Sheffield City Council

SHEFFIELD CITY COUNCIL

COMMUNITY INFRASTRUCTURE LEVY

Draft Charging Schedule
Submitted October 2014

BACKGROUND REPORT

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1 INTRODUCTION

1.1 New development draws on the capacity of existing infrastructure and creates demands for new infrastructure. For this reason it is appropriate for new development to contribute towards the future provision or improvement of infrastructure to meet the additional demand generated. An effective mechanism is needed to determine the level of these contributions and how they should be spent. Two principal mechanisms are provided for in national legislation. These are planning obligations, which are related to specific schemes and delivered mainly through Section 106 (S.106) of the Town and Country Planning Act 1990; and the Community Infrastructure Levy (CIL), which the City Council, as local planning authority, is now empowered to set as a charge on new development where the viability of the development permits it.

What is the Community Infrastructure Levy (CIL)?

1.2 The CIL is defined in the National Planning Policy Framework (NPPF)[1] as:

> *"A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area."* (NPPF Annex 2: Glossary)

1.3 The CIL is a tariff system that local authorities can choose to charge on new developments in their area by adopting a Charging Schedule. The CIL is a charge levied on new buildings and extensions to buildings according to their floor area. In this way, money is raised from developments to help the Council pay for essential infrastructure to support these new developments. This infrastructure will include schools, transport improvements, open space and public spaces, plus any other community facilities required to ensure sustainable growth. It can only be spent on new infrastructure or improvements to existing infrastructure needed as a result of new development and will be a mandatory charge. The CIL will largely replace the Section 106 developer contribution / commuted sum approaches which are currently used for this purpose. Section 106 will continue to be used for affordable housing and any other planning obligations required for a specific development site to make it acceptable in planning terms.

1.4 The CIL will relate to strategic priorities in the Sheffield Local Plan and the rate will be based on what is affordable or viable. It will not be set at such a level that it risks the delivery of the local plan, or significantly threatens the levels of development on the City. The CIL will be a

[1] *The National Planning Policy Framework.* March 2012 - https://www.gov.uk/government/publications/national-planning-policy-framework--2

charge paid by developers on new floorspace and set as an amount payable per square metre.

1.5 Current national policy focuses heavily on the need to improve infrastructure and plan for it more effectively (see NPPF paragraphs 3.2 to 3.4), and much of the emphasis is on infrastructure to help deliver new housing.

1.6 'Infrastructure' includes physical, social and environmental facilities and networks needed to serve development, consistent with the definition set out in the Planning Act 2008[2]. It includes transport, telecommunications, energy, water supply, sewerage and drainage, schools, hospitals, health centres, and open space. The Act empowers local planning authorities to charge a CIL on most new development to contribute towards infrastructure that is needed to enable the development strategy for the wider area to take place. The Levy came into effect in April 2010[3] through legislation that also amends the Section 106 regime of developer contributions in the Town and Country Planning Act (1990). It has been amended by legislation in 2011,[4] 2012,[5] 2013[6] and 2014[7].

1.7 The Government has also issued new Guidance on the CIL.[8] Preparation of the Draft Charging Schedule and the evidence supporting it has taken account of the new Guidance. This Background Report explains how the CIL charges have been developed having regard to all extant legislation and guidance.

1.8 This Background Report sets out the reasoning behind the Council's decision to implement a CIL and sets out the evidence base and justification for the rates proposed in the Draft Charging Schedule.

1.9 This report also explains how the CIL Viability Study, produced in February 2014 by BNP Paribas Real Estate, has been used to determine the proposed CIL rates.

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[2] The *Planning Act 2008.* HMSO 2008. http://www.legislation.gov.uk/ukpga/2008/29/contents
[3] *The Community Infrastructure Levy Regulations 2010*. - http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents.
[4] *The Community Infrastructure Levy (Amendment) Regulations 2011*. - http://www.legislation.gov.uk/uksi/2011/987/made
[5] *The Community Infrastructure Levy (Amendment) Regulations 2012*. - http://www.legislation.gov.uk/ukdsi/2012/9780111529270
[6] *The Community Infrastructure Levy (Amendment) Regulations 2013*. - http://www.legislation.gov.uk/ukdsi/2013/9780111534465/contents
[7] *The Community Infrastructure Levy (Amendment) Regulations 2014*. http://www.legislation.gov.uk/ukdsi/2014/9780111106761
[8] *Planning Practice Guidance – Community Infrastructure Levy* (June 2014). http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/

2 WHY IS SHEFFIELD PROPOSING A CIL?

Advantages of the CIL

2.1 The Government is promoting the introduction of CILs – the Government's website states:

> *"The levy is designed to be fairer, faster and more transparent than the previous system of agreeing planning obligations between local councils and developers under section 106 of the Town and Country Planning Act 1990….*
>
> *…The money raised from the community infrastructure levy can be used to support development by funding infrastructure that the council, local community and neighbourhoods want, like new or safer road schemes, park improvements or a new health centre.*
>
> *The community infrastructure levy:*
>
> - *gives local authorities the freedom to set their own priorities for what the money should be spent on*
> - *gives local authorities a predictable funding stream that allows them to plan ahead more effectively*
> - *gives developers much more certainty from the start about how much money they will be expected to contribute*
> - *makes the system more transparent for local people, as local authorities have to report what they have spent the levy on each year*
> - *rewards communities receiving new development through the direct allocation of a proportion (15% or 25% depending on whether a Neighbourhood Plan is in place) of levy funds collected in their area"*[9]

2.2 The Government's now archived CIL Overview document further explains the benefits of a CIL, in paragraphs 2 and 4: [10]

> *"[CIL] allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. The money can be used to fund a wide range of infrastructure that is needed as a result of development. This includes new or safer road schemes, flood defences, schools,*

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[9] GOV.UK Website - https://www.gov.uk/government/policies/giving-communities-more-power-in-planning-local-development/supporting-pages/community-infrastructure-levy

[10] CIL Overview – Communities and Local Government, May 2011. https://www.gov.uk/government/publications/community-infrastructure-levy-overview

hospitals and other health and social care facilities, park improvements, green spaces and leisure centres"

2.3 In summary, the Government believes CIL is fairer, faster and more transparent than Section 106 and gives local authorities the freedom to set their own priorities for what the money should be spent on. Also it makes the system more transparent for local people, as local authorities have to report what they have spent the levy on.

2.4 The benefits of CIL are:

- **Certainty –** the contribution required will be known to developers in advance and can be planned for and built in to development appraisals;

- **Transparency –** priorities and projects that will receive funding will be clearly set out and justified and can be easily scrutinised;

- **Efficiency –** infrastructure provision can be better co-ordinated and complementary funding sources can be identified more easily;

- **Focus –** the priorities for receiving funding will be clearly set out and will have been justified;

- **Better Value –** the Government has estimated that extra revenue for infrastructure could be achieved by the introduction of CIL.[11]

2.5 The Government further emphasised its commitment to the CIL in its April 2013 consultation.[12] In paragraph 9 it states that:

"The Government is committed to the levy and to ensuring that it is workable and effective."

2.6 Paragraph 3 confirms that the Government considers the CIL has many advantages over the previous system and reiterates the advantages of certainty, confidence, more investment and greater transparency.

2.7 Paragraph 2 of the Consultation states the role of the CIL as being to provide funding for infrastructure that the council, community, neighbourhoods and delivery partners have identified is needed to support development and mitigate its impact.

[11] *Localism Bill: Community Infrastructure Levy - Impact Assessment.* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6037/1829714.pdf

[12] *Community infrastructure levy: consultation on further regulatory reforms - government response (October 2013).* https://www.gov.uk/government/consultations/community-infrastructure-levy-further-reforms

2.8 The new CIL Guidance issued by the Government in June 2014 states that CIL will have a positive economic impact on development in an area through the provision of infrastructure (paragraph 9, ‘What is meant by an appropriate balance?’).

2.9 A CIL is perceived to offer a number of benefits compared with the S.106 regime, as summarised in paragraph 4 of the Government’s archived CIL Overview:

> *“The Government has decided that this tariff-based approach provides the best framework to fund new infrastructure to unlock land for growth.”*

2.10 But the CIL will only be used where other funding sources are not available. There may be other drivers for the provision of infrastructure, particularly where it is less related to unlocking development land to deliver growth, such as when it is needed to address existing infrastructure deficiencies.

2.11 The justification for a CIL or any tariff system is that all except very minor developments have some level of impact on the use of infrastructure, so should contribute to its provision. The Government considers that the financial benefits accrued from the granting of planning permission should also be shared with the community that has granted it, in terms of improved local infrastructure (CIL Overview, paragraph 10).

Benefits for Developers and Landowners

2.12 CIL benefits developers as well as the local communities- the advantages to developers are:

- CIL payments are proportionate to the scale of development and must be related to the ability to pay, so are fairer;
- Once in place, CIL will involve less negotiation at the planning application stage so should help to speed up decision-making;
- It will be more certain for developers as payments are known in advance, so can be factored in to development appraisals;
- It is based on a single piece of national legislation, so the policy approach is common across all Councils and should be familiar to developers;
- It is expected to raise additional funding for infrastructure that will benefit new development;

- The link between a scheme and the spending of the funds is broken, so there is more flexibility to focus spending on priorities and deliver them quicker, so helping to promote new development through the provision of essential infrastructure;

Reasons why a CIL is appropriate for Sheffield

2.13 Sheffield City Council's Cabinet agreed in principle to the setting of a CIL in September 2011.[13] The reasons for this were stated as:

> *"A CIL is recommended on grounds of transparency, efficiency, strategic effectiveness, predictability and the scaling back of the previous provision for developer contributions towards necessary infrastructure"*

2.14 In December 2012 Cabinet agreed to publish a Preliminary Draft Charging Schedule and agreed the proposed rates that are included in the Schedule[14]. Formal statutory public consultation on this took place between January and March 2013.

2.15 Cabinet agreed in March 2014 to publish and consult on the Draft Charging Schedule[15]. Consultation took place between March and May 2014.

2.16 The Council is intending to implement CIL for the reasons set out in paragraphs 2.1 to 2.12. There is also a need for an alternative mechanism to Section 106, which has been scaled back and will be further restricted (see paragraphs 6.14 and 6.17). The CIL will help to deliver the City's strategic priorities for infrastructure provision, will be generated by economic growth and will be reinvested into economic growth and infrastructure. It will be a key funding element of the Sheffield City Region Investment Fund (SCRIF) and the City Region Strategic Economic Plan (SEP), although decisions on priority projects for receipt of CIL funding will be made by Sheffield City Council.

2.17 Successful implementation and investment of CIL funds will make the city more competitive. Effective and full economic regeneration through the provision of new homes, businesses, services and leisure cannot be achieved without adequate supporting facilities. Infrastructure connects people with these jobs and services and

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13 http://sheffielddemocracy.moderngov.co.uk/CeListDocuments.aspx?MID=1004&RD=Agenda&DF=28%2f09%2f2011&A=1&R=0 and http://sheffielddemocracy.moderngov.co.uk/CeListDocuments.aspx?MID=3743&RD=Agenda&DF=19%2f10%2f2011&A=1&R=0

14 http://sheffielddemocracy.moderngov.co.uk/ieListDocuments.aspx?CId=123&MId=4255&Ver=4

15 http://sheffielddemocracy.moderngov.co.uk/ieDecisionDetails.aspx?AIId=7592

provides the means for these to be delivered effectively. The City's aspirations for economic growth, as set out in strategies such as the Economic Masterplan, City Strategy, Corporate Plan, City Centre Masterplan and Don Valley Masterplan can only be achieved with the provision of adequate physical, social and environmental infrastructure. Infrastructure provision is also a critical issue on the national policy agenda and local plans are now expected to include policies that actively seek to deliver infrastructure improvements.

2.18 The CIL will provide funds that will be used to help deliver infrastructure priorities in Sheffield, determined by the additional demand that new development places on infrastructure. In the future, Section 106 funding will be more limited than it has been in the past. Whilst some public funding will be available from central Government for infrastructure, the CIL is viewed by Government as the best way that the private sector should make its contribution towards infrastructure provision. Without a CIL, there would be less public funding available and a bigger infrastructure funding gap.

2.19 In the medium to long term, CIL is likely to generate more funds for infrastructure than the current situation where contributions are negotiated on an individual basis as developments come forward through S.106 agreements. From 6 April 2015, legislation will restrict how local authorities use S.106 agreements to secure funding for community infrastructure. If the Council does not have a CIL in place by that time, the projects that can be secured through S.106 will be limited. This would affect the Council's ability to raise money for essential infrastructure to support growth.

2.20 CIL funds can be spent where infrastructure needs are greatest, although a proportion will be allocated directly to the neighbourhoods where the new development takes place (see paragraphs 2.36 to 2.37). If the money is not raised it will mean gaps in infrastructure provision that could cause delays in providing for new homes and jobs. The new system will be fairer because all developments would be eligible contribute a CIL (subject to viability), whereas only a handful of Section 106 agreements would be justified under the new legislation. So there is more scope to use the money for strategic schemes, or where it will have the biggest impact.

2.21 In summary, CIL is needed in Sheffield because:

1. It will fund essential infrastructure;
2. It will generate additional income for infrastructure;
3. Development will fund new infrastructure in a more equitable way;
4. Alternative systems for developer contributions are limited.

1. Funding Essential Infrastructure

2.22 The justification for a CIL is based on an evidenced gap of projected infrastructure need for new development. Given that CIL is based on future infrastructure needs, we need to constantly update and anticipate future needs. The approach to assessing infrastructure need is based on the policy approach in the Sheffield Local Plan (see paragraph 3.7 onwards).

2.23 On-going work by the Council focusing on the local plan priorities has identified significant infrastructure needs, as there are substantial gaps in provision for new development that will not otherwise be funded (see the draft Stage 1 Infrastructure Delivery Plan and Infrastructure Needs Assessment). Initial analysis suggests an investment shortfall of at least £20 million for 14 essential strategic infrastructure projects, which will include transport, education, green infrastructure, public realm, utilities, social and heritage projects. These projects form the content of the Draft Interim Regulation 123 List (see paragraph 6.11).

2. Greater Potential Scale of CIL Income

2.24 The CIL Guidance[16] states that CIL will represent additional funding to deliver infrastructure projects and support growth (paragraph 95, 'How can planning obligations and the levy operate together?'). BNP Paribas Real Estate and the Council have done some general modelling of potential CIL income based on identified development sites and the CIL rates proposed. It is estimated that income could average around £4 million per year once the system is effectively up and running and CIL revenue is routinely collected (from 2017 onwards). This assumes that the market recovers and all identified development sites come forward. However, any sites that do not come forward and contribute to CIL income will be more than compensated for by development sites yet to be identified.

2.25 Over the period since 1994, S.106 receipts in Sheffield have averaged over £1 million a year (see Table 1 in the Draft CIL / Section 106 Statement). The annual receipts rose steadily to a peak of £3 million in 2006, so that over the last 10 years the average has been £1.5m/year. By far the largest share of the money was for open space contributions.

2.26 CIL has the potential to exceed S.106 due to more development paying a contribution and the fact that it will not be discretionary. In the long term, once CIL has become established, the charge will result in a modest reduction in land values and individual developments will be more able to absorb the charge.

2.27 The scale of CIL income will depend on:

[16] *Guidance – Community Infrastructure Levy* June 2014 - http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/

- The levels of development that can be delivered, and:
- the rates applied to that development

2.28 Sheffield has 'under-achieved' historically in terms of the level of Section 106 contributions achieved. Recent Government research[17] has shown that, nationally, the total value of planning obligations agreed during the year 2011/12 was £3.7bn. If this national figure was applied to Sheffield on a pro-rata basis using population size, this would amount to £37 million. Actual S.106 receipts at this time in Sheffield were just over £1 million a year, so it is clear that there is some significant un-met potential for additional developer contributions in Sheffield.

2.29 The Council has estimated likely potential future CIL income using two basic methodologies. The first is an income generation model based on future development sites. This has estimated annual income of just over £4 million / year. We have also looked at developments started in the last financial year, 2013/14, and estimated what CIL charges they would have generated. This figure is £4.9 million, so an estimate of around £4 to £5 million of CIL income per year once the system is up and running is reasonable.

3. A More Equitable System

2.30 The CIL Viability Study[18] in Table 1.8.1 suggests that the proposed CIL rates would typically amount to no more than between 0.75% and 2.6% of the total value of any new development. CIL will be paid by more developments so the cost will be spread around (smaller schemes below the current affordable housing and open space contribution thresholds do not normally make any financial contribution at all, due to the cost and time involved in drafting a S.106 agreement). Currently, only around 2% of planning applications involve a S.106 payment – this proportion will be much higher under CIL.

2.31 The rates represent a cautious approach to ensuring the right balance between achieving a reasonable CIL income and not putting overall viability at risk. The inclusion of a 40 to 80% margin below maximum potential rates, plus a cautious approach to assumptions will ensure this is the case.

2.32 We have compared our proposed rates with other local authorities, including other Core Cities and neighbouring authorities within the Sheffield City Region (see Tables 1 and 2 below) and concluded that they are consistent. This is not presented as evidence to support the proposed rates, as CIL rates have to be based only on the viability

[17] *Section 106 Planning Obligations in England, 2011-12 - Report of study.* DCLG 2014 - *https://www.gov.uk/government/publications/section-106-planning-obligations-in-england-2011-to-2012-report-of-study*
[18] www.sheffield.gov.uk/cil

evidence available, not on comparisons with other areas. However, it provides a useful ‘reality check’ that supports the viability evidence.

Table 1 - Adopted and Proposed CIL Rates in the Core Cities (£/sq.m.)

Charging Authority (Stage)	Residential	Retail	Offices	Student Accom.	Hotels	Leisure
Birmingham (PDCS)	55 to 115	150 to 380	15 to 55	115	25	35
Bristol (Charging)	60	120	0	100	70	50
Leeds (DCS)	5 to 90	73 to 125	35	100	5	5
Newcastle (PDCS)	0 to 88	0 to 128	0 to 64	0 to 16	0 to 40	0
Sheffield (DCS)	0 to 80	0 to 60	0	30	40	0 to 10

Table 2 - Adopted and Proposed CIL Rates in the Sheffield City Region (£/sq.m.)

	Residential	Retail	Offices	Industrial	Hotels	Leisure
Bassetlaw (Charging)	5 to 55	25 to 125	0	0 to 15	0	0
Chesterfield (DCS)	0 to 80	80	0	0	0	0
Rotherham (PDCS)	15 to 65	30 to 60	0	0	0	0
Sheffield (DCS)	0 to 80	0 to 60	0	0	40	0 to 10

<u>4. Increasingly Restricted Section 106 Potential</u>

2.33 The ability to negotiate planning obligations through Section 106 has been curtailed as part of the CIL Legislation (Regulation 122). Previously the tests to determine whether a S.106 agreement was appropriate were set out as Guidance, now they are statutory (see paragraph 6.14).

2.34 From 6 April 2015, the ability to pool S.106 will be further restricted, limiting the number of contributions that may be pooled to pay for an infrastructure project to five (CIL Regulation 123). In other words, Section 106 may be used for infrastructure relating to the development itself but not for making contributions towards infrastructure that is not directly related to the contributing developments, as this is what the CIL has been introduced for.

2.35 S.106 payments have to be related to the development taking place, so they are more restricted in what they can be spent on. The majority of an individual CIL payment can be spent in any location and on any scheme that is a priority, so it can be pooled without restriction and investment targeted on strategic priorities and outcomes.

The Neighbourhood Portion

2.36 CIL Legislation requires a proportion of CIL receipts to be retained in the local area. Without a CIL the benefits of new development will not necessarily accrue to local communities that experience development within their area. This proportion will be higher in communities that encourage regeneration through the production of a neighbourhood plan or a neighbourhood development order (as per CIL Regulation 59A). In these areas, 25% of CIL receipts will be retained to be reinvested in the local area. In areas without these, 15% of CIL receipts will be retained this can be used to fund a plan or development order – see the CIL Guidance (paragraph 72, ‘What is the neighbourhood portion of the levy?’).

2.37 In Sheffield, where there are parish councils (Bradfield, Ecclesfield and Stocksbridge), the CIL money can be handed over to the parishes to spend on infrastructure priorities. In non-parished areas, the City Council will hold the funds, but the local community will still decide how to spend the money. The CIL Guidance states that:

> *“The neighbourhood portion can be spent on a wider range of things than the rest of the levy”* (paragraph 78, ‘What can neighbourhood funding be spent on?’).

2.38 The Council has yet to decide how local communities outside of parishes will be represented for CIL purposes. More details on how this will operate are set out in the CIL Guidance.

2.39 A CIL will enable all communities in Sheffield to benefit from new development in their area and set their own priorities for infrastructure improvements. This will not be possible without a CIL.

3 DETAILED POLICY JUSTIFICATION FOR CIL

Planning Act

3.1 The Planning Act 2008 sets out the legislative framework for the CIL to be introduced, and includes a range of definitions that infrastructure ***may*** include:

(a) roads and other transport facilities
(b) flood defences
(c) schools and other educational facilities
(d) medical facilities
(e) sporting and recreational facilities
(f) open spaces.

The National Planning Policy Framework (NPPF)

3.2 The NPPF[19] promotes sustainable development through three key dimensions, where the planning system has an economic, social and environmental role. Infrastructure as defined in paragraph 3.1 cuts across all three of these roles, but it is specifically and significantly referred to in the economic role (NPPF paragraph 7).

3.3 Paragraph 21 of the NPPF recognises that a lack of infrastructure can be a significant barrier to investment, and that priorities for infrastructure provision should be identified. More specifically, local planning authorities should set out the strategic priorities for the area in the Local Plan, including strategic policies to deliver the provision of infrastructure (paragraph 156) and to plan positively for infrastructure required to meet the objectives, principles and policies of the NPPF (paragraph 157).

3.4 In order to deliver sustainable development, specifically a strong and competitive economy, barriers to investment such as a lack of infrastructure need to be overcome. NPPF Paragraph 160 emphasises the importance of working with the business community to identify where infrastructure is lacking, so we will consult with local businesses on infrastructure shortages and priorities. Local businesses and business groups have been closely involved as stakeholders in drafting both the policy and the CIL documents. A Phase One Draft Infrastructure Delivery Plan (IDP) to support the CIL Charging Schedule has also been published (see paragraph 4.2 onwards).

CIL Guidance

3.5 The NPPF reflects the CIL Regulations and detailed Planning Practice Guidance (PPG) that has been published in order to assist in the

[19] *National Planning Policy Framework*. Communities and Local Government, March 2012 - http://planningguidance.planningportal.gov.uk/blog/policy/

interpretation and delivery of the NPPF. A CIL PPG is one of these (see paragraph 1.7) issued in June 2014[20]. This Guidance explains that the CIL is intended to provide additional infrastructure to support the development of the Council's area and will have a positive economic effect (paragraph 9, 'What is meant by an appropriate balance?'). This Guidance requires charging authorities to show how the proposed levy will contribute towards the implementation of their relevant plan and support development across their area.

3.6 The following paragraphs explain how the CIL will assist in delivering the local plan and how local plan policies requires a CIL for their delivery.

The Sheffield Local Plan

3.7 The CIL Guidance emphasises that the levy should relate to the local plan. The Guidance requires the Charging Schedule to relate to an up-to-date relevant plan (paragraph 10, 'What is a charging schedule?') and how the CIL will contribute towards the implementation of the Sheffield Local Plan ('What is meant by an appropriate balance?' and 'How do local authorities prepare their evidence to support a levy charge?'). The main element of the Sheffield Local Plan that relates to infrastructure is the Core Strategy, adopted in 2009. The Council has produced a Statement of Conformity[21] covering the Core Strategy and the NPPF, and the majority of the policies in the Core Strategy are in conformity with the NPPF. Paragraph 215 of the NPPF states that due weight should be given to relevant policies in existing plans, with the greater the weight given to policies that align closely with the Framework.

3.8 The Planning Inspectorate monitors local plans nationally and publishes a list of local planning authorities' plans progress, that is published on the Planning Portal.[22] This shows that Sheffield has an adopted Core Strategy that is up to date on strategic issues. This provides the policy basis and justification for progressing with a CIL, as set out in more detail below:

<u>The Core Strategy</u> [23]

3.9 The Core Strategy has a number of strategic objectives and spatial policies that require the provision of infrastructure to deliver them, including economic transformation, serving the city region, transforming

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[20] *National Planning Practice Guidance - Community Infrastructure Levy – Guidance.* June 2014 - http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/

[21] https://www.sheffield.gov.uk/planning-and-city-development/planning-documents/local-plan.html

[22] http://www.planningportal.gov.uk/planning/planningsystem/localplans

[23] *Sheffield Development Framework Core Strategy.* Sheffield City Council, 2009. https://www.sheffield.gov.uk/planning-and-city-development/planning-documents/local-plan/core-strategy.html

housing markets, promoting successful neighbourhoods, health and well-being, better connectivity, better use of the transport network, supporting sustainable transport and enhancing the natural environment.

3.10 CIL will assist in achieving many of the Objectives set out in Chapter 3 of the adopted Core Strategy, particularly using the implementation methodology set out as a draft local plan Policy (see paragraph 3.32 onwards).

3.11 The list below contains the Strategic Objectives (represented by an 'S' number) in the Core Strategy that will specifically be delivered at least partly be CIL funds:-

3.12 Economic Transformation:

- S1.1 – adequate infrastructure is one of the conditions required to achieve a sustainable high-growth economy in the City Region. CIL will be instrumental in helping to deliver adequate infrastructure through the generation of funding.

- S1.3 – green infrastructure is an identified priority in line with the Core Strategy objective. The provision of green infrastructure will help to create, improve and conserve environments to attract business investment.

3.13 Research by the University of Sheffield has identified a consensus across North West Europe that economic values can be attributed to investments in urban green infrastructure, although the nature of these valuations is dependent on the size, location and functionality of each investment.

3.14 This research shows that every pound spent on the investments in green infrastructure in Sheffield generates an additional 94 pence for the regional economy (see VALUE final report, pages 75 and 106).[24]

3.15 Returning to the Core Strategy Objectives, the City Region will be better served:

- S2.2 – improvements in transport infrastructure through CIL, particularly in achieving the capacity of the network, will significantly improve connections.

3.16 Housing markets will be transformed:

- S3.1 – CIL will help to deliver new housing through infrastructure provision.

[24] The University of Sheffield as part of the Interreg IVB North West Europe VALUE project. *The VALUE Project Final Report,* September 2012. http://www.value-landscapes.eu/news/14/VALUE+Final+Report.html

3.17 Successful Neighbourhoods will be promoted:

- S4.3 – the provision of infrastructure at district and neighbourhood levels will be promoted, particularly through the Neighbourhood Portion (see paragraphs 2.36 and 2.37).

3.18 Opportunities for all will be provided:

- S5.1 – social infrastructure provision through CIL can enhance equal opportunities.

3.19 Health and well-being will be promoted:

- S6.1 – the CIL can be focused on enhancing quality of life and reducing carbon emissions that can also help to improve air quality.

- S6.3 – new green infrastructure improvements through CIL to meet the needs of new development will help to safeguard areas where peaceful enjoyment of urban neighbourhoods is already present.

3.20 CIL could be used to fund health facilities such as hospitals, GP surgeries and walk-in centres.

3.21 Better connections will be achieved:

- S7.1 – transport network capacity improvements as a key infrastructure priority will help to improve accessibility to work and services.

- S7.2 – network capacity improvements will help to improve access in general by sustainable transport means.

3.22 More efficient use of the transport network and infrastructure will be delivered:

- S8.1 – the more efficient use of existing infrastructure can be targeted through CIL funding.

- S8.2 – similarly, increasing the capacity of the existing transport network will help to ensure it is used as efficiently as possible.

3.23 Supporting sustainable transport:

- S10.1 – many of the priorities for transport investments will improve public transport and promote energy-efficient transport modes. CIL can fund network improvements, which will include public transport facilities. Efficient use of resources will encourage energy efficiency in transport and focussing on reducing carbon emissions will prioritise low-polluting modes of transport.

- S10.2 – the provision of better walking and cycling facilities through CIL funds could reduce carbon emissions and increasing the network capacity by reducing the number of motor vehicles otherwise using the network.

- S11.2 – CIL can fund renewable energy projects.

- S12.4 – CIL could assist waste reduction, recycling and re-use to make the best use of resources.

3.24 The natural environment will be improved:

- S13.1 – improved green infrastructure to meet the needs of new development will mitigate the impact on existing green infrastructure and help to safeguard and enhance natural features.

- S13.4 – CIL is clearly crucial to the delivery of new and improved open space where it will be needed as a result of new development.

3.25 The Council has produced a draft City Policies and Sites document to help deliver the strategic aims of the Core Strategy. This was not submitted to the Government as a result of uncertainty over the ability to deliver the city's housing requirements and a decision was taken to begin work on a new local plan.[25] The new plan is likely to have a higher housing requirement than the Core Strategy, so the need for a CIL to deliver the infrastructure required by the local plan still holds and is not affected by this decision.

The 'Appropriate Balance'

3.26 The CIL Guidance (paragraph 9, 'What is meant by an appropriate balance?') makes it clear that

> *"the levy is expected to have a positive economic effect on development across a local plan area. When deciding the levy rates, an appropriate balance must be struck between additional investment to support development and the potential effect on the viability of developments."*

3.27 This approach clearly shows that there is an expectation that CIL will do more to provide the essential infrastructure that new development is dependent on than the existing developer contributions mechanism

[25] http://sheffielddemocracy.moderngov.co.uk/ieDecisionDetails.aspx?AIId=7168

that is mainly through Section 106. Work on assessing infrastructure needs as part of the Phase 1 Infrastructure Delivery Plan has shown that there is a huge infrastructure gap that could not be filled by CIL alone, but proves there is a need to maximise CIL income, whilst not jeopardising the delivery of the new development to address the city's strategic objectives.

3.28 So CIL funds are expected to contribute towards infrastructure provision rather than deliver all of the requirements. This is reflected in the proposed rates that are based on viability and include a significant buffer to ensure they are affordable. The Infrastructure Delivery Plan will focus on how to deliver infrastructure priorities using other sources of funding in addition to CIL. There is sufficient and significant flexibility built in to the proposed charges in the form of a buffer and a cautious approach to assumptions. Exceptional Circumstances Relief will also be available where there are significant abnormal costs involved in the development of individual sites.

3.29 The Guidance also requires charging authorities to show why the proposed rates set an appropriate balance between the need to fund infrastructure and the economic viability of development across the City (paragraph 19, 'How should development be valued for the purposes of the levy?'). Table 7.6.1 in the Viability Study shows that CIL as a proportion of scheme value ranges from 0.75% to 2.6% (or only 0.56% in the case of the revised Leisure rate (see paragraph 5.12). Paragraph 2.29 earlier noted that predicted CIL income would be between £4 and £5 million a year - this level of income would deliver all of the requirements set out in the draft Interim Regulation 123 List. At a cost to developers and landowners of between 0.56% and 2.6% of their developments, this represents an appropriate balance.

Determining CIL Priorities – Draft City Policy A1

3.30 The CIL is intended to facilitate the provision of the infrastructure required to enable new development, through developer funding, reflecting the fact that developers and landowners benefit financially from the uplift in value that the granting of planning permission brings.

3.31 Without a CIL and with the restriction that will be placed on Section 106 from 6 April 2015, this essential infrastructure may not be delivered and this will adversely impact on the sustainability of new development. The new local plan is likely to require significant new infrastructure, justifying the need for an effective infrastructure delivery mechanism such as CIL (see paragraph 3.25). So a CIL is the only realistic option of delivering improvements in part through developer contributions and a mechanism will be required to prioritise infrastructure projects that are crucial to the delivery of the local plan.

3.32 The Core Strategy policies deal with infrastructure issues broadly and at a strategic level and do not identify all of the specific infrastructure requirements, schemes or projects that CIL will ultimately fund. They do not specifically prioritise infrastructure needs or set out the key areas that should form the focus of infrastructure investment. The Council concluded consultation on a Pre-submission Draft of the City Policies and Sites in September 2013[26]. This included Policy A1, which draws on the broad approach of the Core Strategy and identifies what this means for infrastructure provision and for the priorities that should be specifically identified. While this draft policy does not form part of the local plan as it is not adopted, it will help to deliver the Core Strategy policies by enabling the prioritisation of infrastructure that will help to deliver the strategic policies, particularly via CIL. For this reason it can be regarded as a delivery mechanism for Core Strategy policies through the CIL. CIL was introduced by the Government after the Core Strategy was adopted, so it is reasonable to use this draft policy to set initial priorities for CIL. Appendix 1 of the Core Strategy sets out how the policies will be implemented, and many of them refer to 'negotiating developer contributions' as a mechanism for delivery. CIL will largely replace this need for negotiation.

3.33 So, while Policy A1 is not formally adopted, it is appropriate to use it to determine infrastructure priorities, as the Core Strategy lacks the necessary detail. This approach is endorsed by the statutory CIL Guidance (paragraph 11, 'What is a 'relevant plan''), as it helps to identify the infrastructure funding gap that requires a CIL to deliver the local plan, and means that the charging schedule is being worked up alongside the local plan.

3.34 The wording of the Draft Policy is as follows:

Policy A1

Infrastructure Requirements, Community Infrastructure Levy and other Developer Contributions

The priority for funding of infrastructure through the Community Infrastructure Levy (CIL) and other developer contributions will be to increase the effective capacity of infrastructure to enable or support development in the city.

Receipts from the CIL will be used only to invest in infrastructure that:

a. is essential for delivery of outcomes proposed in the Sheffield Local Plan; or
b. has been identified to meet locally determined requirements in the neighbourhood where the development takes place;

[26] https://www.sheffield.gov.uk/planning-and-city-development/planning-documents/local-plan/city-policies-and-sites.html

and that:

c. could not be financed from mainstream programmes, site-specific developer contributions or other sources; and
d. could be delivered within a reasonable timescale.

Infrastructure will be given priority for funding through the CIL that:

e. Releases potential for regeneration;
f. Supports meeting of the city's housing and employment land targets;
g. Maximises the benefits from scarce resources;
h. Enhances quality of life and equal opportunities;
i. Reduces carbon emissions;
j. Increases the resilience of the area to long-term change.

Specific priorities are:

k. Measures and facilities to increase the capacity and quality of the transport network and public transport, particularly on Key Routes; and
l. Provision for schools where there is evidence of insufficient local space for demand arising from new development; and
m. New or improved green infrastructure and public spaces in areas where there is a shortage; and
n. Additional specific measures that would be critical to delivering the city's economic and spatial strategy.

***'Infrastructure'** – includes physical, social and environmental facilities and networks needed to serve development such as transport, telecommunications, energy, water supply, sewerage and drainage, schools, hospitals, health centres and open space, consistent with the definition set out in the Planning Act 2008.*

***'Other sources'** – these are likely to vary over time but current examples are the Regional Growth Fund, Tax Increment Financing and the New Homes Bonus.*

***'Transport Network'** – includes roads, rail, tram, cycling and pedestrian routes and facilities. For Key Routes, see Core Strategy policy CS52 and the Proposals Map.*

***'Green Infrastructure'** – A network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality-of-life benefits for local communities. It may include playing fields, play areas and informal open space such as parks, natural or semi-natural open spaces, landscaped areas, etc.*

(see also definition of informal open space in Core Strategy policy CS47).

3.35 The draft policy is intended to effectively deliver infrastructure improvements through developer contributions, particularly through the CIL. It is anticipated that Sheffield will have significant infrastructure requirements arising from new development planned through the Local Plan, and funding for these improvements is expected to be limited. There is a need for a policy to guide priorities for infrastructure to ensure that new projects are focussed on supporting new development and assisting in the regeneration of the city. To do this, developer contributions need to be effectively and efficiently targeted.

3.36 The policy sets out how CIL spending will be prioritised and what the CIL funding is likely to be spent on. The mechanism set out in draft Policy A1 has been used to determine priority projects that are set out in the Phase One Draft Infrastructure Delivery Plan (IDP) and this in turn has been used to determine priority projects in the Draft Interim Regulation 123 List. These priorities will need to be made more specific once the CIL Charging Schedule is adopted and the 'Regulation 123 List', which sets out specific projects for CIL spending, is published..

3.37 A scoring mechanism based on this draft Policy was used to determine the priorities set out in the draft IDP and the Draft Interim Regulation 123 List. Projects were initially scored in terms of their relevance to the Core Strategy, availability of alternative funding and timescale for delivery. Relevant schemes were then scored and weighted against relevant policy criteria (for social, economic and environmental well-being) in the Core Strategy. The weightings were fairly evenly scored across the range of criteria, however the criteria for "Enhancing the quality of life / equal opportunities" and "Maximising the benefits from scarce resources" were given a slightly higher weighting relative to the overall scores. The process attempts to bring an impartial, transparent methodological framework to inform the prioritisation of projects. The process will be re-run for the IDP and CIL at a later date to take account of new projects and wider Sheffield priorities. More details of this methodology and the results are set out in the Draft Phase One IDP.

3.38 Criterion a. of Policy A1 focuses on the need to provide infrastructure to ensure the aims of the Local Plan can be delivered and criterion f. focuses on the need for infrastructure to contribute to meeting housing and employment land requirements. In particular, the provision of new employment and housing development requires the supporting infrastructure to also be provided. CIL is needed to ensure that such supporting infrastructure is provided as a priority through developer contributions. This is particularly relevant to Core Strategy policies CS1 and CS22, which deal with employment and housing requirements, respectively.

3.39 Criterion b. reflects locally generated priorities (rather than Core Strategy policy), and the need for the Neighbourhood Portion of CIL to be spent by local communities and parish councils (see paragraphs 2.36 and 2.37). However, local concerns about green space and community facilities mean some overlapping of strategic and local priorities. But CIL could contribute towards the delivery of aspects of Core Strategy policies CS43 (schools), CS44 (health centres), CS45 (quality and accessibility of open space), CS46 (quantity of open space) and CS73 (strategic green network).

3.40 Many of the policies relating to employment and the promotion of business and industrial uses will benefit from an approach to prioritising infrastructure provision through a CIL as set out in criterion e. (related to Core Strategy policies CS4, CS5, CS7 to CS13, CS27, CS28, CS30, CS32 and CS33).

3.41 Criterion g. ensures that CIL assists in the delivery of policy CS68, which supports the production of energy from waste.

3.42 Criterion i., that prioritises infrastructure that helps to reduce carbon emissions, will ensure the CIL assists in delivering Core Strategy policies:

- CS63(d), that deals with climate change and the need for carbon emission reduction.

- CS65, that deals with renewable energy and carbon reduction and, again, the policy will assist in making the best use of resources in this respect (A1 criterion g). In particular, the requirement for development to contribute towards off-site carbon reduction schemes will be supported.

3.43 Criterion i. encourages CIL funds to assist in delivering CS51 and CS53 (see below).

3.44 Criterion k., that encourages the provision of infrastructure that would increase the capacity and quality of the transport network and promotes public transport, encourages CIL funding to deliver at least some elements of the following Core Strategy Policies:

- Policy CS12, that identifies the need to improve walking and cycling in the Blackburn Valley;

- CS21, that recognises the need to improve public transport as a priority;

- CS51(c) and (f) and CS53(d), by making reducing congestion a priority for investment from CIL and reducing carbon emissions, which will be compatible with improving air quality (CS66);

- CS52(a), that identifies specific improvements required on Key Routes and, along with CS53(c), focuses on making the best use of the existing road capacity;

- CS54 and CS55, that identify the Pedestrian Routes that will be a priority for improvement and walking and cycling routes to be improved, including those that are part of the green network;

- Targeting investment on congestion reduction will help to achieve the aims of CS56, that seeks to reduce the impact of congestion on Key Bus Routes;

- CS57, that sets out some specific projects for Park-and-Ride and Car Parking in the City Centre. It seeks to identify new locations that would make the best use of the network;

- CS60, that includes a wide range of transport improvements that will be required in the City Centre, including midi-interchanges, park-and-ride, a shuttle bus service, improved bus routes, demand management measures, car clubs, short-stay car parking and improved information and signage. All of these could be provided wholly or in part through CIL as they will help to make better use of the resources in the City Centre, increase the network capacity and reduce emissions. Pedestrian improvements as set out in CS61 could also be provided for the same reasons.

3.45 Criterion l. prioritises the provision of schools where there is evidence of insufficient local spaces to meet the demand arising from new development. A CIL will therefore be important in delivering Core Strategy Policy CS43, which requires these new school places to be funded by development.

3.46 Criterion m., which promotes new or improved green infrastructure to meet the needs of new development, will help CIL to deliver CS45, CS46, CS48, CS50 and CS73 that determine where new open space will be provided and existing space improved, including improvements to the green network.

3.47 So, in total, 18 (out of a total of 49) of the Strategic Objectives of the Core Strategy will require a CIL to ensure their delivery. Equally importantly, 35 Core Strategy Policies will be capable of being at least partly delivered by the CIL, nearly half of all the policies in the Core Strategy.

3.48 It is clear that a CIL in Sheffield is essential in order to be able to effectively deliver the Sheffield Local Plan and supporting development of the area. This means the requirement to identify what infrastructure will need to be funded through a CIL justifies setting CIL charges –

developers cannot be expected to contribute to infrastructure improvements unless it can be demonstrated that they are needed and have to be delivered (at least partly) through developer contributions. It is already very clear that a CIL would not fund all infrastructure needs, so a set of priorities that have been agreed through a comprehensive and wide-ranging consultation process would provide the robust justification for the CIL charges. The Infrastructure Delivery Plan will look at infrastructure delivery in the wider sense beyond what could be achieved through developer contributions.

3.49 The Background Reports produced for the Core Strategy[27] set out a lot of the evidence to justify developer contributions towards infrastructure provision in order to effectively deliver the Core Strategy. For example, the Education and Health Background Report deals with the need for developer contributions to assist in providing school places and deliver Core Strategy policy CS43 (paragraph 2.64):

> *"The Planning Service will be key in seeking the necessary funding from developers where it is required, and will monitor the amount of funding secured through planning permissions, compared to the amount required to provide additional school places required by new housing development. It is proposed that the City Policies document will set out the criteria for establishing under what circumstances planning obligations will be required."*

3.50 Policy CS44 on health centres similarly is heavily reliant on developer contributions for its delivery (paragraph 3.61):

> *"Planning will have a role in seeking the funding from developers where it is required. The City Policies document will set out the criteria for establishing under what circumstances planning obligations will be required and where there are capacity problems for health facilities arising from new housing developments."*

3.51 There are similar requirements set out in the Background Reports on Open Space and Transport.

3.52 Draft Policy A1 sets out the proposals for the types of infrastructure that would be expected to receive CIL funding, so is an important starting point for assisting in the implementation of a CIL. However, it is not a comprehensive list of all infrastructure types that could be appropriately funded by a CIL.

3.53 In order to charge a CIL, the Council must produce evidence to demonstrate that there is a need for new infrastructure to serve new

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27 https://www.sheffield.gov.uk/planning-and-city-development/planning-documents/local-plan/core-strategy/background.html

development in its area, that the proposed charges will be viable, that new infrastructure projects will be appropriate and that developers will not be expected to pay twice for infrastructure through additional planning obligations. The Government's CIL Guidance (paragraph 16, 'How does the levy charge relate to infrastructure planning?') encourages charging authorities to prepare a Draft Charging Schedule that is evidence-based and will reduce the need for subsequent modifications - this is the approach that the Council has adopted. The evidence takes the form of a number of separate documents and these are:

- This Background Report setting out why a CIL is appropriate and justifying the proposed rates
- Draft of a Phase 1 Infrastructure Delivery Plan
- Draft Interim 'Regulation 123 List' of Priority CIL-Funded Projects
- CIL Viability Study
- Reports on Consultation
- Draft CIL / Section 106 / Section 278 Statement

4 EVIDENCE

4.1 Copies of the documents referred to in this chapter are available at www.sheffield.gov.uk/cil .

Infrastructure Delivery Plan (IDP) and Infrastructure Needs Assessment (INA)

4.2 The CIL Guidance (paragraph 19, 'How does the levy charge relate to infrastructure planning?') requires the Council to prepare evidence on infrastructure planning to support the Draft Charging Schedule. We have chosen to prepare a Phase One Draft of an IDP to meet this requirement. This is a first stage version of the full IDP that will focus on the infrastructure priorities for spending CIL receipts. It includes an Infrastructure Needs Assessment that identifies the total cost of infrastructure required to serve new development that could be funded in whole or part by the CIL, in line with the CIL Guidance. The IDP identifies other potential infrastructure funding sources, including Section 106 commitments. The Guidance also requires this evidence to be directly related to infrastructure requirements identified in the local plan, in Sheffield's case the Core Strategy. This has been done in the Phase One Draft IDP.

4.3 This Assessment enables the Council to identify a CIL infrastructure funding target, as required by the Guidance. Accordingly, the IDP includes an Infrastructure Funding Gap Statement that identifies what CIL receipts are needed to meet the requirements in whole or part, in order to demonstrate the need to levy a CIL.

4.4 The Draft IDP assesses current levels of infrastructure provision and identifies where shortfalls need to be overcome. Funding for new infrastructure is likely to be limited, and the IDP will play a key role in identifying funding gaps, priorities and delivery mechanisms for infrastructure.

4.5 The IDP work has used a mechanism set out in the draft local plan Policy A1 (see paragraphs 3.26 to 3.34) to identify the funding gap, with a specific focus on CIL.

4.6 The introduction of the CIL has raised expectations for funding new schemes so the final IDP will need to determine how far CIL can be relied on for particular schemes and to be mindful of alternative funding possibilities for essential infrastructure.

Viability

4.7 The CIL rates must be calculated based on the ability of development to pay (viability). A Viability Study by independent specialist consultants has provided evidence for the extent to which development in the city can afford to pay a CIL charge to help meet identified needs for infrastructure. This Study was undertaken by BNP Paribas Real Estate (BNPPRE) for the Preliminary Draft Charging Schedule and was updated in February 2014 for the Draft Charging Schedule. Details of the methodology, assumptions and results of the Viability Study are set out in paragraph 4.10 onwards.

4.8 The CIL Guidance states that a key consideration in setting the level of the CIL is the balance between securing additional investment in infrastructure to support development and the potential economic effect of imposing the levy on development (paragraph 8, ‘How are Community Infrastructure Levy rates set?’). So the key to deciding the level of CIL is the overall impact on the viability of development, i.e. what can reasonably be afforded without making schemes unviable. The NPPF in paragraphs 173 to 177 emphasises that the ability to viably develop sites identified in the local plan should not be threatened. Bearing this in mind, the rates have been set with considerable flexibility and a large ‘buffer’ or ‘margin’ below the maximum affordable rate, to ensure that there will be no significant impact on the economic viability of development in Sheffield.

4.9 This approach has ensured that the CIL rates proposed in the Draft Charging Schedule represent a cautious approach to viability through both the cautious assumptions used and the inclusion of a 40 to 80% margin below the potential maximum affordable charge. This twin approach ensures that there is plenty of flexibility built in to the proposed charges and additional site specific costs can be absorbed in most cases, so the proposed rates are affordable.

THE CIL VIABILITY STUDY – METHODOLOGY, RESULTS AND RECOMMENDATIONS

4.10 BNPPRE were chosen to produce the CIL Viability Study for Sheffield as they have a wide level of experience in this field, and have advised the Government on CIL issues. They also have detailed knowledge of the local property market through their Sheffield office. They have taken CIL work through to public examination for other authorities and also undertook a similar viability study in Sheffield in 2009 looking into the viability of sites for providing affordable housing.

4.11 The study analyses the factors affecting viability of all types of development in all market areas within the city. It tests the ability of a range of development types throughout the city to yield contributions to help meet infrastructure requirements. Levels of CIL were tested in combination with the Council's other planning requirements, including the provision of affordable housing.

4.12 The study methodology compares the residual land values of a range of hypothetical developments to a range of benchmark land values. If a development incorporating a given level of CIL generates a higher value than the benchmark land value, then it can be judged that the proposed level of CIL would be viable.

4.13 The CIL Guidance recognises that there are a number of different methodologies to assess viability and any will be useful in determining CIL rates (paragraph 19, 'How should development be valued for the purposes of the levy?').

4.14 The residual land value method is used by developers when determining how much to bid for land and involves calculating the value of the completed scheme and deducting development costs, construction, fees, finance, planning obligations (including CIL), developer's profit, etc.. The residual amount is the sum left after these costs have been deducted from the value of the development and guides a developer in determining an appropriate offer price for the site. This approach has been adopted for both residential and commercial developments. The Guidance requires charging authorities to summarise economic viability evidence in a separate document to the Charging Schedule (paragraph 18, 'How do local authorities prepare their evidence to support a levy charge?'), and this is the role of this section of the Background Report.

4.15 The housing and commercial property markets are inherently cyclical and the methodology builds in a sensitivity analysis of residential sales values by build costs. The commercial appraisals incorporate sensitivity analyses on rent levels and yields.

4.16 The Viability Study shows that development on certain types of sites and in certain parts of the city would be sufficiently viable to justify a CIL charge for some, but not all, uses.

4.17 Charges may be varied by type of development and location, and the Guidance encourages this approach (paragraph 21, 'Can differential rates be set?'). So different uses can pay different amounts depending on the ability to pay, and low value areas need not pay the same rate as high-demand areas. However, the only justification for levels being varied is viability and whether the deterrent effect of the levy would outweigh the benefits in terms of infrastructure funded. Policy should not be a basis for variation as that would contravene European State Aid regulations (paragraph 21, 'Can differential rates be set?'). As of June 2014, 39 authorities had approved a CIL charging schedule, and of these 37 have differential rates. The proposed approach in Sheffield to have differential rates is therefore consistent with generally adopted practice nationally.

4.18 The CIL Guidance encourages early engagement with local developers (paragraph 14, 'Should other interested groups be involved?'). As part of the Viability Study exercise, BNPPRE led two separate stakeholder workshop sessions, before and after the consultation period on the Preliminary Draft Charging Schedule. Local landowners, developers and agents were invited to contribute to the assumptions used as inputs to the appraisal model. These were useful exercises in ensuring that the Council engaged the local development industry early on in the CIL process. These key stakeholders have been invited to comment on both the Preliminary Draft Charging Schedule and the Draft Charging Schedule.

4.19 CIL Guidance (paragraph 19, 'How should development be valued for the purposes of the levy?') recognises that:

> *"A charging authority must use 'appropriate available evidence' (as defined in the Planning Act 2008 section 211(7A) 0 (http://www.legislation.gov.uk/ukpga/2011/20/section/114)) to inform their draft charging schedule. The Government recognises that the available data is unlikely to be fully comprehensive. Charging authorities need to demonstrate that their proposed levy rate or rates are informed by 'appropriate available' evidence and consistent with that evidence across their area as a whole."*

4.20 This requirement has been met by the methodology used in the Viability Study.

4.21 In practice, it is likely that the precise level of CIL will not be the most crucial consideration for the viability of development. Fluctuations in land and building costs, in house prices and in acceptable rates of return will be much more significant. It may be that the level of CIL influences when a development would occur but it is unlikely to be set at a level that would be critical in blocking any development for the whole plan period. Paragraph 3.29 above shows that the CIL rates recommended would represent between 0.56% and 2.6% of the total value of any new development.

Assumptions Used in the Viability Study

4.22 The main assumptions used as inputs to the residential and commercial appraisal scenarios are listed in Tables 4.37.1 on page 25 and 4.40.1 on pages 27 and 28 of the Viability Study. The Council has sought comments on these assumptions in particular. As required by the Guidance in paragraph 19, land values and sales values have been accounted for (Viability Study paragraphs 4.1 to 4.3 and 4.39 to 4.41).

Buffers, Margins and Flexibility

4.23 The Viability Study assumes a 20% **landowner premium** that is considered reasonable and consistent with standard assumptions on profit levels of 20%.

4.24 The Viability Study in paragraph 5.8 refers to an assumption that the CIL charge will apply to **all floorspace**. However, some schemes will have existing floorspace that will reduce the CIL charge, so this provides a further element of flexibility within the assumptions.

4.25 The Study assumes that an **instalments** policy will be adopted and that payments will be made in 3 phases. We are proposing that larger payments are made in 4 stages, which adds an additional buffer for these developments.

4.26 The Study found that the potential for residential schemes to make CIL contributions varies particularly depending on the location, the current use of the site and the proportion of affordable housing delivered by the development. The viability of non-residential schemes depends mainly on the value of the end use proposed. The CIL Guidance (paragraph 19, 'How should development be valued for the purposes of the levy?') requires that charging authorities do not set their CIL right up to the margin of viability, so a **buffer** of between 40 and 80% was applied to the maximum potential rates to give discounted rates that have been proposed in the Draft Charging Schedule.

4.27 Table 3 below shows how the assumption used in the Viability Study of £1,000 per unit for **planning obligation contributions** is reasonable, as recent contributions have averaged around £750. This would be likely to reduce significantly following the adoption of CIL, so provides significant flexibility.

Table 3 - Section 106 Payments Received - Residential Schemes 2011 – 2013

Application Number	Housing Market Area	Location	Details of Development	Units	Total payment	£ / unit
09/00097 /FUL	Chapeltown/ Ecclesfield	Foster Way	18 apartments and 7 houses	25	£23,134	£925.36
13/01132 /FUL	Chapeltown/ Ecclesfield	Rear Of The Salutation Inn, 170 Wortley Road, High Green	5 houses	5	£4,532	£906.40
10/04016/ FUL	City Centre	Site Of 20 Bedford Street	student accom	18	£15,600	£866.67
09/02448 /FUL	City Centre	Velocity Village, 5 Solly Street	C/u to A1- A4 and 24 x 2 bedroom flats	24	£34,464	£1,436.00
11/02222 /FUL	City Centre	33 Townhead Street	C3 - flats	6	£6,211	£1,035.15

Application Number	Housing Market Area	Location	Details of Development	Units	Total payment	£ / unit
11/01858 /FUL	City Centre	Well Meadow Street (Phase 3 Upper Allen Street Site)	C3 - 5 townhouses, 8 flats	13	£20,027	£1,540.53
11/03816 /FUL	City Centre	100 Trippet Lane	C3 - flats	30	£32,754	£1,091.80
07/02158 /FUL	City Centre West	Velocity Tower	263 flats	263	£43,750	£166.35
06/00857 /FUL	City Centre West	Site Of Jolly Buffer, 144 Ecclesall Road	36 flats and A3	36	£18,071	£501.97
09/03696 /CHU	City Centre West	19 Montgomery Road	c/u to 6 flats	6	£2,821	£470.17
10/03907 /FUL	City Centre West	76 - 136 Edmund Road	C3 - flats	10	£12,520	£1,251.98
06/01957 /FUL	City Centre West	Land Between 285 And 317 Psalter Lane	5 dwellings	5	£5,562	£1,112.40
07/02811 /FUL	City Centre West	Thrush Street And Land Between Lark Street And 231 Providence Road	Erection of 13 dwellinghouse s	13	£1,171	£90.08
10/02518 /FUL	City Centre West	Site Of Sportsman Inn, 100 Walkley Bank Road	6 townhouses	6	£10,475	£1,745.83
05/03455 /FUL	City Centre West	32 Ryegate Road	Erection of 6 dwellings	6	£9,649	£1,608.17
12/00021 /FUL	City Centre West	21 - 23 Montgomery Road	C3 - flats	12	£6,947	£578.95
06/00677 /FUL	East	45 Mowbray Street	Alts & ext to warehouse to form 10 flats	10	£10,351	£1,035.10
06/01636 /FUL	East	SIte Of 41 Mowbray Street	31 flats use of existing building as offices (Use Class B1)	31	£28,485	£918.87
11/01511 /FUL	East	Land At Harding Street Eleanor Street And Darnall Road	148 dwellinghouse s and 40 flats	188	£336,751	£1,791.23
07/04514 /FUL	East	Off Hinde House Crescent	24 dwellinghouse s	24	£11,927	£496.96
06/04753 /FUL	Manor/ Arbourthorne /Gleadless	Site Of 362-364 Myrtle Road	13 flats	13	£6,134	£471.85
05/00204 /FUL	Manor/ Arbourthorne /Gleadless	486 Manor Lane	9 flats	9	£550	£61.11
08/04839 /FUL	Manor/ Arbourthorne /Gleadless	Seaton Place	14 dwellings	14	£18,623	£1,330.21
12/03366 /FUL	Manor/ Arbourthorne /Gleadless	Harborough Avenue	21 dwellings	21	£29,252	£1,392.95
12/01077 /FUL	Manor/ Arbourthorne /Gleadless	Land Between Errington Close And Errington Road, East Bank Road	56 older persons dwellings	56	£17,679	£315.70

Application Number	Housing Market Area	Location	Details of Development	Units	Total payment	£ / unit
10/02878 /FUL	Manor/ Arbourthorne /Gleadless	Crossland Drive	66 no. 1/2 - bedroomed apartments	66	£18,315	£277.50
10/03499 /FUL	North East	Site Of Sicey Hotel	C3 - flats	24	£4,449	£185.38
13/00236 /FUL	North West	Oxspring Bank	5 houses	5	£3,853	£770.60
12/00204 /FUL	North West	Bedford Street And Cross Bedford Street	19 student apartments comprising 80 bedrooms	80	£9,191	£114.89
08/03194 /OUT	North West	38 Hanson Road, Loxley	14 dwellings	14	£15,327	£1,094.79
07/02545 /FUL	Rural Upper Don Valley	Site Of Farfield House, 88 Langsett Road South	5 net dwellings	5	£6,489	£1,297.80
07/04869 /FUL	South	211 Twentywell Lane	10 flats	10	£3,245	£324.50
08/04682 /FUL	South East	112 And 112A Charnock Dale Road	c/u doctors house and surgery to 6 dwellings	6	£1,984	£330.63
09/02409 /FUL	South East	Birley Moor Avenue	56 new dwellinghouse s	56	£11,200	£200.00
12/02349 /FUL	South East	Richmond Park Rise	36 dwellinghouse s	36	£5,902	£163.94
08/04488 /FUL	South West	Ballard Hall, Ranmoor Park Road	24 dwellinghouse s	24	£42,271	£1,761.29
08/04965 /FUL	South West	Site Of 336 Ringinglow Road	6 town houses	6	£11,579	£1,929.83
11/03164 /FUL	South West	150 Little London Road	C3 (flats) & B1a (530 sq.m.)	14	£9,528	£680.54
11/01469 /FUL	South West	Land At The Junction Of Stumperlowe Crescent Road And Storth Lane	C3	8	£14,090	£1,761.30
09/02316 /FUL	South West	Curtilage Of 135 Dore Road	6 dwellings	6	£8,034	£1,339.00
12/02173 /FUL	South West	328 Fulwood Road	11 dwellings	11	£22,490	£2,044.55
08/04870 /FUL	South West	79 Dore Road	13 dwellings	13	£21,092	£1,622.46
TOTALS				**1,228**	**£916,479**	**£746.32**

4.28 There is also flexibility built in to some areas in terms of **density** assumptions (see paragraph 4.30).

Housing Densities

4.29 Some questions have been raised by objectors during consultation on the Preliminary Draft Charging Schedule and Draft Charging Schedule about the suitability of the assumptions on housing densities used in the Viability Study. Table 4 below compares these assumptions with density figures derived from the latest Strategic Housing Market Assessment (SHLAA) for Sheffield:

Table 4 - Housing Density Assumptions

Housing Market Area	Site Type	Viability Study Assumption	SHLAA Density 2014
1. Chapeltown / Ecclesfield, Rural Upper Don Valley	4	40	56
2. City Centre	8	125	333
	9	150	
3. City Centre West, North West, South East, Stocksbridge & Deepcar, Manor / Arbourthorne / Gleadless	4	40	56
	5	75	
4. East	5	75	56
5. North East	5	75	56
6. South	5	75	45
7. South West	4	40	45

Source: Sheffield City Council Strategic Housing Market Assessment 2014

4.30 The table shows that, while there are variations between the Viability Study density assumptions and the SHLAA in certain Housing Market Areas, overall the rates are comparable, with some in the Viability Study being higher and some being lower. In particular, in the City Centre the Viability Study assumption is less than half of the SHLAA figure, which adds further flexibility to the viability of the proposed CIL rates in the City Centre.

CIL and Affordable Housing

4.31 As affordable housing will be the one requirement from developers to specifically be delivered through Section 106, it needs to be factored in separately as a cost of development in the calculations of viability. So there is a need to be clear and specific about the assumptions used on affordable housing targets for CIL calculations and how this works with affordable housing policies.

4.32 The adopted Core Strategy policy CS40, does not include a target figure for affordable housing and merely states in its entirety:

> *"In all parts of the city, developers of all new housing developments will be required to contribute towards the provision of affordable housing where this is practicable and financially viable."*

4.33 Paragraph 9.1 of the supporting text for the Policy refers to a 30-40% target figure which was recommended by the Core Strategy Inspector, and was in the Regional Spatial Strategy (RSS). However, the RSS has since been abolished and the housing market has changed, so this figure is no longer appropriate in many parts of the city. Also, there has been very little affordable housing delivered recently in Sheffield. For all of these reasons there was a need to take a different policy approach to affordable housing, in order to encourage greater delivery. To achieve this, the Council has updated its Affordable Housing Interim Planning Guidance[28]

4.34 As viability for both affordable housing and CIL has been shown to vary significantly across the different Housing Market Areas, it is reasonable to have a variable approach to developer contributions that reflects this. As shown in Table 5 below, these expected affordable housing contributions reflect the affordable housing and CIL Viability Studies done by BNPPRE.

4.35 The Viability Study looked at a range of affordable housing contributions, modelling 5 different scenarios for affordable housing - 0%, 10%, 20%, 30% and 40%.

4.36

Table 5 - Proposed CIL Rates and Expected Affordable Housing Contributions

Housing Market Area	**Proposed CIL Rate (£ per sq.m.)**	**Expected Affordable Housing Contribution (%)**
1. Chapeltown / Ecclesfield, Rural Upper Don Valley	30	10
2. City Centre	50	0
3. City Centre West, North West, South East, Stocksbridge & Deepcar,	30	10
3. Manor / Arbourthorne / Gleadless	30	0
4. East	10	0
5. North East	0	0
6. South	50	30
7. South West	80	30

[28] *Affordable Housing Interim Planning Guidance 2014 Update.* Sheffield City Council. https://www.sheffield.gov.uk/planning-and-city-development/planning-documents/supplementary-planning-guidance.html

5 DETAILED JUSTIFICATION FOR THE PROPOSED CIL RATES

5.1 The CIL Guidance (paragraph 21,'Can differential rates be set?' onwards) explains why differential rates may be appropriate, and the Viability Study has recommended this approach (see paragraph 4.17 above).

5.2 The proposed charges and the justification for them are:

Table 6 – Proposed CIL Rates for the Draft Charging Schedule

Type of Development	**CIL Charge (£/sq.m.)**
RESIDENTIAL (Use Classes C3 and C4)	
• **Zone 1** - North East	£0
• **Zone 2** - East	£10
• **Zone 3** - Stocksbridge & Deepcar, North West, South East, City Centre West, Manor / Arbourthorne / Gleadless, Chapeltown / Ecclesfield, Rural Upper Don Valley	£30
• **Zone 4** - City Centre, South	£50
• **Zone 5** - South West	£80
RETAIL (Use Class A1)	
• City Centre Prime Retail Area	£30
• Meadowhall Prime Retail Area	£60
• Major Retail Schemes (includes Superstores and Retail Warehouses)	£60
HOTELS (Use Class C1)	£40
OUT OF TOWN LEISURE (Use Class D2)	£10
STUDENT ACCOMMODATION	£30
ALL OTHER USES (including offices and industry)	£0

Residential Rates

5.3 The Viability Study methodology is to model potential CIL charges using different scenarios varying Benchmark Land Values (BLVs), site typologies and affordable housing rates. The results of these scenarios are set out in Tables 6.7.1 to 6.7.9 in the Viability Study. The effects of the affordable housing requirement figures set out in Table 3 above are then filtered out and the results summarised in Tables 6.10.1 to 6.10.7 of the Viability Study. These results are then combined according to the mix of land values and site types that are representative of each of the Housing Market Areas to give a potential maximum CIL rate. This is then discounted to around half in order to add a 'buffer' to viability. Both of these figures are set out in Table 6.15.1 of the Viability Study. In order to add some commentary to these figures, Table 7 below sets out some scenarios using the types of site and land values that are indicative of the Housing Market Areas.

Table 7 – Illustrative Assessment of Appropriate CIL Rates

Housing Market Area	Aff Hg	Site Types	BLVs	Max CIL	Max CIL Average	CIL with 50% buffer	CIL rate proposed
				£ / sq.m.			
1. Chapeltown / Ecclesfield, Rural Upper Don Valley	10%	4	2	40	70	35	30
		4	3	120			
		7	3	50			
		8	3	70			
2. City Centre	0%	8	1	120	120	60	50
		9	1	120			
3. City Centre West, North West, South East, Stocksbridge & Deepcar,	10%	4	3	40	45	22.50	30
		5	3	50			
3. Manor / Arbourthorne / Gleadless	0%	4	3	80	85	42.50	30
		5	3	90			
4. East	0%	-	-	-	-	-	10
5. North East	0%	-	-	-	-	-	0
6. South	30%	3	1	50	87.5	43.75	50
		3	2	100			
		5	1	80			
		5	2	120			
7. South West	30%	4	1	180	140	70	80
		8	1	100			

5.4 These examples illustrate how the rates relate to the viability tests. The actual assessment will have taken account of further site types and land value variations within the various Housing Market Areas.

5.5 Two of the Housing Market Areas were assessed in the Viability Study as having little or no viability. One was the **North East** Housing Market Area, and our own investigations into historic Section 106 payments support the conclusion that a zero rate is appropriate for this area.

5.6 However, in the **East** Housing Market Area, the Viability Study suggested a £10 'nominal rate' in, as evidence of historic Section 106 payments (see Table 8 below) suggest that the area may have some marginal viability. The January 2013 Viability Study stated that *"levying* *a modest CIL on developments of this type is unlikely to prevent them coming forward when values recover".*[29]

Table 8 – Residential Section 106 Payments Received in the East Housing Market Area

Address	App No	Development	S.106 Paid	Equivalent CIL at £10 rate
45 Mowbray Street	06/00677/FUL	Alts & ext to warehouse to form 10 flats	£10,351	£5,000
Site Of 41 Mowbray Street	06/01636/FUL	31 flats use of existing building as offices (Use Class B1)	£28,485	£15,500
Harding Street / Eleanor Street /Darnall Road	11/01511/FUL	148 dwellinghouses and 40 flats	£413,559	£131,600
Off Hinde House Crescent	07/04514/FUL	24 dwellinghouses	£11,927	£16,800

5.7 This approach is encouraged by the CIL Guidance, that states:

> *"There is no requirement for a proposed rate to exactly mirror the evidence…. There is room for some pragmatism"*[30]

Retail Rates

5.8 Analysis of Valuation Office Agency (VOA) data[31] on rental values suggests that Meadowhall has by far the highest values, with Fargate being the next highest, which are in turn significantly higher than other parts of the City Centre. For this reason it is appropriate to limit the City Centre Prime Retail Area to the Fargate area only, so only Meadowhall and Fargate will be eligible for the CIL charge as the Prime Retail Areas. These are summarised in Table 9 below:

Table 9 Rateable Values per Square Metre

Centre	RV / Sq.m. (£)
Meadowhall	837
Fargate	472
Hillsborough	355
High Street	349
Crystal Peaks	344
Orchard Square	330

[29] *Community Infrastructure Levy: Viability Study.* BNP Paribas Real Estate, January 2013, Footnote 1, page 4 - http://sheffield-consult.limehouse.co.uk/portal/cil/pdcs/cil_viability_study?pointId=1357744984537

[30] *Planning Practice Guidance – Community Infrastructure Levy (June 2014),* 'paragraph 19, How should development be valued for the purposes of the levy?' - http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/

[31] *Property Market Report 2011 - VOA*

Chapel Walk	324
Devonshire Street	300
Ecclesall Road	298
New Retail Quarter	289
The Moor	286
Broomhill	284

Source: Valuation Office Agency data – SCC analysis

5.9 This table shows that values at Meadowhall are nearly twice that of any other location in the City, and values in Fargate are significantly higher than anywhere else in the City Centre and the City as a whole. These figures provide additional justification for the proposed £60 and £30 retail rates and the boundaries proposed for those locations.

Student Accommodation

5.10 Representations on the Draft Charging Schedule (comment number DCS10) have suggested that a charge for student accommodation is not justified and will have an adverse impact on the ability to provide bespoke accommodation for students and therefore have a further adverse impact on the availability of housing for permanent residents. However, not only does the Viability Study support a charge, but student accommodation is charged at similar rates in other towns and cities with universities (see Table 10 below)

Table 10 – Community Infrastructure Levy charges for Student Accommodation

Charging Authority	Stage	Rate (£/sq.m.)
Portsmouth	Charging	105
Oxford	Charging	100
Bristol	Charging	100
Huntingdonshire	Charging	85
Plymouth	Charging	60
Exeter	Charging	40
Sheffield	Draft Charging Schedule	30

Hotels

5.11 Paragraph 6.31 and 7.4 of the Viability Study states that hotels are viable even when built on sites with higher existing use values, so can justify a CIL charge.

Leisure

5.12 The Viability Study suggests a CIL charge is appropriate based on viability evidence relating to specific types of leisure that have been appraised as viable (see paragraph 6.33 of the Viability Study). Alternative appraisals submitted in response to the Draft Charging

Schedule have provided some additional evidence for a lower rate. The issue relates to assumptions on yields. There is a dearth of evidence on yields achieved for out of town leisure, so the point is difficult to prove either way, but the Council is willing to accept the alternative evidence provided, so are proposing a lower rate for out-of-town leisure than that suggested by the Viability Study of £10 per square metre. Given the original calculation in Table 7.6.1 of the Viability Study that a £30 CIL charge would represent 1.68% of the value of a scheme, a reduced £10 charge would represent only 0.56% of total value, which should be easily affordable.

Offices and Industry

5.13 Viability evidence suggests that office and industrial uses have limited or no viability (Viability Study paragraphs 6.21 and 6.29), so should be subject to a zero CIL charge.

Car Showrooms

5.14 Appraisals in the Viability Study have shown that car showrooms are not sufficiently viable to warrant a CIL charge. This is due to small differentials in rents and investment yields. Car showrooms attract a slightly higher yield than comparable buildings such as retail warehouses and supermarkets, which in turn drives a reduced capital value. This reduces the surplus generated by car showrooms and their ability to absorb a CIL charge is lower as a result. For this reason a zero rate is proposed (Viability Study paragraph 6.34).

6 OTHER CIL POLICIES

Phased Payments / Instalments Policy

6.1 Phased Payments are not a matter for the charging schedule until after it is approved. However, the issue is considered at this stage because there is an assumption within the Viability Study that phased payments will be offered and this affects the viability calculations, by enabling receipts of early stages of a development to fund later CIL payments.

6.2 So the view is that an Instalments Policy should be adopted by the Council, although it is not a statutory requirement to do so. The Council intends to implement an Instalments Policy, and the process for this is set out in the Guidance (paragraph 47, 'When does a development become liable to pay the levy?'). The Instalments Policy will be published on the Council's website once the charging schedule has been approved. A proposed policy has been the subject of consultation at both the Preliminary Draft Charging Schedule and Draft Charging Schedule stages. The Draft Charging Schedule proposal is summarised in the table below.

6.3 The table compares the proposed Sheffield policy with other charging authorities to show that it is a comparable and reasonable approach. However, this proposed policy will be reviewed prior to adoption in the light of comments made on the Draft Charging Schedule.

Table 11 Instalments Policies in other Charging Authorities

	Stage	**Trigger Amount**	**% by Number of Months**										
			0	**2**	**3**	**4**	**6**	**8**	**9**	**12**	**18**	**24**	**30**
Bristol	Charging	£35,000					20	20		30	30		
Plymouth	Charging	£15,000			25				50	25			
		£50,000			25					50	25		
		£100,000			25				25		25	25	
Portsmouth	Charging	£0			25				75				
		£250,000			25		25			50			
Bassetlaw	Charging	£0			25				75				
		£250,000			25		25			25	25		
Southampton	Charging	£50,000		33			33		33				
		£250,000		25			25		25		25		
Oxford	Charging	£200,000		25			25	25		25			
Leeds	Examined	£10,000		33		33	33						
		£60,000		25		25	25	25					
		£100,000			25		25			25		25	
Swindon	Submitted	£20,000					100						

	Stage	**Trigger Amount**	**% by Number of Months**										
			0	**2**	**3**	**4**	**6**	**8**	**9**	**12**	**18**	**24**	**30**
		£75,000				25			75				
		£250,000				25				35	40		
		£500,000			10					30		40	20
Birmingham	PDCS	£10,000		50		50							
		£20,000		33		33	33						
		£40,000		25		25	25	25					
Sheffield	**PDCS**	**£15,000**	**33**				**33**			**33**			
	DCS	***£10,000***			***50***		***50***						
		£50,000			***33***				***33***		***33***		
		£100,000			***25***				***25***		***25***	***25***	

6.4 The Instalments Policy set out in Table 11 above has more flexibility than the assumptions used in the Viability Study that models a payment after only 1 month, whereas the proposed policy has a first payment after 3 months. The higher payments are proposed in 4 instalments, compared to 3 in the Viability Study.

6.5 Potential changes to reflect the Viability Study more closely could introduce a minimum of 3 instalments for all phased payments, a final payment in month 30 for CIL charges above £100,000 and an application to all site typologies 7, 8 and 9 (see Viability Study Table 4.37.1).

6.6 We will be happy to work with consultees to finalise the Instalments Policy once the charging schedule is approved. Development can also be phased in order to phase CIL payments (CIL Guidance paragraph 56, 'Is there another way to allow phased payment').

6.7 While it is not legally necessary to agree an instalments policy as part of the charging schedule itself, we are making a decision on it as part of the Draft Charging Schedule process in order to provide clarity and comfort that it has been accounted for in the proposed charges.

Exceptional Circumstances Relief (ECR)

6.8 We accept the concerns raised during previous consultations on the Draft Charging Schedule regarding an Exemptions Policy. The Council intends to offer Exceptional Circumstances Relief, but this can only be done once a charging schedule is approved (Guidance, paragraph 130, ‘When can exceptional circumstances relief be offered?’). Development can also be split into phases for planning application purposes, which would also result in phased CIL payments (Guidance, paragraph 56, ‘Is there another way to allow phased payments?’).

Charitable Relief

6.9 Charities are exempt from CIL under Regulation 43 if the development is to be used for charitable purposes. Regulation 44 also allows for charging authorities to offer discretionary charitable relief for development where the developer is a charity and the profits from the development will be used for charitable purposes.

Payments in Kind

6.10 The CIL Regulations 73 and 73A and Guidance (paragraph 61, 'Can the levy be paid 'in kind' rather than in cash?') allow for CIL liabilities to be paid in kind rather than in cash. Such infrastructure payments may be appropriate and the Council will need to consider whether to accept them. This is a decision that is made outside of the charging schedule process.

Draft Interim List of CIL Spending Priorities – the 'Regulation 123 List'

6.11 CIL legislation and Government Guidance requires the charging authority to produce a draft list of the projects that are to be funded in whole or part by the Community Infrastructure Levy (paragraph 96, 'What is a regulation 123 infrastructure list?'). This is referred to as a 'Regulation 123 List' reflecting the requirement of the CIL Legislation. This is required to support the Draft Charging Schedule and sets out the priority projects that CIL funds will be expected to contribute to. It is derived from the draft IDP and the Infrastructure Needs Assessment included within it (see paragraph 4.2 onwards). CIL should focus on delivering local plan priorities, so projects have been chosen based on Core Strategy priorities for infrastructure.

6.12 No decisions are being made on CIL spending at this stage, as CIL money is not expected in significant amounts until 2017, and the list can be easily changed as we move through the CIL process. In effect, it is a 'what if' statement as to how the City might spend CIL if it had it now, so is intended to give reassurance to developers that CIL money will be targeted at suitable strategically important infrastructure projects.

6.13 The priority projects thus identified are:

- Additional **Primary and Secondary school places** in regeneration areas and **Secondary school places** in non-regeneration areas;

- **Bus Rapid Transit** North and South;

- New **public parks** around the ruins of Sheffield Castle, at Parkwood Springs and Abbeydale Grange / Bannerdale Centre and **public realm improvements** at Moorfoot linked to The Moor.

CIL and Section 106

6.14 Paragraph 206 of the NPPF states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition and where they meet the three tests set out in paragraph 204 of the NPPF:

- necessary to make the development acceptable in planning terms;
- directly related to the development, and,
- fairly and reasonably related in scale and kind to the development.

6.15 The focus on delivering the Core Strategy priorities is likely to lead to a different emphasis in the types of project that will be funded through CIL rather than currently through Section 106. Because Section 106 is related directly to the development, it is difficult to use S.106 funds to deliver strategic priorities, unlike with CIL. So historically, S.106 funding has been skewed towards particular types of infrastructure. Table 12 below compares actual S.106 receipts in the last 5 years with the CIL priorities as identified through the IDP work in the Draft Interim Regulation 123 List:

Table 12 - Actual Section 106 receipts and potential CIL Priorities (excludes affordable housing)

	Section 106 - Last 5 Years *		**Draft CIL Priorities**	
Open Space / Public Realm	£2,830,092	67.6%	£7,500,000	26.1%
Highways	£603,058	14.4%	£12,400,000	43.1%
Education	£326,024	7.8%	£8,870,000	30.8%
Public Art	£320,035	7.6%		
Warden Schemes	£44,600	1.0%		
Signage	£27,500	0.6%		
Other	£34,000	0.8%		
TOTAL	**£4,185,309**	100.0%	**£28,770,000**	100.0%

6.16 The CIL will largely replace off-site S.106 financial contributions that have previously been negotiated on a site-by-site basis (for example, for open space improvements off-site but in the local area). S.106 will still be used to secure affordable housing, where appropriate, and for on-site mitigation.

6.17 Section 6 in the Draft CIL / Section 106 Statement explains how the funding of certain types of infrastructure through developer contributions is likely to change as a result of the adoption of a CIL.

6.18 In order to ensure developers do not pay twice towards an item of infrastructure, and in line with CIL Regulations 122 and 123, after 6 April 2015 or on adoption of a CIL (whichever is the sooner), the Council will only be able to pool up to five S106 contributions towards the implementation of a specific item of infrastructure. This item of infrastructure must be clearly exempt from a planning obligation and these will be identified in the Council's 'Regulation 123 List'.

6.19 CIL Guidance requires the Council to work proactively with developers in order to ensure that they do not pay twice for the same essential infrastructure (paragraph 93, 'How does the Community Infrastructure Levy relate to other developer contributions?'). Consequently, a Draft CIL / Section 278 / Section 106 Statement has been produced to explain how the two systems will work together.

7 CONSULTATION

7.1 The Government's CIL Guidance encourages charging authorities to *"seek early engagement with local developers … when preparing their charging schedules"* (paragraph 14, 'Should other interested groups be involved?'). The Council involved local developers through the Local Enterprise Partnership Planning and Construction group and the Chamber of Commerce Property and Regeneration Committee, prior to the consultation on the Preliminary Draft Charging Schedule and has involved them as stakeholders throughout the Draft Charging Schedule process. See also paragraph 4.18.

Preliminary Draft Charging Schedule

7.2 The Council consulted on the Preliminary Draft Charging Schedule from 14 January 2013 to 11 March 2013.

7.3 As a result of the consultation on the PDCS, 173 individual comments were received from 32 respondents. 22 responses were in support of the proposed charges and 121 were objections.

7.4 The Table below summarises the most common themes of the comments on the PDCS received:

Table 13 – Consultation responses to the Preliminary Draft Charging Schedule

Subject of Comments	Number of Comments
Instalments Policy	15
Regulation 123 List	15
Proposed Retail Rates	11
General comments on the CIL system and process	10
Section 106 and CIL	8
Affordable Housing	7
Discretionary Relief in Exceptional Circumstances	7
Land Values	7
Differential Rates	6
Viability	6
Retirement Housing	5

7.5 The most common subjects for comment were the instalments policy, which was generally supported along with requests for more flexibility, and the need to publish a 'Regulation 123 List', setting out the Council's priorities for spending CIL funds. There were also requests for more transparency on how Section 106 and CIL will work together in the future. The issue of affordable housing and how the policy approach to affordable housing will work with CIL were also popular areas of comment. These comments have been addressed by proposing a more flexible instalments policy, the publication of a Draft Interim Regulation 123 List, a Draft S.106 / CIL Statement and a clearer approach to affordable housing. There was significant support for the proposal to offer Discretionary Relief in Exceptional Circumstances and questions on the approach used to determine assumptions on land values.

7.6 There were a further 68 comments received specifically related to the Viability Study. The majority of these comments were objections (63) with 2 comments supporting the Viability Study methodology. Most objections were on the assumptions used on land values, and the landowner premiums assumed. Other comments focussed on specific elements of the cost assumptions. The Viability Study was revised to provide more commentary on the approach to land values and the various assumptions.

Draft Charging Schedule

The Council consulted on a Draft Charging Schedule between 31 March and 25 May 2014. 99 responses were received, of which 76 were objections and 13 were in support. The most comments (10) related to affordable housing:

Table 14 – Consultation responses to the Draft Charging Schedule

Subject of Comments	Number of Comments
Affordable Housing	10
Instalments Policy	5
Regulation 123 List	5
Infrastructure Delivery Plan / Infrastructure Needs Assessment	5
City Centre Prime Retail Area	4
Benchmark Land Values	4
Exceptional Circumstances Relief	4
Residential Rates	4
Charities	3
Section 106 and CIL	3
Section 106 and section 278	3
Profit	3
Meadowhall Prime Retail Area	3
Local Plan	3

7.7 A Consultation Report has been published that summarises the consultation comments made on the Preliminary Draft Charging Schedule and the Draft Charging Schedule and the Council's responses to them. It identifies to what extent the comments have informed the revised Draft Charging Schedule.

Revised Draft Charging Schedule

7.8 As a result of the consultation on the Revised Draft Charging Schedule, 28 individual responses were received from 14 separate respondents, of which 16 were objections and 5 were in support. These comments are listed in detail in the Consultation Report, and summarised in the table below:

Table 15 – Consultation responses to the Revised Draft Charging Schedule

Subject of Comments	Number of Comments
General comments (mainly support) on CIL and the proposed rates	9
Benchmark Land Values	3
D2 Leisure Rates	2
Education and office rates	1
Cinemas	1
Major Retail	1
Hotels	1
Comparison with other CILs	1
Sample Residential Appraisal	1
Meadowhall Prime Retail Area Boundary	1
Viability Study – General Comment	1
Car Parking	1
Residential Rates	1
Affordable Housing	1
Professional Fees	1
Profit	1
Regulation 123 List and the Infrastructure Delivery Plan	1

7.9 A significant number of the comments were general ones supporting the CIL and the proposed rates. This probably reflects the fact that there were few changes between the Draft Charging Schedule and the Revised Draft Charging Schedule.

7.10 There were also some comments from one objector on the approach used in the Viability Study to Benchmark Land Values, and from the same objector on the approach taken to determine the D2 Leisure Rate.

7.11 Consultation Reports have been published that summarise the consultation comments made on the Preliminary Draft Charging Schedule, the Draft Charging Schedule and the Revised Draft Charging Schedule, and the Council's responses to them. It identifies to what extent the comments have informed the Submitted Draft Charging Schedule.

Next Stages and Timetable

7.12 The proposed charges set out in the Draft Charging Schedule represent the Council's intended final rates and are based on a consideration of all available evidence detailed earlier.

7.13 The next stages in adopting a CIL and the estimated dates for these are:

- Public Examination of the Charging Schedule – Late 2014?
- Receive Examiner's Report – January / February 2015?
- Report to Cabinet – April 2015?
- Report to Full Council – June 2015?
- Adoption – June 2015?

7.14 A Guide to CIL will be produced to assist with implementation. This will be linked to guidance on calculating CIL, for example as set out on the Planning Portal website.[32]

Reporting and Future Review of the Charging Schedule

7.15 The CIL Guidance (paragraph 43, 'When should the charging schedule be reviewed and revised?') requires charging schedules to be kept under review in order to ensure that charges remain appropriate. If market conditions or infrastructure requirements change, a review of the charging schedule may be appropriate. Infrastructure needs and viability assumptions will be reviewed a year after the Council begins charging CIL. Should this require a change to the charging schedule, it is likely that this would take most of a year to implement, so the earliest a revised charging schedule could be produced would be 2017.

7.16 As per the CIL Guidance (paragraph 87, 'How do charging authorities report their levy income and spending?') and Regulations, the Council will also report annually on CIL.

[32] http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil