

EASTBOURNE LOCAL PLAN
COMMUNITY INFRASTRUCTURE LEVY
Preliminary Draft Charging Schedule

JULY 2013

Preliminary Draft for Consultation

**Consultation:
Friday 19 July to 30 August 2013**



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1. Introduction

- 1.1 Eastbourne Borough Council (The Council) has prepared a Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS) for consultation between Friday 19 July and 30 August 2013. This provides the first step in setting the CIL rates for Eastbourne, and allows stakeholders to comment on the proposed rates, which are supported by evidence on development viability.
- 1.2 This document sets out the general explanation of CIL, the background to its preparation and the methodology used to determine the proposed CIL rates.
- 1.3 The PDCS is supported by an evidence base which includes a detailed viability assessment. The viability assessment document examines the levels of CIL that can be achieved across the Borough without affecting the overall viability of development identified in the Eastbourne Core Strategy Local Plan. Only developments that are shown to be viable will be charged CIL.
- 1.4 The PDCS is also supported by a revised Infrastructure Delivery Plan and accompanying Funding Gap Analysis document, to demonstrate that there is a funding deficit between the total cost of required infrastructure and the infrastructure delivered or financed by the Council or external partners and agencies. The funding gap analysis justifies the position of the Council to move forward with CIL.
- 1.5 This document has been prepared in accordance with the CIL Regulations 2010 (as amended) and statutory guidance. These background documents are also available as part of this consultation and the following link is provided to the Communities and Local Governments Website:
<https://www.gov.uk/government/policies/giving-communities-more-power-in-planning-local-development/supporting-pages/community-infrastructure-levy>
- 1.6 This consultation document has been shaped internally with continued engagement with infrastructure providers, stakeholders and Members, and was submitted to the Council's Cabinet on 10 July for authority to consult.
- 1.7 Part of the South Downs National Park (SDNP) is located within the eastern part of the Borough. As the SDNP authority manages growth and development within the SDNP, it will introduce its own CIL in due course to cover development within its area. Areas within Eastbourne Borough, that are designated within the SDNP boundary will therefore not be included in this Charging Schedule and zone set out in this document.

2. An Explanation of CIL

- 2.1 The Community Infrastructure Levy (CIL) allows local authorities in England and Wales (defined as Charging Authorities) to raise funds from developers undertaking new building projects. It effectively replaces much of the existing process of planning obligations commonly known as 'Section 106' agreements. The primary use of CIL is to gain financial contributions from certain types of viable development to help fund new or improved strategic infrastructure required to support the growth identified in a local authority's Core Strategy. CIL places a charge per square metre on development. It will not be the sole funding source for all infrastructure delivered, but will supplement public sector revenue streams.
- 2.2 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 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 6 April 2014, 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.
- 2.3 The money raised from CIL will be used to pay for infrastructure to support development, ensuring that new development bears a proportion of the cost of delivering the new infrastructure required. CIL can be spent on any community infrastructure required to support growth, provided the infrastructure is on a Council published Regulation 123 list. The draft Regulation 123 list is available for comment alongside the PDCS.

Development that is Liable for CIL

- 2.4 CIL legislation states that all new residential units, and the erection of or extensions to other buildings (over 100 sq. m. net additional gross internal floorspace in size) are liable to pay CIL. All net additional dwellings (self contained houses or flats) are liable regardless of their size. The floorspace of any buildings that are demolished as part of development proposals will be off-set against the new overall floorspace liability. In some instances CIL will apply to the floorspace allowed under permitted development as well as development for which a planning application is required.
- 2.5 CIL is not charged on changes of use or internal alterations where there is no net gain in floorspace, provided that the building has been in continuous use for at least 6 months of the 12 months preceding planning permission being granted. Development proposals that already have a planning permission when the CIL charging schedule comes into force are not liable for CIL. This includes any subsequent Reserved Matters applications following outline planning permission. However, if development proposals with planning permission are not commenced within a conditioned time limit, any subsequent renewal or amendment applications

will be liable to CIL if by that time a CIL Charging Schedule has been adopted by the Council.

Exemptions and Relief from CIL

- 2.6 The CIL Regulations set out the exemptions for paying CIL and stipulates that the following types of development will not be liable for CIL:
- Development of less than 100 sq. m. net additional gross internal floorspace, unless it results in the creation of net additional dwelling(s);
 - Full relief is applied on all those parts of chargeable development that are to be used as social/affordable housing;
 - A registered charity landowner will receive full relief from their portion of the liability where the chargeable development will be used wholly or mainly for charitable purposes;
 - The conversion of or works to a building in lawful use that affects only the interior of the building;
 - 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);
 - Development granted planning permission, but not implemented, prior to CIL being adopted by the Council;
 - When the resulting CIL is calculated as £50 or less, then a CIL payment will not be charged by the Council.
- 2.7 Additionally, the Council may wish to grant exceptional CIL relief where a specific scheme cannot afford to pay. Such circumstances may only apply where:
- There is a Section 106 planning obligation in place that has costs greater than the CIL chargeable amount and CIL would make the development unviable; and
 - The amount of relief granted would not be liable to be notifiable as state aid under EU law¹.

It is unlikely that the Council will apply an exceptional circumstances policy at this time, but views are sought on this matter during this consultation stage.

- 2.8 Any development which the Council has identified as 'zero rated' within its CIL charging rates, at this moment in time is considered to be financially unviable. This takes account of evidence prepared at this moment in time, and will be subject to review in future years. Any changes to CIL rates by development type will be subject to a full review and publication/examination of a fully revised CIL Charging Schedule.

¹ The total de minimis aid granted to anyone undertaking must not exceed 200,000 euros over any period of three fiscal years. For undertakings active in the road transport sector, the total de minimis aid shall not exceed 100,000 euros over any period of three fiscal years (The State Aid Guide, BIS 2011)

When is CIL Payable?

- 2.9 Detailed guidance on the process for paying CIL will be issued by the Council once the CIL charging schedule nears adoption. For the purposes of this document a general and brief outline is provided as follows.
- 2.10 Payment of CIL 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 phasing policy (Policy CCS2), under which payment can be made in instalments.
- 2.11 CIL operates on the exchange of formal notices:
- The person(s) who pay CIL provide the Council with an **Assumption of Liability Notice**, required with the planning application;
 - A **Liability Notice** is issued by the Council along with the planning permission decision, stating how much CIL is payable. The responsibility to pay the levy lies with the local landowner and is a local land charge;
 - Before the 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) to ensure that payment is received within 60 days of commencement.

Calculating the Chargeable Amount

- 2.12 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.
- 2.13 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 CIL Regulations 2010 (as amended). The amount of CIL chargeable at a given rate must be calculated by applying the prescribed formula as defined in the CIL Regulations and shown in Appendix A of this PDCS.
- 2.14 The chargeable amount is the amount equal to the sum of the amounts of CIL chargeable at each of the relevant rates for the development permitted. For example if the development scheme includes both residential and retail elements, the chargeable amount will be calculated taking the sum of the relevant charges for each of these uses.
- 2.15 The relevant rates are the rates at which CIL is chargeable (Table 1, Section 4), which are in effect (a) at the time planning permission first permits the chargeable development; and (b) in the area in which the chargeable development will be situated.

3. Evidence Base

3.1 CIL Regulation 14 requires that when setting CIL rates charging authorities must aim to 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 PDCS is informed by best available evidence base which includes Borough level viability assessments and the draft Infrastructure Delivery Plan. 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. In addition, evidence has been prepared through the revised Infrastructure Delivery Plan to show that there will be a funding gap between identified public resources for infrastructure and the level of infrastructure that will need to be delivered in support of the growth being identified in the adopted Eastbourne Core Strategy Local Plan ('The Core Strategy'). This documentation is available for consideration in support of the PDCS.

3.3 The Core Strategy identifies that a total of 5,022 net dwellings and 55,430 sq. m. of employment land will be delivered within the plan period 2006-2027. Viability evidence in support of CIL has looked in detail at the location of new development (both neighbourhood location and type of land e.g. brownfield/greenfield), the affordable housing requirements for residential schemes, and the typical sizes of and mixes of development coming forward to assess overall viability. It is considered that the market value areas identified in Policy D5: Housing of the Core Strategy best reflect the disparity in land values and development viability across the Borough and as such should represent the two zones which should apply to CIL rates. The high and low zones tested in the viability assessment will be known as high value market areas and low value market areas for consistency with the Core Strategy. The viability testing indicated a wide disparity between viability on brownfield and greenfield sites and as such a split by this type of land has also been justified.

3.4 Only residential and retail (A1-A3 Planning Use Class) developments have been assessed as viable for a CIL charge. Retail viability testing showed a wide range of proposed costs by type, but for ease and in line with planning regulations and recent case law it is proposed to have one standard charge for retail development across the A1-A3 retail Planning Use Classes. No other types of development will be liable for a CIL payment, and therefore will be zero rated.

3.5 It is important to confirm that the proposed CIL rates have been tested based on the full affordable housing requirement being delivered on each development scheme, which is 30% in low value market areas and 40% in high value market areas. Testing was also set at Level 4 of the Code for Sustainable Homes. This is important to ensure that CIL rates do not affect the ability to deliver affordable housing and good sustainable development. This is a key priority for the Council in

conformity with the spatial development strategy identified in the Core Strategy, and ensures that CIL rates are viable overall.

- 3.6 It is also important that when CIL charges are recommended, that they are not set at or near to the maximum level assessed in the viability evidence. The Council consider that the proposed CIL rates (Table 1, Section 4) will be resistant to market and policy changes, given that they have been set at an appropriate amount that is viable with the current economic climate.

4. Proposed CIL Charging Rates and Phasing Arrangements

- 4.1 The proposed CIL rates for Eastbourne are set out in Policy CCS1 'CIL Charging Rates' below, with Table 1 setting the rates by development type and Figure 1 identifying the zones to which the residential CIL charges apply.

**POLICY CCS1:
Community Infrastructure Levy Charging Rates**

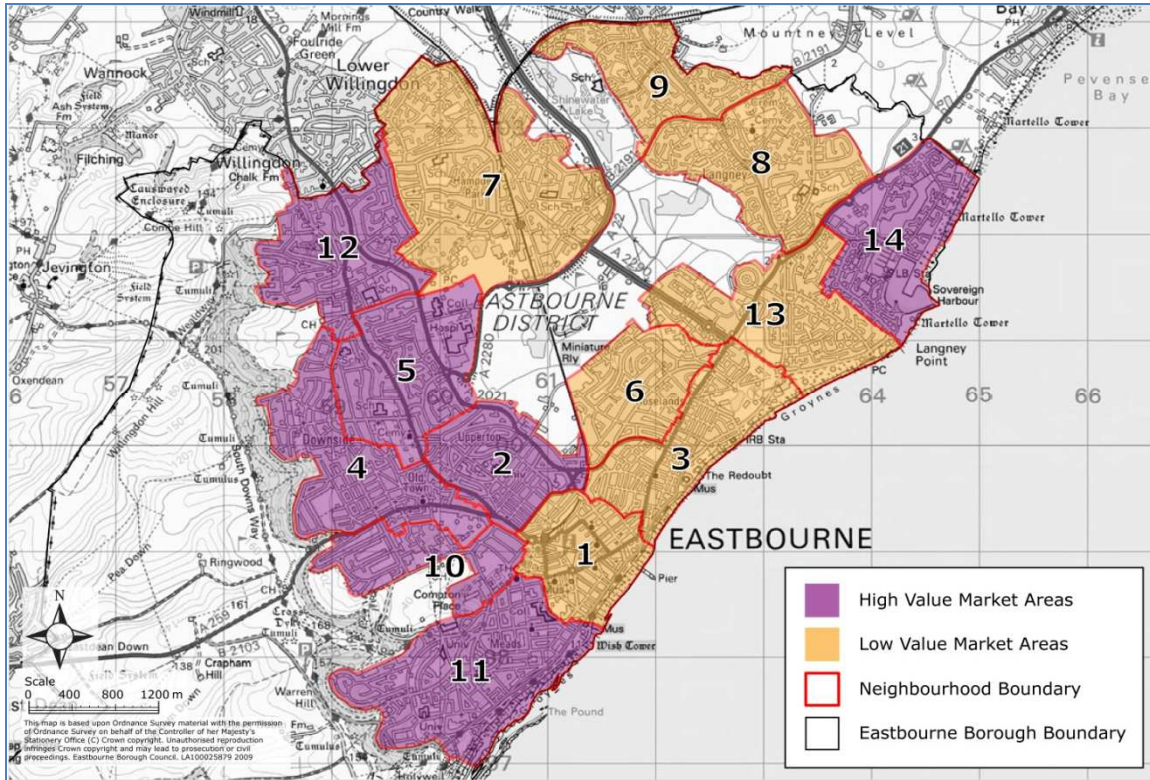
The Council has set CIL charges for residential and residential and retail (A1-A3 Planning Use Classes) per square metre of net additional (gross internal floorspace) development as identified in Table 1, for those areas defined in Figure 1. These charges will apply to all liable developments as identified in the CIL Charging Schedule planning document.

Table 1: Proposed Charging Rates for Eastbourne Borough Council CIL

Residential Uses	
Brownfield Sites	CIL Rate £/sq. m.
Low Value Area	0
High Value Area	45
Greenfield Sites	CIL Rate £/sq. m.
Low Value Area	45
High Value Area	75
Non-Residential Use	CIL Rate £/sq. m.
Retail (A1-A3)	100
All Other Non-Residential Uses	0

Figure 1: CIL Charging Area and Residential Charging Zone Boundaries

The CIL Charging Area will be all areas within the 14 neighbourhood boundaries, further divided by High and Low Value Market Areas.



4.2 For clarity the following table provides a list of the neighborhoods, as identified in the Eastbourne Core Strategy Local Plan that fall within the high and low value market areas.

Table 2: High and Low Value Market Areas by Neighbourhood

High Value Market Area	Low Value Market Area
Neighbourhood 2: Upperton	Neighbourhood 1: Town Centre
Neighbourhood 4: Old Town	Neighbourhood 3: Seaside
Neighbourhood 5: Ocklynge & Rodmill	Neighbourhood 6: Roselands & Bridgemere
Neighbourhood 10: Summerdown & Saffrons	Neighbourhood 7: Hampden Park
Neighbourhood 11: Meads	Neighbourhood 8: Langney
Neighbourhood 12: Ratton & Willingdon Village	Neighbourhood 9: Shinewater & North Langney
Neighbourhood 14: Sovereign Harbour	Neighbourhood 13: St Anthony's & Langney Point

Phasing

- 4.3 The Council consider that if a planning application is large enough to be delivered through appropriate phases, then CIL payments should be linked to these phases to ensure that development remains viable overall. The Council will negotiate relevant phasing on major applications during the determination of the planning application. Set phases and their relevant land use descriptions will need be confirmed in an accompanying Section 106 agreement and these phasing stages will be linked to CIL liability. Therefore, the CIL charge will be calculated at each phase of the development, and will be liable for payment on commencement of each relevant phase. This is confirmed in Policy CCS2 below.

POLICY CCS2: Phasing of CIL Payments

For major planning applications where the development scheme is phased as detailed in an accompanying Section 106 agreement, then CIL liability will be calculated for each separate phase. The phasing arrangements including quantum of development (net additional gross internal floorspace) delivered by each development type (Planning Use Class) should be clearly distinguished at each phase. CIL payment will be liable on commencement of each relevant phase.

5. Other Matters

- 5.1 The Council has prepared a Draft Regulation 123 Infrastructure List which is provided as an accompanying background document. This provides a list of the infrastructure types that the Council currently considers it is likely to apply CIL revenues towards. It is important to note that this list is subject to future review and may change before the adoption and implementation of CIL by the Council in April 2014.
- 5.2 The Council has provided evidence on global infrastructure costs in its Infrastructure Delivery Plan and Funding Gap analysis for the provision of cross-boundary infrastructure, such as transport provision. The Council will continue to work closely with East Sussex County Council and Wealden District Council on the governance arrangements in order to implement CIL and ensure that CIL monies are collected in both Eastbourne and South Wealden towards the delivery of strategic transport infrastructure in the Eastbourne and South Wealden area.
- 5.3 The Council will monitor the effectiveness of CIL through the Local Monitoring Report. This will take account of the economic climate and any change to the economic viability within the local area. The review of CIL charges will need to be implemented through a full review of the CIL Charging schedule and supporting viability evidence. A full review will be undertaken when necessary in future years.

6. How to Comment on the Preliminary Draft Charging Schedule

- 6.1 Eastbourne Borough Council is seeking comments from key stakeholders, infrastructure providers and any other interest parties or individuals on this Preliminary Draft Charging Schedule. The consultation period runs for a 6 week period from Friday 19 July, and comments/representations will be accepted up to **5pm on Friday 30 August 2013**.
- 6.2 Comments are invited by our on-line consultation portal, email or post. Please use the prescribed consultation response form that has been produced in Appendix B, or send specific comments through to:

On-line consultation Portal: <http://eastbourne-consult.limehouse.co.uk/portal>

E-mail: craig.steenhoff@eastbourne.gov.uk

Post:

CIL Consultation
Craig Steenhoff
Specialist Advisory Team
Customer First
Eastbourne Borough Council
1 Grove Road
Eastbourne
BN21 4TW

- 6.3 Supporting documentation is available to view at www.eastbourne.gov.uk/cil or in hard copy by visiting the Customer Contact Centre at 1 Grove Road, Eastbourne, BN21 4TW.
- 6.4 Please note that representations made on this consultation cannot be treated in confidence. Copies of all representations received may be available to the public for inspection. The Council may also provide details or a summary of presentations on its website. However, we will not publish personal information such as telephone numbers, email or private addresses. By submitting a representation on this Preliminary Draft Charging Schedule you confirm that you agree to this and accept responsibility for your comments.

7. Next Steps

- 7.1 The Council will take all comments received by 30 August 2013 into consideration in the preparation of the next stage of the CIL Charging Schedule. This is currently expected to take place in November/December 2013 but is dependent on the number and nature of comments received on the Preliminary Draft Charging Schedule.

- 7.2 Comments received on the next version of the Charging Schedule (the Draft Charging Schedule) will be submitted along with the document to the appointed examiner. Anyone submitting comments on the Draft Charging Schedule will have the right to be heard at the Examination.
- 7.3 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 currently anticipated that the Charging Schedule will be brought into effect during, or as soon as practicable, after April 2014.
- 7.4 The Council will continue to formalise its procedures for collecting, spending and monitoring CIL, so that it can be implemented in April 2014. Further information on this protocol will be provided with the Draft Charging Schedule later in the year.
- 7.5 The Council's proposed timetable for progressing and implementing CIL is set out in Table 3 below:

Table 3: Indicative Timetable for Progressing Eastbourne's CIL

Key Task/Milestone	Anticipated Completion Date
6 week public consultation on draft report	July/August 2013
Revisions to charging schedule based on consultation responses	September 2013
Prepare Final Proposed Charging Schedule	October/November 2013
Final charging schedule – submission to examining body (at least a 4 week consultation required)	November/December 2013
Anticipated Public Examination of CIL charging schedule	January/February 2014
Anticipated adoption of CIL charging schedule	April 2014

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_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.

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_R = 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_R = 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

Our Reference

**CIL Preliminary Draft Charging Schedule
 Consultation Response Form**

Eastbourne Community Infrastructure Levy

Preliminary Draft Charging Schedule – July 2013

All documentation is available to view and download for free via the Council's website (www.eastbourne.gov.uk/cil). The consultation starts on Friday 19 July 2013 and any representations should be received by 5pm on Friday 30 August 2013.

CONSULTATION RESPONSE FORM

Once you have completed this form, please return by post to:

CIL Consultation
 Craig Steenhoff
 Specialist Advisory Team
 Customer First
 Eastbourne Borough Council
 1 Grove Road
 Eastbourne
 BN21 4TW

Please note that you can make representations online swiftly and easily at:
<http://eastbourne-consult.limehouse.co.uk/>

YOUR DETAILS

Title	Mr / Mrs / Miss / Ms / Dr	First Name(s)	
Surname			

Company/ Organisation			
Position held			
If you are responding on behalf of a client or landowner please provide their details			

Address			
		Post Code	

Phone Number		Fax Number	
E-Mail Address			
YOUR COMMENTS			
<p>1. Do you agree with the Council's approach to CIL rates for residential development?</p> <p>Support <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>Please explain your answer</p>			
<p>2. Do you agree with the Council's approach to CIL rates for retail development (A1-A3 Planning Use Classes)?</p> <p>Support <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>Please explain your answer</p>			
<p>3. Do you agree, based on evidence, that CIL liable developments should only be residential and retail (A1-A3 Planning Use Classes) development?</p> <p>Support <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>Please explain your answer</p>			
<p>4. Do you agree with the Council's policy on phasing payments for major developments?</p> <p>Support <input type="checkbox"/></p> <p>Oppose <input type="checkbox"/></p> <p>Please explain your answer</p>			
<p>5. Are there any other comments you would like to make on the CIL Charging Schedule? <i>(please reference section/paragraph number and add further separate sheets)</i></p>			

