

# Community Infrastructure Levy Preliminary Draft Charging Schedule Background Document “Justifying the Levy”

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27<sup>th</sup> September 2013

# **1 Purpose of the document**

1.1 This document supports the consultation Preliminary Draft Charging Schedule for the Community Infrastructure Levy ("the Levy" or CIL) in South Worcestershire.

1.2 The initial stage of preparing a charging schedule focuses on determining the levy rate(s). The Charging Authority must provide evidence on economic viability and infrastructure planning as background documentation.

1.3 It is considered that the Levy is expected to have a positive economic effect on development across South Worcestershire. The rate should be set at a level that balances the requirement for infrastructure to support development against the potential economic impact of imposing the Levy across South Worcestershire. The need for this balance is set out in regulation 14(1) of the CIL Regulations, which states that the charging authority must "*strike what appears to the charging authority to be an appropriate balance*" between the desirability of funding infrastructure from the Levy and "*the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area*". Additionally, CIL Guidance states that councils should "*show and explain how their proposed Levy rate (or rates) will contribute towards the implementation of their relevant Plan and support the development of their area.*"

1.4 This document will set out the process the South Worcestershire Councils (SWCs) have followed so far in setting the Levy rates.

1.5 This document will:

- A. Show and explain how the proposed rates will have a positive economic effect on development across South Worcestershire by securing additional investment for infrastructure to support development (as identified in the South Worcestershire Infrastructure Delivery Plan [SWIDP]) without threatening delivery of the emerging South Worcestershire Development Plan (SWDP).
- B. Explain evidence collated to date on the aggregate infrastructure funding gap and show how this is directly related to the infrastructure assessment underpinning the SWDP.
- C. Set out provisional information about the amounts of s.106 raised in recent years, including the extent to which affordable housing targets have been met.

- D. Set out how the South Worcestershire Councils have engaged with stakeholders (including developers, landowners, housing associations, etc.) in developing the Levy and how this work is continuing to progress.

## **2 Infrastructure**

### **Infrastructure Funding Gap**

2.1 The South Worcestershire Councils carried out an assessment of crucial infrastructure requirements, in close consultation with Worcestershire County Council. This is set out in the SWIDP (May 2013), which has been submitted as supporting evidence for the SWDP Examination in Public (EiP).

2.2 The SWIDP sets out the physical, social and green infrastructure required to support the delivery of the SWDP. The SWIDP is a 'living document' and it will be updated as necessary to support the delivery of the SWDP.

2.3 The SWIDP identifies around £500m worth of infrastructure required over the plan period and full details are available in *Appendix Y of the SWIDP*.

2.4 It is fully recognised that it would not be appropriate to fund all infrastructure required from the Levy nor would the Levy generate sufficient funding to deliver all of the infrastructure required, as such the three councils, together with infrastructure providers (including Worcestershire County Council), are working to identify other funding streams needed to facilitate delivery, including other Government funding sources, s.106, etc. A full exploration of these funding mechanisms is set out in Section 10 of the SWIDP "*Delivery of infrastructure: funding mechanisms*".

2.5 The current position of the three SWCs on the relationship between s.106 and the Levy is set out in *Appendix A* of the PDCS Consultation document, as part of an indicative split between CIL and Planning Obligations.

2.6 The headline figures for those main infrastructure typologies that are likely to be funded from any money raised through implementation of the Levy by the SWCs are provided below and this shows an aggregate funding gap of £94 million:

**Table 1: Aggregate Funding Gap Assessment of the Main Infrastructure Types**

Infrastructure Type	Funding Requirement	Anticipated Delivered via s106	Anticipated Other Funding	Aggregate Funding Gap
<b>Transport</b>	£205m	£TBC	£TBC Min £21m	£60m
<b>Education</b>	£66m	£20m	£20m	£26m
<b>Emergency Services</b>	£7m	£4m	TBC	£3m
<b>Sports and Recreation</b>	£28m	£8m	£13m	£7m
<b>Total</b>	£306m	£158m	£54m	£94m

### **Section 106 (Planning Obligations)**

2.7 Planning obligations are created under Section 106 (s.106) of the Town and Country Planning Act 1990 (as amended). They are also more commonly known as s.106 agreements'. They are legally binding obligations (agreements) that are attached to a piece of land and are registered as local land charges against that piece of land. Planning obligations enable a council to secure funding contributions towards services, infrastructure and amenities in order to support and facilitate a proposed development. The requirements of a Section 106 obligation will vary according to the size, impact and nature of the proposed development.

2.8 The CIL guidance requires charging authorities to prepare and provide information about the amounts of s.106 raised in recent years, including the extent to which affordable housing and other targets have been met.

2.9 Each of the three SWCs has taken a different approach to the implementation of s.106 and has a different policy basis under which s.106 can be collected (this is explained further below). Therefore, whilst s.106 has been a useful mechanism for supporting infrastructure investment and mitigating the negative impact of development, it has not necessarily always been utilised in a consistent way or pursued on all eligible developments. Nevertheless, this is important contextual information as to what developers can and cannot afford to pay which should be taken into account when setting the Levy rate(s) in South Worcestershire).

2.10 Record keeping of s.106 negotiated and collected is held differently by each of the SWCs and as such, the three Councils are continuing to align this evidence prior to

consultation on the Draft Charging Schedule (DCS). However, significant progress has been made to date and this section will set out provisional information collated to date. Work is still on-going to provide more in depth analysis and amount of s.106 actually received and this will be available by the DCS stage when figures will be further refined.

2.11 The table below provides a simple summary of provisional s.106 agreements on qualifying sites within the South Worcestershire area.

**Table 2: Summary of s.106 data for residential development**

District	Typical s.106 per dwelling on housing sites	Average % affordable housing delivered on qualifying sites (excl. 100% affordable)
<b>Malvern Hills</b>	£4,000	39%
<b>Worcester City</b>	£2,000	35%
<b>Wychavon</b>	£5,000	30%

2.12 There have been insufficient commercial developments completed to provide a typical figure broken down by district. However, the average s.106 payment for commercial development across the whole of the South Worcestershire area was £60 per sqm.

2.13 It is clear from the data that collection of s.106 within Worcester City has been significantly less than from the other South Worcestershire districts. This is partly due to the fact that until recently Worcester City did not collect contributions towards transport infrastructure from residential development.

### **3 Viability**

#### **Approach**

3.1 Charging authorities need to prepare evidence about the Levy's effect on economic viability to demonstrate to an independent examiner that their proposed rates strike an appropriate balance. The Levy charge must only be set on the basis of viability and should not be used as a policy tool.

3.2 Charging Schedules may include differential rates, but only where they can be justified on the basis of either economic viability of different parts of the area or by economic viability of different types of development. A zero rate can also be charged if viability testing shows that it would be unviable for a particular use or area to pay the Levy.

3.3 In 2012, Worcestershire County Council, in liaison with the six district councils, commissioned HDH Planning and Development to undertake an independent viability analysis of the county to provide the evidence required to develop CIL Charging Schedules across Worcestershire. This analysis used a recognised valuation methodology to identify the maximum amount of CIL that a range of modelled sites from the development plan could bear whilst still sustaining a sufficient land price to provide the landowner and the developer with a 'competitive return'.

3.4 The approach to valuation was broad brushed and based on a residual valuation method to establish the '*additional profit*' of a scheme, which is the amount of profit over and above the normal profit made by developers having purchased the land (at a price that reflects the a site's alternative use value plus an uplift), developed the site and sold the units (including providing any affordable housing that is required):

$$\begin{array}{r} \textbf{Gross Development Value} \\ \text{(The combined value of the completed development)} \\ \text{LESS} \\ \textbf{Cost of creating the asset, including profit margin} \\ \text{(land + construction + fees + finance charges =} \\ \text{developers' profit)} \\ = \\ \textbf{Additional Profit} \end{array}$$

3.5 The assessments were based on modelling of a range of development sites, both residential and non-residential, that are broadly representative of the type of development that is likely to come forward in each authority area. These sites were not designed to exactly reflect actual sites within South Worcestershire.

3.6 An important part of the process was engagement with the development industry. Two events were held in 2012 at which local and national developers, land owners, agents, registered providers, etc. commented on the proposed approach to developing the Charging Schedules and the assumptions that were used in the viability modelling.

3.7 A workshop was held in July 2012 where the approach to viability testing was explored and stakeholders were offered the opportunity to make representations on the day and for a number of weeks following the workshop. These comments were considered when progressing the CIL viability study. A further session, where the findings of the study were presented, was held in October 2012 and stakeholders were again offered opportunity to comment following the workshop.

3.5 The background work was completed in early 2013 and has been used to demonstrate the viability of the proposed charges set out in this PDCS. The SWCs are continuing to work with HDH Planning and Development during 2013 to refine their understanding of viability on the most strategic sites identified in the plan and the outcome of this work. This work will be undertaken with liaison with the site promoters, as advocated within the Harman Guidance<sup>1</sup>) to ensure that the assessment of viability is as robust as possible.

## **Findings**

3.6 The results of the appraisals undertaken by HDH Planning and Development show the maximum additional profit that each of the modelled sites generates. The results are summarised in *Tables 3 and 4* over.

3.7 The results of the appraisals, show the maximum amount of CIL, expressed in £/m<sup>2</sup>, that the modelled sites could bear and still sustain sufficient land price to provide the landowner and the developer with a 'competitive return'.

3.8 These rates do not simply translate into the rates of CIL. They are the absolute maximum that the sites could bear in the current market and need to be considered alongside other factors explained within this document.

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<sup>1</sup> The Harman guidance is the working title given to a report by The Local Housing Delivery Group, chaired by Sir John Harman, called *Viability Testing Local Plans - Advice for planning practitioners*, published June 2012.



**Table 3: Residential Viability Appraisals: Additional Profit at Current Prices and Current Affordable Housing Targets (£/m<sup>2</sup>)**

	SUE1	SUE2	Greenfield 1	Greenfield 2	Greenfield 3	Brownfield redevelopment Large	Urban Flats	Brownfield redevelopment Medium	Medium Brownfield	Medium greenfield	Urban edge	Town centre flats	Ex-garage site	Town / Village Infill	Small Village Scheme	Village House
Gross Site Area	14.17	13.33	6.25	4.17	3.00	0.60	1.40	0.24	0.40	0.57	0.30	0.2	0.12	0.10	0.10	0.10
Net Site Area	8.50	8.00	3.75	2.50	1.80	1.40	0.60	0.42	0.40	0.57	0.30	0.20	0.12	0.10	0.10	0.10
Units	314	250	133	88	81	70	60	30	24	24	12	10	5	4	3	1
<b>Malvern Hills</b>	56	54	276	344				190	89	564	422	359	168	390	538	467
<b>Worcester</b>				159	87	0	0	295	0	391	458	406	0	183		
<b>Wychavon</b>	0	0	119	182	422	228		394	0	65	338	140	343	912	913	1,036

**Table 4: Non-residential Viability Appraisal: Additional Profit at Current Prices (£/m<sup>2</sup>)**

	Large industrial	Small industrial	Large office	Small office	Super-markets	Retail warehouse	Shops	Leisure	Hotel	Student Halls
<b>Greenfield</b>	0	0	0	0	523	774		0	270	
<b>Brownfield</b>	0	0	0	0	226	617	0	0	192	204

3.9 The tables above show that there is a clear justification for levying CIL on residential, larger retail developments (such as supermarkets and retail warehousing), hotels and student accommodation development across South Worcestershire, but for industrial, office, shops and leisure uses there is limited viability to charge the Levy.

3.10 Within the residential appraisals, the data shows that there is significantly less viability for development of city and town centre brownfield and infill sites, than for smaller greenfield development and edge of centre development.

3.11 The appraisals also show that there is less viability on larger, urban extension sites. This is predominantly due to the higher, site specific infrastructure and utility costs which are borne by the developer on-site.

### Neighbouring Authority Rates

3.9 Whilst the rate of CIL must be set based on evidence, it is useful to consider the appropriate rate in the context of the rates being introduced by neighbouring authorities, as this could have an impact on deliverability of development in Worcestershire. For example, a very low rate in a neighbouring authority could put delivery of the Development Plan at risk if developers prefer to develop in an area with a lower rate of CIL.

**Table 5: Neighbouring Authority Emerging CIL Rates**

Local Authority	CIL Status	Use	Charge (per m <sup>2</sup> )
<b>Birmingham City</b>	Consultation PDCS closed January 2013	Residential	£55 to £115
		Student Accommodation	£115
		Supermarket	£380
		Small supermarket and retail	£150
		Office	£15 to £55
		Hotel	£45
		Leisure	£35
		Industrial	£nil
		All Other Uses	£nil
<b>Bristol City</b>	Adopted, Charging January 2013	Residential	£50-£70
		Student Accommodation	110
		Retail	£120
		Commercial, Industrial and Office	£nil
		Hotel	£70
		All Other Uses	£50

Local Authority	CIL Status	Use	Charge (per m <sup>2</sup> )
<b>Herefordshire</b>	Consultation PDCS closed April 2013	Residential	£nil to £140
		Small convenience retail	£80
		Large convenience retail	£120
		Town centre comparison retail	£90
		Out of centre comparison retail	£125
		Commercial, Industrial and Office	£nil
		Hotel	£25
		All Other Uses	£nil
<b>Shropshire</b>	Adopted, Charging Jan 2012	Residential	£40 to £80
		All Other Uses	£nil
<b>Solihull</b>	Consultation PDCS closed April 2013	Residential	£nil to £150
		Small convenience retail	£nil to £150
		Large convenience retail	£nil to £300
		Other retail	£nil to £50
		A3, A4 and A5	£nil to £100
		Financial and professional services, car dealerships, hotels and residential	£nil to £25
<b>Warwick</b>	Consultation PDCS closed July 2013	Residential	£30 to £180
		Supermarkets and retail parks	£75
		Retail in "prime Leamington Spa"	£65
		Other retail	£nil
		Hotel	£80
		Student Accommodation	£80

## 4 Rate Setting

4.1 In deciding the rate for the Levy, the SWCs considered the viability work that was undertaken and weighed up the various policy priorities, including the delivery of affordable housing and continuing use of s.106 to fund infrastructure for and / or delivered by the development industry.

4.2 Guidance states that a charging authority “*must aim to strike what appears to the charging authority to be an appropriate balance between*” the desirability of funding infrastructure from the levy and “*the potential effects (taken as a whole*” of the imposition of CIL on the economic viability of development across its area”.

4.3 Evidence that has been considered includes:

- Worcestershire CIL Viability Study (January 2013)
- Policies within the emerging South Worcestershire Development Plan and their impact on viability, see South Worcestershire Overall Viability Study (November 2012)

- South Worcestershire Infrastructure Delivery Plan (May 2013) and infrastructure funding gap assessment
- Background evidence on previous s.106 agreements and affordable housing delivery
- Information about emerging rates in neighbouring authorities

4.4 Taking into account of all appropriate, available evidence the SWCs have come up with a strategy for CIL which is based on the following three principles:

### **1. Set the Levy at cautious level**

- i) The future of the economy is uncertain and whilst the general fall in house prices seems to have stopped and there have been positive messages about increases in prices, it seems inevitable that fluctuations will remain and confidence has not fully returned to the market.
- ii) Setting the Levy close to the limits of viability could have an adverse impact on development coming forward and as such SWCs are proposing to take a cautious approach. This will allow the Councils to (subject to site specific viability issues):
  - Continue to deal with site-specific issues via s.106 in a complementary manner (through an updated s.106 Supplementary Planning Document being prepared by the SWCs in parallel with the Levy)
  - Continue to deliver affordable housing requirements
  - Meet policy aspirations on design and environmental standards
  - Engrain the principle of the Levy within the development industry in South Worcestershire

### **2. Consider different rate on strategic sites**

- i) Charging authorities are permitted to treat major strategic sites as a separate geographical zone, where this can be supported by robust evidence on economic viability.
- ii) The South Worcestershire Councils are considering a different Levy rate for strategic sites. Such sites result in substantial infrastructure requirements in their own right which are more likely to be delivered by the developers or via s106. This affects the economic viability of their delivery in a different way to smaller

sites. The exact rate will depend on whether it is most appropriate to deliver the infrastructure required as a result of the development via s.106 or CIL.

- iii) Work has begun on assessing the economic viability of strategic development sites across South Worcestershire, and will be used to justify a separate rate, where appropriate.
- iv) In order to set a site-specific rate of CIL, the three councils and infrastructure providers will need to work with developers to provide evidence on the actual costs of delivering the infrastructure. They must also demonstrate a clear delivery strategy, to ensure the difference in rate is justified by reference to the economic viability of development. Landowners and site promoters will be expected to provide sufficient, good-quality information at an early stage to allow the planning authority to make an informed judgement. The SWCs have already started to engage constructively with developers to take this element of the Levy forward.

### **3. Look to revise in 3 years**

- i) Over the next three years values and costs of development could have changed significantly and the market could be more certain. It is difficult to predict how these may change and when. It will be important to monitor the market and review the Levy at least every three years, or in the event of house prices changing by more than 10% from the date of adoption, whichever is the sooner.

## **Conclusions**

4.5 Taking all the above into consideration, the following rates were considered appropriate and will allow the SWCs to strike the appropriate balance between funding infrastructure required to support development of the area, and the effects on the economic viability of development across South Worcestershire, taking into account all the appropriate available evidence.

**Table 6: Preliminary Draft Charging Schedule**

Use Type	Proposed Levy Rate (per m <sup>2</sup> ) Malvern Hills	Proposed Levy Rate (per m <sup>2</sup> ) Worcester City	Proposed Levy Rate (per m <sup>2</sup> ) Wychavon
Residential	£60	£40	£60
Student Accommodation	£100	£100	£100
Food Retail (Supermarkets)	£100	£100	£100
Retail Warehouses	£100	£100	£100
Shops	£0	£0	£0
Hotel	£100	£100	£100
Industrial and Office	£0	£0	£0
Education, health, community and other uses	£0	£0	£0

4.6 All rates are equal across South Worcestershire, in line with the viability evidence, except residential in Worcester City, which is set at a lower rate due to the higher costs associated with development in the City and lower sales values such developments achieves

4.7 CIL is expected to contribute around £30 to £60 million over the plan period, although the exact amount will differ given that a number of applications may be decided ahead of CIL and rates are likely to change over time.

4.8 This stage of public consultation will allow opportunity for the development industry and other stakeholders to submit representations and evidence as to the viability and suitability of the above approach. All responses will be considered carefully before producing the formal Draft Charging Schedule for consultation in Spring 2014 (a full timetable can be found within the PDCS consultation document).

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