

Cheltenham Borough Council
Community Infrastructure Levy
Draft Charging Schedule (DCS)

1.1 Introduction

- 1.1.1 Cheltenham Borough Council has published this Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) as the Local Planning Authority under powers provided by Section 206 of the Planning Act 2008. The context of CIL is set out at paragraphs 1.4 – 1.6 of this report.
- 1.1.2 Cheltenham Borough Council, along with Gloucester and Tewkesbury councils are preparing a Joint Core Strategy (JCS). The JCS has a common evidence base including testing viability and infrastructure needs.
- 1.1.3 Viability and infrastructure evidence has been prepared on a joint basis to support the plan, therefore the sections in this report that deal with evidence are written for all three authorities. The aim is to prepare the three DCS on a co-ordinated basis in order to appropriately address cross boundary infrastructure issues. Although this joint evidence base has informed the DCS preparation, each of the JCS councils are CIL charging authorities in their own right and are required, by legislation, to prepare separate CIL Charging Schedules.
- 1.1.4 All relevant evidence can be accessed via the JCS website www.gct-jcs.org. This DCS is being consulted upon alongside the DCS for Tewkesbury and Gloucester.
- 1.1.5 This DCS is published for public consultation as a further step in setting a CIL charge for Cheltenham and has been prepared in accordance with Regulation 16 of the CIL Regulations 2010 (as amended). Any comments made on this document will be submitted to the Inspectorate for examination as per the regulations.
- 1.1.6 The purpose of this consultation document is to set out Cheltenham Borough Council's CIL DCS. In addition to the charging schedule, the document explains the general principles of CIL and summarises the methodology and evidence base used in calculating the levels of the charge. Further information can be viewed on the Council's website and a hard copy of the DCS will be available at the following locations during the consultation period:

Council Offices
Gloucester City Council
Cheltenham Borough Council
Tewkesbury Borough Council
Gloucestershire County Council
Libraries
Gloucester Central
Cheltenham Central
Tewkesbury Town
Bishops Cleeve
Brockworth
Churchdown
Winchcombe Library and Children's Centre

Hucclecote
Longlevens
Matson
Quedgeley
Tuffley
Charlton Kings
Hesters Way
Prestbury
Up Hatherley
Other Locations
Gloucester Tourist Information Centre
Hesters Way Neighbourhood Project
Cheltenham West End Partnership
Brockworth Advice Centre
Churchdown Advice Centre
Winchcombe Advice Centre
Bishops Cleeve Advice Centre

1.2 Procedure for representations

- 1.2.1 Comments on this document are welcome during the consultation period of 6 weeks from **xxxxxxx to xxxxxx** (dates to be confirmed). The consultation period has been extended beyond the minimum requirement of 4 weeks as set out in the CIL regulations. Consultation will be open for 6 weeks.
- 1.2.2 Should you wish to comment on this document, please could you contact the following:
- By email to cil@gct-jcs.org
 - By post to: JCS Community Infrastructure Levy Team, Municipal Offices, Cheltenham, Gloucestershire, GL50 9SA.
- 1.2.3 The closing date for comments is **5pm xxxxxx**. Any comments received after this date will not be submitted to the Inspectorate as duly made.
- 1.2.4 Please note that the preferred method of receiving consultation responses is via the DCS questionnaire which can be downloaded from www.gct-jcs.org

1.3 Timetable

- 1.3.1 The anticipated stages of preparation and consultation are set out in the following table:

1.3.2 **Table 1.1: Anticipated timetable**

Stage		Description	Date
1	Preliminary Draft Charging Schedule	Consultation on the initial rates proposed within the Preliminary Draft Charging Schedule	Complete
2	Draft Charging Schedule	Consultation on the Draft Charging Schedule CIL rates informed by the consultation responses on the Preliminary Draft Charging Schedule.	Summer 2016
3	Submission to Independent Examiner	The Council can submit the proposed Draft Charging Schedule for examination.	Autumn 2016
4	Examination in public	The Draft Charging Schedule is examined by an independent examiner through a public hearing.	Winter 2016
5	Adoption and Implementation	The Charging Schedule is published online and will take effect on the date stated in the Charging Schedule.	Winter 2016

1.4 Context

- 1.4.1 The Community Infrastructure Levy (CIL) is a locally set planning charge, introduced by the Planning Act 2008 (as amended) as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area.
- 1.4.2 CIL allows local authorities to generate funding from development for the provision of infrastructure in and around their location or strategic cross boundary infrastructure projects where several local authorities contribute. Importantly, CIL is not intended to fund the entire infrastructure required for Cheltenham and that required to support cross boundary development as this would result in unviable development, but instead is intended to supplement other funding streams. Work undertaken to inform the JCS (the Infrastructure Delivery Plan) assists in providing the infrastructure needs arising – see links in section 1.8 of this report.
- 1.4.3 The level of CIL to be charged can only be set on the basis of evidence based viability. An appropriate balance must be struck between the desirability of funding from CIL required to support the development of its area; and the potential effects of the imposition of CIL on the economic viability of its area.

1.5 Legislative background

- 1.5.1 CIL is governed by legislation that came into force on 6th April 2010. Guidance and Regulations are prepared by the Department for Communities and Local Government (DCLG) as set out in:
- The Planning Act 2008 as amended by the Localism Act 2011
<http://www.legislation.gov.uk/ukpga/2008/29/contents>
<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
 - The CIL Regulations 2010, as amended in 2011, 2012, 2013 and 2014

<http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>
<http://www.legislation.gov.uk/uksi/2011/987/contents/made>
<http://www.legislation.gov.uk/ukdsi/2012/9780111529270>
http://www.legislation.gov.uk/uksi/2013/982/pdfs/uksi_20130982_en.pdf
<http://www.legislation.gov.uk/ukdsi/2014/9780111106761/contents>

- National Planning Policy Framework: Planning Practice Guidance on CIL.
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>
<http://planningguidance.planningportal.gov.uk/blog/guidance/communityinfrastructure-levy/>

- 1.5.2 Authorities cannot charge for the same items through both CIL and planning obligations. Local Authorities who intend to adopt a CIL should publish a “Regulation 123 List” to identify the infrastructure that it is intended will be, or may be, wholly or partly funded by the levy. A Regulation 123 list is appended to this report. The main purpose of this list is to provide transparency to ensure that there is no duplication in the use of both CIL and planning obligations for the same project.

1.6 Why introduce CIL?

- 1.6.1 Central to the rationale for introducing CIL is the widely held belief that most development has some impact on the need for infrastructure and services, or benefits from them. Therefore it is considered appropriate that such development pays a share of the cost, particularly given the potential financial benefits that planning permission can bring to developments. Under the current regime of Section 106 agreements (another form of planning agreement used to provide funding for certain infrastructure projects) this cannot be achieved as obligations must be directly related to the development. In addition smaller sites tend to fall outside negotiation of obligations. Additionally, contributions from CIL can be pooled and used to lever investment or loans from other sources (for example Gloucestershire Infrastructure Investment Fund, Pinchpoint funding etc.).
- 1.6.2 Unlike Section 106 agreements, once adopted, a CIL charging liability is non-negotiable. The levy is a standard fixed charge which provides developers with much more certainty about how much money they will be expected to contribute, which can be factored into their development calculations, including land deals. This provides clarity to the developer and transparency to the landowner.
- 1.6.3 Importantly, from April 2015, the local authorities are restricted on the pooling of Section 106 planning obligations which changes the way infrastructure is delivered across Cheltenham. The regulations allow for a maximum of five Section 106 planning agreements to be pooled for specific infrastructure projects. Therefore, the implementation of CIL will provide that flexibility in the pooling and spending of monies from developments and can be spent on any identified infrastructure need (unlike Section 106 agreements which require a direct link between the development and any infrastructure project).
- 1.6.4 Nevertheless, it will still be possible for specific infrastructure projects to be funded through Section 106 planning agreements, but only where these are **directly** related to a proposed development and are needed to make individual planning applications acceptable in planning terms. The statutory tests for Section 106 agreements as set out in the Community Infrastructure Levy Regulations 2010 and as policy tests in the National Planning Policy Framework will still need to be applied. These tests being that
- they are necessary to make the development acceptable in planning terms,
 - directly related to the development, and
 - fairly and reasonably related in scale and kind.

- 1.6.5 It is intended that CIL sits alongside the current Section 106 regime rather than directly replacing it with regulations in place to ensure that there is a distinction between the two systems and that they do not overlap.

1.7 Chargeable development

- 1.7.1 CIL is levied on the development of virtually all buildings that people 'normally go into'. The following development types will be liable for CIL:
- Developments of more than 100m² new floorspace;
 - Development of less than 100m² which result in the creation of one or more new dwellings;
 - The conversion of a building that is no longer in lawful use.

Exemptions

- 1.7.2 The CIL Regulations provide for certain types of development to be exempt from CIL, which include:
- Development by registered charities for the delivery of their charitable purposes;
 - Those parts of a development which are to be used as social (affordable) housing;
 - The conversion of any building previously used as a dwelling house to two or more dwellings;
 - Development of less than 100m² of new build floorspace, provided that it does not result in the creation of a new dwelling;
 - The conversion of, or works to, a building in lawful use that affects only the interior of the building;
 - Development of buildings and structures into which people do not normally go (e.g. pylons, wind turbines and electricity sub stations);
 - Residential annexes and extensions (where the person who would normally be liable for the charge owns a material interest in the main dwelling and occupies the main dwelling as the sole or main residence);
 - Self-build housing where a dwelling is built by the person who would normally be liable for the charge (including where built following a commission by that person) and occupied by that person as their sole or main residence.

Setting the levy

- 1.7.3 The rate of CIL is determined by the charging authority. It is scrutinised by an independent examiner to assess whether the charge has regard to the evidence base and that the level of charge is reasonable and will not impact negatively on the economic viability of development taken as a whole across the Authority's area.
- 1.7.4 Under Regulation 13 of the Community Infrastructure Regulations 2010 (as amended) a CIL charge can either be set as a single rate which covers all types of development across the whole of an area or as differential rates which cover different development types and/or different areas. Whilst guidance also denotes that it is also possible for some types of development to have a zero rating this can **only** be based on viability and cannot be used to encourage certain types of development within an area as this could be considered as state aid and would therefore be deemed unlawful. A CIL charging schedule can be reviewed, but this would then be subject to re-consultation and re-examination.

1.8 Evidence base used

- 1.8.1 To support the DCS an update of the plan viability was completed (noted as item e. below) and this in conjunction with previous documents used for the PDCS informed the schedule. These documents can all be viewed on the JCS website www.gct-jcs.org and include:
- a. Stage 1 and Stage 3 Viability assessments of local development typologies/representative development schemes
<http://www.gctjcs.org/PublicConsultation/EINF-Evidence-Infrastructure.aspx>
 - b. Stage 2 Viability Testing of Notional Development Schemes, Allocated in the Pre Submission Joint Core Strategy
<http://www.gct-jcs.org/PublicConsultation/EINF-Evidence-Infrastructure.aspx>
 - c. Joint Core Strategy, Submission version November 2014
<http://www.gctjcs.org/Documents/Publications/Submission/JCS-Submission-Version-November-2014acorrected.pdf>
 - d. Gloucester City Council, Cheltenham Borough Council & Tewkesbury Borough Council, Infrastructure Delivery Plan.
<http://www.gct-jcs.org/PublicConsultation/EINF-Evidence-Infrastructure.aspx>
 - e. Viability Evidence – Plan Viability, Community Infrastructure Levy and affordable housing study, Peter Brett Associates LLP, January 2016.
<http://www.gct-jcs.org/Documents/Examination-Documents/EXAM-176---JCS-CIL-and-Plan-Viability-Report-Final-January-2016.pdf>
 - f. JCS CIL Preliminary Draft Charging Schedule Consultation Report, February 2016
<http://www.gct-jcs.org/Documents/CIL/JCS-CIL-PDCS-consultation-report.pdf>
 - g. JCS Viability Workshop Note October 2014
<http://www.gct-jcs.org/Documents/Examination-Documents/EXAM-176---JCS-CIL-and-Plan-Viability-Report-Final-January-2016.pdf>
 - h. JCS Viability Roundtable June 2015
<http://www.gct-jcs.org/Documents/Examination-Documents/EXAM-83---JCS-Viability-Note-Following-Round-Table-Session.pdf>
- 1.8.2 Subsequent to the initial viability work completed by the District Valuer Services (referred to as DVS henceforth), Peter Brett Associates (referred to as PBA henceforth) were jointly commissioned by Cheltenham Borough, Gloucester City and Tewkesbury Borough to undertake a further viability assessment taking into consideration the updated JCS development plan, comments made on the PDCS (included within the PDCS Consultation report, listed above), discussions at the JCS examination as well as a roundtable session with developers held June 2015 and the subsequent various meetings with the relevant developers and stakeholders on infrastructure needs of the strategic allocations. This built upon previous engagement with the development industry by DVS (a workshop was held in October 2014) and consultants ARUP who prepared the JCS Infrastructure Delivery Plan and work of the JCS councils. Specific focus was given to developers operating within the JCS strategic allocations.
- 1.8.3 The main purpose of a plan viability (or PV) assessment is to provide evidence to show that the requirements of the National Planning Policy Framework (NPPF) are met. That is, the policy requirements in the Plan should not threaten the delivery of the plan as a whole. The objective of this study is to inform policy decisions relating to the trade-offs between the

policy aspirations of achieving sustainable development and the realities of economic viability. A key outcome of this is to establish the surplus residual land value (referred to as the “headroom”) left over once other build and policy costs are taken into account. This analysis then provides the scope for setting a CIL rate.

- 1.8.4 The latest plan viability assessment (item e. above), further reviewed the types of developments most likely to come forward in the JCS area. It is intended that the DCS is read in conjunction with this viability assessment, particularly for further details regarding the methodology and assumptions.
- 1.8.5 The viability work raises ‘viability pressures’ between the delivery of infrastructure via CIL and the balance with continued Section 106 obligations for site specific infrastructure and affordable housing. The council, in implementing CIL, needs to achieve a realistic balance which does not undermine the viability of development.

1.9 Proposed CIL rates

- 1.9.1 The viability work conducted by PBA (in the report ‘Community Infrastructure Levy and affordable housing study, Peter Brett Associates LLP, January 2016’) provides the following recommendations for CIL within Cheltenham. The following amounts are represented as a £ per square metre value.

Residential development

- 1.9.2 For the residential sites in Cheltenham the recommended CIL rate is in table 1.2 below.
- 1.9.3 Table 1.2 also sets out the CIL rates for strategic sites that are located within Cheltenham’s administrative area.

Table 1.2: Proposed residential CIL rates

		Recommended CIL £ sq. m	Recommended Affordable Housing (AH)
Generic sites	Cheltenham 10 dwellings and under	£148	0%
	Cheltenham 11 dwellings and over	£200	40%
Strategic sites	A5 Northwest Cheltenham	£35	35%
	A6 Leckhampton	£35	35%

Other forms of development

- 1.9.4 The viability assessment also considered housing for older persons, table 1.3 below sets out the recommended rates

Table 1.3: Proposed older persons residential CIL rates

	Recommended CIL £ sq. m
Retirement Homes	£200
Extra Care Homes	£100

- 1.9.5 In addition to residential uses a number of other uses have been tested. With the exception of retail uses located outside out of the town centre, all other uses were found to have insufficient headroom to levy a charge.

Table 1.4: Proposed Non residential CIL rates

	Recommended CIL £ sq. m
Retail development outside town centre	£100
Retail development within town centre	£0
Any Office uses	£0
Any Industrial uses	£0
Student Accommodation	£0
Hotels	£0
All other forms of development not previously listed	£0

1.10 Spending of CIL

- 1.10.1 Under Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended), henceforth referred to as 'CIL Regulations', the charging authority will publish on its website their intention for how revenues raised from the levy will be spent. This will make clear what items will in future fall under the CIL rather than Section 106, but also show contributors and other interested parties what types of infrastructure the CIL could be spent on. In formulating the Regulation 123 list the Council will continue to work closely with other bodies to address strategic infrastructure and that delivered by other public authorities, for example, Gloucestershire County Council. The Regulation 123 list is attached to this document under Appendix B.
- 1.10.2 The CIL regime allows authorities to respond to changing local circumstances, by spending revenue from the CIL on different projects from those identified during the rate setting process. Therefore the Regulation 123 list will be continually reviewed and updated accordingly. Changes to the Regulation 123 list will be updated via the council website.

1.11 Duty to pass CIL to local councils

- 1.11.1 CIL regulations outline provision for receipts to be redistributed to local parish councils, or to be spent on behalf of designated neighbourhood forums. Government established this principle in legislation as a reward to communities for receiving new development. The proportion allocated to the local council, or spent on behalf, is dependent on the adoption of a neighbourhood plan. Where a neighbourhood plan is in place, 25% of the CIL is passed to the local council. Where a neighbourhood plan is not made, 15% is passed to local councils, subject to a cap equivalent to £100 for every existing dwelling in that area.

1.12 Optional exemptions and discretionary matter

- 1.12.1 The CIL Regulations allow Local Authorities to make certain choices about how to implement the CIL and the Council would like your views on the following options:

Payment by instalments (Regulation 69b)

- 1.12.2 Payment of a CIL charge is due from the date at which a chargeable development commences. The Council can offer the payment of CIL by instalments to provide flexibility and support for more complicated and phased developments. An 'instalment policy' stating the parameters of this process would be published alongside the adopted Charging Schedule.

Social housing relief (Regulation 49)

- 1.12.3 The Council can allow, at its discretion, relief from liability to pay a CIL charge to new market houses that are to be sold at no more than 80 per cent of their market value.

Land and infrastructure in-kind (Regulations 73&73A)

- 1.12.4 The Council can allow, at its discretion, the value of land transferred to the Council and infrastructure provided or constructed by a developer to be offset against the CIL charge. This would enable developers to provide the infrastructure needed to support new development directly, rather than paying for it indirectly through the CIL. The value of land and infrastructure in kind would be determined by 'a suitably qualified independent person' (for example the District Valuer).

Discretionary relief for exceptional circumstances (Regulation 55)

- 1.12.5 Liability to pay a CIL charge on chargeable development is a statutory obligation and is non-negotiable. The Council can, however, in exceptional circumstances offer discretionary relief from liability to pay a CIL charge. Offering this relief would provide the Council with some flexibility to deal with complex sites which are proved to have exceptional costs or other requirements which make them unviable.
- 1.12.6 Justification for this relief would have to be demonstrated through (independently verified) appropriate evidence of viability and is entirely at the discretion of the Council. This relief can be activated and deactivated at any time subject to a notice of intention to be published by the Council.

Discretionary charitable relief: investment activities (Regulation 44)

- 1.12.7 The Council can allow, at its discretion, relief from CIL liability to charity landowners where the greater part of a development is held as an investment from which the profits are applied for charitable purposes.

1.13 Your View

We would like your view on the Draft Charging Schedule by the closing date **xxxxxxxxxx**. Any responses will be submitted to the Planning Inspectorate as part of the formal submission information provided by the Council under Regulation 19.

Appendix A: DCS rates proposed for Gloucester and Tewkesbury including the Strategic Allocations.

1.13.1 The table and explanations below summarise the proposed DCS CIL rates for Gloucester and Tewkesbury as well the Strategic Allocations.

Table A1: Gloucester and Tewkesbury Proposed DCS rates – Generic Sites

		Recommended CIL £ sq. m	Recommended Affordable Housing (AH)
Generic sites	Gloucester 10 dwellings and under	£0	0%
	Tewkesbury 10 dwellings and under	£104	0%
	Gloucester 11 dwellings and over	£45	20%
	Tewkesbury 11 dwellings and over	£200	40%

1.13.2 For completeness the proposal for the JCS strategic allocations is different whereby due to many factors including the complexity of the sites, it is proposed to remain with Section 106 agreement for all site associated infrastructure, but for the sites to have a CIL rate of **£35 per sq m** to contribute to the wider strategic infrastructure needs. This will apply to all sites apart from the portion of SA8 currently the MOD section which due to its brownfield nature, it is proposed to have a **£0 rate**. To support this 'strategic infrastructure' CIL contribution, it is also proposed that the affordable housing contribution will be 35% on all strategic allocations.

1.13.3 For commercial units, PBA's testing indicates that all out of centre and convenience typologies were viable. To ensure a simple and consistent approach, a CIL rate of **£100 per sq. m** for these types of units is proposed across the JCS authority areas. Whilst viability of town centre retail across the JCS area varied, it was recommended that this type of development could not support a significant charge in any of the JCS authorities.

Appendix B: Regulation 123 list for DCS

In accordance with the Planning Act (2008) as amended by the Localism Act (2011) and the Community Infrastructure Levy Regulations (2010) as amended.

The infrastructure that may be funded by CIL will be set out in lists to be published from time to time by the Charging Authority - known as the Regulation 123 list.

The Regulation 123 list is a supporting document for the Cheltenham CIL Charging Schedule and the table below gives an indication of the types and categories of infrastructure and/or specific infrastructure projects to which CIL receipts raised by the Council as the Charging Authority could be applied.

In general it is proposed that site specific or direct mitigation measures, including providing a safe and acceptable means of access to a public highway, or roads providing access to a development, will be secured through planning conditions and obligations.

Other more strategic infrastructure may be supported in whole or in part through CIL.

The inclusion on the list of an infrastructure project or type of infrastructure does not represent a commitment by the Council to provide that project or type of infrastructure either with or without funding from CIL. The only function of the list is in relation to the future use of Section 106 agreements and to avoid any perception of double charging to developers. The Infrastructure List gives an indication of the categories of infrastructure currently intended to be funded by CIL or other means. The list can be reviewed on a regular basis, for example annually, to ensure that it remains up to date. The order of the list does not imply any preference or priority.

It is anticipated that CIL receipts will be limited in the early years of CIL implementation and the Council will need to consider priorities for infrastructure delivery. Work is progressing in developing options for discussion on governance.

Reg. 123 List – Cheltenham (including Strategic Allocations if applicable)

Infrastructure to be funded, or part funded, through CIL	Infrastructure and other items to be funded through S106 Obligations; S278 of the Highways Act; other legislation or through Planning Condition
Section A: All Non-Strategic Allocations	
Transportation Transportation infrastructure, improvements and access for walking, cycling, public transport and highways.	Development of on-site facilities or infrastructure and specific mitigation works on or directly related to a development site.
Education Provision for which the Local Education Authority has a statutory responsibility including early years, primary and secondary (covering ages 2 – 19)	
Flood and Water Management Flood risk mitigation to support development across the area.	Development specific mitigation works on or directly related to a site.
Social and Community Infrastructure Including provision of social and community facilities and other meeting places, sports, recreational, play infrastructure and youth	Development of on-site facilities or infrastructure and specific mitigation works on or directly related to a development site.

Infrastructure to be funded, or part funded, through CIL	Infrastructure and other items to be funded through S106 Obligations; S278 of the Highways Act; other legislation or through Planning Condition
provision, health/healthcare.	
Green infrastructure Including enhancement and management of green spaces and biodiversity, strategic green corridors, wider open spaces and amenity spaces, allotments and community gardens	Development specific mitigation works on or directly related to a site.
Historic Environment Conservation and enhancement of the historic environment, heritage assets and their setting.	Development specific mitigation works on or directly related to a site.
Public Realm, Art and Culture Off-site provision, enhancements and management including tree planting, wider environmental enhancements, street furniture and signage. Interpretation of arts and culture in line with Cheltenham public arts strategy and tourism strategy.	Development of on-site facilities or infrastructure and specific mitigation works on or directly related to a development site.
Emergency Services (Police, Fire and Ambulance) Including infrastructure to support the capacity of local services in areas of major growth.	Provision of fire hydrants.
Economic Development Infrastructure Including off-site starter/incubator business units, information and communications technology, supporting other employment initiatives and delivery of Cheltenham economic and tourism strategy.	On-site infrastructure and non-infrastructure initiatives such as skills training and local employment initiatives.
Waste Recycling Provision of household waste recycling and waste management facilities	On site collection facilities and waste reduction initiatives.
Renewable Energy Infrastructure Renewable Energy infrastructure	
Section B: Strategic Allocations	
Strategic Infrastructure Infrastructure not directly linked to the development site of strategic nature	All site specific infrastructure needs.