

**HAMBLETON DISTRICT COUNCIL**

**Report To:** Cabinet  
11 December 2012

**Subject:** **COMMUNITY INFRASTRUCTURE LEVY (CIL)**

**All Wards outside the North York Moors National Park  
Portfolio Holder for Housing and Planning: Councillor Mark Robson**

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**1.0 PURPOSE AND BACKGROUND:**

- 1.1 The purpose of this report is to update Members on the progress with preparing for the introduction of the Community Infrastructure Levy (CIL) and provide details on the proposed Preliminary Draft Charging Schedule for approval for public consultation in January 2013.
- 1.2 In February Cabinet agreed the work programme and approach to CIL involving full consultancy support and joint commissioning with Richmondshire Council.
- 1.3 CIL will largely replace the existing Section 106 arrangements which will be limited in their application to a maximum of five related developments when pooling financial contributions. Section 106 will still be used to deliver more localised infrastructure requirements such as on-site open space and site-specific highway improvements as well as funds for affordable housing. CIL will deliver funding for major items of infrastructure as required for the delivery of the growth set out in the Hambleton Local Development Framework (LDF).
- 1.4 Since the joint commission in April of consultants Roger Tym and Partners, the evidence base and infrastructure requirements have been refreshed and clarified. The infrastructure needs will form the required 'Regulation 123 List' of projects which will benefit from CIL receipts and this list will need to be published in due course along with the CIL Charging Schedule. The schemes which appear on the list will need to be prioritised and agreed by Cabinet prior to the charging schedule being adopted.
- 1.5 Work on viability assumptions, modelling and assessment underpins the proposed Charging Schedule. The modelling has taken account of the need to fund affordable housing at the policy rate of 40% and 50% and an allowance has been made of £1,000-2,000 per dwelling for other local infrastructure sought through Section 106 agreements, such as on-site open space or site-specific highway improvements. This work has also taken account of the funding gap remaining after any Government and public sector sourced funding, identified through the LDF infrastructure delivery plan for the required elements of infrastructure.
- 1.6 Viability evidence suggests that CIL charges will predominantly be sought from private market residential and retail-related developments. A minimal base rate charge is also suggested for the majority of other eligible developments in order to include them in the schedule without the need for subsequent examination and to also recognise their impact on infrastructure.
- 1.7 A single CIL rate is proposed across the District (excluding the National Park) for residential development and a differential rate for convenience and comparison retail. The intention is to keep the rates clear and simple in order to maximise the certainty of providing the required infrastructure and also to minimise the risk of misunderstanding and consequent challenge.

## Proposed Preliminary Draft CIL Charging Schedule

- 1.8 The table below summarises the findings and recommendations of the consultants' viability report in a clear and simple proposed charging schedule. The proposed charges reflect the viability evidence and comply with CIL Regulations.

### **Proposed Preliminary Draft Charging Schedule (CIL Rates)**

<b>Use</b>	<b>Proposed CIL Charge (per sq.m)</b>
Private market dwellings	£85
Comparison retail outside of a defined centre	£45
Convenience retail outside of a defined centre	£115
Public/Institutional Facilities as follows: education, health, community and emergency services	£0
All other chargeable development	£10

- 1.9 The proposed rates stem from a maximum potential charge for each use that is consistent with maintaining development viability, taking account of developer profits and market conditions in the future. They assume the Council takes a mid-range attitude to risk to ensure viable development takes place.
- 1.10 At the Members' training session held on 8 November concern was expressed on how charges would be applied to three specific types of development and this has been referred to the consultants who have confirmed the following position:
1. Agricultural buildings – the 'all other chargeable development' rate will apply as this would not render most agricultural development unviable.
  2. Travellers' caravans – as caravans are not classed as buildings they are exempt. Where any associated buildings relate to affordable housing units (ie caravans on public sites) they are exempt from CIL, but they will be chargeable where they exceed 100 sq m gross internal floorspace on private sites.
  3. Holiday caravans/chalets – Holiday caravans are exempt as they are not buildings. Chalets would be liable for the residential charge and it could make some developments unviable. However, the 'all other chargeable development' rate could be stipulated by the Council. This is therefore recommended as they do not have major strategic infrastructure demands and in order to avoid making such developments unviable.
- 1.11 The recommended rates will need to be consulted on in the Preliminary Draft Charging Schedule (PDCS) attached as **Annex A**. Following this, comments will be considered and amendments made if necessary. A further Draft Charging Schedule (DCS) will then be subject to further consultation planned in March 2013 with an examination in public anticipated in May 2013. It is then envisaged that should the Charging Schedule be found to be 'sound' it will be adopted by the Council in September 2013.

## **2.0 DECISION SOUGHT:**

2.1 Members are asked to approve a CIL Preliminary Draft Charging Schedule for public consultation.

## **3.0 LINK TO CORPORATE PRIORITIES:**

3.1 CIL will fund infrastructure necessary to support housing and employment development and strategic recreation facilities which are Council priorities.

## **4.0 RISK ASSESSMENT:**

4.1 There are no significant risks associated with approving the recommendations.

4.2 Risks in not approving the recommendations:

<b>Risk</b>	<b>Implication</b>	<b>Prob*</b>	<b>Imp*</b>	<b>Total</b>	<b>Preventative action</b>
Delay in the delivery and adoption of the CIL Charging Schedule	Longer timescale for delivery and adoption of CIL will result in loss of earlier developer contributions and a delay in the payback of set-up costs.	4	5	20	Agree recommendations.

**Prob = Probability, Imp = Impact - Score range is Low = 1, High = 5**

4.3 Overall the risks of not agreeing to the recommendations of this report are greater than the risks of agreeing to them.

## **5.0 SUSTAINABILITY IMPLICATIONS:**

5.1 CIL receipts will be used to directly deliver infrastructure schemes identified in the LDF as necessary in order for sustainable development to take place.

5.2 Not introducing CIL may lead to development being undertaken which will not contribute towards key strategic infrastructure, meaning that development cannot be sustained and will over-burden existing infrastructure provision, if approved.

## **6.0 FINANCIAL IMPLICATIONS AND EFFICIENCIES:**

6.1 As reported to Cabinet in February, set up costs to put the CIL Charging Schedule in place and the running costs to administer it can be recouped through the receipts from the CIL charges. A maximum of 5% of CIL receipts can be apportioned to the set up and administration of CIL.

6.2 There is also a requirement for the Council to pass on a 'meaningful proportion' (percentage of total CIL revenue) to local communities to fund locally identified and important infrastructure schemes. This percentage is still to be clarified by Government.

## **7.0 LEGAL IMPLICATIONS:**

7.1 Without the CIL Charging Schedule in place, the Council will find it difficult to defend a refusal of a planning application at appeal on the grounds of a developers' reluctance to pay an identified financial contribution. This could lead to the risk of costs being awarded against the Council following an appeal.

- 7.2 The Council will need to follow the CIL Regulations (2010) as amended to ensure that the proper legal procedures have been adhered to.
- 7.3 The arrangements for receiving and managing contributions may require legal mechanisms between the Council and delivery partners such as NYCC Highways and NYCC Children and Young People Services and other relevant parties. This should not be difficult to accomplish but will need to be agreed and in place prior to the CIL Charging Schedule being adopted.

**8.0 RECOMMENDATION:**

- 8.1 It is recommended that the Hambleton CIL Preliminary Draft Charging Schedule be approved for consultation.

MICK JEWITT

**Background papers:** Draft Viability Report for CIL, Hambleton District Council, Roger Tym & Partners (August 2012)  
CIL Regulations 2010; Amendment 2011 and Proposed Amendment 2012

**Author ref:** AMc

**Contact:** Andrew McCormack  
Planning Policy & Design Officer  
Direct Line: 01609 767055



**COMMUNITY INFRASTRUCTURE LEVY  
PRELIMINARY DRAFT CHARGING SCHEDULE  
(PDCS)**

**DECEMBER 2012**

# **Hambleton District Council Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS)**

## **Introduction**

The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and is defined in the CIL Regulations 2010 (as amended 2011). Local authorities in England and Wales can elect to charge CIL on new developments. Essentially, it is a tariff-based approach to assist in funding infrastructure associated with planned growth.

CIL takes the form of a charge per square metre of additional floorspace (new build or extensions) and can be charged on most new development. There are exemptions for charitable organisations and affordable housing, together with some size thresholds for non-residential uses. Any new build – that is a new building or an extension – is only liable for the levy if it has 100 square metres, or more, of gross internal floor space, or involves the creation of one dwelling, even when that is below 100 square metres. The money raised will be used to deliver prioritised infrastructure that is needed to support the growth proposals set out in the Council's LDF Core Strategy.

The introduction of CIL is seen as necessary in part because, from April 2014, the ability to pool planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), will be restricted. It will therefore become difficult to deliver larger scale items of infrastructure such as schools and transport schemes, where the pooling of numerous individual planning contributions is often necessary. Section 106 will continue to be used to deliver some infrastructure but this will largely be restricted to site-specific mitigation and providing affordable housing.

## **Evidence to support CIL**

The evidence to support this Preliminary Draft Charging Schedule (PDCS) is available to view on the Council's website at: [www.hambleton.gov.uk/cil](http://www.hambleton.gov.uk/cil) as part of the Council's evidence base. The specific weblinks are given at the end of this document. The viability evidence to support the proposed charges has been prepared on behalf of the Council by consultants Roger Tym & Partners.

The CIL evidence base looks at market analysis and viability testing of different development types and recommends rates of CIL that can be charged without putting the majority of development proposed at risk. This indicates that for residential development, CIL would not render the majority of development unviable. For non-residential uses, the only types of development which could support a CIL charge and remain viable, at present are retail warehousing, superstores, supermarkets and convenience stores.

## **The Proposed Levy**

The PDCS attached has been prepared in accordance with Part 11 of the Town and Country Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended). The Council has sought to strike a balance between ensuring appropriate development comes forward and the impact of CIL on development viability. It has also sought to balance costs between aspects of site-specific infrastructure which will continue to be secured through Section 106 planning obligations and those that will be funded through CIL.

The CIL rates proposed are set out in the PDCS. They have been arrived at taking account of the list of infrastructure needs from the Council's Infrastructure Delivery Plan (as revised) and identifying what infrastructure could be paid for through CIL, and what could be funded from other sources (such as Section 106 agreements). An assessment of viability of development in different parts of the District has been carried out to

determine what level of CIL could be charged without affecting the viability of most development. The CIL Regulations recognise that the CIL charge may make some development unviable and that CIL should not be set at such a low rate as to ensure that every development remains viable.

Viability evidence suggests that a single CIL charge on residential development is appropriate across the District. The evidence identifies scope for charging CIL on comparison and convenience retail outside of a defined centre.

A base CIL rate will be charged on all other chargeable development with the exception of public institutions / facilities (e.g. education, health, community and emergency services).

Once CIL is adopted, the charging rates proposed will be indexed to account for inflation using a nationally recognised index so that changes are on a uniform basis across authorities. The charges will be regularly reviewed to take account of changes in viability, and any proposed changes to the Charging Schedule will be submitted for further examination.

### **CIL Relief**

The CIL Regulations provide for full relief from the CIL charge for any part of a development which is affordable housing (and includes social and affordable rent and shared ownership). Charity landowners will also benefit from relief provided that the development is to be used for charitable purposes. **If a development is initially granted CIL relief and then circumstances change, there is a claw-back period of 7 years within which the development will become liable for CIL should it no longer be used as affordable housing or for charitable purposes.**

### **Payment of CIL**

CIL is payable on commencement of development but the Council is able to introduce payments by instalments. This would need to be agreed before any development commences and be in accordance with a published policy.

Consultants assisting with the preparation of the CIL Charging Schedule (Roger Tym & Partners) have recommended that the Council adopt such an instalment policy as without one it is possible that delivery of the LDF Core Strategy could be put at risk. The Council has previously recognised the viability issues associated with the payment of financial contributions and agreed a deferment or payment by instalments.

### **Relationship between CIL and Section 106 agreements**

Provision of Section 106 agreements will remain but from April 2014, under CIL Regulation 123 (as amended) the ability to pool contributions from developers via Section 106 to deliver larger items of infrastructure will be substantially curtailed. The Council's intention is that CIL will be used to deliver larger strategic items with Section 106 retained only for direct mitigation of site-specific impacts.

Under CIL Regulation 123 (as amended), the Council will also need to prepare a list setting out the types of infrastructure that it intends to fund through CIL, prior to the adoption of its Charging Schedule. CIL cannot be used as well as Section 106 to deliver the same piece of infrastructure. The CIL Regulation 123 (as amended) list can be reviewed at any time and it is initially suggested that this would be on an annual basis linked to the publication of the Council's Annual Monitoring Report that would identify progress on collecting and spending CIL.

Given the relatively low rates of CIL likely to be viable, the CIL Regulation 123 (as amended) list is likely to be restricted to "core infrastructure" and items where

contributions need to be pooled. It might include, for example, key road improvement schemes, new schools and sustainable transport. Other items such as affordable housing, site specific highway works and school place education contributions would be negotiated via Section 106 agreements.

There will be a need to discuss any emerging Regulation 123 (as amended) list with key infrastructure providers such as North Yorkshire County Council, the Environment Agency and the local Clinical Commissioning Group for healthcare facilities. Additionally, other forms of funding will also need to be investigated.

### **CIL for Local Communities**

The Council will be required to pass a 'meaningful' proportion of CIL receipts to parish and town councils for use on infrastructure identified as important by the local community. **The Government has identified what constitutes a meaningful proportion in its recently published revisions to the CIL Regulations (2012?). A minimum percentage of xx% has been indicated. The Council will pass on xx% of CIL receipts.**

### **Next Steps**

This Preliminary Draft Charging Schedule is the subject of consultation for a period of four weeks starting at ..... and ending at ..... Consultation is aimed particularly at local community representatives and representatives of the development industry.

Following consultation on the Preliminary Draft Charging Schedule, the Council will review the comments received with a view to publishing a Draft Charging Schedule for a further four week consultation in March 2013. It is anticipated that an examination will take place in May 2013 and adoption of the CIL Charging Schedule in September 2013.

### **Your Views**

We would like to receive any comments you may have on the Preliminary Draft Charging Schedule attached in Appendix 1 and any of the above information that sets out our approach for introducing CIL.

Comments should be put in writing and sent to:

Planning Policy  
Hambleton District Council  
Civic Centre  
Stone Cross  
Northallerton  
North Yorkshire  
DL6 2UU

Or by email to: [cil@hambleton.gov.uk](mailto:cil@hambleton.gov.uk)



# Appendix 1

## HAMBLETON DISTRICT COUNCIL COMMUNITY INFRASTRUCTURE LEVY (CIL) PRELIMINARY DRAFT CHARGING SCHEDULE

This Charging Schedule has been prepared in accordance with Part 11 of the Town and Country planning Act 2008 and the Community Infrastructure Regulations 2010 (as amended). It is supported by local evidence regarding infrastructure requirements and the impact of the levy on the viability of development, as set out in the consultants' reports. These can be found on the Council's website as part of the CIL evidence base ([www.hambleton.gov.uk/cil](http://www.hambleton.gov.uk/cil))

### Levy Rates

The rates below will be charged against the gross internal floor area of:

- All new dwellings
- All other development exceeding 100 sq m in size.
- All net additional floor area of replacement development where it exceeds 100 sq m. (unless otherwise stated)

Development Uses	Levy Rate (per sq m)
New Residential Development (Private Market Housing)	£85
Comparison Retail (Outside of a defined centre)	£45
Convenience Retail (Outside of a defined centre)	£115
Public/Institutional Facilities as follows: education, health, community and emergency services	£0
All Other Chargeable Development	£10

### How the CIL charge will be calculated

In accordance with the Regulations, where applicable, the Council will issue a Liability Notice that states the chargeable amount on the granting of planning permission or as soon as possible after the grant of planning permission. The Council will calculate the amount of CIL chargeable using the formulae set out in the CIL Regulations (as amended).

Full details of the way in which CIL will be calculated, together with an overview of CIL and the full CIL Regulations can be found on the DCLG website: [www.communities.gov.uk](http://www.communities.gov.uk)

# **HAMBLETON DISTRICT BOUNDARY MAP**