

CABINET

26 JUNE 2013

COMMUNITY INFRASTRUCTURE LEVY: SUBMISSION OF DRAFT CHARGING SCHEDULE

REPORT OF HEAD OF STRATEGIC PLANNING

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RECENT REFERENCES:

CAB2412 Community Infrastructure Levy: Consultation on Preliminary Draft Charging Schedule – Cabinet 14 November 2012

CAB2420 Community Infrastructure Levy: Revised Table of Charges – Cabinet 5 December 2012

CAB2466 Community Infrastructure Levy: Draft Charging Schedule – Cabinet 13 March 2013

EXECUTIVE SUMMARY:

The Council has decided to introduce the new Community Infrastructure Levy (CIL) as a mechanism for funding essential infrastructure partly from contributions from new development. At its March 2013 meeting Council approved the Draft Charging Schedule for consultation.

This report provides an assessment of the response to the consultation and a brief review of other relevant considerations, including the Government's recently published CIL Guidance (April 2013). The report recommends that no substantive modifications to the Draft Charging Schedule (as attached as Appendix 2) are required, but sets out a justification for one modest amendment and two minor corrections, as listed within a 'Statement of Modifications' (attached as Appendix 3). Subject to Cabinet and Council approval, the documents should now be submitted for independent examination. This timetable should allow for the adoption of a Winchester CIL Charging Schedule before the end of the year.

The report also advises on the supporting evidence that needs to be submitted alongside the Draft Charging Schedule, in respect of both economic viability and infrastructure.

RECOMMENDED TO COUNCIL:

1. That the representations received in responses to the City Council's Draft Charging Schedule be noted, and, having regard to other relevant factors (including new Government Guidance on CIL), the recommended response at Appendix 1 is agreed.
2. That the categories for refining the list of infrastructure projects to be included in the Council's submitted Draft List, set out at paragraph 4.7, be agreed.
3. That the Statement of Modifications to the Draft Charging Schedule, at Appendix 3, be agreed, and the Head of Strategic Planning in consultation with the Portfolio Holder for the Built Environment be authorised to submit the Draft Charging Schedule and the Statement of Modifications, together with the Draft Infrastructure List and other supporting evidence, to an independent examiner for examination.
4. That the Head of Strategic Planning, in consultation with the Portfolio Holder for the Built Environment, be authorised to make amendments to the Draft Charging Schedule during the examination process to correct factual or textual errors, provide additional supporting information and evidence, and to respond to any modifications suggested by the Examiner to address issues of soundness and/or compliance with legislation or guidance.

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### COMMUNITY INFRASTRUCTURE LEVY: SUBMISSION OF DRAFT CHARGING SCHEDULE

#### DETAIL:

#### 1. Introduction

- 1.1 The Community Infrastructure Levy (CIL) is a mechanism for local authorities to raise money to fund infrastructure works from new development. The way in which CIL works is set down in Government regulations and guidance. Under the Community Infrastructure Regulations 2010 (as amended), the City Council is a 'charging authority' which can collect and spend CIL for that part of the District for which it is the local planning authority. The South Downs National Park Authority (SDNPA) will make all the decisions about CIL in the part of Winchester District for which it is the local planning authority. The Council will wish to represent the interests of its communities within the National Park when the SDNPA consults on its own CIL proposals, but nothing in this report relates to the National Park area.
- 1.2 In accordance with the CIL Regulations the Council has published and consulted on a Preliminary Draft Charging Schedule in December 2012 and January 2013 following which Cabinet and Council agreed minor modifications to the proposals. The Draft Charging Schedule, as it then became, was published for a six week consultation period on 12 April 2013 and the responses to consultation are considered in this report. If the Cabinet and Council approve the recommendations of this report the Draft Charging Schedule and supporting evidence will be submitted for a formal examination later in the year. If that is successful, CIL will be introduced early in 2014.

#### 2. Consultation on the Draft Charging Schedule

- 2.1 Seventeen representations were to the Draft Charging Schedule, one less than for the Preliminary Draft Charging Schedule. In most cases these restated comments that had already been made but the latest representations still need to be formally assessed and responded to.
- 2.2 Eight responses were from the development industry (including large retailers, volume house-builders, and local consortia); four from Government agencies and private utilities; two from parish councils; and one each from the County Council, SDNPA, and the Country Land and Business Association. None of the responses were from members of the general public.
- 2.3 The key points from each of these representations are summarised in a schedule within Appendix 1. The comments can be divided into three broad categories:

- (i) Those (9 no.) that raise specific concerns with regard to the proposed CIL regime described within the Draft Charging Schedule, and to the evidence that lies behind it. Some of these respondents declare a formal objection to the Council's proposals.
- (ii) Those (4 no.) that simply note the details of the proposed charging regime, but which take this opportunity to offer a view on how the City Council should in due course spend CIL funds.
- (iii) Those (4 no.) who fully support the proposals contained within the schedule.

2.4 As was made clear in the consultation process, any person who makes representations on a Draft Charging Schedule has a right to be heard before the examiner at the CIL examination if they so request.

2.5 Several of these respondents make reference to the Government's recent consultation on further changes to the CIL Regulations, although they – like the Council – are unable to anticipate whether any or all these will actually be implemented. The proposed changes and transition arrangements could have an impact on both the charging and spending dimensions of a Winchester CIL, but the Council cannot prejudge the Government's decisions and can only make its assessment on the basis of the Regulations as they stand.

### 3. Consultation Representations

3.1 The objections to the Draft Charging Schedule primarily relate to issues of viability. This is not surprising since considering the affordability of CIL for developers is the fundamental element of the consultation and examination process. The concerns divide into two categories; those that have queries with, or criticise, the approach and assumptions used by the Council, and those that relate to definitions of land-use (with the subsequent implications for charging).

#### *Viability: Approach and Assumptions*

3.2 As advised in the previous report, officers are satisfied with the assessment commissioned from Adams Integra which underpin the Council's calculation of a CIL rate which is consistent with the requirements of the Regulations. Two Adams Integra reports (November 2012) that comply fully with the existing CIL Guidance and the need for up-to-date and robust evidence were published with the Preliminary Charging Schedule. In response to detailed concerns raised in the Preliminary Draft Consultation Schedule consultation, Adams Integra were instructed to review the representations, and set out a rebuttal and further evidence in a supplementary report (April 2013) published for consultation alongside the Draft Charging Schedule.

3.3 Adams Integra have also now been instructed to review all the representations received to the latest consultation, and have advised that, in their opinion, none represent substantive objections that undermine the Council's preferred basis for the introduction of CIL. The detailed Adams Integra response will be set out in a formal evidence topic paper to be

submitted for examination, but the consultants have provided an initial summary statement attached as Appendix 4. Adams Integra's conclusions, endorsed by officers, are also summarised in Appendix 1.

*Viability: Definitions*

- 3.4 The most significant issue to arise is in respect of the definitions – and therefore the viability – of elderly persons accommodation. Hampshire County Council is concerned that whilst the majority of its public sector provision will be afforded an exemption as affordable housing, “any private units provided...in order to make Extra Care schemes viable” will be subject to CIL (if they are defined as Use Class C3 – ‘Dwelling Houses’), and therefore unlikely to come forward. Similarly, in a joint response from two specialist providers of “retirement housing for sale to the elderly”, McCarthy & Stone and Churchill also express concern as to how any uncertainty as to whether private provision will be defined as C2 or C3 will impact upon on public-private cross-funding. The two companies also query some of the viability evidence as it relates to sheltered/retirement housing.
- 3.5 Adams Integra have subsequently assessed detailed evidence provided by McCarthy & Stone, and have advised that some of their viability figures are persuasive. They have therefore reviewed their original recommendation (set out in their November 2012 report and April 2013 update), that sheltered/extra care housing should not be treated differently from other uses within C3. As mentioned above, whilst the Draft Charging Schedule already exempts (public sector) social and charitable housing, the recommendation is that private sector provision is subject to a £nil charge. This is on the advice of Adams Integra and the new evidence, and takes into account the impact of a higher rate on the ability of the Council to secure its policy requirements of 40% affordable housing on site. As with the rest of the charging schedule this levy rate will need to be reviewed within an appropriate time frame (perhaps 2-3 years or so), but in the meantime, the proposed £nil levy rate could assist in the delivery of cross-sector provision supported by the County Council.
- 3.6 If approved, a relatively modest amendment will need to be made to the Draft Charging Schedule, in terms of the definition of C3, although this would not constitute a ‘substantive modification’ that would require further another full round of consultation.
- 3.7 A second recommended amendment to the definition of C3 also stems from a concern raised (by the Country Land & Business Association) and the revised advice from Adams Integra. To take into account the particular requirements for agricultural or forestry workers accommodation (where tied to a planning condition and/or obligation), and implications for development viability that ensues, it is recommended that the definition excludes this use from the residential charge.
- 3.8 Two other minor changes to definitions should also be made to the Schedule to remove any possible ambiguities prior to its submission for an examination. The three recommended changes are set out in the proposed ‘Statement of Modifications’ attached as Appendix 3. This statement is required to comply

with the CIL Regulations, and allows for comments to be made on the modifications for a four week period beginning on the day that the Draft Charging Schedule is submitted.

#### *Other Issues*

- 3.9 Hampshire County Council has also raised a concern in respect of the City Council's ability to deliver the essential infrastructure for its three Strategic Allocations through a series of S106 obligations only, without an additional CIL charge in those three areas. Officers are firmly of the view that this approach is legitimate in planning terms, is fully justified in terms of development viability, and is in compliance with the Government's CIL Guidance.
- 3.10 Some respondents also queried the intentions of the Council in respect of two aspects of CIL implementation; 'discretionary relief' and an instalments policy.
- 3.11 Discretionary relief from the payment of the levy, is allowed for but not required by the CIL Regulations and relates to two separate categories; viability (or 'exceptional circumstances'), and property investment for charitable purposes. In terms of the former, the Regulations allow for charging authorities to set relief for to "avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise" (CIL Guidance). Indications from other authorities suggest that drafting a definition of circumstances which are genuinely exceptional (rather than those that a potential developer believes are exceptional) could be extremely hard. Every site has its unique features or circumstances and if the opportunity exists there would be little to deter any developer claiming an exception and then seeking to challenge the Council's decision if this is refused.
- 3.12 It is therefore proposed that the Council does not provide discretionary relief for either category, bearing in mind the mandatory exemptions that already exist:
- 100% relief from CIL on those parts of a chargeable development that are to be used as social housing;
  - 100% relief for charity landowners from their portion of the liability where chargeable development will be used wholly, or mainly, for charitable purposes.
- 3.13 The Council indicated its intention within the consultation to introduce an instalments policy for the payment of the levy, as permitted under the CIL Regulations. The benefits were set out in the previous report, including the impact on viability and reduced pressure on other S106 or affordable housing contributions, which are potentially negotiable if viability is threatened. Several respondents urged the Council to adopt such a policy, and as this is a factor that needs to be considered at examination, it is suggested that the Council does introduce an instalments policy, with specific details to be established.

#### 4. CIL Regulations and Guidance

- 4.1 Having considered its formal response to the consultation responses on the Draft Consultation Schedule it is necessary to consider how the process of implementing CIL may be affected by the changes in the CIL Regulations since the last report to Cabinet. The amendments that came into force in April specify the 'meaningful proportion' of CIL funds that each Charging Authority must allocate to a community where development has taken place. In parished areas, parish councils must receive 15% of the generated CIL funds, capped at a total of equivalent to £100 per existing household per annum. If there is an adopted Neighbourhood Plan the parish council must receive 25% of the funds, with no upper limit. In areas without a parish council (including Winchester Town) the Government still expects communities to benefit from these incentives. The CIL Guidance requires the charging authority to engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding.
- 4.2 Also in April, the Government published proposals for further changes to the CIL Regulations, mostly in relation to the setting of rates and the operation of the levy in practice. The consultation period ended on 28 May and the Council's formal response was approved by Portfolio Holder Decision (PHD497). Of particular note is a proposed delay in the restrictions on the pooling of planning obligations from April 2014 to April 2015 which would become relevant to the Council if its CIL adoption timetable were to slip significantly.
- 4.3 Report CAB2466 drew attention to the then latest CIL Guidance note (December 2012) which included an increased emphasis on demonstrating how CIL is likely to be spent. At the examination the Council must demonstrate that there is a requirement for investment in infrastructure and that there is a gap between the available/likely funding from other sources and the amount required which justifies the introduction of CIL. This would be achieved by the updating of the Council's Infrastructure Delivery Plan (IDP), submitted as evidence to last year's Joint Core Strategy examination, with its schedule of all the infrastructure reasonably required to facilitate development over the period of the Local Plan.
- 4.4 The CIL Guidance now also requires the Council to give some indication at the examination as to what CIL will actually be spent on, rather than simply justifying its introduction. This requires the production of a Draft List of spending priorities, which will then (post-CIL adoption) provide the basis for the list the Council should produce in accordance with CIL Regulation 123 (commonly referred to as the 'R123 List').
- 4.5 The need for this Draft List to be prepared in time for the examination was reiterated in the latest updated Guidance (April 2013). The level of detail required in the Draft List, or subsequent R123 List, is not specified in the Guidance and some local authorities have produced a R123 List which contains little detail, referring only to types of infrastructure spending in

general terms. Some recent R123 Lists have contained more specific items, but none that officers have seen contain fully prioritised schedules. When the time comes for the authority to allocate CIL to particular projects, it will have to do so on the basis of a locally approved procedure (akin to the procedure for a grants programme) which sets out clearly how and why particular funds are to be allocated. That is not required at this stage of the process and would be subject to future Member consideration and approval, but defining some very broad principles to shape the eventual R123 List is necessary now because the Draft List needs to be considered by the forthcoming examination.

4.6 Setting priorities, particularly when the demands for funding are likely to far exceed incoming CIL revenues, is essentially a matter for the judgement of Members as there are few specific requirements set in statute or guidance. Informed choices will need to be made when it comes to the distribution of funds, and there are many possible competing pulls on spending that would have to be reconciled by any CIL spending authority, for example:

- Strategic v local priorities?
- Meeting wider corporate objectives?
- Geographical priorities?
- Enabling development?
- Matching S106 or other funding streams?
- Matching the proportion (15% or 25%) returned to the community?
- Pump-priming private investment?
- Partnership working with other stakeholders?

4.7 In order to inform the production of a Draft List of those projects that the Council will support at any given time (subject to prevailing circumstances), it is suggested that the projects within the IDP should be classified according to the following eight categories. This would allow for the submission of a Draft List which classifies potential projects on an objective basis rather than trying to prioritise them now in order of 'importance'. This is sensible since the delivery of any individual project is not simply a function of its scale or even importance but will depend on the availability of other funding, position in the plans of the lead agency and so on. At a later date, Members will have to determine the allocation of CIL resources to particular projects and to provide a transparent basis on which anyone with an interest can see on what basis the Council has made a decision. The proposed categories are as follows:

- Delivering the strategic objectives of the adopted Winchester Local Plan Part 1: Joint Core Strategy;
- Delivering specific policies of the adopted Development Plan (Winchester Local Plan Part 1: Joint Core Strategy and Winchester District Local Plan Review 2006);
- Contributing toward the delivery of sustainable (social, environmental and economic) communities within both existing and new developments;
- Addressing a specific impact of new development, beyond that which has been secured through a S106 obligation related to particular developments;



- Contributing towards the delivery of approved Council corporate strategies and objectives (relating to, for example, the arts, economic development, and sports and leisure);
- Contributing towards the delivery of infrastructure by an infrastructure provider (including the County Council, Government agencies, and private utility providers) where it can be demonstrated to the Council's satisfaction that infrastructure deemed necessary would not otherwise be delivered;
- Contributing towards meeting the defined infrastructure needs of local communities to make good a defined shortfall or absence of provision that is unlikely to be met by the parish levels funds (15% or 25%) of any CIL receipts;
- Contributing towards meeting defined infrastructure needs of local communities to make good a defined shortfall or absence of provision, where it is recognised that little or no significant development is considered likely over the Local Plan period.

4.8 It is recommended that these categories provide the basis for preparation of a Draft List of infrastructure by the Head of Strategic Planning under delegated powers and approved for submission in consultation with the Portfolio Holder for the Built Environment.

4.9 The Draft List will need to be supplemented with a statement on the Council's S106 strategy, for example, relating to the delivery of the three Strategic Allocations, and the site-specific mitigation and delivery of other development sites (including the provision of affordable housing and public open space as required by policies within the adopted Joint Core Strategy). This statement will need to be prepared prior to CIL submission by the Head of Strategic Planning under delegated powers, and again approved in consultation with the Portfolio Holder for the Built Environment.

## 5. Conclusions and Next Steps

5.1 Officers have carefully reviewed the responses to its proposed CIL scheme against its own evidence and the requirements of the latest CIL Regulations and Guidance. After a review of the detailed comments received, including an assessment by viability advisors Adams Integra, it is concluded that there is no need for substantive changes. Officers are satisfied that the key elements of the Draft Charging Schedule - the proposed differential rates and the three geographical zones approach – represent sound proposals that should now be submitted for independent examination.

5.2 The Draft Charging Schedule is attached as Appendix 2 to this report, with the Statement of Modifications attached as Appendix 3. Subject to approval by Cabinet and Council, the Draft Charging Schedule and the Statement of Modifications will be submitted to an independent examiner before the end of July. Viability evidence will also be submitted, and the examiner will also require a statement on the Council's Draft Infrastructure List/ S106 strategy, and details of the proposed instalments policy. These documents will be

prepared by the Head of Strategic Planning in consultation with the Portfolio Holder for the Built Environment.

- 5.3 The proposed timetable allows for the adoption of a CIL Charging Schedule in Winchester by the end of this year, with the charge being implemented in early 2014. The exact timeframe will depend on the independent examiner who is able to recommend that the Draft Charging Schedule should be approved, rejected, or approved with specified recommendations. The final charging schedule must be formally approved by resolution of the full Council.

#### OTHER CONSIDERATIONS:

#### 6. SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS (RELEVANCE TO):

- 6.1 As part of progressing effective spatial planning of the District, and in contributing towards the delivery of critical infrastructure, CIL is relevant to many of the stated aims of the Council's Community Strategy and to matters expressed in the Change Plans in so far as they relate to spatial planning and the implementation of the Local Plan.

#### 7. RESOURCE IMPLICATIONS:

- 7.1 The key resources for undertaking work on CIL have been approved as part of the budget process and currently there are sufficient funds (subject to approval of 'carry forward') to cover the cost of developing CIL in the Strategic Planning budget and LDF Reserve. The CIL Charging Schedule has required the appointment of a specialist who is funded by the existing LDF budget.
- 7.2 The Regulations allow charging authorities to use funds from the levy to recover the costs of its administration (using up to 5% of the total receipts for this purpose). Officer and administrative expenditure will be recorded to set against the levy where possible. The cost of the independent examination will be borne by the Council as charging authority.

#### 8 RISK MANAGEMENT ISSUES

- 8.1 The CIL Regulations limit the role of S106 contributions, and it is therefore important that the City Council adopts a CIL regime as soon as possible. Submission of the Draft Charging Schedule is an important step towards adoption. There is a risk that the Council's proposed levy rates, and its supporting evidence, will be challenged formally through the examination process by interested parties, including major developers and retailers. This risk will continue up to and including the examination scheduled for later this year, with the wider risk that the implementation of CIL will be delayed. The Council's programme should, however, enable it to be able to implement CIL charges before further restrictions to S106 agreements are introduced.

9. BACKGROUND DOCUMENTS

Residential Viability Report – Adams Integra (November 2012)

Non-Residential CIL Viability Report – Adams Integra (November 2012)

[Addendum Report Following Stage 1 Consultation – Adams Integra \(April 2013\)](#)

Winchester City Council Infrastructure Delivery Plan: Updated Statement and Schedule (October 2012)

APPENDICES

Appendix 1: Winchester CIL Draft Charging Schedule: Summary of consultation representations and proposed City Council response

Appendix 2: Winchester CIL Draft Charging Schedule

Appendix 3: Winchester CIL Draft Charging Schedule: Statement of Modifications

Appendix 4: Adams Integra – Comments on Consultation Representations (17 June 2013)

**APPENDIX 1****Preliminary Draft Charging Schedule: Summary of Key Points from Consultation Representation and Recommended Response**

<b>Concerns and Objections</b>				
<b>Ref.</b>	<b>Respondent</b>	<b>Agent</b>	<b>Summary</b>	<b>Recommended Response</b>
R1	Asda Stores Limited	Thomas Eggar	<ol style="list-style-type: none"> <li>I. Viability evidence should have considered the level of S106 and S278 contributions which developers may still be liable to pay.</li> <li>II. Viability evidence has not considered fully the impact on conversion or regeneration projects involving vacant units</li> <li>III. The Council is urged to adopt exceptional circumstances relief</li> <li>IV. The Council is urged to adopt an instalment policy</li> </ol>	<p><b>(I) Noted;</b> S106 and S278 Agreements relating with recent retail developments in Winchester have been used to inform the assessment, and sufficient buffers have been allowed for site specific planning costs; the findings are not affected</p> <p><b>(II) Noted;</b> conversion and regeneration projects have been considered within the assessment and are not considered to require separate treatment</p> <p><b>(III) Do not agree;</b> It is recommended that exceptional circumstances relief should not supported on grounds of practicability, uncertainty and risk; see para. 3.8 of report</p> <p><b>(IV) Agree;</b> It is recommended that the Council introduces an instalments policy; issue addressed in para. 3.9</p>
R2	Sainsbury's Limited	WYG	<ol style="list-style-type: none"> <li>I. Differential charging zones should be justified by both the residential and non-residential viability report</li> <li>II. No evidence has been provided to demonstrate that convenience and comparison retail comprise separate uses of development</li> <li>III. Exceptional circumstances relief is "particularly useful for promoting the development of sites which are critical to delivering regeneration"</li> </ol>	<p><b>(I) – (II) Do not agree:</b> issues addressed in original viability evidence and <i>Supplementary Viability Report</i>. Definition clarified within Draft Charging Schedule</p> <p><b>(III) Do not agree;</b> It is recommended that exceptional circumstances relief should not be supported on grounds of practicability, uncertainty and risk; see para. 3.8 of report</p>
R3	WM Morrison Supermarkets	Peacock & Smith	<p>Comments relate to Adams Integra Non-residential Viability Study (November 2012):</p> <ol style="list-style-type: none"> <li>I. "Typical site-specific" S106/278 costs that will be out with the Reg. 123 List should be</li> </ol>	<p><b>(I) Noted;</b> S106 and S278 Agreements relating with recent retail developments in Winchester have been used to inform</p>

			<p>factored into the CIL Viability Modelling</p> <p>II. It is not clear whether Adams Integra's the report follows the approach set out in the RICS guidance note</p> <p>III. The consultants have adopted an Existing or Current Use Value Approach (with a 20% premium), contrary to RICS guidance</p> <p>IV. Lack of (Winchester focussed) evidence to support the assumptions in the development appraisals and also in understanding the local market</p> <p>V. Query figures in Supermarket Appraisal</p> <p>VI. "Sensitivity analysis needs to be undertaken to demonstrate that the impact that a decrease in rent, weakening the yields and increase in build costs would have on the surplus available for CIL"</p>	<p>the assessment and the findings are not affected</p> <p>(II) <b>Do not agree</b>; approach is set out within original viability evidence and <i>Supplementary Viability Report</i></p> <p>(III) <b>Do not agree</b>: the approach used has been demonstrated elsewhere to be robust and is not contrary to RICS guidance</p> <p>(IV) <b>Do not agree</b>; issues addressed in original viability evidence and <i>Supplementary Viability Report</i></p> <p><b>(V) Noted</b>; modification to the presentation is recommended (including figures in metric), but findings are not affected</p> <p><b>(VI) Noted</b>; approach is set out within original viability evidence and <i>Supplementary Viability Report</i></p>
R4	ALDI Stores	Turley Associates	<p>I. S106 costs should be accounted for in the viability analysis</p> <p>II. A "high rate of CIL will impact upon the viability of the business and deter future investment of discount retail provision" within Winchester</p> <p>III. Reasons should be given for the decision not to offer discretionary exemptions relief</p> <p>IV. A commitment should be made to review CIL</p>	<p><b>(I) Noted</b>; S106 and S278 Agreements relating with recent retail developments in Winchester have been used to inform the assessment, and sufficient buffers have been allowed for site specific planning costs; the findings are not affected</p> <p>(II) <b>Do not agree</b>; issues addressed in original viability evidence and <i>Supplementary Viability Report</i></p> <p><b>(III) Do not agree</b>; It is recommended that exceptional circumstances relief should not be supported on grounds of practicability, uncertainty and risk; see para. 3.8</p> <p><b>(IV) Noted</b>; Government CIL Guidance states that charging authorities are strongly encouraged to keep their charging schedules under review, but the date of any future review should not be referred to in the Schedule</p>
R5	Housebuilders' Consortium (Bloor Homes, Persimmon Homes,	Savills	<p>I. Not convinced that the viability appraisal has factored sufficient costs in respect of the Code for Sustainable Homes</p> <p>II. Property prices used should reflect higher and lower value areas within Winchester</p>	<p><b>(I) Noted</b>; viability assessment consulted CLG <i>Cost of Building to the Code of Sustainable Homes</i> (August 2011) for the costs, over and above the base cost</p> <p><b>(II) Do not agree</b>: the assessment includes fine-grained sampling but not to the extent of focusing sub-divisions of</p>

	Hazeley Developments, McCarthy & Stone		<p>urban area and the surrounding area</p> <p>III. A buffer should be applied to account for discrepancies in value</p> <p>IV. The contingency should be 5% of build costs to account for the unforeseen</p> <p>V. It is imperative that the instalments policy is flexibly worded, with payments appropriately phased</p> <p>VI. Strong objection to the Council's proposal not to deliver discretionary relief</p> <p>VII. A commitment should be made to review CIL</p>	<p>the urban area</p> <p><b>(III) Do not agree;</b> the addition of a 20% premium to the existing use values has been assessed; the findings are not affected</p> <p>(IV) Do not agree; a 5% contingency has been tested alongside the 20% premium; the findings are not affected</p> <p><b>(V) Agree;</b> It is recommended that the Council introduce an instalments policy; issue addressed in para. 3.9, although details of phasing to be determined</p> <p><b>(VI) Do not agree;</b> It is recommended that exceptional circumstances relief should not be supported on grounds of practicability, uncertainty and risk; see para. 3.8</p> <p><b>(VII) Noted;</b> Government CIL Guidance states that charging authorities are strongly encouraged to keep their charging schedules under review, but the date of any future review should not be referred to in the Schedule</p>
R6	McCarthy & Stone Retirement Lifestyles Limited, Churchill Retirement Living	The Planning Bureau Limited	<p>I. Details of viability assessment in respect of C3 sheltered housing need to be clarified</p> <p>II. Proposed approach to the distinction between Extra Care housing as C2 or C3 use will be time-consuming and costly, and "ignores the issue of public-private cross-funding"</p>	<p><b>(I) Agree;</b> further evidence submitted by respondent has assisted in review of assessment findings, and an amendment to the definition of residential has been proposed accordingly</p> <p><b>(II) Do not agree;</b> The Local Planning Authority will be able to confirm which Use Class applies, and CIL will apply accordingly</p>
R7	Hampshire County Council		<p>I. Private C3 units provided to make public Extra Care housing viable should also be exempt.</p> <p>II. "The decision to charge £0 for all types of development within Zone 1... raises concerns"</p>	<p><b>(I) Agree;</b> further evidence submitted by respondent has assisted in review of assessment findings, and an amendment to the definition of residential has been proposed accordingly</p> <p><b>(II) Do not agree;</b> £nil charge for development within Strategic Allocations is fully justified on viability grounds (see Draft Charging Schedule consultation document), and in line with Government Guidance.</p>

R8	Country Land & Business Association		<ul style="list-style-type: none"> <li>I. CIL should not apply to “diversification” of farm buildings</li> <li>II. CIL charges would make construction of rural worker housing unviable</li> </ul>	<p><b>(I) Noted;</b> CIL does not apply to change of use; charges outside Winchester urban area only to be levied on new build residential and retail development</p> <p><b>Do not agree;</b> Specific circumstances are acknowledged but assessment findings do not justify any exemption on grounds of viability</p>
R9	English Heritage		<ul style="list-style-type: none"> <li>I. Exceptional circumstances relief should be offered where development which affects heritage assets and their settings may become unviable.</li> </ul>	<p><b>(I) Do not agree;</b> It is recommended that exceptional circumstances relief should not be supported on grounds of practicability, uncertainty and risk; see para. 3.8</p>
<b>Other Comments</b>				
<b>Ref.</b>	<b>Respondent</b>	<b>Agent</b>	<b>Summary</b>	<b>Recommended Response</b>
R10	Natural England		<b>CIL Spending:</b> <i>City Council to give careful consideration to the role of CIL in complying with the National Planning Policy Framework, in setting out a strategic approach to biodiversity and green infrastructure</i>	<b>Noted</b>
R11	Thames Water		<b>CIL Spending:</b> City Council to consider using CIL contributions for enhancements to the sewerage network beyond that covered by the Water Industry Act and sewerage undertakers, for example by providing greater levels of protection for surface water flooding schemes	<b>Noted</b>
R12	Wonston Parish Council		<b>CIL Spending:</b> Concerned to ensure that S106 funds from developments within the Parish will be spent locally	<b>Noted</b>

R13	Littleton & Harestock Parish Council		<b>CIL Spending:</b> City Council should return all of the CIL funds to the parish where development takes place	<b>Noted</b>
R14	South Downs National Park Authority		“The National Park Authority supports Winchester City Council’s Draft Charging Schedule and will continue to engage and cooperate on matters relating to implementation, governance and expenditure throughout the CIL process as well as sharing evidence”	<b>Noted</b>
R15	Environment Agency		“We are very supportive of the work done to date. We are also pleased with the scope of the evidence base”	<b>Noted</b>
R16	North Whitely Consortium	Terence O’Rourke	“The NWC continue to support the approach taken by WCC to set a £nil rate for the three strategic allocation sites within Winchester District, which includes North Whiteley. We support the conclusions of the Council and the work undertaken by Adams Integra that confirms, as the substantial infrastructure costs for North Whitely will be delivered through S106 contributions, the viability of the development requires the CIL rate (for all uses) to be set at zero”	<b>Noted</b>
R17	Linden Homes	Boyer Planning	“We broadly support the Council’s zoned approach to setting the tariff and believe that a charge rate based on site location is the most appropriate. We also support the rate of £80 per net additional internal square metre of residential development for sites within Zone 3 as we consider that this has been based on a robust assessment of a range of	<b>Noted</b>



			<p>scenarios and impact on viability. The exemption of affordable housing from the levy is strongly supported as this will assist in maintaining viability in residential developments.</p> <p>The only criticism we have is that there is no clear mechanism for payment of the levy due by instalments.”</p>	
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**APPENDIX 2****WINCHESTER CITY COUNCIL****COMMUNITY INFRASTRUCTURE LEVY****DRAFT CHARGING SCHEDULE****Draft Submission Version: June 2013**

# Winchester City Council Community Infrastructure Levy (CIL)

## Draft Charging Schedule

Note: Approved Charging Schedule to include:

- Confirmation of Winchester City Council as charging authority
- Date approved by Full Council
- Date Charging Schedule takes effect
- Explanation that CIL will be charged in pounds sterling (£) per square metre at differential rates according to the type of development and by location
- BCIS Tender Price Index
- How to access further information

### Charging Rates

Type of Development	Charge per square metre		
	Zone 1	Zone 2	Zone 3
Residential	£0	£120	£80
Hotel	£0	£70	£70
Retail ➤ all categories within the town centre	n/a	£120	n/a
Retail ➤ convenience stores, supermarkets and retail warehouses	£0	£120	£120
Retail ➤ all other categories	£0	£0	£0
All Other Uses	£0	£0	£0

### Definitions

The following definitions of terms used in the above table are for the purpose of interpreting the Charging Schedule and indicating where a CIL charge will apply.

#### Residential

Defined as all development within the each of the three categories of Use Class C3: Dwelling Houses (Use Classes Order 2010), including where residential care is provided within a development defined by the Local Planning Authority as within Class C3, subject to the statutory exemptions with regard to social housing and charitable purposes.

The definition does not include residential use in other categories of development (as defined by the Use Classes Order), including C1 (Hotels), C2 (Residential Institutions), C2A (Secure Residential Institutions), or C4 (Houses in Multiple Occupation).

### Town Centre

Winchester Town Centre as defined by the town centre boundary shown on Inset Map 31 of the Winchester District Local Plan (2006) – Policy SF1.

### Hotel

Defined as those developments within the uses set out in Class C1 of the Use Classes Order 2010; that is 'hotels, boarding and guest houses where no significant element of care is provided'.

### Retail

Defined as those developments within the uses set out in Class A1 of the Use Classes Order 2010, that is 'shops, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, drycleaners, funeral directors, internet cafes' with the term 'shops' including *convenient stores, supermarkets and retail warehouses* as defined below:

#### *Convenience Stores*

Defined as stores that:

1. have a gross internal floorspace of 278 sq. m (3,000 sq. ft);
2. are not subject to restricted opening hours under the Sunday Trading Act; and
3. stock at least seven of the following categories of goods;

- |                               |                          |
|-------------------------------|--------------------------|
| • Alcohol                     | • Household              |
| • Bakery                      | • National lottery       |
| • Canned & packaged groceries | • Milk                   |
| • Chilled food                | • Newspapers & Magazines |
| • Confectionery               | • Non-food               |
| • Frozen food                 | • Sandwiches             |
| • Fruit & Vegetables          | • Savoury snacks         |
| • Health & beauty             | • Soft drinks            |
| • Hot food-to-go              | • Tobacco                |

#### *Supermarket*

Defined as a food based retail store greater than 278 sq. m.

#### *Retail warehouse*

Defined as a non-food store that has all of the following characteristics:

- typically (but not necessarily) within a purpose-built single-occupancy building with a large floorspace sub-divided into display & sale, storage and delivery areas, and with the display & sale area usually (but not necessarily) undivided and on one level;

- displays and retails goods, mostly (but not necessarily all) of a bulky nature requiring collection or delivery by motorised vehicle; and
- displays and retails goods within a limited number of specialist sectors such as carpets, furniture, home furnishings, electrical goods, DIY or gardening.

### Other Uses

Defined as all other categories of development not falling within the definitions set out above, and including all *sui generis* uses as defined by the Use Classes Order 2010.

### **Charging Zones**

The proposed charging zones are shown They are defined geographically on the attached Plan 1 and are described as follows:

#### **Zone 1: Strategic Allocations and South Hampshire Urban Areas**

The boundaries are as shown on the Core Strategy Proposals Map (shown in more detail in Plan 2).

#### **Zone 2: Winchester Town**

The boundary reflects the settlement boundary of Winchester Town as shown on the Core Strategy Proposals Map (shown in more detail in Plan 3).

#### **Zone 3: Market Towns and Rural Areas**

The rest of the District, outside of Zones 1 and 2 and the South Downs National Park, lies within Zone 3.

### **Calculation of Charge**

CIL is charged on the net additional gross internal floor area of a development. Where buildings are demolished, the total of the demolished floorspace will be off-set against the floorspace of the new buildings, providing the buildings were in lawful use prior to demolition.

In this context, a building is considered to be in lawful use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development.

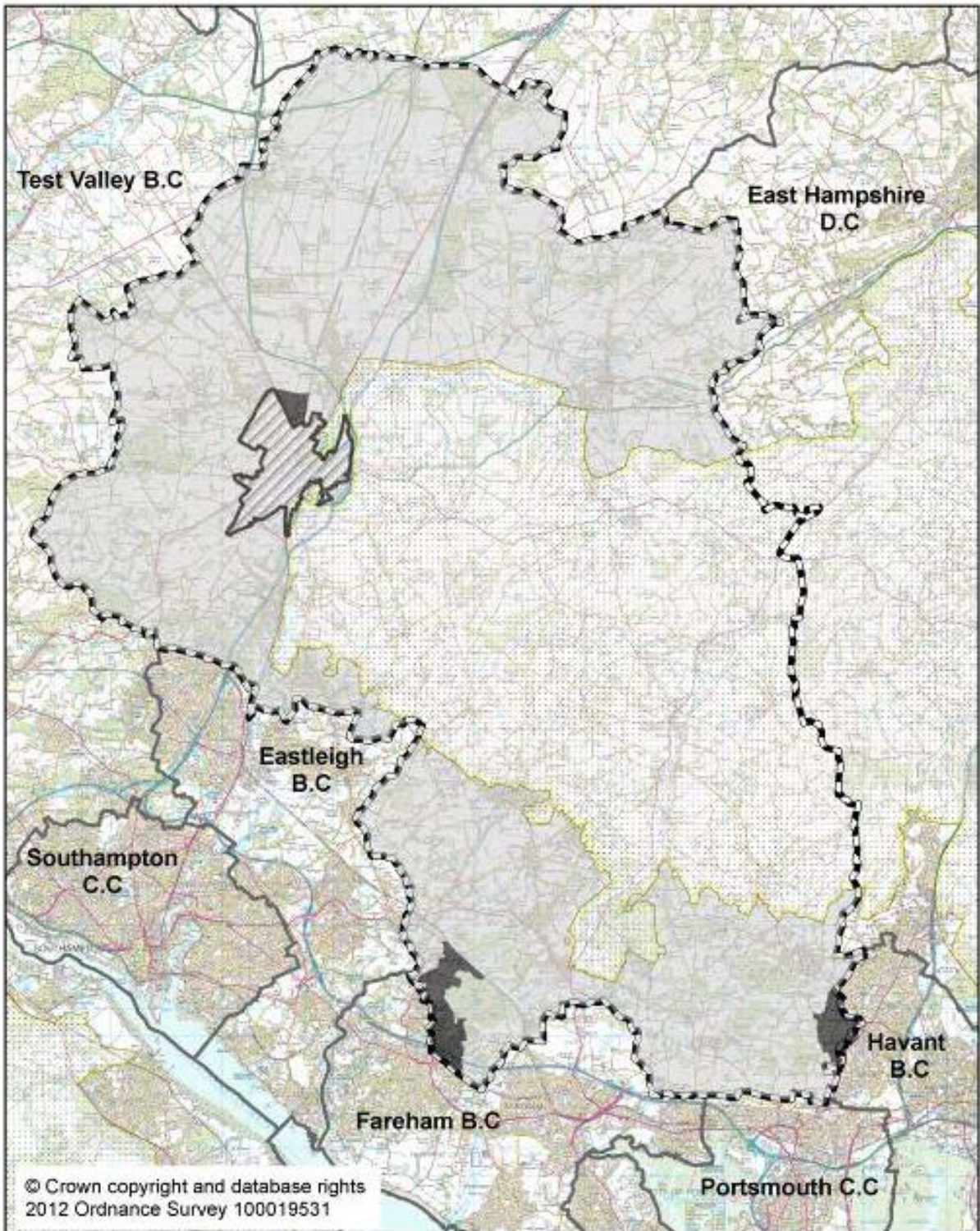
The calculation of the chargeable amount of CIL to be paid for a development proposal is set out in Regulation 40 of the CIL Regulations (as amended). This states that:

- The chargeable amount is the aggregate amounts of all chargeable developments at each of the relevant rates.
- Where the chargeable amount is less than £50 it is deemed to be zero.
- The relevant rates are those set out in the Charging Schedule which are in effect at the time planning permission is granted.



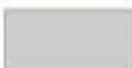
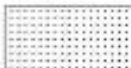

- The amount of CIL chargeable at a given rate and the means to determine the net chargeable area must be calculated using the formulae set out in Regulation 40. These provide the relevant indexing information and the mechanism to off-set existing floorspace proposed for demolition.

For details of the charge calculation, please refer to Regulation 40 of the CIL Regulations 2010 and the Amendment Regulations 2011 and 2012.

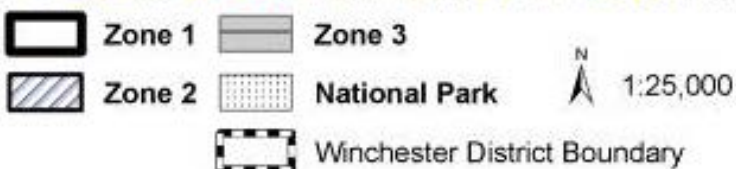
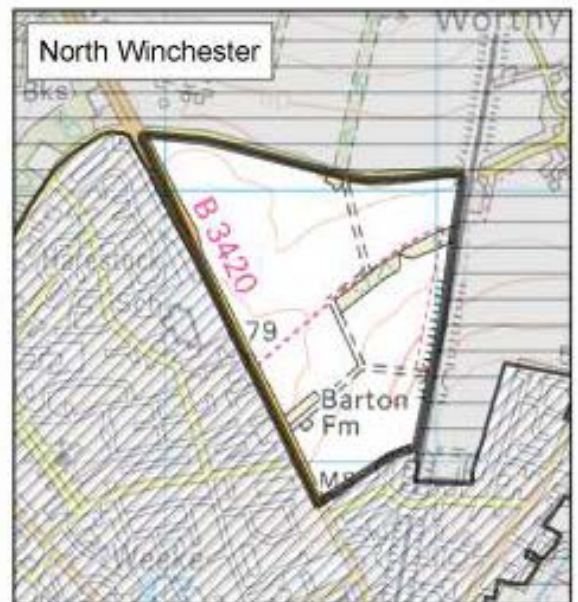
### Plan 1: Winchester CIL Proposed Charging Zones



#### CIL Charging Zone

-  Zone 1
-  Zone 2
-  Zone 3
-  National Park
-  Winchester District Boundary

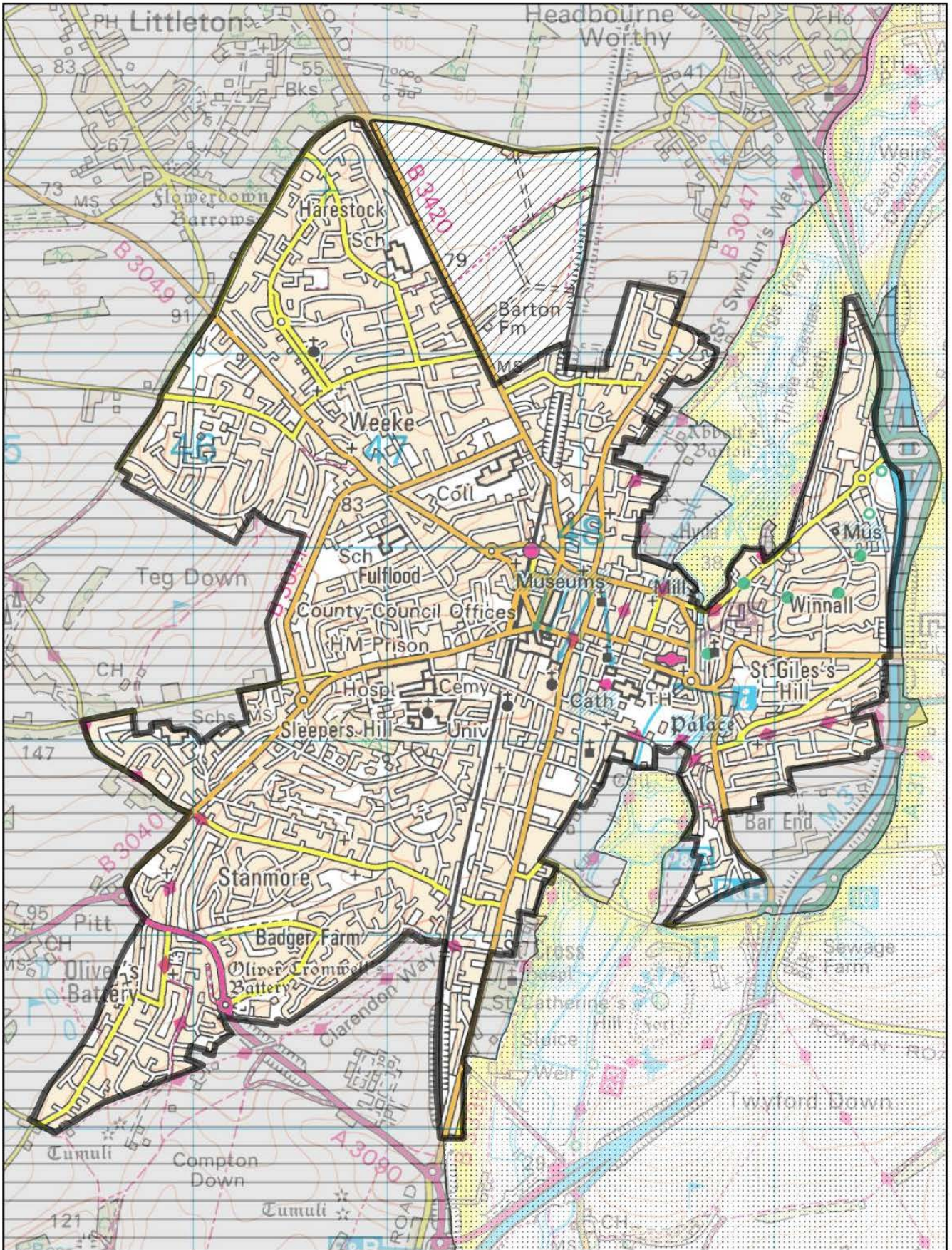
**Plan 2: Zone 1**



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# Plan 3: Zone 2



- Zone 2
- Zone 3
- Zone 1
- National Park

  
 1:25,000

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## **Statutory Exemptions**

The CIL Regulations provide exemptions for paying CIL as follows:

- 100% relief from CIL on those parts of a chargeable development which are to be used as social housing.
- Charity landowners receive 100% relief from their portion of the liability where chargeable development will be used wholly, or mainly, for charitable purposes.

To ensure that relief from the levy is not used to avoid proper liability for the levy, the regulations require that any relief must be repaid, a process known as 'clawback', if the development no longer qualifies for the relief granted within a period of seven years from commencement of the chargeable development.

## **Discretionary Exemptions**

The CIL Regulations provide that charging authorities have the option to offer a process for giving relief from the levy in specific exceptional circumstances where a developer of a specific scheme cannot afford to pay the levy. Winchester City Council does not wish to offer such relief.

## **Payment of CIL**

The CIL Regulations (as amended) allow Charging Authorities to adopt an instalment policy, as an alternative to requiring a full payment of CIL within 60 days of the commencement of the chargeable development. The City Council is minded to adopt an instalments policy, and although this is not a matter for scrutiny at CIL independent examination, the Council will publish details of the proposed instalment policy on submission of the Draft Charging Schedule.

## **Additional Information**

### **How does the levy relate to planning permission?**

The levy will be charged on new builds permitted through some form of planning permission. Usually this will be planning permission granted by Winchester City Council as the local planning authority, and the levy will also apply to 'permitted development' new builds under the General Permitted Development Order 1995 (as amended).

The planning permission will identify the buildings that will be liable for a Community Infrastructure Levy charge: the 'chargeable development'. The planning permission also defines the land on which the chargeable buildings will stand, the 'relevant land'.

### **Who is liable to pay the levy?**

The responsibility to pay the levy runs with the ownership of land on which the liable development will be situated. This is in keeping with the principle that those who benefit financially when planning permission is given should share some of that gain with the community. That benefit is transferred when the land is sold with planning permission, which also runs with the land. The regulations define landowner as a person who owns a 'material interest' in the relevant land. 'Material interests' are owners of freeholds and leaseholds that run for more than seven years after the day on which the planning permission first permits development.

Although ultimate liability rests with the landowner, the regulations recognise that others involved in a development may wish to pay. To allow this, anyone can come forward and assume liability for the development. In order to benefit from payment windows and instalments (see below), someone must assume liability in this way. Where no one has assumed liability to pay the levy, the liability will automatically default to the landowners of the relevant land and payment becomes due immediately upon commencement of development. Liability to pay the levy can also default to the landowners where the collecting authority, despite making all reasonable efforts, has been unable to recover the levy from the party that assumed liability for the levy.

### **How is the levy collected?**

The levy's charges will become due from the date that a chargeable development is commenced in accordance with the terms of the relevant planning permission. The definition of commencement of development for the levy's purposes is the same as that used in planning legislation, unless planning permission has been granted after commencement.

When planning permission is granted, the collecting authority will issue a liability notice setting out the amount of the levy that will be due for payment when the development is commenced, the payment procedure and the possible consequences of not following this procedure.

The levy's payment procedures encourage someone to assume liability to pay the levy before development commences. Where liability has been assumed, and the

collecting authority has been notified of commencement, parties liable to pay the levy will always benefit from a 60 day payment window on any instalments policy a local authority may have in place. However, payments are always due upon commencement if no party assumes liability and/or no commencement notice is submitted before commencement.

### **Is there an alternative to making financial payments?**

The CIL Regulations provide for charging authorities to accept transfers of land as a payment 'in kind' for the whole or a part of a the levy, but only if this is done with the intention of using the land to provide, or facilitate the provision of, infrastructure to support the development of the charging authority's area.

An agreement to make an in-kind payment must be entered into before commencement of development. Land that is to be paid 'in kind' may contain existing buildings and structures and must be valued by an independent valuer who will ascertain its 'open market value', which will determine how much liability the 'in-kind' payment will off-set. Payments in kind must be provided to the same timescales as cash payments.

### **Will the Levy charging rates be updated on an annual basis?**

Winchester City Council will be required to apply an annually updated index of inflation to keep the levy responsive to market conditions. The index will be the national All-In Tender Price Index of construction costs published by the Building Cost Information Service of The Royal Institution of Chartered Surveyors.

**APPENDIX 3****WINCHESTER CITY COUNCIL****COMMUNITY INFRASTRUCTURE LEVY****DRAFT CHARGING SCHEDULE – STATEMENT OF MODIFICATIONS****June 2013**

## **Statement of Modifications**

In accordance with Regulation 19 of the Community Infrastructure Regulations (as amended), Winchester City Council hereby sets out modifications to its Draft Charging Schedule as submitted to the examiner.

The three amendments are set out below, with text to be removed (struck-through) and inserted text indicated (under-lined). None is considered to be a substantive modification.

*[Detail/dates for comments on the modifications to be added]*

## **Modifications**

### 1. Definition of retail (within Charging Rates table)

“All other ~~categories~~ retail development”

### 2. Definition of residential

“Defined as all development within each of the three categories of Use Class C3: (Dwelling Houses (Use Classes Order 2010), ~~including~~ except :

Sheltered housing, Extra Care, or other specialist housing providing care to meet the needs of older people or adults with disabilities within a development defined by the Local Planning Authority as within Class C3, subject to the statutory exemptions with regard to social housing and charitable purposes, or.

Dwellings where occupancy is restricted by planning condition or obligation to an essential agricultural or forestry worker

### 3. Definition of convenience stores

“Have a gross internal floorspace of not exceeding 278 sq. m (3,000 sq.ft).”

## APPENDIX 4

### Adams Integra – Comments on Consultation Representations (17 June 2013)

Paragraph numbers refer to those in the Winchester representations table.

R1 (I)

We were provided with copies of planning decisions relating to developments by Sainsbury, Aldi and Waitrose and these provided details of s106 and s278 costs. Our analysis showed that these costs equated to approximately £100 per square metre of built area. When we input these sums into the appraisals, we concluded that recommended outcomes would not be affected.

R4 (I)

We believe that we have allowed sufficient sums to cover s106 costs, but this will be detailed to a greater degree in the addendum report.

R5 (III) and (IV)

Response (III) refers to the need for a buffer, while response (IV) states that the build cost contingency should be 5%, not 3%. We have assessed the viability impact of adopting both these positions.

In the report, we had regard to the need for a buffer in suggesting viability levels, through the traffic light system, as part of the tables of land value outcomes. In light of the representations, however, we have considered this matter again. By way of reminder, we recommended £0 CIL in VP2 locations, £80 in VP3 locations and £120 in VP4 locations. The land use viability thresholds that we adopted, for assessing viability, were:

Agricultural:	£450,000 per hectare
Employment low:	£900,000 per hectare
Employment high:	£1,500,000 per hectare
Residential:	£2,200,000 per hectare

We believe that a buffer can be applied by adding a premium, as appropriate, to these thresholds. This premium would act as an incentive to a landowner to bring forward land for development, although we feel that it will not be necessary in every land transaction, for example where there is a distressed sale. Likewise, we do not believe it necessary to apply a further premium to the agricultural threshold, since this value is already so far in excess of existing use value.

On this basis, if we add a premium of 20%, then the resultant thresholds, against which we assess viability, become:

Agricultural:	£450,000 per hectare	No change
Employment low:	£1,080,000 per hectare	
Employment high:	£1,800,000 per hectare	
Residential:	£2,640,000 per hectare	

In the report, we recommended that an affordable housing provision of 40% was achievable, assuming affordable rent at 70% market rent. These outcomes were illustrated in appendix 5, where the infrastructure cost was £0 per unit, and appendix 9, where infrastructure was set at £2,000 per unit. For the sake of testing viability against a worse case scenario, we have particularly looked again at appendix 9.

In appendix 9, the viability outcomes are tested for different value points and at different CIL levels. These outcomes are summarised in the traffic light representation below the table.

In order to assess the impact of both the premium and the increased contingency cost, we applied this cost to a number of appraisals, testing outcomes against the lower employment threshold at VP3 and the higher employment threshold at VP4, where both include the 20% premium. With regard to VP4, it

should be noted that the table does not include a column with £120 CIL, going from £100 to £150. For the addendum report we will add a column at £120.

We have not considered VP2 any further, in light of the existing low viability outcomes. Likewise, there is a viability problem at both VP3 and VP4 against the existing residential threshold, so we have not tested this any further.

The increase in build cost contingency inevitably reduces the resultant land values per hectare. For both VP3 and VP4, we do not believe that the new outcomes require any change to our previous recommendations.

#### R6 (I) to (III)

The evidence provided by The Planning Bureau demonstrates the main differences between an open market form of development and a sheltered development. For the purpose of definition, we are looking at a development of flats for sale, with an age restriction, where a level of communal facilities is provided on site. These would typically include a warden and communal lounge.

These facilities will increase the build cost of the development. These costs are also increased through the fact that the sales rate is slower than in an open market development. This impacts upon the sales fees in, for example, manning a sales office. This extended sales period then increases the finance costs. On the other hand, there is often a sales premium attached to a sheltered form of development.

Regarding sales values, The Planning Bureau included prices for the Winchester area in their appraisals. We have compared these to prices for other sheltered developments in Hampshire and we consider them to be reasonable.

We have also considered the cost inputs that were provided and we consider them to be reasonable when compared to an open market form of development.

As a result of this work, we believe that the Council will need to accept a degree of flexibility around either on-site affordable housing or a commuted sum, when compared to current policy positions. In recognition of the higher costs associated with sheltered developments, we considered the implications of CIL at £40 per square metre for sheltered developments and the extent of flexibility required around the provision of affordable housing.

We are attaching two appraisals to illustrate the extent of flexibility required. The summary sheets end with a land value that is compared to the threshold value. In both appraisals, we are using the higher employment land value, together with a 20% premium, as the viability threshold, resulting in a figure of £720,000.

If we consider the position with on-site affordable housing the appraisal shows that, with CIL at £40 per square metre on the market housing only, the affordable housing proportion reduces to 20% from 40%.

If we consider the position with a commuted sum in lieu of on-site affordable the appraisal shows that, with CIL at £40 per square metre on the market housing, the commuted sum needs to reduce to £520,000 from £1,574,000.

The conclusion here is that a sheltered use could take a CIL of £40 per square metre, but only in the context of a relaxation of affordable housing requirements.

#### R8 (II)

We are not proposing a charge on rural worker housing, where the provision of the housing is tied to the rural job, such that the property could not be sold in the open market. The landowner is incurring, therefore, a build cost, without being able to see a market return on that cost.