**Community Infrastructure Levy (CIL) Regulations – Definition of Commencement**

The CIL Regulations (2010) determine that the agreed definition of ‘Commencement of Development’ is in section 56(4) of the Town and Country Planning Act 1990 says that “development is taken to be begun on the earliest date on which a material operation is carried out”. A material operation is defined in the Act and can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change in the use of the land.

A Section 106 Agreement may have a very different definition of commencement from CIL. The definition may, for example, exclude certain preparatory works in order to push back the date on which the obligations are triggered and payments are made. These terms define when the section 106 obligations are triggered; commencement therefore has different meanings and there may well be different dates for the purposes of satisfying section 56(4) and triggering the section 106 obligations. The Section 106 Agreement for a development may have an agreed definition for “Commencement of Development” for individual sites. This may for example, exclude operations consisting of:

* site clearance / demolition work
* archaeological investigation
* investigations for the purpose of assessing ground conditions
* remedial work in respect of contamination or other adverse ground conditions
* diversion and laying of services (including underground drainage and sewers) and service medium site and ecological investigations
* testing or surveys together with works pursuant to licensing obtained from Natural England or other successor body in title or function in relation to ecological habitat creation improvement or otherwise or species relocation etc.
* clearance of vegetation
* excavation, deposition, compaction levelling of materials to new contours and works connected with infilling
* erection of any temporary means of enclosure / site office / creation of a site compound / security cameras
* erection of a temporary marketing suite that does not form a structure or part of a structure that will become a Dwelling after its use as a temporary marketing suite
* the creation of a means of access
* the temporary display of site notices or advertisements etc.

Whilst the above exclusions do not apply to CIL, it may be possible for a developer to seek permission from Warwick District Council to carry out specified works without triggering ‘Commencement’. For example: works pursuant to licences obtained from bodies such as Natural England, for the purpose of hedge removal during a period / season dictated not to disturb ecological habitat. If unsure, please always check with Warwick District Council first.