

ATTACHMENT 1

**Bath & North East
Somerset Council**

**Bath and North East Somerset Council
Community Infrastructure Levy**

Consultation Paper

in accordance with Regulation 16 Community Infrastructure
Levy Regulations 2010 (as amended)

Draft Charging Schedule

Draft Infrastructure (Regulation 123) List

July 2014

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1.0 INTRODUCTION

- 1.1. The Draft Community Infrastructure Levy (CIL) Charging Schedule is published under Regulation 16 of the CIL Regulations 2010 (as amended) so that representations can be made prior to its submission to the Secretary of State.
- 1.2. The consultation documents and evidence documents published are;
- B&NES Draft CIL Charging Schedule (see Section 5 of this document)
 - A Draft Infrastructure List in accordance with CIL Regulation 123 (See Section 6 of this document).
 - Economic Viability Study Update 2014 (Separate Document)
 - Revised Planning Obligations Supplementary Planning Document (Separate Document)
 - CIL Evidence Background Paper (2014) (Separate Document)
 - A Report on Consultation of the Preliminary Draft Charging Schedule (Separate Document)
- 1.3 This consultation runs from 24th July until 18th September 2014. Comments should be made via email to cil@bathnes.gov.uk or in writing to:

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

- 1.4 A copy of the Draft Charging Schedule and Draft Infrastructure (Regulation 123) List Consultation Document and supporting documents are available for public inspection at:

Online at the Bath & North East Somerset Council website:
www.bathnes.gov.uk/CIL

Council One Stop Shops; between the hours of 8.30 am to 5.00 pm
Mondays-Thursdays and 8.30 am to 4.30 pm on Fridays, at:

- The Bath One Stop Shop, 3-4 Manvers Street, Bath BA1 1JQ
- The Hollies, Midsomer Norton, Bath, BA3 2DP;
- Riverside, Temple Street, Keynsham, Bristol, BS31 1LA

All Public Libraries within the District including the mobile libraries during library opening times.

- 1.5 All representations will be considered by the Inspector as written representations. In addition, any persons or organisations making representations have the right to be heard at examination, should they choose to appear. The examination will normally take the format of a hearing, using an informal 'round table' format under the direction of the Inspector.

- 1.6 Please be aware that your comments will be published on the Council’s website together with your name. A response form is available - If you do not have access to a computer, a paper form can be completed and sent to the Council. Copies of the response form are available from the Planning Policy team.
- 1.7 Should you have any questions please contact us on (01225) 477548 or email to cil@bathnes.gov.uk.

2.0 TIMETABLE

- 2.1 The B&NES Council has set a timetable to adopt a Community Infrastructure Charging Schedule by April 2015. Table 1 below outlines the key stages and timetable for adoption of CIL:

Table 1: Key stages relating to the adoption of the CIL Charging Schedule

Key Stage	Dates
Draft Charging Schedule Consultation	July - September 2014
Draft Charging Schedule submitted to Secretary of State	October / November 2014
Draft Charging Schedule examined in public by Independent Examiner	December 2014/January 2015
Final version of Draft Charging Schedule adopted by Council	By April 2015

3.0 GENERAL PRINCIPLES OF THE COMMUNITY INFRASTRUCTURE LEVY

What is the Community Infrastructure Levy (CIL)?

- 3.1 The 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. It is intended to supplement other funds to provide new infrastructure in the District – it is not intended to provide the full costs associated with all the infrastructure required.
- 3.2 The charge is an amount that must be paid in pounds sterling (£) per m² of qualifying development. CIL rates are set by the charging authority, in this case B&NES, in a charging schedule. The schedule sets out the CIL rates by type and size of development for all development liable for the charge.

Legislative Background

- 3.3 The CIL Charging Schedule must comply with relevant legislation, and the National Planning Policy Framework (2012). The Planning Act 2008 (Part 11) made provision for the introduction of the Community Infrastructure Levy (CIL). Regulations governing the preparation and operation of CIL Charging Schedule were first introduced in April 2010, and have subsequently been amended a number of times - the CIL (Amendment) Regulations 2011, the CIL (Amendment) Regulations 2012, the CIL (Amendment) Regulations 2013, and the CIL (Amendment) Regulations 2014. In addition, Part 6, Chapter 2 of the Localism Act 2011 has the effect of amending parts of the Planning Act 2008 as it relates to CIL.
- 3.4 The Department for Communities and Local Government has issued Community Infrastructure Levy Guidance (February 2014) which provides a detailed guide to the CIL Regulations and the Charging Schedule. The guidance can be found at the following link
- http://www.planningportal.gov.uk/uploads/cil/cil_guidance_main.pdf
- 3.5 CIL Regulations 2010 (Part 11) (as amended) also incorporate a corresponding scaling back of tariff based approaches to planning obligations under Section 106 of the Town and Country Planning Act 1990. Details of the changes can be found within the section below on the “Relationship between CIL and Section 106 agreements”.

What development will be liable for CIL?

- 3.6 The CIL Regulations 2010 (as amended) and the Government CIL Guidance February 2014 provide detailed guidance on what is liable for CIL, what is exempt, and what types of relief are available.
- 3.7 The following development types will be liable for CIL:
- Development comprising 100m² or more of additional new build floorspace
 - Development of less than 100m² of new build floorspace that results in the creation of one or more dwellings (note exemptions for self-builders below)
 - The conversion of a building that is no longer in lawful use.
- 3.8 Development exempt from CIL includes:
- Where there is no extension of floorspace as a result of the development.
 - Net additional new development of less than 100 square metres gross internal area (Minor Development Exemptions) – unless this is the creation of one or more dwellings, in which case the levy is payable.

- Houses, flats, residential annexes and residential extensions which are built by 'self-builders' that meet the self-build relief criteria
 - Development resulting from a change of use, where the building has been in continuous use for at least six months in the three years prior to the development being permitted, and no new floorspace is created.
 - "Social housing" that meets the relief criteria.
 - Charitable development by registered charities that meets the relief criteria including that the development is used for charitable purposes.
 - Any development where the total chargeable amount is less than £50 (this is deemed as zero rated).
 - Buildings and structures into which people do not normally go.
- 3.9 Where buildings are demolished or converted to make way for new buildings, the charge will be based on the floorspace of the new buildings less the floorspace of the demolished/converted buildings, i.e. the net increase in floorspace. The Regulations require that the buildings must have been in lawful use for a continuous period of at least six months in the last three years prior to when planning permission first permits the development.
- 3.10 Where an outline planning permission is granted prior to the implementation date of the Charging Schedule, the reserved matters approvals will not be subject to a CIL liability. Applications under Section 73 of the Town and Country Planning Act 1990 to remove or vary a condition, including those relating to the extension of timescale for implement an existing consent, which results in a fresh planning permission being issued, will not give rise to a CIL liability, unless there is an increase in floorspace as a result of those changes, in which case the additional floorspace may be liable. If permission is sought for a materially different scheme, from the existing permission, requiring a new planning permission, then that development may be liable for CIL.

Relief from CIL

- 3.11 The Community Infrastructure Levy Regulations make a number of exemptions and provisions for charging authorities to give relief from the levy. Some types of relief are compulsory; others are offered at the charging authority's discretion. 'Community Infrastructure Levy relief' means any exemption or reduction in liability to pay the levy.
- 3.12 A charging authority that decides to introduce a discretionary relief policy must publish a document setting out that policy. The document is not part of the charging schedule. The CIL Guidance states that the charging authority may publish the relief policy separately and at a different time to the publication of the charging schedule.

Discretionary charitable relief

- 3.13 Discretionary charitable relief - Local authorities can provide discretionary relief from CIL where the proposed development is owned by a charity but will be used for non-charitable purposes and the buildings will be retained by the charity as an investment to fund the work of the charity.

Discretionary social housing relief

- 3.14 A charging authority may offer further, discretionary, relief for affordable housing types which do not meet the criteria required for mandatory social housing relief and are not regulated through the National Rent Regime.
- 3.15 When applying for relief, a claimant must provide evidence that the chargeable development qualifies for social housing relief. The Regulations provide that dwellings no longer meeting these requirements must pay the levy.

Exceptional Circumstances Relief

- 3.16 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 have a Section 106 agreement in place; the charging authority must consider that paying the full CIL liability would have an unacceptable impact on the development's viability; and the relief must not constitute notifiable state aid.

Instalment policy:

- 3.17 A charging authority can set its own levy payment deadlines and/or offer the option of paying by instalments. If it does so, it must publish an instalments policy on its website and make it available for inspection at its principal offices. It requires at least 28 days' notice to adopt or change the policy. Where no instalment policy is in place, payment is due in full at the end of 60 days after development commenced. The Council is considering the following instalment policy, however the final policy will be published at the time that the CIL Charging Schedule is adopted:

"Where the total CIL liability is greater than £35,000, CIL payments would be accepted in the following instalments;

- 33% on 60 days after development commenced
- 33% 12 months after development commenced
- 34% 18 months after development commenced."

What can CIL be spent on?

- 3.18 The money raised through CIL must be spent on infrastructure needed to support the development of the B&NES area. The Council must specify the

projects/types it intends to spend CIL receipts on, in what is known as an Infrastructure List or 'Regulation 123 List'. Please see below at **Section 6**.

- 3.19 The CIL (Amendment) Regulations 2013, requires that the Council pass a proportion of the CIL funds to the neighbourhoods in which the chargeable development takes place. The neighbourhood proportion of CIL can be spent on a wider range of items than the scope of the district wide infrastructure list under Regulation 123. In areas where there is a Neighbourhood Plan in place prior to planning permission being granted; or permission was granted by a Neighbourhood Development Order, the Council must pass 25% of Community Infrastructure Levy funds from developments within those areas to the relevant local council area (Town and Parish Councils). Where there is no Neighbourhood Plan this amount is 15%, subject to a cap of £100 per household in the local council area, per year.
- 3.20 Communities without a Parish or Town Council, such as Bath, will still benefit from the neighbourhood proportion of CIL funds (15% capped or 25% uncapped). In these areas the Council will include the arrangements for the spend of local CIL income in its options for strengthening community representation and civic governance within Bath.

The relationship between CIL and Section 106 agreements

- 3.21 Following the adoption of a Charging Schedule, CIL will replace Section 106 Agreements (S.106) (of the Town and Country Planning Act 1990) as the primary tool to pool contributions towards delivering the infrastructure necessary to support the sustainable development of the District. The provision of affordable housing lies outside of the remit of CIL and will continue to be secured through S.106 Agreements. S.106 Agreements will be significantly scaled back so that the Council will only be able to request S.106 planning obligations, alongside Planning Conditions, for on-site specific infrastructure (eg open space and facilities) and off-site infrastructure (eg highway access works) and facilities or services that are essential for the development to take place, or are needed to mitigate the impact of a specific development at site or neighbourhood level. The principle is that all CIL liable developments must pay CIL as well as contribute to any site specific requirements to be secured through S.106 Agreements.
- 3.22 As set out in the CIL regulations, the Council will only be able to pool up to five separate S.106 contributions towards the implementation of a specific item of infrastructure (which is not being funded by CIL receipts).
- 3.23 In order to explain the relationship between CIL and S.106 agreements, the **Planning Obligations Supplementary Planning Document (SPD) (2009)** has been revised to explain how CIL and S.106 agreements will operate together. A draft Revised Planning Obligations SPD accompanies this consultation.

4.0 EVIDENCE BASE

- 4.1 Appropriate available evidence must be used to inform the CIL rate setting process, based on an assessment of infrastructure necessary to support new development and the economic viability of development. The CIL Regulations 2010 (as amended) require that in setting rates, the charging authority

“must strike an appropriate balance between -

- (a) the desirability of funding from CIL (in whole or in 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.”*

- 4.2 This section considers the background evidence used for setting the proposed CIL rates within B&NES Draft Charging Schedule. Please also see the separate Infrastructure funding gap evidence paper.

- 4.3 The following documents are required or recommended for preparing a sound Charging Schedule.
- An up to date development plan for the area
 - A broad assessment of the likely impact of CIL on the viability of development across the District
 - Details of infrastructure required to support the level of development set out in the development plan / Core Strategy, and evidence of the potential funding gap between the estimated total cost of infrastructure required, and the other actual and expected sources of funding.

- 4.4 The B&NES Draft Charging Schedule has been informed by the following:
- Informal Consultation and Stakeholder engagement.
 - CIL Preliminary Draft Charging Schedule; schedule of consultation responses and Report on Consultation (Separate documents).
 - B&NES Core Strategy (2014),
 - Infrastructure Delivery Programme (Updated 2014)
 - CIL Viability Assessment (2012 and May 2014 Update) (Separate Documents)

Informal Consultation and Stakeholder Engagement

- 4.5 The first formal round of consultation, the Preliminary Draft CIL Charging Schedule (PDCS), took place between 18th April and 8th June 2012. A total of 37 representations were received. A summary of comments received and the Council’s responses to those comments can be found in the PDCS Consultation Report, available with this consultation. These comments have

been taken into account in the preparation of the Council's Draft Charging Schedule, which is now the subject of this second formal round of consultation.

- 4.6 A wide range of stakeholders were consulted throughout the evidence gathering process for the Preliminary Draft Charging Schedule consultation. In particular, in order to ensure that the viability assessment is as fully reflective of conditions on the ground as possible, a workshop was held with representatives of local business and development sectors on 17th Oct 2011. This was to discuss and agree various assumptions used in the viability appraisals.
- 4.7 As part of the preparation of the viability testing to inform the Draft Charging Schedule, a letter was circulated to developers requesting evidence for consideration in the preparation of the economic viability study in March 2014. Evidence was sought on sales values, development costs and existing land values for residential development, and rents, yields and development costs for commercial development. No data has been offered on these issues.

B&NES Core Strategy

- 4.8 The B&NES Core Strategy (Local Plan Part 1 2014), is the principal planning document for guiding development in B&NES district to 2029. It sets out an up-to-date and robust strategic planning framework for the district, indicates the scale and broad locations for housing growth and other strategic development needs, and sets out environmental protection policies.

Infrastructure Delivery Programme

- 4.9 The B&NES Infrastructure Delivery Programme (IDP) covers the range of infrastructure requirements for all statutory providers and public services. The IDP is a "live" document that will be regularly updated to take account of updated information on costs and priorities, changing needs and circumstances over the plan period. The IDP sets out the body or department responsible for delivery and funding of the infrastructure, the estimated cost of the infrastructure, whether there are any sources of funding secured, timescale and priority. The IDP does not provide details of ongoing operation and maintenance costs.
- 4.10 The CIL Regulations require that each charging authority justifies the need to charge CIL by presenting appropriate available evidence on infrastructure requirements and the funding gap. A separate paper – "Community Infrastructure Levy Funding Gap Evidence Paper" - provides an assessment of the infrastructure requirements based on the IDP, and the funding gap.

CIL Economic Viability Assessment

- 4.13 A key part of the evidence underpinning the draft Charging Schedule is the viability evidence which examines the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across the area.
- 4.14 The Council commissioned BNP Paribas to undertake a CIL viability study to inform the Draft Charging Schedule. The study assessed the viability and financial capacity of a range of development scenarios to pay CIL using a standard residual land value, and yield capitalisation, development appraisal approach, and made recommendations to the Council on CIL rates. The appraisals assume a range of land values to reflect differences in location within the district and types of site. The consultants' approach to assessing the impact of CIL has been scrutinised through successful CIL examinations for other local authorities.
- 4.17 ***The BNP CIL Viability Assessment Update Report 2014*** accompanies this consultation document and the Draft Charging Schedule.

5. COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE

5.1 The Bath and North East Somerset District (B&NES) Council is proposing to charge the CIL in respect of the development at the following rates;

Development Type	Location	CIL charge £/m ²
RESIDENTIAL (Class C3) including Specialised, Extra Care and Retired Accommodation	District wide	£100
RESIDENTIAL	Strategic Sites /urban extension	£50
HOTEL (Class C1)	In Bath	£100
	Rest of District	£ Nil
RETAIL In-centre / High Street Retail	Bath city centre	£150
	Other centres	£ Nil
SUPERMARKETS, SUPERSTORES AND RETAIL WAREHOUSE (over 280m ²)	District wide	£150
OFFICES (Class B1)	District wide	£ Nil
INDUSTRIAL AND WAREHOUSING	District wide	£Nil
STUDENT ACCOMMODATION	On Campus with submarket rents to be set in section 106 agreement	£ Nil
	Off Campus	£200
ANY OTHER DEVELOPMENT	District wide	£ Nil

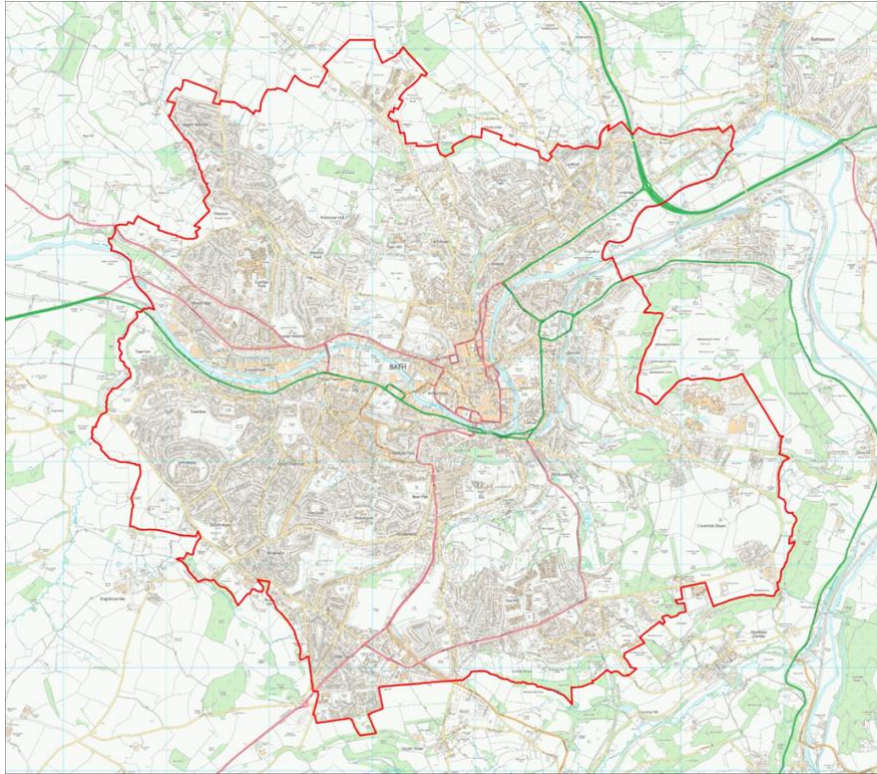
Definitions

- Strategic sites / urban extension
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 280 m² sales area.
- Student Accommodation (purpose built accommodation for students).
(Planning Use Classes under Town and Country Planning (Use Classes) Order 1987 (as amended))

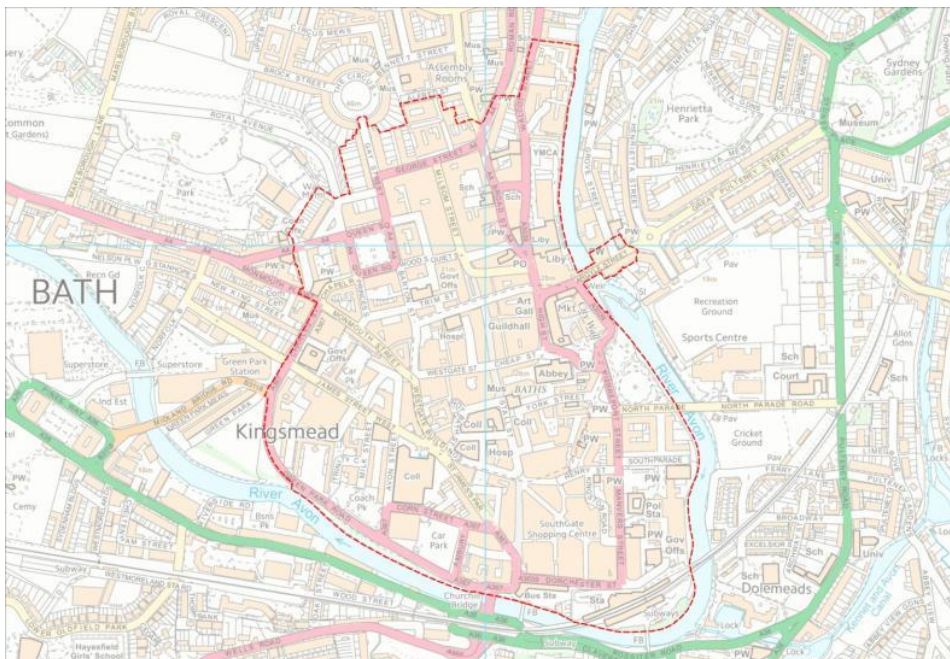
The Bath and North East Somerset District (B&NES) Council Draft Charging Schedule has been prepared in accordance with the Part 11 of the Town and Country Planning Act 2008 (as amended) and the Community Infrastructure Regulations 2010 (as amended).

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

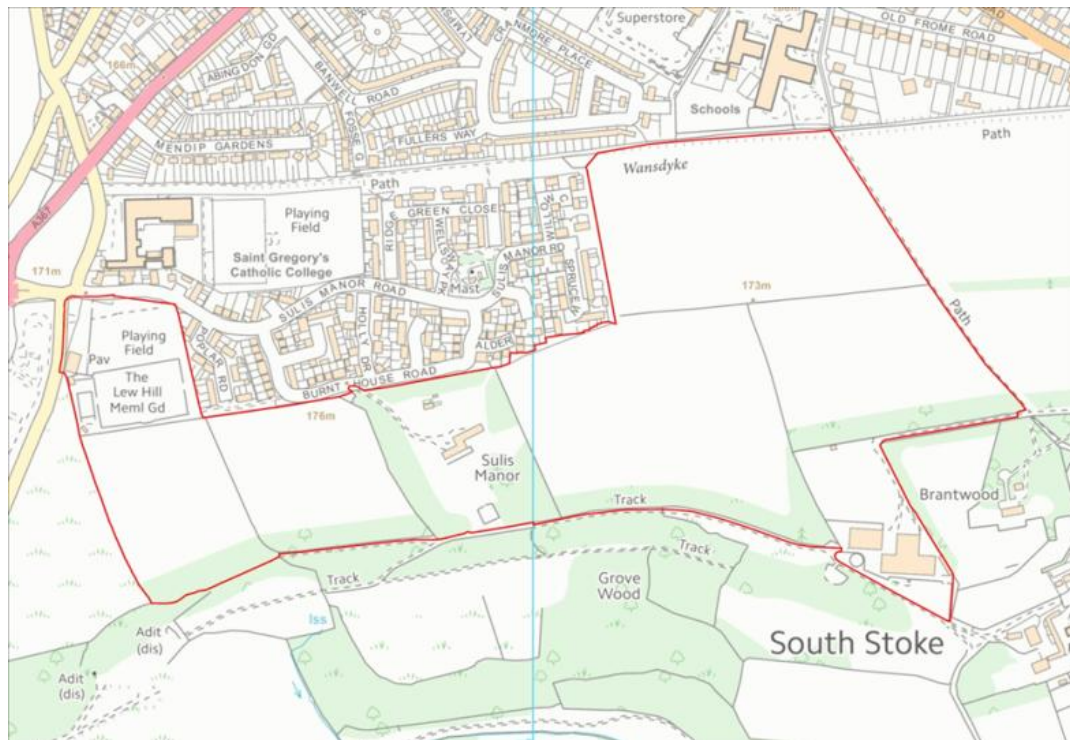
Plan 1- The CIL Charging Zone for hotel development in Bath



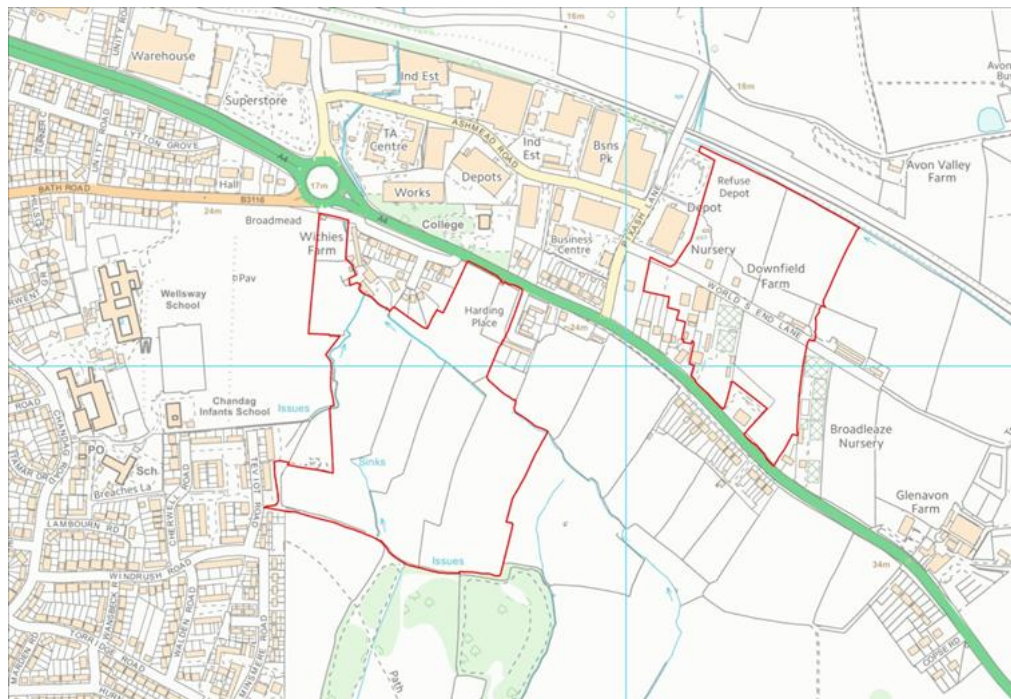
Plan 2 - The Charging Zone for Bath City Centre Retail development



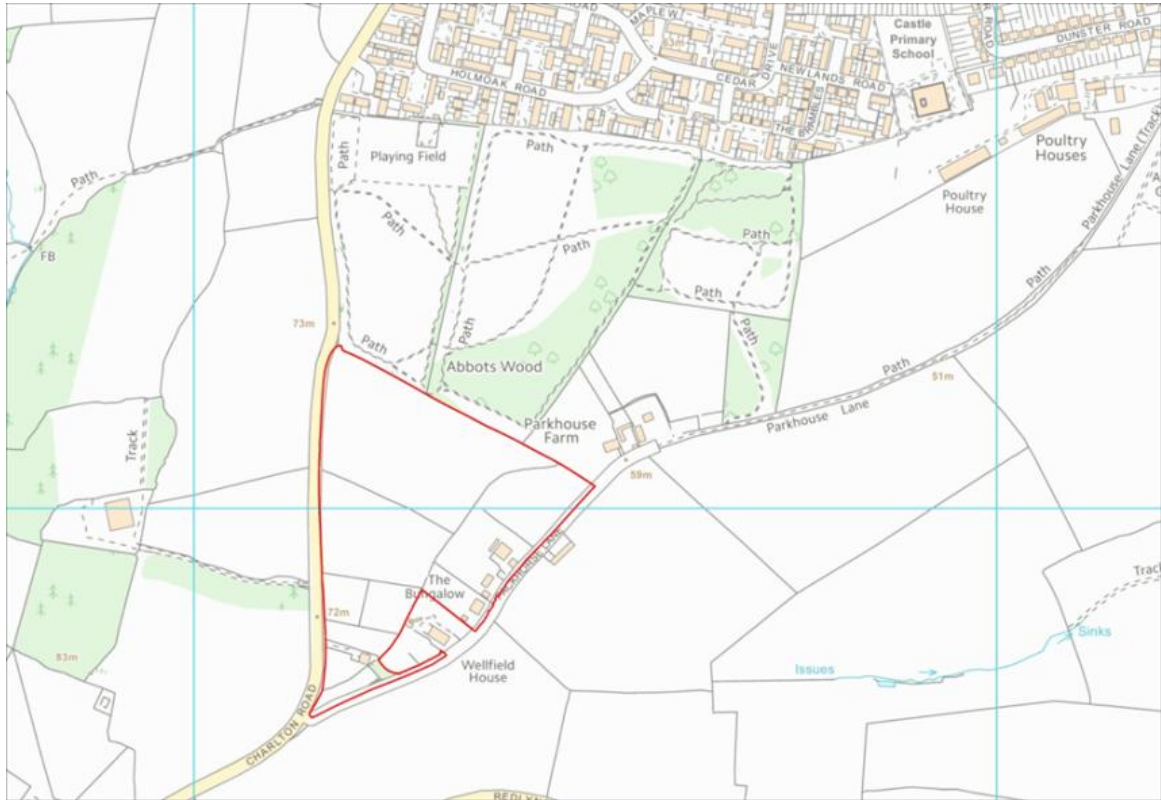
Plan 3 Strategic Site: Land adjoining Odd Down Charging Zone



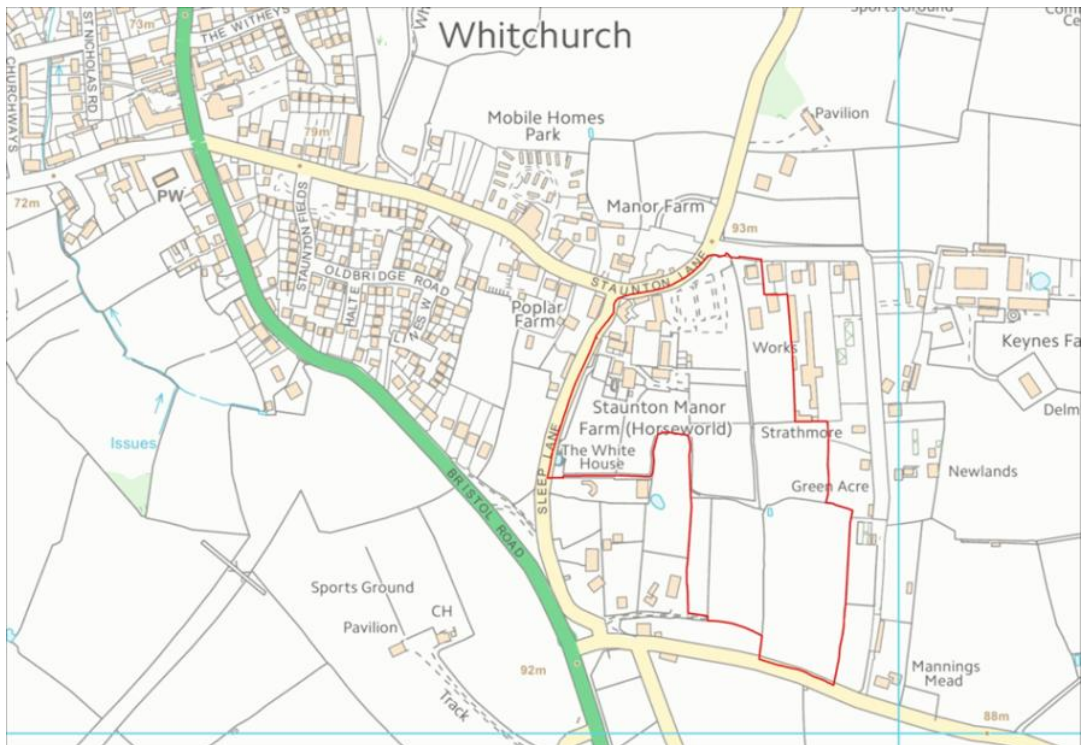
Plan 4 Strategic Site: Land adjoining East Keynsham Charging Zone



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



Plan 6 Strategic Site: Land at Whitchurch Charging Zone



Calculation of CIL Charge

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:

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

where

R= CIL Rate as set out in the Charging Schedule for relevant us/ 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)

6.0 DRAFT INFRASTRUCTURE LIST (Draft REGULATION 123 LIST)

6.1 Charging Authorities must prepare a Reg 123 list which sets out those types of infrastructure on which CIL could be spent and the list must be included as part of the evidence at CIL examination. The B&NES Reg 123 list is based on the Council's Infrastructure Delivery Plan (IDP) which underpins the Core Strategy.

6.2 The following table comprises Bath & North East Somerset Council's Regulation 123 list, which includes the infrastructure that the Council may apply CIL revenues to.

- 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 sets out in the Childcare Sufficiency Assessment
- School Schemes set out in the Schools Organisation Plan (Except primary schools and places required by strategic site 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
- Strategic Waste Facilities

7.0 FURTHER INFORMATION

Further information about the Community Infrastructure Levy can be obtained from the following:

Useful Website Links

Bath and North East Somerset Council

www.bathnes.gov.uk/planningpolicy

www.bathnes.gov.uk/cil

Planning Portal

www.planningportal.gov.uk

Planning Advisory Service

www.pas.gov.uk

Relevant Legislation and Government Guidance

- Planning Act 2008 (November 2008)
- The Community Infrastructure Levy Regulations 2010 (March 2010)
- The Community Infrastructure Levy (Amendment) Regulations 2011 (March 2011)
- Localism Act 2011 (November 2011)
- The Community Infrastructure Levy (Amendment) Regulations 2012 (November 2012)
- The Community Infrastructure Levy (Amendment) Regulations 2013 (April 2013)
- The Community Infrastructure Levy (Amendment) Regulations 2014 (February 2014)

Department for Communities and Local Government (DCLG) Community Infrastructure Levy Guidance (February 2014)