Community Infrastructure Levy (CIL)
Chiltern and South Bucks District Councils
Draft Charging Schedule
Consultation Document
7 June to 19 July 2019
1 Background

Consultation on the Community Infrastructure Levy (CIL) Draft Charging Schedule

The Community Infrastructure Levy (CIL) Draft Charging Schedules (DCS) are the second of the consultations required as part of the process leading to the introduction of CIL in the area administered by Chiltern and South Bucks District Councils. This follows from an initial consultation on a CIL Preliminary Draft Charging Schedule (PDCS), which ran during November to December 2018. The charging schedules whilst separate in law for each local authority share the same tariffs.

This document sets out the Councils CIL rates that it will submit for independent examination, after the consultation.

The consultation period on the CIL DCS runs from noon 7 June 2019 to the 19 July 2019 (all representations and comments to be received by midnight).

For further information, please visit the Councils’ websites at:
https://www.chiltern.gov.uk/planning/cil
https://www.southbucks.gov.uk/planning/cil
Or telephone: 01494 586678

NOTE:

During the consultation or the examination, the government may implement changes to the CIL Regulations. The government’s consultation on Reforming Development Contributions (December 2018) proposes to amend the way in which CIL and S106 planning obligations operate, with draft CIL Regulations 2019 including proposals to:

remove pooling restrictions on S106 contributions, so that a larger number can be used to support a specific infrastructure project, considered necessary to make developments acceptable in planning terms;

and allow CIL funding and S106 contributions to be used in support of the same infrastructure.
3 The Community Infrastructure Levy

3.1 Charging Authorities - Charging Areas and Consultation Procedures

3.1.1 This consultation is for two separate draft charging schedules. The two charging authorities are Chiltern District Council and South Bucks District Council. The draft charging schedule for the administrative area of Chiltern is set out in Table 1. The draft charging schedule for the administrative area for South Bucks is set out in Table 2. Both schedules contain the same charges, if you wish to respond to this consultation please state if your comments relate to solely Chiltern or solely to South Bucks or exactly the same for both draft charging schedules.

3.1.2 Representations are invited on the Draft Charging Schedule during a six week consultation period starting 7 June 2019 (12 noon) and ending 19 July 2019 (midnight). Anonymous comments or comments received outside these dates and times will not be accepted.

3.2 Purpose of Consultation

3.2.1 This consultation document represents the second formal stage in Chiltern and South Bucks District Councils preparation of a Community Infrastructure Levy (CIL) charging schedules and follows on from the Consultation on the Councils’ CIL Preliminary Draft Charging Schedule (PDCS) during November to December 2018. Representations are invited on the draft charging schedules. The councils will collate all representations and forward to an independent examiner who will conduct an examination into the charging schedules, the evidence underpinning them and your representations. The examiner may hold hearings in public and invite further written representations.

3.2.2 The CIL is a charge on development; it is tariff-based and enables local authorities to raise funds to pay for infrastructure. The CIL Draft Charging Schedules (DCS) set out the CIL rates that the Councils propose to charge on development within their administrative areas. Charges are set out as ‘£s per square metre’ and are only chargeable on developments set out in Tables 1 and 2 of this consultation document.

3.3 Statutory Compliance

3.3.1 The provisions for CIL are set out by Part 11 of the Planning Act 2008 and the CIL Regulations 2010 (as amended).

3.3.2 This CIL DCS is published for public consultation as the second stage in setting CIL charges for Chiltern and South Bucks District Councils and is published in accordance with Regulations 15 and 16 of the CIL Regulations.

3.3.3 The Government’s guidance on CIL and the CIL Regulations can be accessed via the following web link:

3.3.4 https://www.gov.uk/guidance/community-infrastructure-levy#introduction

3.4 About the Community Infrastructure Levy

3.4.1 Most new development has an impact on infrastructure and therefore it is reasonable to expect developers to contribute to the cost of providing or improving that infrastructure. CIL in conjunction with S106 and S278 planning obligations provides a mechanism to collect funds to ensure this happens. Unlike S106 obligations which focus principally on affordable housing and site specific infrastructure, CIL charges can be collected on a wider range of developments and be spent on strategic infrastructure.

3.4.2 When setting rates, CIL Regulation 14 requires Councils to strike an appropriate balance between the desirability to fund infrastructure through CIL and the potential effect (taken as a whole) of the levy, on the economic viability of development in the geographical area in which CIL charges apply. When looking at infrastructure, the Councils also need to estimate the cost of the infrastructure required to support development and consider sources of funding, including CIL that could be available.
Regulation 14 of the CIL Regulations 2010 (as amended) provides:

‘14. (1) In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between:

1 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 account of other actual and expected sources of funding; and

2 the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.

3.4.3 Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed. The levy is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development.

3.4.4 The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities. This definition allows the levy to be used to fund a very broad range of facilities such as play areas, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant Plan (the Local Plan in England). Charging authorities may not use the levy to fund affordable housing.

3.4.5 The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development.

3.4.6 CIL Regulation 13 makes provision, where relevant, for the setting of differential rates for different geographical areas, different development types/uses, and scale of development size; or a combination of these factors. Any differential rate needs to be justified by viability assessments and evidence.

3.5 CIL Geographic Charging Differentials

3.5.1 The viability assessment for both Chiltern District Council and South Bucks District Council has established a uniform charge across both administrative geographies. This means that the CIL liability in Tables 1 and 2 applies across both districts without any differential rates.

3.5.2 By contributing to investment in the infrastructure of the area and combining this with other funding sources, CIL is expected to have a positive effect on growth, development and the environment.

3.6 CIL Liable Developments

3.6.1 CIL is charged on a £s per square metre basis according to the rates set out in Tables 1 and 2. The charging schedule for Chiltern District Council and South Bucks District Council collects the levy based on:

- the net additional gross internal floor space of all new residential units, regardless of their size;
- the erection of, or extensions to, other buildings creating over 100 per square metre net new additional gross internal floor space; and
- the conversion of a building which is no longer in lawful use, and which hasn’t been in use for a continuous 6 months over the last 3 years.

3.6.2 Liability to pay CIL on qualifying developments applies whether development requires planning permission or is enabled through permitted development orders (General Permitted Development Order, Local Development Orders, Neighbourhood Development Orders, and Enterprise Zones).

3.6.3 Once the charging schedule is adopted by Chiltern District Council and South Bucks District Council CIL, the levy is non-negotiable. CIL collection is triggered on the commencement of a chargeable development as notified by the developer.
3.7 CIL Exemptions

3.7.1 The Regulations exempt or grant relief for some development from CIL liability, including:

- Development of less than 100 square metres new build floor space measured as gross internal area (GIA), unless it results in the creation of one or more dwellings (Regulation 42);
- The conversion of any building previously used as a dwelling house to two or more dwellings, which doesn’t create net additional new floor space, and which has been in use for 6 months continuous use in the last 3 years
- Development of buildings and structures into which people do not normally go into, or enter under limited circumstances (for example an electricity sub-station, or wind turbine, or for the purpose of inspecting or maintaining fixed plant or machinery) (Regulation 5(2));
- Buildings for which planning permission was granted for a limited period;
- Full relief is applied on all those parts of chargeable development that are to be used as social/affordable housing, subject to an application by a landowner for CIL relief (criteria set out in Regulation 49/49A);
- Development by charities for charitable purposes subject to an application by a charity landowner for CIL relief (CIL regulation 43-48) (mandatory charitable relief);
- Houses, flats, residential appendices and residential extensions, which are built by self-builders, subject to an application for exemption by homeowners (CIL regulations 42A, 42B, 54A and 54B).
- The conversion of or works to a building in lawful use that affects only the interior of the building;
- The insertion of mezzanine floors of less than 200 square metres into an existing building, unless they form part of a wider planning permission, which seeks to provide other works;
- Vacant buildings brought back into use (Regulation 40), where there is no net gain in floor space, provided a building has been in use for 6 continuous months out of the last 3 years.
- When a CIL charge is calculated as £50 or less, a CIL payment will not be charged by a Charging Authority.

3.8 CIL and Existing Planning Permissions

3.8.1 CIL only applies to developments in the relevant district when the charging schedule is adopted by Chiltern District Council or South Bucks District Council. Development proposals that already have planning permission when a CIL Charging Schedule comes into force are not liable for CIL. This includes any subsequent reserved matters applications following outline planning permission.

3.8.2 However, if proposed developments with planning permission are not started within the time limit stipulated on the decision notice, development approved under any subsequent approval effectively seeking a renewal may be liable to CIL where the Charging Schedule has been adopted.

3.8.3 Where an application is made under Section 73 of the Town and Country Planning Act 1990 for development without compliance with conditions which govern a planning permission, CIL is only chargeable on any additional floorspace over and above that approved by the original permission.

3.9 CIL Preliminary Charging Schedule (PDCS) Consultation

3.9.1 The Councils consulted on a CIL PDCS during November and December 2018. Comments and observations were invited on the Councils proposed CIL rates and its approach to zero rating CIL on large sites (to secure negotiated charges for infrastructure through S106 planning obligations).

3.9.2 Comments were received from Town & Parish Councils, residents’ groups, agents, landowners, developers, statutory bodies and residents and have been taken in to account preparing the Draft Charging Schedules.
3.10 Infrastructure Delivery Plan & Funding Gap

3.10.1 A draft Infrastructure Delivery Plan has been prepared, this sets out the infrastructure likely to be required to support the delivery of housing and commercial growth to 2036.

3.10.2 An Infrastructure Funding Gap statement identifies that the likely CIL receipts from the anticipated new developments will be less than the costs of the infrastructure identified in the draft Infrastructure Delivery Plan. It confirms that CIL would contribute to, but not by itself, generate enough funds to pay for all the major infrastructure needs identified in the Infrastructure Delivery Plan.

3.11 CIL and Local Plan Viability Assessment

3.11.1 Chiltern District Council and South Bucks District Council commissioned consultants to undertake a CIL viability assessment for housing and commercial development in Chiltern and South Bucks. The findings have informed the residential and commercial CIL rates set out in Tables 1 and 2, the Councils charging schedule.

3.11.2 The viability assessment accommodates that large sites (400 homes or more, 10 hectares or more or 4,000 square metres or more) should be exempt from CIL and should continue to rely on S106 planning obligations; this is due to the scale of site-specific development mitigation and infrastructure requirements on large sites, such as new schools and roads.

3.11.3 The assessment also establishes that uniform CIL charging rates across both Chiltern and South Bucks can be levied at £150 per square metre for residential; £150 per square metre for retail and related uses; and £35 per square metre for commercial and other specific development categories.
4 Proposed Charging Schedules

4.0.1 The following schedules detail the proposed residential, commercial and other CIL rates for Chiltern District Council and South Bucks District Council.

4.0.2 The CIL rates are presented for each Council area in accordance with the Government’s CIL Regulations, which requires rates to be attributed to an individual Charging Authority. The administrative areas of the districts can be viewed in appendices 1 and 2. For the schedules below, see appendix 3 for a guide to the Use Classes and appendix 5 for how the chargeable amount is calculated.

4.1 Chiltern Rates

| Table 1: Charging Schedule - Chiltern District Council area CIL Rates |
|-------------------------|-------------------------|
| **Development type (Use Class)** | **CIL Rate/square metre** |
| A1 Shops                | £150                   |
| A2 Finance and professional services | £150               |
| A3 Restaurants and cafés | £150                   |
| A4 Drinking establishments | £150              |
| A5 Hot food takeaways   | £150                   |
| B1 Business             | £35                    |
| B2 General industrial   | £35                    |
| B8 Storage or distribution | £35              |
| C1 Hotels               | £35                    |
| C2 and C2A Residential institutions | £35 |
| C3 Dwelling houses*     | £150                   |
| C4 Houses in multiple occupation | £150  |
| D1 Non-residential institutions | £35          |
| D2 Assembly and leisure | £35                    |
| Sui Generis            | £35                    |
| All development types unless stated otherwise in this table | £35 |
| Large sites over 400 homes or 10 hectares in area Infrastructure contributions | £0 |

*C3 includes all self-contained accommodation, including elderly and sheltered accommodation and self-contained student accommodation
4.2 South Bucks Rates

Table 2: Charging Schedule - South Bucks District Council area CIL Rates

<table>
<thead>
<tr>
<th>Development type (Use Class)</th>
<th>CIL Rate/square metre</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1 Shops</td>
<td>£150</td>
</tr>
<tr>
<td>A2 Finance and professional services</td>
<td>£150</td>
</tr>
<tr>
<td>A3 Restaurants and cafés</td>
<td>£150</td>
</tr>
<tr>
<td>A4 Drinking establishments</td>
<td>£150</td>
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</tr>
<tr>
<td>C2 and C2A Residential institutions and Secure Residential</td>
<td>£35</td>
</tr>
<tr>
<td>Institutions</td>
<td></td>
</tr>
<tr>
<td>C3 Dwelling houses*</td>
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</tr>
<tr>
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</tr>
<tr>
<td>Sui Generis</td>
<td>£35</td>
</tr>
<tr>
<td>All development types unless stated otherwise in this table</td>
<td>£35</td>
</tr>
<tr>
<td>Local Plan sites with a capacity to provide 400 / 10 per ha or</td>
<td>£0</td>
</tr>
<tr>
<td>more dwellings Infrastructure contributions via S106</td>
<td></td>
</tr>
</tbody>
</table>

*C3 includes all self-contained accommodation, including elderly and sheltered accommodation and self-contained student accommodation

4.3 Annual Index linking of CIL Rates

4.3.1 CIL Regulation 40 enables charging authorities to make an annual index linked increase to their CIL rates at a set time of the year, which is normally from 1 January.

4.3.2 The CIL Regulations current method is to use the All-in Tender Price Index, published by the Building Cost Information Service (BCIS).
4.4 Discretionary CIL Policies

Discretionary Relief from CIL

4.4.1 A charging authority can choose to offer discretionary relief to a charity landowner where the greater part of the chargeable development will be held as an investment, from which the profits are applied for charitable purposes (CIL regulation 44).

4.4.2 It can choose to offer exceptional circumstances relief (CIL regulation 55) where the charging of CIL would have an unacceptable impact on the economic viability of a development, and where the exemption of a charitable institution from liability to pay CIL would constitute State Aid (CIL regulation 45) and would otherwise be exempt from liability under regulation 43.

4.4.3 Chiltern and South Bucks District Councils are not proposing to make available either discretionary charity relief or the exceptional circumstances relief (CIL regulations 44, 45 and 55).

Payments in kind

4.4.4 In circumstances where the liable party and the Councils agree, payment of the levy may be made by transferring land or conducting works to an equivalent value. The agreement cannot form part of a planning obligation, and must be agreed before the chargeable development is commenced and is subject to fulfilling the following:

- the acquired land or works, is used to provide or facilitate the provision of infrastructure within the Districts;
- the land is acquired, or works are conducted, by the Councils or a person nominated by the Councils;
- the transfer of the land, where relevant, must be from a person who has assumed liability to pay CIL;
- the land must be valued by an independent person agreed by the Councils and the party liable to pay CIL, whereby the party liable to pay CIL meets the cost of the land valuation; an
- ‘Land’ includes existing buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over the land.

4.4.5 The Councils intend to consider payments in kind on a discretionary basis within the terms set out above.

Payment of CIL and Instalments Policy

4.4.6 The CIL Regulations default position is that CIL payment is due within 60 days of the commencement of development. Charging Authorities can however set out an appropriate CIL payments instalments policy.

4.4.7 The Councils intend to operate a CIL Instalments policy according to the schedule set out by Appendix 4.

4.5 Allocating CIL Receipts

CIL Administration fee

4.5.1 The CIL Regulations allow the Councils to use up to 5% of total CIL receipts to refund and meet the costs associated with establishment and on-going administration of CIL.

Parish & Town Councils’ Neighbourhood Portion

4.5.2 At least 15% of CIL receipts are allocated to Parish and Town Councils where CIL liable developments have taken place. This is known as the Neighbourhood Portion. If a Parish or Town Council area is covered by a ‘made’ Neighbourhood Plan, then the amount increases to 25% of CIL receipts from the area covered by the Neighbourhood Plan.
4.5.3 There is a cap of £100 (indexed) per council taxed home within a Parish or Town Council area per financial year, in areas without a made Neighbourhood Plan, but no cap if one is in place.

4.5.4 All Councils must pass over the Neighbourhood Portion of levy receipts from development to Parish or Town Councils if they are the accountable body. As the Chiltern and South Bucks areas are fully covered by Parish or Town Councils, the money (subject to the cap) would be passed to the relevant Parish or Town Council. CIL guidance recommends however Charging Authorities and receiving Parish or Town Councils should engage and work closely to agree how best to spend these funds.

4.5.5 The CIL Regulations allow for the Neighbourhood Portion of levy receipts to be used for:

- The provision, improvement, replacement, operation or maintenance of infrastructure; or
- Anything else that is concerned with addressing the demands that development places on an area.

4.5.6 Provisions for the recovery of CIL monies by a Charging Authority are available, if Parish or Town Councils do not spend the Neighbourhood Portion of CIL receipts within five years of receiving it.

Councils CIL Fund

4.5.7 The remaining funds, after administration and neighbourhood portion deductions will be allocated by the Councils on infrastructure projects. The Councils are required to publish a statement on their website, which lists the infrastructure projects or types of infrastructure that may be wholly or partially funded by CIL. This currently takes the form of a Regulation 123 list. The Government’s proposed amendments to the CIL Regulations 2019 indicate however, that Regulation 123 Lists may be replaced by Infrastructure Funding Statements.

Monitoring and reporting how much CIL has been collected and allocated

4.5.8 The Councils will publish an annual report showing, for each financial year:

- how much has been collected in CIL;
- how much CIL has been allocated to administration, Town and Parish Councils;
- how much has been spent;
- the infrastructure on which it has been spent;
- any amount used to repay borrowed money; and the
- amount of CIL retained at the end of the reported year.
5 CIL, Section 106 Planning Obligations and the Regulation 123 list

5.0.1 CIL funds can be used to provide infrastructure to support the development of a whole area, whereas S106 obligations are used to make individual planning applications acceptable in planning terms. The CIL Regulations also currently impose a pooling restriction on S106 contributions, in that only five individual S106s can be used in support of a specific Infrastructure project.

5.0.2 Section 106 agreements and Section 278 highways agreements will continue to be used to secure site-specific mitigation and affordable housing. S106 agreements will also be used for larger development sites.

5.0.3 CIL Regulations 122 and 123 state that CIL cannot be used to fund infrastructure that will also be funded via S106 contributions. This is to avoid ‘double dipping’ whereby a developer could potentially be charged twice for the delivery of the same piece of Infrastructure. To ensure clarity, the Councils are required to publish a Regulation 123 list, which identifies the infrastructure projects and types to be funded by CIL, and the Infrastructure projects to be funded by S106 contributions.

5.0.4 There are advantages and disadvantages in both S106 and CIL regimes. On the plus side, S106 contributions can be used to support the timely delivery of essential infrastructure, in support of specific developments. CIL funds can on the other hand be deployed with a greater degree of flexibility in supporting delivery of infrastructure across a wider area.

5.0.5 The Council is setting a threshold whereby developments of 400 homes or more or on sites of 10 hectares or more will be exempt from CIL. On these developments, financial contributions will be negotiated and legally bound through S106 and S278 agreements.

5.0.6 Below these thresholds CIL will apply to all relevant development and the financial contributions will be based on the Regulation 123 list. An exception to this is affordable housing which is legally required to be agreed through S106.

5.1 CIL Administration

5.1.1 Appendix 5 provides further information on CIL administration and information for developers on some of the implementation issues that they will need to be aware of, in relation to CIL liable planning consents and permitted developments, once the Councils adopt a CIL Charging Schedule.

5.2 Timescale for Adoption of a CIL Charging Schedule

5.2.1 Following this consultation, all comments received along with all supporting information will be submitted for independent examination. If the Examination is held in a timely manner and the Examiner finds the Council’s CIL DCS to be sound in their report, then the Councils anticipate being able to adopt a CIL Charging Schedule during the early part of 2020.
6 Appendix 1: Chiltern District Council's CIL Charging Areas
Appendix 2: South Bucks District Council’s CIL Charging Areas
# Appendix 3: Guide to the Use Classes Order & Definitions

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as 'Use Classes'. The following list is based on the Government’s guide to Use Classes. It is not a definitive source of legal information. The list gives an indication of the types of use which may fall within each use class. Please note it is for local planning authorities to determine the use class a particular use falls into.

## Part A
- **A1 Shops** - Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafés.
- **A2 Financial and professional services** - Financial services such as banks and building societies, professional services (other than health and medical services) and including estate and employment agencies. It does not include betting offices or pay day loan shops - these are now classed as “sui generis” uses (see below).
- **A3 Restaurants and cafés** - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafes.
- **A4 Drinking establishments** - Public houses, wine bars or other drinking establishments (but not night clubs) including drinking establishments with expanded food provision.
- **A5 Hot food takeaways** - For the sale of hot food for consumption off the premises.

## Part B
- **B1 Business** - Offices (other than those that fall within Class A2), research and development of products and processes, light industry appropriate in a residential area.
- **B2 General industrial** - Use for industrial processes other than those falling within Class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste).
- **B8 Storage or distribution** - This class includes open air storage.

## Part C
- **C1 Hotels** - Hotels, boarding & guest houses where no significant element of care is provided (excludes hostels).
- **C2 Residential institutions** - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.
- **C2A Secure Residential Institution** - Use for a provision of secure residential accommodation, including use as a prison, young offenders’ institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks.
- **C3 Dwelling houses** - this class is formed of three parts:
  - **C3 (a)** covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
  - **C3(b)**: up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
  - **C3(c)** allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.
- **C4 Houses in multiple occupation** - small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.
Part D

- **D1 Non-residential institutions** - Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law courts. Non-residential education and training centres.

- **D2 Assembly and leisure** - Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used).

**Sui Generis**

- Certain uses do not fall within any use class and are considered 'sui generis'. Such uses include betting offices/shops, pay day loan shops, theatres, larger houses in multiple occupation, hostels providing no significant element of care, scrap yards. Petrol filling stations and shops selling and/or displaying motor vehicles. Retail warehouse clubs, nightclubs, launderettes, taxi businesses and casinos.
Appendix 4: CIL Payments Instalments Policy

This policy is made in line with Regulation 69B of the CIL (Amendment) Regulations 2011. The Councils will allow the payment of CIL as outlined in the points below:

i Where the chargeable amount is less than £200,000, the chargeable amount will be required within 60 days of commencement.

ii Where the chargeable amount is between £200,000 and £2 million, the chargeable amount will be required as per the following four instalments:

<table>
<thead>
<tr>
<th>1st instalment</th>
<th>2nd instalment</th>
<th>3rd instalment</th>
<th>4th instalment</th>
</tr>
</thead>
<tbody>
<tr>
<td>25% within 60 days</td>
<td>25% within 160 days</td>
<td>25% within 260 days</td>
<td>25% within 360 days</td>
</tr>
</tbody>
</table>

iii Where the chargeable amount is over £2 million, the chargeable amount will be required as per the following four instalments:

<table>
<thead>
<tr>
<th>1st instalment</th>
<th>2nd instalment</th>
<th>3rd instalment</th>
<th>4th instalment</th>
</tr>
</thead>
<tbody>
<tr>
<td>25% within 60 days</td>
<td>25% By end of year 1</td>
<td>25% By end of year 2</td>
<td>25% By end of year 3</td>
</tr>
</tbody>
</table>

Commencement will be taken to be the date advised by the developer in the commencement notice under CIL Regulation 67.

Notes:

N1: When the Councils grant an outline planning permission which permits development to be implemented in phases, each phase of development is a separate chargeable development and the instalment policy will apply to each separate phase.

N2: This policy will not apply, and will be superseded by a default payment position allowed by the CIL Regulations, if:

1 A commencement notice is not submitted prior to commencement of the chargeable development.
2 Nobody has assumed liability to pay CIL in respect of the chargeable development prior to the intended day of commencement.
3 Failure to notify the Council of a disqualifying event before the end of 14 days beginning with the day the disqualifying event occurs.
4 An instalment payment has not been made in full after the end of the period of 30 days beginning with the day on which the instalment payment was due.
Calculating the chargeable amount

The Councils will calculate the amount of CIL chargeable using the locally set rates multiplied by the gross internal area of the new buildings and enlargements to existing buildings, taking demolished floor space into account. The formal calculation methodology is set out by CIL Regulation 40, as follows:

\[
\frac{R \times A \times I_R}{I_C}
\]

where:
- \( A \) = the deemed net area chargeable at rate \( R \), calculated in accordance with paragraph (7);
- \( I_R \) = the index figure for the year in which planning permission was granted; and
- \( I_C \) = the index figure for the year in which the charging schedule containing rate \( R \) took effect.

6. In this regulation the index figure for a given year is:
   (a) the figure for 1st November for the preceding year in 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 (1); or
   (b) if the All-in Tender Price Index ceases to be published, the figure for 1st November for the preceding year in the retail prices index.

7. The value of \( A \) must be calculated by applying the following formula:

\[
A = G - K_R - \left( \frac{G \times E}{G} \right)
\]

where:
- \( G \) = the gross internal area of the chargeable development;
- \( G_R \) = the gross internal area of the part of the chargeable development chargeable at rate \( R \);
- \( K_R \) = the aggregate of the gross internal areas of the following:
  (i) retained parts of in-use buildings, and
  (ii) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;
- \( E \) = the aggregate of the following:
  (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development, and
  (ii) for the second and subsequent phases of a phased planning permission, the value \( E_n \) (as determined under paragraph (8)), unless \( E_n \) is negative, provided that no part of any building may be taken into account under both of paragraphs (i) and (ii) above.
(8) The value \( E_s \) must be calculated by applying the following formula—

\[
E_s = (G_p - K_{NP})
\]

where—
- \( E_s \) is the value of \( E \) for the previously commenced phase of the planning permission;
- \( G_p \) is the value of \( G \) for the previously commenced phase of the planning permission; and
- \( K_{NP} \) is the total of the values of \( K_n \) for the previously commenced phase of the planning permission.

(9) Where a collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish that a relevant building is an in-use building, it may deem it not to be an in-use building.

(10) Where a collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish—
(a) whether part of a building falls within a description in the definitions of \( K_n \) and \( E \) in paragraph (7); or
(b) the gross internal area of any part of a building falling within such a description, it may deem the gross internal area of the part in question to be zero.

(11) In this regulation—
- “building” does not include—
  (i) a building into which people do not normally go,
  (ii) a building into which people go only intermittently for the purpose of maintaining or inspecting machinery, or
  (iii) a building for which planning permission was granted for a limited period;
- “in-use building” means a building which—
  (i) is a relevant building, and
  (ii) contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development;
- “new build” means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings;
- “relevant building” means a building which is situated on the relevant land on the day planning permission first permits the chargeable development;
- “relevant charging schedules” means the charging schedules which are in effect—
  (i) at the time planning permission first permits the chargeable development, and
  (ii) in the area in which the chargeable development will be situated;
- “retained part” means part of a building which will be—
  (i) on the relevant land on completion of the chargeable development (excluding new build),
  (ii) part of the chargeable development on completion, and
  (iii) chargeable at rate R.”
11 Appendix 6: Measuring CIL liable floor space

Calculating CIL liability depends on the amount of CIL liable floor space that forms part of a proposal, using Gross Internal Area (GIA) measured in accordance with the Royal Institute of Chartered Surveyors (RICS) Code of Measuring Practice. The table below is based on RICS’s Code of Measuring Practice (6th edition, with amendments). The full Code of Measuring Practice is available on the RICS website at www.rics.org

GIA is the area of a building measured to the internal face of the perimeter walls at each floor level. **Including:**
- Areas occupied by internal walls and partitions
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like
- Atria and entrance halls, with clear height above, measured at base level only
- Internal open-sided balconies, walkways, and the like
- Structural, raked or stepped floors are property to be treated as a level floor measured horizontally
- Horizontal floors, with permanent access, below structural, raked or stepped floors
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)
- Mezzanine floor areas with permanent access
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners’ rooms, and the like
- Projection rooms
- Voids over stairwells and lift shafts on upper floors
- Loading bays
- Areas with a headroom of less than 1.5m*
- Pavement vaults
- Garages
- Conservatories

**Excluding:**
- Perimeter wall thicknesses and external projections
- External open-sided balconies, covered ways and fire escapes
- Canopies
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores, and the like in residential

GIA is the basis of measurement in England and Wales for the rating of industrial buildings, warehouses, retail warehouses, department stores, variety stores, food superstores and many specialist classes valued by reference to building cost (areas with headroom of less than 1.5m being excluded except under stairs).
### 12 Appendix 7: Liability for CIL

Once planning permission is granted, the CIL Regulations encourage any party, (such as a developer submitting a planning application, or a landowner), to assume liability to pay the CIL charge. CIL liability runs with the land. If no party assumes liability to pay before development commences, land owners will be liable to pay the levy. The Councils will put in place procedures that relate to establishing CIL liability and making the relevant payments, modelled on the flow-chart diagram below.

#### Collection of CIL

The Councils are to be the collecting authority for the purpose of Part 11 of the Planning Act 2008 and the CIL Regulations 2010 (as amended).

When planning permission is granted, the Councils will issue a liability notice setting out the amount of CIL payable, and the payment procedure.

In the case of development enabled under permitted development orders, the person(s) liable to pay will need to consider whether their proposed development is chargeable, and to issue the Councils with a notice of chargeable development.

The diagram above provides a summary of the collection process. A key trigger for collection of CIL is commencement of a development on site, with payment due thereafter in accordance with the Council’s CIL instalments policy.

#### Appeals

A liable person can request a review of the chargeable amount by the charging authority within 28 days from the issue of the liability notice. The CIL Regulations allow for appeals on:

- The calculation of the chargeable amount following a review of the calculation by the Councils.
- Disagreement with the Councils’ apportioned liability to pay the charge.
• Any surcharges incurred on the basis that they were calculated incorrectly, that a liability notice was not served or the breach did not occur.

• A deemed commencement date if considered that the date has been determined incorrectly.

• Against a stop notice if a warning notice was not issued or the development has not yet commenced.