

Community Infrastructure Levy - Draft Charging Schedule Consultation (1 April to 16 May 2016)

Response Form

Please return by **5:00pm on Monday 16th May 2016** to:

Post: South Worcestershire Development Plan Team
 Civic Centre
 Queen Elizabeth Drive
 Pershore
 Worcestershire
 WR10 1PT
Email: contact@swdevelopmentplan.org

Ref: (For official use only)
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How we will use your details

The personal information you provide on this form will be held and processed in accordance with the requirements of the Data Protection Act 1998.

Please note that your name, postal address and comments may be made publicly available when displaying and reporting the outcome of this consultation and cannot be treated as confidential. Any other details, including signatures, private telephone numbers and email addresses will not be published on the Council's website, but the original representations with personal details redacted will be available in full for inspection on request.

1. Personal details	2. Agent's details (if applicable)
Title	Mr
	Nick Freer
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In parallel with the South Worcestershire Development Plan (SWDP), the South Worcestershire Councils (Worcester City, Malvern Hills and Wychavon District Councils) are synchronising the process of preparing a Community Infrastructure Levy (CIL). Following consultation on the Preliminary Draft Charging Schedule (PDCS) in February/March 2015, work to update CIL has been carried out and each authority now intends to submit a **Draft Charging Schedule (DCS)** in 2016 for Examination. The updated timetable changes are reflective of the latest Local Development Scheme timetable, which came into force on 1 October 2015.

The South Worcestershire Councils are therefore now inviting representations on the DCS, prior to submission.

Please submit your representation by using this form and answering the questions below. If you need to continue on separate sheet, please remember to state which question you are responding to.

Question 1: Do the South Worcestershire Council's Draft Charging Schedules strike 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 the area?

Yes	
No	x

Comment:

While it is understood that the effects on the viability of delivery are to be considered across the plan the potential effect of delivery of important sites within the plan – for instance in respect of land off Abbey Road Evesham (see below) – may be sufficient to affect the delivery of the plan trajectory as a whole.

Question 2: Does the Regulation 123 list clearly and effectively set out the types of infrastructure that the South Worcestershire Councils intends will be, or may be, wholly or partly funded by CIL (or S106 agreements)?

Yes	
No	x

Comment: At face value Appendix A Table 3 setting out the Regulation 123 list has a strongly generic tone – albeit allowing for items to be excepted from that CIL category of infrastructure if paid for through section 106 contributions. It also appears vague in places.

The subsequent Table in Appendix A is not the Regulation 123 list but seeks to interpret what would happen in terms of what is paid for through section 106 and what through CIL contributions.

For West Worcester, for instance, section 106 contributions are intended to be sought to address education contributions such as the suggested 2FE Primary and the additional expansions of the two secondary schools.

It is accepted in the Draft Charging Schedule that the infrastructure requirements are part of the “live process” (para 4.5) and will need to be regularly updated. Inevitably they will be revisited and the detail examined in the context of planning applications. To this end the Charging Schedule and Appendix should make it plain that the specific requirements set out to be delivered through section 106:

- are indicative and will be refined through the development management process;
- may be met in part or in full through section 106 contributions or mechanisms;
- will be defined in more detail in scale and kind in the context of individual applications having regard to the need for such contributions to be necessary, directly related to the development, and fairly and reasonably related to the development.

Hallam considers that there will be specific section 106 requirements identified in Appendix A which will also be funded from other funding streams alongside section 106 contributions – as is acknowledged in para 2.4.

One such example appears in relation to transport infrastructure where “A4440 Dualling of Temeside Way from Ketch Island to Powick Island-Ketch Island-Powick Island (sic)” which is identified to be delivered through section 106/278 mechanisms related to the West Worcester Urban Extension and the Malvern North Urban Extension. As was evidenced at the South Worcestershire Development Plan Examination – the majority of the cost of this phase of the Southern Link Road is to be funded from regional and national sources other than section 106 funding (although section 106 funding was to be an element – see attached Appendix 1 Southern Relief Road Phasing and Funding). Policy SWDP45/2 indeed refers to directly to proportionate contributions only from the development: “Measures, including proportionate contributions directly related to the development, to support and safeguard the implementation of relevant schemes set out in the Worcestershire Local Transport Plan 3, including the adopted Worcester Transport Strategy, which includes the phased dualling of the A4440 Southern Link Road”. The Infrastructure Delivery Plan sets out a range of potential funding sources.

The use of funding other than and in addition to section 106 funding does not appear to be a problem as the Charging schedule/ Reg 123 list is presently drafted since, as Hallam understand it, the Draft Regulation 123 list would not preclude funding from sources other than or in addition to section 106

funding for specific items said to be matters for section 106 mechanisms. Nevertheless Hallam Land Management consider that explicit reference should be made that the specific requirements set out in Appendix A, to be delivered through section 106, may be delivered in part only through this mechanism and that other mechanisms and funding sources will also contribute towards delivery – for the avoidance of doubt.

In finalising the Regulation 123 list particular care will be required if there is any intention or need to fund similar or related elements of expenditure through section 106 contributions and through CIL. As presently drafted the Charging Schedule would appear to make it difficult to fund A4440 dualling through CIL.

Equally it may be appropriate for flexibility to be explicitly built into the Regulation 123 list such that additional elements considered necessary to mitigate the effects of development and sought through section 106 could be delivered by that means without risk of double dipping or through any limitations of the list. This may need to allow for the Regulation 123 list – accepted as a working document to be reviewed annually (para 4.5) – to be reviewed more frequently on the basis of updated evidence and delivery mechanisms relation to key strategic sites (as is likely to come forward through negotiations on individual applications). This much ought to be set out in the finalised Charging schedule and/or Regulation 123 list.

Moreover it is apparent that the section 106 list needs to be founded on, or can only be finalised, on the basis of a better evidence base. It will need updating to reflect later versions of the IDP but in particular discussions in the application context. Specifically Hallam do not consider that there is a justified evidence base for a number of elements identified in Appendix A as being specific requirements of the West Worcester Urban Extension - such as (but not limited to) the following:

- the need specifically for six senior football pitches at West Worcester (which appears to be a legacy of the earlier proposition for a much larger scheme) plus MUGA and Community Facility/Pavilion (reference to six should be deleted);
- the provision anticipated for site specific emergency service and in particular police posts provision at West Worcester – not least given the commitment to fund strategic provision of police service infrastructure to support development through CIL but also in the light of national guidance and decisions. Such infrastructure is not readily considered to be site specific and hence directly development related or proportionate.

On the overall shape of the indicative Regulation 123 list, it is Hallam Land's view that there is also value in setting out in more detail those elements potentially funded through CIL in greater detail – for instance those items to be funded by CIL under the heading “*Strategic County wide sustainable transport improvements for walking, cycling, public transport and highways*”.

Hallam Land Management requests that it the company be invited to participate in an examination into the Draft CIL Charging Schedule to address that matters raised in relation to this point.

Question 3: Do you agree with the proposed CIL rates for each of the South Worcestershire Councils?

Yes	
No	x

Comment:

Hallam does not comment in detail on all of rates across the districts at this time but highlights two particular matters relating to the rates for the Main Urban Areas. Hallam supports the £0 rate for residential development at the Main Urban Areas of Evesham and Malvern (among other urban areas)

Hallam however objects at how the boundaries of the urban areas and hence of the £0 rate are drawn. Specifically Hallam considers that site SWDP50/7 Land off Abbey Road, Evesham should be defined within the Main Urban Area of Evesham. It appears that it is not the case at the moment.

There are a number of reasons for Hallam's view. First, the site is set out in SWDP50 as an urban capacity site as part of Evesham town. Second, this is appropriate as the site is located at the heart of the town. Third, the policy requirements set out in SWDP50/7 place a number of considerations on the development that arise from its status as an urban capacity site. Fourth the scale of development proposed is significant and is likely to have significant development costs associated with the scale of the development. Significantly a proportion of the allocated site is previously developed land and hence has the same characteristics of other sites accepted as being within the Main Urban Area. Fifth, there are a large number of potential infrastructure costs set out in the IDP in relation to Evesham and items that might be sought as section 106 elements.

It is acknowledged that the site, or a similar one, has not been subject to viability testing in the Council's evidence base. While the strategic site at Cheltenham Road, Evesham (SWDP51/1) is included in the viability assessment, the sites, development costs and values are not comparable. In the absence of such testing of the Abbey Road site it is inappropriate to set a rate for this site of £40psm that is not proven or relies on assumptions that Hallam does not consider robust. The evidence of Cheltenham Road, Evesham contradicts that set out in relation to virtually all strategic sites in any event.

Hallam considers that site SWDP50/7 (Land off Abbey Road) should be drawn within the Evesham Urban Area and be subject to a £0 rate as per all the remainder of the existing town. There is simply not the viability evidence available to the Council to support the separate and exceptional requirement of £40 psm may for the site. The Charging Schedule should be amended to redefine the boundary of the Evesham Urban Area to include the boundary of site SWDP50/7 as set out on the SWDP Proposals Map.

Were this not the case then Hallam would remain concerned that the present rate of £40 psm may not be supportable for the site.

In relation to Malvern, should additional sites be identified through the Local Plan process on the edge of Malvern these will need to be included within the urban area boundary also.

Hallam Land Management requests that it the company be invited to participate in an examination into the Draft CIL Charging Schedule to address that matters raised in relation to this point.

Question 4: Do you agree with the proposed CIL rates for the specific strategic site areas?

Yes	Yes
No	

Comment:

Hallam supports the £0 rate for residential development that is anticipated for the West of Worcester Urban Extension.

Certainty of infrastructure delivery is a key issue in relation to the strategic sites and is best delivered by bespoke and certain delivery mechanisms and based upon site specific viability discussions.

Site specific rates (specifically a nil rate for the West Worcester) – based on viability - are critical to the delivery of strategic sites and to securing the most effective means of infrastructure delivery. This approach is endorsed in the DCLG CIL Guidance and in practice.

The previous PDCS and evidence base published in 2015 (summarised in Table 4 of the then PDCS Background Document “Justifying the Levy”, indicated that none of the major SWDP strategic sites could justify a separate charging rate on economic viability grounds. This is what the evidence says in para 4.33 of the then CIL Viability Update Report (December 2014) which in with regard to Worcester South and Worcester West is unequivocal: “neither of these sites are able to bear CIL”. Nothing has changed with the updated CIL Viability Update Report in January 2016 and this is entirely consistent with Hallam’s understanding and experience of the delivery of urban extensions in general and the viability of development of the West Worcester Urban Extension in particular.

Hallam’s view is therefore strong agreement that a £0 CIL rate for residential development at West Worcester is the only appropriate response and is soundly based on viability considerations.

Hallam Land Management requests that it may participate in an examination into the Draft CIL Charging Schedule on this point – should there be any representations head that a different CIL rate should be adopted.

Question 5: Do you have any views on the proposed Instalments policy?

Comment: It is imperative that an instalments policy should be introduced. Such a policy should distinguish between the scales of developments as is proposed. For large scale developments the policy should set out more generous terms in order to minimise the risk of delivery and to reflect the up front opening up costs and to best enhance the prospects of delivery and to secure section 106 obligations.

As presently set out in Appendix E, instalments are related to the commencement of development. In reality the ability to pay instalments is not closely related to the start of development but to the income received as a result of the sale of residential elements of the proposals.

It is imperative therefore that the instalment triggers are adjusted from that proposed in Appendix E. Specifically triggers should be based on the occupation of new homes constructed or at the very least to the commencement of construction of new homes. There could be a considerable delay in certain instances between the commencement of development on site and the commencement of the construction of new homes. This has to be acknowledged in the instalments policy.

Secondly the triggers should not relate to 60 days and 6 months and 9 months of the commencement of development which for a larger scale of development may all be close to the start of development. Hallam would strongly prefer that the relevant triggers be within 60 days of the commencement of 30% of the new homes, 60% and 100% of the occupation or commencement of construction of the new homes. Only if this is not possible should other triggers be adopted and these should be much longer – 30% 60 days from commencement/occupation of the first houses, 30% within 18 months of commencement/occupation of the first houses and 40% within 30 months of the commencement/occupation of the first houses.

Question 6: Do you have any further comments to make? If so, please make your comments below, as clearly and concisely as possible. If you are referring to any particular text in the CIL DCS, please state the relevant paragraph number.

Comment:

Comments received will be acknowledged and registered and will then be carefully considered in preparing the final documents to go forward for Examination, prior to eventual adoption and implementation by the South Worcestershire Councils.

Signature



Date

16 May 2016

Responses to this consultation should be sent to the e-mail contact address and/or postal address shown at the top of this form. Please ensure all responses are marked for the attention of the South Worcestershire Development Plan Team.

Representations must be received by 5:00pm on 16 May 2016. Any representations made after that date and time will be considered “Not Duly Made” and will not be taken into account.

Thank you for completing the form.

Southern Link Road Phasing and Funding

Phase 1 – Whittington Roundabout

Cost – £1m

Funding Source – Local Transport Plan 3 (LTP 3)

Completion Date – July 2012

Phase 2 – Ketch Roundabout

Cost - £9m

Funding Source – Department for Transport Major Scheme Bid (included a local contribution from LTP 3)

Completion Date – June 2015 (currently under construction)

Phase 3 a – Norton Roundabout

Cost – £9m

Funding Sources – Department for Transport - Local Growth Fund/LTB and LTP 3 (£16.7M), S106 Developer Contributions (£16.3M) split across Packages 3 a and b)

Completion Date – September 2016

Phase 3 b – Norton Roundabout – Whittington

Cost - £24m

Funding Source – As Package 3 a

Completion Date – September 2018

Phase 4 – Ketch to Powick Hams

Cost – £74m (approx. out-turn cost)

Funding Source – Department for Transport future funding bids and S106 (£18M)

Completion Date – 2023 if 2021 construction start

**Karen Hanchett
Worcestershire County Council
2 March 2015**