

Worthing Borough Council – Community Infrastructure Levy

Payment in Kind and Infrastructure Payments Policy

In the majority of cases, CIL will be paid to the Council in the form of money. However, in exceptional circumstances, the CIL Regulations 2010 (as amended) allow the Council as the CIL charging authority to introduce a policy which details alternatives to full or part cash payments through the provision of land or infrastructure.

This will be subject to the following conditions:

1. The Council will only accept land or infrastructure as payment of a CIL liability if the offer relates to infrastructure projects or types of infrastructure included in the Council's published Regulation 123 Infrastructure List.
2. Any agreement relating to such a payment must be made with the Council before the chargeable development commences. This agreement must state the value of the land or infrastructure to be transferred.
3. The land or infrastructure to be transferred must be valued by a suitably qualified and experienced independent person as agreed with the Council. The valuation of land must represent a fair open market price for the land on the day that it is valued and reflect the relevant purposes for which the land will be utilised. In the case of infrastructure the value will should reflect the cost (including related design costs) to the provider. Any costs associated with the valuation will be payable by the person seeking to transfer the land or infrastructure.
4. The Council must be satisfied that any land to be transferred would be appropriate and fit for the purpose of providing necessary infrastructure to support the growth of the Borough¹.
5. The person transferring the land or infrastructure to the charging authority as payment must have assumed liability to pay CIL and completed the relevant CIL forms.
6. The land or infrastructure, subject to the transfer, must be free from any interest in land and any encumbrance to the land, buildings or structures.

¹ This may require the owner to demonstrate that the land is suitable through the submission of further information to the Council, including but not limited to, topographical information, reports on contamination and archaeology and details of any underground services.

7. The Council may transfer land, at nil cost, to a third party² for the provision of infrastructure.
8. Payments in kind must be provided to the same timescales as CIL cash payments, or otherwise on an agreed basis, subject to the provisions in the regulations and any other state aid considerations.

It should be noted that the agreement to pay in land may not form part of a planning obligation entered into under Section 106 of the Town and Country Planning Act 1990 (as amended).

It is entirely at the Council's discretion as to whether to accept a land transfer or infrastructure payment in lieu of CIL. The Council is not obliged to accept any offer of payment in kind by land or infrastructure.

If you are interested in paying CIL in this way and have not commenced development of the site in question you should discuss this with the Council at the earliest opportunity to establish if the principle of 'payment in kind' is suitable.

² This would be limited to other infrastructure providers such as Sussex Police, West Sussex County Council or the Environment Agency.