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Date: 05 Feb 2015
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To: All Members of the Cabinet

Councillors: Paul Crossley, David Dixon, Councillor Simon Allen, Tim Ball, David Bellotti, Caroline Roberts, Dine Romero and Ben Stevens

Chief Executive and other appropriate officers
Press and Public

Dear Member

Cabinet: Wednesday, 11th February, 2015

Please find attached a **SUPPLEMENTARY AGENDA DESPATCH** of late papers which were not available at the time the agenda was published. Please treat these papers as part of the agenda.

Papers have been included for the following items:

- 17. COMMUNITY INFRASTRUCTURE LEVY APPROVAL & PLANNING OBLIGATIONS SPD (Pages 3 - 18)**

Yours sincerely

Col Spring
for Chief Executive

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

This Agenda and all accompanying reports are printed on recycled paper

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BATH & NORTH EAST SOMERSET COUNCIL

CABINET 11TH FEBRUARY 2015

UPDATE REPORT

THE ISSUES

1.1 This report updates the dispatched Cabinet report on the B&NES Community Infrastructure Levy (CIL). The update addresses two key issues;

- a) The CIL Charging Schedule: Since the Cabinet report was dispatched, Examiner's report has been published and he proposes three modifications to the Charging Schedule, and
- b) The Regulation 123 List: the above changes to the charging schedule have knock on implications for the Regulation 123 List. Also in relation to the Reg 123 List, transitional arrangements to take account of planning applications that may not yet be concluded before the 6th April deadline when CIL is due to come into effect

2. THE EXAMINER'S MODIFICATIONS

2.1 The Examiner concluded that, subject to three modifications, the B&NES draft CIL Charging Schedule provides an appropriate basis for the collection of the levy in the area. If the Council wants to approve the CIL, then it must accept the inspector's modifications. The three modifications required to the Schedule relate to;

- a more precise definition of development types for older persons' accommodation;
- more precise definition of student housing; and
- to the creation of a zero rated charging zone for Bath Western Riverside. The Examiner's modifications are highlighted in Attachment 1

Specialised, Extra Care & Retirement Accommodation

2.2 In terms of Specialised, Extra Care and Retirement Accommodation the Council's draft Charging Schedule proposed a £50/m² in urban extension areas and £100/m² charge elsewhere. During the Examination, evidence showed that schemes with higher non-saleable floorspace such as treatment rooms may have an impact on development viability. The surplus value available to make a CIL payments decreases in line with increases in the percentage of communal floorspace.

2.3 The examiner acknowledges the additional cost associated with communal spaces. Higher than 30% non-saleable space would become more challenging or would render developments unviable. Therefore he recommended excluding the schemes that provide

non-saleable floorspace in excess of 30% of Gross Internal Area. Schemes that provide non-saleable floorspace less than of 30% of Gross Internal Area would still warrant a charge of £50/m² or 100/m² accordingly.

Student accommodation

- 2.4 The degree to which student accommodation can absorb CIL is largely dependent on the rent levels set. There is a significant differential between rents in the private sector and the University Sector (with sub market rent). Student housing let at commercial rents can absorb a higher charge than at the sub-market rents. The submitted draft charging schedule took account of this difference in viability with a nil charge for 'on-campus' schemes and a £200 /m² charge for 'off-campus' schemes.
- 2.5 However, it is accepted that some schemes off campus can charge sub-market rates. In order to reflect the evidence more closely and make the intention clear, the Examiner recommends replacing the on-campus vs. off-campus nomenclature with more specific reference to viability and has modified the wording to a £nil charge for schemes with *sub-market* rents and £200/m² for schemes with *market* rents.

Bath Western Riverside (BWR)

- 2.6 At the Hearings, the developer's representative explained that circumstances regarding BWR had changed which may result in a new planning application being submitted. Any new permission would fall under the CIL regime and the developer representative was of the view that this would cause significant viability issues.
- 2.7 Given the strategic significance of BWR to the Core Strategy, the Examiner has asked the Council and BWR developer to prepare a Statement of Common Ground. The Statement was prepared setting out the viability issues and acknowledges that the development (including appropriate infrastructure provision such as a new primary school) will be most effectively delivered through the s.106 mechanism if a new planning application were to be submitted.
- 2.8 The Examiner had considered the evidence submitted and recommends a nil charge for all development within the current BWR scheme. The charging zone plan is shown on page 7 of the Attachment 1.
- 2.9 Even though no CIL will be raised through the BWR development, there is no change in the projected CIL income because the sites with extant planning permissions are outside the CIL regime and were not included in the CIL projection.
- 2.10 Therefore, Attachment 1 to this update report incorporates the above changes and replaces Attachment 1 in the original report.

3. REGULATION 123 LIST

- 3.1 The report to Cabinet recommends approval of the Regulation 123 List. This list sets out the broad categories of infrastructure that CIL will fund wholly or in part. It is required in order to distinguish infrastructure that will be funded by CIL from that which will be funded by Section 106 contributions. The Council must not charge developers twice for the same infrastructure.

- 3.2 The Examiner's modifications to the Charging Schedule in relation to BWR must also be reflected in the Regulation 123 list . It is recommended that this modified list is agreed.
- 3.3 Therefore, Attachment 2 to this update report incorporates the above changes and replaces Attachment 2 in the original report
- 3.4 The Cabinet report also seeks delegated authority to make minor amendments to the Regulation 123 List. In the transition from Section 106 contributions to CIL, there may be some live planning applications where Section 106 agreements will be negotiated and agreed before CIL comes into effect on 6th April 2015. However, in the event that these negotiations are only finalised after the 6th April deadline, there may be a need to amend the Reg 123 list to reflect the negotiated Section 106 agreement. Such cases are likely to be unusual and only relate to a few live schemes, primarily the MoD sites. In such cases, it is recommended that the delegation to amend the Reg 123 List is extended to cover such instances for a time limited period.
- 3.5 The recommendation below is therefore in addition to those set out in the original report.

4. RECOMMENDATION

- 4.1 That Cabinet grants delegated authority to the Divisional Director for Development, in conjunction with Cabinet Member for Homes and Planning, to amend the Regulation 123 List in the event that any current planning applications fail to be concluded until after 6th April in order to ensure the timely provision of the necessary infrastructure and that there is no overlap between CIL charges and Section 106 contributions.

Contact person	<p><i>Lisa Bartlett – 01225 477550,</i></p> <p><i>Simon de Beer - 01225 477616,</i></p> <p><i>Kaoru Jacques 01225 477288</i></p>
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Bath and North East Somerset Council

**Community Infrastructure Levy (CIL)
Charging Schedule**

Final Version for Adoption

Approved Date: To be inserted following approval

Takes effect on: 6th April 2015 [subject to approval]

COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

The Charging Authority

The Charging Authority is the Bath and North East Somerset District (B&NES) Council.

Date of Approval

The Council approved this Community Infrastructure Levy (CIL) Charging Schedule on [date to be inserted following Council approval].

Date of Effect

The CIL Charging Schedule takes effect on [date to be inserted following Council approval].

Statutory Compliance

The CIL Charging Schedule has been approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012, 2013, and 2014) and Part 11 of the Planning Act 2008 (as amended by Part 6 of the Localism Act 2011). In setting the levy rates, Bath and North East Somerset Council has struck an appropriate balance between:

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

CIL RATES

DEVELOPMENT TYPE	LOCATION / CRITERIA	CIL CHARGE £/M ²
RESIDENTIAL (Class C3) including Specialised, Extra Care and Retirement Accommodation ¹	District wide	£ 100
	Strategic Sites/ Urban Extensions	£ 50
	Bath Western Riverside	£Nil
HOTEL (Class C1)	In Bath	£ 100
	Bath Western Riverside	£ Nil
	Rest of District	£ Nil
RETAIL In-centre / High Street Retail	Bath city centre	£ 150
	Other centres	£ Nil
	Bath Western Riverside	£ Nil
SUPERMARKETS, SUPERSTORES AND RETAIL WAREHOUSE (over 280m ²)	District wide	£ 150
	Bath Western Riverside	£ Nil
OFFICES (Class B1)	District wide	£ Nil
INDUSTRIAL AND WAREHOUSING	District wide	£ Nil
STUDENT ACCOMMODATION	Schemes with market rents	£ 200
	Schemes with submarket rents ² to be set in Section 106 planning agreement	£ Nil
	Bath Western Riverside	£Nil
ANY OTHER DEVELOPMENT	District wide	£Nil

¹ Excludes Specialist, Extra Care and Retirement accommodation that provides non-saleable floorspace in excess of 30% of Gross Internal Area.

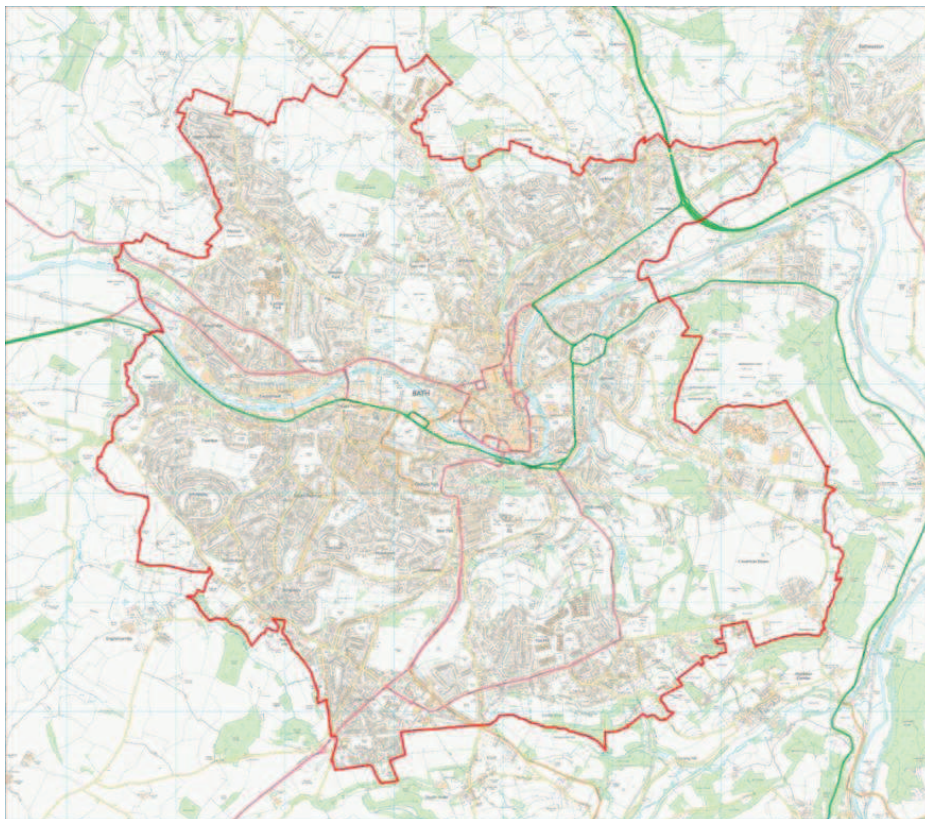
² Sub-market rent means student accommodation units which are to be let at a rent which is no more than 80% of the local market rent (including any service charges).

- Strategic sites/urban extensions:
As defined within the Core Strategy (Policies B3A, B3C, KE3A, KE4 and RA5)
- Retail (Class A1/A2/A3/A4/A5)
- In-centre / High Street Retail as defined within the Core Strategy

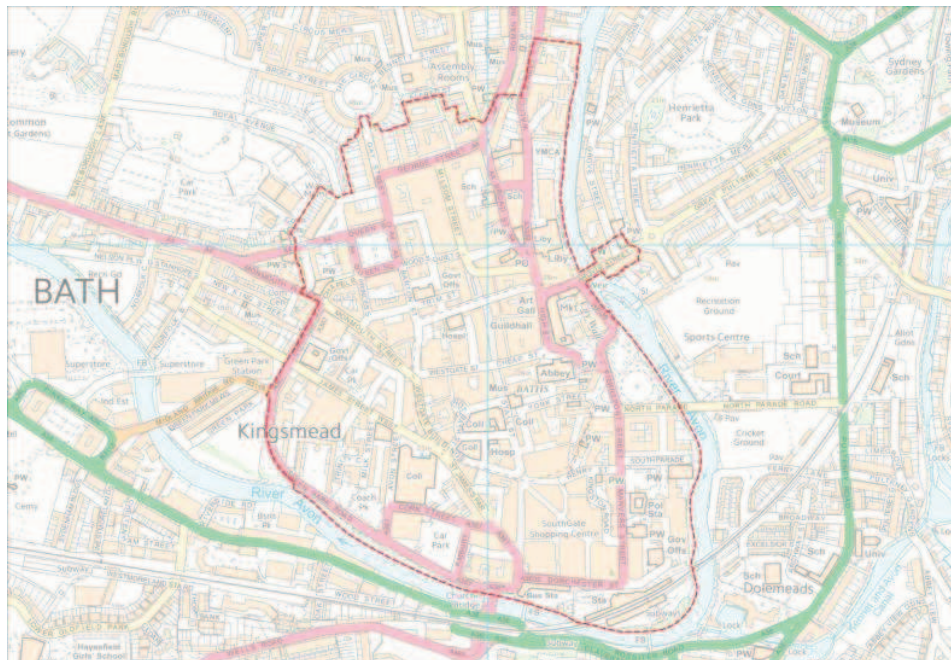
- Supermarket - large format convenience-led stores. The area used for the sale of goods will be above that applied for the purposes of the Sunday Trading Act of 280sq. m sales area.
- Student Accommodation (purpose built accommodation for students). (Planning Use Classes under Town and Country Planning (Use Classes) Order 1987 (as amended))

The attached plans identify the locations and boundaries to which the residential and non-residential CIL charges apply.

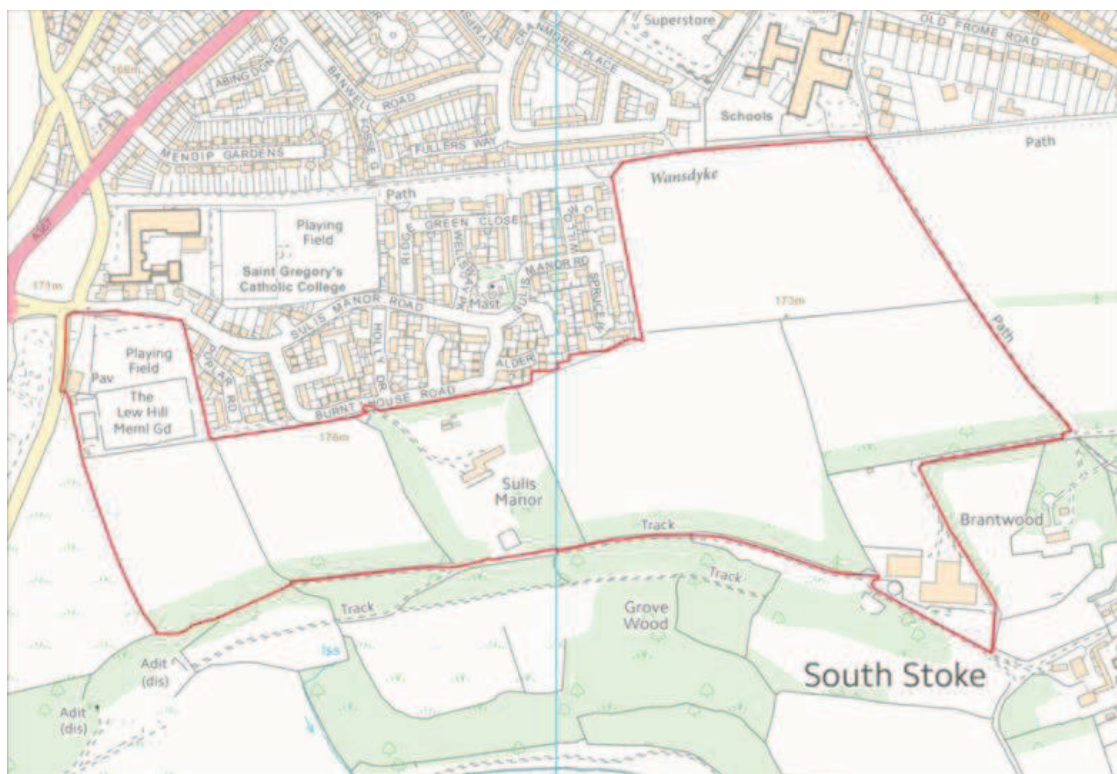
Plan 1 The CIL Charging Zone for Hotel Development in Bath



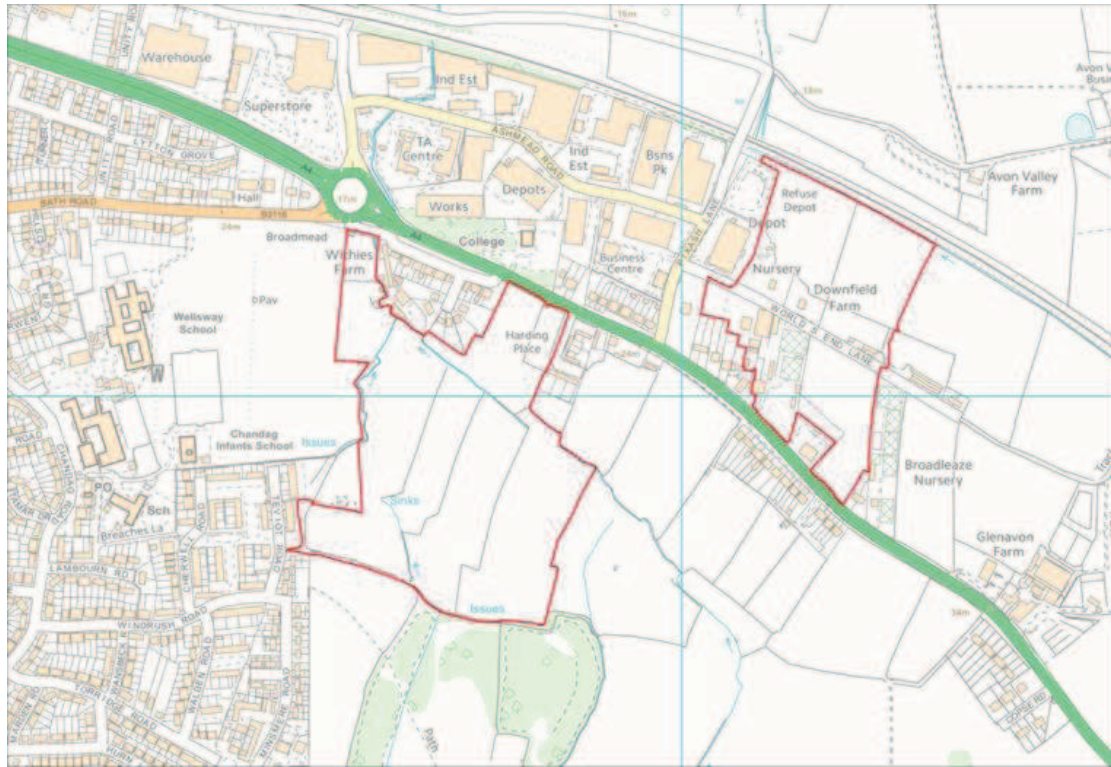
Plan 2 The Charging Zone for Bath City Centre Retail Development



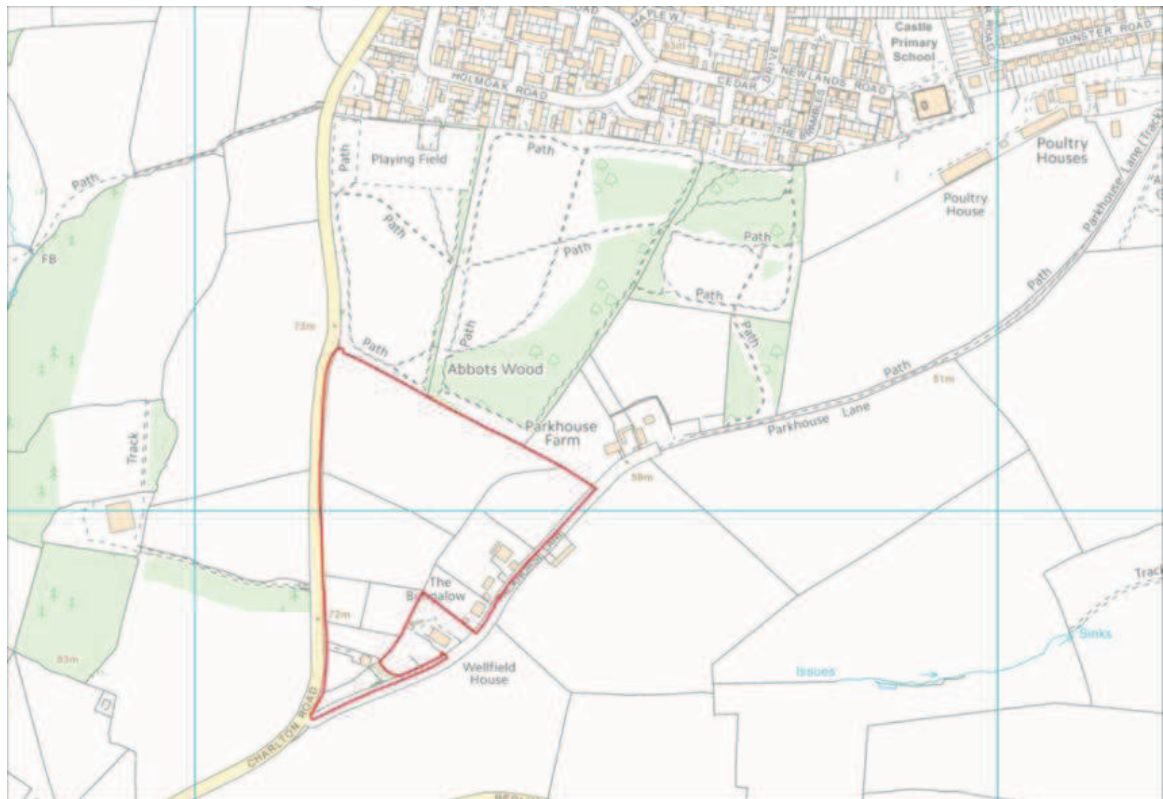
Plan 3 Strategic Site: Land adjoining Odd Down Charging Zone



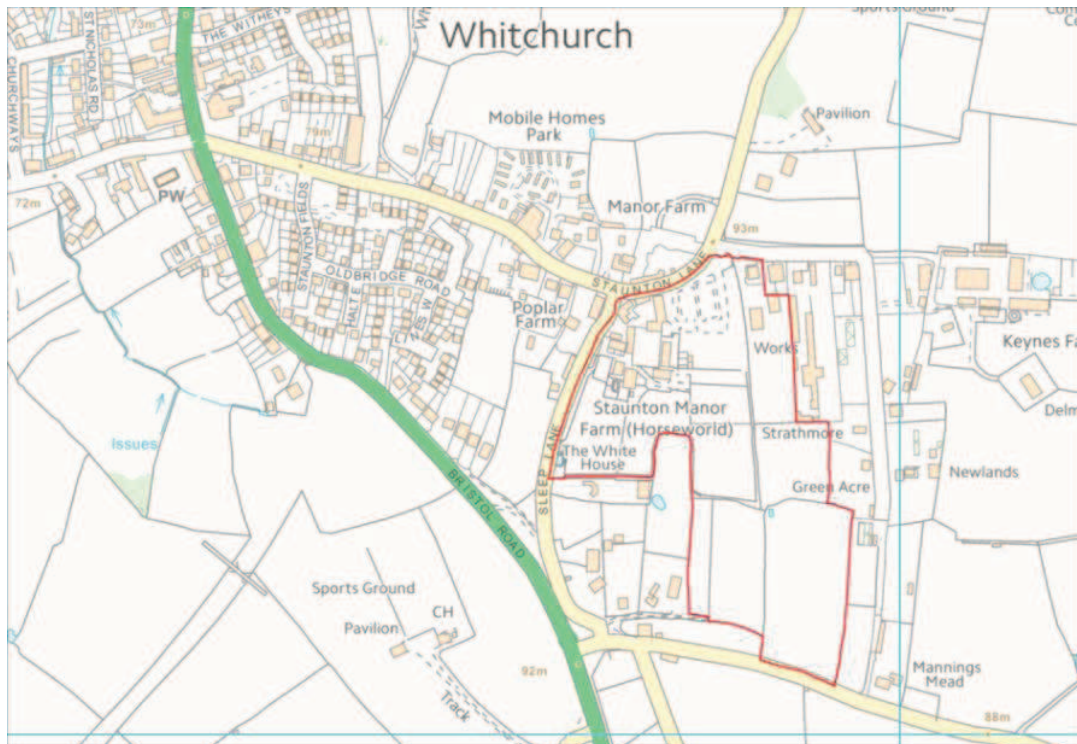
Plan 4 Strategic Site: Land adjoining East Keynsham Charging Zone



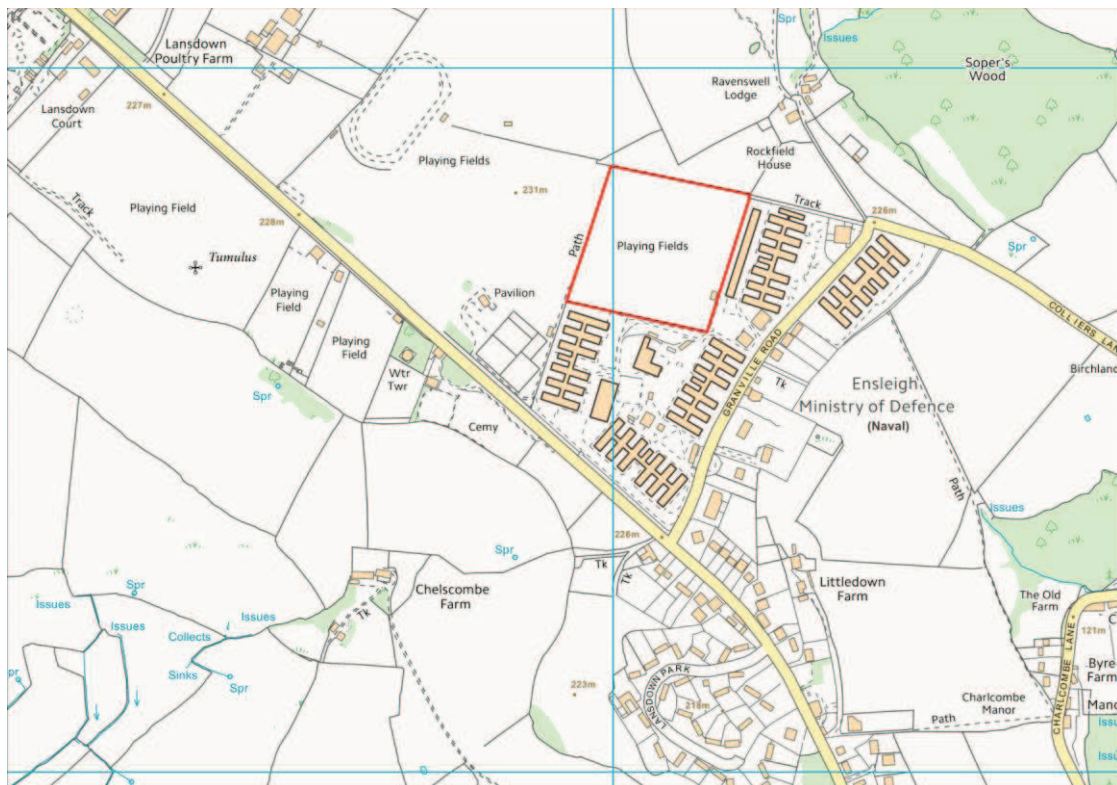
Plan 5 Strategic Site: Land adjoining South West Keynsham Charging Zone



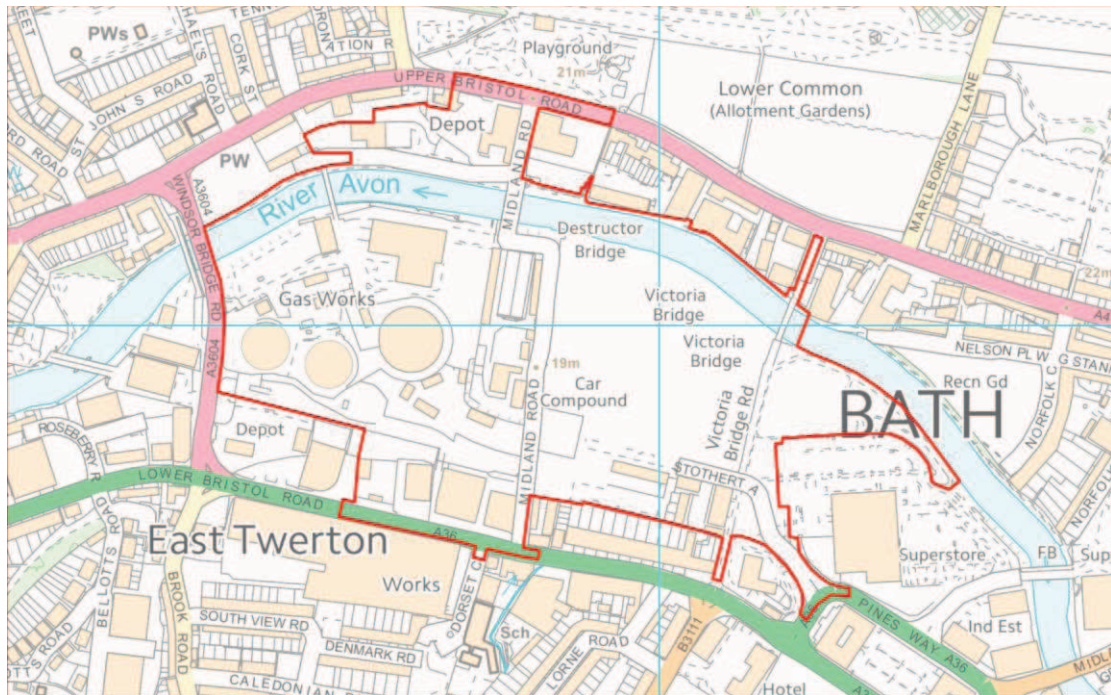
Plan 6 Strategic Site: Land at Whitchurch Charging Zone



Plan 7 Strategic Site: Extension to MoD Ensleigh, Bath Charging Zone



Plan 8: Bath Western Riverside Charging Zone



CALCULATION OF CHARGEABLE AMOUNT

CIL charges will be calculated in accordance with CIL Regulation 40 (as amended) of the Community Infrastructure Levy Regulations 2010 (as amended). The chargeable amount will relate to the net additional Gross Internal Area and the CIL rate as set out in the Charging Schedule, index linked using the Royal Institution of Chartered Surveyors' All-in Tender Price Index figures for the year in which the planning permission is granted and the year in which this charging schedule took effect.

A summary of how the CIL charge will be calculated is as follows:

$$\frac{\text{CIL Rate (R) x Chargeable Gross Internal Area (A) x BCIS Tender Index (Ip)}}{\text{BCIS Tender Index (Ic)}}$$

Where

R= CIL Rate as set out in the Charging Schedule for relevant use/ area

A = net increase in Gross Internal floor area

Ip = The BCIS All-in Tender Price Index for the year in which planning permission was granted

Ic = The BCIS All-in Tender Price Index for the year in which the charging schedule containing rate R took effect (and the figure for a given year is the figure for 1st November of the preceding year)

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Bath and North East Somerset Council Community Infrastructure Levy (CIL)

Draft Infrastructure List (regulation 123 list)

**in accordance with Regulation 123 Community
Infrastructure Levy Regulations 2010 (as
amended)**

January 2015

**Bath and North East Somerset Council Community Infrastructure Levy
Draft Infrastructure List (regulation 123 list)
January 2015**

The following comprises Bath & North East Somerset Council's Draft Infrastructure List (Regulation 123 list), which includes the infrastructure that the Council may apply CIL revenues to.

Draft Infrastructure List (regulation 123 list)

- Strategic Transport Infrastructure including cycling and walking infrastructure, and public transport (excluding development specific mitigation works on, or directly related to, a development site)
- Green infrastructure to deliver the requirements set out in the Green Infrastructure Strategy, including specific green space requirements identified in the Green Space strategy (excluding on site provisions)
- The Early Years provision set out in the Childcare Sufficiency Assessment (Except for the Bath Western Riverside Charging Zone proposal)
- School Schemes set out in the Schools Organisation Plan (Except primary schools and places required by strategic site and the Bath Western Riverside Charging Zone proposals)
- Social Infrastructure, including social and community facilities, sports, recreational, play infrastructure and youth provision, and cultural facilities (excluding on site provisions)
- Strategic Energy Infrastructure (excluding on site provisions)
- Health and Well-being Infrastructure (excluding on site provisions)
- Strategic Waste Facilities
- Strategic Flood Risk Management Infrastructure (excluding on site provisions)