

**Agenda Item No:** **Report No:**

**Report Title:** **Community Infrastructure Levy – Draft Charging Schedule Consultation**

**Report To:** **Cabinet** **Date:** **20<sup>th</sup> March 2014**

**Cabinet Member:** **Cllr Tom Jones – Lead Member for Planning**

**Ward(s) Affected:** **All areas of the District not lying within the South Downs National Park boundary**

**Report By:** **Director of Business Strategy and Development**

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**Purpose of Report:** To seek Cabinet approval to publish the Community Infrastructure Levy (CIL) Draft Charging Schedule for a formal period of consultation.

**Officers Recommendation(s):**

- 1 To authorise for public consultation and subsequent submission for Examination the Community Infrastructure Levy Draft Charging Schedule and Regulation 123 List.**
- 2 To authorise the Director of Business Strategy and Development, in consultation with the Lead Member for Planning, to propose minor changes to the Draft Charging Schedule and Regulation 123 List prior to its submission for Examination and to undertake the formal submission.**

## Reasons for Recommendations

1. To ensure that the Community Infrastructure Levy Charging Schedule, for the area of the District lying outside of the National Park, is progressed towards approval and implementation in a timely manner. This will provide the Council with the ability to charge CIL on relevant new development from April 2015, when the current scope of S106 obligations are scheduled to be scaled back, or as soon as practicable thereafter.

### 1 Background

- 1.1 The table below provides a simple overview of the process for producing a CIL Charging Schedule and the indicative project timetable. Stages in *italics* indicate formal periods of public consultation that must be undertaken.

<b>Stages in preparing the CIL Charging Schedule</b>	
Project Plan and Preliminary Draft Charging Schedule report to Cabinet	20 March 2013
<i>CIL Preliminary Draft Charging Schedule</i>	<i>1 April – 13 May 2013</i>
Consideration of representations (made at the previous stage), undertaking further evidence & preparing the Draft Charging Schedule	June-December 2013
Cabinet approval to publish CIL Draft Charging Schedule	20 March 2014
<i>CIL Draft Charging Schedule</i>	<i>April – May 2014</i>
Formal Submission of CIL Draft Charging Schedule to Examiner	Summer 2014
Examination	Autumn 2014
Formal approval by Full Council	Late 2014/early 2015
Implementation of CIL	April 2015

- 1.2 The CIL is a tariff based approach to funding infrastructure. The Planning Act 2008 introduced the CIL system and detailed regulations govern how CIL Charging Schedules are produced and implemented.
- 1.3 CIL may be used towards a wide range of infrastructure to support new development. It is intended to be clearer, fairer and faster than reliance on developer contributions through S106 obligations, which are currently scheduled to be scaled back, in terms of the circumstances that they can be used, from April 2015.
- 1.4 CIL may only be charged where there is a demonstrated funding gap for the infrastructure required to support new development in the area. It is necessary to show through viability assessments that the rate of CIL to be charged would not generally make development in the area unviable and would not deter the delivery of development set out in an

up-to date Local Plan for the area. CIL cannot be levied until an up-to date Local Plan is adopted, which in the case of Lewes District Council will be the Joint Core Strategy that is currently at an advanced stage of preparation.

- 1.5 While the Core Strategy will be jointly adopted for use in the District by both Lewes District Council and South Downs National Park Authority (SDNPA), as the two local planning authorities covering the district, a joint CIL charging schedule is not being pursued. Legal advice has been clear that a joint charging schedule will not be possible between the two authorities to cover the whole district. As a result the District Council should progress a charging schedule for the area for which it is planning authority and CIL charging authority. The SDNPA is also commencing work on preparing a CIL charging schedule for the whole of the National Park area, including the area within Lewes District. Despite the inability to produce a joint charging schedule, work has been undertaken jointly on part of the evidence base.

## **2 Key stages in developing a CIL charging schedule**

- 2.1 The key stages for the introduction of a CIL Charging Schedule are set out in the table in paragraph 1.1 and are not dissimilar to the process of preparing the Local Plan – Joint Core Strategy.
- 2.2 The Draft Charging Schedule (Appendix 2) shows the charge that the charging authority proposes to submit to the Examiner. The charging authority therefore needs to be confident in its supporting evidence and proposed rates in the Draft Charging Schedule when it is published for consultation. While it is possible to modify the Draft Charging Schedule between consultation and submission to the Examiner, this would be time consuming, involving the Statement of Modifications procedure, and is not considered best practice.
- 2.3 Procedures for submission to the Examiner and the Examination are prescribed in the Regulations and guidance. The Examiner will be looking for evidence of:
- compliance with the relevant Acts and Regulations
  - an aggregate funding gap for infrastructure (i.e. is there a need to charge CIL)
  - that the rate is informed by economic viability evidence
  - an appropriate balance between the desirability to raise CIL and development viability
  - an up to date Local Plan with which the proposed rate is consistent

- the proposed rate does not threaten the delivery of the Local Plan
  - collaboration with the County Council on the CIL rate and spending priorities
  - a draft spending priorities list (known as the Regulation 123 List)
  - recent history of contribution levels being achieved through S106 planning obligations.
- 2.4 If the Examiner approves the proposed Charging Schedule, or approves it with modifications, the Council, as charging authority, may then formally approve it for use. At this time a date for implementation of CIL must also be set. A number of weeks would be required between approval and implementation to allow charging and collecting procedures to be commenced and for the prior publication of the charging schedule and any accompanying policies (for example a payment by instalments policy).

### **3 Available evidence and potential CIL charging rates**

- 3.1 CIL rates must be based on evidence of local infrastructure need, a funding gap for that infrastructure, and a development viability assessment in the proposed charging area. In order for a charging schedule to be approved it must also be shown that the proposed rate(s) would contribute positively towards, and not threaten delivery of the relevant development plan as a whole now and through the economic cycle.
- 3.2 Work on the Draft Infrastructure Delivery Plan (IDP) to support the Core Strategy is ongoing and this forms a key piece of evidence for CIL, including setting out potential costs for the infrastructure needed to support the level of growth identified in the Core Strategy and identifying where there are gaps in funding. The IDP has been used to inform the Regulation 123 List shown in Appendix 1 (this is the spending priorities list).
- 3.3 Further viability work was undertaken in autumn 2013 to build on the viability evidence of 2011 that informed the Preliminary Draft Charging Schedule (PDCS). Key findings from this latest study that have been reflected in the Draft Charging Schedule are:
- Only residential developments (open market housing) and retail developments are deemed capable of making a CIL charge without affecting overall development viability.
  - All other development is deemed not to be viable to withstand a CIL charge.
- 3.4 The charges proposed in the Draft Charging Schedule for consultation are considered to be at a sufficiently viable level so as not to generally

deter development in the district. They are modest rates, well removed from the assessed margins of viability, taking into account the difficult economic conditions. It is considered that the proposed charges would represent a good balance between the desirability of raising CIL money towards infrastructure provision and the need to ensure that CIL rates will not undermine the delivery of the development set out in the Joint Core Strategy.

- 3.5 Draft potential charging rates for Lewes District Council charging area<sup>1</sup> (as set out in the Draft Charging Schedule) are shown in the table below:

Development Type		CIL charge (£/m <sup>2</sup> )
Residential	Low Zone (South of SDNP, i.e. the coastal towns)	£90
	High Zone (North of SDNP)	£150
Residential Institution		£0
Industrial		£0
Office		£0
Retail		£100
Hotel		£0
Standard Charge <sup>2</sup>		£0

- 3.6 The development industry raised few concerns during the consultation on the PDCS and the rates proposed here do not differ greatly from the PDCS rates. The proposed charges are based on more up to date data and refined evidence and it is considered unlikely that the development industry will oppose them.

#### 4 Draft Charging Schedule Consultation

- 4.1 When a charging authority considers that a draft charging schedule is ready for examination, it must publish the draft schedule and the appropriate available evidence on infrastructure costs, other funding sources and economic viability. It is good practice to allow at least a six week period of consultation and longer if the issues under consideration are particularly complex. Due to the relatively uncomplicated nature of the CIL Charging Schedule it is proposed to run the public consultation for six weeks, notifying all parties required by the Regulations.

<sup>1</sup> All areas of the District NOT lying within the South Downs National Park boundary

<sup>2</sup> The Standard Charge applies to all other types of chargeable development not otherwise specified in Table 1. These types of development may be liable for on-site improvements through S106 or S278 off-site highway improvements, even though the Standard Charge for CIL is proposed to be zero.

## 5 Financial Appraisal

- 5.1 The financial implications of publishing the CIL Draft Charging Schedule for consultation will be minimal and will mostly consist of the cost associated with printing and postage.
- 5.2 The costs associated with submitting the Draft Charging Schedule to the independent Examiner will be more substantial (the cost of the Examiner alone may be £1,000 per day), however the Examination hearings are unlikely to last more than 2-3 days. Other costs incurred may include the hire of a venue for the Examination, specialist consultants (if required) and administration expenses (printing, etc.).
- 5.3 More exact costs cannot be predicted until it is clear which issues the Examiner needs to consider in detail and therefore how long the Examination will last. In the event that no parties wish to be heard by the Examiner and the matter is instead dealt with by written procedures the overall costs are likely to be reduced.

## 6 Legal Implications

- 6.1 The Legal Services Department has made the following comments: "The proposals set out in this report comply with the requirements of the Planning Act 2008 and the CIL Regulations 2010."

## 7 Sustainability Implications

- 7.1 The sustainability implications of the proposed Charging Schedule have been assessed using the Sustainability Implications Questionnaire. As no specific impacts were identified either positive or negative, a full sustainability impact assessment is not required.

## 8 Risk Management Implications

- 8.1 The following risks will arise if the recommendations are not implemented and the following mitigation is proposed:

<b>Risk</b>	<b>Mitigation</b>
That there will be a delay in the progression of the CIL Charging Schedule to implementation. If the delay is significant enough this will mean CIL cannot be collected once the scope for planning contributions through S106 obligations is scaled back. Not having CIL will impact on the Council securing financial contributions from developers for infrastructure provision to support new development after April 2015.	That the recommendations of this report are approved, allowing the CIL Charging Schedule to progress in the shortest possible time period following adoption of the Core Strategy. Once implemented, CIL will be charged on chargeable new development.

8.2 No new risks are anticipated if the recommendation is implemented.

## **9 Equality Screening**

9.1 The initial screening has shown no potential negative impacts and a full equality impact assessment is not required.

## **10 Appendices**

- Appendix 1 Draft Regulation 123 List
- Appendix 2 CIL Draft Charging Schedule

## **11 Background Papers and Information**

- Lewes District Council CIL Viability Assessment February 2014  
<http://www.lewes.gov.uk/planning/20838.asp>
- Updated Draft Infrastructure Plan February 2014  
<http://www.lewes.gov.uk/planning/20838.asp>
- Preliminary Draft Charging Schedule April 2013  
<http://www.lewes.gov.uk/planning/20838.asp>
- Affordable Housing and CIL Viability Study December 2011  
<http://www.lewes.gov.uk/planning/20838.asp>

## Appendix 1



**Lewes District Council**

**DRAFT REGULATION 123 LIST**  
**TYPES OF INFRASTRUCTURE TO BE FUNDED BY CIL**

**MARCH 2014**



## **Community Infrastructure Levy**

Following CIL coming into force in Lewes District Charging Area, the following types of infrastructure will be funded through CIL receipts:

- Education facilities projects
- Transport schemes other than site-specific access improvements
- Police and emergency services facilities
- Community facilities projects
- Green infrastructure other than site-specific improvements or mitigation measures

Table 1 outlines the projects identified in the Infrastructure Delivery Plan that may be prioritised for CIL funding. The inclusion of a project or infrastructure type in this table does not signify a commitment from Lewes District Council to fully or partially fund all the projects listed. Allocation of Community Infrastructure Levy income will be agreed through the Council's Capital Programme. Further the order in the table does not imply any order of preference for spend and Lewes District Council will review this list at least once a year as part of its monitoring of CIL collection and expenditure.

## **Planning Obligations**

Lewes District Council proposes to use planning obligations for site-specific infrastructure such as:

- Site-specific access (vehicular, pedestrian, cycle and public transport) improvements (these could be secure through s278 of the Highways Act 1980 in some circumstances)
- On-site open space, for example children's play areas
- Site-specific green infrastructure, including biodiversity mitigation and improvement
- Site-specific Public Rights of Way diversions or mitigation
- Mitigation for residential development within the Ashdown Forest 7km protection zone<sup>3</sup>

In addition, affordable housing provision and contributions will continue to be secured through planning obligations.

## **Non-Strategic Infrastructure**

Non-strategic infrastructure, identified at a local level, will be expected to be funded through the 'meaningful proportion' of CIL revenue that is passed to

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<sup>3</sup> Mitigation is in the form of Strategic Access Management and Monitoring Strategy (SAMMS) and Suitable Accessible Natural Green Space (SANGS).

the Town and Parish Councils. This will either be 15%<sup>4</sup> or 25% if there is a neighbourhood plan in place.

**Table 1** Infrastructure Projects for CIL Funding

<b>Infrastructure projects that may be partly or wholly funded by CIL</b>
<p><b>Junction Improvement Projects</b></p> <ul style="list-style-type: none"> <li>• A26 / B2192 junction (Earwig Corner, Lewes / Ringmer)*</li> <li>• A26 Church Lane/Malling Hill*</li> <li>• A259 including town centre ring road and A26 junction (Newhaven)</li> <li>• A259 / Telscombe Cliffs Way (Peacehaven)</li> <li>• A259 / Sutton Avenue (Peacehaven)</li> </ul>
<p><b>New Road and Road Improvement Projects</b></p> <ul style="list-style-type: none"> <li>• Newhaven Port Access Road, new road from Eastside to A259 (phase 2)</li> </ul>
<p><b>Pedestrian and Cycle Improvement Projects</b></p> <ul style="list-style-type: none"> <li>• Provision of footpath and cycle routes providing links from new developments to facilities</li> </ul>
<p><b>Public Transport Improvement Projects</b></p> <ul style="list-style-type: none"> <li>• New public transport interchange Newhaven Town railway station</li> <li>• Demand management measures and Phase 2 of bus corridor on A259</li> <li>• Increased frequency of bus services on A259 to residential areas of Peacehaven and Newhaven</li> <li>• New and improved bus services serving new development</li> <li>• DDA compliant bus infrastructure on A259</li> <li>• Station accessibility improvements Newhaven, Seaford and rural stations</li> <li>• Community transport</li> </ul>
<p><b>Education Facilities Projects</b></p> <p>Early Years Places in:</p> <ul style="list-style-type: none"> <li>• Newhaven</li> <li>• Seaford</li> <li>• Peacehaven</li> <li>• Wivelsfield</li> <li>• Newick</li> <li>• Plumpton</li> </ul> <p>Primary School</p> <ul style="list-style-type: none"> <li>• One form of entry - new school or expansions Newhaven</li> <li>• One forms- of entry - new school or expansions Peacehaven</li> <li>• Additional places - expansion Telscombe Cliffs</li> <li>• One form of entry - expansion Seaford</li> <li>• Additional places - expansion Wivelsfield</li> </ul> <p>Secondary School</p> <ul style="list-style-type: none"> <li>• Three forms of entry - expansion Newhaven / Peacehaven</li> <li>• One form of entry – expansion Seaford</li> </ul> <p>FE College Provision</p> <ul style="list-style-type: none"> <li>• Additional Places Sussex Downs College Lewes Campus</li> <li>• Additional Places Plumpton College</li> </ul>

<sup>4</sup> 15% capped at £100 per existing dwelling

<b>Infrastructure projects that may be partly or wholly funded by CIL</b>
<b>Healthcare Facilities Projects</b> <ul style="list-style-type: none"> <li>• Capital improvements to healthcare facilities</li> </ul>
<b>Green Infrastructure Projects</b> <ul style="list-style-type: none"> <li>• Outdoor sports facilities for youth and adult; Newhaven, Seaford, Newick, Ringmer, Peacehaven and Wivelsfield</li> <li>• Equipped children’s play space all new development</li> <li>• Children’s casual play space</li> </ul>
<b>Community Infrastructure Projects</b> <ul style="list-style-type: none"> <li>• Expansion of Ringmer library</li> <li>• New library at Newhaven</li> </ul>
<b>Emergency Services Infrastructure Requirements</b> <ul style="list-style-type: none"> <li>• ESFRS – relocation of Newhaven Community Fire Station</li> </ul>

\*These items of infrastructure may need to also be funded through CIL raised within the South Downs National Park Authority Charging Area

## Appendix 2



**Lewes District Council**

# **Community Infrastructure Levy**

## **Draft Charging Schedule**

Public Consultation: 6 weeks from

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## 1 INTRODUCTION

- 1.1 This Draft Charging Schedule (DCS) is the second formal stage in setting a Community Infrastructure Levy (CIL) for Lewes District. It sets out the Council's proposals for an appropriate rate to introduce on new development. The Council welcomes views on the proposed CIL rates and the evidence that supports them.
- 1.2 **The DCS applies to areas of the district that lie outside the South Downs National Park boundary only**, as these are the areas for which Lewes District Council is the charging authority (and local planning authority) and thereby able to charge and collect CIL. The South Downs National Park Authority (SDNPA) is the charging authority (and local planning authority) for the whole of the area within the national park boundary.
- 1.3 This document sets out the principles of CIL, the background evidence and methodology for producing a CIL charging schedule and the proposed rates for comment. **Paragraph 6.3 sets out the details of how to respond to this consultation.**
- 1.4 CIL is a tariff based approach to funding infrastructure that allows local authorities to raise funds from developers undertaking new building projects. Its purpose is to help fund the provision of infrastructure needed to support development and help implement the growth identified in the Lewes District Local Plan Part 1 – The Core Strategy.

## **2 GENERAL PRICIPLES OF CIL**

### **a) Why introduce CIL?**

- 2.1 The Government intends CIL to be less complicated, fairer, faster and more transparent than using S106 planning obligations to fund infrastructure. It will place a charge per square metre on development of more than 100m<sup>2</sup> and on new-build dwellings of all sizes. By paying a development linked contribution the developer/landowner will help fund the infrastructure needed to make their development acceptable and sustainable.
- 2.2 CIL can be spent on any community infrastructure required to support growth, it is not tied to a particular project or type of infrastructure. It is intended that CIL is focused on the delivery of new infrastructure but can also be used to increase the capacity of existing infrastructure or to repair failing infrastructure where necessary to support development. CIL income can also be used to address cumulative impacts on infrastructure that may occur further away from the development.
- 2.3 Local authorities can choose to charge CIL but it is not mandatory. In order to be able to charge a CIL the charging authority (in this case Lewes District Council) must first have an up to date local development plan for its entire area and an adopted CIL Charging Schedule.
- 2.4 CIL has a number of significant advantages over the current system of Section 106 agreements including:
- Payment is non-negotiable, which helps speed up the planning process;
  - The CIL charge is transparent and predictable, meaning that applicants will know their CIL liability prior to submitting a planning application;
  - All liable developments will contribute to the cost of infrastructure provision, not just large scale development;
  - A proportion of CIL will be made available to allow local priorities to be delivered;
  - From April 2015, CIL will be the main mechanism for securing developer contributions for infrastructure to support growth. Section 106 planning agreements will be significantly scaled back after this date.
- 2.5 Although the use of Section 106 contributions is scheduled to be scaled back from April 2015, some non-strategic infrastructure elements that are site specific may still be secured through this route. This is likely to include matters such as certain green infrastructure, site specific transport improvements (cycling/footpaths) and environmental mitigation, although this list is not exhaustive. S106 obligations may be secured where appropriate and specific to the site development, irrespective of the development proposed and whether or not a CIL charge is also levied.

However, a developer cannot be 'double charged' via CIL and S106 for any one item.

**b) Legislative background**

- 2.6 The provisions for CIL are set out in the Planning Act 2008 and the Localism Act 2011 sets out the provisions for the approval of CIL charging schedules and the use of CIL. The CIL Regulations 2010 came into force on 6 April 2010. They have since been amended in April 2011, November 2012 and April 2013, further reforms are proposed and these were consulted upon between April and May 2013 and will form the CIL (Amendment) Regulations 2014. This Draft Charging Schedule has been prepared in accordance with the CIL (Amendment) Regulations 2014.
- 2.7 The Planning Act 2008 provides a wide definition of infrastructure which can be funded by CIL. Infrastructure projects on which CIL may be spent include (not exhaustively) new or safer road schemes, flood defences, schools, hospitals and other health and social care facilities, park improvements, green spaces and leisure centres. CIL is not to be used to remedy existing infrastructure deficiencies unless the new development makes the pre-existing problem more severe.
- 2.8 The Department for Communities and Local Government (DCLG) published new CIL Guidance in April 2013. This DCS has been prepared according to the above Legislation and the April 2013 Guidance.

**c) Liable development**

- 2.9 Once a charging schedule is implemented CIL will apply to all new buildings and extensions to buildings which people normally use. CIL will be levied on the gross internal floorspace of the net additional liable development where that net additional floorspace is more than 100 m<sup>2</sup> (measured internally). All new dwellings are liable, even if they are less than 100m<sup>2</sup>. Where floorspace is demolished as part of the development the demolished area may be off-set against the CIL liability attributed to the new development floorspace, subject to certain limitations.
- 2.10 CIL applies to liable permitted development as well as development for which a planning application is required.
- 2.11 CIL is not charged on changes of use or internal alterations where there is no increase in floorspace, provided the building has been in continuous use for at least 6 months of the 12 months preceding planning permission being granted.

**d) Payment and calculating the chargeable amount (general overview)**

- 2.12 CIL rates must be expressed in pounds sterling per square metre as this will relate to the net additional liable floorspace. CIL is not charged where the chargeable amount is £50 or less.



- 2.13 The relevant charge is due from the date of commencement of the liable development. The default position is that the whole amount must be paid within 60 days of commencement, unless the development falls under the criteria for the Council's instalments policy (p14) under which payment can be made in parts.
- 2.14 CIL operates on the exchange of formal notices:
- A **Liability Notice** is issued by the Council along with the planning permission decision notice or as soon as practicable afterwards. It states how much CIL is payable.
  - The person(s) who will pay CIL provide the Council with an **Assumption of Liability Notice**.
  - Before development starts the developer provides the Council with a **Commencement Notice** giving the start date.
  - The Council will then issue a **Demand Notice** (the bill).
- 2.15 A Liability Notice will be issued by the Council as soon as practicable after the day on which a planning permission is granted, providing details of the chargeable amount in relation to the development permitted. The responsibility to pay the levy lies with the land owner and is a local land charge.
- 2.16 For developments where the outline planning permission permits development to be implemented in phases, the notice of liability will be issued after the final approval of the last reserved matter associated with that phase of development. Where development is phased therefore, each phase will be considered as a separate development and CIL will be levied per the agreed phase rather than on the site in its entirety.
- 2.17 In order to calculate CIL payments due it is necessary for the following details to be supplied with the planning application:
- the gross internal area of all buildings and their uses on the site prior to development (if any);
  - the gross internal area of buildings to be demolished and their uses (if any); and
  - the proposed gross internal area of all buildings and their uses on the site once the development has been completed.
- 2.18 The Council will calculate the amount of CIL payable ('the chargeable amount') in respect of a chargeable development in accordance with the requirements and formulas in Regulation 40 of the Community Infrastructure Levy (Amendment) Regulations 2014. The amount of CIL chargeable at a given relevant rate must be calculated by applying the prescribed formula as defined in the CIL Regulations and shown in Appendix A (page 20).

2.19 The chargeable amount is an amount equal to the sum of the amounts of CIL chargeable at each of the relevant rates for the development permitted. For example if a development includes residential and retail development the chargeable amount will be calculated taking the sum of the relevant charges for each of these uses.

**e) Exemptions and relief from CIL**

2.20 Full CIL relief is given to the elements of a liable development that are to be used as affordable housing (with the exception, currently, of circulation space within affordable housing).

2.21 Charitable relief is given to a charity landowner on the proportion of development to be wholly or mainly for charitable purposes.

2.22 CIL is not charged on self-build housing. The person who wishes to benefit from this exemption must occupy the dwelling as their sole or main residence for the duration of a three-year “clawback” period from certification of completion.

2.23 CIL is not charged on buildings that people do not normally go into or only enter under limited circumstances. For example an electricity sub-station or wind turbine would not normally be visited by people but may be accessed by limited personnel for purposes such as maintenance and upgrade.

2.24 Development for which planning permission has been granted prior to CIL charging schedule being implemented will not be liable for CIL. This includes reserved matters consent where the outline application was permitted prior to the CIL charging schedule. Any subsequent applications for renewal or amendments would be liable for CIL if the charging schedule has been implemented at the time they are determined.

2.25 The Council, as the charging authority, has determined not to grant further exceptional relief from liability to pay CIL on any chargeable development however this will be subject to a future review.

2.26 Some types of development, which are technically chargeable for CIL, will not be expected to pay CIL at this stage because the viability evidence demonstrates that those types of development generally cannot afford to pay CIL in this charging area. For example, in this area uses such as offices and industrial do not currently show sufficient viability to justify a CIL charge. As a result it is currently proposed that these uses will be zero rated. However, this would be kept under review through CIL monitoring and the charging schedule would be reviewed periodically as necessary.

**f) What is a Charging Schedule?**

- 2.27 A CIL Charging Schedule sets out the rates of CIL that the Council (as CIL charging authority) will charge on development within its charging area. It sets out the rates in £ per square metre of chargeable development. A charging schedule can set different rates for different types of development and different rates for different geographical areas, provided the reason for doing so is based on economic viability rather than policy influences.
- 2.28 Before coming into force, the Regulations require that a charging schedule must be subject to two rounds of public consultation, followed by an examination conducted by a qualified independent person. This Draft Charging Schedule is the second of the consultations required and sets out the Council's preferred position on CIL rates that it proposes to submit for examination.
- 2.29 In addition to publishing a charging schedule, the Council will in due course publish a protocol on how it intends to collect, spend and monitor CIL funds in the future, including any related policies on CIL relief and payment by instalments.

### **3 EVIDENCE BASE**

#### **a) General Requirements**

3.1 CIL Regulation 14 (as amended) requires that when setting CIL rates charging authorities must strike an appropriate balance between:

- the desirability of funding infrastructure (in whole or in part) from CIL; and
- the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across the charging authority's area.

This balance is a central consideration of the CIL rate setting process.

3.2 The Draft Charging Schedule (DCS) follows on from the Preliminary Draft Charging Schedule (PDCS), which was consulted upon in Spring 2013. A summary of the responses to the consultation can be found in Appendix B (page 23).

3.3 The DCS is informed by best available evidence, which includes an up to date viability study for the charging area (this study takes into account and responds to the representations made on the PDCS) and the Infrastructure Delivery Plan (IDP). These pieces of evidence assess the infrastructure requirements and potential levels of CIL that can be achieved across the district by type of development. Only development types that are shown to be generally viable will be charged CIL.

3.4 The IDP has been used to identify infrastructure for the Regulation 123 Infrastructure List, published alongside this DCS, which sets out the strategic priorities for monies collected through the CIL charging process. The estimated cost of infrastructure and the contribution of funding from other sources, such as capital programme budgets, have been identified in the IDP and this has shown a funding deficit for the infrastructure needed to be delivered in support of the growth identified in the Proposed Submission Lewes District Local Plan – Part 1 Core Strategy.

3.5 The DCS has been prepared in accordance with the Community Infrastructure Levy Regulations 2010 (as amended) ('the CIL Regulations') and relevant guidance.

#### **b) Proposed Submission Local Plan – Part 1 Core Strategy**

3.6 The Core Strategy will set out the planned levels of growth for the district to 2030. The Proposed Submission version of the Core Strategy (January 2013) identified a planned level of housing growth of 4,500 net additional homes, between 2010 and 2030, for the whole plan area. This works out as an average of 225 dwellings per annum. A strategy for the distribution of this new housing is set out in the Joint Core Strategy, with certain strategic sites being identified and levels of planned growth being

assigned to various settlements. The District Council and National Park Authority are currently considering changes to the part of the Core Strategy that sets the strategy for housing growth. This could result in a change to the housing target and strategy for distribution. Although this may have some repercussions for the amount of development that is potentially CIL liable and the infrastructure needs to support the growth, these changes are not expected to give rise to the need to re-consider the CIL rates proposed in this document. The Joint Core Strategy also sets out the level of planned employment growth, but identifies minimal need for retail growth over the plan period. Other uses, such as hotels and leisure facilities, may also be expected to come forward during the plan period, although no specific quantities are identified for these types of development.

- 3.7 It should be noted that only a proportion of the new homes delivered through the Core Strategy will pay CIL under the Charging Schedule prepared by Lewes District Council. This is because some of these houses will be within the Charging Area for the National Park Authority, a significant proportion of the new homes will be expected to be affordable housing and an amount of development will already have permission (paragraph 3.25 provides an indication of the amount of residential development that is expected to be CIL liable within the Lewes District Council Charging Area).
- 3.8 Work on the Site Allocations and Development Management Policies DPD, which will form Part 2 of the new Local Plan, has begun and the consultation on the Issues and Options Topic Papers took place in November 2013 to January 2014. Part 2 of the Local Plan will identify the specific sites that will be allocated for housing to deliver the levels of planned growth that the Core Strategy sets for various settlements.

**c) Infrastructure Delivery Plan**

- 3.9 The Council produced an IDP to support the Proposed Submission Core Strategy. The IDP has been recently updated although some infrastructure requirements and estimated delivery costs are still outstanding and work with infrastructure providers is ongoing to identify these. To inform the DCS there has been a need to disaggregate the infrastructure requirements of the National Park, which include Lewes Town, from those that fall within the charging area for this DCS.
- 3.10 Using the IDP and correspondence with infrastructure providers through the consultation process, it has been possible to estimate the total cost of infrastructure needed to support new development within the charging area. The total estimated cost is approximately £100 million. Taking into account other actual and expected sources of funding, there is an outstanding infrastructure funding requirement of £65 million. This funding gap demonstrates the need to charge CIL and justifies the Council's decision to implement a CIL charging schedule.

#### d) CIL Viability Study Autumn 2013

- 3.11 CIL rates cannot simply be set at a level that would close the identified funding gap for infrastructure. To do so would be likely to raise viability issues for many proposed developments in the charging area, to the detriment of delivery of the Local Plan. The District Council has therefore been collecting evidence on development viability throughout the process of developing a CIL charge.
- 3.12 The Council appointed consultants Nationwide CIL Service (NCS) to prepare a CIL Viability Study in Autumn 2013 to build on the Affordable Housing and CIL Viability Study undertaken by consultants RS Drummond Hay in 2011. The purpose of this study was to bring up to date our understanding of the viability of development to bear a CIL charge in line with the latest guidance, best practice methods and assumptions, to provide a robust approach to setting a levy rate. The full study can be viewed at <http://www.lewes.gov.uk/planning/20838.asp>.
- 3.13 The 2013 Study assessed the economic viability of housing and commercial development across the charging area. The viability of development was assessed using a simple residual model illustrated by the diagram below, which summarises the 'development equation'.

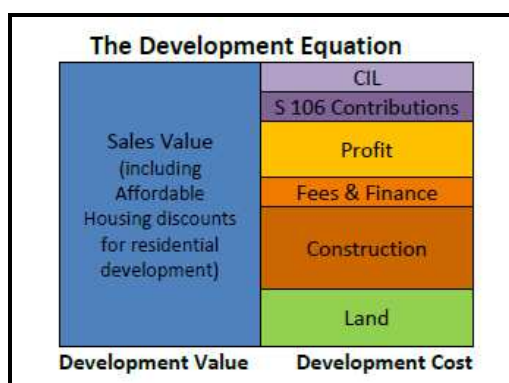


Figure 1 Residual Model Development Equation<sup>5</sup>

- 3.14 On one side of the equation is the development value i.e. the sales value, which will be determined by the market at any particular time. On the other side of the equation, the development cost includes the 'fixed elements' i.e. construction, fees, finance and developers profit. Developers profit is usually fixed as a minimum % return on gross development value generally set by the lending institution at the time. The flexible elements are the cost of land and the amount of developer contributions (CIL and Planning Obligations) sought by the local authority.
- 3.15 For housing development the Study used the policy requirement (Core Policy 1) in the Proposed Submission Core Strategy of 40% affordable

<sup>5</sup> Nationwide CIL Service Methodology Illustration – Lewes Viability Study 2013 page 9

housing on development of 10 or more units and a graduated requirement for thresholds below 10.

- 3.16 It is important to ensure that the rates of CIL charged do not harm economic viability of development generally across the charging area. In addition it should support, and not deter, the delivery of the development plan (the Core Strategy). The NPPF<sup>6</sup> requires that the ability to develop the sites and deliver the scale of development identified in the Local Plan should not be threatened. It is therefore not advisable to set a CIL charge at or near the margins of assessed viability as this could have a serious detrimental impact on delivery.
- 3.17 The 2013 Viability Study firstly concluded that the variations in the values of residential development were significant enough to warrant differential assumptions being applied to different geographical locations in the study area and that two distinct sub-market areas existed to the north and south of the National Park. Similarly the results of the viability testing indicated that a differential rate approach to CIL would be appropriate.
- 3.18 Based on the Council's proposed affordable housing target of 40% the Study illustrated that all forms of residential development are viable and capable of yielding significant levels of CIL. Potential rates for mainstream housing in the lower value zone, to the south of the National Park, ranged from £215 - £243 per sqm for greenfield development and £112 - £157 per sqm for brownfield development. In the higher value zone, north of the National Park, maximum rates ranged from £539 - £775 per sqm for greenfield development and £433 - £707 per sqm for brownfield development.
- 3.19 In order to address the McCarthy and Stone consultation response to the Preliminary Draft Charging Schedule, the Viability Study appraised sheltered housing development viability separately. This appraisal used enhanced build-cost assumptions to reflect the additional specification requirements and additional communal and non-revenue earning space of sheltered schemes; enhanced marketing costs and a 12 month rather than 6 month sales void. The results, £143 for brownfield and £406 for greenfield, demonstrate that sheltered housing can yield similar levels of CIL to standard residential development and does not warrant specific differential treatment.
- 3.20 The valuation study concluded that any variations in the value of commercial locations are not significant enough to warrant a differential charging zone approach to commercial CIL rates. The viability appraisals illustrated that most categories of developer-led commercial development in the charging area are not viable based on current market circumstances. The viability results do not mean that commercial and employment development cannot be delivered in the district. Many forms of commercial development may be undertaken direct by occupiers and

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<sup>6</sup> National Planning Policy Framework



where the development return can be reduced from a developers profit to a margin that reflects occupiers operational or opportunity costs then development could be viable.

- 3.21 Food supermarket retail and general retail were assessed to be viable and capable of accommodating CIL in both greenfield and brownfield development scenarios. Food supermarket retail indicated potential rates of £460 - £542 per sqm and general retail £143 - £183 per sqm for greenfield and brownfield scenarios.
- 3.22 It is important that the Development Strategy (Local Plan Part 1 Core Strategy) is considered in setting the CIL rates based on an economic viability assessment. The Local Plan envisages that a reasonable proportion of new development over the Plan period will emerge from brownfield sites. It is estimated that approximately 40% of residential development will be on previously developed land. As such the Study recommends that the brownfield results act as the primary guide to rate setting.<sup>7</sup>
- 3.23 The results illustrate the maximum potential CIL rates that could be applied without threatening the economic viability of development. The appraisals are necessarily generic tests, which do not make allowance for site-specific abnormal costs. As such the Study recommends that CIL rates are set within the identified viability margins to take account of these unknown factors.
- 3.24 The Viability Study therefore recommends that the variations in residential viability are sufficiently significant to justify a differential charging zone approach to setting residential CIL rates. Based upon an affordable housing target of 40% (with a tenure mix of 25% intermediate and 75% affordable rent), and taking account of the substantial level of greenfield delivery, the generic nature of the tests, a reasonable buffer to allow for additional site-specific abnormal costs the Study recommends the following residential CIL rates:
- Low Zone: £90 per sqm
  - High Zone: £150 per sqm
- 3.25 A single zone approach is recommended to setting commercial CIL rates:
- Retail A1-A5: £100 per sqm
  - All other non-residential uses: £0 per sqm
- 3.26 The Study concludes by outlining the CIL revenue projections based on the recommended CIL rates and the estimated CIL liable dwellings over the Plan period. An average dwelling size of 90 sqm is used and 1,658

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<sup>7</sup> Differential rates for brownfield and greenfield development are not specifically supported by the Regulations and no examples of such an approach have been successfully tested through the examination process.



dwellings, which discounts from the Plan total for affordable housing exemptions and all commitments and permissions.

Charging Zone	CIL Rate	Eligible Floorspace	CIL Revenue
Low Zone	£90	108720 sqm	£9,784,800
High Zone	£150	40500 sqm	£6,075,000
		Total	£15,859,800

- 3.27 No provision is made in the plan for retail floorspace so there are no revenue projections for this category. At this stage, additional retail development is likely to consist of small-scale, unplanned (i.e. not allocated in a development plan) retail units (i.e. convenience stores) that will form part of a larger mixed-use, but residential led development, as well as extensions to existing retail units.

## 4 DRAFT CIL CHARGING SCHEDULE AND CHARGING AREA

### a) CIL Draft Charging Schedule – proposed rates

4.1 The proposed CIL rates for Lewes District (all areas outside the South Downs National Park) are shown in the table below.

**Table 1: CIL Charging Rates for Lewes District Council charging area**

Development Type		CIL charge (£/m <sup>2</sup> )
Residential	Low Zone (South of SDNP, i.e. the coastal towns)	£90
	High Zone (North of SDNP)	£150
Residential Institution		£0
Industrial		£0
Office		£0
Retail		£100
Hotel		£0
Standard Charge <sup>8</sup>		£0

### b) CIL charging area map

4.2 The CIL charging area will be all areas of Lewes District that lie outside the South Downs National Park boundary as shown in Map 1 (page 18). It is worth noting that the small area at Falmer and the area of Glynde Parish that lie outside the National Park are within the High Zone for the CIL charge.

### c) CIL Draft Instalments Policy

4.3 The CIL instalments policy will only apply where conditions of Regulation 70 (CIL 2010) are met:

- Council received Assumption of Liability prior to commencement
- Council received CIL Commencement Notice prior to commencement

4.4 The Community Infrastructure Levy for residential development will be payable by instalments as follows:

- Where the chargeable amount is less than £50,000 (up to 6 dwellings approximately)

<sup>8</sup> The Standard Charge applies to all other types of chargeable development not otherwise specified in Table 1. These types of development may be liable for on-site improvements through S106 or S278 off-site highway improvements, even though the Standard Charge for CIL is proposed to be zero.

- Full payment will be required within 60 days of the commencement date
- Where the chargeable amount is £50,000 - £250,000 (6-31 dwellings approximately)
  - First instalment representing 25% of the chargeable amount will be required within 60 days of commencement date; and
  - Second instalment representing 25% of chargeable amount will be required on completion of 50% of the dwellings; and
  - Third and final instalment representing 50% of the chargeable amount will be required on completion of 75% of the dwellings.
- Where the chargeable amount is over £250,000 (more than 31 units approximately)
  - First instalment representing 25% of the chargeable amount will be required within 60 days of commencement date; and
  - Second instalment representing 25% of the chargeable amount will be required on completion of 25% of the dwellings; and
  - Third instalment representing 25% of the chargeable amount will be required on completion of 50% of the dwellings; and
  - Fourth instalment representing 25% of the chargeable amount will be required on completion of 75% of the total number of dwellings

Note: the percentage of dwellings will be rounded up where exact dwelling numbers are not possible

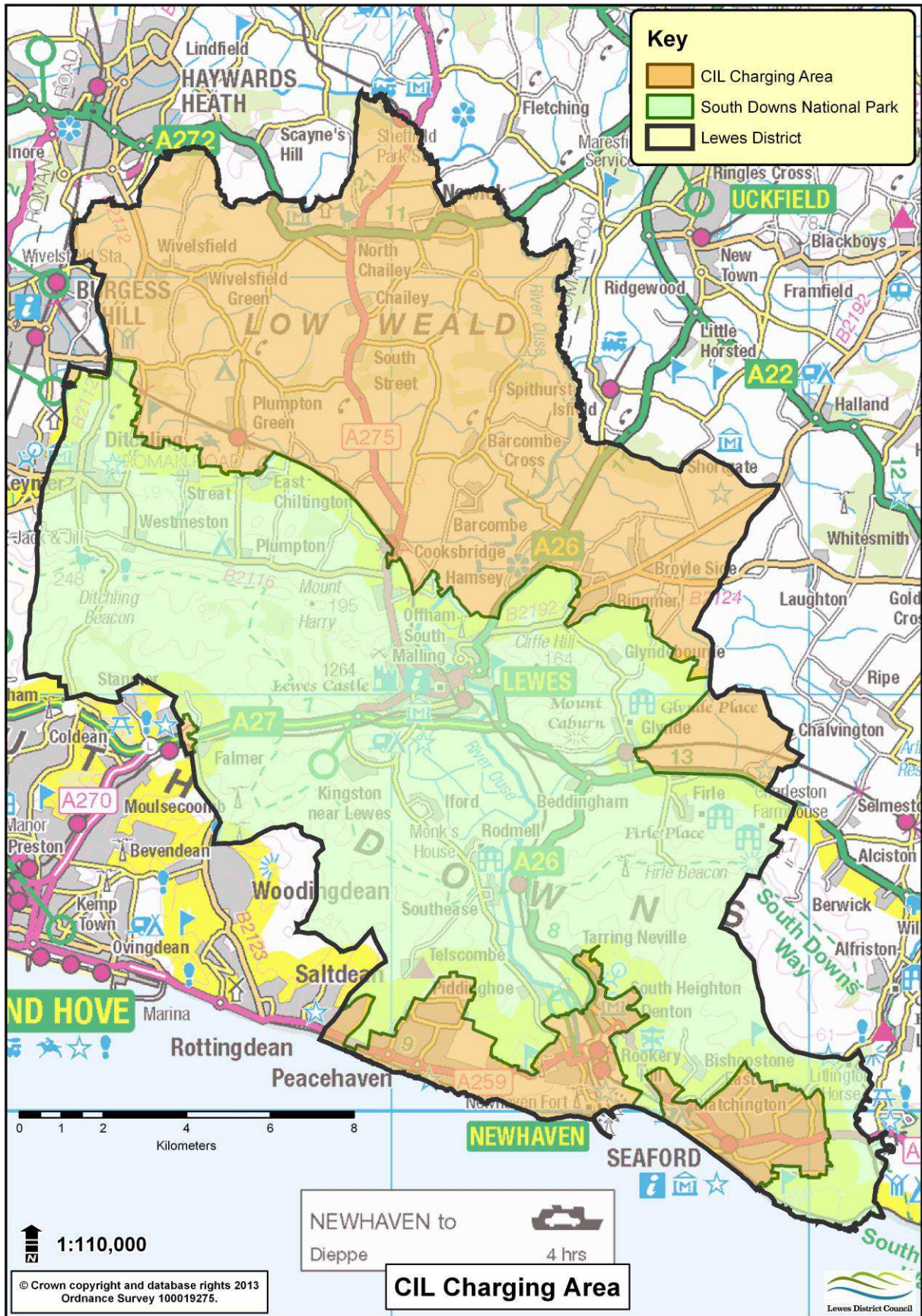
4.5 Commercial developments by their nature do not lend themselves to the same approach used for residential development. Therefore it is proposed that phasing will be based on timescales and still related to the size of the development. The charge will be payable by instalments as follows.

- Where the chargeable amount is less than £50,000;
  - Full payment will be required within 60 days of the commencement date
- Where the chargeable amount is £50,000 - £250,000;
  - First instalment representing 50% of the chargeable amount will be required within 60 days of the commencement date; and
  - Second instalment representing 50% of the chargeable amount will be required upon issue of completion certificate and prior to the opening of any part of the development
- Where the chargeable amount is over £250,000;
  - First instalment representing 25% of the chargeable amount will be required within 60 days of the commencement date; and
  - Second instalment representing 25% of the chargeable amount will be required within 120 days of the commencement date; and
  - Third and final instalment representing 50% of the chargeable amount will be required within 360 days of the commencement date or upon issue of completion certificate and prior to the opening of any part of the development, whichever is sooner.

- 4.6 In calculating individual charges for the levy, the Council will be required by the Regulations to apply an annually updated index of inflation to keep the levy responsive to market conditions. The index will be the national All-In Tender Price Index of construction costs published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors.



Map 1 Lewes District Council CIL Charging Area



## **5 OTHER MATTERS**

### **a) CIL Implementation**

- 5.1 It is proposed to use a proportion of CIL funds to cover CIL administration expenses, in accordance with the Regulations. Further details will be established once the CIL administration procedures are developed.
- 5.2 The Council will keep under review and consideration the implementation of the following discretionary CIL administration policies. Such policies do not require formal consultation or examination and may be introduced and revoked at any time (subject to meeting relevant requirements on publication periods prior to commencement).
- Exceptional circumstances relief<sup>9</sup>
  - Discretionary charitable relief<sup>10</sup>

### **b) Ashdown Forest**

- 5.3 The Ashdown Forest, located in neighbouring Wealden District, is covered by Special Protection Area (SPA) and Special Area of Conservation (SAC) European designation. A 7km protection zone has been established around the Forest within which new residential development requires mitigation so that the pressures of usage experienced by the Forest are not worsened as a result of the development. The 7km protection zone partly extends into Lewes District covering much of Newick parish, including the village itself. Mitigation required for residential development in this area is in the form of financial contributions to the Strategic Access Management and Monitoring Strategy (SAMMS) and the ongoing management of Suitable Accessible Natural Green Space (SANGS).
- 5.4 It is proposed that financial or other contributions required for the mitigation of residential development will be collected using planning obligations and CIL monies will not be used towards this mitigation.

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<sup>9</sup> Regulations 55-58 allows for discretionary relief in exceptional circumstances. The Guidance advises that this is to allow the charging authority to avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise. Cases would need to be truly exceptional and the charging authority would need to be satisfied that the costs relating to S106 are greater than those related to CIL. There is also a need to ensure the relief would not constitute notifiable State Aid.

<sup>10</sup> This is in addition to the mandatory charitable relief where the chargeable development is to be used wholly or mainly for charitable purposes.

## 6 HOW TO COMMENT ON THE DRAFT CHARGING SCHEDULE

6.1 Lewes District Council is seeking comments from any interested individuals or organisations on this Draft Charging Schedule. The consultation period will run for 6 weeks during April and May 2014.

6.2 Please note representations made on this consultation cannot be treated in confidence. Copies of all representations received may be made available to the public. The Council may also provide details or a summary of representations on its website. We will not, however, publish personal information such as telephone numbers, email or private addresses. By submitting a representation on this Draft Charging Schedule you confirm that you agree to this and accept responsibility for your comments. Anyone submitting comments on the draft Charging Schedule will have the right to be heard at the examination.

6.3 Comments are invited by email or post to:

Email:

ldf@lewes.gov.uk

Post:

CIL Consultation  
Planning Policy Team  
Lewes District Council  
Southover House  
Southover Road  
Lewes  
East Sussex  
BN7 1AB

6.4 Supporting documents are available to view on the Council's website at <http://www.lewes.gov.uk/planning/20838.asp> or in hardcopy by visiting the customer reception at Southover House.



## 7 NEXT STEPS

- 7.1 The Draft Charging Schedule together with the relevant evidence, all representations received and a statement summarising the main issues raised by the representations or that no such representations were made will be passed onto the appointed examiner in submission for examination.
- 7.2 Following the examination, the examiner will publish their report and recommendations. If the examiner approves the Charging Schedule the Council will then be able to approve it, setting a date for CIL to commence. It is anticipated that Charging Schedule will be brought into effect during or as soon as practicable after April 2015.
- 7.3 In addition to publishing a charging schedule the Council will publish its policies on how it intends to collect, spend and monitor CIL.
- 7.4 The proposed timetable for the remaining stages of implementing the Community Infrastructure Levy is set out below.

**Table 2 Indicative timetable for introducing the Charging Schedule**

<b>Stages in preparing the CIL Charging Schedule</b>	
Cabinet approval to publish CIL Draft Charging Schedule	20 March 2014
CIL Draft Charging Schedule (Reg 16/17) formal public consultation	April to May 2014
Formal Submission of CIL Draft Charging Schedule to Examiner (Reg 19)	Summer 2014
Examination (Reg 21)	Autumn 2014
Adoption by Full Council (Reg 25)	Late 2014 / early 2015
Implementation of CIL (Reg 28)	April 2015



## APPENDIX A

### Calculating the chargeable amount

- i) CIL charges will be calculated in accordance with CIL Regulation 40 (as amended). The chargeable amount will be an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates as set out in the charging schedule.
- ii) The chargeable amount will be index linked using the Royal Institution of Chartered Surveyors' All-in Tender Price Index figures for the year in which the planning permission was granted and the year in which the charging schedule took effect.
- iii) 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;

I<sub>P</sub> = the index figure for the year in which planning permission was granted; and

I<sub>C</sub> = the index figure for the year in which the charging schedule containing rate R took effect.

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

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

Where:

G = the gross internal area of the chargeable development;

G<sub>R</sub> = the gross internal area of the part of the development chargeable at rate R;

E = an amount equal to the aggregate of the gross internal areas of all buildings which –

- a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
- b) are to be demolished before completion of the chargeable development; and

K<sub>R</sub> = an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which-

- a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use;
- b) will be part of the chargeable development upon completion; and
- c) will be chargeable at rate R.

## APPENDIX B

### Summary of Consultation Responses to the Preliminary Draft Charging Schedule

Representations on the CIL Preliminary Draft Charging Schedule	
Respondents	Summary of the issues raised (italics identifies clear support)
National Park Authority 1.19	<ul style="list-style-type: none"> <li>• <i>The National Park Authority supports the PDCS and will continue to engage on matters relating to implementation, governance and expenditure throughout the CIL process.</i></li> </ul>
Highways Agency 1.35	<ul style="list-style-type: none"> <li>• Highways Agency expresses concern that key information on infrastructure requirements and estimated delivery costs is yet to be determined to the extent that there is no estimate of the funding gap within the PDCS.</li> <li>• It is not clear from the document whether the Council intends to fund Strategic Road Network infrastructure or some of it through CIL and if so how much it intends to raise for this purpose.</li> </ul>
NHS Sussex and NHS Property Services 1.47	<ul style="list-style-type: none"> <li>• Capital improvements in healthcare facilities are considered a prerequisite in light of the effects from new housing developments. It will be important that CIL developer contributions are received to mollify and meet the needs arising directly from proposed developments. In this respect NHS are familiar with CIL Regulations 2010 and in particular Section 122 and its three important tests.</li> <li>• NHS use a robust approved formula for calculation of CIL applications for healthcare developer contributions based on occupancy levels, types of houses and costs of healthcare infrastructure improvements on a proportional and pro rata basis.</li> <li>• NHS has therefore calculated, based upon a possible net CIL total of 1633 new dwellings to be provided within the CIL charging area over the Plan period, a CIL calculation of £718,855 for healthcare infrastructure costs.</li> </ul>
Plumpton Parish Council	<ul style="list-style-type: none"> <li>• <i>Plumpton Parish Council (PPC) supports the greater certainty from the published schedule of charges rather than a negotiated agreement.</i></li> <li>• <i>PPC supports the application of CIL to all new developments and new floorspace over 100m<sup>2</sup> and the flexibility to improve existing infrastructure.</i></li> <li>• <i>PPC agree that the proposed £100 per m<sup>2</sup> for residential development is a reasonable sum.</i></li> <li>• The possibility that CIL could be used to reduce normal expenditure on the maintenance of public facilities is a concern for PPC.</li> <li>• It is not clear whether communities where development is based would directly benefit from levy or whether this would be directed to other infrastructure projects.</li> <li>• PPC suggest that the levy be reduced for brownfield development and increased for greenfield development.</li> </ul>

<p>Peacehaven Town Council 3.15</p> <p>Natural England 1.11</p> <p>Sainsbury's Supermarkets Ltd / WYG 5.228</p> <p>Environment Agency 1.9</p> <p>University of Sussex / Parker Dann 5.252</p> <p>McCarthy &amp; Stone Retirement Lifestyles Ltd / The Planning Bureau Ltd 5.408</p>	<ul style="list-style-type: none"> <li>• PPC also suggest that the administration fee should be fixed and transparent so both developers and communities are clear on the amount they are to pay and receive.</li> <li>• <i>Peacehaven Town Council agree with the potential CIL charging rates for the charging area.</i></li> <li>• In the absence of a CIL approach to enhancing the environment Natural England would be concerned that the only enhancements to the natural environment would be ad hoc. Potential infrastructure requirements may include: Access to natural greenspace: Allotment provision: Infrastructure identified in the local Rights of Way Improvement Plan: Infrastructure identified by any Local Nature Partnerships and or BAP projects: Infrastructure identified by any AONB management plans: Infrastructure identified by any Green infrastructure strategies: Other community aspirations or other green infrastructure projects: Infrastructure identified to deliver climate change mitigation and adaptation: Any infrastructure requirements needed to ensure that the Local Plan is Habitats Regulation Assessment compliant.</li> <li>• The representation on behalf of Sainsbury's states that the charge of £75 per sq m for retail development above 100 sq m is in contrast to the viability study, which they argue demonstrates that a charge could not be supported for small retail developments on brownfield sites. Thus meaning the charge will actively discourage the development of brownfield sites – going against the thrust of NPPF core principles. In light of this it is not felt an appropriate balance has been met.</li> <li>• Sainsbury's request notification at all proceeding stages.</li> <li>• <i>The Environment Agency is supportive of the Council's approach to CIL and believes CIL can go some way to supporting infrastructure costs within the District.</i></li> <li>• University of Sussex notes that part of its campus at Falmer falls within the CIL charging area and that there will be no charge associated with University-related development at its campus. <i>This approach is welcomed</i> as the University is not a conventional developer and considers its status, as a public service provider required to reinvest any surpluses in the pursuit of education and research objectives, should be recognised within the CIL exercise.</li> <li>• The University believes their circumstances and role as education provider must be given weight as the Council finalises its CIL charging schedule and welcomes the opportunity to respond to the consultation document.</li> <li>• McCarthy &amp; Stone highlight the aging population statistics and the need to provide appropriate housing for the elderly. Appropriate sites are limited and typically of high value being close to town and local centres. Therefore McCarthy &amp; Stone recommend the viability assessment should provide for a development scenario for a typical flatted retirement housing scheme, located on previously developed land within 0.4 miles of a town centre. Appraisal input should be reflected for the assessment as follows: <ul style="list-style-type: none"> <li>○ Larger communal areas for residents</li> <li>○ Longer sales period – typically 1 unit per month</li> </ul> </li> </ul>
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<p>Barratt Homes / David Lock Associates 5.409</p>	<ul style="list-style-type: none"> <li>○ Sales &amp; marketing fees in excess of 6% of GDV</li> <li>○ Empty property costs – subsidised by the Company until development is completely sold</li> <li>○ Build costs typically 5% more expensive to construct than apartments &amp; 15-20% more expensive than estate housing</li> <li>○ Developer profits based on GDV rather than developer costs (accepted approach see Poole, Portsmouth and Examiner’s Report Greater Norwich)</li> </ul>
<p>Telscombe Town Council 3.27</p>	<ul style="list-style-type: none"> <li>● McCarthy &amp; Stone would like payment by instalment as follows: part payment on first occupation and then phased payment depending upon occupation levels. This is because development needs to be completed in its entirety before a single unit can be sold and complete payment upfront could affect viability of development and developer’s ability to provide for affordable housing.</li> <li>● Therefore McCarthy &amp; Stone suggest a bespoke CIL rate is prepared for sheltered housing and other forms of specialist accommodation.</li> <li>● <i>Barratt Homes are in support of the Council’s intention to implement CIL and fully support the consultation document in recognising that viability is a key consideration and the recognition in paragraph 5.4 that “top-up” contributions towards SANGS are not economically viable.</i></li> </ul>
<p>Southern Water 1.14</p>	<ul style="list-style-type: none"> <li>● Telscombe Town Council ask what guarantees there will be for CIL money to be allocated to the local area in which development has taken place other than the 15 or 25%? Otherwise they believe this will contradict paragraph 2.8 CIL should not be used to remedy existing infrastructure deficiencies.</li> <li>● TTC ask is there a “better buy” between S106 and CIL? Will councils be consulted upon options? (para 2.2)</li> <li>● How have CIL categories and charges been calculated in relation to local development plan?</li> <li>● If CIL is not charged on change of use will this encourage conversion of non-domestic to domestic e.g. pub to house?</li> <li>● Does CIL proposal encourage back garden and two for one development? (pull down/alter 1 build 2 pay CIL on 1)</li> <li>● What are enforcement regulations for non-payment of CIL?</li> <li>● Other Authorities have differing rates... What is definition of “economic viability”?</li> <li>● What is a residential institution? Does it cover residential units with care packages?</li> <li>● Does definition of retail need to be clarified? Is it worth considering differing classifications e.g. out of town/town</li> <li>● Will paragraph 2.21 encourage reduced common areas in affordable housing developments including sheltered accommodation? Or are these classified as residential institutions?</li> <li>● Is the 123 list available?</li> <li>● Southern Water point out that CIL is not suitable for securing contributions from developers towards site-specific local infrastructure. Southern Water seeks developer contributions towards local on-site and off-site water and wastewater</li> </ul>

Gleeson Strategic  
Land Ltd 5.257

infrastructure to service individual sites. These costs would be additional to costs incurred through CIL or S106. It is important that this is recognised in documents that discuss developer contributions as it will add to the cost of development and impact on viability.

- Southern Water look to the planning authority to support connection off site through policy and planning conditions as it has limited powers to enforce connection at the nearest point of capacity. Without support from the planning authority there is a risk that required infrastructure will not be delivered by the development. Ofwat expect Southern Water to recover reasonable costs through developer contributions.
- Gleeson highlight that paragraph 3.5 states that with regard to the PDCS the planned housing growth is 4,500, an average of 225 per annum. This figure is the district-wide figure not the PDCS charging area figure. IDP uses same figure therefore PDCS is based on wrong assumptions; Gleeson question whether other areas of evidence are correct. Infrastructure Delivery Schedule refers to sites in Lewes contributing to IDP, how can Lewes DC control this should the SDNP be unwilling to do so?
- Detailed breakdown of costs against a large number of projects within the Draft Delivery Schedule not identified therefore Gleeson would reserve the right to comment against later consultation; however it is obvious a funding gap exists for a large number of projects.
- Gleeson are concerned that the onus has been placed on residential development and that the rate suggested will leave much development unviable.
- Sources of funding which appear not to have been considered in detail:
  - S106 monies from existing housing commitments
  - The New Homes Bonus has the ability to provide significant monies towards the costs of local infrastructure – it appears no account has been made of this income stream at all.
  - Other sources of grant funding e.g. Sport England
- Therefore it is considered that the identified funding gap is exaggerated and the CIL charge excessive.
- Gleeson has struggled to identify an emerging instalments policy and therefore reserve the right to comment at the next round of consultation.
- The proposed rates are too high when compared to other authorities in the south east and focussed primarily on residential development. It is unrealistic to almost triple the cost in comparison with the existing S106 achievements, which still see a number of sites stalled for a substantial number of years.
- There is therefore a discrepancy between sources of development that will contribute to funding against shortfalls in funding, e.g. the Council has identified a shortfall against health provision, yet residential care and extra care is excluded from making a contribution. It is this type of facility which is most likely to place pressure on existing and future facilities.

Constantia Estates  
Ltd / Parker Dann  
5.407

Sussex Police 1.10

- Gleeson would like to see a charge on industrial and office development, which would allow the charge levied on residential development to be reduced.
- Constantia representation sets out the evidence for small to medium sized house builders in the current climate in terms of build costs, lending rates, viability, profit levels and the number of proposed homes likely to be built by small to medium sized house builders over the Plan period. In respect of this they believe it will be crucial that a payment by instalments policy is established under whose auspices developments are actively supported. Otherwise Constantia believe it would be extremely difficult for most developers to fund the outlay required by the imposition of CIL.
- Suggest that the instalments policy should be similar to S106 payments where due amount is paid upon first occupation or after a defined number of units have been sold. This would avoid additional interest payments on potentially very large loans.
- Situation exacerbated as, in Constantia's experience, the social housing element can be loss making and further the market element devalued due to negative perception of social housing.
- *Support provisions at paragraphs 2.25 and 2.26 relief from CIL*
- *Support paragraph 2.21 CIL relief for affordable housing, note that circulation space would attract a CIL charge and suggest this is monitored carefully.*
- *Agree with conclusions at paragraph 5.4 that economic viability is only basis on which to set differential rates*
- Overall Constantia consider the Council must give serious consideration to how it expects developers, particularly small and medium sized developers to fund CIL payment within 60 days of the commencement of the scheme. Strongly recommend the Council adopts a policy to facilitate phasing of CIL payments. Necessary profit levels are increasingly dictated by lenders as opposed to developers themselves.
- Cumulative impact of CIL and increased affordable housing could render many development sites marginal and would not adequately reflect the NPPF's desire to reward willing developers with "competitive returns".
- Sussex Police advises that it will "apply for CIL contributions" to mitigate the impact of the development proposed by the Core Strategy and associated population growth. Sussex Police is looking for fair and reasonable contributions for policing infrastructure, including future commissioning of health services. There is an up to date 'Policing Plan', which sets out existing policing resources.
- Sussex Police set out their case for requiring contributions using Circular 05/05 and CIL Regulation 122. The funding sought is required for growth in staffing, accommodation (staff and custody provision), staff 'start up' costs such as:
  - Uniform and protective equipment
  - Patrol vehicles
  - Recruitment costs
  - Probationer Constable and staff induction training



<p>Wivelsfield Parish Council 3.30</p>	<ul style="list-style-type: none"> <li>○ IT equipment</li> <li>○ Furniture</li> <li>○ Staff funding for three years</li> </ul>
<p>Seaford Town Council 3.20</p>	<ul style="list-style-type: none"> <li>• Wivelsfield Parish Council asks whether there is a need to consult with LDC to create a Regulation 123 List.</li> <li>• WPC would like to see clarity regarding funds payable to parish councils under the scheme and whether LDC intends to “top-slice” the payments for project-managing the spend.</li> <li>• Exceptional circumstances relief should not be granted without prior consultation with local parish councils.</li> <li>• WPC believes the proposed CIL rate is excessive in the current economic climate, considerably above S106 contributions and would ultimately be passed on to purchasers which would little to stimulate the housing market. WPC proposes a rate of £75/m<sup>2</sup>.</li> </ul>
<p>Asda Stores Ltd / Thomas Eggar 5.410</p>	<ul style="list-style-type: none"> <li>• Seaford Town Council propose that consideration be given to setting differential rates for scale of development in respect of residential, retail and hotel development, with smaller developments attracting a lower scale of charges, whilst larger developments would attract a higher scale of charge.</li> <li>• Asda Store Ltd object to the approach taken to assessing the Charging Schedule on the grounds of the financial assumptions contained in the Viability Study and concerns about the approach to setting CIL charges generally.</li> <li>• Asda highlight the importance of the retail sector in creating new jobs and its role as one of the most dynamic and innovative sectors within the UK economy.</li> <li>• Asda take issue with the lack of consideration given to residual S106 contributions from commercial schemes thereby underestimating the true cost of retail developments and artificially inflated the relevant benchmark land values used for the financial viability models. This will have inflated the amount of CIL proposed for retail.</li> <li>• No evidence of revenue raised by S106 has been produced therefore the CIL cannot be assessed against this as required by DCLG (from 14<sup>th</sup> December 2012).</li> <li>• The Viability Study does not acknowledge that the economics of conversion schemes are very different to those of new build schemes. It is difficult to see how the Council can assess whether the imposition of CIL will put the majority of these schemes at risk without having considered its impact on their viability.</li> <li>• The Charging Schedule does not contain details of the actual or estimated cost of infrastructure required to support the level of development set out in the Core Strategy.</li> <li>• There is a concern that local authorities will still seek site-specific commitments under S106 regime as well as CIL and that the two charges together represent double levy for infrastructure, which is seemingly being placed onto a very limited category of development.</li> <li>• There is a risk that some of the infrastructure projects identified by the Council to be funded by CIL will have already been funded by undelivered projects and there are currently no mechanisms for allowing developers to reclaim unspent CIL</li> </ul>

	<p>monies (as there is for S106).</p> <ul style="list-style-type: none"><li>• Asda urge the Council to adopt an exemptions policy offering exceptional circumstances relief.</li><li>• Asda welcomes the fact that the Council are introducing an instalment policy, which ensures that developers are not disadvantaged by the decision to submit a full planning application for a phased development scheme.</li><li>• Asda propose a fairer approach to setting the charge would be to divide the estimate of total infrastructure costs by the total expected development floorspace and apply a flat rate levy across the District and across all forms of development.</li><li>• Alternatively Asda request that the Council reduces the CIL charge for large scale retail developments to that of small scale retail developments to ensure consistency.</li></ul>
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