft Regulation 123 List and Other CIL Policies

Consultation Report

April 2015

[TRANSLATIONS]

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**Appendix A** – List of respondents

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## 1. Introduction

- 1.1. The revised Draft Regulation 123 List sets out the types of infrastructure that the council intends will be, or may be, wholly or part funded by the Community Infrastructure Levy (CIL). The inclusion of an infrastructure type on the list does not signify a commitment from the council to fund (either in whole or part) the listed project or type of infrastructure. The order of the list does not imply any preference or priority.
- 1.2. Wiltshire Council may seek planning obligations through section 106 agreements for specific infrastructure projects or types of infrastructure included within this list but **only where the requirement is created by five or fewer developments**. Any such site-specific infrastructure requirements will be subject to the three statutory tests set out under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).
- 1.3. Appendix A to the revised Draft Regulation 123 List provides more detail on how the List will be applied drawing on examples from the council's Infrastructure Delivery Plan.
- 1.4. The revised Draft Regulation 123 List incorporates changes made by the council to the draft Regulation 123 List submitted to the independent examination of the Wiltshire CIL Draft Charging Schedule.
- 1.5. To accompany the adoption and implementation of the Wiltshire CIL Charging Schedule, the council will also need to publish its approach to paying CIL by instalments and in-kind, as well as its position on offering various types of discretionary relief from CIL, e.g. exceptional circumstances, social housing and charitable development relief.
- 1.6. Between 23 March and 22 April 2015, the council consulted on a revised draft Regulation 123 List, an instalment policy for the payment of CIL and its approach to other CIL policies, alongside a draft Planning Obligations Supplementary Planning Document (SPD).
- 1.7. The Regulation 123 List and other CIL policies should be read in conjunction with the Wiltshire Community Infrastructure Levy (CIL) Charging Schedule and the Planning Obligations SPD. The council intends to adopt the charging schedule and the SPD, alongside the Regulation 123 List and other CIL policies, in May 2015.
- 1.8. Regulation 123 of the CIL Regulations 2010 (as amended) requires the council, as the CIL charging authority for Wiltshire, to publish a list of infrastructure projects or types that it intends will be, or may be, wholly or partly funded by CIL. The council cannot seek a planning obligation towards infrastructure projects or types on this list as a reason for granting planning permission for a development. If the council does not publish a List, then it cannot seek a planning obligation towards any infrastructure.

- 1.9. The council produced this document, a 'Consultation Report', to set out: the consultation methodology, the representations received to the revised draft Regulation 123 List and other CIL Policies consultation, and a summary of key issues and how the council has considered the representations.

### **Structure of this document**

- 1.10. Chapter 2 lists the various ways by which the council consulted upon the Regulation 123 List and other CIL policies.
- 1.11. Chapter 3 provides a breakdown of the number of representations received.
- 1.12. Chapter 4 summarises the key issues arising from the representations with officer comments and proposed changes.
- 1.13. Chapter 5 lists a series of key changes as a result of the representations on the Regulation 123 List and other CIL policies. It also sets out the next steps and a timetable.
- 1.14. Appendix A provides a list of respondents to the consultation on the Regulation 123 List and other CIL policies.
- 1.15. Appendix B collates the various consultation adverts and notices.

## **2. Consultation methodology**

2.1. The council consulted on the Regulation 123 List and other CIL policies in the following ways

- Town and parish newsletter (published week commencing 13 April 2015)
- Local newspapers (i.e. Wiltshire Times, Wiltshire Gazette and Herald and Salisbury Journal) (published week commencing 16/03/2015)
- Direct email/ letter notifications to: all town and parish councils; neighbouring authorities; national/local developers, landowners and property agents; infrastructure providers; local businesses and Chambers of Commerce; charities and voluntary organisations; and local interest groups
- Hard copies of all consultation documents available from the main council offices (at Chippenham, Devizes, Trowbridge and Salisbury) and libraries
- Information published on the council's website and electronic copies of all consultation documents available from the council's website and online consultation portal
- Comments accepted by post, email and online through the council's consultation portal

2.2. The following consultation material was provided:

- Wiltshire Draft Regulation 123 List (March 2015)
- Wiltshire Community Infrastructure Levy (CIL) Policies Consultation Document (March 2015)
- Wiltshire Draft Planning Obligations Supplementary Planning Document (March 2015)
- Representation Form (PDF and WORD versions)

### 3. Representations

- 3.1. In all, the council received representations on the draft SPD from 33 different individuals or organisations.
- 3.2. *Figure 3.1* below illustrates the breakdown of respondent by type. It shows that the largest groups of respondents were landowners and developers and advisory and local interest organisations. Other representations were received from infrastructure providers, town and parish councils, neighbouring authorities and individuals.

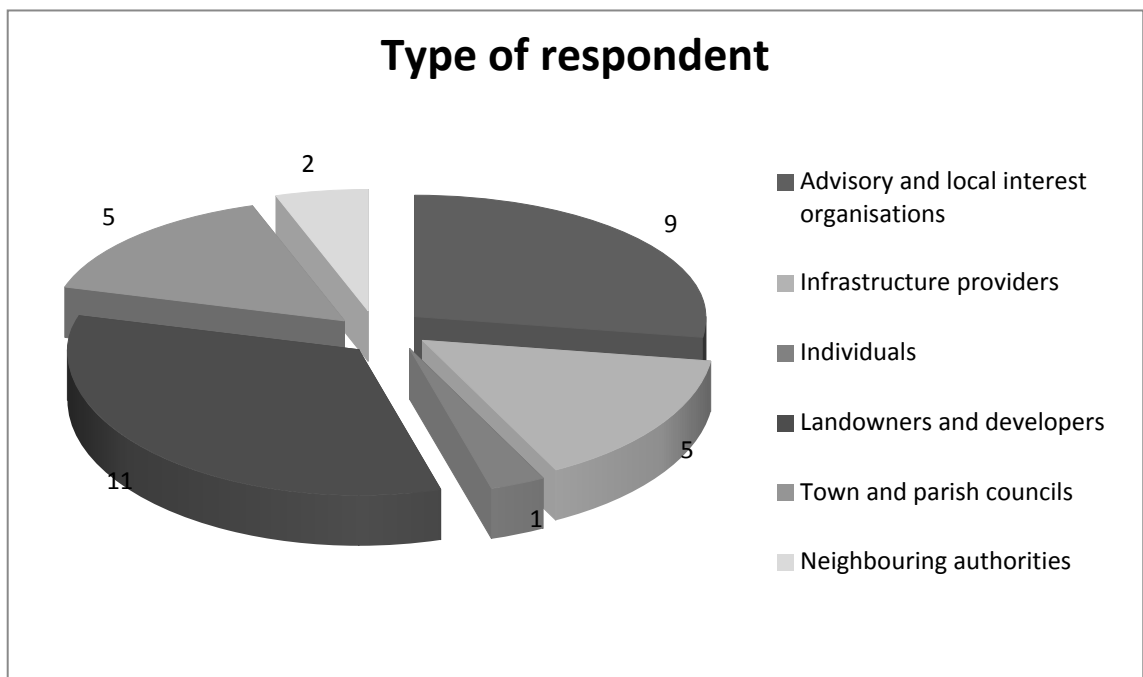


Figure 3.1 – Number of representations by type of respondent

- 3.3. *Figure 3.2* below illustrates the methods by which representations were received.

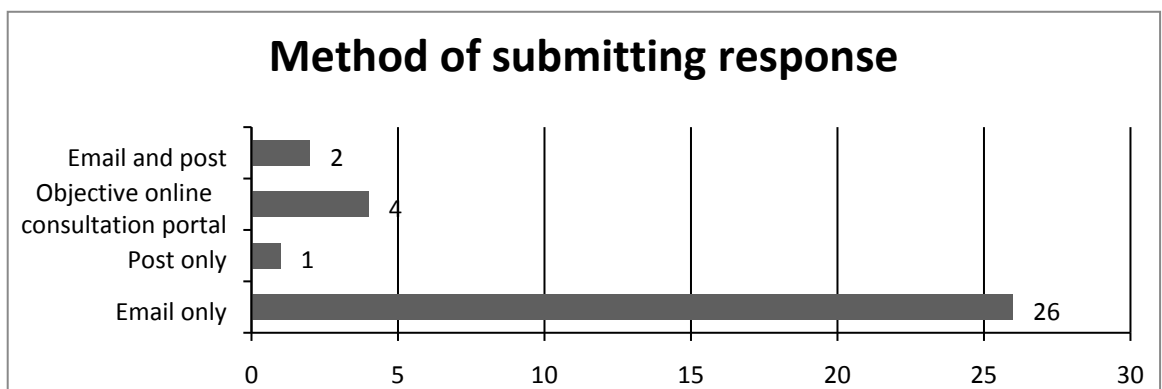


Figure 3.2 - Number of representations received by method



#### 4. Summary of the main issues raised by the representations

- 4.1. The main issues raised by the representations are summarised in *Table 4.1*, with officer commentary and proposed changes, and ordered by the following topics:
- Changes to the draft Regulation 123 List (March 2015)
  - Content of the Regulation 123 List (inc. infrastructure types/ sub-types)
  - Review and consultation process
  - Spending of CIL
  - Instalments policy
  - Other policies
- 4.2. The number in the column titled ‘#’ can be used to link the issues to individual respondents listed in *Appendix A*.
- 4.3. All individual representations are available to view in full, either through the council’s online consultation portal at <http://consult.wiltshire.gov.uk/portal>.

**Table 4.1 – Summary of main issues raised by the consultation**

Topic	#	Issues	Officer comments/ proposed changes
<b>Changes to the draft Regulation 123 List (March 2015)</b>	5	Changes to the draft Regulation 123 List (March 2015) create a lack of clarity and transparency and will lead to uncertainty. The previous version, which was submitted for examination (June 2014), provided certainty and transparency.	<p>The council welcomes the acknowledgement that the submitted draft Regulation 123 List (June 2014) provided certainty and transparency because it considers that nothing has been fundamentally changed in the draft Regulation 123 List (March 2015).</p> <p>The extra words added to Table 1, i.e. ‘<i>except where the requirement can be attributed to five or fewer developments</i>’,</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>are not new and in fact were present in the submitted draft Regulation 123 List (June 2014). Specifically, in paragraph 1.3, third bullet point, of the supporting text, where the council states that it may seek planning obligations towards infrastructure projects, or types, included on the Regulation 123 List but only where there is a need for site-specific infrastructure contributions that ‘...arises from five or fewer developments.’</p> <p>In any case, the council is simply clarifying the pooling limit on planning obligations, introduced by the CIL Regulations 2010 (as amended) that came into force on 6 April 2015.</p> <p>The council also submitted for examination a Planning Obligations Position Statement. This document set out the “residual role for S.106 planning agreements once the CIL regime is in place” and provided the examiner with a series of examples of how CIL and S106 will work in practice. In his report (para 25) the examiner reflected on the relationship between the submitted materials and concluded that when “reviewed together, the Draft Regulation 123 list and the Planning Obligations Position Statement provide a useful and unambiguous distinction between the two [CIL vs S106] infrastructure mechanisms.”</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>As the 'amendments' the Council may have made to the Regulation 123 list essentially reflect the approach taken in the Planning Obligations Position Statement, the council has not actually done anything to alter the position in relation to evidence (IDP), viability and attitude towards funding infrastructure. If anything, the council has made things more clear.</p> <p><b>No change</b></p>
	7	<p>Changes to the draft Regulation 123 List (March 2015) undermine the viability evidence upon which the CIL rates were derived.</p> <p>The assumption for four out of the five development typologies was that an allowance of £1000 per dwellings would be required for site-specific infrastructure. This was the assumption tested at examination. No strong objections were raised by the development industry as there were no caveats present in the submitted draft Regulation 123 List (June 2014).</p> <p>Had the draft Regulation 123 List (March 2015) been before the Examination, significant concerns would have been raised that the £1000 allowance would be wholly inappropriate and considerably below the potential scale of the obligations sought. The development industry would have raised objections and proposed an alternative s106 assumption.</p>	<p>Disagree.</p> <p>First of all, it is incorrect to suggest that the draft Regulation 123 List the council submitted for reference was in some way 'independently tested alongside the Charging Schedule at the CIL examination'. In his report, the examiner discusses the draft R123 List but, with "reference to the 2014 Guidance", makes it clear that "it is not the purpose of the CIL examination to 'challenge' the Draft Regulation 123 list". However, in accordance with Regulation 20, he nonetheless fully considered all representations submitted in relation to the Draft Charging Schedule.</p> <p>The four typologies referred to are all for development sizes fewer than 70 dwellings. As discussed at Examination,</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>it is unlikely that developments of this size will have significant site-specific infrastructure requirements and, therefore, the £1000 per dwelling allowance is considered appropriate.</p> <p>The fifth typology applied to development sizes of 70 units and over and made a s106 allowance of £15,000 per dwelling. Larger developments may, but not always, have significant site-specific requirements and, therefore, the £15,000 per dwelling allowance was included in the viability assessments to reflect this.</p> <p>As well as an increased s106 allowance for larger sites, the council also addressed their potentially higher site-specific requirements by proposing a reduced rate of CIL for sites allocated in the Core Strategy. The council's proposal to extend this to other sites to be allocated through the forthcoming Housing Sites DPD was rejected by the CIL Examiner, for the reasons set out in his report.</p> <p>Furthermore, no viability evidence has actually been produced to substantiate these arguments. In contrast, the council was able to demonstrate at examination that the actual costs of implementing CIL would a) not put at risk 'the relevant plan' and b) represent approximately 1-</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>2% of scheme value.</p> <p>Overall, the council considers that, on the basis that the Regulation 123 List could not be ‘challenged’ at the examination and hasn’t been fundamentally altered since, plus a distinct lack of evidence to substantiate the assertions made by HBF, the proposed Regulation 123 List will not ruin development prospects across Wiltshire.</p> <p><b>No change</b></p>
	9	<p>Changes to the draft Regulation 123 List (March 2015) create uncertainty over the delivery of infrastructure and supporting Hallam Land Management and Bloor Homes outline planning application for residential-led East of Melksham development. Risk of developers being double charged for the same infrastructure item through both CIL and s106.</p> <p>Developers did not object to the CIL Draft Charging Schedule regarding the east Melksham development because took the submitted draft Regulation 123 List (June 2014) to mean that CIL would fund the delivery of all required education and community facilities. The changes in the draft Regulation 123 List (March 2015) raise doubt and uncertainty and the potential for double charging. If these had been present in the submitted draft Regulation 123 List (June 2014), then developers would have objected and participated in the CIL examination.</p> <p>Assumed that GP surgery/ community hall would be delivered through the CIL payment in kind mechanism and expansion of education facilities/ maintenance of open space covered by CIL. However, if these are not funded through CIL then developers would strongly object to the Regulation 123 List.</p>	<p>Disagree, for reasons outlined in response to issue #5 and #7 above.</p> <p>However, Hallam Land Management and Bloor Homes are responsible for their own decision not to participate in the CIL examination. As pointed out in the council’s response to issue #5, the draft Regulation 123 List (June 2014) was not specifically examined and, in any case, the council does not consider that it has fundamentally changed in the draft Regulation 123 List (March 2015).</p> <p>The council is unsure why Hallam Land Management and Bloor Homes have assumed that infrastructure would be delivered through an infrastructure payment in kind policy for CIL because the council is not, and never has, been</p>

Topic	#	Issues	Officer comments/ proposed changes
		Developers request clarification regarding the planning application at east Melksham.	proposing to introduce such a policy (see <i>CIL Policies Consultation Document</i> ).  <b>No change</b>
	18	Without certainty and updated viability assessment, unclear how adoption of Regulation 123 List will affect the viability of the King's Gate development – given that it generated a negative residual value back in November 2013.	The council is not required to conduct a viability assessment on behalf of the developers of a particular site.  <b>No change</b>
	19	The draft Regulation 123 List (March 2015) proposes that education sites will be secured through s106 agreements – this will lead to developers of major sites providing strategic infrastructure and paying a CIL contribution towards strategic infrastructure at the same time.	The council understands that Regulation 122 prevents it from funding the same infrastructure item through both CIL and s106. The pooling limits, which came into force on 6 April 2015 (and backdated to include all planning obligations entered into since 6 April 2010) prevent the council from entering into more than five separate planning obligations for the same infrastructure item.  <b>No change</b>
	26	More clarity is needed on whether a new school, which is proposed as part of the Land to the north of Victoria Road site (Hannick Homes and Persimmon Homes) would be delivered through a planning obligations as understood. Further detail is required in Appendix A of the Regulation 123 List and p.14 of the Planning Obligations SPD.	Site specific infrastructure will be secured through planning obligations. Up to five separate planning obligations can be pooled towards the same infrastructure item. The list as drafted will allow this to be delivered.  <b>No change</b>

Topic	#	Issues	Officer comments/ proposed changes
<b>Content of the Regulation 123 List (inc. Infrastructure types/ sub-types)</b>	1	Add specific reference to sub-types of open space/ green infrastructure and community/ cultural facilities, such as those in paragraph 6.2 of the draft Planning Obligations SPD	<p>Disagree. The council considers there to be no great merit in specifying more detailed sub-sets of infrastructure under the broad identified types. To do so might unduly raise expectations of funding. Appendix 1 to the draft Regulation 123 List provides examples of how CIL and planning obligations might work in practice.</p> <p><b>No change</b></p>
	4	Lack of reference to the use of CIL to fund historic environment infrastructure	<p>The historic environment is a distinct type of infrastructure, rather than a sub-set. There is a brief reference to heritage assets in Appendix A, which is linked to public realm infrastructure, but under the 'other' category.</p> <p><b>Change:</b></p> <p>Add an extra row to Table 1 as follows:</p> <p><b><u>Historic environment and public realm infrastructure</u></b></p> <p><b><u>The provision, improvement, replacement, operation or maintenance of new and existing historic and public realm infrastructure, except where the requirement can be attributed to five or fewer developments.</u></b></p>
	8	Lack of reference to canals, which could fall under either open space/	The council considers there to be no

Topic	#	Issues	Officer comments/ proposed changes
		green infrastructure or cross boundary infrastructure	<p>great merit in specifying more detailed sub-sets of infrastructure under the broad identified types. To do so might unduly raise expectations of funding. Appendix 1 to the draft Regulation 123 List provides examples of how CIL and planning obligations might work in practice.</p> <p><b>No change</b></p>
	10	No reference in Appendix A to specific infrastructure projects in Westbury	<p>Appendix A does not reference any community areas. Its purpose is to provide examples of how CIL and s106 will work in practice. This does not preclude CIL being spent on infrastructure projects in Westbury.</p> <p><b>No change</b></p>
	16	While Highways England would expect that strategic transport infrastructure would be included on the List, it accepts that the nature and cost of schemes is not known and, therefore, a funding gap cannot be identified for which CIL receipts are required. Have the relevant costs have been taken into account when setting the CIL level?	<p>As Highways England acknowledge, the nature and cost of strategic road network schemes are not known at the present time.</p> <p><b>No change</b></p>
	21	Regulation 123 List is very generic, with few schemes identified to demonstrate what schemes CIL payments will apply to and the estimated cost of these schemes to justify the CIL tariff set.	<p>Appendix A to the Regulation 123 List provides examples of how s106 and CIL might operate in practice.</p> <p>The council submitted an Infrastructure Funding Gap Analysis (IFGA) to support the Wiltshire CIL Draft Charging Schedule at examination. The IFGA</p>



Topic	#	Issues	Officer comments/ proposed changes
			<p>drew upon projects identified and costed in the council's Infrastructure Delivery Plan to identify the total cost of infrastructure schemes that were CIL eligible. The amount of known available funding from other sources was taken away from the total cost to identify a funding gap towards which CIL is intended to contribute.</p> <p><b>No change</b></p>
	22	<p>Sport England are concerned that the council could be challenged by developers due to the wording of the draft Regulation 123 List and the draft Planning Obligations SPD.</p> <p>Recommend that the Regulation 123 List should state specific infrastructure projects. By using generic wording, a developer could claim that a s106 contribution cannot be collected for a project of this type because contributions are already being collected through CIL.</p> <p>Suggest specific strategic projects are put on the Regulation 123 List, with smaller scale projects funded through s106 agreements with identified sites, bearing in mind the pooling restrictions.</p> <p>The council's Playing Pitch Strategy will help the council determine sports infrastructure requirements and Sports England will work with the council to ensure that the outputs from this work and the council's other strategies for outdoor and indoor facilities can be fed into the council's Regulation 123 List, IDP and SPD.</p>	<p>The council's approach was supported by the CIL Examiner in his report (dated 16 March 2015). The council submitted a draft Regulation 123 List (June 2014) and a Planning Obligations Position Statement (now Appendix A to the Regulation 123 List). The latter document set out the "residual role for S.106 planning agreements once the CIL regime is in place" and provided the examiner with a series of examples of how CIL and S106 will work in practice.</p> <p>In his report (para 25) the examiner reflected on the relationship between the submitted materials and concluded that when "reviewed together, the Draft Regulation 123 list and the Planning Obligations Position Statement provide a useful and unambiguous distinction between the two [CIL vs S106] infrastructure mechanisms."</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>The draft Regulation 123 List (March 2015) has not been fundamentally changed since the version submitted for examination. The amendments made essentially reflect the approach taken in the Planning Obligations Position Statement.</p> <p>The council welcomes the support of Sports England in developing the council's approach to infrastructure planning and delivery.</p> <p><b>No change</b></p>
	23	Appendix A should be subdivided to take account of the needs of each of the three services. Specifically, the following text should be added; 'Fire stations and associated facilities and requirements and all matters associated with the delivery of fire station services"	<p>Appendix A is intended to provide examples of how s106 and CIL would operate in practice. The council does not believe that specifying further sub-types of emergency services infrastructure would add greatly to the clarity of the document and it may raise expectations of funding unnecessarily.</p> <p><b>No change</b></p>
	25	Clarify that where the Regulation 123 List states ' . . . except where the requirement can be attributed to five or fewer developments' that it relates to instances where no more than five obligations for that project or type of infrastructure have been entered into since 6 April 2010.	<p>The council will amend the Regulation 123 List accordingly. The start date for the pooling limit is already referenced in paragraph 2.12 of the SPD.</p> <p><b>CHANGE:</b></p> <p>Amend the supporting text in the draft Regulation 123 List as follows:</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>Wiltshire Council may seek planning obligations through section 106 agreements for specific infrastructure projects or types of infrastructure included within this list but <b>only where the requirement is created by five or fewer developments. <u>This pooling limit is backdated to include all planning obligations entered into since 6 April 2010.</u></b> Any such site-specific infrastructure requirements will be subject to the three statutory tests set out under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).</p>
	47	AONB Management Plan policies PT5 and PT6 should be referenced.	<p>The AONB Management Plan policies guide the actions of the AONB rather than set out what the council might expect from developers in terms of planning obligations. Policy PT5 states that the AONB will work with local planning authorities to identify infrastructure projects and priorities. The council welcomes this cooperation and will continue to consult the AONB on local planning policy documents.</p> <p>Policy PT6 states that the AONB will encourage local planning authorities to spend CIL on AONB management plan projects. The council considers that any such projects would be likely to fall under the infrastructure types set out in</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>the draft Regulation 123 List and, therefore, eligible to be considered for CIL funding. The council will seek site-specific mitigation of the impact of development through planning obligations. This would apply to development taking place within the AONB area, as in any other area of Wiltshire.</p> <p><b>No change.</b></p>
	48	<p>No reference to landscapes or landscape management in connection with green infrastructure. Designated areas, such as the AONBs and special landscape areas form part of green infrastructure and should be explicitly included</p>	<p>The council considers that any such projects would be likely to fall under the infrastructure types set out in the draft Regulation 123 List.</p> <p>The council considers there to be no great merit in specifying more detailed sub-sets of infrastructure under the broad identified types. To do so might unduly raise expectations of funding. Appendix 1 to the draft Regulation 123 List provides examples of how CIL and planning obligations might work in practice.</p> <p><b>No change</b></p>
<b>Review and consultation process</b>	2	<p>Process for updating the Regulation 123 List and the Infrastructure Delivery Plan (IDP) should be defined.</p>	<p>When the council updates the Regulation 123 List, this process will be clearly explained and subject to appropriate local consultation in line with the CIL Regulations 2010 (as amended).</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>It is unlikely that the council will accrue a significant pool of CIL funding until a few years after implementing CIL. However, the council recognises the need to develop and set out its approach to identifying a process for reviewing the Regulation 123 List and identifying funding priorities to provide clarity and avoid raising expectations.</p> <p><b>No change</b></p>
	3	<p>Unclear how projects have been selected for inclusion in the IDP e.g. SAL017 Boathouse for Wiltshire Scullers School. How can the local community make its views known? Local communities should be involved in updating the IDP and the Regulation 123 List. This would be in line with the council's Business Plan 2015-2017 and CIL guidance, which requires appropriate local consultation when local authorities wish to revise their Regulation 123 List.</p>	<p>The council has consulted extensively with infrastructure service providers on the content of the IDP. As part of the evidence base supporting the Wiltshire Core Strategy and the CIL Charging Schedule, the IDP has also been made available for public comment during consultations/ examinations on those documents. It is anticipated that the IDP will be further updated and available for comment during formal consultations on the forthcoming Housing Sites DPDs.</p> <p>The council will consider suggestions for the inclusion of projects within the IDP. However, the council would encourage community groups to work with town and parish councils to draw up their own infrastructure priorities for their area. This would help them in directing their proportion of CIL receipts towards local community infrastructure projects. It is important to remember that CIL will not</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>fund all infrastructure. The strategic purpose of CIL and, thus, infrastructure on the Regulation 123 List, means that town and parish council CIL receipts (along with other sources of funding) might be a more appropriate avenue to explore.</p> <p><b>No change</b></p>
	17	<p>In addition to the monitoring required under CIL Regulation 62, Highways England suggest that the council might wish to assist the local community, developers and others by including on the website an indicative forward profile of future spend that would then inform any review of the IDP and Regulation 123 List.</p>	<p>The council welcomes Highways England suggestion of a list of projects that CIL would be spent on in the future but considers that this is actually the purpose of the Regulation 123 List and looks forward to working with Highways England to identify specific schemes for inclusion.</p> <p><b>No change</b></p>
	24	<p>Request information on the decision process for the allocation of CIL funding, spending prioritisation and how much CIL funding the Wiltshire Fire and Rescue Service can expect to receive to assist with the delivery of identified infrastructure projects.</p>	<p>It is unlikely that the council will accrue a significant pool of CIL funding until a few years after implementing CIL. However, the council recognises the need to develop and set out its approach to identifying a process for reviewing the Regulation 123 List and identifying funding priorities to provide clarity and avoid raising expectations.</p> <p><b>No change</b></p>
<b>Spending of CIL</b>	6	<p>Developers/ landowners have no control over how CIL receipts are spent. No guarantee that a CIL payment within one community area will result in</p>	<p>It is long established principle in the CIL Regulations and national planning</p>

Topic	#	Issues	Officer comments/ proposed changes
		improved or enhanced infrastructure in that location to support development.	<p>guidance that, unlike s106, the spending of CIL is not tied to a particular development or area. CIL is intended to contribute towards the strategic impact of development over a wider area.</p> <p><b>No change</b></p>
	11	Wiltshire Council negotiations over CIL payments should not include the proportion passed to parishes.	<p>The payment of CIL is not negotiable. In any case, it is up to the parishes how they spend their proportion of CIL. They are not restricted by the council's spending decisions.</p> <p><b>No change</b></p>
	12	Unpaid CIL instalments should be secured against the developers assets.	<p>There are various enforcement measures that the council can use in the event of non-payment of CIL. However, there is no provision in the CIL Regulations for outstanding CIL payments to be secured against a developer's assets.</p> <p><b>No change</b></p>
	13	Concern that developers will end up paying twice for the same infrastructure, e.g. CIL towards the cumulative impact of the development on education provision, sustainable transport provision, health provision and community infrastructure, and s106 towards the site-specific requirements generated by that development, or up to five developments in aggregate.	<p>The council is well aware that the CIL Regulations and national planning guidance preclude it from securing funding from both CIL and s106 towards the same infrastructure project. The council will not be spending CIL on infrastructure projects secured through s106.</p>

Topic	#	Issues	Officer comments/ proposed changes
			<b>No change</b>
	14	Development taking place outside Salisbury City Council boundaries will impact upon the city rather than the neighbouring parishes in which the development takes place. Core Policy 3 references the need for town and parish councils and other stakeholders to work together to establish local priorities and organise funding through CIL (and planning obligations) as appropriate. How will this work in practice?	<p>Town and parish councils can spend their proportion of CIL on infrastructure outside their boundaries if it supports development within their boundaries. Therefore, CIL receipts passed to parishes bordering Salisbury City Council boundaries could be spent on infrastructure within the city boundaries. The council would encourage parishes to work together to identify local infrastructure needs resulting from new developments and how they could be funded through town and parish CIL receipts. The council would still seek site-specific infrastructure requirements through planning obligations, and strategic infrastructure requirements that address the cumulative impact of development through its proportion of CIL.</p> <p><b>No change</b></p>
	15	Request a realistic amount allocated from CIL towards cycling infrastructure projects in the IDP (i.e. £620K p.a. or £9m+ between 2011 and 2026).	<p>The council has long recognised that it has never been the intention, nor is it possible, that CIL will fund all the demands for infrastructure provision. Instead, the purpose of CIL is to contribute towards funding infrastructure, in conjunction with other sources of funding.</p> <p>The figure included in the IDP for</p>



Topic	#	Issues	Officer comments/ proposed changes
			<p>spending on walking and cycling infrastructure is derived from the evidence base underpinning the transport strategies for the principal settlements of Chippenham, Salisbury and Trowbridge. When the IDP is updated, the latest information and figures will be included.</p> <p><b>No change</b></p>
	20	Full CIL requirements relating to education and health should be assessed and calculated now so that landowners/ developers can be clear on the tariffs being sought.	<p>The CIL rates that apply to different types of development are clearly set out in the Wiltshire CIL Charging Schedule.</p> <p>A tariff system cannot be used to secure planning obligations towards infrastructure. Instead, site-specific infrastructure is requested on a case-by-case basis. Planning obligations must meet the statutory tests set out in the CIL Regulations 2010 (as amended) and no more than five separate planning obligations can be pooled towards the same infrastructure item.</p> <p><b>No change</b></p>
<b>Instalments policy</b>	27	Support principle of an instalments policy	<p>Support noted.</p> <p><b>No change</b></p>
	28	Concern over the structure of the proposed approach to CIL instalments policy insofar as it's based on 'days elapsed' rather than trigger points linked to individual site circumstances.	<p>The approach proposed has been tailored along the lines of tried and tested approaches from the</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>implementation of CIL in other local authorities. In addition, the approach proposed is considered to accord with the provisions of Regulation 69B of the amended CIL regulations. Therefore, at this stage, the approach is considered to be reasonable and workable.</p> <p><b>No change</b></p>
	30	<p>Remove the requirement that the timing of the final payment should always fall upon completion of the development – most developments do not start to deliver value until after completion. Places an unnecessary burden on cash-flow.</p>	<p>The council does not consider that there is any evidence put forward to justify changing the council’s proposed instalments policy, which is derived from assumptions made in the CIL Viability Study (November 2013) and is in line with practice elsewhere.</p>
	31	<p>Schemes with CIL payments over £500,000, of which there will be a significant number, would be better served by payment in four instalments, as opposed to three, i.e.</p> <ul style="list-style-type: none"> <li>• 25% payable within 60 days</li> <li>• 25% payable with 420 days</li> <li>• 25% payable within 660 days, and</li> <li>• 25% payable within 720 days</li> </ul> <p>Or,</p> <p>Add an additional band to instalments policy – for schemes with a CIL liability over £750,000 to follow the above proposed format.</p>	<p>For large scale developments, the council has the option of allowing such developments to be delivered in phases. The CIL Regulations (Regulation 8(3A) as amended by the 2014 Regulations) allow for both detailed and outline permissions (and therefore ‘hybrid’ permissions as well) to be treated as phased developments for the purposes of CIL. This means that each phase would be a separate chargeable development and therefore liable for payment in line with the council’s instalment policy.</p>
	34	<p>Suggest that the dates in the CIL Instalments Policy relate to multiples of 365 days for convenience.</p>	
	35	<p>For large developments, suggest spreading infrastructure costs over a longer period, as follows:</p> <ul style="list-style-type: none"> <li>• for CIL liability of between £35,000 and £250,000, that the final</li> </ul>	<p>The council will regularly monitor and review the implementation of CIL,</p>

Topic	#	Issues	Officer comments/ proposed changes
		<p>payment is payable within 365 days (rather than 360 days)</p> <ul style="list-style-type: none"> <li>• for CIL liability of between £250,000 and £500,000, that the first 35% payment be made within 365 days (rather than 360 days)</li> <li>• for CIL liability of over £500,000 – and there is no upper limit specified here - that the first 35% payment be made within 730 days (rather than 360 days) and that the final 35% payment be made within 1460 days</li> </ul>	<p>including the efficacy of its instalment policy. The council has the flexibility to revise or withdraw the policy when appropriate, subject to providing at least 28 days notice.</p> <p><b>No change</b></p>
	40	Request greater certainty about how the instalments policy will be applied to strategic sites/ allocations	
	41	Initial payment of 30% within 60 days of commencement could delay delivery – high number of strategic allocations within Wiltshire; most other authorities require 20% payment within that period owing to high upfront costs associated with starting construction	
	44	Lower initial instalment of 20%, followed by three further instalments (four instalments in total, rather than three)	
	45	<p>Instalments policy inflexible in accommodating various scales of development.</p> <p>Difference between 1<sup>st</sup> tier (i.e. 100% of CIL liability up to £35k within 60 days) and 2<sup>nd</sup> tier (£35k to £250k in three instalments) is too great.</p> <p>Potential to penalise smaller development proposals that generate a small increase in floorspace, such as hotel developments to deliver a limited number of additional rooms/ facilities only be recouped over the longer term, where a high upfront CIL payment could generate cash-flow problems.</p> <p>Suggest additional payment tiers, otherwise a payment of £35K has to be paid in one instalment, whereas £35,001 could be spread over three</p>	

Topic	#	Issues	Officer comments/ proposed changes
		<p>instalments</p> <p>Suggested instalments policy:</p> <ul style="list-style-type: none"> <li>• CIL liability between £15K and £35K payable in two instalments</li> <li>• CIL liability between £35,001 and £150K payable in three instalments</li> <li>• CIL liability above £150K payable in four instalments</li> </ul>	
	32	<p>Potential implication of CIL instalment policy is that a funding shortfall could exist for Regulation 123 schemes, e.g. where high cost strategic schemes are necessary early in the CIL period. Where schemes are necessary to ensure development impact on the strategic road network is not severe, Highways England would normally recommend a planning condition that any necessary mitigation is in place prior to the severe impact occurring. Any delay due to CIL accrual falling behind scheme spending requirement could result in delays to development occupations. This could apply to local road schemes and strategic road network schemes. Highways England request suitable reassurance that there are contingencies in place to ensure that this situation does not occur and reduce the risk that infrastructure may be delayed due to any instalments arrangement.</p>	<p>The council would expect that schemes that mitigate the impact of specific development on the strategic road network would be secured through planning condition or planning obligation.</p> <p>CIL is intended to contribute towards infrastructure that addresses the cumulative impact of development. It must be recognised that CIL receipts will take time to accrue and may not be available in sufficient amounts towards the beginning of its operation.</p> <p><b>No change</b></p>
	38	<p>Will the instalments policy apply for contributions to Wiltshire Fire and Rescue?</p>	<p>The instalments policy sets out the proposed schedule for payment of CIL by developers. CIL is paid into a 'central pot' held by the council. This money will then be spent on infrastructure types or projects on the Regulation 123 List.</p> <p><b>No change</b></p>

Topic	#	Issues	Officer comments/ proposed changes
	42	<p>Seek unequivocal confirmation that the council will agree to CIL being applied to phases or sub-phases of strategic sites – requires clarification on what constitutes a strategic site and a phase/ sub-phase.</p> <p>Change the wording that the council ‘may’ allow phased developments for the purposes of CIL to ‘will’ allow.</p> <p>Instalments policy should specifically state that it will apply to phases/ sub-phases of development</p> <p>Instalments policy should make specific reference that the council will agree to CIL being levied on phases or sub-phases of 50 dwellings or more</p>	<p>It is not for the council to decide for developers how they phase their development.</p> <p>It is down to the developer to make their proposals and the local planning authority to consider them.</p> <p>Disagree with proposals to specify that CIL will apply to phases/ sub-phases of 50 dwellings or more.</p> <p><b>No change</b></p>
	43	Viability doubts over proposals in category 4 settlements	<p>The settlement category 4 rates were considered at the examination. See examiner’s report.</p> <p><b>No change</b></p>
<b>Other CIL policies</b>	29	Request that the council adopt CIL policies of infrastructure payment in kind and exceptional circumstances to reduce the risk of developers being charged twice for the same infrastructure projects and to ensure that projects included on the Regulation 123 List are delivered within a specific timescale.	<p>The council does not consider it necessary at the present time to introduce CIL policies on payment in kind or exceptional circumstances. However, the council will monitor the implementation of CIL and has the option of introducing either of these policies should it deem them necessary.</p> <p><b>No change</b></p>
	33	Support approach to social housing relief.	<p>Noted.</p> <p><b>No change</b></p>

Topic	#	Issues	Officer comments/ proposed changes
	36	Urge the council to consider modifying the proposed social housing relief policy, given the amendments to the CIL Regulations that came into force on 1 April 2015 (during this consultation process).	<p>While mandatory social housing relief will of course apply in Wiltshire, as set out in the CIL Regulations 2010 (as amended), the council is not proposing to introduce a discretionary social housing relief policy.</p> <p><b>No change</b></p>
	37	Welcome the council's proposed payment in kind policy.	<p>Support noted. However, just to clarify, the council is not proposing an infrastructure payment in kind policy for CIL, for which the council would be required to set out a policy signalling its intention to do so.</p> <p><b>No change</b></p>
	39	Does the payment in kind policy prevent or limit Wiltshire Fire and Rescue Service from entering into agreements with landowners and/ or developers?	<p>The council is not proposing to adopt an infrastructure payment in kind policy, for which it would have to publish a policy expressing its intention to do so.</p> <p><b>No change</b></p>
	46	Unclear when CIL will commence and how it will impact on applications currently submitted. Request clarity on timescale given concerns about potential 'double dipping'.	<p>The council will commence charging CIL in May 2015, on the date specified on the Wiltshire CIL Charging Schedule.</p>

## 5. Proposed changes and next steps

- 5.1. *Table 5.1* contains a list of proposed changes as a result of consultation feedback.

### Proposed changes

Table 5.1 - Proposed actions as a result of consultation feedback

#	Proposed changes
C1	<p>Add an extra row to Table 1 as follows:</p> <p><b><u>Historic environment and public realm infrastructure</u></b></p> <p><b><u>The provision, improvement, replacement, operation or maintenance of new and existing historic and public realm infrastructure, except where the requirement can be attributed to five or fewer developments.</u></b></p>
C2	<p>Amend the supporting text in the draft Regulation 123 List as follows:</p> <p>Wiltshire Council may seek planning obligations through section 106 agreements for specific infrastructure projects or types of infrastructure included within this list but <b>only where the requirement is created by five or fewer developments. <u>This pooling limit is backdated to include all planning obligations entered into since 6 April 2010.</u></b> Any such site-specific infrastructure requirements will be subject to the three statutory tests set out under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).</p>

### Next steps

- 5.2. This Consultation Report presents a summary of the feedback from the consultation on the revised draft Regulation 123 List and other CIL policies.
- 5.3. The next step will be to prepare the final documents, taking into account the proposed changes and any others following internal review, which will then be presented to the council's Cabinet for recommendation to adopt by a meeting of Full Council.

### Timetable

- 5.4. The next stages in the preparation of the revised draft Regulation 123 List and other CIL policies are set out in *Table 5.2* below.

Stage	Date
Cabinet (recommendation to Council for adoption)	11 May 2015

<b>Council</b> (adoption)	12 May 2015
<b>Implementation</b>	18 May 2015



## **Appendix A List of respondents**

## Revised Draft Regulation 123 List and other CIL Policies

### Consultation Statement Appendix A – List of Respondents

#### Index

The number in the column titled 'issue(s) #' can be used to link each respondent to the issues raised in Table 4.1. Where there is N/A, either the respondent had no comments or their comments related to the draft Planning Obligations Supplementary Planning Document (SPD) and were included in the separate consultation statement for the SPD.

Comment ID(s)	Respondent	Issue(s) #
1	<b>GPSS</b> Consultee ID: 390747  c/o Ms Emma Pattison Fisher German Agent ID: 846301	N/A
2	Mr John Moran <b>Health and Safety Executive</b> Consultee ID: 899838	N/A
3	Mr Lance Allan <b>Trowbridge Town Council</b> Consultee ID: 391073	1
4	Mr Charles Routh <b>Natural England</b> Consultee ID: 382216	N/A
5	<b>Thames Water</b> Consultee ID: 401427  c/o David Wilson Savills Agent ID: 785231	N/A
6	Ms Patricia Trevett <b>Bemerton Community Ltd</b> Consultee ID: 902570	2; 3
7	Ms Kath Hatton <b>Wilts &amp; Berks Canal Trust</b> Consultee ID: 550537	N/A
8	Mr Philip Bamford <b>Gladman Developments</b> Consultee ID: 785866	27; 28
9	Mrs Jane Hennell <b>Canal &amp; River Trust</b> Consultee ID: 376324	N/A
10	<b>Mrs Lynne Fish</b> Consultee ID: 549368	2; 3

11	Mr Rohan Torkildsen <b>English Heritage</b> Consultee ID: 403792	4
12	<b>Home Builders Federation</b> Consultee ID: 710752  c/o Mr Nick Matthews Savills Agent ID: 389644	5; 6; 7
13	Mr Neville Nelder <b>Cotswolds Canal Trust</b> Consultee ID: 463097	8
14	Ms Kate Neal <b>Hallam Land Management and Bloor Homes</b> Consultee ID: 902742	5; 9
15	Ms Helen Patton <b>New Forest National Park Authority</b> Consultee ID: 382305	N/A
16	Ms Amanda McCann <b>Westbury Town Council</b> Consultee ID: 840677	10; 11; 12
17	Mrs Teresa Strange <b>Melksham Without Parish Council</b> Consultee ID: 857749	N/A
18	Ms Judi Scholey <b>Asda Stores Ltd</b> Consultee ID: 903164  c/o Ms Nicola Gooch Thomas Eggar LLP Agent ID: 903167	13; 27; 29; 30; 31
19	Mr Chris Southwood <b>Persimmon Homes South Coast</b> Consultee ID: 902868	5; 7
20	Mrs Gill Smith <b>Dorset County Council</b> Consultee ID: 634998	N/A
21	Mr Reg Williams <b>Salisbury City Council</b> Consultee ID: 820831	2; 3; 14
22	Dr Gill Anlezark <b>Cycling Opportunities Group for Salisbury</b> Consultee ID: 466447	2; 3; 16
23	Ms Rachel Sandy <b>Highways England</b> Consultee ID: 903251	16; 17; 32

24	<p><b>SW HARP Planning Consortium</b>  Consultee ID: 710073</p> <p>c/o Mr Sean Lewis  Tetlow King Planning  Agent ID: 903267</p>	33
25	<p>Mr Ron Hatchett  <b>Bloor Homes Southern</b>  Consultee ID: 395552</p> <p>c/o Mr Martin Miller  Terence O'Rourke  Agent ID: 817881</p>	13; 18; 19; 34; 35; 36; 37
26	<p>Mr Gerry Keay  <b>Waddeton Park Ltd</b>  Consultee ID: 836038</p>	20; 21; 29
27	<p>Ms Emma Slyvester  <b>Bradford on Avon Town Council</b>  Consultee ID: 903313</p>	N/A
28	<p>Mrs Victoria Ashton  <b>Sport England</b>  Consultee ID: 903317</p>	22
29	<p>Mr Peter Newman  <b>Wiltshire Fire and Rescue Service</b>  Consultee ID: 817684</p>	23; 24; 38; 39
30	<p>Mr Derek Woodward  <b>Hannick Homes and Persimmon Homes</b>  Consultee ID: 707260</p> <p>c/o Mr Denis Barry  GL Hearn  Agent ID: 707258</p>	25; 40; 41; 42; 43; 44
31	<p>Ms Ruth Shaw  <b>Bourne Leisure Ltd</b>  Consultee ID: 397796</p> <p>c/o Mr Arwel Evans  Nathaniel Litchfield &amp; Partners  Agent ID: 899663</p>	29
32	<p><b>Redrow Homes Ltd</b>  Consultee ID: 903369</p> <p>c/o Miss Jenny Mitter  Nathaniel Litchfield &amp; Partners  Agent ID: 903370</p>	5; 7; 13; 25; 26; 46
33	<p>Mr Richard Burden  <b>Cranborne Chase and West Wiltshire Downs AONB</b>  Consultee ID: 556113</p>	47; 48

## **Appendix B Consultation materials**

**Draft Planning Obligations Supplementary Planning Document**  
**Consultation Statement Appendix B – Consultation materials**

**Index**

- 1) Newspaper advert (published week commencing 16 March 2015)
- 2) Consultation letter/ email
- 3) Town and parish council newsletter (published 13 April 2015)

1) Newspaper advert (published week commencing 16 March 2015)

**Wiltshire Council Local Development Framework  
Notice of consultation on draft Planning  
Obligations Supplementary Planning Document,  
draft Community Infrastructure Levy (CIL)  
Regulation 123 List and CIL policies  
consultation document**

**Town and Country Planning (Local Planning)  
(England) Regulations 2012 (Regulations 11 to 16)  
Community Infrastructure Levy (CIL)  
Regulations 2010 (as amended)**

Wiltshire Council is consulting on a draft Planning Obligations Supplementary Planning Document (SPD), a draft Community Infrastructure Levy (CIL) Regulation 123 List and CIL policies consultation document. Together, when finalised, they will support the introduction of the Wiltshire CIL Draft Charging Schedule and set out how the council will seek infrastructure contributions from development.

The draft Planning Obligations SPD explains how the council will use section 106 planning obligations. It details how they will operate alongside other mechanisms for securing developer contributions, such as CIL, section 278 (highways) agreements and planning conditions.

The draft Regulation 123 List sets out the infrastructure types or projects that the council may fund through CIL. The council is also consulting on a draft instalments policy for CIL payments and its position on other CIL policies including provisions for exemptions.

**Availability of documents**

The draft Planning Obligations SPD, draft Regulation 123 List, CIL policies consultation document and information on how to make comments will be published on **23 March 2015**. The documents can be found on the Wiltshire Council website at [www.wiltshire.gov.uk/communityinfrastructurelevy](http://www.wiltshire.gov.uk/communityinfrastructurelevy).

Hard copies of these documents will also be made available from **23 March 2015** during normal office hours at: Council libraries; and the main Council offices in Chippenham (Monkton Park), Devizes (3-5 Snuff Street), Salisbury (27-29 Milford Street) and Trowbridge (County Hall).

**How to comment**

In accordance with the council's Statement of Community Involvement (SCI), comments are invited on these documents over a four week period **until 5pm, 22 April 2015**. Comments can be made:

- Online via the council's consultation portal: <http://consult.wiltshire.gov.uk/portal>
- By email using the form available at [www.wiltshire.gov.uk/communityinfrastructurelevy](http://www.wiltshire.gov.uk/communityinfrastructurelevy) and returned to [cil@wiltshire.gov.uk](mailto:cil@wiltshire.gov.uk)
- By post in writing to: Spatial Planning, Economic Development & Planning, Wiltshire Council, County Hall, Bythesea Road, Trowbridge, Wiltshire, BA14 8JN.

If responding by post, comment forms are available from libraries and main Council offices.

**Next steps**

All comments received during the consultation period will then be taken into account in finalising these documents. The final versions of the documents will be considered, alongside the Wiltshire Council Community Infrastructure Levy Charging Schedule, by the council's Cabinet for recommendation to Full Council for adoption in May 2015.

Any queries should be made to Spatial Planning, Economic Development and Planning, Wiltshire Council on (01225) 713223 or [CIL@wiltshire.gov.uk](mailto:CIL@wiltshire.gov.uk)

Alistair Cunningham  
Director  
Economic Development and Planning  
Wiltshire Council

**Wiltshire Council**  
Where everybody matters

## 2) Consultation letter/ email (sent out 18 March-20 March 2015)

Dear Sir/ Madam,

### **Re: Draft Planning Obligations Supplementary Planning Document, draft Community Infrastructure (CIL) Regulation 123 List and CIL policies consultation document**

I'm writing to inform you that Wiltshire Council is consulting on a draft Planning Obligations Supplementary Planning Document (SPD), a draft Community Infrastructure Levy (CIL) Regulation 123 List and a CIL policies consultation document. Together, when finalised, they will support the introduction of the Wiltshire CIL Draft Charging Schedule and set out how the council will seek infrastructure contributions from development.

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#### **How to comment**

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Yours faithfully,



Alistair Cunningham

Associate Director, Economic Development & Planning

Wiltshire Council

### 3) Town and parish newsletter (published week commencing 13 April 2015)

## Wiltshire Council Local Development Framework

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Wiltshire Council is consulting on a draft Planning Obligations Supplementary Planning Document (SPD), a draft Community Infrastructure Levy (CIL) Regulation 123 List and CIL policies consultation document. Together, when finalised, they will support the introduction of the Wiltshire CIL Draft Charging Schedule and set out how the council will seek infrastructure contributions from development.

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