

Selby District Council

COMMUNITY INFRASTRUCTURE LEVY
PRELIMINARY DRAFT CHARGING SCHEDULE

Consultation Document
January 2014



1. Introduction

- 1.1 The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and is defined in the CIL Regulations 2010 (as amended). Local Authorities in England and Wales can elect to prepare and adopt a CIL to assist in funding the infrastructure needed to support planned growth. The CIL is a charge, expressed in pounds sterling (£) per square metre, that is levied on the net additional floorspace created by most new development.
- 1.2 The purpose of this document is to seek views on Selby District Council's Preliminary Draft Charging Schedule (PDCS) for the CIL.

2. The Charging and Collecting Authority

- 2.1 The Council as the local planning authority is a charging authority and may therefore charge the CIL in respect of development in the District. The collecting authority for the finance generated by CIL will typically be the District Council as the charging authority. However, where the County Council grants planning permission for development in the District, it will be the County Council who will be the collecting authority. Where the County Council is the collecting authority it will pass the CIL payment on to the charging authority minus any reasonable administrative expenses incurred in collecting the CIL on the charging authority's behalf. Such instances will be few.

3. What development will be liable to pay CIL

- 3.1 CIL is charged on the gross internal floorspace of new development. Where planning permission is granted for a development that involves the extension or demolition of a building in lawful use, the level of CIL payable will be calculated based on the net increase in floorspace. This means that the existing floorspace contained in the building to be extended or demolished will be deducted from the total floorspace of the new development, when calculating the CIL liability. This means that most developments on previously developed brownfield sites will generally have a lower CIL liability than developments that take place on greenfield sites.
- 3.2 Most development that involves the creation of buildings that people normally use will be liable to pay CIL. However, the regulations provide for a number of exemptions to CIL against which the levy will not be charged, including:
- New buildings or extensions under 100 square metres of gross internal floor space which does not involve the creation of a new dwelling;
 - The changes of use, conversion or subdivision of a building that does not involve an increase in floorspace;
 - The creation of a mezzanine floor within a building;
 - Temporary development permitted for a limited period;
 - Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery;
 - Structures which are not buildings, such as pylons and wind turbines;
 - Affordable housing;
 - Development by charities for charitable purposes; and

- If the development is for a use or geographic area that has a zero or nil charge (£0/m²) set out in a CIL Charging Schedule.

3.3 The Regulations also allow charging authorities to permit discretionary relief from CIL in certain circumstances (e.g. where a reduced or nil payment may be accepted). Should the Council decide to offer discretionary relief it will publish its policy on the grounds for relief in time for the examination of the charging schedule next year. The cases for relief are likely to be rare, but could include the following:

- Development by charities for investment activities from which the profits will be applied for charitable purposes (as defined by Regulation 44);
- Development by charities where relief would normally constitute State aid (as defined in Regulation 45); and
- Where the Council considers there are exceptional circumstances to justify relief (as defined in Regulation 55). In these situations the development site must also have a planning obligation (Section 106 Agreement) relating to the planning permission which is greater than the value of the CIL charge, and the combined cost of the Section 106 agreement and CIL charge would have an unacceptable impact on the economic viability of the development. In such cases the developer would be expected to demonstrate this (as set out in Regulation 57) via an 'open book' approach with an independent valuer.

3.4 Relief can also only be granted if it does not constitute notifiable State Aid (as defined in European law). Given these requirements, most development will not be eligible for charitable or exceptional circumstances relief. However, the District Council will be prepared to consider applications for relief, and will confirm this by issuing a statement before the charging schedule takes effect.

3.5 The Council will have the ability to claw back any CIL relief where a development no longer qualifies for that relief within a period of seven years from the commencement of the development. For example, should a charity develop a building for charitable purposes and subsequently sell the building to the open market after three years, then the Council will be able to claw back the CIL that would have been charged on the building had it been used for private use.

4. **How the chargeable amount will be calculated**

The amount of CIL charge a development is liable to pay will be calculated according to Regulation 40 of the CIL Regulations 2010 (as amended). The method involves multiplying the relevant CIL rate for the type/location of the development by the net additional floorspace - and factoring in an inflation measure to allow for changes in building costs over time. A summary of the method is set out below:

$$(\text{CIL rate}) \times (\text{Net additional new build floorspace}) \times (\text{Inflation measure})$$

- 4.1 The inflation measure used will be the national 'All-in Tender Price Index' published by the Building Cost Information Service (BCIS) of Royal Institution of Chartered Surveyors. The inflation measure involves dividing the Index costs from the year planning permission is granted, by the Index costs from the year the Charging Schedule is adopted. Full details of the method are set out in the Regulations.
- 4.2 The CIL Regulations specify that where the overall chargeable amount on a scheme is less than £50, it is deemed to be zero.

5. Evidence to support the CIL

- 5.1 The development of the PDCS has been informed by appropriate evidence which includes:
- The adopted Core Strategy Local Plan;
 - The Draft Infrastructure Delivery Plan (IDP); and
 - A CIL Economic Viability Assessment (EVA).
- 5.2 The Council's adopted Core Strategy specify the amount of new development that is to take place over the plan period to 2027.
- 5.3 The Core Strategy sets out that over the Plan period the Council will make provision for 450 new homes per annum. The focus of growth is the District's main urban settlements of Selby, Sherburn in Elmet and Tadcaster as these have the greatest range of jobs, shops and services and thereby offer the greatest opportunity to deliver sustainable development. In the rural areas, the larger villages provide the focus for growth as these settlements offer the best access to jobs, shops and services. The Core Strategy also makes provision for 37-52 hectares of employment land over the plan period.
- 5.4 The Council's emerging Sites and Policies Local Plan (SAPP) will make allocations of land for housing and employment uses that reflect the housing and employment land targets and settlement hierarchy set out in the Core Strategy. The document will also set out policies to protect the character and heritage of the District and ensure development is of an appropriate scale, type and design. Where required, allocations will also be made for a range of other uses including new transport infrastructure, new sport, open space and recreation facilities, as appropriate. The (SAPP) Issues and Options is out for consultation during the same time period as this CIL consultation.
- 5.5 In order to introduce the CIL local planning authorities, as the charging authority, has to demonstrate that there is a shortfall in funding between the expected total cost of infrastructure needed to support development over the plan period and the level of funding likely to be forthcoming from mainstream sources of funding. The Council's emerging Infrastructure Delivery Plan (IDP) identifies the key infrastructure requirements needed to support the level of planned growth in the District.
- 5.6 Testing the economic viability of development is central to the CIL charge setting process and is required to justify the introduction of the CIL to an

authority area. Authorities must ensure that the proposed levy rates will not threaten the ability to develop viable sites and the scale of development identified in the Local Plan. To this end the Council has commissioned Roger Tym & Partners (now Peter Brett Associates) to prepare a CIL Economic Viability Assessment (EVA) for the District.

- 5.7 The EVA assesses the viability of the development of a wide range of land uses in the District including housing, office, industry, retail, hotels, community facilities and other sui generis uses, and maps variations in viability across the District. The assessment takes account of the development costs arising from existing and emerging planning policy and regulatory requirements (e.g. affordable housing, sustainable construction & design and open space provision). The assessment also makes an allowance for residual S106/278 contributions for measures that are required to make development acceptable and are directly related in scale and kind to the proposed development. A stakeholder event was held in August 2013 with local property agents and developers to discuss the key assumptions that underpin the viability assessment.
- 5.8 A basic principle of the CIL is that where it is economically viable to do so, new development should be charged. However, the CIL is not to be used as a policy tool to encourage certain types of development over others by applying a lower or zero rate where development is viable. Differential rates can be applied to different types of development, or to different geographical areas, based on the outcome of the economic viability assessment. Where it has been demonstrated that it would not be viable to apply a CIL charge on a certain type of development, or in a particular geographic area, either a zero CIL rate or a base rate can be applied.
- 5.9 As can be seen in the EVA, the Council proposes to charge a base rate of £10 per sqm on all other chargeable development not specifically identified in the schedule. This level of charge equates to approximately 1% of the cost of development of the lowest cost development assessed – industrial development – and is therefore considered to be a minimal charge that should not significantly affect the viability of the majority of development proposals.
- 5.10 The EVA concludes that there is scope to introduce a CIL to Selby District and the proposed CIL rates contained in the PDCS reflect the recommendations of the viability evidence. Based on the viability evidence, the Council is proposing to create a differential charging zone for residential development within the northern wards of the District with a higher CIL rate than the rest of the District (see EVA for full details of the proposed zones and rates). This is based on higher sales value within these wards compared to the rest of the District.
- 5.11 The Regulations recognise that the CIL charge may make some development unviable and advises that CIL should not be set at such a low rate as to ensure that every development remains viable. In setting the levy rates the Council has sought to strike an appropriate balance between:

- the desirability of funding from CIL in whole, or in part, the actual and estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and,
- the potential effects, taken as a whole, of the imposition of CIL on the economic viability of development across its area.

6. Liability and Collection of CIL

- 6.1 The Levy applies to new development for which planning permission is granted after the Charging Schedule has taken effect, and the amount of CIL payable (the 'Chargeable Amount') is calculated on the day that development is first permitted (which can be the day on which planning permission is granted, if it is granted without conditions or reserved matters being attached, or which can be the day on which the last pre-commencement condition or reserved matters is agreed/approved). Where an outline planning permission permits development to be implemented in phases, each phase of the development is a separate chargeable development.
- 6.2 Liability to pay CIL for qualifying development will be assumed at the time planning permission is granted. Payment of CIL is due from the date the chargeable development commences with payment normally required within 60 days. The liable party is required to notify the collecting authority about the start date of the development. There may be penalties for failing to do so.
- 6.3 The Council recognises the implications that a large CIL liability required at the commencement of a development project could have on cash flows and the ability to raise finance. Therefore the Council is exploring the option to introduce an instalments policy for the payment of CIL over fixed time periods depending on the amount of CIL liable.

7. Payment in kind

- 7.1 Under the regulations, charging authorities may at their own discretion, consider accepting land as payment in kind in lieu of CIL. This will only normally be considered for land in excess of that needed to deliver the infrastructure required by the permitted development (e.g. if the development permitted requires a new school of scale x, the land for a school of scale x will be provided without cost and not in lieu of CIL). The value of land for in lieu payment will be determined by an independent valuer.

8. Relationship between CIL and S106

- 8.1 The CIL Regulations include restrictions on the pooling of planning obligations (i.e. S106 Agreements and commuted sums) whereby the Council will not be able to pool more than 5 contributions from separate developments towards a single item of infrastructure that is not being funded by the CIL. This means that it will become difficult to deliver larger scale items of infrastructure such as schools, transport schemes etc. where the pooling of many individual planning contributions is often necessary. However, there will continue to be

an important role for planning obligations in mitigating the site specific impacts of a development and for providing affordable housing.

- 8.2 As part of the CIL the Council will need to prepare a list, referred to formally as a "Regulation 123 list", setting out the types of infrastructure that it intends to fund through CIL. CIL cannot be used as well as Section 106 to deliver the same piece of infrastructure. The Council will therefore endeavour to produce a list that is clear to ensure that a development is not charged twice for the same infrastructure.
- 8.3 The Regulation 123 list can be reviewed at any time. In line with Government guidance on the preparation and implementation of the CIL the Council will undertake appropriate local consultation when reviewing the Regulation 123 list.
- 8.4 This list has to be published in time for the examination of the Charging Schedule. The Council intends to publish a draft Regulation S123 list alongside the Draft Charging Schedule due to be published for consultation later this year. The emerging Regulation 123 list will need to be discussed with key infrastructure providers, such as the County Council and the Environment Agency.

9. Spending of the CIL levy

- 9.1 The finance generated from the CIL must be used to deliver infrastructure in the District that is needed to support the level of housing and employment growth proposed within the Core Strategy and the emerging SAPP. This could include funding new or safer road schemes, schools, health and social care facilities, flood defences, open spaces and leisure facilities. This may be new infrastructure, or may involve repairing, expanding or enhancing existing infrastructure, if that is necessary to support new development. In certain circumstances it may also be spent on the on-going costs of providing infrastructure, which could include maintenance and operational activities.
- 9.2 It is important to note that CIL is not meant to replace mainstream sources of funding for infrastructure and will not cover the full costs of all of the infrastructure projects identified in the Council's Infrastructure Delivery Plan. The Council will work closely with the relevant infrastructure and service providers to discuss the funding of infrastructure projects.
- 9.3 The Regulations also allow up to 5% of the CIL collected each year to be used to pay for the administrative expenses incurred by the charging authority. The District Council anticipates that it is likely to seek an element of reimbursement, to cover the costs associated with collection, implementation and monitoring of CIL. This will be accounted for in the Council's monitoring of the expenditure of CIL.

10. Neighbourhood Funds

- 10.1 Under draft amendments to the CIL Regulations being brought forward by the Government, a local council (i.e. parish/town council) with an adopted

neighbourhood development plan will receive 25% of the CIL receipts generated by development within the neighbourhood plan area (provided that the development was granted planning permission after the neighbourhood plan was adopted) to spend on local infrastructure. In areas without a neighbourhood development plan in place, the Parish/Town Council will receive 15% of CIL receipts generated by development in the area (with a cap equal to £100 per dwelling in the area, in each financial year).

- 10.2 These 'Neighbourhood Fund' will be passed directly to parish/town councils where development occurs, and these locally elected councils will be directly accountable for its expenditure and reporting.
- 10.3 Draft amendments to the CIL regulations allow the charging authority to require the repayment of Neighbourhood Funds? that remain unspent 5 years after they were transferred to the District Council. Any returned funds are placed in the pooled CIL fund to be spent on district-wide infrastructure projects. The Council will need to determine its position regarding the return of any unspent neighbourhood funds.

11. Reporting

11.1 The Council will publish an annual report on the operation of the levy over each financial year. This will form part of the Council's annual Authority Monitoring Report and will include the following information:

- How much CIL monies have been collected;
- How much of that money has been spent;
- Information on how CIL monies have been spent, including on which infrastructure projects;
- how much has been used to cover administrative costs; and,
- The amount of CIL retained at the end of the reporting year.

11.2 Parish and town councils who receive CIL monies will have a duty to report to the District Council annually on how they have used their Neighbourhood Funds.

12. Monitoring and review of CIL

12.1 The Council recognises the need to closely monitor the proposed CIL charges, given that changes in the property market, construction costs and changes in local or national policy over time can impact on development viability. Following the intended adoption of the CIL Charging Schedule, the Council intends to review the CIL periodically in response to significant changes in local development viability.