



Planning and Economic Development Policy Advisory Group

Thursday, 4 April 2019 at 6.00 pm

Room 6 - Capswood, Oxford Road, Denham

A G E N D A

Item

1. Evacuation Procedure
2. Apologies for Absence
3. Declarations of Interest
4. Minutes (*Pages 3 - 6*)

To approve the minutes of the Planning and Economic Development PAG held on 7 March 2019.

5. Updates from Members/ Senior Officers on Current Issues
6. Community Infrastructure Levy (Draft Charging Schedule) (*Pages 7 - 10*)

Appendix 1 (Pages 11 - 18)

Appendix 2 (Pages 19 - 42)

7. Exempt Information

To resolve that under Section 100(A)(4) of the Local Government Act 1972 the

following item(s) of business is not for publication to the press or public on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act.

Note: All reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: Planning and Economic Development Policy Advisory Group

Councillors: J Read (Chairman)
G Hollis
J Jordan
M Lewis
G Sandy

Date of next meeting – Monday, 3 June 2019

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PLANNING AND ECONOMIC DEVELOPMENT POLICY ADVISORY GROUP

Meeting - 7 March 2019

Present: J Read (Chairman)
G Hollis, M Lewis and G Sandy

Apologies for absence: J Jordan

127. MINUTES

The minutes of the Planning and Economic Development PAG held on 29 November 2019 were approved.

128. DECLARATIONS OF INTEREST

There were no declarations of interest.

129. UPDATES FROM MEMBERS/ SENIOR OFFICERS ON CURRENT ISSUES

It was proposed to progress the introduction of Community Infrastructure Levy (CIL) and a further PAG meeting had been set up for 4 April 2019.

The Local Plan consultation was due to begin in May/June. The Members would be notified of the dates through the Members Bulletin.

Training for Town and Parish Council Members and Clerks had been arranged for 12 March on Planning – Development Management and Enforcement.

130. FUTURE HIGH STREETS FUND

Central government had made a fund of £675 million available to regenerate High Streets across the UK. Up to £25 million could be claimed but bids of £5-£10 million were expected. Expressions of interest had to be submitted by 22 March 2019 which gave only 2 weeks' notice.

131. PLANNING AND ECONOMIC DEVELOPMENT FEES

As part of creating an exemplary planning service, it was proposed to improve the Pre-application planning advice service. This was a service that developers wanted, it was helpful to them to more fully understand our policies and processes. It would also improve the quality of applications coming forward and improve the Council's performance figures. To staff the service adequately, it would be necessary to charge fees that fully cover the costs. The report compared charges with neighbouring Councils' and fees within the joint service.

It was proposed to increase fees by 20% and streamline the charges across the joint service. This would fund the extra resources needed to adequately staff the service. Members were concerned that if developers had paid for the service, they would automatically expect that their application would be passed at planning committee but were reassured that it would be made clear to the applicant that this was not certain to lead to permission granted.

Members agreed to the following recommendation:

The PAG was asked to advise the Portfolio Holder and Head of Planning and Economic Development on the following recommendation:

RECOMMENDATION

- 1. That the Head of Planning and Economic Development adopt the revised fee structure and in particular to: -**
 - A) amalgamate/streamline the two current charging schedules into one, set fee based structure. Such a fee structure is consistent with those operated by the majority of Local Planning Authorities, and**
 - B) introduce a 20% minimum increase across the board on all fees payable for pre-application advice, and**
 - C) streamline the current fee charging categories relating to different forms of commercial development, such that they relate to one non-residential/ commercial category (based on proposed floor space divisions), and**
 - D) introduce a new Pre-application category in respect of the use of bespoke Planning Performance Agreements (PPA's): this would be applicable when dealing with large scale development proposals in respect of schemes comprising 50+ dwellings and non-residential floor space over 2, 000m2), and**
 - E) A corollary of the above would also address the current shared service deficiency in not having a consistent charging schedule, and therefore not recovering the full costs, of providing pre-application advice in respect of proposals relating to Listed Buildings.**

132. **PLANNING SERVICE UPDATE**

The appendix set out the key actions being undertaken and the last column the latest position. Much improvement had been made since last year; IT systems had started to work together and vWorkspace challenges overcome, staff turnover had been a problem but now there were new teams in place. The focus now was on refining best practises across the services. It was confirmed that there were now approximately 80

Officers in the service. With regard to the enforcement backlog, it was acknowledged that the Interim Officer had done a great deal to address this. It was noted that there was no statutory obligation to do enforcement but it was important to residents.

Members asked for easier access to the Enforcement Team and it was advised that it should be quicker now to get an email reply. Members were asked to include the case reference number when they contacted the team.

It was **RESOLVED** the report be noted.

133. EXEMPT INFORMATION

RESOLVED that under Section 100(A)(4) of the Local Government Act 1972 the following item(s) of business is not for publication to the press or public on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act.

134. HS2 PROJECT REPORT

The project was still currently at Stage One as notice to proceed had been delayed until the autumn. A programme of work with details had been requested from the contractors but this had still not been received. Any information provided would be shared in the Members Bulletin.

The Colne Valley Regional Park Panel (CVRPP) had received an allocation of a fund of £3 million to offset the impacts of HS2 and an update on those projects was listed in the table on page 18.

A community forum was planned to inform the community of progress on the project but was not well attended previously. This time it would be advertised in the local press on the website.

The Colne Valley Viaduct Design Schedule 19 pre application discussion had commenced but the Council had requested details of the landscaping plan and the commitment by HS2 to provide the landscape and noise mitigation has become an issue. The Council has said that it was critical in its view that landscape commitment be secured at the same time otherwise determination of the Schedule 17 would be very difficult.

An update on the funding of the HS2 team noted that time for Officers could be recharged for the next 12 months with the exception of community engagement that would be paid for by the existing contingency reserves.

It was **RESOLVED** that Members note the report and progress made on the project including the financial implications contained in the report and that they will be met in 2019/20 from reserves of each authority for these purposes.

The meeting terminated at 7.02 pm

SUBJECT:	<i>Community Infrastructure Levy (CIL) Draft Charging Schedule</i>
REPORT OF:	<i>Councillor John Read, Portfolio Holder for Planning & Economic Development, South Bucks District Council</i>
RESPONSIBLE OFFICER	<i>Mark Jaggard, Head of Planning & Economic Development</i>
REPORT AUTHOR	<i>Stephen Arnett, Planning Policy and Economic Development Team</i> <i>E: Stephen.arnett@chilternandsouthbucks.gov.uk</i> <i>T: 01494 732738</i>
WARD/S AFFECTED	<i>All</i>

1. Purpose of Report

1.1 To recommend that the Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) is issued for consultation and submitted to an Examiner for an Examination in Public.

The PAG is asked to advise the Portfolio Holder on the following recommendations:

RECOMMENDATIONS

That the Portfolio Holder agrees:

1. **To publish and consult on the Community Infrastructure Levy - Draft Charging Schedule;**
2. **To submit the Community Infrastructure Levy - Draft Charging Schedule consultation documents and any responses to an independent examiner for public examination; and**
3. **To delegate authority to the Head of Planning and Economic Development, in consultation with the Portfolio Holder for Planning and Economic Development, to make minor editorial changes and corrections to the Community Infrastructure Levy - Draft Charging Schedule and supporting documents.**

2. Reasons for Recommendations

2.1 Formal consultation is a prerequisite in the pathway to adopt the Community Infrastructure Levy.

2.2 The Draft Charging Schedule is independently examined and the findings determine if the Council can adopt the Community Infrastructure Levy.

3. Content of Report

Background

- 3.1 CIL was introduced by the Planning Act 2008, and the CIL Regulations 2010 (as amended). It is a £ per square metre, tariff-based charge on some planning permissions and developments, applied to net new floor space resulting from a liable development.
- 3.2 CIL can apply to a wide range of developments (e.g. smaller scale residential), in contrast to S106 agreements, which must focus on site specific mitigation matters. This means that there is greater potential to capture infrastructure funding from liable developments.
- 3.3 The CIL proposals have been derived through a process which includes an economic assessment of their combined impact with all emerging Local Plan policies, including affordable housing and the viability of site allocations.

CIL Preliminary Draft Charging Schedule (PDCS)

- 3.4 Cabinet agreed to consult on a preliminary (draft) CIL PDCS in October 2018, as the first stage in a two-stage process currently prescribed by the Government's CIL Regulations. The consultation took place from 2 November to 14 December 2018.
- 3.5 The Joint Planning Policy Member Reference Group received a report on the outcome of the consultation at its meeting of 15 January 2019. This highlighted that 56 responses and 99 individual comments were received from a range of organisations and individuals, providing overall support for implementing CIL. Appendix 1 summarises the consultation results.

CIL Draft Charging Schedule (DCS)

- 3.6 The CIL DCS, attached as Appendix 2, largely reflects the format and content of the preliminary CIL. The proposed CIL rates for residential development remains at £150 per square metre; retail development at £150 per square metre; other commercial and business development at £35 per square metre and public service and community facilities at £35 per square metre. The CIL DCS proposes that large sites for 400 homes or of 10 hectares or more in area would be exempt from CIL so that the higher levels of on-site infrastructure can be better captured through the traditional S106 / S178 processes.

Timescales for CIL Adoption

- 3.7 Following the CIL DCS consultation and consideration of representations received, the Council's CIL proposals will be submitted to an independent examiner for an Examination in Public (EiP). The EiP can either be in the form of hearings or Independent Examination.

Should this lead to a favourable and timely examiner's report, the Council will be able to consider adopting CIL by the end of 2019.

4. Consultation

4.1 The CIL DCS follows on from the consultation on the CIL preliminary DCS, which took place from 2 November to 14 December 2018. The CIL DCS will now be subject to a further round of consultation.

5. Options

5.1 The adoption of CIL by the Councils will enable developments that currently do not pay an infrastructure contribution (the majority) to become subject to a CIL charge. CIL will create an income pot for infrastructure. It is up to the Council to decide how to spend the pot in the best way. This includes forward funding infrastructure to support growth and enable infrastructure to be provided where it is needed.

5.2 The alternative option is not to introduce CIL, which would forego this source of infrastructure funding.

6. Corporate Implications

6.1 Financial:

Once CIL is adopted and introduced by the Council it will lead to developments needing to pay a sum of money equivalent to their CIL liability, this can be used to support infrastructure investment across the area. The CIL Regulations also allow 5% of CIL receipts to be used by the Council to recover CIL establishment costs and ongoing administrative costs, once implemented.

6.2 Legal:

The introduction of CIL is a prescribed statutory process, so must be developed and implemented in accordance with the Government's CIL Regulations.

6.3 Crime and Disorder, Environmental Issues, ICT, Partnership, Procurement, Social Inclusion, Sustainability:

After adoption and when enough funds have been collected, CIL receipts can be used to fund a wide range of infrastructure in accordance with the Council's priorities, including community cohesion, health and wellbeing, environmental improvements and sustainability.

7. Links to Council Policy Objectives

7.1 The introduction of CIL will contribute to the achievement of South Bucks District Council's priorities and goals for 2017 to 2020, by providing resources to help conserve the environment and promote sustainability, through provision of appropriate infrastructure.

8. Next Steps

- 8.1 Following consideration by the Planning & Economic Development Policy Advisory Group, the CIL Draft Charging Schedule will be issued for a 6-week period of consultation in alignment with the timescales associated with the development of the Joint Local Plan.
- 8.2 Representations received during the consultation will be considered further. If no major issues or concerns are raised, officers will submit the CIL documents and the results of the consultation to an Independent Examiner for an Examination in Public to be arranged.
- 8.3 Following the examination, if the Examiner's report endorses the Council's CIL proposals, then the Council will be able to adopt CIL and select an appropriate date from which all liable developments will be due to pay a CIL charge. The aim is for the Council to be able to adopt and charge CIL during the early part of 2020.

<p>Background Papers:</p>	<p><u>Appendices</u></p> <ol style="list-style-type: none"> 1) CIL Preliminary Draft Charging Schedule Summary of Responses. 2) CIL Draft Charging Schedule (March 2019) <p><u>Background reports</u></p> <ul style="list-style-type: none"> • CIL Preliminary Draft Charging Schedule (PDCS) (November 2018) • Local Plan 2036 & CIL Viability Assessment (November 2018)
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Joint Planning Policy Member Reference Group - 15 January 2019

Community Infrastructure Levy – Preliminary Draft Charging Schedule

1. Purpose of Report

1.1 The purpose of this report is to advise members of the outcome of the consultation on the Preliminary Draft Charging Schedule, which provides evidence to move to the next step in delivering the Community Infrastructure Levy for Chiltern and South Bucks Councils. In summary, the next steps are to publish and consult on the Councils' Draft Charging Schedule and submit it for independent examination.

2. Results of the Consultation

2.1 The Councils' Cabinets agreed to consult on the Community Infrastructure Levy - Preliminary Draft Charging Schedule in October 2018. This consultation took place from 2 November to 14 December 2018. This paper outlines the responses received, the findings of which establish that there is evidence to move forward to the next stage of public consultation, the Community Infrastructure Levy - Draft Charging Schedule.

2.2 The Councils have received 56 responses, containing 99 comments. A broadly similar number of comments were received on each question and a broadly similar number of comments came from each responder categorisation (excepting residents' groups).

Responder Categorisation	Number of Responses
Town and Parish Councils	11
Resident Groups	5
Agents/Landowners/ Developers	11
Duty to Cooperate Bodies and Organisations	14
Residents	15
Total	56

2.3 The number of responses is not untypical at this stage of consultation and normally increases at the next stage. The following tables provide summaries of responses received to the consultation questions.

Classification: OFFICIAL

Consultation Question 1

Do you agree with the key assumptions that underlie the Residential Viability Assessment for different land uses? If not, what alternatives would you suggest and why?

Responder Categorisation	Summary of Responses	Officer Response
Town and Parish Councils	Those that responded agreed with the assumptions	Noted
Resident Groups	One was concerned that there was too many TBCs in the Councils' infrastructure background paper	Noted, in regard to the TBCs - this not untypical at such an early stage and the Councils' background paper is not required by regulations.
Agents/Landowners/Developers	Some concern in relation to fees and costs in the viability assessments. Also, some concern over the number of home units used in appraisal as being 100 units. Suggestions included 150-1500 units and another suggested 300 units. Also concern that more understanding of park home viability was necessary.	Officers will discuss with their viability consultants in preparation for the next consultation.
Duty to Cooperate Bodies and Organisations	Those that responded agreed with the assumptions.	Noted
Residents	Those that responded agreed with the assumptions except one that considered certain use classes have greater infrastructure and environmental costs.	Noted, officers will raise the use class matter with their viability consultants in preparation for the next consultation.

Classification: OFFICIAL

Consultation Question 2

Do you agree with the residential development CIL rates proposed being the same across all areas within the districts? If not, please explain which ones you disagree with and why.

Responder Categorisation	Summary of Responses	Officer Response
Town and Parish Councils	Broadly those that responded agreed with rates being the same across the districts. However, one parish considered there was a need for differentiation.	Noted and officers will discuss the value differentiation issues raised by the parish council.
Resident Groups	There is a split between those groups that considered a single charge was best and the others arguing for differentiation.	Noted and officers will discuss the value differentiation issues raised by the resident groups.
Agents/Landowners/Developers	Of those that responded, concern was raised that the districts' development values are too diverse to have just one charging value zone.	Noted and officers will discuss the value differentiation issues raised by the agents, landowners and developers.
Duty to Cooperate Bodies and Organisations	Of those that responded, concern was raised that the districts' development values are too diverse to have just one charging value zone.	Noted and officers will discuss the value differentiation issues raised by the duty to cooperate bodies and organisations.
Residents	Of those that responded, the majority were concerned that the districts' development values are too diverse to have just one charging value zone.	Noted and officers will discuss the value differentiation issues raised by the residents.

Consultation Question 3

Do you agree with the key assumptions that underlie the non-Residential Viability Assessment? If not, what alternatives would you suggest and why?

Responder Categorisation	Summary of Responses	Officer Response
Town and Parish Councils	Those that responded agreed with the assumptions.	Noted and officers will discuss this issue with their viability consultants.
Resident Groups	A comment was received which stated that speculative non-residential development was unviable in the districts.	Noted and officers will discuss this issue with their viability consultants.
Agents/Landowners/Developers	A retail operator did not agree with assumptions but did not expand on this. A sports leisure provider disagreed with a CIL charge on D2 uses.	Noted and officers will discuss these issues with their viability consultants.
Duty to Cooperate Bodies and Organisations	One comment was received that CIL charges on D1 and C2 use classes was not justified by evidence and could harm healthcare provision and homes for the elderly.	Noted and officers will discuss this issue with their viability consultants.
Residents	One resident considered that certain use classes have greater infrastructure and environmental costs.	Noted and officers will discuss this issue with their viability consultants.

Consultation Question 4

Do you agree with the non-residential development CIL rates proposed? If not, please explain which ones you disagree with and why.

Responder Categorisation	Summary of Responses	Officer Response
Town and Parish Councils	Of those that responded, concern was raised regarding differentiation for local needs, whether sufficient testing had been made on viability and that the rate for retail was too high.	Noted and officers will discuss this issue with their viability consultants.
Resident Groups	Of those that responded, concerns were raised regarding the threat of new retail development to the high street and that sui generis uses should also be captured.	Officers confirm that sui generis are payable at the same rate as retail.
Agents/Landowners/Developers	Of those that responded, clarity was sought that CIL would not be charged on strategic sites for D1, D2 and C1 uses. A sports leisure provider disagreed with a CIL charge on D2 uses	Noted and officers will discuss this issue with their viability consultants.
Duty to Cooperate Bodies and Organisations	Of those that responded, concern was raised on charging CIL on D1, D2 and C1 uses.	Noted and officers will discuss this issue with their viability consultants.
Residents	Of those that responded, some supported the charge whilst others raised concern about killing off growth in built form retail.	Noted and officers will discuss this issue with their viability consultants.

Classification: OFFICIAL

Consultation Question 5

Do you support the proposal to set the rate at £0 per square metre for all other types of chargeable development?

Responder Categorisation	Summary of Responses	Officer Response
Town and Parish Councils	Of those that responded, comments included the need for developments which are in use classes that are exempted to still pay for the impact of their development.	Noted, developments that are not proposed to be covered by CIL will still need to pay S106 contributions in order to make their development acceptable in planning terms.
Resident Groups	Of those that responded, comments included the need for more detailed / accurate viability assessment	Noted and officers will discuss this issue with their viability consultants.
Agents/Landowners/Developers	Of those that responded, comments included needing to set the threshold for strategic sites and stating if this meant all use classes would be except.	Noted and officers will discuss this issue with their viability consultants.
Duty to Cooperate Bodies and Organisations	Of those that responded, comments included not charging on single dwellings or extensions.	Noted, only developments less than 100 sq. m are excluded (in terms of size). Officers will discuss this issue with their viability consultants.
Residents	Of those that responded, comments included excepting charities and charging sue generis uses at 35 sq. m.	Noted and officers will discuss this issue with their viability consultants.

3. Next Steps

3.1 Officers will take these consultation responses into account when preparing the Community Infrastructure Levy - Draft Charging Schedule with the Councils' viability consultants. This paper will also be circulated with the Members' Bulletin Board, subject to any changes requested at this JMRG meeting.

Classification: OFFICIAL

3.2 Papers will be taken to Overview and Scrutiny Committee and Joint Committee regarding the Local Development Scheme in the next few months to establish the timetable for CIL and the Local Plan. Papers will also be taken to both Cabinets to seek to authorise the consultation and submission of CIL. In regards to CIL, Cabinets will be recommended to agree the following recommendations:

RECOMMENDATIONS to Chiltern and South Bucks Cabinets

1. To agree to publish and consult on the Community Infrastructure Levy - Draft Charging Schedule; and
2. To submit the Community Infrastructure Levy - Draft Charging Schedule consultation documents and any responses to an independent examiner for public examination.

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CHILTERN
District Council



SOUTH BUCKS
District Council

Stronger in partnership



Community Infrastructure Levy (CIL)

Chiltern and South Bucks District Councils

Draft Charging Schedule

Consultation Document

March 2019

(Draft:14Mar19/SA-V3)

Background

Consultation on the Community Infrastructure Levy (CIL) Draft Charging Schedule

The Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) is the second of the consultations required as part of the process leading to the introduction of CIL in the area administered by Chiltern and South Bucks Councils. This follows on from an initial consultation on a CIL Preliminary Draft Charging Schedule (PDCS), which ran during November to December 2018.

The document sets out the Councils preferred position on CIL rates that it proposes to submit for independent examination, after the consultation.

The consultation period on the CIL DCS runs from XX XXXX 2019 to the XX XXXX 2019 (all representations and comments to be received by 5pm).

For further information, please visit the Councils' websites at:

XXXXX

Or telephone: XXXXXXXXXXXXX

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Appendices

- 1) Chiltern & South Bucks Councils CIL zones
- 2) Local Plan Sites to be zero CIL rated
- 3) Use Classes Order
- 4) CIL Instalments Policy
- 5) CIL administration

The Charging Authorities and Charging Area

The Charging Authorities are Chiltern District Council and South Bucks District Council (known as Chiltern and South Bucks Councils).

The charging area covers the administrative area of Chiltern and South Bucks Councils.

Purpose of Consultation

This consultation document represents the second formal stage in Chiltern and South Bucks Councils preparation of a Community Infrastructure Levy (CIL) charging schedule and follows on from the Consultation on the Councils' CIL Preliminary Draft Charging Schedule (PDCS) during November to December 2018.

CIL is a tariff-based approach that allows local authorities to raise infrastructure funds from developers undertaking new building projects. Its purpose is to help enable provision of infrastructure needed to support the growth and development identified by an area's Local Plan.

The CIL Draft Charging Schedule (DCS) sets out the CIL rates that the Councils propose to charge on development within their charging area. Rates are set out as '£s per per square metre' on chargeable developments, in respect of different types of development and geographical areas. A cross reference to the Use Class Order in relation to proposed CIL rates, is also provided.

Statutory Compliance

The provisions for CIL are set out by Part 11 of the Planning Act 2008, the Localism Act 2011, and the CIL Regulations 2010 (as amended).

This CIL DCS is published for public consultation as the second step in setting CIL charges by Chiltern and South Bucks Councils and is published in accordance with Regulations 15 and 16 of the CIL Regulations.

The Government's guidance on CIL and the CIL Regulations can be accessed via the following web link:

<https://www.gov.uk/guidance/community-infrastructure-levy#introduction>

About the Community Infrastructure Levy

Most new development has an impact on infrastructure and therefore it is reasonable to expect developers to contribute to the cost of providing or improving that infrastructure. CIL in conjunction with S106 and S278 planning obligations, provides a mechanism to collect funds to ensure this happens. Unlike S106 and S278, which focus on affordable housing and tends to collect site specific infrastructure contributions from larger developments, CIL can be charged on more developments and used on a wider range of infrastructure.

When setting rates CIL Regulation 14 requires Councils to strike an appropriate balance between the desirability to fund infrastructure through CIL and the potential effect (taken as a whole) of the levy on the economic viability of development in the geographical area in which CIL charges apply. When looking at infrastructure, the Councils also need to estimate the cost of the infrastructure required to support development and consider sources of funding, including CIL, that could be available.

Regulation 14 of the CIL Regulations 2010 (as amended) provides:

'14. - (1) In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between:

- (a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking account of other actual and expected sources of funding; and*
- (b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.*

Viability assessments and evidence therefore needs to be used to ensure CIL rates are set so that the delivery of a Local Plan's scale of development, is not undermined. The evidence also needs to inform a proportionate and appropriate approach to setting rates for different types of development, likely to come forward in an area during the life-span of the Local Plan.

CIL Regulation 13 makes provision, where relevant, for the setting of differential rates for different geographical areas, different development types/uses, and scale of development size; or a combination of these factors. Any differential rate needs however to be justified by viability assessments and evidence.

By contributing to investment in the infrastructure of the area and combining with other funding sources, CIL is expected to have a positive effect on growth, development and environment in the medium to long term.

CIL Liable Developments

CIL is stated on a £s per square metre basis and charged according to the rates set out by a Local Authority's Charging Schedule on the:

- The net additional gross internal floor space of all new residential units, regardless of their size;
- The erection of, or extensions to, other buildings creating over 100 per square metre net new additional gross internal floor space.
- The conversion of a building which is no longer in lawful use, and which hasn't been in use for a continuous 6 months over the last 3 years.

Liability to pay CIL on qualifying developments applies whether development requires planning permission or is enabled through permitted development orders (General Permitted Development Order, Local Development Orders, Neighbourhood Development Orders, Enterprise Zones).

Planning consents and developments that do not have a CIL liability may still be required to provide contributions towards necessary Infrastructure through S106 and S278 planning obligations.

Once a development is deemed to be CIL liable, any related charge becomes fixed and non-negotiable, when that development commences.

CIL Exemptions

The CIL Regulations exempt some development from CIL liability, including:

- Development of less than 100 per square metre. new build floor space measured as gross internal area (GIA), unless it results in the creation of one or more dwellings (Regulation 42);

- The conversion of any building previously used as a dwelling house to two or more dwellings, which doesn't create net additional new floor space, and which has been in use for 6 months continuous use in the last 3 years
- Development of buildings and structures into which people do not normally go into, or enter under limited circumstances (for example an electricity sub-station, or wind turbine, or for the purpose of inspecting or maintaining fixed plant or machinery) (Regulation 5(2));
- Buildings for which planning permission was granted for a limited period;
- Full relief is applied on all those parts of chargeable development that are to be used as social/affordable housing, subject to an application by a landowner for CIL relief (criteria set out in Regulation 49/49A);
- Development by charities for charitable purposes subject to an application by a charity landowner for CIL relief (CIL regulation 43-48) (mandatory charitable relief);
- Houses, flats, residential annexes and residential extensions, which are built by self-builders, subject to an application for exemption by homeowners (CIL regulations 42A, 42B, 54A and 54B).
- The conversion of or works to a building in lawful use that affects only the interior of the building;
- Mezzanine floors of less than 200 per square metre inserted into an existing building, unless they form part of a wider planning permission, which seeks to provide other works;
- Vacant buildings brought back into use (Regulation 40), where there is no net gain in floor space, provided a building has been in use for 6 continuous months out of the last 3 years.
- When a CIL charge is calculated as £50 or less, a CIL payment will not be charged by a Charging Authority.

CIL and Existing Planning Permissions

Development proposals that already have planning permission when a CIL Charging Schedule comes into force are not liable for CIL. This includes any subsequent reserved matters applications following outline planning permission.

However, if proposed developments with planning permission are not started within the time limit stipulated on the decision notice, any subsequent application which in effect seeks a renewal may be liable to CIL where the Charging Schedule has been adopted.

Where an application is made under Section 73 of the Town and Country Planning Act 1990 for development without compliance with conditions which govern a planning permission, CIL is only chargeable on any additional floorspace over and above that approved by the original permission.

Evidence used in Setting CIL Rates

CIL PDCS Consultation

The Councils consulted on their CIL PDCS during November and December 2018. Comments and observations were invited on the Councils proposed CIL rates and its approach to zero CIL rating Local Plan sites, in preference to securing necessary infrastructure investments via S106 and S278 planning obligations.

By the close of the consultation, comments had been received, from Town & Parish Councils; residents' groups; agents, landowners & developers; duty to co-operate bodies & organisations; and residents. Comments have been taken on board in the drafting of the CIL DCS.

Infrastructure Delivery Plan & Funding Gap

A draft Infrastructure Delivery Plan sets out the infrastructure required to support the delivery of the Local Plan 2036. This will be finalised for the publication of the Proposed Submission stage of the Local Plan and has been informed by the Buckinghamshire Infrastructure Strategy.

An Infrastructure Funding Gap statement identifies that the likely CIL receipts from anticipated new developments will be exceeded by the costs of the infrastructure requirements identified in the draft Infrastructure Delivery Plan. It confirms that CIL will not generate enough funds to pay for all the major infrastructure needs identified in the Infrastructure Delivery Plan.

CIL and Local Plan Viability Assessment

The Councils commissioned the Dixon Searle Partnership to undertake a CIL and Local Plan viability assessment of housing and commercial development in Chiltern and South Bucks. Their findings informed the residential and commercial CIL rates set out in the Councils CIL PDCS consultation.

The assessment tested the viability headroom to charge CIL against a range of site typologies and development categories, in relation to policy assumptions proposed by the Councils Joint Local Plan and the development likely to take place in the Councils' areas up to 2036.

With larger development sites, Councils are faced with the challenge of determining the extent to which they will use CIL, and the extent to which they will seek to continue to operate within the S106 regime. The viability assessment considers that the largest sites, in terms of overall Local Plan relevance in Chiltern and South Bucks, will tend to continue to rely mainly on S106 planning obligations, due to:

- The costly nature of site-specific development mitigation and infrastructure requirements – e.g. new school provision, road links etc.);
- The need for flexibility and direct control over related infrastructure provision, which S106 allows; and
- The need to deliver other key policies such as a Local Plan affordable housing policy set at 40%.

Given specific viability and infrastructure factors that tend to affect larger sites, the assessment therefore recommends that this range of sites in Chiltern and South Bucks are considered for a zero CIL rate.

The assessment considers that a uniform CIL charge rate across Chiltern and South Bucks of £150 per square metre for residential; £150 per square metre for retail and related uses; and £35 per square metre for commercial and other development categories, provides an appropriate basis for the implementation of CIL in the area, while enabling achievement of other key policy objectives and providing sufficient viability to enable delivery of development in accordance with Local Plan policies.

Proposed CIL Rates

Tables 1 and 2 and location maps in the appendices, detail the proposed residential and commercial and other CIL rates for the Chiltern and South Bucks Councils administrative area.

The CIL rates are presented for each Council area in accordance with the Government's CIL Regulations, which requires rates to be attributed to an individual Charging Authority.

Development type (Use Class)	CIL Rate/square metre
A1 Shops	£150
A2 Finance and professional services	£150
A3 Restaurants and cafés	£150
A4 Drinking establishments	£150
A5 Hot food takeaways	£150
B1 Business	£35
B2 General industrial	£35
B8 Storage or distribution	£35
C1 Hotels	£35
C2 and C2A Residential institutions and Secure Residential Institutions	£35
C3 Dwelling houses*	£150
C4 Houses in multiple occupation	£150
D1 Non-residential institutions	£35
D2 Assembly and leisure (check to see what viability study says)	£35
Sui Generis	£35
All development types unless stated otherwise in this table	£35
Large sites over 400 homes or 10 hectares in area Infrastructure contributions via S106 & S278	£0
*C3 includes all self-contained accommodation, including elderly and sheltered accommodation and self-contained student accommodation	
See Annex 1 for reference to the Use Classes guide	

Development type (Use Class)	CIL Rate/square metre
A1 Shops	£150
A2 Finance and professional services	£150
A3 Restaurants and cafés	£150
A4 Drinking establishments	£150
A5 Hot food takeaways	£150
B1 Business	£35
B2 General industrial	£35
B8 Storage or distribution	£35
C1 Hotels	£35
C2 and C2A Residential institutions and Secure Residential Institutions	£35
C3 Dwelling houses*	£150
C4 Houses in multiple occupation	£150
D1 Non-residential institutions	£35
D2 Assembly and leisure (check to see what viability study says)	£35
Sui Generis	£35
All development types unless stated otherwise in this table	£35
Local Plan sites with a capacity to provide 400 / 10 per ha or more dwellings Infrastructure contributions via S106 & S278	£0
*C3 includes all self-contained accommodation, including elderly and sheltered accommodation and self-contained student accommodation	
See Annex 1 for reference to the Use Classes guide	

Proposed CIL Rates and Local Plan Sites

When undertaking Local Plan viability assessments and determining appropriate CIL rates, it is important to consider the cumulative policy and CIL impact on sites that are regarded as critical to the delivery of a Local Plan's strategic priorities.

Further to this, larger key sites will inevitably need their own specific infrastructure provision to enable development. This tends to be more effectively delivered by focussed S106 and S278 agreements, providing a higher level of funding certainty and options for direct delivery by developers. A generic CIL charge in comparison may have less focus if applied to larger sites, thereby potentially delaying delivery.

The viability assessment informing proposed CIL rates for the Chiltern and South Bucks draft charging schedule, confirms this scenario applies to the Local Plan's larger development sites. The CIL DCS therefore proposes to zero CIL rate development sites which have an identified capacity to provide 400 or more dwellings, (approximately 10 per ha). These larger sites will therefore make infrastructure contributions through S106 and S278 agreements.

The '400 unit / 10 per ha' home threshold is being used because:

- A threshold of 400 units or more, is a level considered an appropriate scale for locations assessed across the Chiltern and South Bucks area.
- Growth proposals of this scale in a single site, is large in the context of existing settlements within the Districts.
- A site of this size is likely (in viability terms) to be able to fund and provide new infrastructure (e.g. education, health, highways improvements, community and leisure facilities) on-site, or close to site when Infrastructure funds are pooled with other developments' contributions, to meet increased demand for additional services
- A site of this size would be capable of making a significant contribution towards meeting localised housing needs and need from a wider area.

Local Plan development sites that provide less than the 400 homes capacity will be subject to a CIL charge and to S106 and S278 agreements, in accordance with the circumstances of each site and their specific infrastructure requirements.

Annual Index linking of CIL Rates

CIL Regulation 40 enables charging authorities to make an annual index linked increase to their CIL rates at a set time of the year, which is normally from 1 January.

The CIL Regulations current method is to use the All-in Tender Price Index, published by the Building Cost Information Service (BCIS), during November of each year.

The CIL Regulations will however be subject to further amendments during 2019/20, so this method of index linking CIL rates may change.

Discretionary CIL Policies

Discretionary Relief from CIL

A charging authority can choose to offer discretionary relief to a charity landowner where the greater part of the chargeable development will be held as an investment, from which the profits are applied for charitable purposes (CIL regulation 44).

It can also choose to offer exceptional circumstances relief (CIL regulation 55) where the charging of CIL would have an unacceptable impact on the economic viability of a development, and where the exemption of a charitable institution from liability to pay CIL would constitute State Aid (CIL regulation 45) and would otherwise be exempt from liability under regulation 43.

Chiltern and South Bucks Councils are not proposing to make available discretionary charity relief or exceptional circumstances relief (CIL regulations 44, 45 and 55).

Payments in kind

In circumstances where the liable party and the Councils agree, payment of the levy may be made by transferring land or conducting works to an equivalent value. The agreement cannot form part of a planning obligation, and must be agreed before the chargeable development is commenced and is subject to fulfilling the following:

- the acquired land or works, is used to provide or facilitate the provision of infrastructure within the Districts;
- the land is acquired, or works are conducted, by the Councils or a person nominated by the Councils;
- the transfer of the land, where relevant, must be from a person who has assumed liability to pay CIL;
- the land must be valued by an independent person agreed by the Councils and the party liable to pay CIL, whereby the party liable to pay CIL meets the cost of the land valuation;
- 'Land' includes existing buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over the land.

The Councils intend to consider payments in kind on a discretionary basis within the terms set out above.

Payment of CIL and Instalments Policy

The CIL Regulations default position is that CIL payment is due within 60 days of the commencement of development. Charging Authorities can however set out an appropriate CIL payments instalments policy.

The Councils intend to operate a CIL Instalments policy according to the schedule set out by Annex 4.

Allocating CIL Receipts

CIL Administration fee

The CIL Regulations allow the Councils to use up to 5% of total CIL receipts to refund and meet the costs associated with establishment and on-going administration of CIL.

Parish & Town Councils' Neighbourhood Portion

At least 15% of CIL receipts after the 5% CIL administration fee is deducted, is allocated to Parish and Town Councils where CIL liable developments have taken place. This is known as the Neighbourhood Portion. If a

Parish or Town Council area is covered by a 'made' neighbourhood plan, then the amount increases to 25% of CIL receipts after the '5%' deduction, from the area covered by the neighbourhood plan.

There is a cap of £100 (indexed) per council taxed dwelling within a Parish or Town Council area per financial year, in areas without a made neighbourhood plan, but no cap if one is in place.

All Councils must pass over the Neighbourhood Portion of levy receipts from development to Parish or Town Councils if they are the accountable body. As the Chiltern and South Bucks areas are fully covered by Parish or Town Councils, the money (subject to the cap) would be passed to the relevant Parish or Town Council. CIL guidance recommends however Charging Authorities and receiving Parish or Town Councils should engage and work closely to agree how best to spend these funds.

The CIL Regulations allow for the Neighbourhood Portion of levy receipts to be used for:

- The provision, improvement, replacement, operation or maintenance of infrastructure; or
- Anything else that is concerned with addressing the demands that development places on an area.

Provisions for the recovery of CIL monies by a Charging Authority are available, if Parish or Town Councils do not spend the Neighbourhood Portion of CIL receipts within five years of receiving it.

Councils CIL Strategic Fund

Approximately 70% to 80% of CIL receipts, following the 5% administration and 15% or 25% Neighbourhood Portion deductions are available to the Councils for the 'funding, provision, improvement, replacement, operation or maintenance of infrastructure, to support the development of the area'.

The Councils are required to publish a statement on their website, which lists the infrastructure projects or types of infrastructure that may be wholly or partially funded by CIL. This currently takes the form of a Regulation 123 list. The Government's proposed amendments to the CIL Regulations 2019 indicate however, that Regulation 123 Lists may be replaced by Infrastructure Funding Statements.

Monitoring and reporting how much CIL has been collected and allocated

The Councils will publish an annual report showing, for each financial year:

- How much has been collected in CIL;
- How much CIL has been allocated to administration, Town and Parish Councils;
- How much has been spent;
- The infrastructure on which it has been spent;
- Any amount used to repay borrowed money;
- Amount of CIL retained at the end of the reported year.

CIL and Section 106 Planning Obligations

CIL funds can be used to provide infrastructure to support the development of a whole area, whereas S106 obligations are used to make individual planning applications acceptable in planning terms. The CIL Regulations also currently impose a pooling restriction on S106 contributions, in that only five individual S106s can be used in support of a specific Infrastructure project.

Section 106 agreements and Section 278 highways agreements will continue to be used to secure site-specific mitigation and affordable housing. S106 agreements may also be used for larger development sites for which the provision of specific infrastructure is needed and for which delivery may be more suitably

dealt with through the S106 regime.

CIL Regulations 122 and 123 currently state that CIL cannot be used to fund infrastructure that will also be funded via S106 contributions. This is to avoid 'double dipping' whereby a developer could potentially be charged twice for the delivery of the same piece of Infrastructure. To ensure clarity, the Councils are required to publish a Regulation 123 list, which identifies the infrastructure projects and types to be funded by CIL, and the Infrastructure projects to be funded by S106 contributions.

The Government's consultation on Reforming Development Contributions (December 2018) proposes to amend the way in which CIL and S106 planning obligations operate, with draft CIL Regulations 2019 including proposals to:

- Remove R123 pooling restrictions on S106 contributions, so that a larger number can be used to support a specific infrastructure project, considered necessary to make developments acceptable in planning terms.
- The Consultation also proposes to allow CIL funding and S106 contributions to be used in support of the same Infrastructure, albeit the detail of how this will work in practice needs further clarification.
- The removal of the need to publish a Regulation 123 list, with this replaced by annual Infrastructure Funding Statements.

There are advantages and disadvantages in both S106 and CIL regimes. On the plus side, S106 contributions can be used to support the timely delivery of essential infrastructure, in support of specific developments. CIL funds can on the other hand be deployed with a greater degree of flexibility in supporting delivery of infrastructure across a wider area.

The Councils will in due course also bring forward A Supplementary Planning Document (SPD) for Affordable Housing, CIL and Planning Obligations, which takes account of policy changes brought about by the Government's 2018 Reforming Development Contributions consultation, and further amendments to the CIL Regulations.

Indicative Regulation 123 List

The Government's CIL Regulations currently require charging authorities to publish a Regulation 123 list, which highlights the infrastructure types and projects to be funded by CIL, and Infrastructure projects to be funded by S106 planning obligations. This list can be published when a CIL Charging Schedule is adopted and can be reviewed and updated annually.

An indication of the types of infrastructure which would likely to be funded by CIL and those where S106 would be used to provide infrastructure, has been provided for information as a separate document.

CIL Administration

Annex 5 provides further information on CIL administration and information for developers on some of the implementation issues that they will need to be aware of, in relation to CIL liable planning consents and permitted developments, once the Councils adopt a CIL Charging Schedule.

Timescale for Adoption of a CIL Charging Schedule

Following this consultation, all comments received along with all supporting information will be submitted for independent examination. If the Examination is held in a timely manner and the Inspector finds the

Council's CIL DCS to be sound in their report, then the Councils anticipate being able to adopt a CIL Charging Schedule during the early part of 2020.

Responding to the Consultation

Comments and representations are invited on the CIL DCS. Further information and copies of all CIL related documents, and a consultation comments response form, are available on the Council's website as follows:

xxxxxx

Comments and representations should be sent to the following addresses, using the consultation comments form to:

Planning.policy@chilternandsouthbucks.gov.uk

Or by sending a hard copy of the consultation comments form, by post to:

CIL Draft Charging Schedule Consultation
 Planning Policy Team
 Chiltern District Council
 King George V House
 King George V Road
 Amersham
 Buckinghamshire
 HP6 5AW

Please note that all representations made in response to the CIL DCS must be submitted as part of the independent examination, together with a summary of the main issues raised. Therefore, comments cannot be treated as confidential and will be made available as public documents. Personal addresses will not however, be made publicly available.

Timescale for Submitting Comments

The consultation period on the CIL DCS runs from xxxxxxxx 2019 to xxxxxxxx 2019 (all representations and comments to be received by 5pm).

Requesting Further Notifications

Any organisation or person making representations may request that they be notified at a specified address, of any of the following:

- That the CIL DCS has been submitted for examination in accordance with section 212 of the Planning Act 2008;
- The publication of the recommendations of the examination and the reasons for those recommendations; and
- The approval of the CIL Charging Schedule by the Councils

If you would like further notification of the above matters, please state this in your response to the CIL DCS.

APPENDICES

Annex 1: Chiltern & South Bucks District Councils' CIL zones

(Map to follow)

Annex 3: Guide to the Use Classes Order & Definitions

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as 'Use Classes'. The following list is based on the Government's guide to Use Classes. It is not a definitive source of legal information. The list gives an indication of the types of use which may fall within each use class. Please note it is for local planning authorities to determine the use class a particular use falls into.

Part A

- **A1 Shops** - Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafés.
- **A2 Financial and professional services** - Financial services such as banks and building societies, professional services (other than health and medical services) and including estate and employment agencies. It does not include betting offices or pay day loan shops - these are now classed as "sui generis" uses (see below).
- **A3 Restaurants and cafés** - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafes.
- **A4 Drinking establishments** - Public houses, wine bars or other drinking establishments (but not night clubs) including drinking establishments with expanded food provision.
- **A5 Hot food takeaways** - For the sale of hot food for consumption off the premises.

Part B

- **B1 Business** - Offices (other than those that fall within Class A2), research and development of products and processes, light industry appropriate in a residential area.
- **B2 General industrial** - Use for industrial processes other than those falling within Class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste).
- **B8 Storage or distribution** - This class includes open air storage.

Part C

- **C1 Hotels** - Hotels, boarding & guest houses where no significant element of care is provided (excludes hostels).
- **C2 Residential institutions** - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.
- **C2A Secure Residential Institution** - Use for a provision of secure residential accommodation, including use as a prison, young offenders' institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks.
- **C3 Dwelling houses** - this class is formed of three parts:
 - C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
 - C3(b): up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
 - C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.
- **C4 Houses in multiple occupation** - small shared houses occupied by between three and six

unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

Part D

- **D1 Non-residential institutions** - Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law courts. Non-residential education and training centres.
- **D2 Assembly and leisure** - Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used).

Sui Generis

- Certain uses do not fall within any use class and are considered 'sui generis'. Such uses include betting offices/shops, pay day loan shops, theatres, larger houses in multiple occupation, hostels providing no significant element of care, scrap yards. Petrol filling stations and shops selling and/or displaying motor vehicles. Retail warehouse clubs, nightclubs, laundrettes, taxi businesses and casinos.

Annex 4: CIL Payments Instalments Policy

This policy is made in line with Regulation 69B of the CIL (Amendment) Regulations 2011. The Councils will allow the payment of CIL as outlined in the points below:

1. Where the chargeable amount is less than £200,000, the chargeable amount will be required within 60 days of commencement.
2. Where the chargeable amount is between £200,000 and £2 million, the chargeable amount will be required as per the following four instalments:

1 st instalment	2 nd instalment	3 rd instalment	4 th instalment
25% within 60 days	25% within 160 days	25% within 260 days	25% within 360 days

3. Where the chargeable amount is over £2 million, the chargeable amount will be required as per the following four instalments:

1 st instalment	2 nd instalment	3 rd instalment	4 th instalment
25% within 60 days	25% By end of year 1	25% By end of year 2	25% By end of year 3

Commencement will be taken to be the date advised by the developer in the commencement notice under CIL Regulation 67.

Notes:

N1: When the Councils grant an outline planning permission which permits development to be implemented in phases, each phase of development is a separate chargeable development and the instalment policy will apply to each separate phase.

N2: This policy will not apply, and will be superseded by a default payment position allowed by the CIL Regulations, if:

- a) A commencement notice is not submitted prior to commencement of the chargeable development.
- b) Nobody has assumed liability to pay CIL in respect of the chargeable development prior to the intended day of commencement.
- c) Failure to notify the Council of a disqualifying event before the end of 14 days beginning with the day the disqualifying event occurs.
- d) An instalment payment has not been made in full after the end of the period of 30 days beginning with the day on which the instalment payment was due.

Annex 5: CIL Administration**Calculating the chargeable amount**

The Councils will calculate the amount of CIL chargeable using the locally set rates multiplied by the gross internal area of the new buildings and enlargements to existing buildings, taking demolished floor space into account. The formal calculation methodology is set out by CIL Regulation 40, as follows:

**PART 5
CHARGEABLE AMOUNT**

Calculation of chargeable amount

40.—(1) The collecting authority must calculate the amount of CIL payable (“chargeable amount”) in respect of a chargeable development in accordance with this regulation.

(2) The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.

(3) But where that amount is less than £50 the chargeable amount is deemed to be zero.

(4) The relevant rates are the rates, taken from the relevant charging schedules, at which CIL is chargeable in respect of the chargeable development.

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

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

where—

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

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

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

(6) In this regulation the index figure for a given year is -

(a) the figure for 1st November for the preceding year in the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors(1); or

(b) if the All-in Tender Price Index ceases to be published, the figure for 1st November for the preceding year in the retail prices index.

(7) The value of A must be calculated by applying the following formula—

$$G_N - K_R - \left(\frac{G_N \times E}{G} \right)$$

where—

G = the gross internal area of the chargeable development;

G_R = the gross internal area of the part of the chargeable development chargeable at rate R;

K_R = 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 on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;

E = the aggregate of the following—

(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 E_x (as determined under paragraph (8)), unless E_x is negative, provided that no part of any building may be taken into account under both of paragraphs (i) and (ii) above.

(8) The value E_x must be calculated by applying the following formula—

$$E_p - (G_p - K_{pR})$$

where—

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

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

K_{pR} = the total of the values of K_R for the previously commenced phase of the planning permission.

(9) 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.

(10) 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 K_R 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.

(11) 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 six months within the period of three 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.”

Measuring CIL liable floor space

Calculating CIL liability depends on the amount of CIL liable floor space that forms part of a proposal, using Gross Internal Area (GIA) measured in accordance with the Royal Institute of Chartered Surveyors (RICS) Code of Measuring Practice. The table below is based on RICS's Code of Measuring Practice (6th edition, with amendments). The full Code of Measuring Practice is available on the RICS website at www.rics.org

GIA is the area of a building measured to the internal face of the perimeter walls at each floor level.

Including:

- Areas occupied by internal walls and partitions
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like
- Atria and entrance halls, with clear height above, measured at base level only
- Internal open-sided balconies, walkways, and the like
- Structural, raked or stepped floors are property to be treated as a level floor measured horizontally
- Horizontal floors, with permanent access, below structural, raked or stepped floors
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)
- Mezzanine floor areas with permanent access
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners' rooms, and the like
- Projection rooms
- Voids over stairwells and lift shafts on upper floors
- Loading bays
- Areas with a headroom of less than 1.5m*
- Pavement vaults
- Garages
- Conservatories

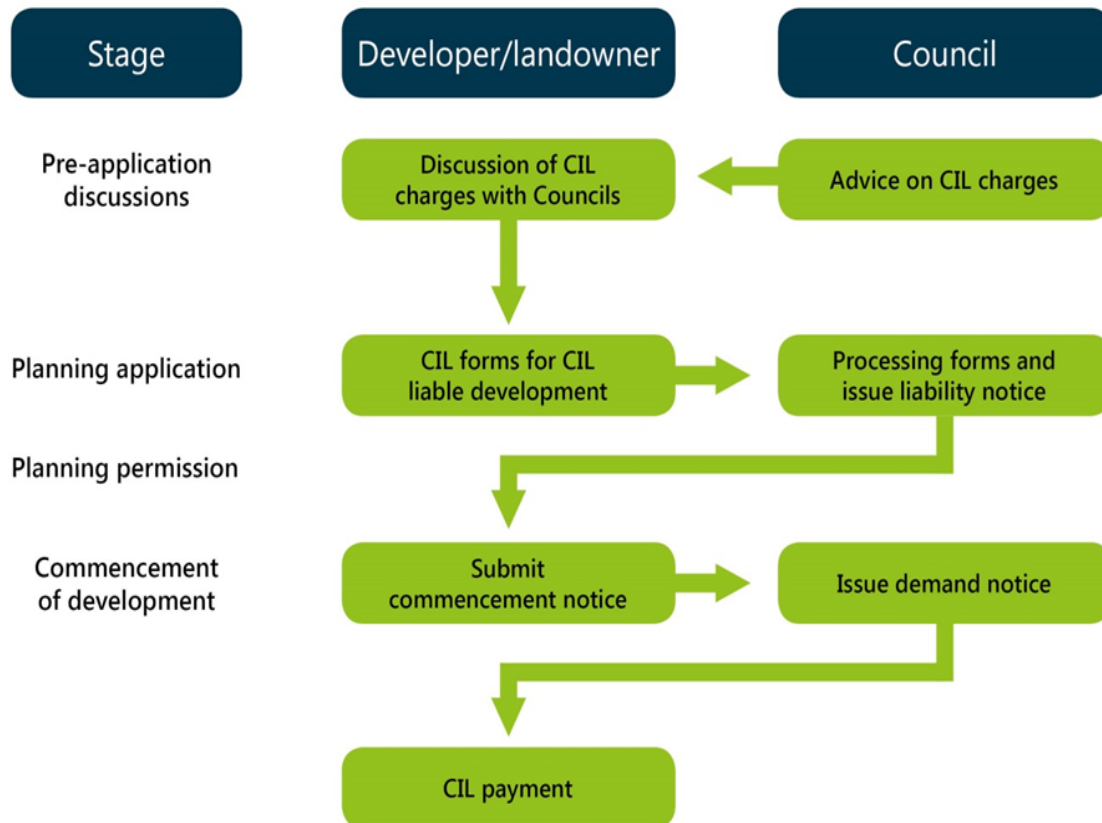
Excluding:

- Perimeter wall thicknesses and external projections
- External open-sided balconies, covered ways and fire escapes
- Canopies
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores, and the like in residential

GIA is the basis of measurement in England and Wales for the rating of industrial buildings, warehouses, retail warehouses, department stores, variety stores, food superstores and many specialist classes valued by reference to building cost (areas with headroom of less than 1.5m being excluded except under stairs).

Liability for CIL

Once planning permission is granted, the CIL Regulations encourage any party, (such as a developer submitting a planning application, or a landowner), to assume liability to pay the CIL charge. CIL liability runs with the land. If no party assumes liability to pay before development commences, land owners will be liable to pay the levy. The Councils will put in place procedures that relate to establishing CIL liability and making the relevant payments, modelled on the flow-chart diagram below.



Collection of CIL

The Councils are to be the collecting authority for the purpose of Part 11 of the Planning Act 2008 and the CIL Regulations 2010 (as amended).

When planning permission is granted, the Councils will issue a liability notice setting out the amount of CIL payable, and the payment procedure.

In the case of development enabled under permitted development orders, the person(s) liable to pay will need to consider whether their proposed development is chargeable, and to issue the Councils with a notice of chargeable development.

The diagram above provides a summary of the collection process. A key trigger for collection of CIL is commencement of a development on site, with payment due thereafter in accordance with the Council's CIL instalments policy.

Appeals

A liable person can request a review of the chargeable amount by the charging authority within 28 days from the issue of the liability notice. The CIL Regulations allow for appeals on:

- The calculation of the chargeable amount following a review of the calculation by the Councils.
- Disagreement with the Councils' apportioned liability to pay the charge.
- Any surcharges incurred on the basis that they were calculated incorrectly, that a liability notice was not served or the breach did not occur.
- A deemed commencement date if considered that the date has been determined incorrectly.
- Against a stop notice if a warning notice was not issued or the development has not yet commenced.

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