



Listening Learning Leading

# Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule Public consultation

October 2014

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# 1. Consultation

As part of the process for adopting a Community Infrastructure Levy (CIL), and in compliance with Regulation 15 of the CIL Regulations 2010 (as amended), South Oxfordshire District Council is consulting on this **Preliminary Draft Charging Schedule**

This document sets out the levels of CIL that the council intends to charge and the types and location of development that this will apply to. The document includes supporting evidence for our proposed approach, in accordance with CIL legislation and government guidance. Your comments and views are welcome on the proposed CIL rates, as well as on any other elements of the suggested approach.

The consultation runs between **20 October and 17 November 2014**. Comments are invited from local residents, businesses, business organisations, voluntary bodies and anyone else interested in the proposals.

There are a number of ways in which you can make comments on the Preliminary Draft Charging Schedule document.

- using the response form online at [www.consult.southoxon.gov.uk/south](http://www.consult.southoxon.gov.uk/south)
- by email to [planning.policy@southoxon.gov.uk](mailto:planning.policy@southoxon.gov.uk)
- by writing to us at:

**SODC - CIL Consultation**

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Once we have considered all the representations received, we will produce a Draft Charging Schedule. This will be subject to a further round of consultation before going forward for a formal independent examination.

The Preliminary Draft Charging Schedule is supported by the following documents, which can be found on [www.southoxon.gov.uk/cil](http://www.southoxon.gov.uk/cil)

1. CIL Viability Study (2014 update), August 2014
2. Infrastructure planning and funding gap report
3. Draft Regulation 123 list (Infrastructure list)
4. Adopted South Oxfordshire Core Strategy, December 2012
5. Infrastructure Delivery Plan

## 2. Introduction

### What is CIL?

1. The Community Infrastructure Levy (CIL) came into force in April 2010 and is a levy that local authorities can choose to charge on new development in their area. The money raised can be used to fund a wide range of infrastructure such as transport schemes, schools, community facilities, health and social care facilities, parks, green spaces and leisure facilities.
2. The CIL will apply to all 'chargeable development'. This is defined as:
  - all new buildings, but excluding those into which people do not usually, or only occasionally, go (e.g. only to inspect machinery or structures such as electricity pylons or substations)
  - developments of 100 m<sup>2</sup> or more of additional gross internal floorspace
  - the creation of one additional dwelling, even if the gross internal floorspace is less than 100 m<sup>2</sup>
  - some developments not requiring planning permission (permitted development) will also be liable for CIL if they do not fall into the exemption criteria.

CIL is not charged on affordable housing, buildings used for charitable purposes and self-build housing.

3. The charging authority sets out its levy rates in a charging schedule, which are expressed as pounds per square metre. The rate(s) should be set at a level which does not threaten the viability and scale of development identified in the Core Strategy.

### Infrastructure requirements

4. Infrastructure is the facilities and services needed to support communities and enable the local economy to thrive: This includes:
  - Transportation: roads, bus routes, rail network
  - Education facilities: schools, colleges, adult learning centres
  - Utilities: water, power grids, sewers
  - Community facilities: sports and leisure facilities, community centres, libraries
  - Green space: amenity space, playing fields and sports pitches, wildlife areas
  - Health care: local GP surgeries and other facilities, hospitals
  - Emergency & essential services: fire, police and ambulance facilities
  - Communication systems: super fast broadband
5. There are various agencies responsible for building, maintaining and operating the different types of infrastructure. These include Oxfordshire

County Council (e.g. roads, education), Highway Agency (motorways), private utility companies, developers, the district council and parishes.

6. The infrastructure requirements to support the growth set out in the adopted Core Strategy (2012) have been set out in the Infrastructure Delivery Plan. The funding of this infrastructure comes from different sources e.g. Section 106 legal agreements (planning obligations), CIL, local government grants, business rate retention, regional growth fund etc. Government guidance recognises that there will be uncertainty in pinpointing other sources of funding, particularly beyond the short-term.
7. The Regulations require the local authority to demonstrate that it has an infrastructure funding gap and then use evidence to demonstrate that the proposed CIL rates are economically viable, in order to set a CIL which will be accepted as sound by an inspector. Further information is set out in the 'Infrastructure Planning and funding gap' document, which forms part of the supporting evidence base for CIL.

### **3. CIL and S106**

8. We currently collect financial contributions through Section 106 legal agreements. CIL is the government's preferred mechanism for pooling contributions from numerous development sites. From April 2015 the council will be limited in the use of S106 obligations, and will only be able to pool a maximum of five planning obligations for an infrastructure project or type of infrastructure. The CIL is intended to provide infrastructure to support the development of an area rather than increasing the likelihood of making an individual planning application acceptable (which is the purpose of S106 legal agreements). As such, CIL will not fully replace S106 legal agreements.
9. S106 planning obligations will continue to be used on individual sites to mitigate the direct impact of a proposed development and will be the primary mechanism for securing affordable housing. Further information in relation to a scaled back S106 Planning Obligation SPD will be published along the CIL Draft Charging Schedule consultation.

### **4. Viability**

10. In order to establish levy rate(s) for development the charging authority should carry out a broad test of viability across the district and also some specific testing for strategic sites.
11. We commissioned consultants BNP Paribas Real Estate to carry out a viability assessment and test the ability of a range of development types throughout the district to make contributions to infrastructure requirements through CIL. Levels of CIL have been tested in combination with the council's planning requirements as set out in the adopted Core Strategy,

including affordable housing (40 per cent of a residential development) and other development costs.

12. The analysis uses a residual development land appraisal. This methodology assesses the value of the completed development from which is deducted the development costs (e.g. policy requirements such as affordable housing, construction costs, fees etc.) and leaves the value at which CIL can be charged. The key findings of the viability study are set out below.

### Residential development

13. With regard to residential development the study found that:
- The ability of residential schemes to make a CIL contributions varies across the district and areas can be grouped together in three viability areas. These areas comprise 1) Henley/Goring and surrounding area being a higher value area, 2) other settlements and rural areas being a medium value area and 3) Didcot and Berinsfield being a lower land value area.
  - Strategic sites allocated through the adopted Core Strategy and outside the Henley/Goring area are currently unable to absorb a CIL rate in addition to the affordable housing requirement (40 per cent) and planning obligations.

### Non-residential development

14. With regard to non-residential development the study found that
- Office development (including research and development) could absorb a modest CIL contribution of up to £50 per square metre.
  - Viability of retail developments vary significantly between high street retail and retail warehousing and supermarkets. The maximum rate for the latter type of development would be in the region of £99 per square metre.
  - Industrial and warehousing floorspace are unlikely to generate positive residual land values.
  - Hotel developments can bear a CIL maximum of only £4 per square metre.
  - D1 and D2 uses such as swimming pools, hospitals, community centres and schools often do not generate sufficient income streams to cover their costs. Consequently, they require some form of subsidy to operate. In the event that such uses are built on a commercial basis, the loss of income would be minimal. The study therefore concludes that a nil rate of CIL be set for D1 and D2 uses.
  - Sui generis<sup>1</sup> uses can be varied and difficult to appraise and are uncommon in the district.
  - Residential care homes are also unlikely to be able to absorb CIL contributions alongside the full 40 per cent affordable housing requirement.

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<sup>1</sup> A use on its own, which does not fall under for example business, shops, restaurants and cafes etc.

## 5. Rate setting

15. In arriving at its CIL rate, we must strike an appropriate balance between the desirability of funding the infrastructure required to support development in its area and the potential effects (taken as a whole) that imposing CIL rates may have on the economic viability of development across our area.
16. The CIL regulations enable local authorities to set differential rates (including zero rates) for different geographical areas, or for different land uses across their charging area. Amendments to the CIL Regulations further extends the ability to set differential rates in relation to scales of development.
17. The CIL Guidance states that when setting rates charging authorities should avoid undue complexity<sup>2</sup> and complicated schedules that are difficult to administer.
18. We have made a reasoned judgement on the appropriate level at which CIL rates should be set and on the proposed charging zones. To ensure viability, and protect against unforeseen circumstances, a buffer of 30 per cent has been applied to the maximum CIL rates. This prevents the proposed levy being set to the margins of viability. The proposed rates of CIL for specific land uses are set out in table 1 below. The proposed charging zones have been set out in Appendix 1.

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<sup>2</sup> CIL Guidance, paragraph 2:2:2:6, February 2014

## 6. PROPOSED CIL RATES

**Table 1 – Proposed CIL rates (per m<sup>2</sup>)**

<b>Use</b>	<b>Zone 1 Rest of the District</b>	<b>Zone 2 Didcot and Berinsfield</b>
Residential dwellings including extra care (C3)	£150	£85
Residential – strategic sites Didcot: North East and Ladygrove East site Wallingford: Site B	Nil	Nil
Residential – care homes	Nil	
<b>Non residential development</b>		
Offices (incl. research and development (B1b))	£35	
Large supermarkets, superstores and retail warehouses <sup>3</sup>	£70	
Small retail units	Nil	
Hotels	Nil	
Other uses	Nil	

## 7. Draft Infrastructure List

19. We are required to publish a list of the infrastructure we intend to fund via the levy and have compiled a draft infrastructure list, known as a Regulation 123 List. This list is available for information alongside the Preliminary Draft Charging Schedule consultation and will be updated and published as part of the Draft Charging Schedule consultation stage. Infrastructure projects included in this list cannot be secured via S106 in order to avoid double charging. The Regulation 123 list is likely to be updated periodically, as infrastructure projects are completed or new requirements identified.
20. A proportion of CIL revenue collected by the council (up to 5 per cent of total receipts) can be used to cover the costs of administering the levy (including initial set-up costs).

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<sup>3</sup> Retail warehouses: are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods.  
Superstores and supermarkets: are large stores selling mainly food or non-food goods.  
Retail warehouses and supermarkets exceeding 280m<sup>2</sup> are classified as larger stores under the Sunday Trading Act 1994



## **8. Neighbourhood funds**

21. The Regulations require the council to pass on a proportion of the revenues from CIL receipts to the neighbourhood within which the chargeable development took place. Neighbourhoods with a Neighbourhood Plan will receive 25 per cent of the revenues from the CIL development that they choose to accept – and neighbourhoods without a plan will receive a 15 per cent of the levy revenue, subject to a cap of £100 per council tax dwelling per year.
22. This money must be spent on infrastructure. To ensure transparency both the council and any communities in receipt of CIL must report annually on how this money has been spent.

## **9. Calculating and collecting the levy**

23. CIL is a non-negotiable fixed charge. A CIL charge is imposed a liable development at the time planning permission is granted and must be paid within 60 days of commencement. The CIL Regulations allow for an instalment policy to be adopted alongside CIL. We will give further consideration to this following the consultation on the CIL Preliminary Draft Charging Schedule.
24. To provide a very simple illustration the following example shows the amount payable through CIL for a new residential dwelling in Zone One and in Zone Two assuming a net floorspace of 80 m<sup>2</sup>.
  - Zone One - £150 x 80m<sup>2</sup> = £12,000
  - Zone Two - £85 x 80m<sup>2</sup> = £6,800
25. It should be noted that CIL is charged on the basis of any net additional floorspace. In other words if a new development of 5,000m<sup>2</sup> involves the demolition of 3,000m<sup>2</sup> of existing floorspace, CIL is only chargeable on the 2,000m<sup>2</sup> of additional floorspace.
26. Payment for CIL can be made by land as well as by money. It is for the charging authority to choose whether to accept payment (in whole or in part) by land.
27. The chargeable rate will be index linked, which is the national All-in Tender Price index published from time to time by the Building Cost Information Service of the Royal Institute of Chartered Surveyors.
28. The calculation of the chargeable amount to be paid by a development is set out in Regulation 40 of the Community Infrastructure Levy Regulations 2010, amended Regulations 2011 and 2012 (see Appendix 2).

## 10. Exemptions

29. The CIL Regulations exempt the following from paying the CIL:

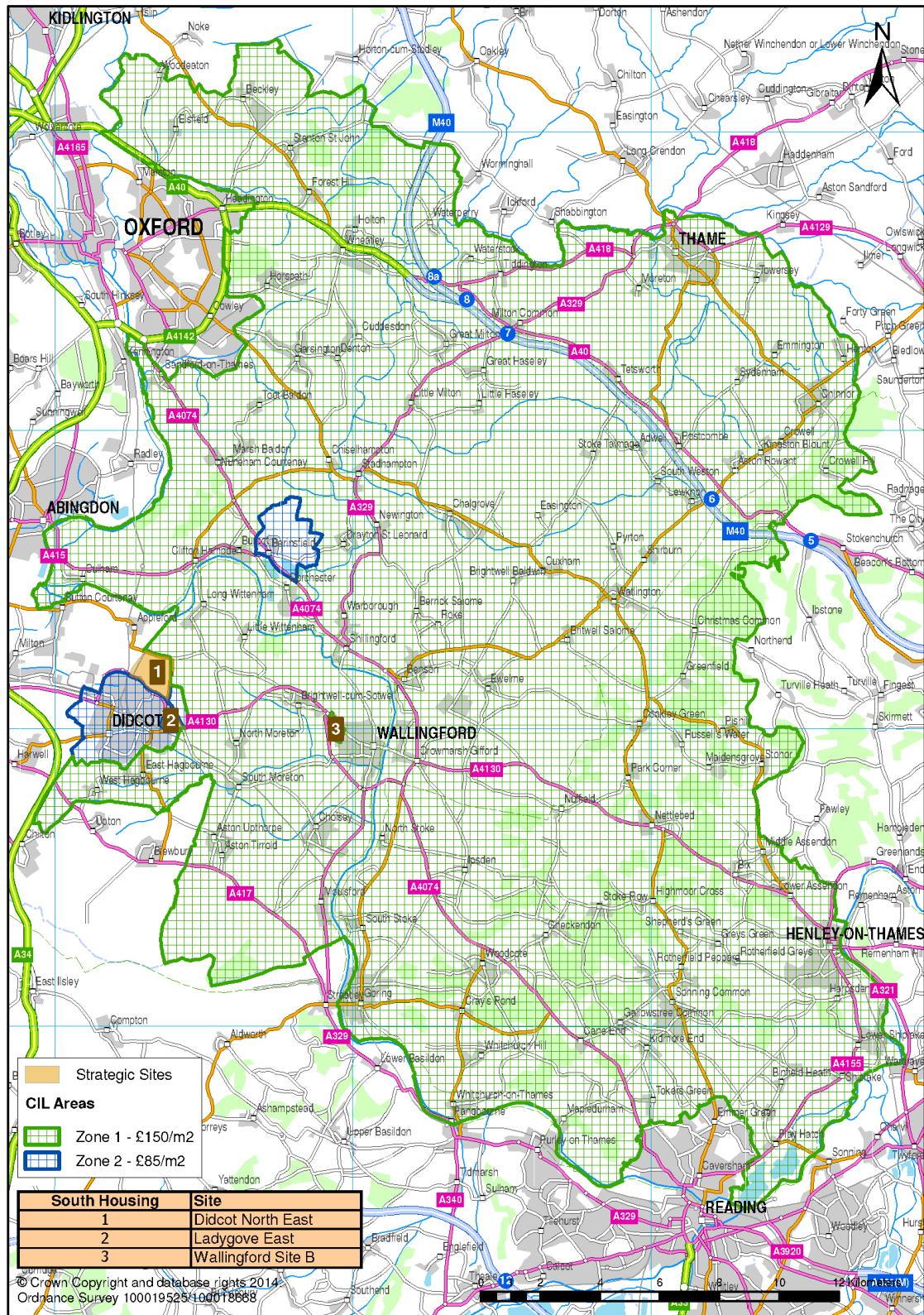
- development by registered charities for the delivery of their charitable purposes
- those parts of a development which are to be used as social (affordable) housing
- development of less than 100 sq m of new build floorspace, provided that it does not result in the creation of a new dwelling
- vacant buildings brought back into the same use
- the conversion of any building previously used as a dwelling house to two or more dwellings
- development of buildings and structures into which people do not normally go (e.g., pylons, wind turbines, electricity sub stations)
- houses, flats, extensions which are built by 'self builders'
- specified types of development which the council has decided should be subject to a 'zero' rate based on viability evidence, and specified as such in the charging schedule
- where the overall chargeable amount of a scheme is less than £50.

### **Discretionary Relief and Exceptional Circumstances Relief**

30. The CIL Regulations allow for the council to provide further relief, at its discretion. We do not have to offer this relief, but if we choose to do so, we must adopt a discretionary relief policy. This is not part of the charging schedule and may be published at a different time.

31. We have not made a formal decision on whether to offer discretionary relief in accordance with the CIL Regulation.

## Appendix 1 – Charging zones







## Appendix 2

### Calculating the charge

Key points in calculating the CIL charge:

- CIL is charged on the net additional internal floor area of development.
- Where buildings are demolished to make way for new buildings, the charge will be based on the floorspace of new buildings less the floorspace of the demolished buildings, provided the buildings were in lawful use prior to demolition.
- A building is considered to be in lawful 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.
- If the CIL amount calculated is less than £50 no charge will apply.
- The relevant rates are the rates as set out in the Charging Schedule which apply to type and location of the relevant development. They apply at the time planning permission first permits the chargeable development.

#### **1. The amount of CIL charge must be calculated by applying the following formula:**

$$\text{CIL Charge} = \frac{R \times A \times I_p}{I_c}$$

##### ***Where-***

A= the net chargeable area (New floorspace less any existing floorspace on the development site. The formula for calculating A in cases involving loss and/or change of use combined with more than one chargeable rate is given in 2 below)

I<sub>p</sub>= the index figure for the year in which planning permission was granted

I<sub>c</sub>= the index figure for the year in which the charging schedule containing rate R took effect

R= the relevant chargeable rate

If it is necessary to apply several rate(s) to a chargeable development, the total amount will equal the sum of the amounts of CIL charge calculated at each relevant rate.

The index is 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: the figure which should be used for a given year is the figure for 1st November of the preceding year.

#### **2. Calculation of net chargeable area, A**

A is calculated by:

$$\text{Net Chargeable Area (A)} = \frac{GR - KR - \{ GR \times E \}}{G}$$

**Where-**

GR= the gross internal area of the part of the development at a specific rate

G = the gross internal area of the development

KR = the internal area of all buildings (excluding any new build) that on completion will be part of the development. Only floorspace in lawful use on the day planning permission is permitted can be included

E= the gross internal areas of all buildings that will be demolished. Only floorspace in lawful use on the day planning permission is permitted

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