

From: Jim Cliffe [REDACTED]

Sent: 13 February 2025 14:41

To: Section 62A Applications Non Major <section62anonmajor@planninginspectorate.gov.uk>;
Development Management <development.management@bristol.gov.uk>

Cc: Section 62A Applications Non Major <section62anonmajor@planninginspectorate.gov.uk>;
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Subject: RE: S62A/2025/0079 515-517 Stockwood Road, Brislington, Bristol City, Bristol

Hi Leanne

I can confirm that application S62A/2024/0079, 515-517 Stockwood Road, Brislington, Bristol for the ***“the erection of a six-storey building comprising 9 no. self-contained flats”*** is a “chargeable development”. Therefore it is liable for the Community Infrastructure Levy (CIL).

CIL Calculation

The information provided by the applicant in their CIL Form 1: CIL Additional Information identifies the following:

There are two small buildings in lawful use on the site (totalling 33sqm) however, these are building into which people do not normally go or only go into intermittently for the purposes of maintaining fixed plant or machinery, and so this floorspace would not be offset when calculating the CIL Liability. The new block comprises 737.35 sqm of floorspace, and this floorspace would be calculated at the Residential Outer Zone CIL Rate.

The Residential Outer Zone CIL Rate is £50/sqm and the indexation factor from 2013 to 2025 is (391 / 224).

The CIL calculation is therefore as follows $737.35\text{sqm} \times £50/\text{sqm} \times (391 / 224) = \mathbf{£64,353.54}$

The above figure is indicative only, as this is an Outline Application and CIL Liabilities are not calculated until the Reserved Matters stage. However, it should be noted that if Outline Permission is granted by PINS, the Council would not be able to charge CIL at the Reserved Matters stage. This is because the chargeable development is that for which Planning Permission is granted (which does not include permissions granted under Section 62A) , and Reserved Matters are not Planning Permissions for the purposes of CIL.

Need for CIL payment

The Council wishes to make it clear that the need for CIL to be paid is totally separate for the need for mitigating measures to be in place to make the development acceptable in planning terms. We are concerned that recent PINS Reports on Section 62A applications (and indeed the guidance on the PINS website) are conflating CIL with mitigating measures. Mitigating measures are specified and secured through planning conditions and planning obligations, whereas CIL is a levy to provide the infrastructure necessary to support growth across the local authority area. There is no requirement for there to be a direct link between a CIL Liable development and the infrastructure that is funded from CIL.

Whilst the Council acknowledges that PINS cannot charge CIL in respect of applications submitted to it under S62A, CIL is nonetheless a material financial consideration under the Localism Act. Consequently, we consider that PINS should be considering whether approving applications that would otherwise have been liable for CIL would have an adverse impact on the Council’s ability to provide infrastructure to support the growth of Bristol.

The infrastructure to be funded from CIL is set out in the Councils Annual Infrastructure Statement, which can be found at the following link:

[Infrastructure Funding Statement \(bristol.gov.uk\)](https://www.bristol.gov.uk/infrastructure-funding-statement)

The relevant documents are also attached to this email. The Infrastructure List identifies the infrastructure schemes that the Strategic Element of CIL has been allocated to, by the Council. The CIL Report sets out the current position in respect of CIL Receipts and Spend. This is summarised in the table below:

Strategic CIL Allocations made by the Council as at 31 March 2024 (A)	£53,616,000
Strategic CIL Receipts held as at 31 March 2024 (B)	£29,187,000
Shortfall (B) – (A)	-£24,429,000

Given the current shortfall in funding, it is essential that CIL is charged on, and paid by, all liable developments in order to enable the delivery of the identified infrastructure schemes necessary to support the growth of Bristol. This is consistent with the principles behind CIL which are that development contributes a proportionate sum to infrastructure to support the growth of an area, based on the size of the development and the viability of the relevant development typology. As the necessary CIL payment of **£64,353.54**, cannot be achieved under Section 62A, the application should not be considered as acceptable.

Section 106 Undertaking

We note that the applicant has submitted a draft Section 106 Undertaking seeking to pay the CIL under this mechanism. The Council would point out that (a) this has only been submitted in draft form and is not signed and dated and therefore it carries no weight, and (b) the figure contained in it seems to be incorrect. Notwithstanding that, the CIL and planning obligation regimes are administered under separate legislative processes and there is no legal authority given to enable CIL payments to be secured via a Section 106 Undertaking. Planning obligations are specific measures required to directly mitigate the impact of a development and they must comply with the statutory tests which are set out in CIL Regulation 122, whereas CIL is a levy payable by most development according to a scale of charges, and it applies irrespective of the direct impact a development has on its surrounding area.

The statutory tests set out in CIL Regulation 122 are that an obligation must be:

“(a) necessary to make the development acceptable in planning terms;

(b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development”

The draft Section 106 Undertaking submitted by the applicant fails the CIL Regulation 122 tests, as the sum sought:

(a) is not necessary to make the development acceptable in planning terms, as it would be no more or less acceptable in planning terms irrespective of what the CIL Liability is; and

(b) it is not directly related to the development in that it could be used to fund infrastructure to support growth anywhere within Bristol (in accordance with the CIL Regulations)

Consequently the Council is of the view that it is neither appropriate nor lawful to secure CIL liabilities via a Section 106 Undertaking.

Recommendation to PINS

There will be no requirement for a Section 106 Agreement unless site specific mitigation measure that comply with the regulatory tests, are identified as part of the process of commenting on this application. However, in order to fund the infrastructure needed to support the growth of the City, a CIL payment of **£64,353.54** will be required. As PINS is unable to charge CIL on Section 62A applications, this necessary contribution towards infrastructure cannot be achieved and therefore the Council advises that the application should not be considered as acceptable and recommends that PINS refuse the application accordingly.

The Council would also advise that, given the scale of the potential loss of CIL should the application be granted, we would consider challenging the decision in the High Court.

Should you have any queries regarding this matter please do not hesitate to contact me.

Best wishes

Jim

Jim Cliffe

Planning Obligations Manager

