

CABINET

14 NOVEMBER 2012

COMMUNITY INFRASTRUCTURE LEVY: CONSULTATION ON PRELIMINARY
DRAFT CHARGING SCHEDULE

REPORT OF HEAD OF STRATEGIC PLANNING

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RECENT REFERENCES:

CAB 2376(LDF) Revised Local Development Scheme 2012 – 12 September 2012

EXECUTIVE SUMMARY:

The Government introduced the Community Infrastructure Levy (CIL) through the CIL Regulations 2010 (as amended 2011). These allow local authorities in England and Wales to raise monies from developers undertaking new building projects by a levy calculated as an amount per square metre of new development.

Charging authorities must consult local communities and stakeholders on their proposed rates for the levy in a preliminary draft of the charging schedule. This report describes the requirements and procedures for consultation, and summarises the essential work on infrastructure and development viability that informs the proposed CIL regime for Winchester City Council, as set out in the draft Preliminary Draft Charging Schedule attached as Appendix 1.

Completion of the consultation on the Preliminary Draft Charging Schedule by early February 2013 should allow for the submission and subsequent testing of the Draft Schedule at examination in the spring of next year, with adoption of CIL possible by September.

An adopted CIL regime will introduce significant spending issues, whilst the on-going administration costs can be met through the use of up to 5% of the receipts; both these matters will be subject to further reports.

RECOMMENDATION:

1. That Cabinet approves the Preliminary Draft Charging Schedule in Appendix 1 as a basis for consultation on its proposed Community Infrastructure Levy charging regime.
2. That Cabinet authorises the Head of Strategic Planning to agree the details of the public consultation process, in consultation with the Portfolio Holder for Strategic Planning and Economic Development.

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COMMUNITY INFRASTRUCTURE LEVY: CONSULTATION ON PRELIMINARY DRAFT CHARGING SCHEDULE

DETAIL:

1. Introduction

- 1.1 The Community Infrastructure Levy (CIL) is a newly introduced mechanism by which funds for essential infrastructure can be raised from developers. The levy is an amount that must be paid per square metre of qualifying development. It will not be negotiable and the Government's aim is introduce certainty about the amounts to be paid into the planning system. Under the regulations, the City Council is a charging authority and entitled to implement the levy in the area for which it is the local planning authority. The South Downs National Park Authority is also a charging authority and therefore nothing in this report has any direct bearing on the area of the City Council which is in the National Park.
- 1.2 Charging authorities wishing to introduce the levy must produce a charging schedule which should not "put at serious risk the overall development of its area". The charging schedule must be based on evidence, and it must strike a balance between the desirability of funding infrastructure from the levy and the potential effects of the levy upon the economic viability of development across its area.
- 1.3 Charging authorities must consult local communities and stakeholders on their proposed rates for the levy in a 'preliminary draft' of the charging schedule. This report provides brief background on CIL, and describes how detailed work on infrastructure requirements and development viability has informed the proposed CIL levels set out in the Preliminary Draft Charging Schedule (attached as Appendix 1).
- 1.4 Charging authorities should normally implement the levy on the basis of an up-to-date development plan (although the charging schedules are not part of the statutory development plan). The Joint Core Strategy is currently the subject of examination and, at the time of writing, it is anticipated that the Council will be able to adopt the Plan in early 2013. This will provide a sound foundation for the subsequent examination and adoption of the Council's CIL.
- 1.5 Completion of the consultation on the Preliminary Draft Charging Schedule by the early February 2013 should allow for the testing of the Draft Schedule at examination in the summer of next year, with adoption of CIL possible by the autumn.

2. The Community Infrastructure Levy

- 2.1 The levy will be charged in pounds per square metre on the net additional increase in floorspace of any given development. Any new build – that is a new building or an extension – is only liable for the levy if it has 100 square metres, or more, of gross internal floor space. However, all new dwellings, even when it has less than 100 square metres, will also be liable. The levy will not be charged on changes of use that do not involve an increase in floorspace.
- 2.2 Local authorities must spend the funds produced by the levy on the “infrastructure needed to support the development of their area”. The Government stresses that the funds raised should not be used to remedy “pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development”. Infrastructure is defined by the 2008 Planning Act, and can cover, for example, transport, flood defences, schools, cultural and sports facilities, play areas and green spaces, and a wide range of health and social care facilities.
- 2.3 Once CIL is introduced, the City Council will be required to apply an annually updated index of inflation to keep the levy responsive to market conditions. As these could vary considerably in the coming years, with the hope of national economic recovery, it is imperative for the Council to keep its rates under review. A proposal to amend the rates would require a repeat of the consultation and examination process.

3. Preparing the Preliminary Draft Charging Schedule

- 3.1 In setting their proposed rates for the levy, charging authorities should identify the total infrastructure ‘funding gap’ that the levy is intended to support, having taken account of the other sources of available funding. Authorities should use the infrastructure planning that underpinned their development plan, and officers have been able to build on the evidence gathered in the preparation of the Local Plan Part 1: Joint Core Strategy through the Infrastructure and Delivery Plan (IDP).
- 3.2 Discussions have continued with major stakeholders and infrastructure providers, including Hampshire County Council, and the IDP list has been updated in terms of identified costs and priorities. Several key schemes remain to be fully costed by partners, and the list will remain as ‘work in progress’ until the CIL examination (and thereafter updated versions will assist the Council identifying priorities for possible CIL funding). At present, it serves a useful purpose in demonstrating the extent of the funding gap.
- 3.3 The list reveals that, excluding the National Park area and the three Strategic Allocations (North of Whiteley, North of Winchester and West of Waterlooville), where infrastructure will be funded through extant or emerging S106 agreements, the quantum of costed critical or priority infrastructure across the district currently totals in the region of £117 million and the overall ‘funding gap’ for the district is approximately £105 million; a figure that clearly justifies the introduction of CIL.

- 3.4 A paper updating the IDP and the schedule of costed infrastructure will form part of the consultation on the Preliminary Draft Charging Schedule. This is a background paper to this report and can be viewed at <http://www.winchester.gov.uk/planning-policy/evidence-base/infrastructure/infrastructure-delivery-plan-updated-statement-sch/>
- 3.5 Charging authorities wishing to introduce the levy should not put at serious risk the overall development of their area. The Government requires them to draw on the infrastructure evidence to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy upon the economic viability of development across its area.
- 3.6 Charging schedules may include differential rates, where they can be justified on the basis of the economic viability of development in different parts of the authority's area. Charging authorities should not exempt or set a zero rate for a particular zone or category of development, unless they can demonstrate that this is justifiable in economic viability terms.
- 3.7 The assessment of viability is a complex technical task, and a specialist consultancy firm (Adams Integra) were commissioned during the summer of 2012 to build on previous work in respect of the Joint Core Strategy and its affordable housing policies.

4. Consultation on the Preliminary Draft Charging Schedule

- 4.1 If it is agreed by Cabinet, the Preliminary Draft Charging Schedule will be issued for public consultation for at least six weeks from December 2012 to February 2013 (specific dates to be fixed). If possible, this will be achieved in tandem with the schedules for the South Downs National Park Authority.
- 4.2 The Preliminary Draft Charging Schedule is not part of the Development Plan, but consultation should be taken in line with best practice. All key stakeholders and statutory consultees should be informed directly, and the wider public would be notified through the LDF e-bulletin and other regular communication. The Schedule and supporting infrastructure and viability evidence will be placed on the Council's website.

5. Next Steps

- 5.1 The Council will need to assess any representations made on the Preliminary Draft Charging Schedule and make amendments as considered appropriate. A *Draft* Charging Schedule will then be prepared ready for examination and will be published for a second consultation along with supporting evidence. Consideration of the responses to the Preliminary Draft Charging Schedule will also allow the Council to decide what provisions for relief are included in the Draft Charging Schedule.
- 5.3 The proposed timetable allows for the introduction of a CIL regime in Winchester by, perhaps, September or October 2013. 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 the 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, 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 to cover the cost of developing the CIL Charging Schedule in the Strategic Planning budget.
- 7.3 The cost of the independent examination will be borne by the City Council, as charging authority. If a 'joint examination' is held into the Draft Charging Schedules of East Hampshire DC, Winchester CC, and, possibly, of the South Downs National Park Authority as it relates to the Winchester and East Hampshire part of the National Park, any cost savings achieved would be split between the authorities.

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. Consultation on the Preliminary Draft Charging Schedule is an important first step towards adoption, but there is a risk that the Council's proposed levy rates, and its supporting evidence, will be challenged by interested parties, including major developers and retailers. This risk will continue up to and including the examination scheduled for the summer of 2012, 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 in April 2014.

9 BACKGROUND DOCUMENTS

Residential Viability Report – Adams Integra (October 2012)

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

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

10 APPENDIX

Appendix 1: Winchester CIL Preliminary Draft Charging Schedule

Winchester City Council

COMMUNITY INFRASTRUCTURE LEVY

Preliminary Draft Charging Schedule

Draft (November 2012)

1.0 Introduction

- 1.1 The Community Infrastructure Levy (CIL) allows planning authorities in England and Wales to raise funds from developers to pay for the infrastructure that is need as result of development. This consultation document sets out the background to the Levy and seeks comments on Winchester City Council's proposed rates of CIL.
- 1.2 This is the first of two formal rounds of consultation on the City Council's charging schedule. This preliminary stage is an opportunity for respondents to help shape the draft charging schedule before it is subject to an independent examination. The proposed charges are set out in Section 6.
- 1.3 It is important to note that the South Downs National Park Authority (SDPNA) is the CIL charging and collection authority for the approximate 60% of Winchester District which lies within the South Downs National Park. The Park boundary is shown on the attached plan. The Preliminary Draft Charging Schedule (PDCS) and supporting evidence has been developed in liaison with the SDNPA, which is due to introduce its own CIL regime within a similar timeframe.
- 1.4 The PDCS has been prepared in accordance with the Community Infrastructure Levy Regulations 2010 (as amended) and statutory guidance. In setting its CIL rates as directed by Regulation 14(1), Winchester City Council has aimed at striking what appears to be an appropriate balance between:
 - The desirability of funding from CIL (in whole or part) the estimated total cost of infrastructure required to support the development of Winchester District; and
 - The potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across Winchester.
- 1.5 The PDCS is informed by a series of evidence base documents which have been published alongside this document. These are described in Section 5.

2.0 Consultation

- 2.1 Winchester City Council, as the charging authority, must consult on its proposed CIL rates through this preliminary draft charging schedule.
- 2.2 You are invited to submit a response on this consultation. Comments can be made in the following ways:

[details to be confirmed]
- 2.3 The consultation period runs from xx December to xx January 2013. The closing date for comments is...

[dates to be confirmed]

- 2.4 The City Council will consider all representations, and assess the need to revise the proposed charging schedule. Consultation on a *Draft* Charging Schedule will follow as soon as is practicable. The stage-by-stage timetable for the adoption of CIL is set out within the Council's Local Development Scheme (Revised 2012), with introduction of the levy scheduled for the autumn of 2013.

3.0 The Community Infrastructure Levy

- 3.1 The Community Infrastructure Levy is relatively new and represents a significant change to the system of developer contributions that, through S106 of the Town and Country Planning Act 1990 and its antecedents, has been in place for a number of decades. The charge came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy (Amendments) Regulations 2011). As at late 2012, several planning authorities across England and Wales have introduced it already, with the vast majority of potential charging authorities are still to progress a charging schedule through to examination and adoption.
- 3.2 Information on CIL is included with Appendix 1, including references to other useful sources, including the Department of Communities and Local Government.

4.0 Planning Context

- 4.1 Charging authorities should normally implement the levy on the basis of an up-to-date development plan. The City Council's proposed CIL regime is intended to provide a funding platform for the implementation of the Council's spatial planning strategy, as set out the Winchester District Local Plan Part 1: Joint Core Strategy. This is due to be adopted in early 2013, and will constitute the City Council's development plan along with the South East Plan (pending its proposed revocation) and any saved policies from the Winchester Local Plan.
- 4.2 The funds raised through CIL are intended to provide for, or contribute towards, infrastructure that is needed as a result of development, by filling the 'funding gap' that remains once other known sources have been taken into account. It is for the local authority to decide which infrastructure is needed, and Winchester City Council has identified the infrastructure that is deemed to be essential to the delivery of the development and growth set out in the Core Strategy. Evidence in respect of the infrastructure requirements over the Local Plan period, and the means of delivery, formed a key part of the Joint Core Strategy examination, and will now support the Council's case for the introduction of CIL.
- 4.3 The Government requires local authorities to work closely with neighbourhoods to decide what infrastructure they require, and (under the Localism Act 2011) allocate a 'meaningful proportion' of CIL revenues raised in each neighbourhood back to that community. Winchester City Council engages extensively with its communities through its parish councils, some of which have been addressing infrastructure requirements through the preparation of parish plans, and other stakeholders.
- 4.4 It is anticipated that certain communities will wish to progress the Localism agenda further by undertaking neighbourhood planning to contribute to the Council's Local Plan Part 2 or their own neighbourhood plans. These would form part of Winchester's development plan, alongside the Local Plan Part 2: Site Allocations and Development Management Policies, and be likely to inform decisions on infrastructure priorities to be funded in part or whole by CIL.

5.0 Evidence Base

Introduction

- 5.1 This consultation document is supported by a series of evidence base reports; these are technical documents which demonstrate that the City Council has assessed infrastructure needs across its area and has tested the effects of CIL on the economic viability of development, as required by Regulation 14(1) of the CIL Regulations (2010).

Infrastructure

- 5.2 Local authorities wishing to introduce CIL are required to demonstrate that there is a funding gap in the provision of infrastructure required to support new development. Through the preparation of the City Council's Joint Core Strategy, a significant level of infrastructure planning has been undertaken.
- 5.3 The infrastructure planning evidence, in the form of an Infrastructure Delivery Plan was scrutinised at the Core Strategy examination in October and November 2012, and is a robust piece of evidence. To assist the CIL process further, an updated Schedule of Infrastructure, with identified priority and (in most cases) costs, is published alongside this document.
- 5.4 The revised Schedule no longer includes infrastructure within the South Downs National Park, as the delivery of these items (save for any clear cross-boundary projects) will be the responsibility of the SDNPA. Infrastructure within the Partnership for Urban South Hampshire (PUSH) area has been identified separately because of the on-going discussions with the City Council's partners as to the requirements for strategic infrastructure across the sub-region.
- 5.5 Excluding the Strategic Allocations (North of Whiteley, North of Winchester and West of Waterlooville), where infrastructure will be funded through extant or emerging S106 agreements, the quantum of costed critical or priority infrastructure across the District (including the area within PUSH) currently totals in the region of £117 million (£22.5 million + £94.5 million). Officers continue to explore other potential sources of funding (for example New Homes Bonus, and possible Growth Area and Local Economic Partnership funds), and currently the overall 'funding gap' for the district is approximately £106 million (£22 million + £84 million); a figure that clearly justifies the Council's proposed introduction of CIL in 2013.

Table 1: Estimated cost of Infrastructure by area

| Area | Cost (actual or estimated) | Funding Gap |
|---------------------------|----------------------------|--------------|
| SA: West of Waterlooville | £28,577,953 | - |
| SA: North Whiteley | £85,666,040 | £18,000,000 |
| SA: North Winchester | £14,608,328 | - |
| Winchester (within PUSH) | £22,455,000 | £21,860,000 |
| Winchester (outside PUSH) | £94,529,000 | £83,613,000 |
| Total | £245,833,321 | £123,473,000 |

- 5.6 The infrastructure funding gap list below is not a prioritised list of infrastructure delivery and does not identify the specific items of infrastructure which will necessarily be funded by CIL. The figures exclude the three strategic allocations where infrastructure is due to be delivered predominantly through S106 contributions. As with Table 1, its sole purpose is to demonstrate that there are no alternative means identified at present to finance the infrastructure requirements identified through the infrastructure planning process.

Table 2: Estimated cost of infrastructure by type.

| Type | Cost (actual or estimated) | Funding Gap |
|-----------------------------------|----------------------------|--------------|
| Community and Cultural Facilities | £9,050,000 | £8,700,000 |
| Education | £17,800,000 | £9,000,000 |
| Extra Care | £53,750,000 | £53,750,000 |
| Green Infrastructure | £11,500,000 | £11,500,000 |
| Health Services | £215,000 | £215,000 |
| Open Space, Sport and Recreation | £3,325,000 | £3,325,000 |
| Transport | £20,344,000 | £17,983,000 |
| Waste | £1,000,000 | £1,000,000 |
| Total | £116,984,000 | £105,473,000 |

Viability

- 5.7 The Regulations require that the proposed CIL has to have regard to the ‘potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.’
- 5.8 The CIL Regulations also allow for different CIL rates to apply, although differential rates must be solely based on economic viability evidence and not for planning policy objectives.
- 5.9 In order to fulfil these requirements, the City Council has commissioned economic viability assessments to provide evidence to test and formulate suitable CIL rates. One of the guiding principles of this work has been to ensure that CIL rates do not put the overall viability of development in the Borough at risk.
- 5.10 Consultants Adams Integra were commissioned to assess viability in respect of different land uses. Two reports have been submitted; the first considers residential CIL viability alongside affordable housing viability (evidence considered by the Core Strategy examination), and the second deal with other commercial land uses.
- 5.11 The Studies considered a wide range of matters to assess development viability, including differing land values, differing development costs (e.g. affordable housing costs, site costs) and locational variations in sales values. The Study also considered wider issues, such as relationship to the CIL rate in neighbouring authorities, potential impact on developers’ investment decision making and the implications of a zonal charging regime. The result was a comprehensive assessment which justifies the approach being recommended.
- 5.12 These two detailed reports have been published to inform the public consultation on this Preliminary Draft Charging Schedule, and can be seen at [\[link\]](#), but the key findings can be summarised as follows:
- A recommendation that a two tier charge should apply for residential development; a £120 per square metre charge for Winchester town and its immediate locality, and a £80 charge for all other parishes, with one key exception;

- As the substantial infrastructure costs required for the three Strategic Sites will be delivered through S106 contributions, the viability of development requires the CIL rate (for all uses) on these areas to be set at zero.
- Evidence demonstrates that certain retail categories within the A1 Use Class are sufficiently viable to support a CIL charge and others are not. Convenience stores and food retailing as well as larger retail warehouses are proving viable whereas, outside of Winchester city centre, comparison shopping is not strong enough at this stage due to poor consumer confidence, an increase in internet shopping, and superstores offering comparison goods that have traditionally been sold on the high street.
- Hotel development could potentially support CIL charges of up to £100 per m². However, a rate of £70 per m² allows for a sufficient buffer for site-specific issues.
- The office and industrial/warehouse markets are currently offering the least ability to afford CIL charges. This is due to lower rents resulting from an adequate supply of stock, weak occupier demand and higher yields resulting from shorter leases and weaker covenants.

5.13 These recommendations are reflected in the Council's proposed CIL rates and zones, as described below.

6.0 Proposed CIL Charge Rates and Zones

- 6.1 Taking account of the viability evidence base documents, the City Council proposes that CIL rates for Winchester (outside of the South Downs National Park), expressed as £ per square metre, should reflect differential viability circumstances through zoning.
- 6.2 The proposed charging zones reflect clear differences in the viability of development across the District (excluding the area within the South Downs National Park). They are defined geographically on the attached Plan 1, and are described as follows:

Zone 1: Strategic Allocations

The boundaries are as shown on the Core Strategy Proposals Map.

Zone 2: Winchester Town and Locality

The boundary reflects the settlement boundary of Winchester Town as shown on the Core Strategy Proposals Map.

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.

- 6.3 The CIL rates proposed for land-uses, as they apply in each zone, are as set out in Table 3 below:

Table 3: Proposed CIL Rates

| Type of Development | Charge per square metre | | |
|---------------------------------|-------------------------|--------|--------|
| | Zone 1 | Zone 2 | Zone 3 |
| Residential | £0 | £120 | £80 |
| Hotel | £0 | £70 | £70 |
| Retail (town centre comparison) | £0 | £120 | £0 |
| Retail (edge and out of centre) | £0 | £120 | £0 |
| Retail (all other development) | £0 | £120 | £120 |
| All other uses | £0 | £0 | £0 |

7.0 Calculation of Charge

- 7.1 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.
- 7.2 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.
- 7.3 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 Schedules 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.
- 7.4 For details of the charge calculation, please refer to Regulation 40 of the CIL Regulations 2010 and the Amendment Regulations 2011.

8.0 Statutory Exemptions

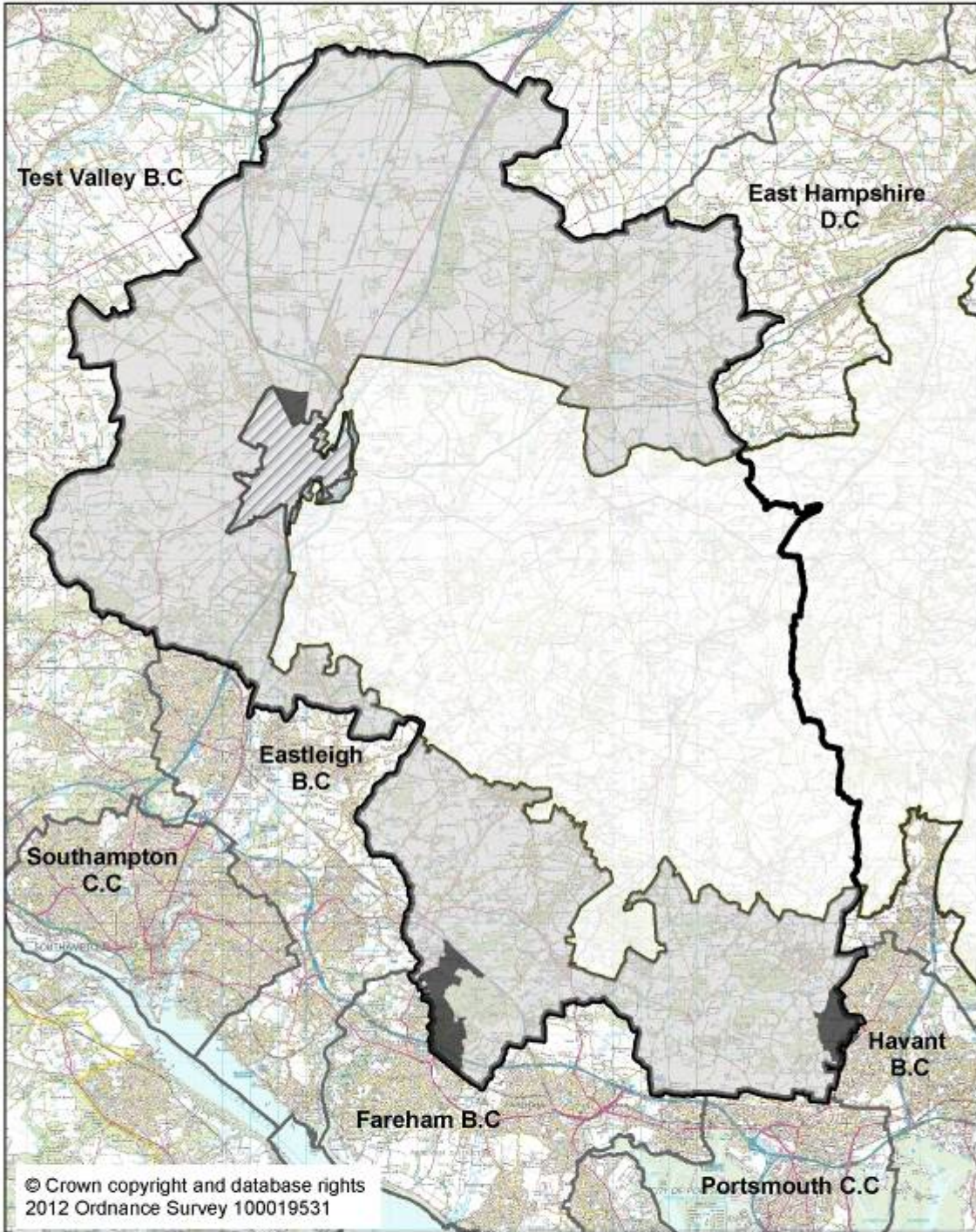
- 8.1 The CIL Regulations provide exemptions for paying CIL as follows:
- 100% relief from CIL on those parts of a chargeable development which are to be used as social housing.
 - Charity landowners receive 100% relief from their portion of the liability where chargeable development will be used wholly, or mainly, for charitable purposes.
- 8.2 More details will be included within the Council's Draft Charging Schedule, including whether the authority chooses to offer discretionary relief to a charity landowner where the greater

part of the chargeable development will be held as an investment, from which the profits are applied for charitable purposes.




9.0 Payment of CIL

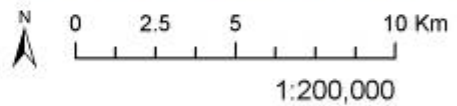
- 9.1 The CIL Regulations (as amended in 2011) allow Charging Authorities to adopt an instalment policy, as an alternative to requiring a full payment of CIL within 60 days of the commencement of the chargeable development. The City Council does not need to state its intention to adopt an instalments policy until the CIL Charging Schedule is adopted, and it is not a matter for scrutiny at CIL independent examination. The Council will be considering its position in due course, and would welcome any comments on good practice as applied elsewhere.


Plan 1: Winchester CIL Proposed Charging Zones



CIL Charging Zone

-  Zone 1
-  Zone 2
-  Zone 3



-  Winchester District Boundary
-  National Park