



# **Kirklees Council**

## **Community Infrastructure Levy**

### **Preliminary Draft Charging Schedule Consultation:**

### **Background Report**

**November 2015**

Planning Policy Group  
Investment and Regeneration Service  
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## Information

### Tell us what you think about the Kirklees Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule and its supporting information.

The Preliminary Draft Charging Schedule is supported by the following documents which are also available for comment:

- Kirklees CIL Preliminary Draft Charging Schedule Background Report
- Kirklees Local Plan Infrastructure Delivery Plan
- Kirklees Local Plan and Community Infrastructure Levy Viability Study

You can send your responses in a number of ways but we would encourage you to submit them online via the Kirklees consultation pages at:

[kirklees.gov.uk/consultplanningpolicy](http://kirklees.gov.uk/consultplanningpolicy)

If you are on our consultation database, we will have notified you about the CIL Preliminary Draft Charging Schedule consultation and registered you on our on-line consultation system. If you are not currently on our database you will need to register with our on-line consultation system.

You can also send your comments by e-mail to: [local.development@kirklees.gov.uk](mailto:local.development@kirklees.gov.uk)

By post to:

Planning Policy Group  
PO Box B93  
Civic Centre 3  
Market Street  
Huddersfield  
HD1 2JR

Copies of the consultation documents are available to view on our website at [kirklees.gov.uk/planningpolicy](http://kirklees.gov.uk/planningpolicy), and in printed format at the following locations:

Huddersfield Customer Service Centre	Dewsbury Service Centre
Civic Centre 3	The Walsh Building
Market Street	Town Hall Way
Huddersfield	Dewsbury
HD1 2YZ	WF12 8EE

Please use one method of reply only to avoid duplication of representations. All comments must be received by **5pm on 21st December 2015**. Comments received after this date will not be considered to be duly made and may not be considered.

### **How will we use the information you give us?**

Any comments received will be used to update our evidence and develop our approach for the CIL in Kirklees. We are particularly keen for your views about whether we have struck the appropriate balance between funding infrastructure in support of growth in the emerging Local Plan, and the impact that the CIL will have on the economic viability of development across Kirklees. We will take the views and suggestions received through consultations into account when finalising our evidence and develop the CIL Draft Charging Schedule which will be consulted upon at a later date. The information may be used to seek your opinion on future plans and policies appropriate to your interests. Once your comments have been submitted they will be checked and added to the on-line consultation system where you will be able to see your comments and those that have been made by others. Your name and comments will be displayed publicly. Your comments may be disregarded if they are deemed to be disrespectful, offensive, break the law or link to inappropriate web-sites or contain marketing/sales information.

### **Data Protection Statement**

The consultation process requires that you supply personal information about yourself. The purpose for collecting these details is to help us understand who is contributing to our consultation and so the council can keep you informed of the next steps in the process. Personal information the council receives will be stored confidentially within a secure database and will be retained for up to 6 years. Personal information will not be retained longer than we need to and, once the retention period is over the council will ensure that records are either fully anonymised or are securely destroyed. We will not pass on personal details to any third party organisations. If you do not provide contact information the Council will not be able to keep you informed of progress and next steps on the local plan.

### **Next steps**

Following the close of the consultation period we will consider your comments, gather further evidence where required and formulate a CIL Draft Charging Schedule. We will then ask for your views on a publication version and ask whether the revised CIL meets the Government's legal requirements for adopting a CIL. Once the council is satisfied its CIL evidence and Draft Charging Schedule meet the Government's requirements, we will formally submit these for an examination in public. Following the examination in public, it is anticipated that the CIL will be adopted in late 2017.

## **1. Introduction**

- 1.1. This Background Report provides further information about the Community Infrastructure Levy (CIL) process and the CIL Preliminary Draft Charging Schedule consultation. This report should be read alongside the Kirklees CIL Preliminary Draft Charging Schedule.
- 1.2. This document explains what CIL is, providing extra detail on the benefits to Kirklees, who will pay, what it will be spent on, and how sits with matters such as affordable housing and planning obligations, commonly known as section 106 agreements. It provides a summary of the evidence base used to set the rates, and details the identified infrastructure funding gap which the CIL seeks to contribute towards. The report finally details how payments will be collected, monitored and reported.
- 1.3. The schedule sets the proposed rates, and includes a preliminary draft Regulation 123 list which identified which types of infrastructure CIL would be charged for, and which would remain to be delivered by planning obligations.
- 1.4. The CIL charging schedule, when adopted, will sit alongside the Kirklees local plan which is being consulted on at the same time, however it does not form part of the statutory development plan.

## **2. What is CIL**

- 2.1. The Community Infrastructure Levy (CIL) is a tariff based charge on new development. The money collected is used to fund identified infrastructure projects across the district, with a proportion going directly to local communities.
- 2.2. The CIL is calculated based on gross additional floorspace for a development when it exceeds 100 square metres or when it leads to the formation of a new residential property. There are some exemptions to CIL such as charitable developments or self-built dwellings. Full details of exemptions can be seen in Appendix A.
- 2.3. The CIL is a discretionary charge, which councils can choose to implement. However, since April 2015 planning obligations, commonly known as section 106 agreements have had their scope reduced. Section 106 agreements can no longer be pooled more than 5 times for any individual infrastructure type or project. The CIL however allows the pooling of contributions, and will therefore be the primary means of securing pooled developer contributions towards infrastructure projects within the district.
- 2.4. The CIL rates need to be set so they don't put at risk the development set out in the local plan. The rates have to be set also considering other costs that will be applied to development such as affordable housing. Once approved, CIL rates form a compulsory charge and cannot be negotiated.

### **What are the benefits of CIL for Kirklees?**

- 2.5. The CIL will bring a number of benefits to the district, supporting the vision, objectives and planned growth within the district up to 2031 as set out in the draft local plan. The CIL is a fairer, faster and more transparent system for funding new infrastructure that can achieve the following:
  - Gives local authorities the freedom to set their own priorities for what the money should be spent on.
  - Gives local authorities a predictable funding stream that allows them to plan ahead more effectively.
  - Gives developers much more certainty from the start about how much money they will be expected to contribute.
  - Makes the system more transparent for local people, as local authorities have to report what they have spent the levy on each year.
  - Rewards local (parish or town) council receiving new development through the direct allocation of a proportion (15% or 25% depending on whether a Neighbourhood Plan is in place) of levy funds collected in their area.

## **What types of development will be charged?**

- 2.6. The developments that will pay CIL when it is adopted are identified in the map and table of the Preliminary Draft Charging Schedule and also on pages 14 and 15 of this document.
- 2.7. The CIL is payable not only on developments which require planning permission, but also developments which come forward by way of a general consent (a development allowed under permitted development rights, or under a local development order), if they are identified in the charging schedule.

## **Who will pay CIL and how will it be collected?**

- 2.8. The liability to pay CIL rests with the landowner unless this liability is claimed by another party. The liability to pay the CIL sits with the land; therefore any change in ownership will transfer the CIL payment liability to the new owner, unless this has been claimed by someone else.
- 2.9. The CIL will be collected by the council, and the charge will be applied at the point planning permission is granted, or for general consents when a decision is made on a submission of a 'Notice of Chargeable Development'. If an applicant is seeking exceptions to the charge, they will need to provide additional information to state how they meet the criteria set out in any adopted exceptions policy. If the liability to pay the CIL is to be transferred to another individual or body, details of this also need to be provided. The calculated CIL charge will be issued in a 'Notice of Liability' which will set out the amount payable, when and how it is to be paid.
- 2.10. The developer will then need to submit an 'Assumption of Liability' form after the planning permission has been granted, if no such form is provided this liability will automatically rest with the land owner. The transfer of liability can occur at any point prior to development commencing, and there is a defined process of how to do this, with nationally available forms which can be completed and submitted to the council.
- 2.11. The Assumption of Liability to pay the CIL can also be withdrawn at any stage prior to the commencement of development. In such circumstances the liability will either default to the land owner, or can be claimed by another party or individual, or an exemption can be sought. If the council have difficulties in recovering the CIL from the stated individual or bodies, this will revert to the land owner. Again forms on how to change liability are available nationally and can be submitted to the council.
- 2.12. The CIL charge is due when development commences, and the developer will need to inform the council when development will commence prior to works starting. For the purpose of the CIL, the definition of commencement of development is the same as that used in planning legislation. If planning permission has been granted after commencement, payment will be due immediately, and this will be set out in the 'Notice of Liability'. The council may introduce an instalments policy to spread the cost of larger CIL payments.

## **What will CIL be spent on and where?**

- 2.13. The CIL will be spent on infrastructure across the district which can include new road, school and park schemes.
- 2.14. The Preliminary Draft Regulation 123 list sets out in more detail how CIL can be spent based on evidence collected for the Kirklees Local Plan Infrastructure Delivery Plan.
- 2.15. When CIL is adopted, the council will be able to decide which projects CIL money is spent on across the district. This can be done on an annual basis. Money secured by CIL can also be passed to outside bodies who deliver new infrastructure within the district or which would benefit the district.

## **CIL and Planning Obligations (Section 106)**

- 2.16. The CIL will work alongside planning obligations, known commonly as section 106 agreements, to deliver infrastructure and make schemes acceptable in planning terms. The CIL will aid in delivering new infrastructure to support new development, while planning obligations will continue to be used to ensure that specific schemes can be considered acceptable in planning terms, securing matters such as affordable housing and site specific requirements.
- 2.17. Restrictions to planning obligations were introduced on 6 April 2015. These have limited the number of planning obligations the council can pool for an infrastructure type or scheme to five. The CIL has no such restrictions, and can be collected on a range of developments and then 'pooled'. The pooled levy can then be spent on a range of infrastructure, providing greater flexibility in the delivery of local infrastructure.
- 2.18. The CIL Regulations ensure that developments are not charged twice for the same infrastructure type or scheme (i.e. through both a section 106 agreement and a CIL charge) by restricting the extent of planning obligations. The council is therefore required to publish a list of infrastructure it intends to fund via CIL which is known as the Regulation 123 List, as detailed in Table 1.



Table 1: Preliminary Draft Regulation 123 List

<b>CIL Infrastructure</b>	<b>S106/S278/Scheme Design/Conditions</b>
Strategic transport infrastructure Kirklees wide	On-site and transport infrastructure close to the development site which makes a development acceptable in planning terms
Strategic school infrastructure Kirklees wide	On-site school provision relating to major development sites (tbc)
Strategic open space infrastructure Kirklees wide	On-site open space required to make developments acceptable in planning terms
Strategic flood alleviation schemes Kirklees wide	On-site flooding and drainage mitigation
Strategic community and cultural infrastructure Kirklees wide	On-site community and cultural infrastructure relating to major development sites (tbc)
Strategic sports, leisure and recreation infrastructure Kirklees wide	On-site sports, leisure and recreation infrastructure relating to major development sites (tbc)

### **Affordable Housing**

2.19. The provision of affordable housing is not covered by the CIL, and remains a separate policy area that can be delivered through planning obligations (S106). The draft local plan affordable housing policy has been tested by the local plan and CIL viability assessment and used to inform the CIL rates. The draft affordable housing policy is:

<b>Developments more than 10 units:</b>	20% of units to be affordable
<b>Development of 10 Units or less:</b>	Zero affordable housing

2.20. The affordable housing rate and threshold at which the policy starts to apply has been drafted based on the up to date viability evidence and affordable housing needs. It is judged that developments of over 10 dwellings are more likely to be able to deliver affordable units. This is not to say that all developments of 10 dwellings and under cannot demonstrate some residual value, and this is reflected in higher CIL rates in more viable market areas. This issue forms part of the wider balance that has to be considered between the delivery of affordable housing, infrastructure funding and ensuring local plan delivery.

### **CIL for Local Infrastructure and Neighbourhood Planning**

2.21. Receipts from the CIL can also be passed back to the communities where development takes place, with 15% passed back to local communities or 25% if the local community has a neighbourhood plan in place. Table 2 provides more detail about how much of the CIL raised in their area local communities receive.

Table 2: Community Infrastructure Levy Neighbourhood Proportion Summary	
Parish Council: <b>YES</b>  Neighbourhood Plan: <b>YES</b>  = 25% uncapped, paid to Parish	Parish Council: <b>YES</b>  Neighbourhood Plan: <b>NO</b>  = 15% capped at £100/existing dwelling, paid to Parish
Parish Council: <b>NO</b>  Neighbourhood Plan: <b>YES</b>  = 25% uncapped, local authority consults with community on how to spend	Parish Council: <b>NO</b>  Neighbourhood Plan: <b>NO</b>  = 15% capped at £100/existing dwelling, local authority consults with community on how to spend

### 3. Justification of Proposed CIL Rates

3.1. To set the CIL rates, the council has commissioned work to assess the infrastructure needs of the district, and the economic viability of development within district. These are:

- Kirklees Local Plan and Community Infrastructure Levy Viability Study (2015) (Cushman Wakefield)
- Kirklees Local Plan Infrastructure Delivery Plan (IDP) (2015) (Arup)

3.2. Copies of the above documents are available to view on the council’s website.

3.3. The CIL regulations allow rates to be set in relation to the following parameters:

- Geographical zones within the charging authorities boundaries;
- Types of development; and/or
- Scales of development,

3.4. The above factors have been considered when setting the rates, however any such differentials must be justified according to viability evidence (and not, for instance, based on assisting planning policy objectives).

#### Infrastructure Evidence and Funding Gap

3.5. The IDP sets out the infrastructure requirements for the district across the local plan period up until 2031, considering the level of growth proposed, and providing detail about infrastructure needs. The infrastructure needs assessed include transport, utilities, communications, flood risk and drainage, waste, green infrastructure, sport /leisure/recreation, community/cultural, education, health and emergency services. The IDP has been formulated by working with infrastructure delivery partners both within

and outside of the council, and has set out the estimated and known costs and funding sources. The infrastructure requirements have been used to inform the Draft R123 list as discussed earlier. The IDP, based on known schemes and funding sources has identified an infrastructure funding gap of £73million, which provides a justification to adopt a CIL, to help fill this funding gap.

### **Kirklees Economic Viability Study**

- 3.6. The Kirklees Economic Viability Study has been used to assess the viability of a range of development types across the district, considering matters such as build costs, land values, abnormal costs, professional and planning fees, section 106 planning obligations, and the impact of affordable housing rates set out in the draft Local Plan. The report has used evidence based on real world examples, build costs set out in Building Cost Information Service (BCIS), recent land transactions and house sales within the district.
- 3.7. A developer engagement workshop with local house builders, developers, planning agents and architects was held in June 2015 to provide local evidence, and refine the viability assumptions which Cushman Wakefield have used to assess viability across the district.

### **Residential Viability Evidence**

- 3.8. The viability assessment recommends different charges across five different geographical zones based on their underlying housing market conditions. Further to this the report also recommends differentiating charges based on the size of development. These recommendations have informed the Preliminary Draft Charging Schedule charge rates.

### **Nominal Residential Charging Rate (£5 rate) Evidence**

- 3.9. The viability assessment identifies that in some areas of the district there is limited viability to charge any CIL for residential developments. There is nonetheless the potential to set a nominal rate in these areas so that all liable housing developments across the district make a contribution towards the improvement of infrastructure, and assist in meeting the infrastructure funding gap which has been identified. The Kirklees CIL Preliminary Draft Charging Schedule therefore includes £5 nominal rates in residential charging zones 4 & 5.
- 3.10. This nominal charge is considered appropriate in achieving the appropriate 'balance' between funding infrastructure and ensuring the viability of schemes. This approach can be justified using evidence including recent S106 agreements in the areas of low viability to demonstrate that individual schemes can afford some charges.
- 3.11. From reviewing previous section 106 data for schemes within zones 4 and 5 where nominal charges are proposed, 7 sites have been identified where section 106 agreements were signed. The 7 agreements in zones 4 and 5 sought to secure planning contributions of £650,527.48. When the details of the planning applications

are reviewed and assumptions made regarding matters such as floorspace of units, a nominal CIL charge in the area would secure contributions of £188,610, a reduction of £496,917.48. The section 106 data can be found in Appendix C.

- 3.12. Whilst it is acknowledged that some of the section 106 agreements would still be necessary to make the schemes acceptable in planning terms, potentially pooled contributions such as education equates to £446,153 and this can now not be pooled under the CIL regulations introduced in 2015. This evidence therefore demonstrates that there is sufficient headroom for developments in these areas to accommodate the modest nominal CIL charge proposed.
- 3.13. The relatively minor impact of low CIL charges on development viability compared to other variables such as build costs and sales values also provides further justification. The nominal charge would ensure that all local communities benefit from a meaningful proportion of the CIL charge and have direct benefits to local communities.
- 3.14. It is not considered that commercial uses will generate the same infrastructure requirements as residential uses, and therefore a nominal charge for these developments is not proposed. Commercial uses for example would not generate the same demand for education or recreational space, and therefore commercial developments have a lesser impact on infrastructure needs than residential schemes. Therefore a nominal charge of other uses is not considered justified in this instance given the viability set out in the viability assessment.

### **Commercial Viability Evidence**

- 3.15. To assess commercial viability, a number of different development types of commercial development have been considered in a number of different locations across the district. The development types have included retail, office, industrial and leisure uses such as a hotels or restaurants. These have been assessed both for in town locations and out of town locations to consider the full spectrum of commercial development types which could come forward.
- 3.16. The viability study has detailed that there is limited headroom for CIL on commercial development types, with only retail warehousing having sufficient headroom to accommodate a CIL charge, with a £100 rate proposed across the whole district.

### **Impact of CIL**

- 3.17. The evidence set out in the viability study demonstrates that there is potential for the CIL to make a meaningful contribution towards infrastructure requirements across the district and help address the £73m funding gap identified in the IDP.
- 3.18. The preliminary draft CIL rates are forecast to generate approximately £37 million towards infrastructure in the district over the plan period until 2031. Of this £37 million, a potential maximum of approximately £5.5 million (15%) could be provided

to local areas if a neighbourhood plan is not in place or a potential maximum of approximately £9.25 million (25%) if neighbourhood plans were in place across the district. The delivery of this funding directly to local communities is considered to represent a significant benefit to local residents and community groups across the district.

### **Proposed Rates**

3.19. Taking account of the all of evidence discussed in this report, the rates set out in the Preliminary Draft Charging Schedule have been published for consultation as it is considered that the rates are sufficiently justified by the evidence, and they strike the appropriate balance between funding infrastructure and not having an adverse impact on the viability of development proposed in the draft local plan.

Figure 1: Kirklees CIL Preliminary Draft Charging Rates Map

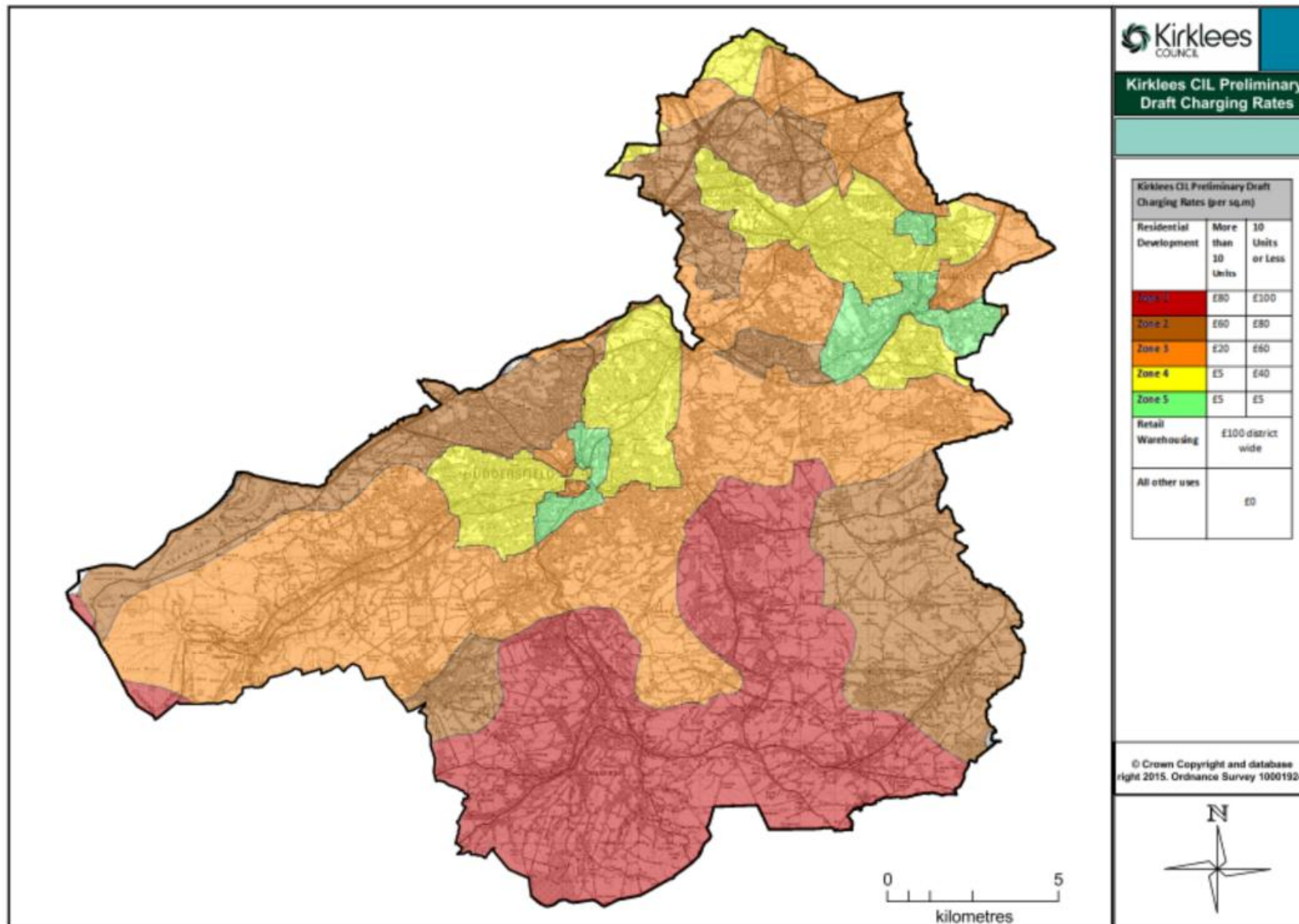


Table 3: Kirklees CIL Preliminary Draft Charging Rates Table

<b>Kirklees CIL Preliminary Draft Charging Rates (per sq.m)</b>		
<b>Residential Development</b>	<b>More than 10 Units</b>	<b>10 Units or Less</b>
<b>Zone 1</b>	£80	£100
<b>Zone 2</b>	£60	£80
<b>Zone 3</b>	£20	£60
<b>Zone 4</b>	£5	£40
<b>Zone 5</b>	£5	£5
<b>Retail Warehousing</b>	£100 district wide	
<b>All other uses</b>	£0	

#### 4. Payment of CIL

4.1. The CIL will be calculated in accordance with the regulations which are set out in Appendix B. The calculation ensures that existing lawfully used floor space, and inflation are taken into account when calculating the CIL charge to ensure that it remains in proportion to other development costs.

4.2. The CIL regulations also allow for a number of discretionary methods to secure payments for CIL, these include:

- **Phased Payments/Instalments Policy** – this allows payments to be made in instalments over a set period of time.
- **Discretionary Relief or Exceptional Circumstances** – this allows certain types of development which are defined by the council to be exempt from the CIL charge or allow exceptional circumstances to be considered.
- **Payments in Kind** – to allow the CIL charge to be met by other means.

4.3. The council has considered the above payment methods as part of the Preliminary Draft Charging Schedule. At this stage it is considered appropriate to introduce a preliminary draft instalments policy and the council welcomes comments on this policy. The council will consider a relief or exceptions and payments in kind policy in the future, and some information regarding the principles of such policies is set out below, again the council would welcome any comments on the principle of introducing such policies.

#### **Preliminary Draft Instalments Policy**

4.4. In accordance with CIL regulations 69B and 70, the council can introduce an instalments policy to spread the cost of CIL payments for developers. When no instalments policy is in place the CIL payment is required in full after 60 days from development commencing.

4.5. The council recognises that instalment payments for CIL are a practical way that allows developers to manage costs as part of the development of a site, and is particularly useful for larger CIL payments. It is therefore proposed to introduce such a policy, and a draft instalments policy as set out below. The instalments will be calculated from the commencement of development and as detailed by the submission of a commencement notice under Regulation 67.

<b>Table 4: Preliminary Draft Instalments Policy</b>		
<b>CIL Charge £0-24,999</b>		
Full Amount to be paid within 60 days of commencement		
<b>CIL Charge £25,000 to £149,000</b>		
Instalment	Amount due	Due Date Weeks after Commencement
1	35%	12
2	35%	26
3	30%	52
<b>CIL Charge £150,000 and above</b>		
Instalment	Amount due	Due Date Weeks after Commencement
1	25%	26
2	25%	52
3	25%	78
4	25%	104

#### **Discretionary Relief or Exceptional Circumstances**

- 4.6. Any discretionary relief offered by the council would need to be defined in a policy and accord with the regulations; such a discretionary relief could only be provided for uses set out in the regulations.
- 4.7. An exceptional circumstances policy would allow the council a degree of flexibility to consider issues such as exceptional site specific development costs that may render a development unviable. The council would need to give appropriate notice to implement such a policy, and it should be noted that the Government has made it clear that any exceptional circumstances will be rare and that any relief should not constitute state aid. The council would welcome comments on the introduction of an exceptions policy.

#### **Payments in Kind**

- 4.8. Payments in kind could be used by the council to allow the CIL to be paid via alternative means other than a monetary payment. Such payments could include the transfer of land or construction of necessary infrastructure to the same value or part of the value of the CIL charge to ensure a timely delivery of infrastructure with the remainder of the charge to be paid. To allow such payments the council needs to give notice that it is willing to accept such an approach. The council would welcome comments on the introduction of a payments in kind policy.



## **5. Reporting, Monitoring and Review**

### **Reporting**

5.1. The council has to report on the CIL for each financial year which it is collected and report on the total CIL receipts, total CIL expenditure, and a summary of the details which the CIL has been spent on. The report also needs to detail payments to Parish/Town/Community Councils and areas with neighbourhood plans, and provide details of other forms of payments such as payments in kind, late payments, or refunds. The report has to be issued by no later than the 31<sup>st</sup> of December following the end of the financial year.

### **Monitoring and Review**

5.2. The council needs to keep the charging schedule under review to ensure that the charges remain appropriate and reflective of current market conditions and any changes in local or national policy. The CIL sits separately to the local plan and can be reviewed when considered to be appropriate, either entirely or in part.

5.3. The CIL will be monitored a part of the Annual Monitoring Report (AMR) and any review would need to adhere to the same process of that used to devise the CIL. Monitoring of the CIL in this way will ensure that there is accountability and transparency to the level of CIL secured and see what infrastructure is funded by the CIL.

5.4. The Regulation 123 list will be reviewed annually to ensure that it remains representative of the infrastructure needs of the district. Any changes to the list will be justified and be subject to appropriate local public consultation.

## Appendix A - CIL Exemptions

### Exemptions

The CIL Regulations exempt the following developments from paying the CIL:

- Development of less than 100 sqm of new build floorspace, provided that it does not result in the creation of a new dwelling;
- Where the levy liable is calculated to be less than £50 overall;
- Specified types of development which the Council has decided should be subject to a 'zero' rate and specified as such in their charging schedules;
- Development of buildings and structures into which people do not normally go (eg, pylons, wind turbines, electricity sub stations);
- Development by registered charities for the delivery of their charitable purposes;
- Those parts of a development which are to be used as social housing;
- The conversion of any building previously used as a dwelling house to two or more dwellings;
- The conversion of, or works to, a building in lawful use that affects only the interior of the building;
- Residential annexes and extensions (where the person who would normally be liable for the charge owns a material interest in the main dwelling and occupies the main dwelling as the sole or main residence);
- Self-build housing where a dwelling is built by the person who would normally be liable for the charge (including where built following a commission by that person) and occupied by that person as their sole or main residence.
- Vacant buildings which are brought back into the same use.

## Appendix B - Calculating the CIL Charge (Regulation 40)

The CIL will be calculated in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended by the Amendment Regulations 2011 and 2012 and 2014).

### Regulation 40

- 1) The collecting authority must calculate the amount of CIL payable (“chargeable amount”) in respect of a chargeable development in accordance with this regulation.
- 2) The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.
- 3) But where that amount is less than £50 the chargeable amount is deemed to be zero.
- 4) The relevant rates are the rates, taken from the relevant charging schedules, at which CIL is chargeable in respect of the chargeable development.
- 5) The amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula

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

where —

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

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

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

- 6) In this regulation the index figure for a given year is—
  - a) the figure for 1st November for the preceding year in the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors([1](#)); or
  - b) if the All-in Tender Price Index ceases to be published, the figure for 1st November for the preceding year in the retail prices index.

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

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

where—

G = the gross internal area of the chargeable development;

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

$K_R$  = the aggregate of the gross internal areas of the following—

- (i) retained parts of in-use buildings, and
- (ii) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;

E = the aggregate of the following—

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

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

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

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

where—

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

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

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

9) Where a collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish that a relevant building is an in-use building, it may deem it not to be an in-use building.

10) Where a collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish—

a) whether part of a building falls within a description in the definitions of  $K_R$  and  $E$  in paragraph (7); or

b) the gross internal area of any part of a building falling within such a description, it may deem the gross internal area of the part in question to be zero.

11) In this regulation—

“building” does not include—

- i. a building into which people do not normally go,
- ii. a building into which people go only intermittently for the purpose of maintaining or inspecting machinery, or
- iii. a building for which planning permission was granted for a limited period;

“in-use building” means a building which—

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

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

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

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

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

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

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

## Appendix C: s106 Data for CIL Zones 4 and 5

App Number	Ward	Proposal	Reason for s106	S106	CIL Zone	Nominal CIL Rate Charge	Amount more through s106	CIL Calculation Notes
2013/90287	Batley West Ward	Alterations to former mill to form 181 residential apartments with internal car parking and alterations to former go karting building, and erection of retail foodstore and petrol station and formation of car park (within a Conservation Area)	Educational facilities	£215,187.00	4 & 5	£49,775.00	£165,412.00	From reviewing the application an average of 55sqm per unit has been assumed, therefore 9,955 sqm in total. * Part conversion, CIL charge may be less if floorspace is in lawful use.
2010/92991	Cleckheaton Ward	Erection of 34 houses and associated parking and infrastructure	Metro cards, education and open space	£60,000.00	4	£18,740.00	£41,260.00	From reviewing the application each unit is 107sqm, therefore total floorsapce is 3,748sqm
2012/93062	Cleckheaton Ward	Outline application for residential development (53 dwellings)	Education	£130,966.00	4	£22,525.00	£108,441.00	Average unit size of 85sqm has been assumed from reviewing the application which equates to 4,505sqm in total
2009/92304	Cleckheaton Ward	Erection of 17 three bedroom dwellings with garages and change of use, alterations to convert existing mill to 42 two bedroom apartments with associated parking	£13,000 - Off Site Open Space	£13,000.00	4	£24,780.00	- £11,780.00	From reviewing the application, 42 flats at 65 sqm per unit average, 6 dwellings at 129sqm per unit, and 11 at 132sqm per unit, therefore total floorspace of 4,956sqm. * Part conversion, CIL charge may be less if floorspace is in lawful use.

## Appendix C: s106 Data for CIL Zones 4 and 5

App Number	Ward	Proposal	Reason for s106	S106	CIL Zone	Nominal CIL Rate Charge	Amount more through s106	CIL Calculation Notes
2013/90249	Dewsbury South Ward	Outline application for erection of 104 dwellings, demolition of existing buildings and removal of disused railway embankment	£10,000 - Landscape Improvement £100,000 - Education £40,000 - Cycle Way & Footpath Improvements, £40,000 - Off-Site POS Contribution	£190,000.00	4	£48,990.00	£141,010.00	From reviewing the application 9,798 sqm of residential floor space would be created
2012/93966	Heckmondwike Ward	Outline application for the creation of a means access and the erection of 14 dwellings and demolition of existing building	Traffic Calming measure at jct	£15,000.00	4	£5,950.00	£9,050.00	Average unit size of 85 sqm has been assumed, therefore total floorspace is 1,190sqm
2010/92938	Heckmondwike Ward	Outline application for erection of 42 dwellings (illustrative layout)	Metro Card	£26,374.48	4	£17,850.00	£8,524.48	Average unit size of 85 sqm has been assumed, therefore total floorspace is 3,570sqm
				<b>£650,527.48</b>		<b>£188,610.00</b>	<b>£461,917.48</b>	

<b>Notes</b>	
Unless otherwise set out in an application a standard average dwelling size of 85 sqm has been used	
s106 by Type	
Highways	£81,374.48
Education	£446,153.00
Open Space	£63,000.00
Other	£60,000.00
<b>Total:</b>	<b>£650,527.48</b>