
Report to: Cabinet **Date of Meeting:** Thursday 7 April 2016

Subject: Community Infrastructure Levy – Preliminary Draft Charging Schedule **Wards Affected:** All wards

Report of: Chief Executive

Is this a Key Decision? Yes **Is it included in the Forward Plan?** Yes
Exempt/Confidential No

Purpose/Summary

The purpose of this report is to provide a summary of the process and evidence involved in preparing a Community Infrastructure Levy [CIL] and to seek approval of the draft CIL rates in a Preliminary Draft Charging Schedule, the draft 'regulation 123 list' and supporting evidence for consultation purposes.

Recommendation

Approve the CIL Preliminary Draft Charging Schedule [at Appendix 1], the draft 'regulation 123' list [at Appendix 3] and supporting evidence for consultation purposes.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Jobs and Prosperity	✓		
3	Environmental Sustainability	✓		
4	Health and Well-Being	✓		
5	Children and Young People		✓	
6	Creating Safe Communities		✓	
7	Creating Inclusive Communities	✓		
8	Improving the Quality of Council Services and Strengthening Local Democracy	✓		

Reasons for the Recommendation:

To allow the CIL Preliminary Draft Charging Schedule, the draft 'regulation 123' list and supporting evidence to be published for consultation purposes.

Alternative Options Considered and Rejected:

Not to have a Community Infrastructure Levy. It is not a statutory requirement to introduce a levy, however Sefton would potentially miss out on a significant receipt for contributing towards its infrastructure requirements. This report indicates the potential for 11,000 new homes in Sefton by 2030 raising an estimated £20 million over the period, given the proposed charging schedule. Both the Council and its associated Town and Parish Councils will benefit from this resource and the increase in the Council Tax Base.

What will it cost and how will it be financed?

(A) Revenue Costs

The introduction of CIL will provide resource to fund appropriate spend such as repairs and maintenance new and expanded infrastructure.

(B) Capital Costs

The receipt of CIL will provide a new funding stream for appropriate capital works throughout the Borough

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial	
The implementation of a CIL will help support the provision of infrastructure in Sefton.	
Legal	
Human Resources	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact of the Proposals on Service Delivery:

CIL will help support service delivery by securing new and improved infrastructure.

What consultations have taken place on the proposals and when?

The Chief Finance Officer has been consulted and notes the potential financial benefits to the Council. If the Preliminary Draft Charging Schedule is adopted the potential to raise £20m for the Council and its associated Town and Parish Councils by 2030 is a significant benefit. The Borough will also generate an increase in its Council Tax Base. (FD 4109/16)

The Head of Regulation and Compliance has been consulted and has made comments on this report (LD 3392/16).

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

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Background Papers:

Community Infrastructure Levy – Economic Viability Study, Keppie Massie February 2016

1. Introduction/Background

- 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. CIL came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010 (The CIL Regulations).
- 1.2 Previously in Sefton the majority of infrastructure provided as a result of new development is provided through Section 106 agreements. This has primarily been for trees and greenspace, but other improvements have occasionally been secured using Section 106 Agreements such as for environmental or access improvements.
- 1.3 CIL is a discretionary/optional scheme whereas Section 106 Agreements are a statutory requirement and the use of such an Agreement is restrictive and can only be used if it meets the three key tests set out in Regulation 122 of The CIL Regulations. The three tests are:
 - Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
- 1.4 Additionally, since April 2015, there is a restriction to pooling Section 106 payments for an infrastructure scheme to four or fewer payments. This applies to all Section 106 Agreements signed after April 2010. Therefore, if an infrastructure scheme [for example improvements to a park or an extension to a school] already has four Section 106 payments [agreed after April 2010] allocated to it we cannot ask a developer for any further contributions towards that infrastructure. The burden of meeting such increased pressures would likely fall to the Council.
- 1.5 Therefore, CIL possibly presents a more effective approach to secure the funds needed to support the wider development of Sefton and in particular major infrastructure projects. It is important to note that the provision of affordable housing will continue to be provided through Section 106 and cannot be provided through CIL.

2. Infrastructure to be supported by the Levy

- 2.1 The Regulations require that in order to set a CIL charging schedule, the Council must have an appropriate evidence base to support it. Part of this evidence base is an Infrastructure Delivery Schedule (IDS) which outlines the infrastructure required to support development in the borough. The schedule should set out the projects in need of funding from CIL [either in part or entirely], the estimated cost of the infrastructure and an estimate of how much of this would be funded through the CIL. Importantly the Council has to demonstrate that there is a funding gap in order for a CIL to be implemented.
- 2.2 As part of the evidence base to support the Local Plan the Council has worked with a range of infrastructure providers to determine what infrastructure and services are required to support the strategy set out in the Local Plan. An

Infrastructure Delivery Plan (IDP) was published to support the Local Plan and this included an IDS.

- 2.3 The IDP [available in the Local Plan [Examination Library](#)] identifies a broad range of new and expanded infrastructure projects that are required to support development. This includes:
- Additional school places
 - Additional/improved health facilities
 - New areas of open space
 - Traffic and pedestrian access improvements
 - Flood risk measures
 - Nature improvement and mitigation measures
- 2.4 This list is not exhaustive. Also, the specific details of the improvements have yet to be determined. It is intended that the IDP will be updated regularly to take account of emerging information. For instance the Council has recently published a Playing Pitch Strategy which identifies a need for new playing pitches across the borough. The findings of this study will inform the IDP.
- 2.5 In very broad terms the funding gap that the IDP has identified is in the region of **£20-25m**. Discussions with infrastructure providers, both within the Council and outside, are ongoing to build upon the IDP, and to identify additional infrastructure that will be required to support the growth in Sefton over the Local Plan period. Therefore, whilst the identified funding gap is likely to increase, potentially significantly as additional projects are identified, the current IDP does demonstrate a funding gap and that implementing CIL in Sefton can be justified.
- 2.6 It is envisaged the consultation on the Preliminary Draft Charging Schedule and the supporting information, will also identify further local infrastructure that may be able to be supported by CIL.

3. Economic Viability Study

- 3.1 In setting the rate of CIL the Council must consider the appropriate balance between securing sufficient income to support infrastructure and services and the potential effects of the implementing CIL on delivering growth and other priorities, such as affordable housing.
- 3.2 This means that in setting the CIL rate the Council need to demonstrate that the proposed CIL rate will not put development across the borough, taken as a whole, at undue risk.
- 3.3 In order to assist with understanding the economic viability of development in the borough, the Council engaged its retained viability consultants, Keppie Massie, to undertake an Economic Viability Study. This was published alongside the Local Plan in July 2015 and showed that the policies and site allocations were viable. This study has been updated and expanded to examine the potential levy rates that could be achieved in the borough.
- 3.4 In determining the draft CIL rates the viability study considered a range of local data. This included construction costs, land values, house prices and the financial

impact of planning policies, such as providing affordable homes. The viability study also looked a range of general development types, in terms of size and mix, and also assessed the viability of the large housing and employment allocations proposed in the Local Plan.

4. Draft CIL rates

4.1 Taking into account the detailed testing that was undertaken in the economic viability study, our consultants have determined that the following charging rates are achievable and should be published in a Preliminary Draft Charging Schedule for comment.

Development Type	Proposed Charge per m²
Houses	
North Sefton [Southport, Churchtown, Birkdale, Ainsdale]	£40
Central Sefton [Formby, Crosby, Hightown]	£125
East Sefton [Maghull, Lydiate, Thornton, Aintree, Melling]	£60
South Sefton [Bootle, Waterloo, Netherton, Litherland, Seaforth]	£0
Apartments all areas	£0
Food and Drink Uses [A3-A5 uses] all areas	£106
Large Supermarkets [>30,000ft ²] all areas	£91
All other uses all areas	£0

4.2 As expected there are a wide variety of potential charging rates for new homes in Sefton. This reflects the large divergence in house prices that occur in the borough. Appendix 1 shows the proposed charging zones for new homes. Apartments are shown as not being viable for a CIL charge. This reflects the continuing difficulties in securing sales of new apartments due to a lack of mortgage finance. This is mirrored in other Local Authorities who have CIL in place, such as West Lancashire, who also have a zero rate for apartments. Most non-residential development is showing as not being viable to charge CIL with the exception of large supermarkets and food and drink uses.

5. Potential CIL Receipt

5.1 The Local Plan provides for over 11,000 new homes across the borough. If the rates above are achieved the broad income from CIL is likely to be in the region of £20 million over the plan period [i.e. to 2030]. This of course is dependent on the size of homes, how many affordable homes are provided, and how many homes are apartments etc.

5.2 An unknown small additional income is likely to be secured from food and drink developments [restaurants, public houses, hot food takeaways] and retail.

6. Collecting CIL

- 6.1 The Council sets the CIL rates and calculates individual payments and is responsible for ensuring that payment is made. The regulations provides for payment by instalment where an instalment policy is in place. Where no instalment policy is in place, payment is due in full at the end of 60 days after development commences.
- 6.2 A planning application can be subdivided into 'phases' for the purposes of CIL. This is expected to be especially useful for large scale, locally planned development, which is an essential element of increasing housing supply. Large scale developments which are delivered over a number of years face particular issues in relation to cash flow and the delivery of on-site infrastructure. The regulations allow for both detailed and outline permissions 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 any instalment policy that may be in force.
- 6.3 As the Local Plan proposes a number of large development sites for new homes [10 sites of over 200 homes] it is considered appropriate to implement an instalment policy for the payment of CIL. The Keppie Massie viability study has assessed a number of instalment policies for viability purposes. These are set out at Appendix 2. In addition to consulting on the draft charging schedules and the Regulation 123 list [i.e. the infrastructure projects that could be funded through CIL], the Council will seek views on the principle of an instalment policy and, if this is accepted, the most appropriate.

7. Spending CIL

- 7.1 There are two parts of the levy:
- The Neighbourhood portion, and
 - The Council portion

The Neighbourhood portion

- 7.2 Table 1 below sets out how the neighbourhood portion is calculated and who receives it. The amount of levy accrued in an area that is classed as the Neighbourhood portion depends on whether the area has a Neighbourhood Plan or not. The Neighbourhood portion of the levy will be 25% if an area has a 'made' [i.e. approved] Neighbourhood Plan; 15% if not. However, only areas that have a Parish or Town Council will receive this money directly. Otherwise the Neighbourhood portion is retained by the Council and spent in accordance with the priorities expressed by local communities.

Table 1 How the Neighbourhood Portion of the Levy is calculated

<p>Parish Council ✓</p> <p>Neighbourhood Plan ✓</p> <p>= 25% uncapped, paid to Parish</p>	<p>Parish Council ✓</p> <p>Neighbourhood Plan ✗</p> <p>= 15% capped at £100/dwelling each year, paid to Parish</p>
<p>Parish Council ✗</p> <p>Neighbourhood Plan ✓</p> <p>= 25% uncapped, local authority consults with community</p>	<p>Parish Council ✗</p> <p>Neighbourhood Plan ✗</p> <p>= 15% capped at £100/dwelling each year, local authority consults with community</p>

- 7.3 The CIL regulations do not specifically state how the Council should identify priorities for spending the neighbourhood portion of the CIL. It is proposed that in the non-parished areas [i.e. in Bootle, Netherton, Crosby and Southport] steering groups of ward members will be set up to identify spending priorities for which CIL could be used to fund. Members of the public and local groups will be encouraged to nominate particular schemes that they would like to be supported. The decision for approving the CIL spend in these areas will be delegated to the relevant Cabinet Member and the Council will manage and implement the chosen schemes.
- 7.4 The Neighbourhood portion of the levy can be spent on a wider range of things than the rest of the levy, provided that it meets the requirement to 'support the development of the area'. For example, unlike the Council portion of the CIL, the Neighbourhood portion of CIL could be used to fund local affordable housing or pay for marketing events that help support the local town centre.
- 7.5 Sefton currently has five parishes [out of ten] progressing with a Neighbourhood Plan, which include:
- Formby and Little Altcar are working on a joint plan
 - Maghull
 - Lydiate
 - Melling
- 7.6 As illustrated in table 1, there is a cap on the Neighbourhood portion given to a Parish Council which does not have a Neighbourhood Plan. This is capped at £100 per year for each house currently in the parish. Therefore, if a parish

currently contains 250 homes then the maximum that Parish Council can receive in a year is £25,000 [i.e. 250 x £100] if they do not have a Neighbourhood Plan. The Council will retain the difference. If a Parish Council receives CIL it must publish this information, and details of how much and on what any CIL has been spent, on its website [or the Council's if it doesn't have one]. If a Parish or Town Council does not spend its levy share within five years of receipt, or does not spend it on initiatives that support the development of the area, the Council may require it to repay some or all of those funds.

The Council Portion

- 7.7 The Council will retain the majority of the CIL that is accrued in Sefton, 85% in areas without a neighbourhood plan, and 75% in those that do. The Council portion of CIL can be used to fund a wide range of infrastructure, including transport, flood defences, schools, health and social care facilities, play areas, parks and green spaces, cultural and sports facilities, district heating schemes, police stations and other community facilities. Whilst Section 106 can also be used for these infrastructure types, CIL can be used to provide infrastructure anywhere in Sefton, i.e. it doesn't have to be directly related to the development which secured the contribution.
- 7.8 Local authorities must spend CIL on infrastructure needed to support the development of their area. It should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development. However, it can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development.
- 7.9 The Council can use 5% of the total levy to pay for costs in setting up the levy, consultation, preparation of evidence, administration, enforcing payments, legal costs, monitoring and reporting. The introduction and administering of a levy is likely to be resource intensive and information from elsewhere is that a full time officer is likely to be needed to specifically manage and run the process.

8. How CIL works with other planning contributions

- 8.1 Developers may be asked to provide contributions for infrastructure in several ways. This may be by way of CIL and planning obligations in the form of Section 106 Agreements and section 278 Highway Agreements. Developers will also have to comply with any conditions attached to their planning permission. Local authorities should ensure that the combined total impact of such requests does not threaten the viability of the sites and scale of development identified in the development. Additionally there should be no actual or perceived 'double dipping' with developers paying twice for the same item of infrastructure.
- 8.2 Regulation 123 of The CIL Regulations provides for charging authorities to set out a list of those projects or types of infrastructure that it intends to fund, or may fund, through CIL. This list is known as a Regulation 123 List. When a charging authority introduces CIL, Section 106 requirements should be scaled back to those matters that are directly related to a specific site, and are not set out in a Regulation 123 List. Therefore, importantly, any infrastructure type [either general

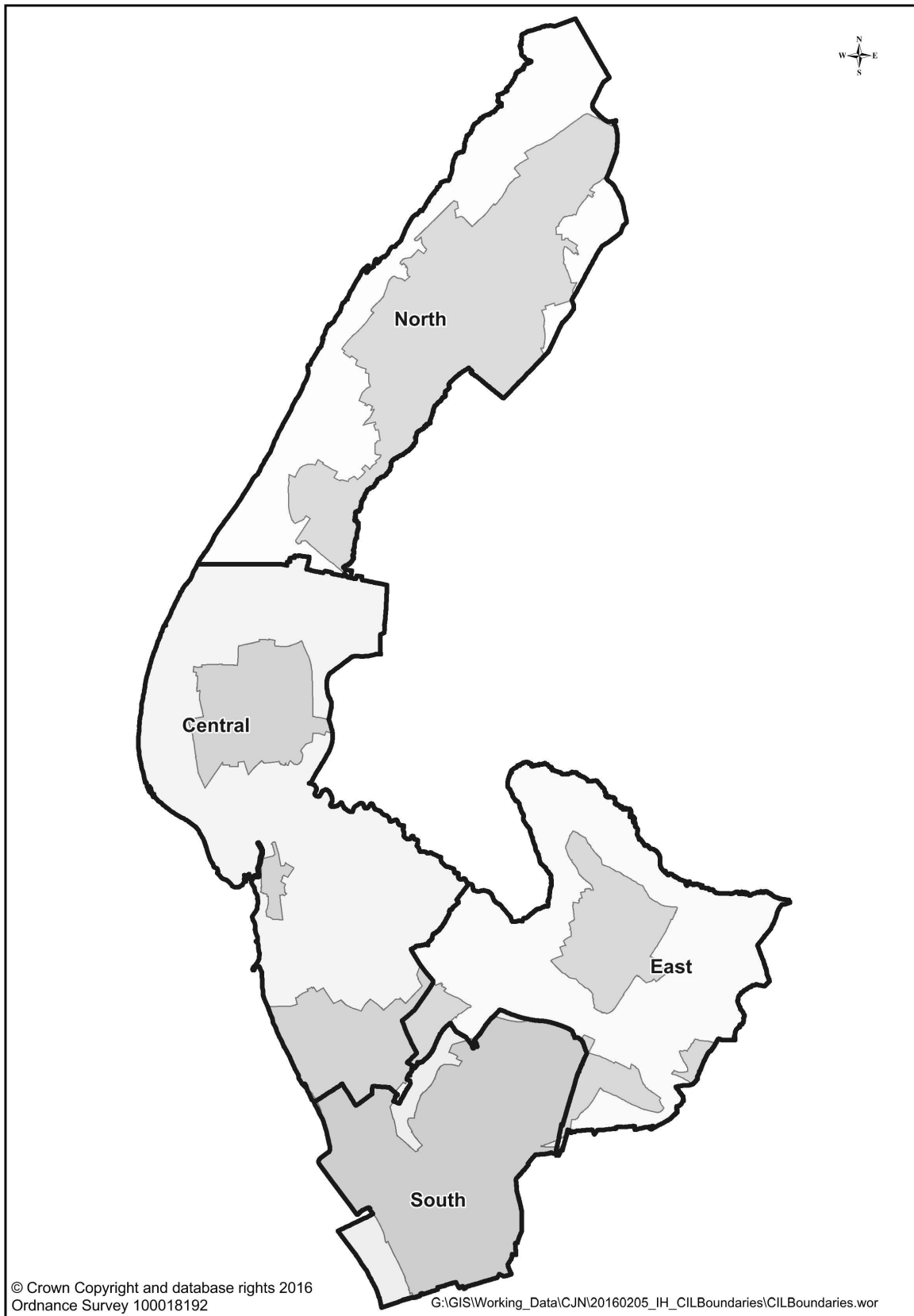
or specific] listed on the Regulation 123 List cannot be funded by Section 106 contributions. Similarly Section 278 Highway Agreements cannot be required for works that are intended to be funded through CIL.

- 8.3 Appendix 3 sets out a draft Regulation 123 List for Sefton. This is based on the emerging Local Plan and the IDP that supported it. Discussions have continued with relevant Council teams and other partners to identify additional infrastructure that will be required to support the growth the Local Plan will generate. The draft Regulation 123 List by no means implies the setting of any priorities for spending CIL but merely sets out a guide to developers to clearly understand what they will not be required to provide through a Section 106 or 278 Agreement.

9. Next Stages

- 9.1 The Preliminary Draft Charging Schedule, and the supporting information, will be made available for public consultation for a six week period [subject to the recommendations of the Consultation Panel]. It is anticipated that a workshop will be held during this period for the development industry and other interested parties to discuss the accuracy and suitability of the data used in the viability assessment and the conclusions coming from that information. An event will also be organised with the Parish and Town Councils in relation to the community element.
- 9.2 Our consultants, Keppie Massie, will be asked to update their viability assessment to take into account comments made during consultation. The viability assessment will also be updated at this stage to take account of the modifications to the Local Plan, updated information on house sales, build costs etc. and any changes to national planning policy. The updated viability assessment may result in amended CIL charging rates. The draft CIL charging schedule, whether amended or unchanged, will be published and made available for a further six week period for comment, should the Council wish to proceed at that point. The draft CIL charging schedule, supporting information and the comments made at this stage, will be submitted for examination. It is anticipated that the examination of the draft CIL charging schedule would take place around November this year and, if all goes well, adoption of the CIL charging schedule would take place in early 2017.

Appendix 1
Proposed levy charging zones - housing



Appendix 2 Options for Instalments Policy

For schemes, or phases, of over 150 homes the following three options have been considered for an instalment policy of the levy

Option A	Levy paid in three instalments 1. On commencement 2. 18 months 3. 36 months
Option B	Levy paid in three instalments 1. On commencement 2. 24 months 3. 48 months
Option C	Levy paid in three instalments 1. On commencement 2. 30 months 3. 60 months

During the consultation we will ask for comments on these options and other instalment options. This could include having an instalment policy for different size of development [e.g. 50, 150, 300 homes] and/or different payment periods [as above] and/or a number of instalments [levy split into 2, 3 or 4 payments].

Appendix 3 Draft 'Regulation 123' list

The purpose of the list is to demonstrate the broad range and type of infrastructure that it is likely the Council will seek to spend CIL funds upon. This is a 'living' document and will be the subject of on-going update and monitoring.

The inclusion of a project or type of infrastructure in this list does not signify a commitment from the Council to fund either in whole or in part the listed project or type of infrastructure through CIL. Nor does the order of the table imply any order of preference or weighting of one project as opposed to another.

This list has been derived having taken into account the background supporting documents that were prepared in association with the Sefton Local Plan, which set out the infrastructure needed to deliver the development set out in the Strategy up to 2030. The list has been supplemented through discussions with key infrastructure providers.

The exclusions listed in the table below are those improvements that the Council will require, either directly or through a financial contribution, through a section 106 or other agreement. These improvements are set out in the Local Plan as policy requirements and therefore the Council won't use any levy receipts for these.

Infrastructure Type
<p>Strategic Transport and Highways Improvements <u>excluding</u></p> <ul style="list-style-type: none">• delivery of the Maghull North Rail Station• improvements to Junction 1 of the M58• a subsidy towards the provision of a bus service through the site 'Land East of Maghull' for a five year initial period• a signal controlled junction off the Formby bypass [A565] to the land north of Formby Industrial Site• new access onto the Formby bypass [A565] and Altcar Road from land south of Formby Industrial site• a signal controlled junction off the Formby bypass [A565] to land at Brackenway, Formby• Widening of Moss Lane between Roe Lane/Mill Lane roundabout and the main vehicular access to the 'Land at Moss Lane, Churchtown' site• a subsidy towards the provision of a bus service into the site 'Land at Moss Lane, Churchtown' for a five year initial period• contribution to the implementation of the A565 Route Management Strategy (Thornton to Crosby section)• specific improvements needed to make a development acceptable in planning terms• any works that should form part of a Section 278 agreement
<p>Open Space, Landscape and Recreation Improvements <u>excluding</u></p> <ul style="list-style-type: none">• Provision of main park in the 'Land East of Maghull' site including an equipped play area and provision for outdoor sports• onsite open space and landscaping required by Policy EQ9 of the Local Plan• parks identified in the Open Space Supplementary Planning Document for improvement through off-site contributions secured through Policy EQ9 of the Local Plan• compensatory public open space or outdoor sports facilities [including playing fields] resulting from a loss of public open space or outdoor sports as a result of development

Coast and Countryside Visitor Facilitiesexcluding

- provision of a new 200 space public car park south of Lifeboat Road, Formby
- provision and long term management of a new public toilet block south of Lifeboat Road, Formby
- extension the existing Formby no.52 bridleway through the woodland area from Lifeboat Road to Alexandra Road
- provision of full public access into the area of woodland between the Shorrocks Hill proposed site and Formby Point Caravan Park

Nature and Habitats Creation and Improvementsexcluding

- new habitat and ecological improvements 'Ecological Improvement Area' adjacent to Ainsdale High development site
- provision for the long term management of the woodland Local Wildlife Site between the Shorrocks Hill Housing allocation and Formby Point Caravan Park
- provision of new habitat on the land designated as 'Proposed Open Space' adjacent to the Bankfield Lane Housing allocation
- provision of new habitat on the land designated as 'Proposed Open Space' adjacent to Dobbies Garden Centre, Benthams Way, Southport housing allocation
- provision of new habitat on the land designated as 'Proposed Open Space' adjacent to Andrew's Close, Formby housing allocation
- Compensatory provision and mitigation of loss to Seaforth Nature Reserve as a result of the expansion of the Port of Liverpool

Education provisionexcluding

- the expansion of Summerhill Primary, Maghull to a two form entry

Health Facilities**Public Realm Improvements**excluding

- specific improvements needed to make a development acceptable in planning terms

Flood alleviation measuresexcluding

- specific flood risk measures required to alleviate flood risk in relation to the development of a site

Improvements and Provision of Cultural, Heritage and Community facilities and assetsexcluding

- compensatory provision or mitigation of Cultural, Heritage and Community facilities and assets required as result of development

Traveller Transit Site**Infrastructure to support Council-led custom build homes schemes**