



Rother District Council

# Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule and Regulation 123 List





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## How to comment on this document

The Council is proposing the introduction of a Community Infrastructure Levy (CIL) in Rother in order to secure financial contributions from new development to help fund infrastructure.

Your comments and views are welcomed on the CIL: Preliminary Draft Charging Schedule as well as on the 'Draft Regulation 123 List', which sets out the range of infrastructure that CIL receipts may be used for. The consultation period runs from **8<sup>th</sup> August 2014 to 26<sup>th</sup> September 2014**. **All responses must be received by 4.30pm on the 26<sup>th</sup> September 2014**. Comments received will help the Council prepare its Draft Charging Schedule which will be published to allow formal representations prior to independent examination of the proposed Levy.

The Preliminary Draft Charging Schedule and Draft Regulation 123 List should be read in conjunction with the following supporting documents:

1. [PBA Viability Assessment](#)
2. [Infrastructure Funding Gap Analysis](#)
3. [Infrastructure Delivery Plan \(June 2014\)](#)

All documents will be made available for inspection at the Council's Customer Help Points (CHP) at the Bexhill Town Hall, Rye CHP and Battle CHP throughout the consultation period. They are also available on-line at: [www.rother.gov.uk/CIL](http://www.rother.gov.uk/CIL)

The easiest way to make representations would be through the Council's online consultation system JDi. This is quick and easy to use. It will help officers process your representations quicker and will save time and cost. This is our preferred method of submitting representations. You can access the Council's online consultation system (JDi) at the following website address: [www.rother.gov.uk/CIL](http://www.rother.gov.uk/CIL).

Alternatively you can complete the representation form which can also be found at: [www.rother.gov.uk/CIL](http://www.rother.gov.uk/CIL) and return it:

By email to: [planning.strategy@rother.gov.uk](mailto:planning.strategy@rother.gov.uk) or;

By writing to us at:

**Preliminary Draft Charging Schedule and Draft R123 List Consultation**

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In making representations to the Preliminary Draft Charging Schedule and Draft R123 List please set out your comments in response to the questions raised in the document.

## Introduction

### What is the Community Infrastructure Levy (CIL)?

1. The [Community Infrastructure Levy](#) (CIL) is a new charge which local authorities in England and Wales are empowered to charge on most types of new development in their area. CIL was introduced by the [Planning Act 2008](#) and defined in the [CIL Regulations](#) April 2010 (as amended). It is the Government's preferred mechanism for securing developer contributions towards local and strategic infrastructure improvements. Once a 'charging schedule' has been adopted, all new planning applications that first permit development are liable to pay CIL (i.e. outline or full planning applications).
  
2. CIL allows local authorities (known as "charging authorities") to raise funds from developers undertaking new developments in their area. The money can be used to fund a wide range of additional infrastructure that is needed to support sustainable development. The Planning Act 2008 provides a wide definition of infrastructure that can be funded through the CIL levy. This includes:
  1. roads and other transport facilities
  2. flood defences
  3. schools and other educational facilities
  4. medical facilities
  5. sporting and recreational facilities
  6. open spaces

### The benefits of CIL

3. CIL is considered to be fairer, faster and more certain and transparent than the current system of planning obligations<sup>1</sup> which are generally negotiated on a 'case-by case' basis. The key benefits that CIL would bring are:
  - CIL receipts will contribute towards meeting the shortfall in funding for planned infrastructure to meet the level of growth identified in the Council's Local Plan Core Strategy.
  - CIL is non-negotiable and would give developers a greater degree of certainty which in turn encourages greater confidence and inward investment

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<sup>1</sup> Planning obligations under Section 106 of the [Town and Country Planning Act 1990](#) (as amended)

- CIL provides a greater transparency, as collecting authorities will have to publish reports detailing how CIL receipts have been allocated
- CIL gives the Council greater flexibility over what infrastructure funding may be spent on.
- CIL will be spent on infrastructure projects to enable development to come forward in a sustainable manner.
- A percentage of CIL receipts will be given over to Parish Councils where development is happening to specifically assist in supporting local community infrastructure.

4 While CIL is not compulsory, the Council considers it important to progress a CIL expeditiously, as legislative changes will make it more difficult for the Council to secure developer contributions to fund essential infrastructure and mitigate the impact of development through Section 106 Agreements. From April 2015, no more than five s.106 obligations can be pooled towards one project or type of infrastructure. Hence, CIL receipts are necessary to contribute towards the provision of infrastructure to support the level of development envisaged in the Local Plan Core Strategy.

Q1. Do you agree that Rother District Council should introduce a CIL?

### **How is CIL applied?**

5 New buildings and extensions to buildings which are over 100 sqm gross internal floorspace are liable for CIL. All new dwellings regardless of size are liable for CIL. The levy is charged on pounds per square metre on the net additional increase in gross internal floor space of a development. In calculating CIL, the Council are is required to take into consideration any floorspace of existing buildings being replaced. Once CIL is adopted it is non-negotiable and enforceable. The formal calculation methodology is provided in Regulation 40 and Part 5 of the CIL Regulations 2010, as amended, and can be found in Appendix 1.

### **Infrastructure and the Funding Gap**

6 The charging authority must use 'appropriate evidence' to inform the preliminary draft charging schedule. It is the obligation of any potential charging authority to demonstrate that

a funding gap exists to justify charging the levy and that this can be demonstrated through an Infrastructure Delivery Plan.

- 7 Rother's Infrastructure Delivery Plan (IDP) was most recently updated in June 2014. The IDP provides a comprehensive but not exhaustive list of infrastructure necessary to support future development in the district up to 2028. However, this is based on continually updated information and is, hence, a "live" document.
- 8 The IDP objectively assesses development and infrastructure requirements and identifies the infrastructure and services required to support levels of growth set out in the emerging Local Plan Core Strategy. As far as it has been possible, the IDP also identifies the costs, timescales and the details of how these schemes should be funded, including funding already secured, funding through public finance and developer contributions sources, and funding gaps
- 9 To introduce a CIL, the Council has to demonstrate that there is a funding gap between the total cost of the infrastructure required to support the Local Plan and total funding currently available to the Council and other infrastructure providers. The Infrastructure Funding Gap Analysis shows that the cost of CIL eligible infrastructure across Rother (within the plan period) is circa £172M and currently there is an identified shortfall of £133 million in the plan period. Rother District Council is therefore confident that a robust justification exists to introduce a CIL charge.
- 10 The infrastructure gap analysis does not directly relate to determining the rates at which CIL should be set locally. It provides the evidence that there is overall an infrastructure funding gap that could be filled through CIL. The rate setting of CIL is determined by financial viability analysis.

Q2. Do you agree that there is clear infrastructure funding gap?

### **Viability Assessment**

- 11 In November 2013, the Council appointed Peter Brett Associates (PBA) to undertake an independent viability analysis of the district and provide clear recommendations to the Council if the introduction of a CIL charging schedule was viable; could differential zones be

supported and at what level could the charge be set having regard to the nature of the District, the current and emerging Local Plan.

- 12 As part of the viability assessment to support the introduction of a CIL the consultants held an informal workshop with local development stakeholders in November 2013 which also contributed significantly to inform the study. The findings of the viability assessment undertaken by PBA are set out in their [report](#). This provides the basis for the Council to propose a differential CIL rate, reflecting the fact that the viability evidence shows that different types of development or different geographical locations or zones can afford to pay different levels of CIL.

### **Setting the CIL rate**

- 13 The charging authority must also have regard to development viability and undertake an assessment of the likely level of CIL that may be levied without putting development at risk. The rate should be set at a level that balances the requirement for infrastructure to support development against the potential economic impact of imposing the Levy across Rother. The need for this balance is set out in regulation 14(1) of the CIL Regulations, which states that the charging authority must "*strike what appears to the charging authority to be an appropriate balance*" between the desirability of funding infrastructure from the Levy and "*the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area*".

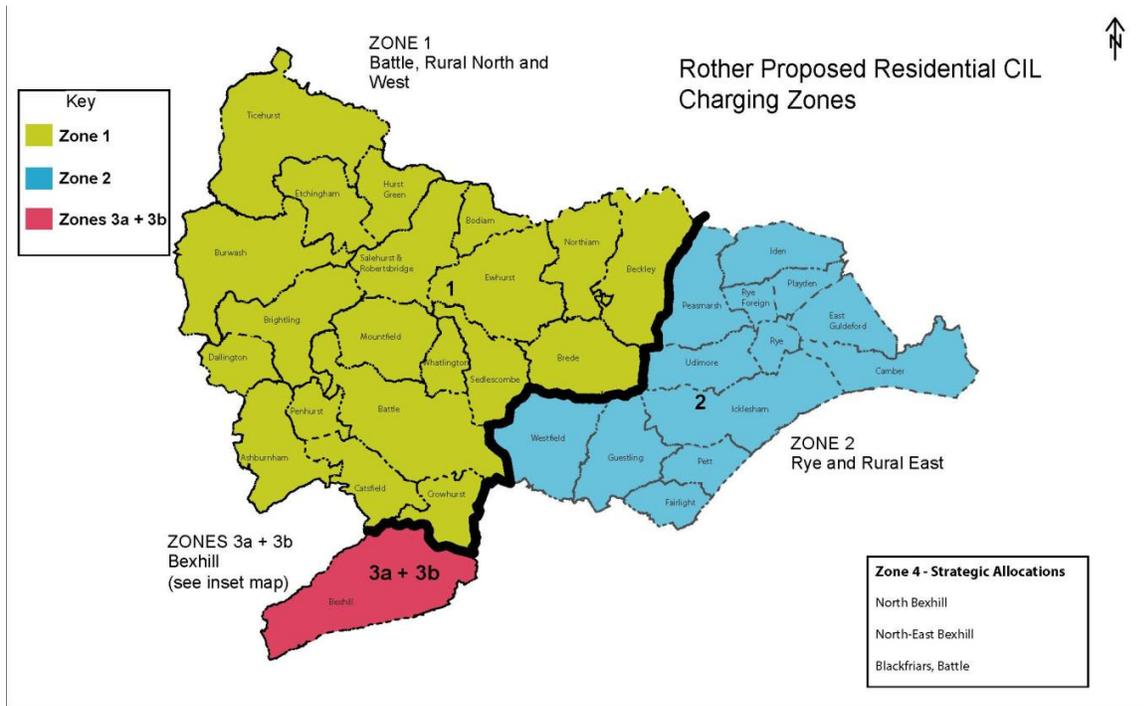
### **Preliminary Draft Charging Schedule: Residential Rates**

- 14 The viability assessment undertaken by PBA has recommended there is scope to introduce differential residential charging zones across four areas of Rother. These are Battle, Rural North and West/Rye and Rural East/Bexhill/Strategic allocations<sup>2</sup>; see Figure 1. Bexhill is subdivided into two zones - West and East - as shown on Figure 2.
15. The proposed CIL rate in each CIL zone, as approved by the Council for the purposes of consultation, is shown in Table 1.

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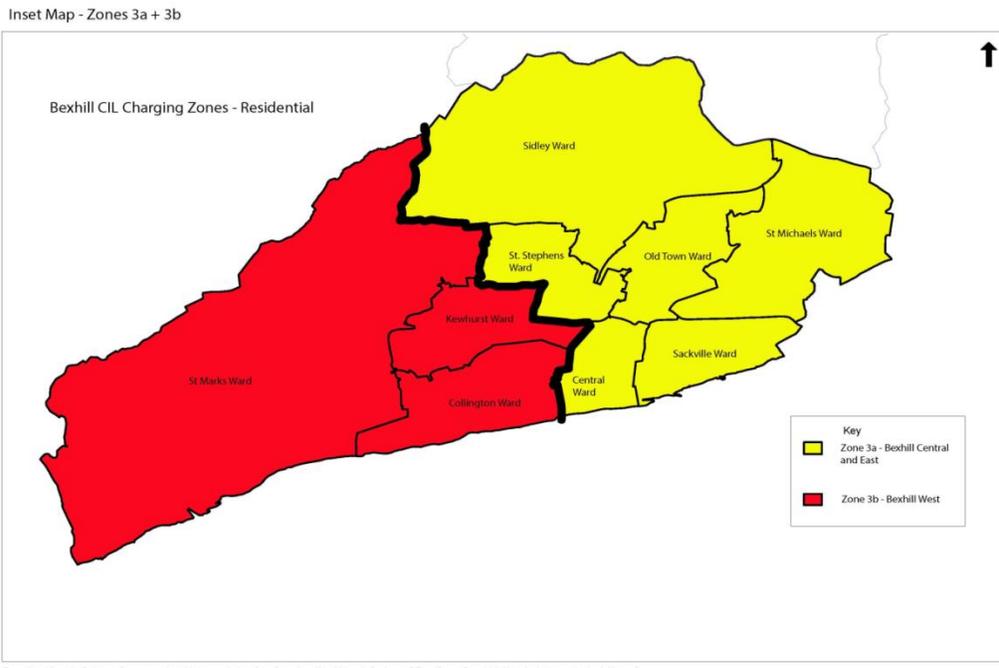
<sup>2</sup> The strategic allocations comprises of NE Bexhill, North Bexhill and Blackfriars, Battle. For further information please click on the following links: BX109 North Bexhill Broad Location ([p2 SHLAA 2013](#)) BA11 Blackfriars ([p15 SHLAA 2013](#)) and NE Bexhill SPD Document ([Figure 1](#)).

Figure 1: Preliminary Draft Charging Schedule: Map of Proposed Residential CIL Charging Zones



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Figure 2: Inset Map of Bexhill Proposed Residential CIL Charging Zones 3a + 3b



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**Q3. Do you agree with the proposed residential CIL charging zones?**

Table 1: Proposed Residential CIL Charging Zones and Rates

<b>CIL Zone</b>	<b>CIL Charging Area</b>	<b>£ per sqm</b>
1	Battle, Rural North and West	£240 per sqm
2	Rye and Rural East	£160 per sqm
3a	Bexhill Central and East	£100 per sqm
3b	Bexhill West	£180 per sqm
4	Strategic Allocations	£100 per sqm

Q4. Do you agree with the proposed CIL charge rates for residential uses?

**Preliminary Draft Charging Schedule: Non Residential Development CIL Rates**

- 16 The findings of the viability study with regard to business development shows that there is no scope to levy a CIL rate on office, light industrial, industrial or warehouse development where the market remains weak. The viability study has shown that there is scope for a CIL rate to be levied on some types of retail development and assisted living/extra care accommodation, but that there is no scope for a charge for other commercial development. Proposed non-residential CIL rates are listed in Table 2:

Table 2: Preliminary Draft Charging Schedule: Non-residential development CIL Charges and Rates

<b>Development Type</b>	<b>CIL Rate</b>
Retail: in centre convenience	£100 per sqm
Retail: out of centre convenience	£120 per sqm
Retail: out of centre comparison	£250 per sqm
Assisted Living/Extra Care Housing	£250 per sqm (if no affordable housing)
All other uses	£0

Q5. Do you agree with the proposed CIL rates for non-residential development?

**When is CIL payable?**

- 17 When planning permission is granted to CIL liable development, a liability notice will be sent which will contain the amount of CIL that is due for the development, including when the total amount must be paid. The Regulations state that CIL liability is payable in full at the end of the period of 60 days, beginning with the intended commencement date of development, unless the charging authority has adopted an instalment policy. Regulation 70 provides for payment by instalment if such a policy is in place. The Local Authority is free to decide the

number of payments, the amount and time due, but, (under Regulation 68B) must publish an instalment policy on their website. This may be revised when appropriate.

- 18 CIL Guidance notes that having an instalment policy in place could be considered as a material consideration in assessing the viability of proposed CIL levy rates. In the majority of cases, developments do not generate a profit until partly or fully completed; hence, by having an instalment policy in place, it would assist the viability and delivery of development in Rother.
- 19 The Council is inviting views from consultees on the potential introduction of an instalment policy and what form this should be. This is not part of the charging schedule and may be published at a different time.

Q6. Do you support the introduction of an instalment policy in Rother for CIL payments?

### **Exemptions**

- 20 The Regulations allow mandatory relief for affordable housing and certain types of developments. Affordable housing will continue to be delivered through Section 106 Agreements. Also excluded from CIL is self-build housing. The CIL Regulations exempt the following from paying the CIL:
1. Development by registered charities for the delivery of their charitable purposes
  2. Those parts of a development which are to be used as social housing
  3. The conversion of any building previously used as a dwelling house to two or more dwellings
  4. Development of less than 100 sq m of new build floorspace, provided that it does not result in the creation of a new dwelling
  5. The conversion of, or works to, a building in lawful use that affects only the interior of the building
  6. Development of buildings and structures into which people do not normally go (eg, pylons, wind turbines, electricity sub stations)

- 21 The CIL Regulations allow for the Council to provide further relief, at their discretion. The Council do not have to offer this relief, but if they chose to do so, they must adopt a discretionary relief policy. This is not part of the charging schedule and may be published at a different time.
- 22 The Council has not made a formal decision on whether it will offer discretionary relief or exceptional relief policy in accordance with the CIL Regulations.

Q7. Do you have any views on whether the District Council should introduce a discretionary and exceptional relief policy?

**Draft Regulation 123 List**

- 23 The Council is required to publish a list of those infrastructure projects that will be funded by CIL. This is called ‘Regulation 123 List’. It can be found in Appendix 2. The purpose of the list is to ensure that there is no duplication between CIL and S106 contributions. This prevents any perceived ‘double dipping’. Publication of a list provides clarity that CIL contributions will go towards the infrastructure items specified on the list, while any additional S106 contributions will not pay for the same items of infrastructure.

Q8. Do you agree with the proposed draft R123 list?

**Timetable to adoption**

- 24 The current timetable towards the adoption of the CIL charging schedule is set out below. It will be subject to regular monitoring in order to introduce an appropriate CIL as soon as practicable.

Table 3: Timetable to adoption

<b>CIL Timetable</b>	<b>Key Milestones</b>
Preliminary Draft Charging Schedule Consultation	August – September 2014
Cabinet approval to publish CIL Draft Charging Schedule	November 2014
Draft Charging Schedule Consultation	Nov. - Dec. 2014
Submission of CIL Draft Charging Schedule	January 2015
CIL Examination	April 2015
Receipt of Examiners Report	May/June 2015
Full Council Adoption of CIL	July 2015

Q9. Do you have any further comments on the PDCS?

## Appendix 1

### Calculating the charge

The formal calculation methodology is provided in Regulation 40 and Part 5 of the CIL Regulations 2010, as amended.

- The collecting authority must calculate the amount of CIL payable (“chargeable amount”) in respect of a chargeable development.
- The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.
- But where that amount is less than £50 the chargeable amount is deemed to be zero.
- The relevant rates are the rates, taken from the relevant charging schedules, at which CIL is chargeable in respect of the chargeable development.

The amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula:

$$\frac{R \times A \times I_p}{I_c}$$

- A = the deemed net area chargeable at rate R;
- $I_p$  = the index figure for the year in which planning permission was granted; and
- $I_c$  = the index figure for the year in which the charging schedule containing rate R took effect.

The index figure for a given year is:

- a) the figure for 1st November for the preceding year in the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or
- b) if the All-in Tender Price Index ceases to be published, the figure for 1<sup>st</sup> November for the preceding year in the retail prices index.

The value of A must be calculated by applying the following formula:

$$\text{Net Chargeable Area (A)} = \frac{\mathbf{G_R - K_R - \{G_R \times E\}}}{\mathbf{G}}$$

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**G**

- G = the gross internal area of the chargeable development;
- GR = the gross internal area of the part of the chargeable development chargeable at rate R;

KR = the aggregate of the gross internal areas of the following:

- a) retained parts of in-use buildings, and
- b) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;

E = the aggregate of the following:

- a) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development, and
- b) for the second and subsequent phases of a phased planning permission, the value Ex , unless Ex is negative; and

- c) provided that no part of any building may be taken into account under both of paragraphs (a) and (b) above

The value  $E_x$  must be calculated by applying the following formula:

$$E_P - (G_P - K_{PR})$$

- $E_P$  = the value of E for the previously commenced phase of the planning permission;
- $G_P$  = the value of G for the previously commenced phase of the planning permission;  
and
- $K_{PR}$  = the total of the values of KR for the previously commenced phase of the planning permission.

## Appendix 2

### Draft Regulation 123 List

Regulation 123 of the Community Infrastructure Levy Regulations (as amended) requires charging authorities to set out a list of those projects or types of infrastructure that it intends to fund either wholly or partially through the CIL levy. This is to ensure that individual developments are not charged for the same infrastructure items through both planning obligations and the levy.

A CIL charging authority is expected to prepare a draft Regulation 123 list (Reg.123 list) for the examination of the CIL Charging Schedule.

The following types of infrastructure will be funded through CIL receipts by the charging authority. The order in the table below does not imply any order of preference for spend.

Infrastructure Type or Project eligible to be funded wholly or partially by CIL	Exclusion
<p><b>Transport</b></p> <p><u>Road:</u></p> <p>Improvements to road network capacity including the following schemes identified in the IDP:</p> <p>Improvements to A2036 Corridor Penland Rd n. bound/ w. bound</p> <p>Junction improvements at A269/Holliers Hill//A2036 Wrestwood Road / London Road</p> <p>Junction improvements at A269/ Watermill Lane</p> <p>A259 Little Common roundabout Junction improvements including Peartree Lane</p>	<p>All other site specific transport improvements necessary to enable development in transport terms having regard to relevant policies and standards.</p>

approach and A259 E. bound

Town centre traffic management improvements B2098 Terminus Road / Buckhurst Place / Sackville Road

Junction improvements along A259 corridor including A259 / B2095 approach and A259/ Sutherland Avenue

New road from development access junction north to connect with Watermill Lane and A269 Ninfield Road known as the North Bexhill Access Road

Rail:

Upgrade the Marshlink rail line. Extend HS1 to Bexhill and Hastings and shorten journey times to London.

Access improvements to stations which may include additional car parking, cycle and pedestrian access and facilities based on findings of ESCC Station Audit and plans of train operating companies.

Bus, Cycling and Walking Infrastructure:

Bus stop accessibility

Bus shelters

Passenger information and electronic ticketing

Speed management measures

Passenger and public security and safety

Bus reliability measures

Passenger access and information improvements to railway stations

Cycle network improvements

Public realm improvements

Safety infrastructure outside schools

Rights of way improvements

Improvements to walking and cycling corridors to ensure connectivity and accessibility of new development into existing networks, communities, town and secondary centres, employment & social infrastructure

More bus / transport services serving groups with access difficulties where commercial services are not appropriate or

<p>available.</p> <p>Management of cross town traffic congestion in Battle. Improved traffic management. Implement measures to increase use of sustainable transport.</p> <p>Introduce measures to tackle heavy congestion in Rye town centre during the summer. Increase sustainable transport provision in the town. Promote initiatives to improve strategic connectivity between Rye and the wider region</p> <p>Public car parks facilities</p>	
<p><b>Education</b></p> <p>The following education schemes:</p> <p><b><u>Early Years</u></b></p> <p>Bexhill 236 places (15 hour slots) for children eligible for funding</p> <p>Rye 40 places (15 hour slots) for children eligible for funding</p> <p>Battle 24 places (15 hour slots) for children eligible for funding</p> <p>Hurst Green 16 places (15 hour slots) for children eligible for funding</p> <p>Westfield 16 places (15 hour slots) for children eligible for funding</p> <p><b><u>Primary</u></b></p> <p>Rye Half a form of entry (105 places) through expansion of Rye Community Primary School</p> <p><b><u>Secondary</u></b></p> <p>Bexhill</p>	<p>Improvements or provision of new education facilities which are directly related to a development.</p>

<p>One form of entry (150 11-16 places) through expansion of an existing school</p> <p><b><u>Further Education</u></b></p> <p>Sussex Coast College, Hastings An additional 130 workplaces in total of which 30% (39 workplaces) attributed to Rother District IDP</p> <p>Plumpton College Additional 100 workplaces in total of which 10% (10 workplaces) attributed to Rother District IDP</p>	
<p><b>Leisure, sport, open space and green infrastructure</b></p> <p>New and improve leisure facilities and specifically Bexhill Leisure Centre</p> <p>Children’s and young people’s play areas.</p> <p>Improvements to playing pitches.</p> <p>Indoor and outdoor sports and leisure provision and associated facilities.</p> <p>Improvements to open space in accordance with adopted standards.</p> <p>Provision and enhancement of the green infrastructure network particularly through projects in the identified Biodiversity Opportunity Areas highlighted within the Green Infrastructure Study for Rother (2012).</p> <p>Combe Valley Countryside Park.</p>	<p>Provision of new sport, open space, green infrastructure and recreation facilities which are directly related to a specific development site and are required to ensure local plan policy compliance.</p>
<p><b>Community facilities</b></p> <p>Libraries – improved provision in Bexhill, Battle and mobile services Built Community Space (village halls) Public conveniences</p>	<p>Facilities on allocated sites at NE Bexhill and Filmwell and future sites where such space is part of a mixed use allocation.</p>

<p><b>Healthcare</b></p> <p>Provision of facilities to address existing or future needs</p>	<p>Improvements which are directly related to a development.</p>
<p><b>Emergency Services</b></p> <p>Provision of facilities to address future needs.</p>	
<p><b>Flood Mitigation</b></p> <p>Maintaining and improve flood and coastal defences</p>	<p>All other site specific SUDS and on-site flood mitigation improvements as identified in a site specific assessment.</p>