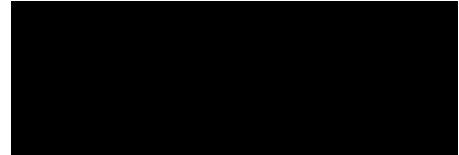




South Worcestershire Development Plan Team
Civic Centre
Queen Elizabeth Drive
Persnore
Worcestershire
WR10 1PT

Our ref

NS/maw



By Email: contact@swdevelopmentplan.org

16 May 2016

Dear Sirs

Representations to South Worcestershire Development Plan (SWDP) Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) (April 2016) on behalf of St Modwen Developments Limited

We write on behalf of St Modwen Developments Limited to make representations to the Draft Charging Schedule (DCS).

Introduction and Background

Our client's particular concern is with the proposed charge for retail floor space throughout the three South Worcestershire (SW) authorities. Whilst our client welcomes the reduction from £100 per sq m which was proposed at the revised Preliminary Draft Charging Schedule (PDCS) stage to £60 per sq m, our client is concerned with a number of issues relating to the proposed retail charges and how they would apply throughout the SWDP Charging Area. Our client is also concerned with the conclusions that have been drawn in relation to the potential for retail uses to contribute to CIL, based upon the updated viability evidence reported by the three local authorities' viability consultants, HDH Planning and Development, in **January 2016**.

The CIL Regulations and CIL Guidance (the latter now being crystallised in the Planning Practice Guidance (PPG) advise that Charging Authorities should propose a CIL rate that does not put at risk development in the Charging Area. Charging Authorities **must** strike an appropriate balance between the desirability of funding infrastructure from CIL, and the potential effects of the CIL charge on the economic viability of development across the Charging Area. Charging Authorities should prepare evidence to examine the effect of the levy on the economic viability in their area to demonstrate to an Independent Examiner that their proposed charging rates strike the appropriate balance. It is this potential effect on economic viability that our representations are predominately focused on. We recommend that modifications are made to the DCS to ensure compliance with the CIL Regulations.

It should also be noted that representations were submitted to the revised PDCS by DTZ (now Cushman and Wakefield) on behalf of our client. Whilst the purpose of these representations is to



focus on the SW Authorities' proposed approach to retail CIL charging, we acknowledge the previous representations made by DTZ on behalf of our client and reserve the right to stand by these representations at the CIL Examination, if required. We have not replicated the points made by DTZ in this letter, but have attached a copy of the previous representations to this letter.

The remainder of this letter sets out our representations on the SW Authorities' DCS, responding to the questions set out in the DCS Response Form.

Response to the DCS Response Form

The paragraphs that follow address the key questions set out in the DCS response form, focusing on Questions 1, 3, 5 and 6.

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?

No. We expand on the reasons why the DCS does not strike an appropriate balance in our response to **Question 3** below.

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

No. Whilst it is acknowledged that the proposed charging rate for retail uses has reduced from £100 per sq m in the revised PDCS to £60 per sq m now proposed in the DCS, our client has significant concerns regarding the proposed approach to charging CIL on retail uses throughout the three SW Local Authority Charging Areas. These are summarised in the paragraphs that follow.

No thresholds have been tested to inform retail charging

The DCS does not propose a threshold for which charging on retail uses will be triggered. Accordingly, all retail floor space including food retail and retail warehouses will be CIL chargeable, regardless of the scale of development that is proposed. Thresholds for charging retail are common and have been proposed and adopted in a number of neighbouring authorities, who have sought not to charge CIL levies on smaller formats of retail development (acknowledging that small scale schemes are rarely viable to contribute to CIL).

For example, the SW Authorities' current approach to CIL charging would mean that all types of supermarkets are subject to a significant CIL levy, regardless of their scale and size. This particular issue was recently considered by the Independent Examiner of Birmingham City Council's CIL. Birmingham City Council had proposed a threshold for charging CIL on food retail at 1,500 sq m, and subsequently proposed a modification to increase this to 2,000 sq m prior to the CIL Examination. However, the threshold set out in the final Charging Schedule was increased again to 2,700 sq m. A copy of Birmingham City Council's adopted CIL Charging Schedule, along

with the Examiner's report, is attached to these representations. At **Paragraph 68**, the Examiner states that:-

'This is quite a difficult area to arbitrate as the variable is not simply one of unit size and the economies of scale but of operator covenant strength (and associated rents and yields). In effect the council is seeking to promote a floor space as a proxy to where low and high covenant strengths are likely to sit. Whilst there is nothing wrong with that approach, I share representative views that the evidence does not demonstrate that 2,000 sq m should be that watershed – it is simply a figure selected to fall in the middle ground between the unviable and viable tested schemes. At the hearing sessions, the council accepted that the use of 2,700 sq m was a more robust evidence based threshold, and indicated that it would not be unduly concerned about the use of the higher figure. I recommend that modification, as it will align the Charging Schedule more closely with the evidence and remove any potential risk to the viability of smaller formats of convenience retail development.'

The Examiner of the Birmingham CIL was therefore clear that the 2,000 sq m threshold for CIL charging on food retail development would have an impact on discounter retail stores, and that it should be increased to 2,700 sq m.

The SW authorities' viability consultant has not considered the threshold for retail charging (either for food or non-food retail uses at all). **Paragraph 3.36** of the updated report confirms that following representations from stakeholders, the modelling work was extended to include an extra typology of representative smaller supermarkets and noted that this sector was currently expanding through operators such as Aldi, Lidl, Farm Foods and Spa.

Paragraph 3.36 states that:

'The sector has become more active since this work commenced and is now expected to form an element of future new net development in this sector.'

However, the report is silent on this key issue and no thresholds for retail CIL charging is proposed in the DCS. This is a significant gap in the evidence based underpinning the SW authorities' CIL charging throughout the Charging Areas. In the absence of robust testing of retail thresholds, a threshold in line with the Examiner's findings in Birmingham should be proposed as a modification to the DCS.

Retail testing for Greenfield and Brownfield locations

Whilst thresholds to test the size typologies of retail development have not been considered by HDH Planning and Development (as discussed above), whether sites are to be developed on greenfield or brownfield land has been considered and incorporated into the viability testing. The results for retail testing, which have informed the latest CIL rates proposed by HDH Planning and

Development and incorporated in the DCS in terms of retail uses, are discussed at **Paragraph 8.33** of HDH Planning and Development's updated **January 2016** report.

HDH state at **Paragraph 8.33** that:-

'The councils do not anticipate further large supermarket development to come forward, but they do anticipate smaller supermarkets, particularly within the urban extensions, and retail warehousing to continue to come forward.'

The report continues that:-

'This revised rate is based on the assumption that future development will largely be on greenfield sites. CIL at this level would reduce land values but not to the extent as to threaten development.'

It is clear from **Paragraph 8.33** that HDH have arrived at their recommended CIL rates on the assumption that retail development will be brought forward on greenfield sites.

Appendix 7 of HDH's report sets out the results their viability testing of retail uses (utilising revised assumptions when compared to the revised PDCS stage). **Appendix 7** confirms that, regardless of the typology of retail development tested (i.e. large supermarkets, smaller supermarkets and retail warehouses), retail charging on brownfield sites is not viable throughout the Charging Area.

This is also confirmed in **Table 4** of the DCS 'Justifying the Levy (Updated) Consultation Document (**April 2016**)' which is replicated below:

Table 4: Non-Residential Viability Appraisal Updates – South Worcestershire (Recommended Rate of CIL £60 per sq m shown as per Viability Update)

Table 4: Retail updates residual value at £60 per sq m CIL rate Recommended CIL Rate		Larger Supermarkets	Smaller Supermarkets	Retail Warehouse
Greenfield (CIL) £60 per sq m)	Residual land worth	176,327	221,096	899,707
	Viability threshold	278,750	278,750	278,750
	Residual value (£/ha)	88,163	442,192	499,837
Brownfield (CIL) £60 per sq m	Residual land worth	-533,821	6,703	525,268
	Viability threshold	402,500	402,500	402,500
	Residual value (£/ha)	-266,911	13,407	291,815

Source: Table 4 – DCS Justifying the Levy (updated) April 2016

The explanatory text states that:-



‘Table 4 shows that the greenfield sites are generally viable for supermarkets and retail warehouses with a CIL charge of £60 per sq m. Brownfield sites are not considered to be viable. The proposed CIL rate has been reduced from £100 per sq m in the PDCS 2015.’

Therefore HDH’s own evidence suggests that all typologies of retail development which are proposed to be delivered in brownfield locations are unviable for CIL. The SW authorities’ approach to propose that a CIL levy is charged on all development regardless of whether it is on greenfield or brownfield sites is not appropriate and is not in line with the evidence base, as it would have a significant impact on the ability of retail schemes being brought forward in the CIL Charging Area.

The approach is also contrary to both national planning policy and guidance, which promotes a ‘centres first’ approach to the delivery of retail development. **Paragraph 23** of the National Planning Policy Framework (NPPF) states that planning policy should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. It continues that local authorities should also:-

‘Promote competitive town centres that provide consumer choice and a diverse retail offer and which reflect the individuality of town centres.’

Paragraphs 24 and **Paragraph 26** provide further guidance on the requirement for sequential and impact tests, which are required under national planning policy to ensure that retail development in centre locations is not jeopardised, and are supported by planning policies.

It should be noted that the national approach is also in line with the SW Authorities’ own strategy, as set out in **Policy SWDP9: Creating and Sustaining Viable Centres. Paragraph 2** of the reasoned justification to this policy states that Worcester, being at the top of the retail hierarchy, will be the preferred location for major leisure, office and retail redevelopments and other uses that attract large numbers of people. In addition, other centres are suitable for day to day food and non-food shopping, small scale leisure uses and local service facilities provision. Therefore, the SWDP confirms and endorses the approach of the NPPF to focus retail floor space within centre locations (which of course are usually brownfield, previously developed sites).

Accordingly, our client is concerned that the authorities’ approach to disregard HDH Planning and Development’s findings regarding the viability of retail uses in brownfield locations, and progress with a blanket CIL charge of £60 per sq m regardless of the location of development. This approach is not consistent with the viability evidence that has been produced by HDH and hence is contrary to the CIL Regulations.

Capital values applied to retail uses in HDH’s Viability Assessment

We have reviewed the assumptions that HDH have applied in their viability appraisals of the limited range of retail scenarios that have been tested. Whilst we are broadly content with the assumptions applied, we note that HDH appear to have used the comparable method of valuation to

inform their assessment of the capital value of retail uses (rather than undertake an investment valuation).

The capital values applied are as follows:

- **Large Supermarkets** - £2,800 per sq m (£260.12 per sq ft);
- **Smaller Supermarket** - £3,200 per sq m (£297.29 per sq ft); and
- **Retail Warehouse Uses** - £1,800 per sq m (£167.23 per sq ft).

Whilst we note the updated commentary in the CIL Viability Update (**January 2016**), which seeks to 'sense check' the rates applied by drawing upon average capital value data from the Costar website, there appears to be very little comparable evidence to justify the assumptions applied by HDH.

Table 3.1 'Employment and Retail Data' on **Page 34** of HDH's updated report highlights that generic data from CoStar suggests a sales price for all retail units of £1,485.42 per sq m (past year) with a five year average of £1,851.39 per sq m. At **Paragraph 3.38**, HDH conclude that the data includes older as well as newer units; that CIL will only apply to new units; and that the data does not include any supermarkets. On this basis, they conclude that the rates are robust.

First, we are uncertain why HDH have applied capital values to arrive at their assessment of value in the development viability appraisals, rather than the more typical approach to undertake an investment valuation (which applies a yield to capitalise the rental income). In our experience, the majority of retail developments are held as an investment and hence the investment method of valuation is the approach which will be the most robust in reflecting the market. This calls into question the approach that HDH have applied in arriving at their assessment of value in the viability appraisals, particularly given the fact that only generic data from the Costar database appears to have been analysed (rather than focusing on comparable retail properties which would give a more accurate assessment of rental value, yields and hence value).

Second, we have 'sense checked' the capital values applied, based upon our knowledge of average rents and yields across the retail sector. This suggests that HDH have not taken into account other issues which would apply if the investment method of valuation had been undertaken, such as allowances for rent free periods, incentives, and void periods. When these are deducted from the capital value generated by the average rents and yields that we anticipate for retail accommodation throughout the Charging Area, this suggests that the capital values applied by HDH are too high. This will paint an over-optimistic picture of development viability of retail uses across the Charging Area, and hence their ability to contribute to CIL.

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

Our client welcomes the formulation of an Instalments Policy, which we understand was not proposed at the revised PDCS stage.



The purpose of the Instalments Policy is to ensure that the viability of development is not threatened by developers having to pay a significant CIL payment at the start of the development, which would have a significant impact on project cash flow and hence the ability to finance projects.

We have reviewed the Council's proposed Instalments Policy which is summarised at **Paragraphs 7.2 and 7.3** of the DCS and the payment schedule set out at **Appendix E** to the DCS. The draft Instalments Policy states that any amount of CIL less than £50,000 should not be paid by instalments, and should be paid within 60 days (i.e. two months) of the commencement of development.

For amounts above £50,000, there are three different approaches proposed by the Instalments Policy as follows:

- **Amounts from £50,000 to £249,999** – payment in two instalments, the first being 50% of the CIL charge paid within 60 days of commencement of development (i.e. the first two months) and the remaining payment made at 6 months from the commencement of development.
- **Amounts from £250,000 to £1 million** – payment in three tranches: 30% within 60 days (i.e. two months) of commencement; 30% within 6 months of commencement of the development; and the remaining 40% within 9 months of commencement of development.
- **Over £1 million** - payment is proposed in four tranches with a similar payment profile to amounts between £250,000 and £1 million, albeit that payments are to be made in four equal payments of 25% with the last payment being payable within 18 months of the commencement of development.

Our client is concerned by the proposed schedule for instalments, particularly for CIL amounts of £250,000 and over. The proposed payment profile would hardly enable larger developments to contribute to CIL on a 'staged' basis, given how quickly subsequent payments would be required by the Instalments Policy as currently drafted. This is notwithstanding the fact that each phase of very large developments will form a separate chargeable development and that the Instalment Policy will apply to each individual phase (under **Regulation 9(4)** of the CIL Regulations).

The timings proposed by the SW authorities in the Instalments Policy appear arbitrary, as they are also linked to days after the commencement date of the development, not the delivery or occupation of development. It would therefore be much more prudent for the proposed tranches to be paid and triggered over the delivery (or occupation) of the development, and not by reference to timescales from the date of commencement.

For example, as currently drafted, significant CIL payments of over £1 million would all have to have been paid by 18 months of the commencement of development on site. In many cases, this



will mean that significant costs will have been incurred to clean up sites and/or deliver infrastructure, and only a limited amount of development will be under construction and delivered to off-set these costs and mitigate the impact on cash-flow.

The deferment of significant CIL payments on such sites will be critical to ensure that developers are able to meet the costs of delivering infrastructure and remediating sites in the first year/18 months of development. At present, the SW authorities' proposed approach to requiring all significant CIL payments within 18 months of commencement of development will do little to alleviate this issue and hence the Instalments Policy should be revised so that the CIL contribution is phased over the life of the development and triggered by the delivery/occupation of set percentages of floor space. This alternative approach will significantly improve the cash flow of schemes throughout the Charging Area, improving the deliverability of projects. These issues should be addressed by the three SW authorities, prior to the policy being considered by the Independent Examiner.

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.

Exceptions Policy

We note that the DCS at **Paragraph 7.4** states that:

'In addition to mandatory exemptions, the CIL Regulations allow the Charging Authority to introduce a discretionary relief policy if exceptional circumstances are satisfied.'

However, no such Exceptions Policy appears to be proposed. Our client strongly recommends that an Exceptions Policy is introduced. Such a policy should seek to exempt development from CIL where development is unviable, in order to achieve a viable development.

In our experience, this is particularly important for commercial sites, where there are no other policy requirements (such as affordable housing) that can be 'flexed' in order to achieve a viable scheme. Our client therefore strongly suggests that such an Exceptions Policy is formulated to ensure that the impact of commercial development in particular is not stifled throughout the Charging Area. This is a particular issue, in light of HDH Planning and Development's finding that all types of retail development on brownfield sites throughout the Charging Areas are unviable and unable to contribute to CIL.

Summary

The CIL Regulations require Charging Authorities to prepare evidence to examine the effect of the proposed CIL on the economic viability across the Charging Area, and demonstrate to an Independent Examiner that the viability evidence is robust and that the proposed charging rates strike the appropriate balance.



Our client, St Modwen Developments Limited, is concerned with the proposed charge of £60 per sq m on retail development across the Charging Areas, and in summary, draws your attention to the following:

- The contents of DTZ (now Cushman & Wakefield's) previous representations on residential CIL charging, and that we reserve the right to stand by these representations on residential CIL charging at the CIL Examination, if required.
- The authorities do not appear to have proposed an Exceptions Policy to assist schemes where projects are unviable. Such a policy should be formulated by the three SW authorities, as it is likely to be key to the delivery of commercial uses such as retail where other policy requirements (such as affordable housing) cannot be 'flexed' in order to create a viable scheme. This issue is particularly important, given that HDH Planning and Development's own evidence suggests that retail uses on brownfield locations are unviable and hence unable to contribute to CIL throughout the Charging Area.
- No thresholds for retail charging having been tested or are proposed, as has been the case with surrounding authorities such as Birmingham. The Examiner's decision at Birmingham suggests that a threshold for retail charging of 2,700 sq m should apply in order to strike the right balance in terms of retail charging throughout that Charging Area. In the absence of robust viability testing of this issue, the three SW authorities should adopt a similar approach to ensure that retail development throughout the Charging Area is not stifled.
- HDH Planning and Development's own viability analysis to inform the CIL suggests that retail uses in brownfield locations is not viable. Accordingly, the CIL retail charging rates proposed are predicated on the assumption that only greenfield sites will be brought forward in the Charging Area. This is contrary to both the NPPF and the recently adopted SWDP, both of which seek to focus retail uses in centre locations which are, by their nature, usually brownfield sites. This approach should therefore be reconsidered and a modification should be made to address this issue, prior to the DCS being submitted to the Independent Examiner.
- Although the introduction of an Instalments Policy is welcomed, the authorities' proposed phasing of payments will have a very limited impact on improving developers' cash flows, particularly for larger sites. Reducing the impact on developer's cash flows is the key point of introducing an Instalments Policy. Accordingly, a modification should be made to ensure that the payment of CIL instalments is linked to the delivery/occupation of various levels/percentages of development (rather than being triggered by time from commencement of development, with all payments being required by 18 months from commencement).



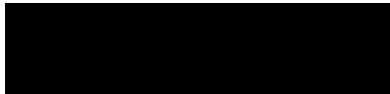
- The approach HDH Planning and Development have applied to calculating the revenue/value in the retail appraisals does not utilise the investment method of valuation (as is typical in the market place), and no comparable evidence is provided to robustly justify the freehold capital values applied.

Request to be Heard at the Examination

We would like to make a formal request to be heard at the Examination, so that the Independent Examiner can consider our representations, if the issues we have highlighted above are not addressed prior to the submission of the DCS to the Independent Examiner.

We trust that these representations clearly set out our client's concerns on the DCS in terms of CIL charging on retail uses. However, if you have any queries, please do not hesitate to contact me on the details set out above.

Yours faithfully



Nigel Simkin
Director
For and on behalf of Jones Lang LaSalle Limited

Cc St Modwen Developments Limited

Enc.

1. Completed CIL Response Form
2. DTZ Representations to revised PDCS on behalf of St Modwen Developments Limited (March 2015)
3. Birmingham City Council CIL Charging Schedule
4. Independent Examiner's Report – Birmingham CIL

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
Persnore
Worcestershire
WR10 1PT
Email: contact@swdevelopmentplan.org

Ref:

(For official use only)

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
Full name		Nigel Simkin
Job title (if applicable)		Director
Organisation (if applicable)		JLL
Address		
Postcode		
Telephone number		
E-mail address		

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:

Please see attached covering letter.

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	

Comment:

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

Yes	
No	X

Comment:

Please see attached covering letter.

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

Yes	
No	

Comment:

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

Comment:

Yes – please see attached covering letter.

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:

Yes – please see attached covering letter.

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

A black rectangular box redacting the signature.

Date

16.05.2016

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.

Community Infrastructure Levy Revised Preliminary Draft Charging Schedule (February 2015)

Comments Form

Please return by **9:00am on 30th March 2015** to:

South Worcestershire Development Plan Team,
Civic Centre,
Queen Elizabeth Drive,
Persore,
Worcestershire
WR10 1PT

or contact@swdevelopmentplan.org

Ref:

(For official use only)

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

Title	
Full name	
Job title (if applicable)	
Organisation (if applicable)	
Address	
Postcode	
Telephone number	
E-mail address	

2. Agent's details (if applicable)

Mr
Iain McArthur
Director
DTZ

In parallel with the South Worcestershire Development Plan, the South Worcestershire Councils (Worcester City, Malvern Hills and Wychavon District Councils) are synchronising the process of preparing a Community Infrastructure Levy (CIL). Each authority intends to submit a Draft Charging Schedule in due course in 2015 for examination. At this is a re-run of the first consultation stage, the Councils are inviting representations on the Revised **Preliminary Draft Charging Schedule (PDCS)**. Consultation on the Revised PDCS has been necessary due to the uplift of the Objectively Assessed Housing Need provided by the South Worcestershire Development Plan (SWDP) Inspector from his interim conclusions to the Stage 1 Examination published in March 2014.

Please submit your representation by using this form and answering the questions below.

Question 1: Should the South Worcestershire Authorities introduce a CIL Charging Schedule?

Yes	X
No	

Question 2: Do you have any views on the indicative draft Regulation 123 list and the split between s.106 and CIL?

Concerns are raised in respect of both the Regulation 123 list, the split between the 123 list and s106 and the contributions sought from the Urban Extension sites, particularly of interest to St Modwen who control a proportion of the land identified as part of the South Worcester Urban Extension.

In respect of Transport we are concerned that the approach includes duplication of funding within s106 which should be included within CIL, particularly in respect of matters of cumulative impacts and those of a strategic nature. We expect that CIL supersedes the former Worcester Transport Contribution approach which will not be CIL compliant. The specific infrastructure requirements set out for the South Worcester UE are related to that development, but the extent to which they also secure wider benefits to the City is not explained.

Careful consideration needs to be given to viability in both setting the CIL charge and also, given the approach set out in Appendix A, also to the level of s106 contributions to be sought from the UE's and of St Modwen's specific interest, the South Worcester UE. Applications have been submitted to the respective Council's concerning the development proposals for the South Worcester UE. The applications have been supported by detailed viability assessments. Discussions have also taken place in respect of likely infrastructure requirements for the development, however the viability balance for the development has yet to be adjudged and the deliverable scale of infrastructure has not yet been ascertained. Nothing in the CIL consultation supports, explains or justifies the UE specific infrastructure for the South Worcester UE, nor is there any evidence which calculates that the development is viable with this scale of infrastructure sought. In the absence of this evidence Appendix A cannot be supported.

In addition some aspects of the contribution sought under s106, again specifically for the UE's and South Worcester especially, are not explained or justified. It is not accepted that Emergency

Services contributions are compliant, including especially recruitment, staff and ANPR.

In respect of sport and recreation, it is not transparent how certain developments appear to have City wide value beyond the site specific development requirement under s106 and therefore are included within CIL but others which will clearly have wider City benefit are only included in the s106 site specific list. We note for example the All Weather pitch provision at West Worcester is funded under CIL, whilst all provision at South Worcester is under s106 notwithstanding the scale, nature and wider benefit of the proposals.

Question 3: Do you agree that the Levy should be set at a cautious level?

Yes	X
No	

Question 4: Do you think that the South Worcestershire Councils should maintain the use of planning obligations as the principal way of funding infrastructure on strategic sites?

Yes	X
No	

Question 5: Do you think that the South Worcestershire Councils should introduce a site specific rate for strategic sites, where this is supported by evidence on economic viability?

Yes	
No	X

Question 6: Should the SWC review CIL in 2019 in conjunction with the proposed SWDP review?

Yes	X
No	

Question 7: Should the South Worcestershire Authorities introduce an instalments policy?

Yes	X
No	

Question 8: Should the South Worcestershire Authorities apply exemptions to any further types of development?

Yes	
No	X

If yes, which further types of development should also be exempt?

--

Question 9: Do you agree with the proposed CIL rates for each Council area and each use?

Yes	
No	X

Question 10: Do you agree with the proposed rates for the SWDP strategic sites?

Yes	
No	X

Question 11: Would like to explain your choices for the questions in further detail? If so, please make your comments below, as clearly and concisely as possible. For instance, if you are referring to any particular text, please state the relevant paragraph number. Please continue on an additional sheet securely attached, if necessary.

SOUTH WORCESTERSHIRE COUNCILS
COMMUNITY INFRASTRUCTURE LEVY – REVISED PRELIMINARY DRAFT CHARGING SCHEDULE

DTZ is instructed by St Modwen Developments Limited to submit comments on the South Worcestershire Councils' (SWC) revised Preliminary Draft Charging Schedule (PDCS). The comments are purely based on DTZ's experience in the residential and commercial market within the Midlands and Worcestershire District.

Summary

Our client supports the findings of £0 (per sq m) charge rate but **does not** agree with the proposal to introduce a CIL tariff of £40 per sq m on residential development sites (all other Areas) for the Malvern Hills and Wychavon locations; £100 per sq ft on Food Retail and Retail warehouses. DTZ considers the proposed charging level to be unreliable due to there being an unrealistic site value thresholds. DTZ is concerned that in the future CIL will be levied on sites due to the low benchmark value being adopted within the region. The site value threshold does not represent market threshold land values being adopted and agreed in the market.

The section below outlines the context to our client's concerns.

Context

Our client is concerned that the introduction of a CIL tariff in Worcestershire could undermine the prospect of future delivery on a significant number of development sites across the South Worcestershire District thereby resulting in the development needs of the District not being met and the objectives of the South Worcestershire Development Plan not being realised.

Summary of Preliminary Draft Charging Schedule

The Preliminary Draft Charging Schedule (PDCS) for the Community Infrastructure Levy (CIL) was published with the following CIL rates:

Use Type	Charging Authority Proposed Levy Rate (per m ²)		
	Malvern Hills	Worcester City	Wychavon
Residential – Main Urban Areas	£0 (Malvern, Upton upon Severn and Tenbury Wells)	£0	£0 (Droitwich, Evesham and Pershore)
Residential – All other Areas	£40	£0	£40
Student Accommodation	£100	£100	£100
Food Retail (Supermarkets)	£100	£100	£100
Retail Warehouses	£100	£100	£100
Shops	£0	£0	£0
Hotels	£0	£0	£0
Industrial and Office	£0	£0	£0
Education, Health, Community and Other Uses	£0	£0	£0

The imposition of a CIL tariff at £40 per sq m for housing and £100 sq m for retail/ retail warehouses could undermine the delivery of development within Malvern and Wychavon. Whilst, we support the proposal of £0 CIL tariff on the above but do not agree with how the benchmark values have been arrived at as detailed within the Community Infrastructure Levy Revised Preliminary Draft Charging Schedule Background Document "Justifying the Levy" (CIL-JtL) dated February 2014. The low benchmark land values will impact the future delivery of development unless appropriate Market Value benchmark values are being adopted.

Market Value Approach in Assessing Threshold Land Values

The threshold land values for which landowners will release land for development is a central issue when considering development viability.

Market Value as defined in VPS 4 1.2 of the RICS Valuation – Professional Standards 2014 UK Edition ("the Red Book") and applying the conceptual framework which is set out in IVS Framework paragraphs 30-34. Under VPS 4.1.2.1, the term "Market Value" means "The estimated amount for which an asset or liability should exchange on the *valuation date* between a willing buyer and a willing seller in an arm's length transaction after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion"

The definition of *market value* defined in the RICS Valuation – Professional Standards 2014 UK Edition is as follows:-

"the estimated amount" refers to a price expressed in terms of money payable for the asset in an arm's length market transaction. *Market value* is the most probable price reasonably obtainable in the market on the *valuation date* in keeping with the *market value* definition. It is the best price reasonably obtainable by the seller and the most advantageous price reasonably obtainable by the buyer. This estimate specifically excludes an estimated price inflated or deflated by special terms or circumstances such as atypical financing, sale and leaseback arrangements, special considerations or concessions granted by anyone associated with the sale, or any element of *special value*;

The concept of *market value* presumes a price negotiated in an open and competitive market where the participants are acting freely. The market for an asset could be an international market or a local market. The market could consist of numerous buyers and sellers, or could be one characterised by a limited number of market participants. The market in which the asset is exposed for sale is the one in which the asset being exchanged is normally exchanged.

The *market value* of an asset will reflect its highest and best use. The highest and best use is the use of an asset that maximises its potential and that is possible, legally permissible and financially feasible. The highest and best use may be for continuation of an asset's existing use or for some alternative use. This is determined by the use that a market participant would have in mind for the asset when formulating the price that it would be willing to bid.

The highest and best use of an asset valued on a stand-alone basis may be different from its *highest and best use* as part of a group, when its contribution to the overall value of the group must be considered.

In order to arrive at the threshold land value an appropriate discount should be applied from the market value of the site with the benefit of planning permission. This discount from Market Value should reflect the cost and risk in securing an implementable planning permission.

The discount should reflect the Threshold Land Value is based on a premium over current use values and credible alternative use values.

The residual land valuation model tests the viability against the purchase price or threshold value. The value used has to be a legitimate benchmark including premium to release the site. If the residual land value is below this benchmark without the inclusions of any substantial planning gain/commuted sums, it demonstrates that such items cannot be justified.

To arrive at an appropriate land value, it is important to compare current residential land transactions which have been derived from a combination of DTZ's land sale evidence or evidence obtained from other sources.

Address	Description	Date	Abnormals & S106	Net Price	Net price per acre
Offenham Road, Evesham	Greenfield land, planning for 505 units (30% affordable), 34 acres	Sept 12	£10,700,000	£18 m	£827,241
Bell Lane, Lower Broadheath	Greenfield land, planning for 48 units (40% affordable), 4.49 acres	Awaiting completion	Confidential	Confidential	£980,000 (gross)

Station Road, Honeybourne, Evesham	Greenfield land, planning for 44 units (36% affordable), 3.21 acres	Mar 13	£611,000	£2.1 m	£654,206
Allesborough Farm, Persore	Greenfield land, planning for 42 units (31% affordable), 4.7 acres	Oct 12	£1,228,000	£3.2 m	£680,851

Establishing Appropriate Threshold Land Values

Recent industrial land transactional evidence is limited in Worcestershire due to limited activity and difficulties accessing relevant data and as a result the evidence is somewhat anecdotal.

Brownfield employment land is currently achieving around £300,000 to £350,000 per acre (£741,000 to £865,000 per hectare) and in better employment locations higher than £350,000 per acre. DTZ does not agree with the CIL-JtL document (page 7) generically setting these benchmark land value for large and medium sized Brownfield Redevelopments at £170,000 per acre (£420,000 per hectare). The Benchmark land value adopted is too low and does not reflect the substantial costs and risk involved in securing an alternative use planning permission. At these levels there will be no incentive for landowners and developers to promote sites for redevelopment through planning therefore restricting the release of future development land to meet the districts development targets.

Applying £450,000 per acre (£1.11 million per hectare) is appropriate for prime sites and £350,000 per acre (£865,000 per hectare) for most Brownfield sites is reasonable which reflects a reasonable land owner's return to bring a Brownfield site forward for residential redevelopment. This uplift reflects the landowners' risk and cost in securing an alternative planning permission over the land. Any less of a financial return/uplift in value would not be considered commercially acceptable as the landowner would be unwilling to promote land through the planning process at their cost and risk for residential redevelopment.

Stratford upon Avon District Council have just recently released their Draft Charging Schedule with the following benchmark land values:-

- Small Brownfield - £1.2 million per hectare (£485,000 per acre)
- Small Greenfield - £1.1 million per hectare (£445,000 per acre)
- Brownfield - £950,000 per hectare (£385,000 per acre)
- Strategic greenfield - £600,000 per hectare (£243,000 per acre)

There seems to be an inconsistent approach adopted between two neighbouring authorities in terms of assessing benchmark land values.

The same principle is true with regard to agricultural land/strategic Greenfield land. Page 7 of the CIL-JtL document proposes to adopt £133,000 per acre (£330,000 per hectare) for Greenfield land.

Again, as demonstrated above, Stratford-upon-Avon are proposing this is set at between £243,000 to £445,000 per acre (£600,000 to £1.1 million per acre) depending on size.

In DTZ's experience, strategic Greenfield sites will not be promoted through the planning process by landowners without a reasonable landowners return. Therefore, DTZ does not agree with the

strategic Greenfield benchmark value being adopted at £133,000 per acre (£330,000 per hectare) as this will impact the delivery of housing.

In addition, the above benchmark values demonstrate an appropriate discount from a wide variety of residential land transactions (with planning) to underpin our threshold land value assumptions.

DTZ is aware of a wide variety of land transactions to draw comparisons to determine a benchmark land value based on alternative/existing uses. The benchmark land values adopted by South Worcestershire are insufficient to compensate a reasonable landowner's expectation on return. The threshold land values should be increased otherwise land is unlikely to come forward for residential redevelopment due to the high existing use value/benchmark value for the area. The uplift in value needs to compensate the landowner for the risk and costs in terms of securing an alternative planning permission for residential development.

We object to the benchmark values and propose the following threshold land values are increased to:-

- Greenfield - £275,000 per acre (680,000 per hectare)
- Brown Redevelopment (large) - £450,000 per acre (£1.11 million per hectare)
- Urban Flats - £450,000 per acre (£1.11 million per hectare)
- Brown Redevelopment (medium) - £450,000 per acre (£1.11 million per hectare)
- Medium Brownfield - £450,000 per acre (£1.11 million per hectare)
- Medium Greenfield - £275,000 per acre (£680,000 per hectare)
- Urban Edge - £275,000 per acre (£680,000 per hectare)
- Town Centre Flats - £450,000 per acre (£1.11 million per hectare)
- Ex-garage sites - £300,000 per acre (£740,000 per hectare)
- Town/Village Infill - £450,000 per acre (£1.11 million per hectare)
- Small Village Scheme - £450,000 per acre (£1.11 million per hectare)
- Village House - £450,000 per acre (£1.11 million per hectare)

We note that the CIL report is very limited in respect of actual transactional evidence to support the proposed site value thresholds and appears to rely on discussions with developers. In view of the critical importance of this element of the work to determining a CIL tariff, we strongly urge the SWC to review this aspect of the evidence to ensure that it provides an appropriate benchmark that reflects the return that a land owner would require in order to release their land.

Ensuring a suitable balance – the viability buffer

Government guidelines state that CIL rates should be reasonable, given the available evidence. However, it should be noted that there is no requirement for a proposed CIL rate to exactly mirror the evidence. For example it would not be appropriate to set a charge right at the margins of viability. At Paragraph 019 Reference ID: 25-019-20140612, the guidance specifies that *“there is room for some pragmatism. It would be appropriate to ensure that a ‘buffer’ or margin is included, so that the levy rate is able to support development when economic circumstances adjust”*.

Case Law indicates that a 25-30% discount from the CIL headroom is suitable viability buffer. Needless to say, a charging authority should be able to explain its approach and rationale to the setting of CIL.

Conclusion

In conclusion, we highlight the importance of ensuring that the viability and delivery of sites across

the District is not put at risk given the important role of the site in delivering District-wide housing and regeneration objectives.

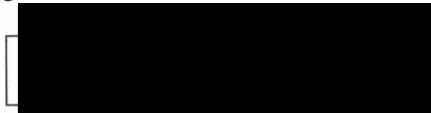
In reviewing the evidence, it is considered that there are a number of limitations in the viability analysis that have led to the proposal to introduce a tariff as a general rate. We consider that correcting these assumptions should lead to the conclusion that if South Worcestershire Councils are to introduce CIL, the appropriate general tariff would be substantially reduced given the scale of other costs that sites will typically incur in delivery.

DTZ proposes that applicants should have the ability to run viability appraisals on sites that have exceptional circumstances in order to reduce the amount of CIL.

We are happy to engage with the South Worcestershire Councils in providing the necessary evidence to support a review of the viability evidence as required.

The comments will be registered and acknowledged and will then be carefully considered in preparing the final documents to go forward for consideration and adoption by the respective Council. A summary of the comments received and officer response will be reported to the relevant Planning Committee and Cabinet/ Executive meeting.

Signature



Date

27-03-15

Responses to this consultation should be sent to the e-mail contact address and 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

Community Infrastructure Levy Charging Schedule

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1.0 What is the Community Infrastructure Levy?

The Community Infrastructure Levy (CIL) is a charge on new buildings in England and Wales. It is a mechanism to ensure certain types of new development contribute to the infrastructure needed to support that development. This infrastructure will support the growth aspirations for Birmingham as outlined in the Birmingham Development Plan which includes proposals for over 50,000 new homes and 100,000 new jobs. This infrastructure could include new schools, roads, parks and public transport improvements.

The charge provides a greater level of certainty for developers and land owners regarding their contributions and will be charged per net square metre of new development.

We will need approval from Full Council to begin charging a CIL, and subject to this approval, we intend to commence charging on Monday 4th January 2016.

2.0 CIL and other planning documents

To adopt a CIL, we need bring together “relevant evidence” which shows our aspirations for growth, the infrastructure needed to support that growth and its cost. We also need to show that the proposed charge will not discourage new developments from being built.

These documents are available on our website at www.birmingham.gov.uk/cil and www.birmingham.gov.uk/plan2031/evidencebase and include the following:

- The CIL Charging Schedule
- CIL Charging Maps
- CIL Economic Viability Assessment (GVA report) – October 2012
- The Birmingham Development Plan (Pre Submission Version)
- The Birmingham Development Plan Policies Map
- Site Delivery Plan
- Infrastructure Delivery Plan
- Preliminary Draft Charging Schedule information and consultation responses
- Regulation 123 list

The Birmingham Development Plan (BDP) was submitted to the Secretary of State for Examination on July 1st 2014, and the Examination Hearing Sessions have now finished. It is anticipated that the BDP will be adopted in 2016.

You can find the Birmingham Development Plan here www.birmingham.gov.uk/plan2031

3.0 The Infrastructure Development Plan

The Infrastructure Delivery Plan (IDP) identifies the infrastructure needed to support the growth of the City. This document helps to identify the types and costs of infrastructure, the delivery timetable and gaps in funding. The IDP is a collaborative effort and we have worked with a wide range of departments and stakeholders who have a role in delivering that infrastructure. The IDP clearly demonstrates a funding gap for the delivery of critical infrastructure which CIL will help to address. You can find the latest version of the IDP [here](#)

4.0 The Community Infrastructure Levy Preliminary Draft Charging Schedule – Viability Study (GVA)

We appointed GVA to carry out a viability study. We wanted this study to look at the viability of various hypothetical developments across the City. When assessing viability, GVA considered planning policy requirements (e.g. standards for sustainable buildings) which can add to the cost of a new development. This study shows possible CIL charges across the City, with different charges by type and location of those developments.

5.0 The Draft Charging Schedule

Following the Preliminary Draft Charging Schedule consultation, a number of responses raised specific issues regarding retail use categories, residential assumptions and values and charges specifically in relation to the Green Belt proposals in the Birmingham Development Plan. We requested GVA conduct further analysis to address the concerns mentioned.

In addition to supplementary testing, we have further amended the charges to take into account the current economic situation. While the economy is no longer in recession, the recovery is delicately balanced. CIL charges should not prejudice this recovery, and must strike an appropriate balance between funding for infrastructure and CIL's impact on economic viability. The proposed charges contained within the CIL also take into account unforeseen costs, additional planning policy requirements and on site Section 106 (S106) contributions. Once adopted, there is the possibility of an early review and potential amendment to CIL charges as the economy continues to recover.

5.1 Additional Retail Testing

Additional, hypothetical development schemes were tested (specifically convenience stores, city centre retail and convenience store with petrol station). The scenarios tested are high level and cannot be used as an example of what an individual developer or operator would be prepared to pay for land at any given location.

The appraisals assume a zero contribution towards S106 costs.

The paper can be found [here](#).

5.2 Additional Employment Testing, including Sustainable Urban Extension (Peddimore Employment Proposal)

Additional employment scenarios were tested, specifically in relation to industrial development on a greenfield site and offices in the prime and fringe of the city centre, to demonstrate potential charges for employment use. The scenarios tested are high level and cannot be used as an example of what an individual developer or operator would be prepared to pay for land at any given location.

To test the viability of a range of schemes on Green Belt employment land, three different scenarios were tested – pre-let industrial use, speculative industrial use and speculative business park use. The papers can be found [here](#).

5.3 Additional Miscellaneous Testing and Analysis

This paper updates the initial viability testing from October 2012. This paper reviews the original, proposed CIL rates and gives a greater viability “cushion” for CIL charges. This ensures the CIL will remain viable even with the varying circumstances for each development scheme. The paper can be found at [here](#).

5.4 Residential Urban Extension

Additional testing was undertaken for a large, strategic scale development of 5,000 units. This is a hypothetical example which mirrors the potential characteristics of the scheme recommended in the Sustainable Urban Extension (SUE). It is assumed that developments will be undertaken by large regional and national developers who benefit from economies of scale.

The testing assumes there will be significant on-site mitigating requirements for such a large scale development, and therefore S106 contributions are unlikely to be pooled with S106 agreements for other schemes.

Testing was undertaken assuming S106 contributions equivalent to £10,000 and £20,000 per dwelling. Further tests also assumed 20% and 35% affordable housing. In all cases, the assumptions adopted give a positive residual land value which suggests the scheme is deliverable; however the appraisals do not equal or exceed the adopted base land values. Therefore, the testing recommends a zero charge for residential development in the Green Belt. The paper can be found at [here](#).

5.5 Affordable Housing Providers and Birmingham Municipal Housing Trust

Amended guidance for the CIL was published on the Planning Practice Guidance website on 12 June 2014, and this replaced the previous standalone guidance that was published in February 2014.

This guidance states that we may offer further, discretionary relief for affordable housing types which do not meet the criteria required for mandatory social housing relief and are not regulated through the National Rent Regime.

The majority of Birmingham Municipal Housing Trust (BMHT) schemes deliver socially rented housing. These properties are funded through a mixture of internally generated resources, grant funding and recycled surpluses from house sales with the land being provided to the scheme at no cost. There is no developer profit achieved on a BMHT scheme as any surpluses created from the homes for sale are reinvested into new homes for rent or into community benefits such as road improvements or public open space.

Therefore it is proposed to exempt BMHT developments from CIL charges. This paper can be found at [here](#).

Similarly, we propose to exempt all social housing providers registered with the Homes and Communities Agency from CIL charges.

6.0 The CIL Examination Process

We submitted our CIL Draft Charging Schedule to the Planning Inspectorate on Wednesday 4th February 2015 for public examination. Our CIL Examination was held at our offices at Lancaster Circus on Thursday 30th April 2015 and all information relating to the Examination, including the Full Report, can be found [here](#).

The Inspector's Report concludes that our Charging Schedule provides an appropriate basis for the collection of the levy, that the charges are set at levels which will not put the overall development of the Birmingham area at risk, and will secure an important funding stream for infrastructure necessary to support planned growth in the city.

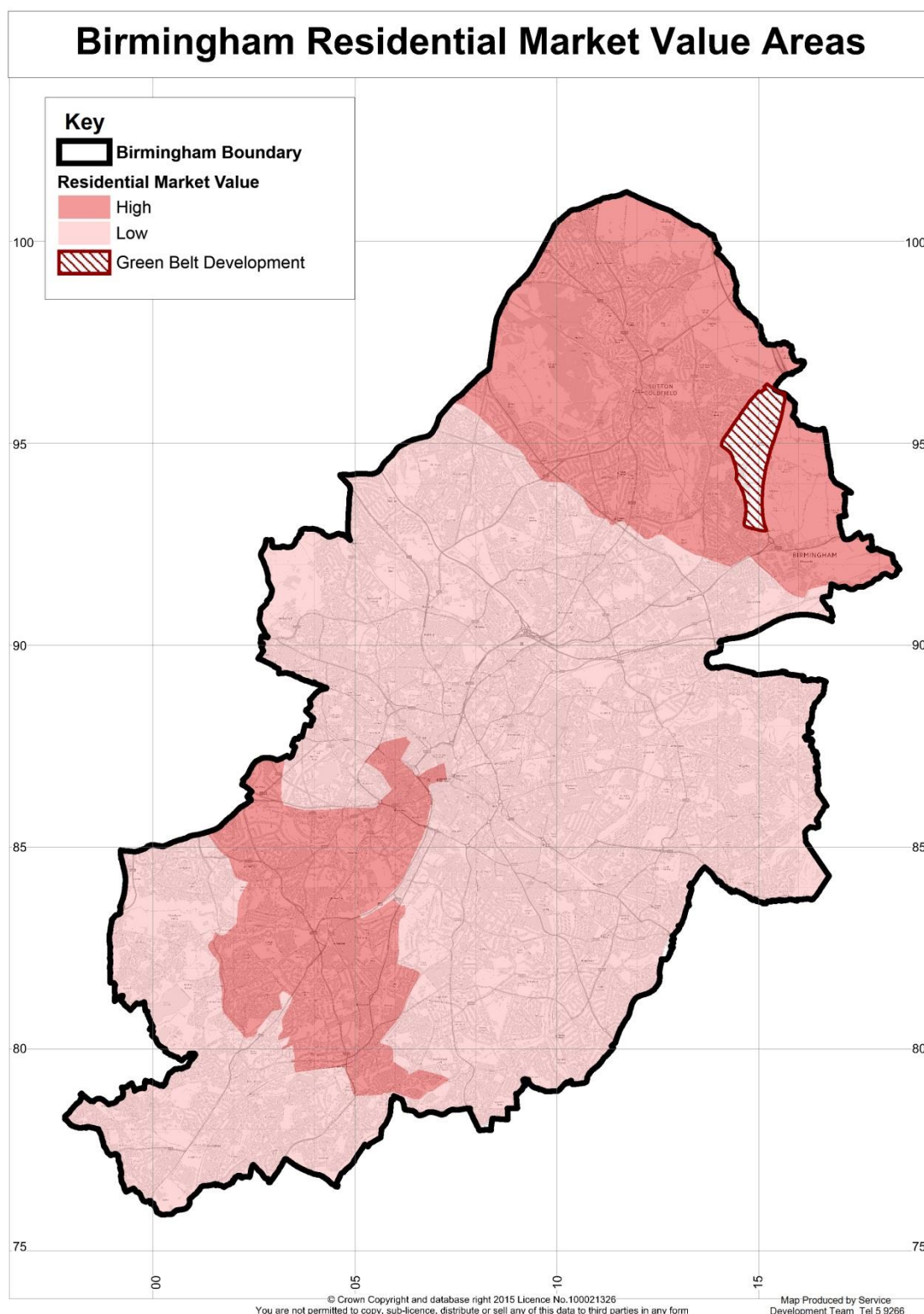
Following the Examination, we now need Full Council approval to adopt a CIL, and subject to this approval, we intend to adopt our CIL and commence charging on Monday 4th January 2016.

7.0 CIL Charges

Development Type	Detail	Charge/sqm
Retail convenience ¹	<2,700 sqm	£0
Retail convenience ¹	>2,700 sqm	£260
Retail ²	All other	£0
Retail ²	Greenbelt Development (Sustainable urban extension)	£0
Industrial/Employment	All areas	£0
Offices	All areas	£0
Residential	Value zones 1,2 & 3 (High value area)	£69
Residential	Value zones 4,5,6 & 7 (Low value area)	£0
Residential	Green Belt Development (Sustainable urban extension)	£0
Residential	Social Housing Providers registered with HCA and Birmingham Municipal Housing Trust developments	£0
Student housing	All areas, except Green Belt Development (Sustainable urban extension)	£69
Student Housing	Green Belt Development (Sustainable urban extension)	£0
Hotel	City centre	£27
Hotel	Green Belt Development (Sustainable urban extension) and rest of city	£0
Leisure	All areas	£0
Education	All areas	£0
Health	All areas	£0
Use class C2 ³	C2 use	£0
All other development	All areas	£0

- 1. Retail convenience can also include non-food floorspace as part of the overall mix of the unit.*
- 2. Retail - This category will include those retail units selling good not bought on a frequent basis.*
- 3. The Town and Country Planning (Use Classes) Order 1987 (as amended) defines Use Class C2 Residential Institutions as – residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.*

7.1 Charging Zone Maps

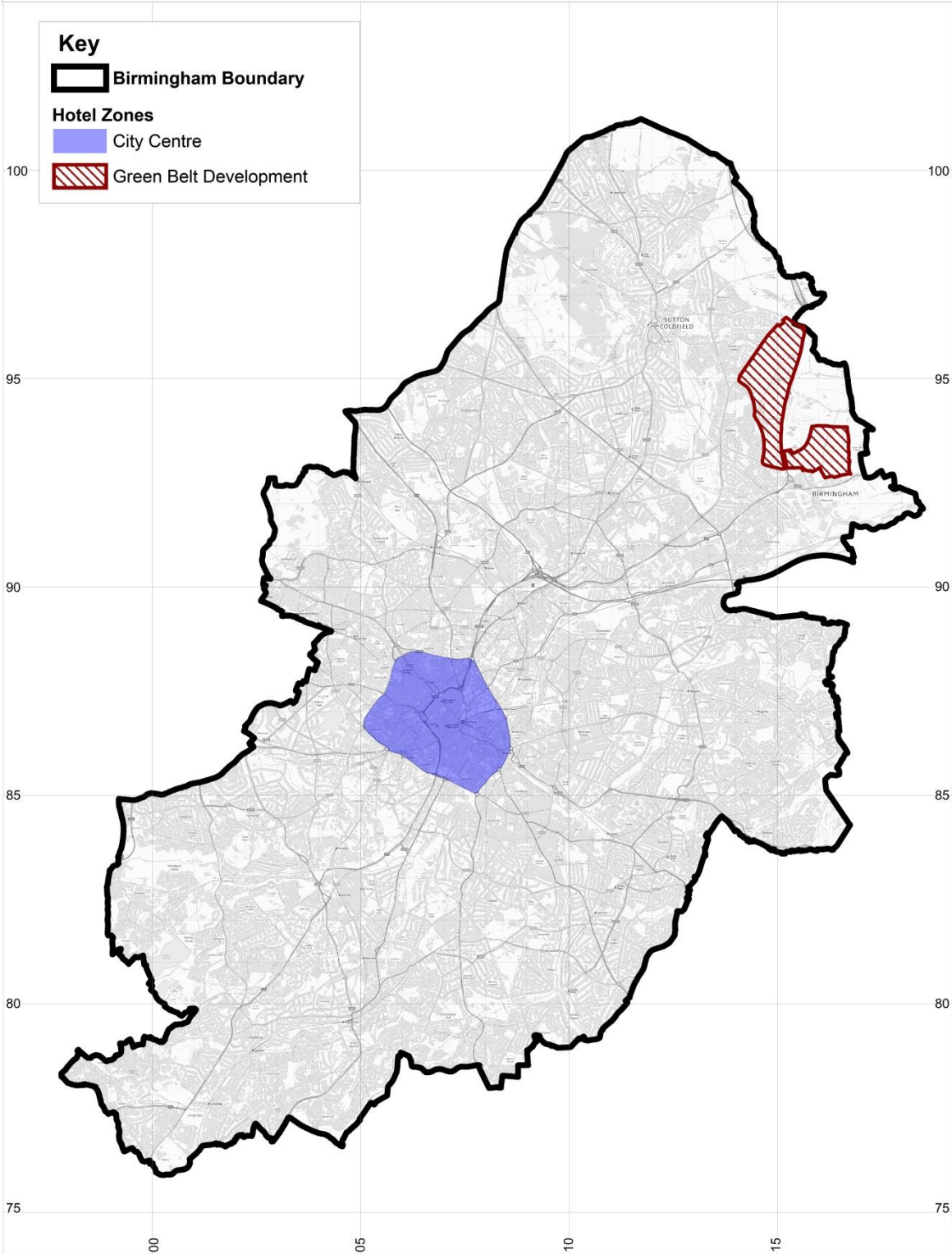


Please note – where the residential charging zone dissects a building on the above plan, the postcode used for the planning application site address will determine which charging zone the application falls under.

For clarity, the following post codes were identified in the GVA CIL Economic Viability Assessment report (October 2012):

Market Value Area							
	High			Low			
	1	2	3	4	5	6	7
Postcodes	B15, B17, B73, B74, B75	B30, B29, B72, B76	B1, B2	B3, B13, B12, B14, B20, B27, B24, B38, B45, B23, B31, B32, B33	B9, B18, B19, B28, B10, B26, B44	B5, B6, B8, B11, B16, B21, B25, B34, B35, B36, B42	B7, B4

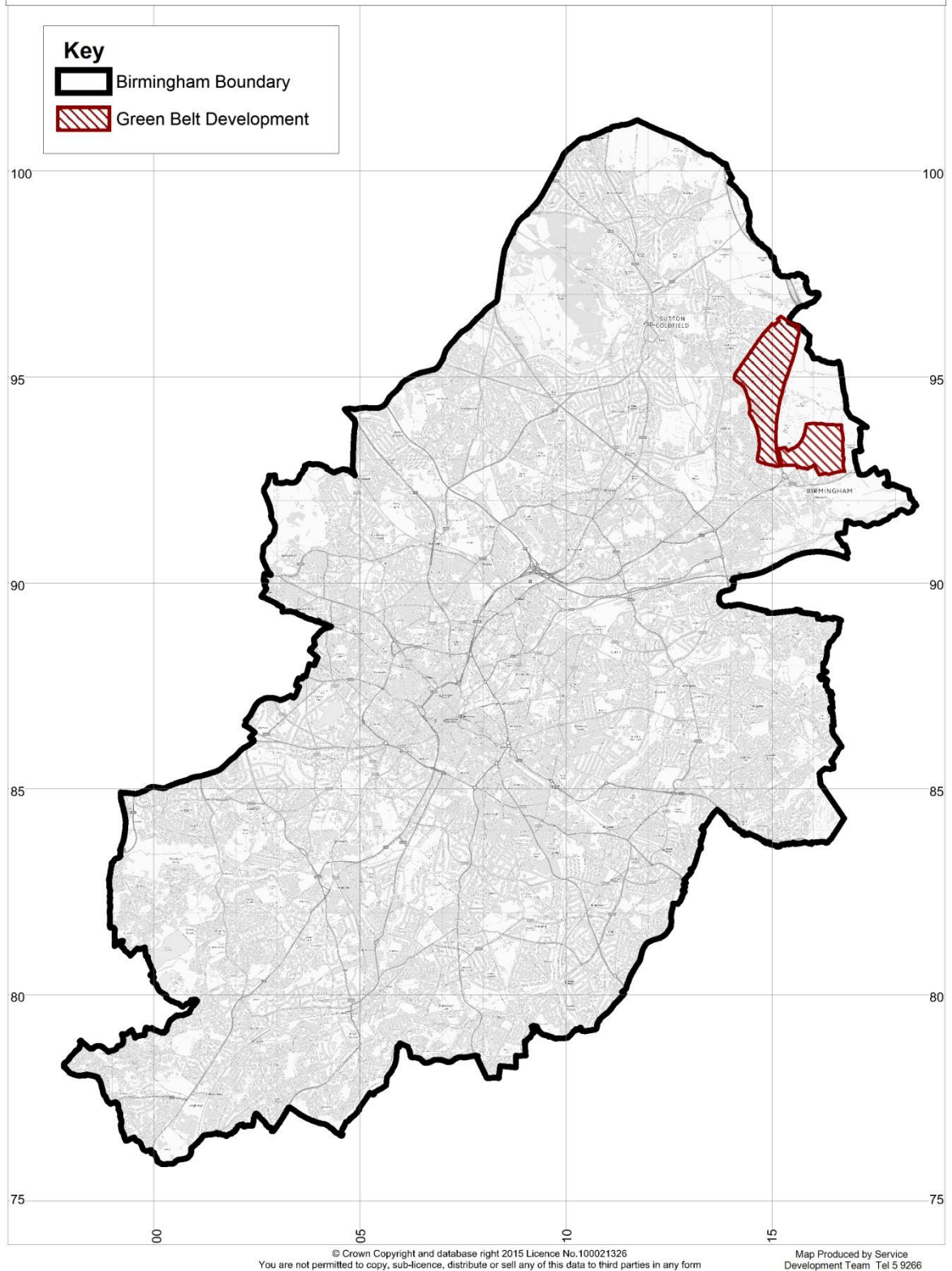
Birmingham Hotel Zones



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Map Produced by Service Development Team Tel 5 9266

Green Belt Development



8.0 Regulation 123 list

The Regulation 123 list (R123) is a list of infrastructure projects which we hope to fund or part fund through CIL. We have published a list and you can find this [here](#). We can revise this list at any time following the adoption of CIL, subject to appropriate consultation.

The projects on this list have been chosen as they support the development of Birmingham, as outlined in the Birmingham Development Plan. We can use the CIL to provide new infrastructure, increase the capacity of existing infrastructure or repair failing infrastructure, if it is necessary to support development.

9.0 What will be liable for CIL?

CIL may be payable on a development which creates net additional floor space, where the gross internal area of new build exceeds 100 sq.m. If the development creates a new dwelling, CIL is usually payable, irrelevant of size. CIL applies to all types of planning consent, including Local Development Orders and Neighbourhood Development Orders.

10.0 What will be exempt from CIL?

- Developments of less than 100 sq.m., unless it is a new house or flat. If it is a new house or flat, CIL is payable.
- Houses, flats, residential extensions or residential annexes which are built by self-builders, and will be occupied by those self-builders.
- Social housing
- Charitable development
- Buildings into which you do not normally go
- Buildings where you only go intermittently, for inspecting/maintaining fixed plant, machinery etc.
- Any structures which aren't buildings such as pylons
- Any development with a £0 charge as defined in the Charging Schedule
- Vacant buildings brought back into the same use
- Mezzanine floors of less than 200 sq.m. unless they form part of a wider planning permission providing other works.

For detailed, up to date information on the various exemptions, please see the [CIL Regulations 2010](#) (as amended) and also the [CIL Planning Practice Guidance](#).

11.0 Calculation

The formula used to calculate CIL liability is defined within the CIL regulations. This involves multiplying our CIL charging rate by the net increase in Gross Internal Area (GIA) and adjusting for inflation.

$$\frac{R \times A \times Ip}{Ic}$$

R – the CIL rate for that use

A – the deemed net area chargeable at rate R

Ip – the index figure for the year in which planning permission was granted

Ic – the index figure for the year in which the charging schedule took effect

The All-In Tender Price Index is an inflation index published by the Royal Institute of Chartered Surveyors Building Cost Information Service and the figure for any given year is the figure for November of the previous year.

CIL calculations leading to a liability of less than £50 are treated as zero rated and are not payable.

Further detail on calculating the amount due is contained in the [CIL regulations](#), including how to calculate the net chargeable area of the development.

If you need any help or advice calculating your CIL liability, please contact Hayley Anderson at hayley.anderson@birmingham.gov.uk or 0121 303 4820.

12.0 Who pays?

Landowners are liable for payment of CIL, but other parties can take on the liability to pay their CIL contribution. If no one assumes liability, or payment is not forthcoming from other parties, the liability will automatically default to the landowner.

13.0 [When and how will I pay?](#)

- When planning permission is granted through a decision notice (or appeal decision) on or after the date of publication of a CIL Charging Schedule for that area; or
- When development is permitted by a 'general consent' (e.g. permitted development).

Please note CIL will be chargeable on all relevant applications at the time planning permission first permits development. This is in accordance with Regulation 40 of the CIL Regulations 2010 (as amended).

There are a number of stages in the CIL collection process which we must follow:

- If you are applying for planning permission, you must include a completed copy of the [Additional CIL Information Form](#) with your application to help us calculate the sum payable
- If your development is granted planning permission by way of a general consent (such as General Permitted Development Orders or Local Development Orders), you must submit a [Notice of Chargeable Development](#) if the development is liable for CIL
- Someone must also assume liability for payment by submitting an [Assumption of Liability Form](#). This could be the developer, landowner or another interested party
- We will then issue a Liability Notice which sets out the charges due and the payment procedure
- Whoever assumes liability must then send us a [Commencement Notice](#) stating when development will start
- We will send a Demand Notice which states the payments and due dates for payment in line with our payment and instalment procedures
- When development starts, and payments are received in line with the procedures, we will issue a receipt for all payments received.

14.0 Can I pay my CIL in kind?

It may be possible to pay your CIL liability in kind, through either land or infrastructure, and we will assess each application and make a decision on a case by case basis. Please contact Hayley Anderson at Hayley.anderson@birmingham.gov.uk or 0121 303 4820 for further information.

Please note, should we agree to an in kind payment of CIL liability, these payments must be agreed through a land or infrastructure agreement before starting on site and can be full or part payment of the CIL liability.

Land or infrastructure must be valued by an independent valuer to ascertain open market value of land or the cost of the infrastructure to decide how much of the CIL liability will be paid by the in kind payment.

Further information regarding in kind payments is contained within the [CIL regulations](#).

15.0 Instalments

We have introduced an Instalment Policy which will take effect when the CIL is adopted.

Total CIL payment due	Payment Terms
Less than £30,000	Total payable within 60 days of commencement
£30,000 - £100,000	25% payable within 60 days of commencement 75% payable within 240 days of commencement (c. 8 months)
£100,001 - £500,000	25% payable within 60 days of commencement 25% payable within 240 days of commencement (c. 8 months) 50% payable within 365 days of commencement (c. 1 year) NB Full payment is due if full occupation/opening of development is earlier than the dates set out above.
£500,001 - £1,000,000	20% payable within 60 days of commencement 20% payable within 240 days of commencement of development (c. 8 months) 30% payable within 365 days of commencement (c. 1 year) 30% payable within 540 days of commencement (c. 18 months) NB Full payment is due if full occupation/opening of development is earlier than the dates set out above.
More than £1,000,001	20% payable within 60 days of commencement 20% payable within 240 days of commencement of development (c. 8 months) 20% payable within 365 days of commencement (c. 1 year) 20% payable within 540 days of commencement (c. 18 months) 20% payable within 730 days of commencement (c. 2 years) NB Full payment is due if full occupation/opening of development is earlier than the dates set out above.

If these instalment terms are broken, we will issue a Demand Notice which requires full payment immediately.

Similarly, if no Commencement Notice is received and we have to determine the “deemed commencement” date, we will issue a Demand Notice for CIL liability, which must be paid immediately in full.

16.0 Developer contributions and S106 Agreements

You could be asked to contribute towards infrastructure in different ways. This could be through CIL, S106 agreements, S278 highway agreements and any conditions which may be attached to your planning permission.

However, these different types of developer contribution all serve different purposes and the regulations will limit any perceived or actual “double dipping” with developers paying twice for the same thing.

16.1 Section 106 agreements

The CIL should provide infrastructure to support the development of the whole area covered by the Development Plan. However, some site specific issues or mitigation might still be needed to make sure planning permission is granted.

When we have adopted CIL, Section 106 requirements should be scaled back to those matters which are directly related to a specific site, and are not set out in a Regulation 123 list.

Whilst the majority of our viability appraisals assume a zero CIL liability, there may still be a need for on-site requirements, and these will be assessed on each planning application. The CIL “viability cushion” should still allow for an on-site S106 contribution if required.

You should note that while S106 agreements will remain, they will continue to be negotiable and therefore will be negotiated *after* the CIL contribution has been calculated.

S106 agreements should continue to be;

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development

From April 2015 we can't pool unlimited S106 agreements for infrastructure. If we have signed five or more obligations for a specific type of infrastructure or project since 6 April 2010, and you can also fund that piece of infrastructure or project through the CIL, we cannot sign any more of those S106 agreements. This also includes S106 agreements signed against applications made under Section 73 to vary a planning condition.

If you can't fund a piece of infrastructure through the CIL (such as affordable housing), we can pool unlimited S106 agreements, as long as we have regard to wider policies on planning obligations set out in the National Planning Policy Framework.

16.2 Section 278 agreements

Section 278 agreements are agreements between the highway authority and someone who agrees to pay all or part of the highways works. Section 278 agreements **cannot** be used for works which are included on the Regulation

123 list (i.e. works which could be funded by CIL). However, unlike S106 agreements, there is no limit on pooling S278 agreements.

17.0 Percentage to neighbourhoods

We have to pass on a percentage of CIL receipts to those communities affected by new developments.

15% of CIL receipts must be passed to Parish and Town Councils where development has taken place. This is capped at £100 per council tax dwelling, per year.

If there is a Neighbourhood Plan or a Neighbourhood Development Order (including a Community Right to Build Order) in place, the amount passed to that Neighbourhood Plan area is increased to 25%, with no annual cap.

Parish Council ☒ Neighbourhood Plan ☒ = 25% uncapped, paid to Parish	Parish Council ☒ Neighbourhood Plan ☒ = 15% capped at £100/dwelling, paid to Parish
Parish Council ☒ Neighbourhood Plan ☐ = 25% uncapped, local authority consults with community	Parish Council ☒ Neighbourhood Plan ☐ = 15% capped at £100/dwelling, local authority consults with community

These percentages will still apply if there are no Neighbourhood Plans or Parish Councils, but we will keep these contributions, and engage with local communities to determine how best to spend the money. The funds will be passed on every six months, at the end of October and April.

If a developer has contributed in kind CIL payments in the form of infrastructure, we will ensure a cash equivalent contribution to local communities.

The percentage passed to neighbourhoods can be spent on a wider range of infrastructure than the rest of CIL, as long as it still supports the development of the area.

18.0 Review

The CIL viability study can only demonstrate viability at a moment in time and cannot forecast future changes in the market. Therefore we will keep our CIL charges under review to make sure they remain appropriate. If market conditions change significantly, or the infrastructure funding gap changes, we will review and alter the CIL charges as necessary. Any proposed changes to

the CIL charge will be posted on the CIL pages on our website, and you will have the opportunity to comment before any changes are made.

We can decide to stop charging a CIL at any time. If we were to do this, any CIL liability relating to a development which hasn't started would be dissolved and no CIL would be payable.

19.0 Monitoring

Regulations state we must let you know how we're spending any CIL income. We will publish a report (at least) annually (by 31 December each year, for the previous financial year) explaining how much we've received in CIL payments, how much we've spent, and on what, and how much we're carrying over into future years.

Town and Parish Councils must also report on their CIL spending.

20.0 Sustainability

The CIL charging schedule does not require a Sustainability Appraisal as it is a short financial document rather than a "land use planning" document.

Glossary and Further Information/FAQs.

Is CIL payable if existing buildings are being demolished or converted?

The gross internal area of any buildings on the site that are going to be demolished or re-used may be deducted from the calculation of CIL liability. However, deductions are only applied where those buildings have been in lawful use for a continuous period of at least 6 months within the period of three years ending on the day planning permission first permits the chargeable development. In this context, “in use” means that at least part of the building has been in use.

It will be for the applicant or their agent to demonstrate that a building has been in use by providing appropriate evidence such as Council Tax records or Business Rates documentation.

The day “planning permission first permits development” is defined in the CIL regulations as the date at which development may commence. If there are any pre-commencement conditions attached to the planning permission, this date is the date at which the final pre-commencement condition is discharged. If there are no such conditions, then the date is the date of planning permission.

In relation to outline applications, subject to any phasing arrangements that may apply, development will only be permitted when the last of the reserved matters is approved.

Is CIL payable if my scheme does not need planning permission?

A CIL payment is required whether or not the development needs planning permission. If you intend to carry out development authorised by “general consent” (including permitted development) you should serve the City Council with a Notice of Chargeable Development.

Do charities have to pay CIL?

If you are a charitable institution, and you own a material interest in the land, you will get full relief from your portion of CIL where the chargeable development will be used wholly, or mainly, for charitable purposes. We can also offer discretionary relief to a charity landowner if the greater part of the development will be held as an investment and the profits applied for charitable purposes.

To qualify for charitable relief:

- You must be a charitable institution
- You must own a material interest in the land
- You must not own this interest jointly with a person who is not a charitable institution.

And a charitable institution is defined in the regulations as:

- A charity

- A trust of which all the beneficiaries are charities
- A unit trust scheme in which all the unit holders are charities

If you are providing social housing, we will also grant full relief from CIL charges, for those social housing units. This relief may also be available for those parties who are not charities.

An [application](#) for relief must be made to the City Council before commencement of the development to which it relates.

Be aware that if you claim charitable relief, you must continue to be eligible for that charitable relief for seven years following the commencement of your development. If, at any point in those seven years:

- The purpose of the development changes to an ineligible use;
- The owner of the interest in the land changes, and no longer qualifies for relief;
- The terms of the leasehold changes, and no longer qualifies for relief.

You must inform us of this change within 14 days, and we will “clawback” the relevant parts of the relief given. If you do not notify us within 14 days, we will charge an additional 20% of the chargeable amount, or £2,500 (whichever is lesser).

The regulations regarding charitable relief can be found [here](#).

What if I am building social housing?

Full CIL relief can be given to those parts of a development which are going to be used as social housing if a claim is submitted to the City Council by an owner of a material interest in the relevant land.

This will benefit most social rent, affordable rent, and intermediate rent accommodation provided by the Council or Private Registered Provider, and also shared ownership dwellings.

When [applying](#) for this relief, you must provide evidence that the chargeable development qualifies for social housing relief. To ensure that relief is not used to avoid CIL payments, the regulations provide that any relief must be repaid if the development no longer qualifies for the relief granted within seven years from the commencement of the development.

The regulations regarding social housing relief can be found [here](#).

Social housing relief is calculated according to the formulas in [Regulation 50](#).

Discretionary social housing relief applies to those affordable dwellings which meet the criteria set out in Regulation 49A (2014 Regs).

What if I am building my own home?

If you are building your own home, or have commissioned your own home, and you are going to live in that home for a minimum of three years after completion, you don't have to pay CIL.

You can submit your [Part 1 Claim](#) at any time as long as the work hasn't commenced, and this exemption does not apply retrospectively. As with other exemptions, you must notify us if your circumstances change during those three years.

To claim the exemption, you will need to submit your [Part 2 Claim](#) within six months of completion.

The regulations regarding self-build housing relief can be found [here](#).

What about residential extensions or annexes?

If you want to extend your house, and your residential extension is under 100 sq.m., you don't have to pay CIL. You must submit this [form](#) before you start work on your extension or annex.

The regulations regarding residential extensions and annexes can be found [here](#).

How do you decide if a building has been abandoned?

We will decide if a building has been legally abandoned. We will take into account;

- The condition of the property
- The period of non-use
- Whether there has been an intervening use, and
- Any evidence regarding the owner's intention

What about phased developments?

It is possible to allow a planning application to be divided into "phases" for the CIL, which is especially useful for large, planned developments. This applies for both detailed and outline permissions (and therefore "hybrid" permissions too), and each phase would be treated as a separate chargeable development. This allows for payments in line with the instalment policy which we have adopted.

The principle of phased delivery must be apparent from the planning permission.

For outline permissions, if the CIL is in force when the outline permission is granted, each phase of that permission is subject to CIL, or any replacement CIL charging schedules which may be introduced.

What happens if I want to alter my permission? Do I pay twice?

If you want to revise or submit a new planning application for a development which has started but is not finished, we are able to take into account any CIL payments which can be credited against the new permission. This is called abatement. However, if your development has finished, you cannot apply for abatement.

If the revised development has a lower CIL liability than the original, no refunds will be paid.

You can only apply for abatement before development commences under the alternative permission.

Can I appeal against a CIL decision?

Yes, in certain circumstances, you can appeal against the levy calculation. Further guidance can be found [here](#).

What happens if I have overpaid?

We will pay back any overpayment as long as the refund exceeds the administrative costs for processing that refund. We will not refund overpayments if those overpayments are the result of an in kind payment.

What if no one assumes liability for the development?

If no one assumes liability, the liability falls to the owners of the land. This also means that full payment will become due when development commences. If no one assumes liability, we may approach potential people or organisations who might want to assume liability and point out the benefits (such as payment in instalments) if they assume liability.

Liability can be transferred at any time up to the day before the final payment is due by submitting a [Transfer of Assumed Liability form](#).

What happens if I don't pay?

The regulations allow us to impose penalties for late payment.

If a party has assumed liability and doesn't pay, we can issue a Default Liability Notice to the owners of any material interest in the land within the chargeable development.

If the debt still isn't settled, we can take more direct action to recover the CIL funds due. We can stop any development on site until payment is received, and in extreme cases, we can seize and sell assets, or even apply to send the liable party to prison for up to three months.

Can CIL be spent outside the Birmingham boundary?

Yes, if we believe that the infrastructure will benefit the development of the wider area. We can also pool our CIL receipts with other charging authorities to fund large, strategic projects which we would all benefit from.

Links to other relevant information:

[DCLG CIL information](#)

[Planning Practice Guidance - Community Infrastructure Levy](#)

CIL regulations**HMSO**

Community Infrastructure Regulations (March 2010) (Statutory Instrument 2010 no. 948):

http://www.legislation.gov.uk/ukxi/2010/948/pdfs/ukxi_20100948_en.pdf

(It should be noted that these principal regulations have been amended in part by subsequent regulations and the HMSO web site should be consulted for all relevant amendments)

Further information is available from:

[The Planning Portal](#)

[The Planning Advisory Service - CIL](#)

[CIL - How to make an appeal](#)

CIL forms

CIL Form - [CIL Form Guidance](#)

[Form 1: Assumption of Liability](#)

[Form 2: Claiming Exemption or Relief](#)

[Form 3: Withdrawal of Assumption of Liability](#)

[Form 4: Transfer of Assumed Liability](#)

[Form 5: Notice of Chargeable Development](#)

[Form 6: Commencement Notice](#)

Report to Birmingham City Council

by Mr Philip Staddon BSc, Dip, MBA, MRTPI

an Examiner appointed by the Council

4 June 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT BIRMINGHAM CITY COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 4 February 2015

Examination hearings 30 April 2015

File Ref: PINS/P4605/429/8

Non-Technical Summary

This report concludes that the Birmingham City Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The Council is able to demonstrate that it has sufficient evidence to support the Schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in its draft Birmingham Development Plan 2031, at risk. The proposals will secure an important funding stream for infrastructure necessary to support planned growth in the city.

Introduction

1. This report contains my assessment of Birmingham City Council's draft Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance set out in the National Planning Practice Guidance (NPPG).
2. To comply with the relevant legislation and guidance the local charging authority has to submit a charging schedule that should set an appropriate balance between helping to fund necessary new infrastructure and the potential effect of the proposed CIL rates on the economic viability of development across its area.
3. The basis for the examination, on which Hearing sessions were held on 30 April 2015, is the 'updated' Draft Charging Schedule (DCS), which consolidates the originally published DCS with changes proposed through a later Statement of Modifications (SOM). The original DCS was published for public consultation between 29 September 2014 and 10 November 2014 and the SOM in the month before 4 March 2015. For the avoidance of doubt, all further references in this report to the 'DCS' relate to the updated version incorporating the SOM changes.
4. The DCS proposals include CIL charges for residential development, student housing, a particular type of retail development and for certain hotel developments.
5. The proposed CIL charges for 'residential' development relate to three residential market zones defined on a map in the DCS. The first zone relates to the 'High' value market value areas which comprises the northern part of the city's administrative area (the Sutton Coldfield locality) and parts of the south-west of the city's area (including the suburbs of Harborne, Bournville and King's Norton); a CIL charge of £69 per square metre (psm) is proposed in this zone. The second zone is notated as 'Green Belt

Development' and is drawn around a proposed urban extension west of the A38 at Langley; CIL would be zero rated in this zone i.e. £0 psm. All of the remainder of the city's administrative area would fall within the defined 'Low' market value areas where it is proposed that the CIL charge would also be zero rated. The DCS makes clear that residential development by 'Social Housing Providers registered with the HCA and Birmingham Municipal Housing Trust development' would be zero rated for CIL; this exemption would include any market housing developed by these providers to cross subsidise affordable housing provision.

6. Student housing developments would incur a CIL charge of £69 psm in all locations except for the urban extension zone at Langley (where it would be zero rated).
7. Retail CIL charges would apply only to 'retail convenience' developments for schemes with a floorspace exceeding 2,000 square metres.
8. Hotel developments would be subject to a £27 psm CIL charge within a defined city centre zone. Elsewhere such developments would be zero rated.
9. For completeness, the DCS lists zero rated CIL charges for other types of retail development and for industrial / employment, offices, leisure, education, health 'Extra Care' and 'all other development'.

Background evidence – the city, the development plan, infrastructure needs and economic viability evidence

Birmingham

10. Birmingham is a major city with a population of just over 1 million. Since the 1980s the city has been through economic restructuring, estate regeneration and transformation of its environment. The city is a major employment centre, drawing in workers from across the West Midlands. It is a leading European business destination with an economic output of £20bn per annum. Many international companies are based in the area, including Jaguar Land Rover, Kraft, KPMG, Deutsche Bank and GKN. The local economy is supported by five universities and six major colleges, supporting over 73,000 undergraduate and postgraduate students. Birmingham is a major centre for culture, sports, leisure and shopping with a number of world class venues and over 30 million people visiting a year. In addition to the city centre's shopping areas, there is a network of over 70 local centres serving its urban and suburban communities. It is a major, diverse and dynamic city.

The Birmingham Plan 2031 – Submission Draft

11. The emerging Birmingham Plan 2031 sets out the Council's vision and strategy for the sustainable growth of the city in the period to 2031. The Plan seeks to respond to identified challenges that include an anticipated

population growth of 150,000 (estimated to result in 80,000 new households), the need to respond to climate change and the need to accommodate and deliver the longer term levels of growth needed through development beyond its existing built up and administrative areas.

12. Once adopted, the Plan will set out the statutory framework to guide decisions on development and regeneration in Birmingham up to 2031 and will replace the strategic content of earlier plans and documents. It sets out how and where new homes, jobs, services and infrastructure will be delivered and the type of places and environments that will be created.
13. The production of the Plan, by its very nature and scope, has been a complex and major endeavour. Indeed, its preparation can be traced back to 2007 and it has evolved over the years seeking to respond to new evidence, issues and changes in national planning policy. The Plan was submitted for examination in July 2014 and that 'submission draft' set out the following overall levels of growth:
 - 51,100 additional homes.
 - 2 regional investment sites (20 and 25 hectares) and an 80 hectare strategic employment site.
 - About 270,000 sq.m. gross of comparison retail floorspace (by 2026).
 - A minimum of 745,000 sq.m. of office floorspace.
 - New waste, recycling and disposal facilities.
14. In terms of the Plan's housing proposals, it seeks to maximise the level of housing delivery within the built up area, with a focus on re-using existing urban land. Key locations for such development will be the city centre, a portfolio of defined 'growth areas' and, more generally, sites spread throughout the urban and suburban areas. However, the Plan recognises that this cannot accommodate the full levels of population growth and its associated housing requirements and proposes that land at Langley should be released from the Green Belt to accommodate a Sustainable Urban Extension (SUE) of about 6,000 new homes. The balance of growth that would not be met in the city's area (circa 30,000 new households) is expected to be delivered beyond its administrative boundaries. The Plan explains (paragraph 4.7) that the Council will seek to work collaboratively with neighbouring authorities to achieve this end.
15. The Plan's employment proposals seek to deliver an additional 100,000 jobs in the period to 2031, through a focus on the city centre, existing 'core employment areas' and the promotion of growth areas. The largest strategic employment allocations are an 80 hectare site at Peddimore and 'regional investment sites' at Aston and Longbridge.
16. The Plan's approach to retail development is linked strongly to the city's established hierarchy of centres, with most planned new floorspace directed

to the higher tiers of the city centre itself, the sub-regional centre at Sutton Coldfield and three 'district growth points', with the large network of district and local centres serving specific community catchment areas.

17. The promotion of Birmingham's significant tourism and cultural roles is set out in the Plan, along with the importance of providing supporting facilities such as hotels.
18. The Plan seeks to promote the provision of good quality student accommodation and there is policy support for purpose built student accommodation schemes on-campus and, subject to specified criteria, in off-campus locations.

The Birmingham Plan 2031 – Examination progress and CIL implications

19. The Plan was submitted for examination in July 2014. Following the Hearing sessions, the appointed Inspector issued his interim findings in January 2015. These require the Council to carry out further work before the examination can continue. The further work relates to three broad areas. First, the need for an updated and more robust objective assessment of housing need. Second, the need to undertake additional work on the Plan's Sustainability Appraisal (SA), specifically concerning the approach to Green belt releases. Third, the need to bring forward modifications to address the housing 'shortfall' (that will need to be met by other Councils).
20. The Council advised that the additional work was now complete and it was awaiting the Inspector's more detailed report setting out the need for proposed modifications to make the plan sound. A further round of public consultation on the proposed modifications and the revised SA is planned to take place over the summer. The Council hopes to be in a position to adopt a modified Plan either late this year or early in 2016.
21. The Council is keen to progress its CIL proposals now that 'pooling' restrictions on S.106 contributions have come into force and, more generally, to establish a funding stream for infrastructure to support its growth strategy. The progression of the CIL proposals ahead of the conclusion of the Birmingham Plan 2031 examination process raises some issues, along with some widely held misconceptions, about the CIL legislative / regulatory requirements and the associated guidance.
22. In terms of the statutory provisions, there is nothing contained within either The Planning Act 2008 or The Localism Act 2011 that makes having an up to date and adopted Plan in place a prerequisite of the implementation of a CIL regime. Many of the Councils that have adopted CIL to date have the benefit of recently examined and adopted plans, whilst others have submitted their CIL proposals for examination alongside their development plans (as suggested in paragraph 175 of the NPPF). These scenarios are at the ideal end of the spectrum and ensure, in theory at least, that the CIL proposals are conceived in terms of the most up to date strategic policy

framework defining 'the development of an area'¹ that CIL is intended to support. However, not all prospective charging authorities will be able to present a CIL schedule alongside freshly adopted development plans, due either to the inevitably long gestation period and / or (as is the case in Birmingham) if they encounter complexities and delays in the process.

23. The important point is the evidence base itself, rather than the procedural status of the development plan (although clearly these matters are closely linked). The Birmingham Plan 2031 is a mature policy document that has been the subject of extensive public consultation and is supported by a detailed evidence base. Whilst there remain issues to be resolved, modifications to be made and further consultation to be undertaken, I am satisfied that these matters do not present any obstacle to the principle of progressing a CIL regime.
24. The 'development' of the city, in the terms envisaged in S.205 of the Planning Act 2008, is clear, and the strategy of concentrating most growth on largely brownfield sites within the urban area, supported by strategic Green Belt releases, is very unlikely to change. There is a sufficiently stable development plan backcloth to enable high level CIL viability assessments to be made. However, my comments should not be treated as any predetermination of the Plan's outcome and, at the examination Hearings, the Council did concede that there could be circumstances that would require the CIL proposals to be revisited e.g. any changes to the Green Belt housing release (which has its own tightly drawn CIL zone). However, those are matters to be addressed if and when they arise.

Infrastructure planning evidence

25. The draft Birmingham Plan 2031 is supported by an Infrastructure Delivery Plan (IDP) which assesses and analyses the city's future infrastructure needs. It is a wide ranging document that identifies and assesses a diverse range of physical, environmental and social infrastructure to enable growth to occur and to facilitate the delivery of key proposals. It includes known infrastructure costs and identifies funding sources and lead agencies. It is a 'live' document and the Council is continually updating it.
26. The Council has undertaken an infrastructure funding gap assessment. For the entire 'essential' infrastructure set out in the IDP, it assesses a net funding gap of circa £461.7 million in the plan period (to 2031). Although I am not wholly convinced by the categorisation of certain infrastructure as 'essential', i.e. that development and planned growth could not occur without such projects, the evidence of major infrastructure demands is compelling. The most significant funding requirements relate to transport and education.
27. The Council estimates that its CIL receipts in the plan period would be circa £90.7 million. It estimates a potential 'average annual CIL receipt' of circa £5.6 million, with almost half (£2.8 million) coming from convenience retail

¹ S.205(2) of The Planning Act 2008

(supermarkets), with residential development (higher value zone) generating £1.7 million and lesser amounts from city centre hotels (£0.6 million) and student housing (£0.5 million).

28. I have some reservations about the robustness of these figures which have been arrived at by looking backwards (actual past delivery in 2009 – 14) rather than forward (planned delivery) for the various CIL paying development types. This may have some credence for residential development but is unlikely to be the case for commercial developments such as hotels, supermarkets and student housing schemes, which will tend to progress when the market identifies capacity, but will cease if the finite market is considered to be sated. Furthermore, the Council's projections have not factored in the effect of discounting CIL for existing floorspace, which is likely to be a factor on many former employment sites and will reduce receipts. In my view, the Council may have overestimated the likely CIL receipts.
29. However, these factors do not affect my overarching conclusions that the funding gap is substantial and that CIL revenue would make an important contribution to filling that gap. Taking the Council's assessed gap and revenue estimates at face value, CIL may equate to about 20% of the gap (although I think the true figure may be less). Even allowing for a degree of caution around the definition of 'essential' infrastructure, the evidence provides a compelling justification for introducing a CIL regime.
30. The Council has produced a Draft Regulation 123 list that sets out the infrastructure that it intends to fund, partly or wholly, through CIL receipts. The list includes a wide variety of infrastructure types covering transport, education, arts, parks, allotments, public realm etc. The document includes a clarification note on the continued use of S.106 agreements for site specific infrastructure and further clarifies that all infrastructure requirements associated with the SUE at Langley will be secured by S.106 mechanisms (and not by CIL).
31. Whilst I do not doubt the comprehensive nature of the list, it could be improved in a number of ways. First, it would be helpful to sort the projects and initiatives into clear infrastructure types, as this would provide much greater clarity and transparency. Second, in many cases the 'infrastructure' needs much greater definition as some projects just appear as locations e.g. 'Iron Lane, Stechford' and 'The Drum Arts Centre'; readers should be able to understand the destiny and purpose of any CIL receipts. Third, the Council's intentions on the use of CIL in respect of education projects are not clear from the current draft; this type of infrastructure appears on the Regulation 123 but also appears as an exclusion (to be secured by S.106 agreements) on 'large' sites. The list did not define 'large', although it became clear at the Hearing sessions that the reference related only to the SUE. All of these matters were discussed with the Council at the Hearing sessions and the Council agreed to address the issues through redrafting, which I would encourage it to undertake prior to the implementation of any CIL regime.

Economic viability evidence – methodology, data sources and assumptions

32. The Council commissioned consultants to undertake a Viability Assessment (VA) to support its CIL proposals. The VA was completed in October 2012 and has been supplemented with additional topic based viability evidence in December 2013. These supplements included additional viability testing in respect of the SUE, employment, retail and a paper covering 'miscellaneous' matters (an update on residential sales values and allowances for a 'viability cushion'). The evidence also includes a letter from the Council's consultants providing a commentary and analysis of developments relating to retirement homes, sheltered housing and 'extra care' schemes. Hereafter, I refer to this collective of evidence as the VA.
33. The VA employs a residual valuation approach. In simple terms, this involves deducting the total costs of the development from its end value to calculate a residual land value (RLV). That residual land value is then compared to assumed 'benchmark' land values (BLV) to test viability. If the RLV is higher than the BLV, the scheme would be judged viable and vice versa. Where there is a surplus above the assumed BLV this enables a maximum potential CIL value to be computed.
34. The testing of residential scheme viability included nine residential development 'typologies', along with a bespoke testing of the SUE assumed development. The nine typologies were devised by the Council to represent what it considered to be representative of likely future developments in the city and were informed by the sites in its Strategic Housing Land Availability Assessment (SHLAA). Four of the typologies were small schemes below the Council's affordable housing threshold and comprised: 1 house, 2 flats, 6 houses and 10 flats. The five larger development typologies, above the affordable housing threshold, were: 15 flats, 50 flats, 15 houses, 50 houses and 200 houses. The SUE testing was based on an assumed strategic scale development of 5,000 homes (a slightly lower figure than the 6,000 contained in the draft Birmingham Plan 2031). In my view, the range of sites tested is comprehensive and well grounded.
35. To undertake the viability analysis, the modelling on residential developments entailed making assumptions about a range of development costs and revenues.
36. To establish sales value assumptions the Council's consultants undertook a high level review of the city's housing market and defined seven 'market value areas' comprising defined postcodes. For each of these areas, average house price values (psm) were established from a combination of Land Registry data, the consultants own in-house expertise and a stakeholder workshop (held in March 2012). The average sales values ranged from the lowest of £1,615 psm (postcodes B7 and B4) to the highest of £2,585 psm (postcodes B15, B17, B73, B74 and B75). Although the data set appeared to be comprehensive, it was a little dated, with most of the values being drawn from 2011 and 2012. However, the Council advised that since this time, property prices had risen by about 7% in the city, suggesting that the values employed are conservative and cautious.

37. The establishment of robust BLVs is clearly of great importance in this type of viability modelling. The Council considers that most new housing development will come forward on land previously in employment use but it also expects some element of supply from existing residential sites, particularly in the lower value areas where developments seek to increase density and / or provide a better quality / higher value housing product.
38. The Council established BLVs based on a triangulation of Valuation Office Agency (VOA) data, known transactions and the CIL stakeholder workshop. It concluded that there were distinct differences between the higher and lower value areas of the city. In the higher value areas (market value areas 1, 2 and 3) it assessed a BLV of £1.1 million per hectare for existing employment land (which includes a premium of 20% on existing use value) and £1.9 million per hectare for existing housing land. In the lower value areas (market value areas 4, 5, 6 and 7), the figures were £595,000 per hectare and £740,000 per hectare respectively.
39. For the greenfield SUE, the Council assumed a BLV of £250,000 per hectare, which is reasonable in my view, and within the range indicated in research contained in the Department for Communities and Local Government (DCLG) study².
40. Base build costs for residential schemes were drawn from Building Cost Information Service (BCIS) rates. The build costs for the SUE reflected the economies of scale achievable on large volume housing sites. As with sales values, the build cost assumptions were a little dated (Quarter 1 2012) and clearly do not include recent years' inflation. However, I am satisfied that build cost changes can be considered 'in the round' alongside sales value increases and the viability 'buffers' employed in the CIL rate setting.
41. In addition to base build costs, the modelling included reasonable allowances for enabling costs and contingencies. For the SUE, much greater enabling costs are anticipated, reflecting the costs of providing infrastructure and services to a large greenfield site. The modelling assumed a cost of £20,000 per plot on the SUE, which would sit within the £17k – £23k range suggested in the Harman Report³ for 'strategic infrastructure and utility costs.'
42. Costs assumptions in respect of fees, contingencies and finance conformed with accepted industry norms. Developer profit was assumed at 20% of Gross Development Value (GDV) on market housing and 6% of GDV on affordable housing, which I consider reasonable.
43. Affordable housing was modelled at policy compliant levels in terms of proportion (35%), tenure split and the assumed absence of grant subsidy. Lower levels of affordable housing (0% and 20%) were also modelled to

² *Cumulative Impacts of Regulations on House Builders and Landowners* - Research Paper. Published by DCLG in 2011 (although commissioned by the previous Government in 2008).

³ *Viability Testing Local Plans* – Local Housing Delivery Group (Chaired by Sir John Harman) June 2012.

provide sensitivity tests.

44. The modelling assumed that there would be no residual S.106 planning agreement costs, as the Council considers that CIL will largely replace the use of S.106 agreements and obligations. However, it is apparent from the Council's Draft Regulation 123 list that some element of site specific mitigation may still be required to be secured through S.106 agreements. In most cases, this is likely to be limited but some consideration of these costs is required in the assessment of the modelling results and CIL proposals. For the SUE, substantial S.106 costs are anticipated and the modelling tested levels of £10,000 per plot and £20,000 per plot.
45. The commercial development modelling used similar assumptions and methodology. Notional schemes for care homes, offices, employment, retail, hotels, student accommodation, leisure, education and health developments were all tested. The assumptions employed for the notional commercial development schemes all appeared reasonable, including the assumed rents, yields, build costs, profit levels and BLVs.

Conclusions on background evidence

46. The Birmingham Plan 2031 provides a clear strategic planning framework to guide the sustainable growth of Birmingham. Although the Plan is yet to be adopted and more work and consultation is required, it is sufficiently mature and settled to enable the viability effects of CIL to be assessed. The Plan's strategy has a strong growth focus on brownfield sites within the existing urban areas of the city, supplemented by some strategic Green Belt releases for housing and employment.
47. The IDP identifies the infrastructure required to support Birmingham's planned growth in population and jobs. The evidence demonstrates a sizeable infrastructure funding gap that justifies the introduction of a CIL regime. CIL receipts will help to reduce that gap, although a significant funding shortfall will remain. There is some uncertainty over the level of CIL receipts and the Council would be wise to monitor performance closely once a CIL regime is operational.
48. Overall, the background economic viability evidence for both residential and commercial development that has been used is reasonable, robust, proportionate and appropriate. The interpretation and use of that evidence in defining the proposed CIL rates and zones is discussed more fully below.

Residential Development CIL – zones, charges and appraisal findings

The 'High' value CIL charging zone (£69 psm)

49. This zone comprises market value areas 1, 2 and 3 where sales values are generally acknowledged to be higher than in the remainder of the city. The modelling of the residential development typologies in these areas returned generally strong positive viability. Smaller schemes below the affordable

housing threshold fared particularly well, with most remaining viable at theoretical CIL rates of £250 psm. Larger schemes with affordable housing at full policy target levels, returned lower theoretical rates, but still achieved an average of £90 psm.

50. Taking all of the results together, the Council assessed that a CIL charge of £115 psm represented the level that the 'majority' of schemes (at least 70%) could sustain. It then applied a viability buffer of 40% to arrive at its proposed CIL charge for this zone of £69 psm. In my view, that is a reasonable buffer and allows most schemes to remain viable. I have also considered the effects of increases in sales values and build costs and conclude that, overall, these are likely to increase the comfort margin.
51. At the Hearing sessions, the Council advised that the SHLAA sites in the urban area (i.e. excluding the SUE) currently totalled 33,395 potential new homes and of these 6,173 (or 18.5%) would be in the 'High' value zone and would incur the £69 psm charge. That is a modest but nonetheless important proportion of overall planned housing delivery. In my assessment, the evidence demonstrates that the delivery of these planned homes will not be unduly threatened by the imposition of the CIL charge. Indeed, in most cases, schemes can comfortably absorb the charge, which would fall within a range of 2 – 5 % of development costs.

The 'Low' value CIL charging zone (£0 psm)

52. This zone comprises market values areas 4,5,6 and 7. The modelling of the residential development typologies in these areas returned less strong viability results. Although the lowest value area 7 did not return any positive viable results, the 'majority' of schemes across the whole zone, including larger schemes with full policy target affordable housing levels (35%), were able to support a maximum theoretical CIL charge of £55 psm.
53. Were the same approach to buffers to be employed (as in the 'High' zone) this would suggest a CIL charge of £33 psm. However, the Council has elected to apply a £0 rate. At the Hearing sessions, the Council explained that its primary concern was to maintain viability and maximise affordable housing content.
54. Strictly speaking, the £0 charge is a straightforward matter. A nil charge clearly cannot threaten viability across this zone. However, some have questioned the Council's approach that effectively exempts most new homes that are planned in Birmingham (81.5% of the SHLAA sites) from CIL charges, given that all development will contribute to infrastructure needs and the evidence does suggest that modest charges could be sustained. The Council will also need to consider the much more limited role for S.106 agreements once a CIL regime is in place.
55. At the Hearing sessions, the Council advised that it does not rule out a more widespread application of CIL charges in the future, but its immediate priority is maximising viability and delivery and avoiding any pressure to compromise on affordable housing requirements in areas where viability is

demonstrably lower. The Planning Practice Guidance (PPG) does advise that, where evidence points to low viability, a charging authority should consider setting a low or zero levy rate in that area (Reference ID: 25-021-20140612). The guidance further advises that there is no requirement for a proposed rate to exactly mirror the evidence (Reference ID 25-019-20140612).

The 'Low' / 'High' zone boundary challenges

56. The Council's two-zone CIL approach for most of the city (the SUE is dealt with separately below) does, perhaps unavoidably, create some tensions around the zoning boundaries. There were two notable challenges. First, a property estate company sought revisions to the zoning boundaries in the Hagley Road and Bristol Road areas (south-west of the city centre) i.e. to effectively move its holdings from the 'High' to the 'Low' zone. Second, a commercial site owner on Lifford Lane, similarly sought a 'Low' zone status and proposed that a site specific review mechanism should apply.
57. With regard to the first set of challenges, evidence was submitted which purported to show that property values in these areas were more akin to the 'Low' zone and revised alignments of zone boundaries (departing from their postcode origin) were promoted. I have considered these submissions carefully but I am not persuaded that the Council should be required to make the suggested modifications. There are a number of reasons that have led me to this view.
58. First, the Council's two-zone approach, based on postcodes, is simple, supported by its evidence base and avoids 'undue complexity'⁴. Second, the strategic and broad-brush approach to CIL proposed by the Council inevitably means that its two large zones will contain a range of sales values, above and below the averages adopted for the value areas. Third, the evidence presented by the representor did not convince me that sales values in these localities represented a clear value watershed. Fourth, these are densely developed urban areas and there is no development envisaged that would be critical to the delivery and implementation of planned growth in the city. Finally, it should be noted that the Council's evidence base suggests that even in the 'Low' zone, the 'majority' of tested developments could support CIL contributions. For all of these reasons, I do not consider the suggested modifications are justified or necessary.
59. The second set of challenges were more site specific but included similar concerns about inconsistencies in sales values in the 'High' and 'Low' zones. The site lies in the southernmost section of the 'High' zone and may come forward for re-development post 2018. It has the capacity to deliver several hundred homes. Whilst I can understand the site owner's desire to avoid the costs of CIL on what may be a complex development project, no viability evidence was available to suggest that CIL could not be sustained (as there is no scheme at this point in time). The suggestion of a mechanism to review the Low / High value status on a site by site basis is not workable

⁴ National Planning Practice Guidance - Paragraph: 021 Reference ID: 25-021-20140612

with a CIL regime which, on adoption, is a fixed instrument (until the point of any review and revision). The Council advised that it would be reviewing its CIL regime in advance of this particular site coming forward. I am satisfied that there is no need to amend the zone boundaries and the review mechanism is a more appropriate method to address these matters, should it prove necessary.

The SUE charging zone (£0 psm)

60. The Council's testing of the assumed SUE development at Langley used a range of enabling and S.106 costs. They are unavoidably broad brush assumptions given the relatively early life cycle stage of the proposals. However, a 'best case' viability scenario, employing the lowest enabling works cost (£70 million) and the lowest assumed S.106 contributions (£10,000 per plot), did not achieve the assumed greenfield BLV. The actual RLV under that scenario was, by my calculation, £205,185 per hectare, which is well below the assumed BLV of £250,000. Higher enabling and S.106 costs clearly reduce the RLV further, although a positive land value is achieved in all test scenarios.
61. The Council envisages that the SUE will come forward through a comprehensive outline planning application. Its preferred approach is to deal with the SUE's substantial and specific infrastructure requirements in a self-contained manner through a S.106 planning agreement. This approach is reflected in its proposed CIL zone, defined around the site boundaries of the SUE, and its proposed £0 CIL charge. The evidence confirms that the development is unable to sustain CIL charges on top of the heavy burden of anticipated site enabling costs and S.106 obligations.

Specialist residential development types for older people.

62. The VA evidence suggested that residential scheme viability for retirement housing schemes falling within the C3 Use Class would display similar overall viability characteristics to conventional housing schemes. However, the Council recognised that those variants involving significant elements of support and associated facilities that led to a C2 Use Class classification were less viable. Indeed, the testing suggested that such schemes would only be viable in the highest value area.
63. I am satisfied that the Council's approach to differentiate by Use Class, applying a £0 rate to Class C2 uses, reflects the evidence. A modification to the DCS is required to reflect the Council's intention to apply a zero CIL rate to all Class C2 uses (rather than just the 'Extra Care' developments stated in the DCS). This is reflected in my recommendations.

Commercial CIL – viability appraisal evidence and proposed CIL charges

The ‘zero –rated’ commercial development types

64. The VA's testing of office, industrial, warehouse, education and health developments demonstrated that these could not currently support CIL charges. The evidence suggested that commercial leisure developments had some potential to support very modest CIL charges. The Council does not propose CIL charges for any of these development types at this point in time and there would be no material impact on the amount of CIL receipts, due to the very limited number of such schemes anticipated to come forward.

Retail development

65. The VA tested a range of different types of retail development, in varying locations, sizes and covenant strengths. The initial 2012 VA testing generated potential CIL rates of £380 psm for a supermarket (5,000 sq. metres); £170 psm for a ‘non food retail park’ development (9,290 sq. metres) and £150 psm for a suburban food store (400 sq. metres). The Council's further testing in 2013 included a finer grained analysis of convenience retail types. It tested notional schemes of 1,500 sq. metres, 2,700 sq. metres and 5,000 sq. metres supermarket combined with a petrol filling station. The CIL results with a 40% buffer applied were, respectively, £0 psm, £470 psm and £260 psm (assuming 20% profit on GDV).
66. The Council's DCS proposes to apply a retail CIL charge of £260 psm solely to ‘convenience’ stores (supermarkets) over a 2,000 sq. metre size threshold (all other retail types would be zero rated). The Council advised that the city was generally well catered for with a network of centres and supermarkets and its greater priority was increasing comparison shopping floorspace to meet modelled capacity. That said, the Council's latest retail needs assessment suggests that, once commitments are allowed for, a growth in the range of 39,700 – 53,600 sq. metres of new convenience floorspace may be achievable in the period 2012 - 2031. The Council also acknowledged the importance of the smaller supermarket formats, and the discount operators, in terms of meeting future demands, driving consumer choice and addressing localised gaps in provision.
67. The key examination issue in respect of the proposed retail CIL charge relates to the size threshold at which it would apply. The later 2013 evidence clearly indicates that smaller format supermarket stores cannot sustain a CIL charge, whereas a 2,700 sq. metre store can sustain a quite significant CIL charge (of £470 psm). Representations from the discount supermarket sector argued that there was no clear rationale for the Council's proposed 2,000 sq. metre threshold and that there were discount formats above this threshold and below the tested 2,700 sq. metres that simply could not sustain the CIL charge. Given that further stores of this nature are anticipated in Birmingham (one operator suggested up to ten sites were in the pipeline), it was argued that these schemes could face viability issues.

68. This is quite a difficult area to arbitrate as the variable is not simply one of unit size and the economies of scale but of operator covenant strength (and associated rents and yields). In effect, the Council is seeking to promote a floorspace as a proxy to where low and high covenant strengths are likely to sit. Whilst there is nothing wrong with that approach, I share representative views that the evidence does not demonstrate that 2,000 sq. metres should be that watershed – it is simply a figure selected to fall in the middle ground between the unviable and viable tested schemes. At the Hearing sessions, the Council accepted that the use of 2,700 sq. metres was a more robust evidence based threshold, and indicated that it would not be unduly concerned about the use of the higher figure. I recommend that modification, as it will align the charging schedule more closely with the evidence and remove any potential risk to the viability of smaller formats of convenience retail development.

Hotel development

69. The VA testing of notional 150 bed hotel schemes indicated that there were differences in viability between city centre schemes and those elsewhere. City centre schemes generated a potential maximum CIL rate of £45 psm, whereas those elsewhere displayed weaker viability. The Council's proposed application of a £27 psm CIL charge in its defined city centre zone is supported by the evidence. Such a charge includes a healthy (40%) buffer from the maximum and I do not consider that hotel development viability will be compromised.

Student accommodation development

70. The VA tested notional student housing schemes of 50 and 250 units and both returned maximum CIL levels of £115 psm. The proposed application of a £69 psm CIL charge (which includes a 40% buffer) is supported by the evidence. The Council indicated that, although this market is mature, there are signs of some activity and new schemes may come forward in the Plan period.

Overall Conclusions

71. The evidence demonstrates that, subject to some minor modifications, the overall planned development of Birmingham will not be put at risk if the proposed CIL charges are applied. Two minor modifications are required. The first is a clarification that all Use Class C2 development will be zero rated for CIL purposes. The second is to increase the 'retail convenience' size threshold, at which CIL would apply, from 2,000 sq. metres to 2,700 sq. metres. Subject to these changes, I conclude that, in setting the CIL charges, the Council has used appropriate and available evidence which has informed assumptions about land and development values and likely costs. The CIL proposals are anticipated to achieve an important income stream that will help to address a well evidenced infrastructure funding gap.
72. However, my conclusions must include some comment on the very 'light touch' nature of the CIL proposals. Indeed, until at least the first review, the

vast majority of development planned in the city will not be contributing through CIL (or S.106 planning agreements) to the infrastructure requirements identified in the IDP. I understand the Council's desire to nurture growth, particularly given its reliance on growth beyond its own administrative boundaries, but care is needed to ensure that growth is appropriately supported by infrastructure (which must be funded). Earlier in this report, I also expressed some reservations about the robustness of CIL revenue estimates and whether these will fully materialise. These are not criticisms of the Council but they are important factors for the Council to monitor and review and may assist its thinking in terms of the timing and scope of its first formal CIL review. I recommend that the Council considers undertaking such a review within three years of adoption of the schedule.

73. Overall, I conclude that, subject to my recommended modifications, the Birmingham City Council Draft Community Infrastructure Levy Charging Schedule, as modified by its Statement of Modifications, satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Charging Schedule be approved.

LEGAL REQUIREMENTS	
National Policy / Guidance	The Charging Schedule complies with national policy / guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, and consistency with the development plan framework for Birmingham and is supported by an adequate financial appraisal.

P.J. Staddon

Examiner

Attached: Appendix A – Recommended Modifications

Appendix A

Modifications that the Examiner specifies so that the Charging Schedule may be approved.

These modifications should be read in conjunction with Examination Document SO2 'Draft Charging Schedule – Version 1 – Updated January 2015.'

Modification Number	Modification
EM1	Page 8 – Table – left hand column • Delete 'Extra Care' and insert 'Use Class C2' • Add footnote 3 referencing above - <i>The Town and Country Planning (Use Classes) Order 1987 (as amended)</i>
EM2	Page 8 – Table Second development type 'Retail convenience', middle column: • Delete '>2,000 sqm' and insert '>2,700 sqm'