

CABINET

15 December 2015

COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Report of the Director for Places (Development & Economy)

Strategic Aim:	Building our Infrastructure Meeting the health & wellbeing needs of the community	
Key Decision: No	Forward Plan Reference: FP/091015/03	
Reason for Urgency:	N/A	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr T C King, Deputy Leader and Portfolio Holder for Places (Development and Economy) and Resources	
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Ward Councillors	All	

DECISION RECOMMENDATIONS

That Cabinet RECOMMENDS TO COUNCIL the adoption of the Community Infrastructure Levy Charging Schedule as set out at Appendix B to this report.

1 PURPOSE OF THE REPORT

- 1.1 To consider the outcome of the public examination of the Council's proposed Community Infrastructure Levy (CIL) Charging Schedule and the way forward to secure its adoption and implementation alongside the new Supplementary Planning Document (SPD) on Planning Obligations.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 Attached at Appendix A is the report of the Planning Inspector appointed to examine both the Council's Draft Charging Schedule and the supporting evidence.
- 2.2 The report recommends that the Council's Draft CIL Charging Schedule "should be approved in its published form, without changes".
- 2.3 It is recommended that the CIL Charging Schedule as attached at Appendix B is taken forward for adoption by the Council. It is also recommended that CIL is not

actually implemented until a period of 6 weeks has elapsed following the Council meeting at which adoption is confirmed, set to be January 11th 2016. This would allow CIL implementation to be 1st March 2016.

- 2.4 Table 1 in the CIL Charging Schedule sets out the estimated infrastructure requirements to 2026 as at February 2015. The purpose of this was to demonstrate that the Council has a need to charge CIL at the proposed rate in order to deliver against a list of infrastructure priorities. The list was in fact a 'snapshot in time' and should be read as such. This is important as at that time planning obligations in relation to the Hawksmead development at Oakham North were different to the obligations that currently apply. There are other changes too in relation to assumed S106 commitments towards community infrastructure from consented schemes that have since lapsed. The content of this table is subject to review and will be updated separately as part of the Council's review in 2016 of the infrastructure projects to be included in the Regulation 123 list.
- 2.5 In order to take CIL forward a revised Planning Obligations Supplementary Planning Document (SPD) has been drawn up to consolidate the Council's approach to all aspects of S106 policy to be applied when CIL is adopted and implemented. This document is also therefore being submitted to this Cabinet to secure its adoption alongside the CIL Charging Schedule.
- 2.6 The Council will need to publicise extensively the CIL implementation date and what will happen in respect of processing all planning applications and permitted developments that may be liable for CIL.
- 2.7 A CIL Guidance Note has been prepared (attached at Appendix C). It is intended to put this on the Council's website and liaise actively to raise awareness of CIL amongst developers, housebuilders, key stakeholders and the public prior to implementation of CIL.
- 2.8 There is a need to provide clear guidance to ensure that all CIL liable planning applications that are determined after the implementation date are subjected to CIL. This will also apply to other liable developments (such as those authorised by general consent such as 'deemed' development). Further details on this are set out in Section 4.0 of the CIL Guidance note.
- 2.9 The Guidance Note also seeks to inform applicants about the circumstances where relief from CIL may apply. This is covered in Section 16 of the Guidance Note. Further details on CIL relief, including definitions (e.g. affordable housing) can be sourced directly from the CIL Regulations.
- 2.10 The Council is looking at acquiring a software package for managing CIL. There is a significant workload required to execute data transfer, train staff in using the software and modify all the template letters, emails, forms etc so that they relate to Rutland County Council before it can be used. Again this work will need to be completed before implementation.

3 CONSULTATION ON THE CIL CHARGING SCHEDULE

- 3.1 Consultation on the Council's CIL proposals and the supporting evidence has taken place at both preliminary draft charging schedule stage in 2014 and final draft charging schedule stage in 2015, all in accordance with regulatory

requirements. The formal examination process enables further consideration to be given to outstanding objections submitted at the final draft stage. This included further dialogue with the objectors by the Examiner appointed by the Secretary of State to comprehensively examine the Council's proposals and the evidence to support them. Having considered all consultation responses to the draft Charging Schedule, the Examiner's report at Appendix A recommends the Council progress to adoption of the CIL.

4 ALTERNATIVE OPTIONS

- 4.1 The Option of not adopting CIL has been considered in drawing up the Council's proposals for CIL. This alternative option would mean that the Council would continue to use planning obligations, secured through Section 106 agreements, to secure community infrastructure and help mitigate the impact of growth. Government policy has scaled back the use of planning obligations and has indicated that it will take this further in due course. This impacts significantly on the Council, for example the Council can no longer pool more than 5 planning obligations for any one piece of infrastructure. Government policy is to encourage LPA's to take up CIL to secure community infrastructure instead.
- 4.2 To conclude, the continued reliance on planning obligations to secure community infrastructure is not considered to be a viable option as it would be less effective in securing the infrastructure required to adequately mitigate the impacts of new development.

5 FINANCIAL IMPLICATIONS

- 5.1 The Council's Infrastructure Project List was published in February 2015. Its purpose was to support the Council's proposed CIL through public examination. It shows investments in infrastructure that would support the planned growth across Rutland to 2026. It shows how they might be funded and identifies a funding gap. CIL will make help close the gap but it will not deliver all the infrastructure items on the list. Difficult choices will have to be made when CIL funds start to be paid to the Council.
- 5.2 A report on suggested governance arrangements is being prepared and will be submitted to Cabinet in January 2016 to establish the approach to be taken in deciding which infrastructure investment priorities are to be implemented.
- 5.3 As part of monitoring the impact of the proposed rates of CIL, the Council will quite easily be able to see how much the application of CIL generates in revenue (e.g., in relation to the overall scale of residential development activity) and compare this to the levels of funding from residential development secured through S106 funding in pre-CIL years.
- 5.4 CIL rates will need to be reviewed as part of the review of the Rutland Local Plan and in the light of the monitoring of its application as proposed – the guidance suggests this should be looked at quite soon after the CIL is first adopted.
- 5.5 The CIL Regulations make provision for up to 5% of CIL receipts to be used to cover the administrative expenses incurred in implementing CIL.

6 LEGAL AND GOVERNANCE CONSIDERATIONS

- 6.1 A risk associated with the adoption of CIL is a legal challenge. Once the CIL is adopted and formally advertised, it will be followed by a six week period for a High Court application to challenge the CIL, should anyone believe there are any grounds on which the document is not within the appropriate power or a procedural requirement has not been complied with. If no successful challenge is made, the CIL will be formally adopted and implemented from 1st March 2016. The risk has been minimised by ensuring it is within the appropriate power and by taking all of the necessary procedural steps to ensure the document is legally compliant.
- 6.2 The CIL Regulations prescribe how the levy is to be implemented. Parts of the process will inevitably require legal support; this is procured from Peterborough City Council where CIL is already being implemented. There is also expected to be a reduction in the support from legal services required for S106 work as this will be partly replaced by CIL. As stated at paragraph 5.2 above, a report on suggested governance arrangements for administering CIL is being prepared and will be submitted to Cabinet.

7 EQUALITY IMPACT ASSESSMENT

- 7.1 An equality screening form has been completed. The result shows a low risk such that a full EqlA is not required. The community infrastructure the CIL funding will support will have a positive or neutral impact on the wider community and any equality groups.

8 COMMUNITY SAFETY IMPLICATIONS

- 8.1 None

9 HEALTH AND WELLBEING IMPLICATIONS

- 8.1 Securing appropriate funding from CIL liable development will assist in ensuring adequate infrastructure to support housing and employment growth and mitigate the impact of new development on health and wellbeing.

10 ENVIRONMENTAL IMPLICATIONS

- 10.1 Securing appropriate funding from CIL liable development will help ensure that the environmental impact of new development is addressed.

11 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 11.1 The proposed rate of CIL, and the viability evidence to support it, has been thoroughly examined through the consultation process. The examiner's report endorses the Council's proposals without any amendments being required. The examiners recommendation to proceed to adopt CIL takes into account the proposed new SPD on Planning Obligations and the way in which these two policy tools will link.
- 11.2 Subject to Cabinet approval, it is intended that the CIL Charging Schedule be recommended for adoption to Council on 11 January 2016. Once adopted and implemented from 1st March 2016, it will provide guidance and be a material consideration when determining planning applications in Rutland, alongside the

SPD on Planning Obligations.

12 BACKGROUND PAPERS

12.1 There are no additional background papers to the report.

13 APPENDICES

13.1 Appendix A – Report of the Planning Inspector appointed to examine the CIL Charging Schedule

13.2 Appendix B – The Council's CIL Charging Schedule

13.3 Appendix C – A CIL Guidance Note

A Large Print or Braille Version of this Report is available upon request –
Contact 01572 722577. (18pt)



Report to Rutland County Council

by C A Newmarch BA(Hons) MRICS MRTPI

an Examiner appointed by the Council

Date: 22 October 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE RUTLAND COUNTY COUNCIL COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE

Charging Schedule submitted for examination on 16 July 2015

File Ref: PINS/A2470/429/5

Abbreviations used in this report

CIL	Community Infrastructure Levy
CS	Core Strategy
DCS	Draft Charging Schedule
NPPF	National Planning Policy Framework
SA	Site Allocations & Policies Development Plan Document
SQM	Square metres
S106	Town and Country Planning Act 1990 S106

Non Technical Summary

This report concludes that the Rutland County Council Community Infrastructure Levy Draft Charging Schedule provides an appropriate basis for the collection of the levy in Rutland. The Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of the area at risk.

I have recommended that the schedule should be approved in its published form, without changes.

Introduction

1. This report contains my assessment of the Rutland County Council Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) in terms of Section 212 of the Planning Act 2008. It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance in Planning Practice Guidance¹.
2. To comply with the relevant legislation the local charging authority has to submit a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district. The basis for the examination, which took place through written representations, is the submitted schedule of February 2015², which is effectively the same as the document published for public consultation initially from 13 February to 27 March 2015 and subsequently for an additional four week period from 4 June to 2 July 2015.
3. The Council propose the following CIL rates per square metre (sqm) for qualifying development throughout the County:

• Residential	£100
• Sheltered Housing and Extra Care Housing	£NIL
• Distribution	£10
• Food retail supermarkets	£150
• Retail warehouses	£75
4. No charge is proposed for any other category of development.

Is the charging schedule supported by background documents containing appropriate available evidence?

Infrastructure planning evidence

5. The Rutland Local Development Framework Core Strategy (CS) was adopted in 2011. The Rutland Local Plan Site Allocations & Policies Development Plan Document (SA) was adopted in 2014. Together these planning documents set out the main elements of growth that will need to be supported by further infrastructure in Rutland.
6. The CS and SA provide for, among other things, the development of at least an additional 3,000 homes, approximately 5ha of employment land, and some 900 – 1,300sqm of additional convenience retailing and between 2,300 and 3,500sqm comparison retailing floor space in the County between 2006 and

¹ ID 25-001-20140612 – ID 25-170-20140612, June 2014

² CIL/010

2026.

7. The Council intends that CIL will help to fund the infrastructure which will be necessary to meet the needs arising from the consequent population growth. In particular, the Council has identified the need for highways, transport and waste schemes, additional health and social care facilities, additional childcare and educational provision, enhanced policing and community facilities, improvements to the public realm, library provision, cultural and sports facilities.
8. The estimated cost of the Council's identified infrastructure requirement is set out at Appendix 1 of the Council's Background Paper, February 2015 (CIL/020). The list comprises essential infrastructure which is needed to meet the needs generated by the growth planned within Rutland. It derives from consultations with infrastructure providers. The estimated cost of this infrastructure amounts to around £24.8m, of which approximately £12.8m will be provided from committed or projected funding.
9. The committed or projected funding includes public sector capital funding, other private sector or agreed developer contributions and sources of external grant aid, where appropriate, as well as signed or agreed obligations under S106 of the Town and Country Planning Act 1990. It reduces the need for additional funding to fill the infrastructure gap to just under £12m. Nonetheless these figures demonstrate the need to levy CIL in Rutland.
10. In order for the developments which are necessary for the implementation of the development plan to be largely viable, the Council is not seeking to fill the entire remaining infrastructure funding gap through CIL. Additional financial contributions would be sought through S106 agreements for site specific infrastructure not covered by CIL.
11. The Council's intention is that CIL will collect, as a minimum, the amount which has been collected recently through S106 agreements.³ However, although the Council's adopted developer contribution policy aims to secure £140/sqm, or £12,000 on an average 85sqm home, an average of only £85/sqm was achieved over the period June 2010 to December 2012 due largely to difficult market conditions. For consistency, these figures do not take account of additional contributions towards the provision of affordable housing.
12. The proposed residential CIL charge would, therefore, be lower than the former S106 target, but slightly higher than the amounts achieved in recent years. The Council calculates that CIL receipts will amount to about £4m over the remaining plan period to 2026.⁴ This would be around one third of the identified infrastructure gap.

³ CIL/61, page 18

⁴ CIL/022 paragraph 2.9

13. I take this to be a cautious estimate since at least 603 new homes are required in the period 2014 – 2026 to meet the requirement identified in the CS⁵, potentially generating a greater sum.

Economic viability evidence

14. The Council, together with all the Councils in Leicester and Leicestershire, commissioned a CIL Viability Study, dated January 2013⁶. The assessment uses a residual valuation approach, using reasonable standard assumptions for a range of factors such as building costs, profit levels, fees etc. The model was adapted to take account of an assessment of the housing market including different types of housing, sizes and tenures. Similarly an assessment was made of the non-residential markets to establish the worth of different types of non-residential uses in the study area. A set of 16 residential and 13 non-residential development types were modelled to assess viability and the scope for the payment of CIL.
15. The residential appraisal results were tested for sensitivity to affordable housing provision, building standards and 5% increases and decreases in house prices.
16. The non-residential appraisals investigated the viability of both greenfield and brownfield sites for a range of commercial uses and for leisure. In either type of location only Distribution, Large Retail Supermarkets and Large Retail Warehouses were viable, with other shops only being found to be viable on greenfield sites.
17. The Study has been updated and supplemented by the Rutland CIL Viability Update, June 2014.⁷ This update was prepared on the same basis, but relates solely to the Rutland County Council area. It reflects the Council's decision to reduce the affordable housing target to 30% and to increase the threshold size for affordable housing to 10 units.⁸ For non-residential uses the update took account of increased construction costs, and introduced an additional typology of smaller supermarkets with a floor space of 1,700sqm.
18. Two further viability assessments were submitted by the Council during the Examination at my request to provide information relating to smaller supermarkets with floor areas of less than 1,700sqm⁹. These were based on the same assumptions as the Revised Retail Appraisals in Table 6.1 of the 2014 Update, but additionally provide viability assessments for small supermarkets with floor spaces of 1,200sqm and 800sqm.
19. The CIL Viability Update demonstrates at Table 4.4 that, across the residential

⁵ CIL/020 page 9

⁶ CI/031 and Appendices CIL/032

⁷ CIL/035

⁸ CIL/035 page 28

⁹ CIL/100/02, dated 9 September 2015 and CIL/100/03, dated 16 September 2015.

site typologies within Rutland, the proposed CIL rate would range from 3.0% - 4.3% of the Gross Development Value, and that the amount of CIL payable would amount to 3.2% - 4.6% of the total development costs.¹⁰

20. The relationship between CIL, Gross Development Values and total development costs for non-residential development types, including smaller supermarkets, is not set out in a comparable tabular form. However, Table 6.1 in the CIL Viability Study Update and the unnumbered table in the Council's response to my further retail questions¹¹ together show the anticipated 'additional profit' over and above the normal development profits, which would be potentially available for CIL. For each of the non-residential typologies tested, this would be comfortably greater than the proposed CIL rate, leaving a generous buffer for possible changes in costs or market conditions.
21. The Draft Charging Schedule¹² notes that S106 contributions can still be sought for infrastructure directly related to a development, including contributions towards off-site affordable housing provision. The impact of providing affordable housing in accordance with the CS has been considered by the Council throughout the preparation of its evidence base to support the CIL DCS. In particular, the Council introduced a 'cap' in April 2013 to reduce the maximum off-site contribution which it would require towards affordable housing for small sites of five or fewer dwellings. It confirms¹³ that it will amend its formal policy guidance on Affordable Housing and S106 to apply the 'capped' level to larger sites of 6 to 10 dwellings.

Conclusion on whether the charging schedule supported by background documents containing appropriate available evidence

22. The DCS is supported by detailed evidence of community infrastructure needs and viability assessments. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

Is the charging rate informed by and consistent with the evidence?

CIL rates for residential development

Whether a matrix approach incorporating differential CIL rates is necessary:

23. It is submitted that differential rates are required to differentiate between the viability of development in Oakham and the smaller villages in Rutland. However, the Viability Study and its Update report each examine a range of typical residential development locations and types. In all relevant typologies, other than an ex-garage brownfield site, the assessments indicate that the

¹⁰ CIL/035 page 30

¹¹ CIL/100/02

¹² CIL/010 paragraph 7

¹³ CIL/20 page 17

proposed CIL charge would not undermine development viability. Although there is some variation in residual land values across Rutland, it has not been demonstrated that this, or any other relevant factor, is sufficient to outweigh the Council's viability evidence.

Whether rural exception sites for housing should be excluded from CIL:

24. Rural exception sites for affordable housing may be permitted under CS policy CS11, with an option of providing a small number of market housing units on affordable rural exception sites being supported by SA policy SP10. However, no such sites have come forward during the plan period. In the event that any future rural exception sites include a mix of the market and affordable housing, CIL would be applicable to the market housing with the statutory exemption applying for the element of affordable housing.
25. Rural exception sites would be limited to a maximum of 5 or 9 homes depending on their location. In the absence of detailed evidence to the contrary, I consider that the viability assessment for a small village scheme would indicate that the proposed level of CIL would not harm the delivery of rural exception sites.

Whether dwellings for agricultural and other rural workers should be excluded from CIL:

26. It is submitted that CIL could affect the development of homes for agricultural, forestry and rural enterprise workers. However, CIL would not apply to dwellings for agricultural, forestry or rural enterprise workers meeting the requirements to qualify as Affordable Housing. Similarly, self-build housing would not be liable for CIL.
27. Moreover, the Council does not require a commuted sum towards off-site affordable housing for the construction of a single agricultural dwelling¹⁴. Without detailed submissions relating to the viability of building homes for such rural workers, I therefore take this to be a generalised concern. It does not demonstrate CIL would jeopardise the delivery of the very limited number of dwellings which are essential for agricultural, forestry and rural enterprise workers.

Whether the development of single dwellings should be exempt from CIL:

28. It is submitted that CIL should not be charged on the development of single dwellings, particularly those within existing residential plots. However, no evidence has been provided to challenge the residual value indicated in Table 4.3 of the Viability Study Update. Moreover, the development of single village houses, which will include those within existing residential plots as well as infill and other plots, is expected to provide up to 22% of the dwellings to be built

¹⁴ CIL/100/01

in Rutland in the period to 2026¹⁵. This is an important proportion, which will both contribute towards meeting housing needs and generate the need for additional infrastructure.

29. The Council anticipates that a significant number of single village dwellings are likely to be 'self-build' homes, which would be exempt from CIL, but there is no compelling evidence before me for the removal of CIL from the construction of other single village dwellings.

Whether homes being constructed for letting should be exempt from CIL:

30. Consistent with the recognition in the National Planning Policy Framework (NPPF)¹⁶ that homes for private rent may contribute to inclusive and mixed communities, CS policy CS10 requires housing developments to provide a range of housing types, sizes and tenures. However, while it recognises that the Strategic Housing Market Assessment identifies a small shortfall of all sizes of private rented accommodation, the development plan does not allocate sites for this purpose.
31. Moreover, substantive evidence has not been submitted to demonstrate why properties for rent should be exempt from CIL or to show that the payment of CIL would make the development of buy-to-let properties unviable.

Whether account has been taken of the additional infrastructure costs associated with strategic housing sites:

32. It is submitted, and the Council concedes, that the evidence base for the DCS does not address the potential effect of CIL on the viability of large strategic residential sites, which may come forward at a future date. There are, however, no strategic housing sites within Rutland anticipated within the period to 2026. Furthermore, no detailed evidence has been submitted on this matter, and so it has not been shown that the DCS would harm the deliverability of development in Rutland.

CIL rate for Distribution

33. The Council has taken a cautious approach to setting the CIL rate of £10 for commercial distribution uses. It is informed by the CIL Viability Study, CIL/031, and consistent with the available evidence.

CIL rate for Food Retail Supermarkets

34. The CIL Viability Study (CIL/031) examined evidence from across Leicestershire and Rutland to establish the viability of large food retail supermarkets and smaller retail outlets on both greenfield and brownfield sites.

¹⁵ CIL/035 Paragraph 4.18

¹⁶ NPPF paragraph 50

35. In response to representations from smaller 'discount' supermarket operators to the consultation on the Preliminary DCS in 2013, the Viability Study Update (CIL/035) reconsidered the modelling of supermarkets. Its modelling reduced the size of supermarkets from 6,000sqm to 4,000sqm and introduced a smaller 'discount' supermarket with an area of 1,700sqm into the typology. Each was found to be viable, with the capability for paying CIL.¹⁷
36. Further representations contend that the proposed DCS could impact on the viability and deliverability of smaller supermarkets, and 'discount' stores of less than 1,700sqm, although no valuations or other detailed evidence has been provided.
37. There is considerable variation in the floor areas of the store sizes being sought by the various operators of smaller supermarkets, ranging from 510sqm up to 1,800sqm. The Council commissioned additional viability testing for smaller supermarkets with floor areas of 1,200sqm and 800sqm. This was based on wider experience across England in the absence of information on the sale or letting of smaller format stores in Rutland or nearby.¹⁸ The additional assessments confirm that the residual site values for each supermarket size tested would be sufficient to support the payment of CIL.
38. Furthermore, the CIL rate proposed by the Council for food retail supermarkets falls well within the additional profit identified in the Council's studies.¹⁹ There is, therefore, no evidence to support the introduction of differential charging rates for smaller supermarkets, or for reducing the proposed CIL charge.

Whether 'discount' stores are supermarkets

39. The matter of whether 'discount' stores fall within the Council's definition of supermarkets in the DCS is also the subject of submissions. The DCS takes its definition as 'shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.' The definition, which derives from the Examination of the Wycombe District Council Charging Schedule in 2012, has wide acceptance. The absence of a specialist butcher, fishmonger, delicatessen and chemist at 'discount' stores does not preclude them from the above definition as it has not been demonstrated that these are essential for weekly food shopping.
40. At South Lakeland a supermarket definition adds that the majority of custom at supermarkets arrives by car, using the large adjacent car parks provided.²⁰

¹⁷ CIL/035 Table 6.1

¹⁸ CIL/100/02 and CIL/100/03

¹⁹ CIL/035, CIL/100/02 and CIL100/03

²⁰ CIL/100/01

The Council would accept a modification to the DCS to reflect this definition,²¹ but as weekly shopping at sustainable locations can be carried out by bus or taxi, and to avoid possible ambiguity, I do not consider that this change is necessary.

CIL rate for Retail Warehouses

41. The proposed CIL rate was reduced to £75/sqm following the preliminary draft consultation stage in 2013. The proposed rate in the DCS is now informed by and consistent with the evidence in the Viability Study.

Conclusion on CIL Charging Rates

42. For these reasons, I find that the Council's proposed charging rates for both residential and non-residential development are informed by and consistent with the evidence.

Does the evidence demonstrate that the proposed charge rate would not put the overall development of the area at serious risk?

43. The Council's decision to set the overall rates set out in paragraph 3 , above, is based on reasonable assumptions about development values and likely costs. These have been considered in the context of the Council's recent experience in raising funds through S106 agreements, and the limited information available relating to CIL charging rates in neighbouring areas. The evidence shows that residential and commercial development will remain viable across most of the area if the charge is applied. Only where alternative land values exceed residential development values, such as at a former garage site identified in the submitted studies, would development be at risk due to CIL.
44. The delivery of the overall development within the area would not be put at serious risk by the viability of developing a single development type relating to small sites.

Other matters

45. Representors supporting the introduction of CIL in Rutland seek its implementation at an early date. This is not a matter for me, but for the Council as the Charging Authority. Similarly, representations seeking the inclusion of additional development uses or higher charging rates within the DCS do not go to the heart of the impact of the published schedule on the viability of development in Rutland. They are not, therefore, matters for this Examination.

²¹ CIL/100/02

Overall Conclusion

46. In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Rutland. It has taken into consideration representations received during earlier consultations stages, albeit that these are not all reflected in the DCS. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the authority area. It has not proposing to offer exemptions or relief beyond statutory requirements, but this is a matter which the Council will keep under review.
47. The Council has started the local plan review process to plan for development requirements in the period to 2036. It acknowledges that this will necessitate a complete review of infrastructure priorities.²² Given the limited extent of the development provision in the CS remaining to be carried out, I concur with the authority's view that a complete review of CIL will be necessary within three years.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted CS and the Draft Infrastructure Project List appended to the DCS Background Paper February 2015, and is supported by an adequate financial appraisal.

48. I conclude that the Rutland County Council Community Infrastructure Levy DCS satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Draft Charging Schedule be approved.

CA Newmarch

Examiner

²² CIL/022 paragraph 4.4



Rutland County Council
COMMUNITY INFRASTRUCTURE LEVY
Charging Schedule

January 2016

Rutland County Council

COMMUNITY INFRASTRUCTURE LEVY

Charging Schedule

This document sets out the Charging Schedule (CS) for Rutland County Council's Community Infrastructure Levy (CIL). The CS and the proposed rates have been prepared in accordance with Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended)

1. The Community Infrastructure Levy (CIL) is a new levy that local authorities in England and Wales can choose to charge on new developments in their area. The money raised is intended to fund infrastructure that the Council, local community and neighbourhoods need. This could include, for example, new or safer road schemes, park improvements or a new health centre.
2. CIL is designed to be simple. It applies to most new buildings and charges are based on the size and type of the new development.
3. This document is the County Council's Charging Schedule (CS). It is amended to take account of representations submitted during the consultation exercise on an earlier Preliminary Draft Charging Schedule (PDCS) along with adjustments deemed necessary to ensure that the Council's proposals are compliant with the latest regulations applying to CIL. A public examination of a Draft Charging Schedule (DCS) was undertaken from July to September 2015 by an Inspector appointed by the Secretary of State. The Inspector's report published xxth October 2016 concluded that the DCS satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 regulations (as amended). The inspector therefore recommended that the Charging Schedule be approved.
4. This CS is supported by a Background Paper which provides further details on the evidence drawn on by the Council in deciding the rates of CIL to be applied.

Deciding the CIL Rate

5. CIL is set at a rate that the Council considers not to put at serious risk the overall planned development of the area by making such development unviable. In achieving this, an appropriate balance has been made by the Council between what CIL charge will best enable the necessary infrastructure for the local area and the potential effects the CIL charge will have on the viability of development.

Who will pay CIL and what will it be spent on?

6. The CIL rate is expressed as a £ per m² charge. CIL will be applied to most buildings that people normally use where more than 100 m² of floorspace (net) or a new dwelling is created (even if it is less than 100 m²). It will be applied to most forms of residential development (with the exception of self-build housing, property extensions and residential annexes). It will also apply to the specified non-residential uses set out below. The Council proposes to adopt a zero rate where viability testing shows that a particular non-residential use cannot withstand a charge.
7. The definition of infrastructure is set out in the Council's adopted Core Strategy and includes transport, education, health, flood defences and green infrastructure. More details appear in an Infrastructure Project List attached at Appendix 1 to the CS Background Paper which accompanies this CS. This is also summarised in Table 1 below. Following consultation on the PDCS, the Council prepared a 'Regulation 123' list, which lists infrastructure projects or types of infrastructure that it intends to fund through CIL. S106 contributions can still be sought for infrastructure directly related to a development, provided that the infrastructure is not part of the Regulation 123 list. The Regulation 123 list is set out in the CS Background Paper which accompanies this CS.

Relief for Exceptional Circumstances

8. The Council is not offering exemptions or relief beyond that which is set out as a statutory requirement in the 2010 Regulations (as amended). The regulations on this matter make clear that relief should only be granted in 'exceptional circumstances'.
9. Further advice on both mandatory exemptions and relief from CIL is set out at section 4.6 of the CS Background Paper

Assessment of Rutland County Council's Infrastructure Needs

10. The infrastructure requirements summarised at Table 1 below illustrate Rutland County Council's anticipated infrastructure needs to 2026. It is focused only on the provision of new infrastructure that is required in whole, or in part to meet the needs generated by the development growth being planned for over the remaining plan period to 2026. Account is then taken of whether there is likely to be sufficient funding to meet that need. Where a funding gap is established CIL can potentially be charged to help address the gap.

TABLE 1: RUTLAND ESTIMATED INFRASTRUCTURE REQUIREMENTS TO 2026*				
Infrastructure Element	Required Infrastructure Schemes	Infrastructure Cost (£)	Committed Funding (£)	Funding gap (£)
Highways, Transport and Waste	<ul style="list-style-type: none"> Oakham Town Centre & other town centre improvements Car parking Various public & community transport initiatives New recycling facility 	7,012,000	2,999,700	4,012,300
Health and Social & Care	<ul style="list-style-type: none"> Disabled, residential care and youth facilities New and expanded GP facilities 	971,000	385,800	585,200
Education, Learning and Skills	<ul style="list-style-type: none"> Additional places for early year/childcare New build and expansion of existing Primary School facilities Expansion of existing Secondary School facilities Building infrastructure for additional post 16 needs 	9,506,100	4,100,000	5,406,100
Emergency Services	<ul style="list-style-type: none"> Enhanced policing & community safety 	1,077,700	850,000	227,700
Economic Development	<ul style="list-style-type: none"> Oakham and Uppingham public realm improvements Improved Broadband Connectivity 	960,000	415,000	545,000
Culture and Leisure	<ul style="list-style-type: none"> Improvements to library provision outside Oakham Development of Heritage and Cultural facilities Indoor and Outdoor Sports and Playing Fields 	5,308,400	4,119,700	1,188,700
Total		24,835,200	12,870,200	11,965,000

Footnote to Table 1 – This is an assessment undertaken in February 2015 and figures relating to committed infrastructure funding are liable to change over time.

CIL RATES

Striking an ‘Appropriate Balance’ – Factors to Consider

11. In setting CIL the Council has weighed up various policy priorities. Critical costs to a developer recognised, and taken account of, include the payment of CIL at the proposed rate, the delivery of affordable housing, potential additional, site specific, s106 payments and the construction of development to the required environmental standards. It is recognised that by introducing a new charge such as CIL or increase an existing requirement on developers there will be a corresponding knock on effect on the developer’s ability to meet other requirements.

CIL Rates

Residential rate setting

12. In setting residential rates, consideration was initially taken of the viability results from the Leicester, Leicestershire and Rutland Viability Report. The Council, with advice from the consultants that carried out the viability study, looked to see what the variable types of residential development sites could afford in terms of additional profit. This work was extensively updated by consultants in June 2014.
13. The intention in setting CIL rates is to ensure that developments critical to the delivery of the Council’s local plan still remain viable. Further work has also been undertaken on the implementation of the council’s policy on affordable housing and its approach to negotiating commuted sums on small sites. This resulted in the Council reducing its commuted sum as of April 2013 in order to enable CIL to be set at a rate that is affordable to the developers of these sites, whilst still maintaining a commuted sum to enable affordable housing to be delivered.
14. The CIL update report referred to above has also taken account of publication of the National Planning Policy Framework and Planning Practice Guidance (PPG). The PPG scales back the powers of local planning authorities to secure tariff style developer obligations. In response to the changes made, the Council has also reviewed its S106 policy requirements in respect of both Affordable Housing provision and remaining infrastructure requirements that may be necessary to mitigate the impact of residential development. Further details are set out in the CS Background Paper.
15. Finally, the Council considered what other authorities are charging, particularly those close by and/or within similar property market areas. Further details on the basis for the CIL rates are set out in the CS Background Paper.
16. Taking account of these key factors the Council set for residential CIL a rate of £100 per square metre across the entire County.

Commercial rate setting

17. For commercial rates the Leicester, Leicestershire and Rutland Viability Report, as updated by the June 2014 report, finds that viability does not change geographically across the Rutland. Therefore one rate can be set for the County for each development type. Again a cautious approach has been taken and rates set out in Table 2 are below the maximum viable amounts. In setting the specific rates account was again taken of adopted commercial CIL rates for similar uses in comparable areas.
18. In light of the above striking of an appropriate balance and the evidence presented in Section 2, the council has set the following CIL rate(s):

SCHEDULE OF CIL RATES	
Use Type	CIL Rate (per sq m)
Residential	£100
Sheltered Housing and Extra Care Housing	£NIL
Distribution	£10
Food Retail (Supermarkets)*	£150
Retail Warehouses	£75

The following definitions of uses are considered appropriate for the purposes of this charging schedule:

Retail – Food Retail (Supermarkets) are shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.

Details of this approach were set out by Geoff Salter in his report following his examination of the Wycombe DC CIL Charging Schedule (September 2012)

Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods) DIY items and other ranges of goods catering for mainly car-borne customers.

Distribution relates to B8 use as per the Use Classes Order.

Residential means new dwellings/flats. It does not include any other developments within Class C1, C2 or C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) such as residential care homes, Extra Care housing and other residential institutions.

Uses not included in the above schedule are not liable to a CIL levy charge.

FORMULA FOR CALCULATING THE CHARGEABLE AMOUNT

19. The formula for calculating the chargeable amount is set out in full in Part 5 of the Community Infrastructure Regulations 2010 (as amended) (The Regulations).
20. The following is from the regulations:
 - i. The collecting authority must calculate the amount of CIL payable (“chargeable amount”) in respect of a chargeable development in accordance with this regulation.
 - ii. The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.
 - iii. But where that amount is less than £50 the chargeable amount is deemed to be zero.
 - iv. The relevant rates are the rates, taken from the relevant charging schedules, at which CIL is chargeable in respect of the chargeable development.

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

$$\frac{R \times A \times Ip}{Ic}$$

Where -

A = the deemed net area chargeable at rate R, calculated in accordance with paragraph (7);

Ip = the index figure for the year in which planning permission was granted; and

Ic = the index figure for the year in which the charging schedule containing rate R took effect.

- vii The value of A must be calculated by applying the following policy formula—

$$Gr - Kr - \frac{(Gr \times E)}{G}$$

where—

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 –

- (i) retained parts of in-use buildings, and
- (ii) 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 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 –

- (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development, and
- (ii) for the second and subsequent phases of a phased planning permission, the value Ex (as determined under paragraph (8)0, unless Ex is negative,

provided that no part of any building may be taken into account under both of paragraphs (i) and (ii) above.

- (viii) The value Ex must be calculated by applying the following formula -

$$Ep - (Gp - Kpr)$$

where—

Ep = the value of E for the previously commenced phase of the planning permission;

Gp = the value of G for the previously commenced phase of the planning permission; and

Kpr = the total of the values of Kr for the previously commenced phase of the planning permission

- (ix) Where a collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish that a relevant building is an in-use building, it may deem it not to be an in-use building.
- (x) Where a collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish -
 - (a) whether part of a building falls within a description in the definitions of Kr and E in paragraph (7); or
 - (b) the gross internal area of any part of a building falling within such a description,
 it may deem the gross internal area of the part in question to be zero.
- (xi) In this regulation –
 - “building” does not include –
 - (i) a building into which people do not normally go;

- (ii) a building into which people go only intermittently for the purpose of maintaining or inspecting machinery; or
- (iii) a building for which planning permission was granted for a limited period;

“in-use building” means a building which –

- (i) is a relevant building, and
- (ii) contains a part that has been in lawful use for a continuous period of at least 6 months within the period of 3 years ending on the day planning permission first permits the chargeable development;

“new build” means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings;

“relevant building” means a building which is situated on the relevant land on the day planning permission first permits the chargeable development;

“relevant charging schedules” means the charging schedules which are in effect –

- (i) at the time planning permission first permits the chargeable development, and
- (ii) in the area in which the chargeable development will be situated;

“retained part” means part of a building which will be –

- (i) on the relevant land on completion of the chargeable development (excluding new build),
- (ii) part of the chargeable development on completion, and
- (iii) chargeable at rate R.”



Rutland
County Council

Rutland County Council
COMMUNITY INFRASTRUCTURE LEVY
Pre-Implementation Guidance Note

November 2015

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Rutland County Council CIL Guidance Note

1.0 Introduction

- 1.1 Rutland County Council intends to bring the Community Infrastructure Levy (CIL) into effect on 1st March 2016.
- 1.2 This advice note aims to advise applicants about the Levy, when information needs to be submitted with a planning application and the process involved. It also highlights where additional information can be found. It is not intended to be a definitive interpretation of the legislation or CIL Regulations and applicants may wish to seek professional advice about any issue in this note.
- 1.3 The government issued updated Community Infrastructure Levy Guidance in February 2014 which is available at <http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/>
- 1.4 Further background information on the evidence to support the Council's CIL rate can be viewed at [*Rutland County Council Draft Charging Schedule - Background Paper*](#)

2.0 What is the Community Infrastructure Levy?

- 2.1 CIL is a tariff in the form of a standard charge on new development, to help the funding of infrastructure. The principle behind CIL is that most development has some impact on infrastructure and should contribute to the cost of providing or improving infrastructure.
- 2.2 CIL applies to new floor space and charges are based on the size and type of the new development. The Council will collect the Levy, co-ordinate the spending of the funds and report this to the community.

3.0 Will CIL replace Section 106 agreements?

- 3.1 For residential developments CIL will largely replace off- site Section 106 (S106) contributions, e.g. towards off-site sports provision or school places. The Council will continue to use S106 agreements to secure affordable housing from residential developments and essential site specific mitigation from residential and other types of development that are needed to enable developments to proceed.

- 3.2 In some instances, S106 agreements may also be used for larger development sites that have their own specific infrastructure needs that may be more suitably dealt with through S106 agreements. The Council will also utilise Section 278 Highways agreements to address the highway needs/impacts of a development.
- 3.3 Further information is set out in the revised draft “Planning Obligations Supplementary Planning Document” (September 2015) on the Council’s website. This can be viewed at: [Revised Draft Planning Obligations SPD](#)

4.0 When does CIL come into effect in Rutland?

- 4.1 The Community Infrastructure Levy comes into effect in Rutland on 1st March 2016.
- 4.2 Planning permissions issued on or after 1st March 2016 may be subject to CIL. Any planning permission issued before 1st March 2016 but which is implemented pursuant to that planning permission after March 2016 will be unaffected. Planning permission deemed to be granted by way of permitted development rights but not implemented until after 29th February 2016 may also be liable to CIL.
- 4.3 If a scheme was granted outline planning permission before 1st March 2016, the subsequent approval of reserved matters does not trigger a liability to pay CIL. If a scheme was granted full planning permission before 1st March 2016, the subsequent approval of pre-commencement conditions does not trigger a liability to pay CIL. However, if there was a refusal of planning permission before 1st March 2016, but an approval of planning permission is granted on appeal on or after 1st March 2016, the development may be liable to pay CIL.
- 4.4 Where planning permission is granted under Section 73 of the Town and Country Planning Act on or after 1st March 2016 to vary a planning permission that was granted before 1st March 2016, CIL is only due in relation to the increase in floor space over the original planning permission i.e. additional liability.

5.0 What type of development is liable for the Levy?

Residential Development

- 5.1 It is proposed that CIL will apply to most forms of residential development subject to qualifying exemptions that apply to self-build housing, residential extensions and annexes. It does not apply to Affordable Homes and specialist housing such as residential care homes, Extra Care housing and other residential institutions. It also does not apply to hotels, hostels, holiday lodges, cabins and other forms of holiday accommodation.
- 5.2 Subject to the above, new dwellings/flats of any size through conversion/change of use or new build together with any buildings ancillary to the dwelling and other residential floorspace of 100 sq. m and above may therefore be liable to pay CIL.

- 5.3 Residential floorspace includes all floors of a building including habitable attics and basements and all buildings ancillary to dwellings such as garages and other outbuildings. Elements of development that are open to the weather (for example, canopies, lean to car ports, covered walkways, external balconies) are excluded. This reflects the definitions of Gross Internal Area in the RICS Code of Measuring Practice.

Non Residential

- 5.4 Food/convenience based supermarkets and superstores with adequate parking catering for mainly car borne customers that are shopping destinations in their own right and where weekly food shopping needs are met are likely to be liable for CIL along with extensions of over 100 sq. m to them.
- 5.5 Retail warehouses specialising in the sale of household goods (such as carpets, furniture and electrical goods) DIY items and other ranges of goods catering for mainly car borne customers are also liable for CIL along with extensions of over 100 sq. m to them.
- 5.6 Uses of building for Distribution purposes as set out in Class B8 of the Use Classes Order are also likely to be liable for CIL along with extensions of over 100 sq. m to them.
- 5.7 Other permissions for uses such as offices, small retail and public services, whether granted on application or deemed to have been granted by way of permitted development rights, will have a zero charge.

6.0 Additional Guidance on CIL Liability

- 6.1 In order to assess whether development is liable to contribute to CIL, applicants are required to submit a CIL Questions Form with their planning application for the following types of development:-

All applications for full planning permission, Section 73 variations to relevant applications granted pre or post 1st March 2016 and reserved matters if the outline planning permission was granted on or after 1st March 2016 if planning permission is sought for;

- Residential development of one or more dwellings through new build or conversions even if less than 100 sq. m.
 - The establishment of other residential floorspace such as extensions, and other ancillary buildings such as stores, garages if over 100 sq. m (or less than 100 sq. m if it contributes to the creation of new dwelling);
 - Convenience based supermarkets and superstores and retail warehouses.
 - Distribution uses relating to B8 use as set out in the Use Classes Order.
- 6.2 For these types of applications, applicants **MUST** submit a CIL Questions Form with their applications for planning permission to enable the Council to assess their liability for the Levy. **A planning application will not be validated until the CIL Questions Form has been submitted.**

- 6.3 This form is available at;
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

This form will soon be available to download from the Council's own CIL web page (along with all other forms, notices etc related to processing development proposals liable for CIL).

This form must be submitted even if the development is likely to be subject to a £0 rate of CIL, as a result of being able to benefit from the mandatory relief available for charitable development, social housing or other reliefs. If the information provided within the form is insufficient, or the plans submitted are not clear, the Council will request additional information. If this is not provided, the CIL liability will be calculated based on the information provided within the Planning Application with no deductions for any existing floorspace.

- 6.4 If the CIL applies to more than one new building a schedule listing the GIA floorspace of each building should be supplied with the CIL Questions form if not provided as part of the planning application. If the amount of CIL is to be reduced due to the demolition of buildings in lawful use or re-use of part of an existing building, each building must be listed separately on the CIL form Q7 and a plan must be supplied to show the location of the floorspace/buildings referred to in Q7.
- 6.5 Applicants are also asked to submit CIL Form 1: Assumption of Liability to the Council with the planning application to ensure that the CIL liability notice is issued to the correct party. Liability for CIL rests with the landowner, unless another party completes a CIL 'Form 1: Assumption of Liability.' This form must be submitted by the landowner. In the absence of an Assumption of Liability Form being submitted the Council will serve the Liability Notice on the applicant and landowners identified on the planning application documentation. The person accepting liability must legally serve 'Form 1: Assumption of Liability' on the Council prior to commencement of the development.
- 6.6 If you are submitting an application for a major development, the CIL Regulations permit each phase of the development to be a separate chargeable development if the permission granted provides for the development to be implemented in phases. If you wish for your application to be considered in phases, this must be requested and discussed with the Council, before submission.

7.0 What type of development is not liable?

- 7.1 A minimum threshold applies to non-residential development. If the gross internal area (GIA) of new build is less than 100m² it does not pay CIL. The threshold does not apply however to new dwellings. If a new dwelling is being created, it will pay CIL for any net increase in GIA. CIL will not be charged when the calculated amount of CIL is less than £50.

7.2 Subject to various criteria being met the following types of planning applications will not have to pay CIL but applicants are required to submit the CIL Questions Form so that the Council can confirm that there is no liability.

- The conversion of a building that is in lawful use (see below) provided that no extension is proposed as part of the conversion works.
- Charitable development that meets the relief criteria
- “Self build” houses, flats, residential annexes and extensions subject to criteria being met
- Affordable housing that meets the relief criteria
- Vacant buildings brought back into the same use.

Note that in some instances CIL will become payable if the reasons for the exemption cease to apply within a specified time.

7.4 A wide range of other developments such as employment and leisure uses are currently zero rated and will not have to pay CIL.

8.0 What if CIL liability is unclear?

8.1 If it is not clear as to whether a development will be liable for CIL, it is recommended that the CIL Questions Form is submitted, and we can decide whether the development is CIL liable. Misleading or inaccurate answers may result in a CIL charge that is higher than it needs to be and in some cases additional surcharges may be imposed.

8.2 For example, applications under S73 of the Planning Act 1990 are a special case. In transitional cases, where the original planning permission was granted prior to a CIL charge being brought in but the S73 application is granted following introduction of CIL, the S73 consent will only trigger CIL for any additional liability it introduces to the development (such as increased floorspace). Post introduction of CIL, the regulations provide for CIL payments made in relation to a previous consent that has been commenced to be offset against any further liability which arises pursuant to a S73 consent, and also in relation to a different planning permission that covers the same land so that the Levy already paid is credited against the revised scheme. This can be assessed when forms are submitted.

9.0 What happens if my scheme does not require planning permission?

9.1 If a scheme is liable to pay CIL then a CIL payment will be required whether or not the development requires planning permission. Persons who intend to carry out development authorised by ‘general consent’ (including permitted development)

should serve the Council with a CIL Form 5: Notice of Chargeable Development before the development authorised is commenced so that any liability can be determined.

This form is available at;

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

A Notice of Chargeable Development form will soon be available to download from the Council's own CIL web page (along with all other forms, notices etc related to processing development proposals liable for CIL).

10.0 How much will CIL cost?

10.1 The council has set the following CIL rate(s) to apply throughout Rutland:

SCHEDULE OF PROPOSED CIL RATES	
Use Type	Proposed CIL Rate (per sq m)
Residential	£100
Sheltered Housing and Extra Care Housing	£NIL
Distribution	£10
Food Retail (Supermarkets)*	£150
Retail Warehouses	£75

The following definitions of uses are considered appropriate for the purposes of this charging schedule:

Retail – Food Retail (Supermarkets) are shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.

Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods) DIY items and other ranges of goods catering for mainly car-borne customers.

Distribution relates to B8 use as per the Use Classes Order.

Residential means new dwellings/flats. It does not include any other developments within Class C1, C2 or C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) such as residential care homes, Extra Care housing and other residential institutions.

Uses not included in the above schedule are not proposed for a CIL levy charge.

11.0 How does Indexation apply?

- 11.1 Under the CIL Regulations CIL payments must be increased or decreased (index linked) to reflect changes in the costs of delivering infrastructure between the year that CIL was introduced to the year that planning permissions is granted. The prescribed index is the national All-in Tender Price Index published by the Building Cost Information Service (BCIS).

12.0 What is included in CIL chargeable floor space?

- 12.1 The amount of CIL payable is based on the Gross Internal Area (GIA) of the development. GIA will be measured in accordance with the Royal Institute of Chartered Surveyors (RICS) Code of Measuring Practice.
- 12.2 GIA includes all new build floor space within the external walls of a building, including circulation and service space such as corridors, storage, toilets, lifts etc. It includes attic rooms that are useable as rooms, but excludes loft space accessed by a pull-down loft ladder. It also includes garages and conservatories contained within a Planning Application. Generally, any structure with three or more walls and a roof that is considered to create 'internal' floor space is chargeable.
- 12.3 If the CIL applies to more than one new building a schedule listing the GIA floorspace of each building should be supplied with the CIL Questions form if not provided as part of the planning application.

13.0 What if existing buildings are being demolished or converted?

- 13.1 The GIA of any existing buildings on the land to which the planning permission relates that are going to be demolished or re-used may be deducted from the calculation of CIL liability provided that they are permanent and substantial buildings. However, deductions are only applied where those buildings have been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development. In this context, "in use" means that at least part of the building has been in use. A 'lawful use' is a use, operation or activity for which a building is used that is lawful for planning control purposes and the term 'in use' for CIL purposes includes use of all or part of the building for any purpose associated with the lawful use, including, for example, storage of agricultural equipment, retail stores, or household goods.
- 13.2 Where part of an existing building does not meet the six month lawful use requirement its demolition is not taken into account. However parts of that building that are to be retained as part of the chargeable development can be taken into

account if the intended use matches a use that could lawfully be carried out without requiring a new planning permission and that use has not been abandoned.

- 13.3 If demolition is involved it is important that the CIL Questions Form clearly sets out the lawful use, location and floorspace of each of the buildings to be demolished and that the scaled plans submitted with your application clearly show the buildings that will be demolished as well as the new buildings proposed.
- 13.4 It is the applicant's responsibility to provide evidence to the effect that building(s) are a permanent and substantial structure; in 'lawful use'; and all or part of the building have been 'in use' for a continuous period of at least six months within the period of 36 months ending on the day planning permission first permits the chargeable development.
- 13.5 The Council checks plans when applications are initially assessed. Misleading or inaccurate answers may result in a CIL charge that is higher than it needs to be and in some cases additional surcharges may be imposed. Applicants should also be aware that the CIL Regulations allow an authority to deem the gross internal area of a building to be zero for the purposes of a deduction if it does not have sufficient information or if the information is of insufficient quality to establish the areas or the lawful use.
- 13.6 Definitions of an "in-use building" and "the day that planning permission first permits development" that may assist.**

The day planning permission "first permits the chargeable development" is;

- for full applications; the date on which planning permission is granted unless the development is phased, in which case it may be the date of the final approval of pre-commencement conditions for that phase.
- for outline planning permissions; the date of the final approval of the last reserved matter, or, if phased, either the date of the approval of the last reserved matter for a phase or, if earlier and by agreement in writing by the collecting authority, the date of final approval of pre-commencement conditions associated with that phase.
- in the case of permitted development under a general consent; the day on which the collecting authority receives a notice of the chargeable development submitted to it in accordance with Regulation 64, or if no notice of chargeable development is submitted in accordance with Regulation 64, the day on which the last person is served with a notice of chargeable development in accordance with Regulation 64A(3).

An "in-use building" means a building which—

- (i) is a relevant building, and
- (ii) contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development;"

A “relevant building” is a building which is situated on the relevant land (i.e. normally the site to which the planning permission relates) on the day planning permission first permits the chargeable development.

14.0 How is CIL calculated?

- 14.1 In summary the amount of CIL payable will be the net chargeable floor area of the building multiplied by the CIL rate, adjusted for inflation – see para 9.1 “Indexation”. Garages and other ancillary buildings that form part of the proposals for which planning permission is sought are also liable for CIL.
- 14.2 The net chargeable floor area amounts to the gross internal area of the chargeable development less the gross internal area of any existing buildings within the application site that meet the criteria.
- 14.3 The full formula for calculating the amount of CIL is set out in the Council’s CIL Charging Schedule. It is a complex formulae defined nationally in the CIL Regulations. The charges in the Council’s Charging Schedule feed into the calculation.

The calculation involves multiplying the Council’s CIL charging rate by the net increase in GIA and adjusting for inflation. The key elements of the calculation are as follows;

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

R is the Council’s CIL rate for that use (e.g. £100 per m² for dwelling houses)

A is the net increase in gross internal floor area.

I_p is the All-in Tender Price Index for the year in which planning permission was granted.

I_c is the All-in Tender Price Index for the year in which the charging schedule started operation.

- 14.4 The All-in Tender Price Index is an inflation index published by the RICS Building Cost Information Service and the figure for any given year is the figure for November of the previous year.
- 14.5 CIL liable amounts of less than £50 are treated as zero rated and are not payable.

15.0 Examples of how CIL will be applied to Residential Developments

Site description	Proposed development	Is it liable to pay CIL?	If yes, what is the area of floor space on which CIL will be charged?
Cleared site	Construction of a new dwelling of 90 sq. m	YES	90 sq.m CIL charged on whole new floorspace.
Cleared site	Construction of a 90 sq. m qualifying affordable dwelling	NO	Qualifying affordable housing is not chargeable provided the social housing relief is applied for and granted.
Single dwelling in use	Freestanding extension or associated buildings such as garages of 100 sq. m not physically attached to original dwelling.	YES	100 sq. m. as it is not an enlargement to the main dwelling.
Adjacent to single dwelling in use	Extension as enlargement to main dwelling or residential annex within curtilage of main dwelling.	YES potentially chargeable	But exemptions may apply if the extension is for the applicant's sole or main residence and it is to be used in association with main dwelling. Claw back provisions would apply to annexes.
Single dwelling in use	Sub-division of existing dwelling into two or more flats with no extensions.	NO	Not liable because conversions from a single dwelling into two or more flats/dwellings are exempt.
Single dwellings and outbuildings in use	Subdivision of a dwelling and its outbuildings into 2 dwellings.	YES potentially chargeable	Existing floorspace can be deducted from floorspace of new dwelling, any additional floorspace will be chargeable.
Single dwelling in use.	Construction of a new dwelling of 150 sq. m Original dwelling of 90 sq. m demolished.	YES	60 sq. m. Additional floorspace only.
Single dwelling of 90 sq. m not in use or demolished.	Construction of a new dwelling of 150 sq. m.	YES	If dwelling demolished or use abandoned CIL payable on 150 sq. m. If vacant premises still in residential use CIL payable on difference of 60 sq. m.
Cleared building site.	3,000 sq. m new residential, including 30% affordable by floorspace.	YES	2,100 sq. m (70% of 3,000) provided the social housing relief is applied for and granted.

16.0 Can I claim relief from CIL?

- 16.1 The CIL regulations provide for certain types of development to be exempt from CIL. They also provide for councils to offer discretionary relief in some circumstances. More information about relief can be found in the Communities and Local Government Community Infrastructure Levy Guidance

http://www.planningportal.gov.uk/uploads/cil/cil_guidance_main.pdf

- 16.2 The forms to apply for relief from CIL, Form 2, Claiming Exemption or Relief and forms SB1 and SB2 for self-build homes, annexes and extensions are available at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>.

Can I claim charitable relief?

- 16.3 The Regulations provide for mandatory charitable relief where the chargeable development will be used wholly, or mainly, for charitable purposes. Therefore a charitable institution will benefit from full relief from its portion of CIL liability where the chargeable development will be used wholly, or mainly, for charitable purposes. To qualify for charitable relief, the following criteria must be fulfilled:

- The claimant must be a charitable institution;
- The claimant must own a material interest in the relevant land;
- The claimant must not own this interest jointly with a person who is not a charitable institution.
- The exemption must not constitute state aid.

- 16.4 An application for relief must be made to the Council and accepted before commencement of the development to which it relates.

The Council is not offering discretionary charitable relief to charities, for example where the chargeable development will be held as a charitable investment.

Can I claim social housing relief?

- 16.5 Full relief from CIL can be given to those parts of a development which are to be used as social housing. Any person wishing to benefit from social housing relief must be an owner of the relevant land, assume liability to pay CIL, submit a claim in accordance with regulations to the Council and receive approval of the claim, all before commencing development.

- 16.6 When applying for this relief a claimant must provide evidence that the chargeable development qualifies for social housing relief. To ensure that relief is not used to avoid proper liability for CIL, the regulations provide that any relief must be repaid if the development no longer qualifies for the relief granted within a period of seven years from the commencement of the development.

- 16.7 In 2015 further amendments were made to the mandatory exemptions and reliefs for social housing whereby a dwelling let by a person who is not a local housing

authority, a private registered provider of social housing or a registered social landlord on one of the following—

- (i) an assured tenancy (including an assured shorthold tenancy);
 - (ii) an assured agricultural occupancy;
 - (iii) an arrangement that would be an assured tenancy or an assured agricultural occupancy but for paragraph 12(1)(h) of Schedule 1 to the Housing Act 1988(1); and
- (b) the following criteria are both met—
- (i) the dwelling is let to a person whose needs are not adequately served by the commercial housing market; and
 - (ii) the rent is no more than 80 per cent of market rent (including service charges); and
- (c) a planning obligation under section 106 TCPA 1990 designed to ensure compliance with both criteria at sub-paragraph (b) has been entered into in respect of the planning permission which permits the chargeable development.”

The Council is not offering discretionary relief for social housing under 49A of the CIL Regulations.

[Can I claim relief for self-build, extensions and residential annexes?](#)

- 16.8 Relief is available for self-build projects, residential annexes and residential extensions subject to meeting the legal requirements.
- 16.9 **Self Build.** The self-build exemption is available to homes built or commissioned by individuals for their own use. Community built projects may also qualify.
- 16.10 Applicants can apply for a self-build exemption at any time after they have assumed liability for CIL by submitting an Assumption of Liability Form (see form SB1-1 Self-Build Exemption Claim Form part 1) as long as the development has not commenced. In other words, claims must be made and a decision received before commencement of development. On completion they must provide the requested supporting information and required proof that it is a self-build project within 6 months otherwise CIL will be payable (see form SB1-1 Self Build Exemption Claim Form part 2). Self-build projects must be for occupation as a sole or main residence for a period of 3 years. CIL is payable if the building is let or sold during a three year claw-back period from the serving of the compliance certificate. The chargeable amount will be registered as a local land charge for three years from completion. The required evidence includes proof of the date of completion, proof of ownership and occupation and an approved claim for HMRC “VAT refunds for DIY house-builders”, or a specialist self-build warranty or self-build mortgage. Applicants are recommended to read the government guidance and regulations.

[Extensions and residential annexes.](#)

- 16.11 Relief is available as long as;

- The main dwelling must be the self-builder's principal residence and they must have a material interest in it.
- Residential annexes are wholly within the curtilage of the main dwelling and comprise one new dwelling
- Residential extensions over 100 sq. m are exempt from the Levy if they are an enlargement to the principal residence and do not comprise an additional dwelling. Freestanding buildings do not benefit from this exemption where they are more than 100 sq m GIA or part of a scheme that is over 100 sq. m GIA.

16.12 The applicant must submit a claim form before development commences (see Self Build Annex or Extension Claim Form) to the Council and must submit a commencement notice before works start on site. Otherwise CIL will be payable.

16.13 CIL becomes payable for a Residential Annex if the annex is let, is sold separately from the main dwelling or the main building is used other than as a single dwelling during a three year clawback period from the serving of the compliance certificate.

Can I claim Exceptional Circumstances Relief?

16.14 In very limited circumstances, Exceptional Circumstances Relief may be available from CIL at the Council's discretion. Exceptional Circumstances may only be granted if a planning obligation has been entered into in respect of the planning permission which permits the chargeable development and the Council considers that payment of the full Levy would have an unacceptable impact on the economic viability of the development, as required by the Community Infrastructure Levy Regulations 2010 (as amended). Any relief granted must be based on an objective assessment of economic viability.

16.15 It should be noted that the Council has undertaken viability assessments of different types of development to consider the level at which the proposed CIL charges have been set, taking into account the provision of affordable housing and possible development specific S106 obligations. In view of this, it is important to note that the circumstances under which Exceptional Circumstances Relief is made available are expected to be genuinely exceptional and any relief given must be in accordance with the procedures in the Regulations and State Aid rules.

16.16 The applicant has to follow various steps to claim relief after planning permission is granted but before development is commenced. These steps include submitting a claim in writing on the appropriate form, funding the appointment of an independent person with appropriate qualifications and experience to undertake a viability study who, before appointment, must be agreed as an appropriate person by the Council. The exemption is discretionary and the Council considers that to be able to assess whether the payment of the Levy would clearly have an unacceptable impact on the economic viability of the development that the person carrying out the study will need to meet certain experience criteria, to demonstrate that they are "independent" and that any viability study will need to be in an agreed format clearly setting out evidenced assumptions.

16.17 Eligibility ceases in the event of disposal of the land, if at the end of 12 months from Relief being granted the development is not commenced or if subsequent to the

Exceptional Circumstance Relief being granted social housing or charitable relief is granted in which case the full amount of CIL becomes payable.

- 16.18 If relief is granted it relates to the chargeable development which may be the whole development or a phase where a development proceeds in phases as separate chargeable developments.

17.0 What happens after planning permission is granted?

- 17.1 When planning permission is granted for a CIL liable development, the Council will issue a Liability Notice with the decision notice or as soon after as practical. This will set out how much CIL is to be paid and when it is to be paid.
- 17.2 However, CIL will only become payable upon commencement of development. CIL will need to be paid, at least in part, within 60 days of development commencing, and thereafter in accordance with the Council's instalment schedule set out at Appendix 1 to this Guidance (see section 16 below).
- 17.3 Following the issuing of the Liability Notice, CIL will be registered as a local land charge against the property until the outstanding amount is fully paid. However, any individual or organisation (e.g. the developer) may assume liability for the payment. It is the responsibility of the person(s) who assume(s) liability to inform the Council of this. CIL Form 1: Assumption of Liability and CIL Form 4: Transfer of Assumed Liability are available at;
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>.

If no party assumes liability the charge will be immediately payable by the landowner upon commencement.

- 17.4 Before development starts, that is either the works for the change of use or the change of use, whichever comes first (see S56(1) (c) Planning Act 1990), the developer must inform the Council and all owners of the relevant land of the intended commencement date of the development by sending a CIL Form 6: Commencement Notice. This can be downloaded from the Planning Portal website, at
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Please note that failure to submit a Commencement Notice may result in a surcharge of up to £2,500 and immediate payment of the CIL liability may be required.

After receipt of the Commencement Notice, the Council will serve a Demand Notice setting out precise details of payment arrangements.

The timing of payments will normally be in accordance with the Council's CIL Instalment Policy (see Appendix 2) which will be available on our website, and will in any event be identified on the Demand Notice.

18.0 Can I pay by instalments?

- 18.1 The Council has approved an instalments policy for developments where the CIL liability would be above a certain threshold. This has been agreed to ease the cash flow of developers on large schemes. The instalments policy is set out at Appendix 2.
- 18.2 The Instalment Policy only applies in cases where the persons liable for paying CIL have complied with all the relevant regulations and requirements. Failure to comply with the Instalment Policy at any stage will result in the total unpaid balance becoming payable immediately. In summary, to benefit from the CIL Instalment Policy, the relevant forms must be submitted to the Council prior to the commencement of the chargeable development, and all payments must be paid in accordance with the CIL Instalment Policy. Otherwise the full amount becomes payable immediately.
- 18.3 Large scale development schemes may also be able to further phase payments as CIL can potentially be linked to the commencement of separate phases with each phase a separate chargeable development to which the instalment policies apply.

19.0 Can I pay CIL in other forms?

- 19.1 The regulations permit CIL to be paid in monetary forms or land. If you are interested in paying CIL in the form of land, and have not commenced development on the site in question, you should discuss this possibility with the Council at the earliest opportunity. In order for the request to go ahead, the following conditions must be met:
- The charging authority must agree to the transfer;
 - The charging authority must have the intention of using the land to help provide infrastructure to support the development of its area;
 - It may not form part of a planning obligation entered into under S106 of the Town and Country Planning Act 190
- 19.2 The Council may at its discretion consider proposals for payment in kind by land, but the Council will expect land required for infrastructure to serve the development proposed to be provided in the normal way through S106 agreements. It is only where the land required would serve much wider infrastructure needs to support the development of the area that potentially the Council may be prepared to consider this approach.
- 19.3 The 2014 CIL Regulations introduce the possibility of allowing infrastructure provision in kind where the infrastructure is to be used to support the development of the wider area. This is provided that it is not necessary to make the development granted permission acceptable in planning terms. The Council has not given notice or issued a policy statement saying that they are willing to accept provision of infrastructure in lieu of CIL funding.

20.0 What are the possible consequences of failing to follow the CIL payment procedure?

- 20.1 The possible consequence of non-payment, such as surcharges, stop notices and court action are set out in the Regulations and the Communities and Local Government Community Infrastructure Levy Guidance
http://www.planningportal.gov.uk/uploads/cil/cil_guidance_main.pdf.

A guidance note of Penalties is to be drawn up and made available on the Council's CIL web page.

21.0 Can I Appeal?

- 21.1 Appeal procedures are set out in the Regulations. A note explaining when it is possible to appeal will be made available on the Council's CIL web page.

Appendix 1 - Process Diagram

Development Progress	Developer Actions	County Council Actions
1. Submission of Planning application	Submission of: 1. Planning Application and supporting material 2. CIL Questions Form and CIL Form 1: Assumption of CIL liability (where development is CIL liable) and where appropriate for example where affordable housing is being provided submission of CIL Form 2 Exemption and Relief, this form cannot be submitted after commencement	
		Determine if application is suitable for validation. Please note submission of CIL Questions Form is validation requirement where development is CIL liable
2. Determination of Planning application	Discharges pre-commencement conditions	Determine Planning application Determine the CIL liability. Issue Planning Permission and a CIL liability notice to the liable person(s) stating the CIL charge CIL registered as a local land charge
3. Prior to commencement of development	Developer completes CIL Form 6 Commencement Notice informing the Council of anticipated start date (complete as soon as start date known) and forwards to the Council	Acknowledges receipt of Commencement Notice Issues Demand Notice stating CIL charge and payment instructions
4. After Commencement of development	Pay CIL at specified instalments	Acknowledge receipt of payment after funds clear.

Appendix 2

CIL Instalment Policy

Number of dwellings 1000m2 non- residential development	Number of Instalments	Total Timescale for Instalments	Payment Amounts (%)	Payment Periods (Days from Commencement)
1	2	270 days (9 months)	10	60
			90	270
2 to 5	3	365 days (1 year)	10	60
			45	270
			45	365
6 to 25	3	548 days (18 months)	10	60
			45	365
			45	548
26 to 50	4	730 days (2 years)	10	60
			30	365
			30	548
			30	730
51 to 100	5	1095 days (3 years)	10	60
			23	365
			23	548
			23	730
			23	1095
101 to 200	6	1460 days (4 years)	10	60
			18	365
			18	548
			18	730
			18	1095
			18	1460
201 to 300	7	1825 days (5 years)	10	60
			15	365
			15	548
			15	730
			15	1095
			15	1460
			15	1825
300+	8	2190 days (5 years)	10	60
			13	365
			13	548
			13	730
			13	1095
			13	1460
			13	1825
			12	1826

Appendix 3

CIL Frequently Asked Questions

- Q1 Will a development be liable to pay CIL if there was a resolution to grant planning permission (e.g. subject to a S106 agreement) before the CIL Charging Schedule is brought into effect on 1st March 2016 but the formal grant of planning permission is made after the 1st March 2016?**

Yes. If the formal grant of permission is made after the CIL Charging Schedule comes into effect on 1st March 2016, it would be liable to pay CIL. This is because any resolution to grant planning permission by the Committee does not formally grant planning permission. The decision notice is usually issued very shortly after the resolution to grant but note that, if the grant of permission is subject to the completion of a section 106 agreement, a decision notice cannot be issued until a S106 agreement has been completed. This will apply also to section 73 applications (see also below). In the situation where the Committee has made a resolution to grant planning permission subject to a section 106 that provided infrastructure, it is likely the application may have to go back to Committee as the section 106 may no longer be justified following the introduction of CIL.

- Q2 Will a development be liable to pay CIL if there was a refusal of planning permission before the CIL Charging Schedule came into effect on 1st March 2016, but an approval of planning permission on appeal is made after 1st March?**

Yes. If planning permission was refused before 1st March 2016, but a grant of planning permission was made on appeal after 1st March, the development granted planning permission on appeal may be liable to pay CIL.

- Q3 Are outline applications liable for CIL?**

Outline planning permissions granted after 1st March 2016 will be liable to pay CIL when the development is built, but as the liability is calculated at Reserved Matters stage there is no need to submit any CIL forms with the outline application. If an outline application includes phasing of development, each phase is treated as a separate development for the purpose of paying CIL. As above, the CIL liability for each phase is calculated at reserved matters stage for that phase.

- Q4 Will a development be liable to pay CIL if there was a planning permission before the CIL Charging Schedule came into effect on 1st March 2016, but an approval of a Section 73 application to vary or remove conditions of that planning permission is made after 1st March 2016?**

Yes. If full planning permission is granted before 1st March 2016, but, after 1st March 2016, the authority issues a decision notice on a S73 application to vary or remove conditions, whenever the application is made or the resolution is passed, the approval does trigger a liability to pay CIL because it results in a new planning permission. However, although a new CIL liability is triggered, the new additional chargeable amount is equal only to the net increase in the chargeable amount arising

from the original planning permission, so as to avoid double counting of liability. In effect, if the application to vary a condition does not result in an increase in floorspace then there will be no charge.

Q5 Will a development be liable to pay CIL if there was a planning permission before the CIL Charging Schedule came into effect on 1st March 2016, but a different planning permission is granted on the same site after 1st March 2016?

YES. Whilst a planning permission granted prior to 1st March 2016 can be implemented in its current form without incurring CIL, if a fresh application is submitted then any residential development it comprises, granted planning permission after 1st March 2016, would be liable for CIL even if it was within the application site of the development that had been granted planning permission previously. Residential floorspace previously granted planning permission cannot be set against CIL liability on the new development. The exception to this is S73 applications mentioned above where there is only a minor amendment to the original scheme.

Q6 Is CIL chargeable for subdividing a house into two or more homes?

No, unless additional new build floorspace is provided as part of the scheme in which case the additional floorspace may be liable.

Q7 Is CIL chargeable on second homes?

Yes, providing they are not temporary buildings. Second homes are still dwellings that come under Use Class C3.

Q8 Is CIL chargeable on mobile homes?

No. CIL can only be charged on buildings. Mobile homes are not normally buildings as defined by law therefore no CIL will be charged on them unless the proposal is considered to be a building.