

# **Appendix A**

## **Community Infrastructure Levy Preliminary Draft Charging Schedule**

**Bath and North East Somerset Council**

**April 2012**

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## 1. Introduction

- 1.1. The purpose of this consultation document is to set out Bath and North East Somerset Council's Community Infrastructure Levy Preliminary Draft Charging Schedule in accordance with Regulation 15 of CIL Regulations 2010 (as amended 2011). It also sets out the background to the charging schedule, including the methodology and assumptions made, and the evidence base used to inform the proposed draft levy.
- 1.2. This consultation runs from 18<sup>th</sup> April until 8<sup>th</sup> June 2012. Comments should be made via email to [planning\\_policy@bathnes.gov.uk](mailto:planning_policy@bathnes.gov.uk) or in writing to:

Community Infrastructure Levy  
Planning Policy  
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## 2. General Principles of CIL

### What is CIL

- 2.1. The Community Infrastructure Levy (CIL) enables local planning authorities to raise funds from developers undertaking new building projects in their area to provide key infrastructure needed as a result of development. CIL will not be the sole funding source for all necessary infrastructure but will supplement other funding streams.
- 2.2. CIL takes the form of a standard charge per m<sup>2</sup> of additional new floor space and based on the size and type of the new development.

### Legislative Background

- 2.3. The CIL regulations came into force on 6 April 2010 and amended regulations came into force on 6 April 2011.
- 2.4. The introduction of CIL coincides with significant changes to the Section 106 Planning Obligations regime, which will be scaled back to cover only site-specific mitigation measures and affordable housing, on the earlier of the following dates:
  - The adoption of a local CIL Charging Schedule
  - The end of a transitional period concluding on 6 April 2014.
- 2.5. At this point existing Section 106 tariff based arrangements must cease operating.

### Development that will be liable for CIL

- 2.6. The following development types will be liable for CIL:
  - Development comprising 100m<sup>2</sup> or more of new build floorspace
  - Development of less than 100m<sup>2</sup> of new build floorspace that results in the creation of one or more dwellings

- The conversion of a building that is no longer in lawful use (Please see para. 2.10)

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

2.7. New development has an impact on the demand for infrastructure and facilities in a local area. CIL is one way of securing contributions from new development schemes, to ensure this impact is mitigated. CIL provides a simpler process which is fair and transparent. The main advantages of CIL are set out below:

- CIL is a standard fixed charge, so developers will be clear about how much they will need to pay, and can factor this in to their development calculations.
- CIL is non-negotiable, so should save time compared to Section 106 agreements, which can be time-consuming in terms of negotiations and procedure.
- The CIL system is fairer as it takes account of the specific size of a scheme, as it is based on £ per m<sup>2</sup>.
- CIL will provide local communities with some direct control over infrastructure delivery, as a 'meaningful proportion' of CIL will in the future be passed back to local communities to spend on improvements in their area.
- The CIL system will provide flexibility in pooling and spending CIL monies. From April 2014 local authorities will be unable to pool contributions from more than five planning obligations secured via Section 106 agreements, for each infrastructure project. CIL monies can also be spent on any identified infrastructure need (unlike Section 106 agreements which require a direct link between the development and any infrastructure project).

### **Exemptions from CIL**

2.8. The CIL regulations provide for certain types of development to be exempt from CIL. Therefore the following types of development will not be liable for CIL:

- Development by registered charities for the delivery of their charitable purposes
- Those parts of a development which are to be used as affordable housing
- The conversion of any building previously used as a dwelling house to two or more dwellings
- Development of less than 100m<sup>2</sup> of new build floorspace, provided that it does not result in the creation of a new dwelling.
- 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 (eg, pylons, wind turbines, electricity sub stations)

2.9. Where planning permission is granted for a new development that involves the extension or demolition of a building in lawful use, the level of CIL payable will be calculated based on the net increase in floorspace. This means that the existing floorspace contained in the building to be extended or demolished will be deducted from the total floorspace of the new development, when calculating the CIL liability.

2.10. The definition of lawful use is contained in Regulation 40(10) of the 2010 CIL Regulations, which states the following:

*“For the purposes of this regulation a building is in use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development”*

### **Discretionary relief from CIL**

- 2.11. The Regulations allow charging authorities to permit discretionary relief from CIL, where exceptional circumstances can be demonstrated. The key requirements are that the site must also have a Section 106 agreement relating to it which is greater than the value of the CIL charge, and that the combined cost of the Section 106 agreement and CIL charge would have an unacceptable impact on the viability of the development. In such cases the developer would be expected to demonstrate this via an open book approach with an independent valuer. Relief can also only be granted if it does not constitute notifiable state aid.
- 2.12. Given these requirements, most development will not be eligible for exceptional circumstances relief. However, the Council may be prepared to consider applications for relief, and will confirm this on adoption of the charging schedule.

### **The relationship between CIL and Section 106 agreements**

- 2.13. The CIL system will result in the scaling back in the use of Section 106 agreements, but will not replace them entirely. The Council’s Planning Obligations SPD (July 2009) will be revised to reflect these changes, and set out details of the streamlined Section 106 system. Section 106 agreements (and Section 278 Highways agreements and planning conditions) will still be used by the Council in 3 main ways, to secure:
- **Site-specific mitigation** - e.g. local improvements/infrastructure necessary to enable the grant of planning permission. For example, access roads, on-site open space, archaeology, and some off-site requirements directly related to support individual sites.
  - **Affordable housing** - Under the current Regulations, Section 106 agreements will also continue to be used to secure affordable housing. However, the Government recently published a consultation document asking whether it should allow local authorities to deliver affordable housing through CIL, or through a combination of Section 106 and CIL. We will keep the options under close review as we move forward with CIL, and reflect any changes in future drafts of the CIL Charging Schedule.
  - **Development-specific infrastructure on large-scale major development sites**– Large sites often necessitate the provision of their own development-specific infrastructure, such as primary schools, which are dealt with more suitably through a Section 106 agreement.

## **When is CIL payable?**

- 2.14. CIL becomes due for payment upon commencement of the development, and payment must be made in full within 60 days of the commencement date. Where outline planning permission is granted for a large-scale development which will take place in phases, CIL will be levied on each agreed phase, rather than the whole site in its entirety.
- 2.15. However, the 2011 Amendment Regulations allow Councils to introduce an instalment policy. This would enable CIL payments to be phased over a period of time following the date of commencement of the development.
- 2.16. The Council is supportive of this approach in principle, as it may aid viability and deliverability. Therefore the Council intends to introduce an instalment policy, which would be offered in all cases where the total CIL liability is greater than £35,000. In such cases CIL payments would be accepted in the following instalments:
- 33% on commencement
  - 33% 12 months after commencement; and
  - 34% 18 months after commencement.
- 2.17. A notice of liability will be issued by the Council as soon as practicable after planning permission is granted, stating the chargeable amount on the development. The responsibility to pay the levy runs with the ownership of the land on which the liable development will be situated, and is a local land charge. However, liability can be transferred and assumed by others (for example, developers).
- 2.18. Failure to comply with the instalment policy will result in the total unpaid balance becoming payable immediately.

## **3. Evidence base**

- 3.1. This section sets out the evidence the Council has used to inform the Preliminary Draft Charging Schedule and the proposed CIL rates in Chapter 4.
- 3.2. Local authorities need to ensure that the CIL rate does not put at serious risk the overall development of their area. The CIL Regulations are clear that in setting rates, the charging authority must aim to strike an appropriate balance between:
- a) the desirability of funding from CIL (in whole or part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and*
  - b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.*
- 3.3. The Charging Schedule is to be informed by an appropriate evidence base, which should include:
- An up to date Development Plan

- An Infrastructure Delivery Plan
- A broad assessment of the likely impact of CIL on the viability of development across the District.

### **B&NES Local Development Framework**

- 3.4. B&NES Core Strategy is scheduled for adoption by September 2012 following the Examination in Public held in January-March 2012. The Core Strategy includes the council's strategic policies for different parts of the district. It sets out the type, scale and broad location of where new homes, transport improvements, jobs, shops, open spaces and services will be located in the period up to 2026. It also includes policies to ensure new development addresses the key issues facing the district.
- 3.5. The Council is preparing Placemaking DPD in which specific development sites will be allocated. This DPD has already commenced and issues and options are scheduled for public consultation in Autumn 2012.

### **Infrastructure Delivery Programme**

- 3.6. Accompanying the B&NES Core Strategy is the Council's Infrastructure Delivery Programme (IDP: Nov 2011). This document outlines the infrastructure requirements (along with known costs and funding streams) necessary in order to unlock and support the scale of growth identified in the Core Strategy.
- 3.7. The IDP covers the breadth of the infrastructure requirements for all statutory providers and public services. The IDP is a "live" document that will be regularly updated to take account of changing needs and circumstances over the plan period. It is not a formal investment programme and does not entail financial commitment by the Council or other statutory providers. It will be subject to prioritisation, influenced but the sequence of development and availability of funds.

### **Funding Gap**

- 3.8. CIL can only be charged if there is a funding gap for the infrastructure needed to meet the needs of new development. The focus should be on providing evidence of an aggregate funding gap that demonstrates the need to levy CIL.
- 3.9. Estimated indicative costs and the available levels of funding for the infrastructure identified in the IDP are not yet finalised, however a significant funding gap is evident from a high level assessment of educational facilities, the major transport schemes and flood mitigation infrastructure requirement. These are described in more detail below.
- 3.10. The role of this evidence is not to provide absolute assurances as to how authorities intend to spend CIL, but to illustrate that their intended CIL targets is justifiable given local infrastructure need and is based on appropriate evidence.
- 3.11. The Government also recognises that the indicative infrastructure types or projects identified in their IDPs may differ from those that the charging authority may

subsequently decide to include in its **Regulation 123 Statement**. This is an acknowledgement that priorities can change over time.

### **Education**

- 3.12 The Council has a statutory responsibility to ensure sufficient provision for pre-school aged children as well as primary and secondary school provision.
- 3.13 The level and location of new development proposed in the draft Core Strategy generates the need for three Primary Schools in Bath and one Primary School in Keynsham. Further school places should be provided either new schools or as extensions to existing schools, to address cumulative increase by other development. The estimated cost of providing school places is circa **£21m** as identified in the IDP. This excludes land purchase costs that may arise.
- 3.14 It is important to note that there will also be capital implications for Early Years provision and Youth Service provision as a result of future housing development as stated in the IDP. The expectation at this stage is that Secondary and Post 16 provision is likely to be sufficient for future needs.

### **Major Transport Schemes**

- 3.16 The growth proposals in the Core Strategy rely on the implementation of the Bath Transportation Package (BTP) and the investment required for this has largely been accounted for through DfT funding and the Council's capital programme in September 2011. However other transportation investment requirements are not budgeted for such as commitments to improve public transport by providing a Park and Ride facility at the East of Bath, A36 bus lane, southern access to the Park and Ride at Odd Down and Keynsham Greenways. The estimated cost for these schemes is circa **£12m**.

### **Flood Mitigation**

- 3.17 The draft Core Strategy proposes the implementation of an upstream storage facility combined with on-site defences to enable development in vulnerable areas of the Central Area and Western Corridor in Bath. Creation of compensatory storage would require forward funding ahead of the receipt of developer contributions.
- 3.18 Regeneration within the Bath City Riverside Enterprise Area is a key element of the Core Strategy and the Council's Economic Strategy. Flood mitigation and the resolution of the Windsor Gas Station removal are required to realise this growth. These will need forward funding, linked to payback mechanisms through s. 106 / CIL. The indicative cost estimate of these are **£24.7m** which is included in the aggregated funding gap.

### **CIL Viability Assessment**

- 3.19 The Council commissioned BNP Paribas to undertake a CIL viability study for B&NES, to show what level of CIL charge could be introduced without putting the overall



development of the area at serious risk. The CIL Viability Assessment Report accompanies this consultation document (see background papers).

- 3.20 The viability assessment is based on well-established development appraisal techniques which involve looking at the impact of potential CIL rates on residual land values. The study takes account of Core Strategy requirements, including the costs involved in complying with Code for Sustainable Homes Level 4, and the provision of 35% affordable housing, where appropriate.

**Table 1 Summary of the Viability Study conclusions**

Land use	Summary of key findings
Residential	<p>The ability of <b>residential schemes</b> to make CIL contributions varies significantly depending on size and type of scheme, area and the current use of the site. Adopting a single rate for residential development across the District is unlikely to be practicable, given the significant variations in sales values. Taking the minimum levels of CIL that could viably be charged, rates of CIL per square metre that could be adopted are as follows:</p> <p>Bath - £98;            Bath Rural/Bathavon: £196;            Bath North and East: £154;            Chew Valley West: £112;            Bath North/West/South and Chew Valley East: £98;            Keynsham: £98; and            Norton Radstock: £126.</p>
Office development	<p><b>Office development</b> is unlikely to come forward in the short to medium term. Although there is an adequate demand for space, this has not generated rents that would be high enough to support new development, particularly in Bath where build costs are significantly higher. We therefore recommend that the Council sets a nil rate for offices.</p>
Hotel	<p><b>Hotel developments</b> could accommodate a CIL of up to a maximum of £160 per sq metre. We would suggest a rate of around £100 to allow an adequate buffer for site-specific factors.</p>
Retail	<p>Residual values generated by <b>Retail developments</b> vary significantly. Retail development in Bath City is likely to be viable and able to absorb CIL of up to £280 per square metre. Outside Bath, retail rents are considerably lower and residual values will be insufficient to support any level of CIL. Retail parks generate sufficient residual values to absorb CIL set at up to £280 per square metre. Given the sensitivity of residual values to changes in rent levels, we recommend that the Council might wish to consider a CIL on retail development in</p>

	Bath of around £150 per sq metre and an identical rate for retail park development. Outside Bath, high street retail development should be nil rated.
Industrial and warehousing	Our appraisals of developments of <b>industrial and warehousing floorspace</b> indicate that these uses are unlikely to generate positive residual land values. We therefore recommend a zero rate for industrial floorspace.
D1 uses (eg health care facilities, schools etc)	D1 uses often do not generate sufficient income streams to cover their costs. Consequently, they require some form of subsidy to operate. We therefore recommend a zero rate for D1 uses.

#### 4 **Proposed CIL rates for B&NES**

##### **Setting the CIL rate**

- 4.16 The BNP Paribas CIL Viability Study informs the proposed CIL rates for B&NES. The rates are proposed at a level that does not put the level of development required in the Core Strategy at risk, and which acknowledge that development in the B1, B2 and B8 use classes is currently not viable with the imposition of CIL. CIL rates for residential development are aligned with the areas identified in Core Strategy Policy CP9 as being able to provide 35% affordable housing.
- 4.17 The CIL Regulations acknowledge that the rates of CIL may make some development unviable. The key consideration is to ensure that the imposition of CIL does not harm economic viability across the district. It is also important to note that CIL should not be set at the margins of economic viability.
- 4.18 A CIL set at or near the maximum level could have a serious adverse effect on development throughout the district if there was a market or policy change that tipped viability over this point. It is considered that the proposed CIL rates should be resistant to market and policy changes, given that they have been set at an amount that is viable in the current difficult economic climate.

##### **CIL Charging Schedule**

- 4.19 The proposed CIL rates for B&NES are set out in the Charging Schedule below. The attached Ordnance Survey map extract identifies the Policy Zones to which the Residential CIL charges apply.

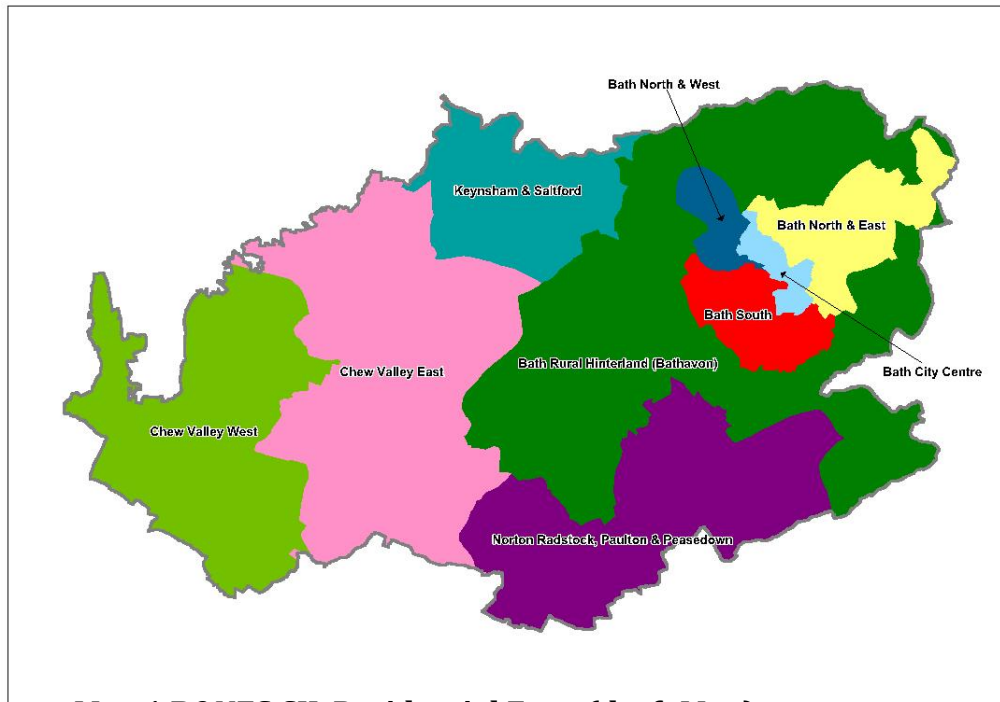
##### **Calculating the chargeable amount**

- 4.20 The Council will calculate the amount of CIL payable by a development (the 'chargeable amount') in accordance with Regulation 40 of the CIL Regulations 2010. The method involves multiplying the net area and the CIL charge – and factoring in an index figure. The index figure allows for inflation, as the charge is based on the CIL rate at the time of planning permission, but payment occurs at commencement. The index used in the calculation is the national 'All-in Tender Price Index' published by the Building Cost Information Service of Royal Institution of Chartered Surveyors.

4.21 The CIL Regulations also specify that where the overall chargeable amount on a scheme is less than £50, it is deemed to be zero.

**Table 2 B&NES CIL CHARGING SCHEDULE**

<b>Development Type</b>	<b>CIL Rate</b>	
<b>Residential (Class C3) including sheltered housing</b>	<b>Residential Zone A</b> <ul style="list-style-type: none"> <li>• Bath City Centre</li> <li>• Bath North and East</li> <li>• Chew Valley West</li> <li>• Bath North/West/South</li> <li>• Chew Valley East</li> <li>• Keynsham</li> <li>• Norton Radstock</li> </ul>	£ 100 m <sup>2</sup>
	<b>Residential Zone B</b> Bath Rural/Bathavon	£ 200 m <sup>2</sup>
<b>Office</b>	£ nil m <sup>2</sup>	
<b>Hotel (Class C1)</b>	In Bath	£100 m <sup>2</sup>
	Outside Bath	£ nil m <sup>2</sup>
<b>In-centre / High Street Retail</b>	Bath city centre	£150 m <sup>2</sup>
	Other centres	£ nil m <sup>2</sup>
<b>Out-of centre/Edge of centre Retail</b>	<280 m <sup>2</sup>	£ nil m <sup>2</sup>
	>280 m <sup>2</sup>	£150 m <sup>2</sup>
<b>Industrial and warehousing</b>	£ nil m <sup>2</sup>	
<b>Student accommodation</b>	On Campus	£60 m <sup>2</sup>
	Off Campus	£100 m <sup>2</sup>
<b>Any other development</b>	£ nil m <sup>2</sup>	



**Map 1 B&NES CIL Residential Zone (draft Map)**

## 5 How to comment on this Preliminary Draft Charging Schedule

5.16 This consultation runs from 18th April until 8th June 2012. If you wish to comment on the B&NES Community Infrastructure Levy Preliminary Draft Charging Schedule, comments should be made via email to [planning\\_policy@bathnes.gov.uk](mailto:planning_policy@bathnes.gov.uk) or in writing to:

Community Infrastructure Levy  
 Planning Policy  
 Bath and North East Somerset Council  
 PO Box 5006 Bath BA1 1JG

5.17 For any queries regarding this consultation, please contact Kaoru Jacques on (01225) 477548, or [planning\\_policy@bathnes.gov.uk](mailto:planning_policy@bathnes.gov.uk).

## 6 Next Steps

6.16 Following this consultation, the Council will consider the responses received and any other evidence that emerges and use these to inform the charging schedule it intends to implement.

6.17 Once the Council considers that the Draft Charging Schedule is ready for independent examination, it will be published for a four-week consultation period together with the relevant supporting evidence and the responses received to this consultation.

6.18 During the four-week period, representations may be made and any person making a representation has the right to be heard at the CIL examination. It is anticipated that

the four-week consultation period will take place late 2012, prior to an independent examination in 2013.

### **Time Table**

Evidence gathering	July 2011 – February 2012
Public consultation on Preliminary Draft Charging Schedule	April/June 2012
Consider comments & Preparation of Draft Charging Schedule	June to September 2012
Public consultation on Draft Charging Schedule	Autumn 2012
Submission	January 2013
Examination Hearings	March 2013
Inspector's Report	June 2013
Adoption	September 2013

### **Useful information:**

#### **B&NES Community Infrastructure Levy**

<http://www.bathnes.gov.uk/environmentandplanning/planning/planningpolicy/localdevelopmentscheme/Pages/CIL.aspx>

#### **B&NES Local Development Framework**

<http://www.bathnes.gov.uk/environmentandplanning/planning/planningpolicy/localdevelopmentscheme/Pages/default.aspx>

#### **Planning Advisory Service: Frequently asked questions**

<http://www.pas.gov.uk/pas/core/page.do?pagelid=1242969>

#### **Communities and Local Government**

<http://www.communities.gov.uk/planningandbuilding/planningsystem/communityinfrastructurelevy/>