

Community Infrastructure Levy – Response to Inspector’s Questions

INTRODUCTION

The purpose of this paper is to summarise the position of Chiltern and South Bucks District Councils in respect of the Examiner’s questions, as listed in the Hearings Programme for the Community Infrastructure Levy Charging Schedule Examination taking place on 5 November 2019.

3. GENERAL MATTERS

a. Has the Charging Authority complied with the procedural requirements in the 2008 Act (part 11 and section 221) and the relevant Community Infrastructure Regulations?

Yes, the charging authority has complied with procedural requirements for the preparation of a charging schedule.

The table below sets out how Chiltern and South Bucks Councils have complied with the relevant requirements of the 2008 Planning Act and the Community Infrastructure Levy Regulations 2010 (as amended).

Table 1 Legislative requirements

Legislative Requirement	How the Requirement has been met
Planning Act 2008 (as amended by the Localism Act 2011)	
Section 206	In accordance with Section 206 (1) (2) and (4) of the Planning Act 2008, the named CIL charging authority is Chiltern District Council and South Bucks District Council.
Section 211	In accordance with section 211 (1), (2), (3), (4) of the Planning Act 2008, Chiltern District Council and South Bucks District Council is the CIL charging authority. The Councils have set a charging schedule which complies with the CIL regulations (as demonstrated below) and, in accordance with Section 211 (7A) which was inserted under the Localism Act 2011, the Councils have had regard to the actual and expected costs of infrastructure, matters of economic viability and other expected sources of funding for infrastructure and used appropriate, available evidence. This includes the preparation of an Infrastructure Delivery Plan, a funding gap analysis and an assessment of proposed CIL rates on the economic viability of development.
Section 212	In accordance with section 212 (1) and (2) of the Planning Act 2008, the Councils appointed an examiner, Mr Geoff Salter, who is independent of the charging authority and has appropriate qualifications and experience. In accordance with section 212 (4) (as amended by the Localism Act 2011) the Councils consider that the drafting requirements, as demonstrated by this statement, have been met in full. The Councils have used appropriate evidence to inform the draft charging schedule.

CIL Regulations 2010 (as amended)	
Regulation 12	<p>The Chiltern District Council and South Bucks District Council Draft CIL Charging Schedule contains the necessary information required by Regulation 12, including:</p> <ul style="list-style-type: none"> a) the name of the Charging Authority; b) the rates in pounds per square metre at which CIL is to be charged in the authority's area; c) a map which identifies the location and boundaries of the zones; and d) an explanation of how the chargeable amount will be calculated. <p>The date of approval, when the charging schedule takes effect and a statement of its publication in accordance with the CIL Regulations and Planning Act 2008 will all be published once the Charging Schedule is adopted.</p>
Regulation 13	<p>The differential rates set out in the schedule are compliant with Regulation 13, which enable CIL charging authorities to set differential rates by location, type and scale of development.</p>
Regulation 14 (1)	<p>In setting its levy rates, the Councils have complied with Regulation 14(1), which requires that 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".</p> <p>This is set out in the following documents:</p> <p>Local Plan and CIL viability study by Dixon Searle Partnership (June 2019) and its associated appendices; The submitted draft CIL charging schedule (June 2019) Other evidence base documents including the Infrastructure Delivery Plan</p>
Regulation 14 (2)	<p>The Councils had regard to actual and expected administrative expenses in connection with CIL when setting the proposed CIL rates.</p>
Regulation 15	<p>Consultation on the CIL Preliminary Draft Charging Schedule (PDCS) took place between 2 November and 14 December 2018. The Councils complied with Regulation 15 of the CIL Regulations in terms of the requirements for consultation on the PDCS. Drafts were sent to the consultation bodies, who were invited to make representations. The PDCS was also available on the Council websites in order to try and reach any other interested organizations or individuals who were not registered on the Council's Local Plan consultation database.</p> <p>The Councils have noted that an update to the CIL Regulations via the CIL Regulations 2019 on 1 September 2019 removed the requirement to consult on a preliminary draft charging schedule. However, PPG Paragraph 013 Reference ID: 25-013-20190901 is clear that, 'where a preliminary charging schedule was sent to consultation bodies as part of the consultation process before 1 September 2019, the charging authority must take into account any representations made before it publishes a draft charging schedule'. (see Regulation 13(2) of the 2019 Regulations).</p>

<p>Regulation 16</p>	<p>In accordance with the Regulations, the Draft Charging Schedule was published and advertised on the Council websites, at libraries across both districts and at the main Council offices in Amersham (Chiltern DC) and Denham (South Bucks DC), together with all relevant evidence and a Statement of Representations Procedure. The website stated that the Draft Charging Schedule could be inspected at the Council's offices and at Libraries across the Districts. All respondents to the Preliminary Draft Charging Schedule consultation were notified of the publication of the Draft Charging Schedule.</p> <p>Regulation 16 also requires a copy of the draft Charging Schedule to be sent to each of the Consultation Bodies.</p> <p>Regulation 16 also required at the date of the consultation local advertisement.</p>
<p>Regulation 17</p>	<p>Consultation on the final draft Community Infrastructure Levy charging schedule and submission stage (Regulation 19) Local Plan consultation ran concurrently i.e. from 7 June to 23 August 2019.</p>
<p>Regulation 19</p>	<p>The documents submitted to the examiner are as follows:</p> <ul style="list-style-type: none"> • The Draft CIL Charging Schedule • The Local Plan and CIL viability assessment, and its appendices • Infrastructure Funding Gap Analysis • Draft Infrastructure Delivery Plan and its appendices • Statement of Representations Procedure • Schedule of Representations Received • Covering Letter for Submission <p>50 responses on the draft schedule were received from parish councils, transport companies, Buckinghamshire County Council, individuals, housebuilders and other national public bodies during the consultation period.</p>
<p>Regulation 21</p>	<p>Details of respondents and those who requested to be heard at the CIL examination have been provided to the programme officer, who will contact representors accordingly. Notification of the time and place of the examination hearings, and the name of the examiner have been published on the Council website.</p>

The Councils also consider that the submitted draft CIL schedule is consistent with the most recent suite of National Planning Practice Guidance (PPG) updates from 1 September 2019, as shown below.

Table 2 Compliance with Planning Practice Guidance

Text from PPG Paragraph	PPG Reference	How is this demonstrated?
<p><i>"Charging schedules are <u>not</u> formally part of the relevant plan but charging schedules and relevant plans should inform and</i></p>	<p>Paragraph: 012 Reference ID: 25-012-</p>	<p>[ED010] Draft Infrastructure Delivery Plan The Councils submitted a draft Local Plan 2036 to the Secretary of State for</p>

<p><i>be generally consistent with each other. Where practical, there are <u>benefits to undertaking infrastructure planning for the purpose of plan making and setting the levy at the same time</u>"</i></p>	<p>20190901 Revision date: 01 09 2019</p>	<p>Examination in Public on 26 September 2019. As the CIL schedule is not part of the Local Plan, the Local Plan has not been included as an evidence base document. However, the submitted draft Local Plan can be viewed on the Council websites www.chiltern.gov.uk and www.southbucks.gov.uk</p>
<p><i>"How is a charging schedule prepared?</i> <i>In summary, a charging schedule is prepared and adopted as follows:</i></p> <ul style="list-style-type: none"> • <i>the charging authority prepares its evidence base in order to prepare its draft levy rates, and collaborates with neighbouring/overlapping authorities (and other stakeholders);</i> • <i>the charging authority prepares and publishes a draft charging schedule for consultation;</i> • <i>representations are sought on the published draft;</i> • <i>the charging authority must take into account any representations made to it before submitting a draft charging schedule for examination;</i> • <i>an independent person (the "examiner") examines the charging schedule in public;</i> • <i>the examiner's recommendations are published</i> • <i>the charging authority has regard to the examiner's recommendations and reasons for them;</i> • <i>the charging authority approves the charging schedule."</i> 	<p>Paragraph: 013 Reference ID: 25-013-20190901 Revision date: 01 09 2019</p>	<p>[ED001] The draft CIL Charging Schedule The Preliminary Draft Charging Schedule, available at https://chiltern.gov.uk/cilevidence All neighbouring / overlapping authorities were consulted.</p>
<p><i>"Collaborative working between county councils and charging authorities is especially important in relation to the preparation of infrastructure funding statements</i></p>	<p>Paragraph: 014 Reference ID: 25-014-20190901</p>	<p>[ED001] The draft CIL Charging Schedule [CSBLP44] Bucks County Council Transport Topic Paper for CSB LP Local Plan submission document¹</p>

¹ Accessed at: https://www.southbucks.gov.uk/media/13841/Bucks-County-Council-Transport-Topic-Paper-for-CSB-LP/pdf/BCC_TransportTopicPaper_FINAL_Sept2019_HH_and_BCC_FINAL_19_8_2019.pdf?m=63706395518627000
[0 https://chiltern.gov.uk/planning/transportation](https://chiltern.gov.uk/planning/transportation)

<p><i>(see Schedule 2 introduced by the 2019 Regulations) bearing in mind the potential impact on the use of highway agreements by the county council and the timely delivery of schools."</i></p>	<p>Revision date: 01 09 2019</p>	
<p><i>"Plan makers and site promoters should assess viability to ensure that policy requirements for developer contributions are deliverable (see the viability guidance). This will be an important part of the evidence underpinning the introduction of a charging schedule. It is the responsibility of authorities when preparing their charging schedules to collaborate with the local community, developers and other stakeholders, to create realistic and viable charging schedules."</i></p>	<p>Paragraph: 015 Reference ID: 25-015-20190901 Revision date: 01 09 2019</p>	<p>[ED001] The draft CIL Charging Schedule [ED002] Local Plan and CIL Viability Assessment</p>
<p><i>"The evidence base for a charging schedule is examined in public prior to the adoption of the levy. The charging authority should have regard to the actual and expected cost of infrastructure, the viability of development, other actual or expected sources of funding for infrastructure and the actual and expected administrative expenses in connection with the levy."</i></p>	<p>Paragraph: 016 Reference ID: 25-016-20190901 Revision date: 01 09 2019</p>	<p>[ED001to ED014] To be assessed through the Examination hearing</p>
<p><i>"Charging authorities should focus on providing evidence of an aggregate funding gap that demonstrates the need to put in place the levy. Any significant funding gap should be considered sufficient evidence of the desirability of CIL funding, where other funding sources are not confirmed"</i></p>	<p>Paragraph: 017 Reference ID: 25-017-20190901 Revision date: 01 09 2019</p>	<p>[ED009] Infrastructure Funding Gap Analysis</p>
<p><i>"At examination, the charging authority should set out the projects or types of infrastructure that are to be funded in whole or in part by the levy. From December 2020, this should be set out in an infrastructure funding statement. The list of projects or types of</i></p>	<p>Paragraph: 018 Reference ID: 25-018-20190901 Revision date: 01 09 2019</p>	<p>[ED009] Funding Analysis [ED010] Draft Infrastructure Delivery Plan [ED012] IDP Appendix 2</p>

<p><i>infrastructure may already have been examined through a plan examination, in which case the purpose of providing it for the Community Infrastructure Levy examination should be only to evidence the infrastructure funding gap, not to re-examine the list. Where infrastructure planning work which was undertaken specifically for the levy setting process has not been tested as part of another examination, it will need to be tested at the levy examination. The examiner will need to test that the evidence is sufficient to confirm the aggregate infrastructure funding gap and the total target amount that the charging authority proposes to raise through the levy."</i></p>		
<p><i>"A charging authority should be able to explain how their proposed levy rate or rates will contribute towards new infrastructure to support development across their area. Charging authorities will need to summarise their viability assessment. Viability assessments should be proportionate, simple, transparent and publicly available in accordance with the viability guidance"</i></p>	<p>Paragraph: 019 Reference ID: 25-019-20190901 Revision date: 01 09 2019</p>	<p>[ED002] Local Plan and CIL Viability Assessment An Executive Summary of the study is provided within the document.</p>
<p><i>"A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential implications for the viability of development across their area"</i></p>	<p>Paragraph: 020 Reference ID: 25-020-20190901 Revision date: 01 09 2019</p>	<p>[ED001] The draft CIL Charging Schedule [ED002] Local Plan and CIL Viability Assessment (and appendices)</p>
<p><i>"A charging authority should take development costs into account when setting its levy rate or rates, particularly those likely to be</i></p>	<p>Paragraph: 021 Reference ID: 25-021-</p>	<p>[ED001] The draft CIL Charging Schedule [ED002] Local Plan and CIL Viability Assessment (and appendices)</p>

<p><i>incurred on strategic sites or brownfield land. A realistic understanding of costs is essential to the proper assessment of viability in an area. Assessment of costs should be based on evidence which is reflective of local market conditions in accordance with planning practice guidance on viability. Development costs include costs arising from existing regulatory requirements, and any policies on planning obligations in the relevant plan, such as policies on affordable housing and identified site-specific requirements for strategic sites."</i></p>	<p>20190901 Revision date: 01 09 2019</p>	
<p><i>"The regulations allow charging authorities to apply differential rates in a flexible way, to help ensure the viability of development is not put at risk...A charging authority that plans to set differential rates should seek to avoid undue complexity. Charging schedules with differential rates should not have a disproportionate impact on particular sectors or specialist forms of development. Charging authorities may wish to consider how any differential rates appropriately reflect the viability of the size, type and tenure of housing needed for different groups in the community, including accessible and adaptable housing, as set out in the NPPF..."</i></p>	<p>Paragraph: 022 Reference ID: 25-022- 20190901 Revision date: 01 09 2019</p>	<p>[ED001] The draft CIL Charging Schedule</p> <p>[ED002] Local Plan and CIL Viability Assessment (and appendices)</p>

b. Is the draft charging schedule supported by appropriate available evidence on infrastructure planning and economic viability and is there sufficient and suitable evidence of an aggregate funding gap to demonstrate the need for a CIL charge?

The Councils have used appropriate available evidence to prepare the Draft Charging Schedule, as required by Section 211(2) of the Planning Act 2008.

The Local Plan and CIL Viability Study, June 2019 **[ED002]** is a key evidence document undertaken by Dixon Searle Partnership Ltd. This document focusses on the viability aspects of the CIL setting process. It tests the ability of a range of development

typologies across the districts to yield likely contributions to meet future infrastructure requirements through CIL. The levels of CIL rates have been tested in combination with other policy and planning obligation requirements, including the provision of affordable housing.

The Infrastructure Delivery Plan, June 2019 **[ED010]** is a key evidence document used to support the Chiltern and South Bucks Local Plan 2036. As set out in the Planning Practice Guidance on CIL, *'the charging authority area's infrastructure needs should be drawn from the infrastructure assessment that was undertaken when preparing the relevant plan'*². The IDP included an assessment of infrastructure needs to support the growth planned within the Local Plan. Relevant infrastructure that was critical or essential to the delivery of the plan was identified. The infrastructure identified is not an exhaustive list but is the appropriate available evidence. The IDP is considered to be a 'live' document and was updated in June 2019 to take into account updated costs that were available at this time.

The Funding Gap Analysis document **[ED009]** outlines the existence of a funding gap for Chiltern and South Bucks Districts, and confirms that CIL funding alone will not generate sufficient funds to pay for all of the infrastructure needs identified through the IDP. Other relevant evidence and supporting documents can be found listed against 'Regulation 19', in the first table answering question 3a.

Chiltern and South Bucks Councils published their preliminary draft charging schedules in November 2018 and their draft charging schedules in June 2019.

On 1 September 2019 the Government published changes to the 2010 CIL regulations. These included transitional arrangements for charging authorities that had published draft charging schedules before 1 September 2019:

13.—(1) Part 3 of the 2010 Regulations continues to apply, in relation to a draft charging schedule which is published in accordance with regulation 16(1) of the 2010 Regulations before the commencement date, as if the amendments in regulation 3 had not been made.

These transitional arrangements only apply to part three of the CIL regulations, meaning that all other parts of the CIL regulations can apply the 2019 changes from 1 September 2019.

The Councils wish to make clear their approach to the infrastructure which they intend to be funded through CIL, and the projects which are intended to be funded through S106 agreements.

Before 1 September 2019, Regulation 123 (4) of the CIL Regulations 2010 (as amended) provided that CIL charging authorities may or may not have set a list of those strategic projects or types of infrastructure that it intended to fund (in whole or part) through CIL. However, Regulation 14 (5) remains:

² PPG Paragraph: 017 Reference ID: 25-017-20190901 Revision date: 01 09 2019

14 (5) For the purposes of section 211(7A) of PA 200825, a charging authority's draft infrastructure list is appropriate evidence to inform the preparation of their charging schedule.

The Councils have relied on their Infrastructure Delivery Plan as evidence of the types of infrastructure that will require funding either from CIL or S106.

The Councils have also set thresholds where the scale of development requires significant on site infrastructure which would not be able to be delivered given the nature of the flow of income from CIL and the issue of stage payments. These thresholds are based on a typology of 40 homes per hectare and are set at any site providing 400 homes or more, sites that total 10 hectares or more (both developable and non-developable areas within red planning permission boundaries) and developments which in total are liable for CIL and are 40,000 square meters or more. The Chiltern charging schedule refers to these as Large Sites. This was also the intended wording within the South Bucks Charging Schedule but there is a typological error which needs correcting which should read the same as Chiltern's. The 40,000 square metres is mentioned in 3.11.2 of the draft charging schedule, but with a drafting error with one zero missing. This needs amendment and the 40,000 sq m should be added to the Charging Schedules alongside the 400 homes and 10 Hectares.

The typologies are supported by the Local Plan & CIL viability study **[ED002]**, figure 12 of which states, in summary: "Overall, the viability findings here are relatively strong – good viability prospects available to support the Plan delivery across the mix and spread of sites and locations..... developments should be able to come forward viably – in accordance with national policy and guidance. From a viability point of view, the strategy and policies appear capable of supporting the required mix of affordable housing and other policies, balanced with other objectives (including supporting infrastructure – through the proposed CILs and complimentary continued use of s.106 (particularly on larger strategic sites))."

The text of the Dixon Searle assessment does not reach any clear conclusion on the appropriate CIL rate for the large strategic sites. Rather, in Figure 12 on page 97 the following appears:

"Our assessment considers the proposed £150/sq. m. across each district (2 charging schedules) to be viable and at this level to not require differentiation for particular areas/zones of sub-sets of development type. The Councils' propose nil-CIL rating of the larger strategic sites, however, which is also considered a suitable approach given their characteristics, including the acknowledged and usual element of ongoing work on settling infrastructure costs. S.106 can provide a more direct and timely mode for securing site-specific infrastructure works especially, and also bespoke development mitigation contributions".

The testing by DSP suggests a nuanced picture. There are schemes which, on the basis of DSP's assumptions, cannot afford CIL and a material S106 contribution (SP2 & 3) or schemes where it would be plausible to argue that there is not much buffer/margin for a payment (SP7 & 10).

We note that Taylor Wimpey argues for a profit of 20% of GDV, which if applied, would render BP11 unable to pay a CIL of £150.

The other sites appear to be able to support a CIL at £150 plus a full S106 contribution. This would however lead to a variety of answers across the two districts and at Chalfont St Peter, and Iver, different answers within the same market area. This is not a desirable outcome as it effectively requires bespoke evidence (Values and costs) for each site, and this evidence does not exist. It is noteworthy that none of the representations for the Strategic Sites (Taylor Wimpey and CBRE only?) offer alternative calculations/appraisals.

We note that some of the appraisals include costs for which we would expect there to be revenue, albeit that it may not match the cost. The costs are for a local centre (SP2,6,9,11) employment land (SP9,11,12) and retail (SP10). The absence of any revenue effectively increases the viability buffer.

Taylor Wimpey challenges the Base Land Value assumption of £250,000/ha as being below what a willing seller would expect. We note that this figure has been applied to all the strategic sites even though the circumstances of each are different, and that higher figures have been potentially applied for the testing of other housing scenarios. Clearly this is and remains the most vexed issue and DSP will need to be ready to defend the figure, but Paragraph 12 PPG clearly steers towards EUV plus in the first instance. Taylor Wimpey does not appear to seek to argue this point, but merely asserts that the figure is too little to incentivise landowners in its experience, but the contrast with the testing for other sizes of housing development may be made by the Examiner. We also know from our work on FVAs that higher BLVs have been adopted and accepted.

The 2019 CIL regulations also altered the reporting arrangements for CIL expenditure and defined what must be reported on the Councils 'infrastructure lists' within the new requirement to publish 'Annual infrastructure funding statements'³. The regulations define the infrastructure list as:

2 "infrastructure list"— (a) before 31st December 2020, means the list, if any, published by a charging authority of the infrastructure projects or types of infrastructure which it intends will be, or may be, wholly or partly funded by CIL (other than CIL to which regulation 59E or 59F applies);

and

³ Annual infrastructure funding statements 121A.—(1) Subject to paragraph (2), no later than 31st December in each calendar year a contribution receiving authority must publish a document ("the annual infrastructure funding statement") which comprises the following— (a) a statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL (other than CIL to which regulation 59E or 59F applies) ("the infrastructure list"); (b) a report about CIL, in relation to the previous financial year ("the reported year"), which includes the matters specified in paragraph 1 of Schedule 2 ("CIL report"); (c) a report about planning obligations, in relation to the reported year, which includes the matters specified in paragraph 3 of Schedule 2 and may include the matters specified in paragraph 4 of that Schedule ("section 106 report").

(2) The first annual infrastructure funding statement must be published by 31 December 2020

73a (12) (d) "relevant infrastructure" means— (i) the infrastructure projects or the types of infrastructure listed by a charging authority on its infrastructure list; and (ii) in relation to any time before 31st December 2020, where no such list has been published, any infrastructure;

To aid the production of the annual infrastructure funding statement and as a means of identifying infrastructure types for the infrastructure list, the Councils are using Appendix 2 of the draft IDP **[ED012]** as evidence. Appendix 2 considers the infrastructure requirements for 13 proposed large sites across the districts. The four themes which most commonly occur are grouped together under the following headings in the 'infrastructure delivery mechanisms' table overleaf.

- Schools/Education (procured by Bucks County Council)
- Highways and Transport (procured by Bucks County Council)
- Leisure and Community
- Health

These issues are identified by a '1' in the priority column. Prior to 1 September 2019, under the CIL Regulations 2010 (as amended), it is considered that infrastructure projects falling within any of those four categories would have been expected to be wholly or partly funded through CIL receipts.

A list of the main projects to be delivered under each of the four categories on a site-by-site basis has been identified within the existing Appendix 2 of the draft IDP **[ED012]**. The table below has also been informed by the Publication Local Plan 2036.

Table 3 - Draft Infrastructure List and Funding Mechanisms

Type of infrastructure	Priority	Delivery Mechanisms		Relevant Local Plan policies (publication version Chiltern and South Bucks Local Plan)
		Infrastructure which will be provided through section 106 legal agreements, section 278 Highway agreements or planning conditions	CIL funded infrastructure (wholly or in part)	
Affordable housing		Yes, however delivery will be secured on-site or via financial contributions under S106 in accordance with local plan policies	No	DM LP 2 DM LP 3
Air quality mitigations		Yes, if relevant to specific sites	Yes, e.g. where linked to sustainable transport improvements (e.g. EV charging) and green infrastructure projects	DM NP 10 DM DP 5 – 6 and 9

Type of infrastructure	Priority	Delivery Mechanisms		Relevant Local Plan policies (publication version Chiltern and South Bucks Local Plan)
		Infrastructure which will be provided through section 106 legal agreements, section 278 Highway agreements or planning conditions	CIL funded infrastructure (wholly or in part)	
Biodiversity enhancements and mitigations		Yes, if required for specific sites, e.g. on – site habitat creation / enhancement, re-location of species and measures to mitigate impacts on sites of biodiversity value potentially impacted by the development. Specific requirements for sites referred to in Local Plan policies in particular relating to the Burnham Beeches SAC for site SP BP 9	For off-site measures and mitigation if development is significant in scale	DM NP 3 DM NP 4 SP BP9
Leisure and Community (including Libraries)	1	To be provided where there are specific needs set out in Local Plan site allocations and if required in association with redevelopment / replacement facilities in accordance with Local Plan policies.	Other community buildings/ facilities. Contributions may be sought for improvements to both third sector and public libraries	SP BP 2,6,9 and 11 DM LP 1 – 4 DM EP10 DM HP4
Adult social care facilities, e.g. day care		No	Yes	DM HP 4 DM LP 7
Schools/ Education	1	Yes, where there is a requirement for a school on a site specific basis, e.g. new primary schools on Local Plan site allocations.	Yes, for the expansion of secondary schools and for provision of other necessary primary school infrastructure.	SP BP 2,3,6,9 and 11
Environmental improvements and green infrastructure		Yes, where there is a requirement for improvements on a site specific basis	Yes for other improvements, e.g. for wider enhancements to green infrastructure	DM DP 15 DM NP 1 - 6

Type of infrastructure	Priority	Delivery Mechanisms		Relevant Local Plan policies (publication version Chiltern and South Bucks Local Plan)
		Infrastructure which will be provided through section 106 legal agreements, section 278 Highway agreements or planning conditions	CIL funded infrastructure (wholly or in part)	
			and the public realm	
Flood defence / mitigation		Yes, as evidenced in a site specific flood risk assessment	Yes for other schemes e.g. for catchment – wide, settlement specific measures to mitigate surface water flooding such as in Chesham	DM DP 7 and 8
Health	1	Subject to business case and if required in relation to specific sites (business case to be agreed by the Bucks CCG and funding for improvements managed and verified by the CCG)	Yes, subject to business case to be agreed by the Bucks CCG and funding for improvements managed and verified by the CCG	DM DP 10 and SP BP 2 - 12
Indoor sport facilities		Yes, if related to site specific requirements for a facility	Yes for local and strategic facilities / improvements	DM HP 4
Maintenance		Yes, if new infrastructure is to be maintained by the local authority		DM DP 21
Outdoor sports, children's' / youth play space, allotments and public open space		Yes, if there is a site specific requirement	Yes - based on site specific circumstances.	DM HP 1 – 4
Public rights of way improvements		Yes, if there is a site specific requirement	Yes	DM CP 2
SUDs		Yes, and will normally require a maintenance payment – see 'maintenance' above	Yes, for catchment – wide schemes and may require a maintenance payment (see	

Type of infrastructure	Priority	Delivery Mechanisms		Relevant Local Plan policies (publication version Chiltern and South Bucks Local Plan)
		Infrastructure which will be provided through section 106 legal agreements, section 278 Highway agreements or planning conditions	CIL funded infrastructure (wholly or in part)	
			'maintenance' above)	
Transfer of land			Yes – in – kind payment under CIL	
Highways and Transport	1	Yes, as needed for specific sites - including site allocations in the Local Plan, and for new development sites, including means of access to and from the site, highways within the site, local highways improvements, other sustainable transport improvements for active travel and bus services / infrastructure on the development site and for travel plans.	Yes – for sustainable transport improvements, traffic calming and capacity improvements where appropriate	SP BP 2 – 14 DM CP 1 – 3 DM CP 4
Water infrastructure: network improvements and improvements to treatment works		No – provided by water companies as part of their asset management strategies and the infrastructure charges for connecting new dwellings	No – provided by water companies as part of their asset management strategies and the infrastructure charges for connecting new dwellings	SP BP 1
Youth services			Yes	DM HP 1 – 4 and DM EP 10

4. ISSUE 1 – COMMERCIAL LEVY RATES

a. Should a size threshold be applied for Class A1 retail uses, and, if so, on what basis and at what rate for new retail floorspace?

The Councils are aware that some CIL charging authorities have distinguished between 'other retail' and larger stores in their CIL schedules, and have relied on factors such as the Sunday Trading Threshold levels of 280 square meters for the purposes of charging CIL at higher rates for any premises which are affected by those regulations.

However, the districts of Chiltern and South Bucks comprise principally small towns and villages surrounded by 88% Green Belt land. 72% of the Chiltern District Council area falls within the Chiltern AONB. Therefore, the districts have very limited scope for the development of large stores⁴, or 'out-of-town' retail parks where, typically, the stores with a footprint large enough to subject them to the restrictions on Sunday trading would be developed. This reduces the need to distinguish between 'larger' and 'smaller' A1 uses for the purpose of CIL in this locality.

Given the general lack of sites across CSB (especially large brownfield sites), and the severe development pressure the area faces, the expectation is that that any large retail sites would be previously developed sites, possibly in retail use which are recycled for retail use. New infrastructure is likely to be less or may not necessarily be required for such proposals, which reduces the need to distinguish between 'larger' and 'smaller' A1 uses for the purpose of CIL.

The Experian GOAD definition of a small shop is that of one with 80 square metres gross floorspace or less, occupied by an independent retail or service outlet. Due to the nature of the Chiltern and South Bucks districts, many shops within the designated town centre boundaries of principle settlements are either small units (up to 80 square metres) or smaller units (below the Sunday Trading threshold of 280 square metres). While it is clear that any extensions which are under 100 square metres would provide a considerable increase in the proportion of retail floorspace proportionate to the size of the donor building, any retail development proposing a floorspace increase of 99 square metres or less would not be CIL liable. It is not anticipated that applications for a significant number of new retail units and/or extensions of 100 square metres+ for existing premises will come forward, thus triggering a CIL liability.

Paragraph 3.7.22 of [ED002] notes that setting similar charging rates across the range of residential and retail developments (the latter as far as they occur) 'may also be viewed as a practical and even-handed approach bearing in mind that these uses could be competing for sites or sites could be transferring from one of these uses to the other in redevelopment scenarios and some other scenarios'. Paragraph 3.7.23 of [ED002] also notes that 'in many cases (and as will be relevant also to other forms of development) new uses will be formed

⁴ See Page 26 17.5-7.7 (*Accommodating Growth*) of The Town Centre Retail and Leisure Study Peer Review and Update (Lichfields, April 2019)

Accessed at: https://www.southbucks.gov.uk/media/13829/Chiltern-and-South-Bucks-Retail-Review/pdf/60363_Chiltern_South_Bucks_Retail_Review_April_2019.pdf?m=637063930768530000

within existing or altered / extended premises and so CIL may have a reduced level of relevance and limited likely infrastructure funding receipts potential in any event’.

The Councils’ retail studies indicate over trading with higher than average sales densities for convenience sales and growth in turnover efficiencies in comparison goods. The studies also find that there is additional capacity in both Chiltern and South Bucks for additional convenience, comparison and food and beverage outlets. The Retail and Leisure Review (Lichfields, April 2019)⁵, found that Chiltern and South Bucks foods stores are trading above the national average. This demonstrates higher levels of demand for A1 premises in Chiltern and South Bucks, as compared with the national picture.

3.3 ...The base year figures suggest that the main food stores in Chiltern District are collectively trading 20.1% above the national average, with an expenditure surplus of +£26.64 million in 2017, the difference between the actual spending at retail facilities in the District and the benchmark turnover.

3.4 ...The base year figures suggest that the main food stores in South Bucks District are collectively trading 20.7% above the national average, with an expenditure surplus of +£27.9 million in 2017.

3.5 ...food stores can trade comfortably above national average sales densities in relatively affluent areas. For the future retail capacity projections, the benchmark turnover of the main food stores has been increased by 10.3%, in line with the difference between the local and national average convenience goods expenditure per capita.

b. Does the status of Garden Centres under the CIL charging schedule require clarification and, if so, how should that be achieved?

The “Guide to Use Classes Order in England” 2019 defines shops, post offices, ticket and travel agencies, sale of cold food for consumption off-premises, hairdressers, hire shops, internet cafes, dry cleaners and funeral directors as part of the ‘A1 Shops’ category. Also included under this category is ‘retail warehouses’. Albeit that they have a limited presence across the CSB districts, some of the garden centres which form part of chain-operated DIY or homeware stores would fall within the definition of retail warehouses. Smaller, independent operators of garden centres would fall within the category of ‘shops’. For the purposes of CIL charging, garden centres have been considered to be A1 retail (comparison) in their own right in CIL schedules produced by other authorities such as Surrey Heath. Garden centres are therefore defined as an A1 use for the purpose of CSB’s CIL.

While the floorspace may vary, the bulk of items sold in ‘garden centres’ will relate to gardens or gardening. Although stores with a larger floorspace can afford to stock a larger range of supplementary goods, such as barbeques, furniture or decorative items, tools/DIY and some homewares, and that there may be seasonal variations on sales data for specific items, the types of goods stocked and sold on such premises does not affect the A1 status of a retail use. There is no evidence to suggest that garden centres operate differently to any retail A1 uses, or that garden centres per se are any more or less viable than other businesses falling within A1 uses.

⁵ Page 7 - Ibid

In regard to lower sales densities for plants and similar products these are typically outside of the chargeable areas for CIL – given they are not indoors.

If the Examiner deems it necessary, then some additional text could be added to the draft CIL schedule as a modification to clarify that garden centres fall within A1 use for CIL purposes. It should be noted that the submitted Local Plan includes no allocations for new Garden Centres and it is not considered to be a strategic issue for CSB over the plan period or for the purposes of collecting CIL. It could also be noted that the trend for garden centres at present is consolidation rather than expansion.

c. Are the rates for developments such as offices (Class B1), hotels (C2) justified?

The CIL rate or rates should be set at a level that ensures development within the authority's area is not put at serious risk. CSB would comment that the Local Plan and CIL viability study [ED002] has tested various scenarios and made suggestions as to the levels which could be charged, while enabling development proposals to remain viable. An overall appropriate balance must be struck between the desirability of funding infrastructure under CIL, and the potential effects of CIL on the economic viability of development across the area – but there is no requirement on a council to precisely follow its viability evidence.

Positive Residual Land Values are generated for greenfield/out of town/business park office typologies which are the most likely typology to be developed in the Districts and for which provision is made through allocation (North of Denham Roundabout – SP BP13 and Land adjacent to Taplow Station – SP BP14. Whilst these positive land values are based on positive assumptions, those are considered realistic given the particular locational characteristics of the allocated sites.

This is the context for paragraph 3.7.33 of the Local plan and CIL viability study [ED002] which states that whilst *"viability evidence alone cannot specifically support the proposed £35 per sq. m CIL charges"* in respect to office development, *"there is a wider context to look at here, perhaps in relation to the 'out of town offices' scenarios/plan evidence"*.

Reasoned justification for a charge of £35/m²

The Council's Local Plan and CIL viability study [ED002] ¶3.7.28 points out that:

...with the support of appropriate rental income from top quality space, viability prospects for offices should not be ruled out, especially on low-value greenfield land as per the proposed allocations SPBP13 (North of Denham Roundabout) and SPBP14 (Land adjacent to Taplow station)'.

If CSB did not charge CIL for office development this could widen the infrastructure funding gap. As such, it is considered that a low charge rate would strike the necessary balance between raising funds to provide new infrastructure to support developments and growth, whilst simultaneously not prejudicing the delivery of schemes coming forward (in line with CIL Regulation 14). The rate of £35 per square metre is one which the Council believes is justified.

The use of a low or 'nominal' charging rate has been used on a widespread basis. A previous iteration of the PPG identified that charging authorities are not compelled to set a nil rate and have the option of setting a low levy rate (Paragraph 21, reference ID: 25-021-20190315). This was accepted as being a reasonable approach to collecting funds towards infrastructure for such development at a number of CIL Examinations for CIL charging schedules around London and the South East, including at Examinations for the Royal Borough of Kingston Upon Thames, LB Hounslow, LB Bexley, LB Barking and Dagenham, LB Croydon, LB Sutton, the Mayor of London and for Bristol and Oxford Councils, enabling them to progress to adoption.

The PPG was revised shortly after the closure of consultation on the draft CIL schedule, and the update of 1 September reads as follows:

"If the evidence shows that the area includes a zone, which could be a strategic site, which has low, very low or zero viability, the charging authority should consider setting a low or zero levy rate in that area. The same principle should apply where the evidence shows similarly low viability for particular types and/or scales of development." (Paragraph 22, reference ID 25-022-20190901).

The thrust of the earlier guidance therefore remains unchanged and shows that CSB's approach (in setting a low rate) is consistent with national guidance. The introduction of a nominal CIL charge would be unlikely to be a significant factor in a developer's decision as to whether to build in the CSB area or not, and/or whether or not to implement a planning permission they have received, as the viability evidence shows that CIL can be absorbed without the levy making any significant impact on scheme viability across the CSB area, and would not prevent development from taking place.

As such, the CIL charge of £35 is fully justified and would not prevent developments from coming forward and receiving planning permission, assuming that a proposal was actually viable.

5. ISSUE 2 – RESIDENTIAL LEVY RATES

a. *Is the viability evidence appropriate, including in regard to assumptions made in the residential appraisals for sales values (market and affordable housing), land values, build costs, residual S106 costs, developer profits and residential densities?*

The Local Plan and CIL Viability Study [ED002] supports the CIL rate of £150 per square metre for residential development. The principal assumptions that fed into the appraisals are summarised below.

Residential sales values (market and affordable housing)

The assumptions for Residential Values are set out in: pages 26-31 ¶2.4.1-2.4.17 in Chapter 2 of Local plan and CIL viability study [ED002]; the assumed value levels tables set out in Appendix 1: Assumptions Summary (*Value Levels*) [ED003]; and as informed by the detailed Property Market Reporting in Appendix 3 [ED007].

For market housing, the value levels covered typical residential market values (average prices across a scheme) and cover a range from £4,000/m² to £6,250/m². Further sensitivity testing expanded this range beyond £6,250/m² up to £8,000/m² for both district areas, reflecting the very highest (mostly) re-sale property values.

The assumptions drew upon a wide range of data sources including: prices paid (as reported by the Land Registry); asking prices; and other secondary data sources. The Land Registry data is primary data that reports the actual price paid so considerable weight can be put on it. This data is brought together with the size of the units sold (taken from the EPC Register). Dixon Searle Partnership Ltd carried out a range of research on residential values across the Council's area in pages 9-123 Appendix 3 [ED007].

In terms of the value of affordable housing, revenue assumptions were underpinned by Registered Provider type financial appraisals – looking at the capitalised value of the estimated net rental flows (value of rental income after deduction for management and maintenance costs, voids allowances and the like). The transfer values assumed for the study are shown in Appendix 1: Assumptions Summary (*Affordable Housing Revenue Assumptions Chiltern LHA covering the majority of the Council areas*) [ED003].

Social rent levels were provided by CDC and SBDC. For affordable rented properties Dixon Searle Partnership Ltd introduced a revenue level cap by assuming that the Local Housing Allowance (LHA) levels will act as an upper level above which rents will not be set – i.e. where the percentage of market rent exceeds the Local Housing Allowance (LHA) rate. The LHA rate for the Chiltern Broad Rental Market Area (BRMA) that covers a majority of the Chiltern District and South Bucks District Council area for the varying unit types was used as the cap for the affordable rental level assumptions.

Land values

As per paragraph 10-013-20190509 of the Viability PPG, the assessment should be based on the EUV Plus approach. As per paragraph 10-014-20190509 of the Viability PPG, the starting point of the assessment is the Existing Use Value. In order to inform the Benchmark Land Values (BLVs), Dixon Searle Partnership Ltd reviewed existing evidence, typical existing use values for various property typologies, previous viability studies, site specific viability assessments and published Government sources on land values for policy application. The data provides industrial, office, residential and agricultural land value estimates for the local sub-region including Chiltern and South Bucks but not all areas are covered. Where there are no direct land value indications, Dixon Searle Partnership Ltd used professional judgement to inform a "best fit" EUV from the available data.

The discussion on Land Values is set out in pages 49-55, 2.14.1-2.14.18 in Chapter 2 of the Local Plan and CIL viability study **[ED002]** and then further considered in detail on pages 144-155 of Appendix 3 **[ED007]**.

The EUV+ BLVs used within the study range between £100,000/ha to £250,000/ha (for bulk greenfield land including a significant uplift from existing agricultural values) and approximately £1.3m/ha for commercial land. A further filter was included to be representative of land in existing residential use up to £4.5m/ha. The Local Plan and CIL viability study (and appendices) detail the specific BLVs used in considering the strength of the RLV £/Ha results for each test scenario/typology. This is shown as a series of 'Viability Tests' used to filter the results.

Build costs

The assumptions for build costs are set out in pages 34-43, 2.6.1-2.8.21 in Chapter 2 of the Local Plan and CIL Viability Study **[ED002]**; and summarized in Appendix 1: Assumptions Summary (*Residential Assumptions and Non-Residential Assumptions*) **[ED003]**.

As set out at the start of Chapter 2 the cost assumptions are informed by suitable available data - from sources such as the RICS (Royal Institution of Chartered Surveyors) Building Cost Information Service (BCIS), any locally available soundings and scheme examples, professional experience and other research.

Residual S106 costs

Page 46-47, 2.12.5 of the Local Plan and CIL viability study **[ED002]** sets out the assumptions for residual s106 costs (effectively an additional contingency) and the assumed s106 costs for the strategic costs:

2.12.5 Although on the non-strategic site allocations (sites below the above thresholds) CIL will replace a majority of s106, the appraisals do include a notional sum of £3,000 per dwelling (for all dwellings – including affordable - and all schemes) purely for the purposes of this study and in the context of seeking to allow for a range of potential scenarios and requirements – effectively as an additional contingency in respect of any residual s.106 requirements, acting alongside the CIL payments in terms of the collective development costs to be considered.

2.12.16 The strategic sites allocation appraisals provide results derived from our appraisals run with an estimate of costs of known s106 requirements specific to each site with the outcome in each case shown as a resultant surplus/deficit. Those therefore provide a current stage indication of the sums potentially available to support any further additional infrastructure (e.g. through s.106 obligations) and/or other currently unidentified/abnormal costs after other usual development costs are allowed for.

Developer profits

Paragraph 10-018-20190509 of the updated Viability PPG states that:

For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies. Plan makers may choose to apply alternative figures where there is evidence to support this according to the type, scale and risk profile of planned development. A lower figure may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk. Alternative figures may also be appropriate for different development types.

As set out on page 44 ¶2.9.1 [ED002], developer's profit ranges from 15 – 20% of Gross Development Value (GDV) for open market housing and 6% for affordable housing, with the latter appropriately reflecting the expected delivery mode and therefore a contractor's type approach rather than a full market delivery level of risk. As set out on page 62 ¶3.2.8 [ED002], developer's profit on strategic sites is allowed for at 17.5% on the GDV (i.e. mid-range figure with reference to the PPG on 'Viability') for the private sale homes. Appendix 1 [ED003] confirms that commercial/non-residential developer's profit ranges from 15-20% of GDV.

Residential densities

As set out in Appendix 2b [ED005], residential densities for the strategic sites include an indicative average density of 35 dwellings per hectare (dph). A range of densities are included for the typology scenarios tested, these range from 30 to 125 dph, as detailed in Appendix 1 [ED003] and as discussed under the various typologies in Chapter 3 pages 68-75.

b. Is the uniform rate for Class C3 dwelling houses justified across both Council areas and supported by the viability evidence?

Yes. As per the Issue 2a response above, the scale of residential development (quantum of new accommodation coming forward) means that the majority of CIL receipts will come from residential schemes and should be charged accordingly.

The Council's viability evidence supports the CIL rate of £150 per square metre. Figure 12 (Brief Overview – Table of key policy development and CIL findings & observations) on page 97 [ED002] concluded that:

Our assessment considers the proposed £150/sq. m. across each district (2 charging schedules) to be viable and at this level to not require differentiation for particular areas/zones of sub-sets of development type.

The Local Plan strategy and policies appear capable of supporting the required mix of affordable housing and other policies, balanced with other objectives (including supporting infrastructure - through the proposed CIL and residual S106). The uniform C3 rate across both districts was considered viable and not to require differentiation for particular areas/zones of sub-sets of development type.

As a high-level secondary view check on the Local Plan and CIL viability study appraisal findings, Dixon Searle Partnership also consider the £150 per square metre charge in the context of the proportion of GDV on pages 59-60 ¶3.1.14 **[ED002]**:

3.1.14 This additional information does not represent additional viability testing, but in our view may be useful in purely a general health-check type way to help make sure that CIL charging rates are not set too high. DSP's view over several years of CIL viability and rates setting experience has been that, as a guide, realistic CIL charging rates should not exceed a range approximately 3% GDV to 5% GDV (maximum). The proposed £150/sq. m rates can be seen to fall within or well within appropriate areas of this guide – equivalent to around 2.5% to 3% GDV based on typical sales values. They are not excessive by this measure, albeit not a part of the viability testing and a back-up check only.

c. Is the threshold of 400 dwellings/10 ha for a zero rate appropriate? Should the areas to which this applies be clarified and, if so, how? Are school sites within such areas exempted?

Is the threshold of 400 dwellings/10 ha for a zero rate appropriate?

The PPG recognises there may be a need to consider setting specific rates for strategic sites and for low or zero rates to be considered, where there will be a requirement for significant contributions towards housing or infrastructure through planning obligations (PPG paragraph 25 Reference ID 25-026-20190901). The PPG clearly therefore permits a CIL rate of zero, and Section 106 to be charged on those large sites.

In the experience of the Councils' viability consultants the nil-CIL rating for larger sites (400 dwellings / 10 hectares or 40,000 square metres) is considered a suitable approach. Figure 12 (Brief Overview – Table of key policy development and CIL findings & observations) on page 98 **[ED002]** concluded that:

'The Councils' propose nil-CIL rating of the larger strategic sites, however, which is also considered a suitable approach given their characteristics, including the acknowledged and usual element of ongoing work on settling infrastructure costs. S.106 can provide a more direct and timely mode for securing site-specific infrastructure works especially, and also bespoke development mitigation contributions.'

The statement recognises that Section 106 agreements can provide a more direct and timelier model for securing site-specific infrastructure works, and for securing bespoke development mitigation, such as schools or roads. This would be important for potential complexities of large sites, not least in terms of specific mitigation for the Chilterns AONB and future compensatory improvements linked to Green Belt alterations⁶. For example, the PPG (paragraph 3 Reference ID 64-003-20190722) states that compensatory improvements to the environmental quality and accessibility of the Green Belt should be secured via:

the appropriate use of conditions, section 106 obligations and the Community Infrastructure Levy, to secure the improvements where possible. Section 106 agreements could be used to secure long-term maintenance of sites.

Should the areas to which this applies be clarified, and if so, how?

It is considered that the approach, as set out in the submitted draft CIL charging schedule [ED001] is appropriate. Across the whole of both districts, Section 106 will, therefore, be used to seek infrastructure provision from sites at or above the stated thresholds of 400 dwellings, 10 hectares or 40,000 square metres.

Are school sites within such areas exempted?

Where new schools are required, or any extensions to existing facilities, these can also be sought under Section 106. Developers can still be required to build such facilities on-site as a non-financial contribution, although the Local Education Authority (LEA) would need to be involved from a very early stage of the planning process. As CSB is a two-tier area, Bucks County Council is the LEA and has responsibility for identifying needs etc. CSB's role in this process is limited to transferring funding to the LEA for them to deliver against their identified priority schemes for the financial year in question. The need for new and expanded schools derives from growth in projected pupil numbers. The growth for Chiltern and South Bucks is most likely to come from the release of strategic Green Belt sites and it is these sites which would need to provide for new schools. All the Green Belt sites currently being considered for release, bar the two smallest would be exempt from CIL, therefore CIL would not be chargeable on LEA needs assessed schools. New schools or extensions that are below the thresholds for CIL exemption would be charged CIL, however it is very likely that the schools would be a beneficiary of CIL income.

⁶ How can the strategic policy-making authority ensure that compensatory improvements to the environmental quality and accessibility of the Green Belt will be secured? Paragraph: 003 Reference ID: 64-003-2019072. Accessed at: <https://www.gov.uk/guidance/green-belt#how-can-the-strategic-policy-making-authority-ensure-that-compensatory-improvements-to-the-environmental-quality-and-accessibility-of-the-green-belt-will-be-secured>

6. ISSUE 3 – OTHER USES

a. Are the rates for other uses such as non-residential institutions (D1), assembly and leisure uses (D2) appropriate and justified by the viability evidence?

b. Should a rate of £35/sq. m be applied to all other development types, including schools and hospitals?

Dixon Searle Partnership Ltd analysed other development uses in the Local Plan and CIL viability study. See Pages 26, 90-94 paras 2.3.4-2.3.6 and 3.7.44 - 3.7.57 and Figure 11.

Nominal CIL charges of £35 per square metre are proposed for any development which does not fall within use classes A1-A5, or C3 or C4, as set out on page 65, para 3.3.11. **[ED002]**:

...aiming for a pragmatic approach as part of the appropriate balance between the desirability of funding infrastructure and the ability of developments to come forward viably, the Councils' propose a single £35/sq. m CIL charging rate across all other developments in both districts – effectively a nominal and evenly applied charging rate aimed to secure a modest level of infrastructure funding from and effectively share a low-level burden across the wider range of developments.

Section 3.8 (*Rounding up - additional commentary*) of the Local Plan and CIL viability study **[ED002]** concludes:

We consider that the above [Section 3 Findings] confirms the scope under the joint Local Plan for developments to come forward viably, with sites and schemes overall having good viability prospects; and with an appropriate balance between this and affordable housing needs, other planning policy costs (including CIL), and objectives being achievable.

For other uses not mentioned in the question, e.g. extra care C2 uses, the viability evidence shows that charging a C3 residential rate (£150 square metre) may well be excessive for such development. Although a higher CIL rate could be justified, a levy charge of £35 per square metre was considered to be realistic. It will be important to ensure that sufficient accommodation is available to meet the needs of elderly people, which will inevitably require the provision of many new care homes and other specialised facilities. Where the developers of C2 use class facilities need to pay CIL, a figure of £35 per square metre is therefore considered to be appropriate and justified.

While Councils need to strike an appropriate balance between the desirability of funding infrastructure and ensuring that schemes remain viable, they do not have to precisely follow their viability evidence in doing so.

PPG paragraph 22, reference ID 25-022-20190901 also points out that:

Where an area has low, very low or zero viability, the charging authority should consider setting a low or zero levy rate in that area. The same principle should apply where the evidence shows similarly low viability for particular types and/or scales of development.

Consequently the nominal £35 per square metre rate for 'other uses', including developments in D1 and D2 uses is considered to be appropriate and justified.

Para 3.7.57 of **[ED002]** notes 'Our recommendation is for the Council to consider certainly not more than (as a maximum) a similar to proposed nominal (£35/sq. m) or a nil a (£0/sq. m) rate in respect of a range of other uses such as included within the above table. As in other cases, this could be reviewed in future - in response to monitoring information'.

Following the publication of these hearing questions, the Councils requested DSP to analyse the nominal CIL rates for non-residential development as a percentage of cost. Please see Appendix 1 of this hearing statement. This indicates that a nominal charge of £35 per square metre is below 1.5% of development costs for all other non-residential uses. Therefore, the Councils' proposed nominal CIL charge at £35/sq. m for a wide range of development uses is very unlikely to tip such a development into non-viability.

7. ANY OTHER MATTERS

a. Does the application of exceptional/discretionary relief from CIL by the Council require further clarification in the charging schedule and, if so, how would that be best provided?

The Councils believe the approach set out is suitable and appropriate. As mentioned in the draft charging schedule, although discretionary or exceptional circumstances relief are permissible under CIL regulations 44, 45 and 55, CSB cannot foresee any project(s) coming forward over the Local Plan 2036 lifespan which would justify the need for such provisions to be used.

Section 3.8 of the Local Plan and CIL viability study **[ED002]** also concluded that the study *"...confirms the scope under the joint Local Plan for developments to come forward viably, with sites and schemes overall having good viability prospects; and with an appropriate balance between this and affordable housing needs, other planning policy costs (including CIL), and objectives being achievable."*

Consequently, CSB do not consider that there is a case for including discretionary or exceptional relief measures in the CIL schedule.

From April 2020, CSB will be merging with Wycombe and Aylesbury Vale Councils to create a new Buckinghamshire Unitary Authority. The new BUA will become decision-maker for the CSB (and other two) areas. In the event that CSB's position on discretionary/exceptional CIL relief varies from the positions taken by Aylesbury Vale DC or Wycombe DC in their own current approaches to infrastructure funding and CIL, the new BUA will need to standardize the approach.

For now the proposed policy approaches taken by CSB are consistent with viability evidence for our two districts.

b. Any other matters.

The viability study is considered to demonstrate that the overall development of the area will not be put at risk if the draft CIL schedule charges for residential, hotel and office and other development are applied. Appendix 1 also shows that the proposed CIL rates, when taken as a proportion of overall development costs, do not exceed 1.5% for all non-residential uses. As such, the nominal rate is considered to assist in striking a balance between the desirability of funding infrastructure and maintaining development viability.

In setting the CIL charges, the Council has used appropriate and available evidence and has justified its approach. The Councils consider that the CIL charging schedule will achieve a reasonable level of income, and therefore help to address the gap in infrastructure funding which has been evidenced through **[ED009]** – the funding gap analysis.