

**TO EACH MEMBER OF THE
COUNCIL**

15 October 2018

Dear Councillor

EXTRAORDINARY COUNCIL - MONDAY 15 OCTOBER 2018

Further to the Agenda and papers for the above meeting, previously circulated, please find attached amended information in respect of Agenda Item 7 - Community Infrastructure Levy (CIL) Formal Adoption of Charging Schedule and Supporting Policies, Approval of Regulation 123 List for Publication and Setting of a Commencement Date for Charging.

Should you have any queries regarding the above please contact Democratic Services on
Tel: 01684 272021

Yours sincerely

**Lin O'Brien
Head of Democratic Services**



COUNCIL (EXTRAORDINARY) – 15 OCTOBER 2018 – ITEM 7

COMMUNITY INFRASTRUCTURE LEVY (CIL) FORMAL ADOPTION OF CHARGING SCHEDULE AND SUPPORTING POLICIES, APPROVAL OF REGULATION 123 LIST FOR PUBLICATION AND SETTING OF A COMMENCEMENT DATE FOR CHARGING

Further to the Agenda and papers for the above meeting previously circulated, please find attached an amended version of the Charging Schedule ("**Modified Charging Schedule**") which is to replace Appendix A previously issued.

In the Modified Charging Schedule:

- i) **The affordable housing requirements have been removed from the table of charges at Table 1.1**
- ii) **The "11 dwellings and over" charging category for Generic Sites within Table 1.1 has been changed to "between 11 and 449 dwellings"; and**
- iii) **An additional paragraph (5.4) has been added making reference to the policy maps.**

As regards (i), affordable housing requirements were included in consultation versions of the document, but should not have been included in the final version. As regards (ii), the correction is as the Examiner's recommendations to reflect the insertion of additional category for 450 dwellings or over within Table 1.1. As regards (iii), policy maps identifying the location and boundaries of the strategic sites have been included within the papers previously issued as an Appendix B, but this will need to become an appendix of the Charging Schedule on adoption to satisfy regulatory requirements.

[Also, attached is an amended version of the Payments by Instalments Policy ("**Reviewed Payment by Instalments Policy**"), which is to replace Appendix D previously issued. The Reviewed Payment by Instalments Policy rather than the Payment by Instalments Policy as set out within Appendix D is the Payment by Instalments document that now being recommended in recognition of concerns regards developer cash-flow.

In the Reviewed Payment by Instalments Policy:

- **For CIL liability of £100,000 or less – 100% will now be due in one instalment within 18 months of commencement of development**, rather than 50% within 60 days of commencement of development and 50% within 6 months of commencement of development
- **For CIL liability between £100,001 to £1,000,000 – 10% will now be due within 60 days of commencement of development and two further instalments of 45% will be due at 6 and 12 months from commencement of development**, rather than 33% within 60 days, 6 months and 12 months of commencement of development
- **For CIL liability of £1,000,001 and above – 10% will not be due within 60 days of development and three further instalments of 30% will be due at 6, 12 and 24 months from commencement of development**, rather than 25% within 60 days, 6 months, 12 months and 24 months of commencement of development]

For clarity given the above, the recommendations to the Council are therefore now as follows:

That Council APPROVE:

- 1. The adoption and publication of the Tewkesbury Borough Council Community Infrastructure Levy Charging Schedule modified in line with the recommendations of the Independent Examiner, as set out in the Modified Charging Schedule and Maps at Appendix B.**
- 2. The adoption of the following supporting policies:**
 - a. Payment by Instalments (Regulation 69b), as set out in the Reviewed Payment by Instalments Policy**
 - b. Request for Review and Appeals (Part 10), as set out at Appendix E**
- 3. The Regulation 123 List for Tewkesbury Borough Council for publication, as set out at Appendix F**
- 4. The setting of a commencement date for charging of 1 January 2019, in line with Joint Core Strategy (JCS) partner authorities**

Tewkesbury Borough Council

Community Infrastructure Levy

Charging Schedule

1. Introduction

- 1.1. Tewkesbury Borough Council have adopted this Community Infrastructure Levy (CIL) Charging Schedule as the Charging Authority under powers provided by Section 206 of the Planning Act 2008.
- 1.2. Tewkesbury Borough Council, along with Gloucester and Cheltenham have adopted a Joint Core Strategy (JCS). The JCS has a common evidence base including testing viability and infrastructure needs.
- 1.3. Viability and infrastructure evidence was prepared on a joint basis to support the plan and to allow the three JCS authorities to prepare their three Charging Schedules on a co-ordinated basis in order to appropriately address cross boundary infrastructure issues.
- 1.4. Although this joint evidence base has informed the Charging Schedules preparation, each of the JCS councils are CIL Charging Authorities in their own right and are required to prepare separate CIL Charging Schedules.
- 1.5. The Council submitted their Draft Charging Schedule to the Planning Inspectorate for Independent Examination on the 26th July 2016, hearings were held from the 15th to the 17th May 2018 and the Examiner recommended approval of this document, with recommended modifications on the 31st July 2018.
- 1.6. All relevant evidence can be accessed via the JCS website <http://jointcorestrategy.org>.
- 1.7. 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.
- 1.8. Specific infrastructure projects will therefore still be funded through Section 106 planning agreements, where these are directly related to a proposed development and are needed to make individual planning applications acceptable in planning terms.
- 1.9. The statutory tests for S106 agreements as set out in the Community Infrastructure Levy Regulations 2010 (as amended) and as policy tests in Paragraph 56 of the National Planning Policy Framework (2018) 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.

2. Chargeable development

- 2.1. CIL is levied on the development of virtually all buildings that people 'normally go into'. The national definition of chargeable development identifies the following development types as liable for CIL:

- Developments of more than 100m² of new floorspace;
- Development of less than 100m² of new floorspace which results in the creation of at least one or more new dwellings;
- The conversion of a building that is no longer in lawful use.

3. Calculating the CIL Chargeable Amount

3.1. CIL charges will be calculated in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended).

3.2. The Community Infrastructure Levy is generally chargeable on the net increase in gross internal floor space of all new development, except:

- Minor development: that is buildings or extensions where the gross internal area of new build is less than 100m², other than where the development will comprise one or more new dwellings (in which case the new dwellings will constitute 'Chargeable Development', irrespective of their size);
- Where the CIL chargeable amount is calculated to be less than £50;
- Where the development is of buildings into which people do not normally go, or which they go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery; or
- Where the development is exempt under Part 6 of the CIL Regulations (as amended).

3.3. In accordance with CIL Regulation 40, all CIL liability will be index linked to the Royal Institute of Chartered Surveyors (RICS) Building Cost Information Service (BCIS) All-in Tender Price Index though it is acknowledged that the use of other price indexes is also permitted.

3.4. As set out in the Community Infrastructure Levy Regulations 2010 (as amended), the calculation of the chargeable amount is based on gross internal area (GIA). The definition of gross internal area is not specified in the regulations; however, the generally accepted method of calculation is the RICS Code of Measuring Practice (6th edition, 2007).

4. Exemptions

4.1. The Community Infrastructure Levy Regulations 2010 (as amended) 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.

4.2. Exemptions to chargeable development, whether mandatory or discretionary cannot automatically be given and applicants must therefore 'claim' the exemption using the appropriate forms available from the Borough Council website or the on-line Planning Portal.

5. CIL rates

5.1. The following rates are expressed in £ per square metre value.

5.2. For residential sites in Tewkesbury Borough Council's administrative area CIL rates are given in table 1.1 below.

5.3. Table 1.1 also sets out the CIL rates for strategic sites that are located within Tewkesbury Borough Council's administrative area.

Table 1.1: Residential CIL rates

		Community Infrastructure Levy (£ per m ²)
Generic sites	Tewkesbury 10 dwellings and under	£104
	Tewkesbury between 11 and 449 dwellings	£200
	Tewkesbury 450 dwellings and over	£35

Strategic sites	A1 Innsworth	£35
	A3 South Churchdown	£35
	A4 Brockworth	£35
	A5 Northwest Cheltenham	£35
	B1 West Cheltenham	£35
	B2 Twigworth	£35

5.4 In accordance with Regulation 12 of the Community Infrastructure Levy Regulations 2010 (as amended), the maps in the Appendix identify the location and boundary of the Strategic sites.

6. Other forms of development

6.1. Through the Examination process it was established that further work is needed to test other uses further, for example, there are different definitions for care homes, extra care and retirement living housing for older people and this may impact upon the potential to apply CIL.

6.2. In respect of retail, further viability assessment will be undertaken as part of the immediate review of the JCS and then periodically to establish changes in economic circumstances, after which the CIL charging rates will be reviewed on the basis of updated evidence.

7. Spending of CIL

7.1. Under Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended) 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 S106, 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.

7.2. 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.

8. Duty to pass CIL to local councils

8.1. CIL regulations outline provision for receipts to be redistributed to local parish councils, or to be spent on behalf of designated neighbourhood

forums. 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 adopted, 15% is passed to local councils, subject to a cap equivalent to £100 for every existing dwelling in that area.

9. Optional exemptions

9.1. The CIL Regulations allow Local Authorities to make certain choices about how to implement the CIL including allowing:

9.1.1. Payment by instalments (Regulation 69b)

Payment of a CIL charge is due from the date at which a chargeable development commences. The Council has decided to exercise its discretionary power to allow the payment of CIL by instalments to provide flexibility and support for small builders and more complicated and phased developments. **An 'instalment policy' stating the parameters of this process was adopted alongside Tewkesbury Borough Council's Charging Schedule.**

9.1.2. Social housing relief (Regulation 49)

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. **The authority have not currently adopted this form of relief.**

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

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 enables developers to provide infrastructure that is needed to support new development, but is not directly related to a specific development, the opportunity to provide it directly rather than contributing towards 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 Valuation Office Agency). **The authority have not currently adopted this form of relief.**

9.1.4. Relief for exceptional circumstances (Regulation 55)

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 provides the Council with some flexibility to deal with complex sites which are proved to have exceptional costs or other requirements which make them unviable. **The authority have not currently adopted this form of relief.**

9.1.5. Relief for charitable investment activities (Regulation 44)

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. **The authority have not currently adopted this form of relief.**

END

Tewkesbury Borough Council

Community Infrastructure Levy

Payment by Instalments Policy

Community Infrastructure Levy (CIL) Instalments Policy

In accordance with Regulation 69B of the Community Infrastructure Levy Regulations 2010 (as amended), Tewkesbury Borough Council have produced this Instalments Policy for publication.

This policy allows persons liable to pay CIL to do so by instalments. As required by regulations, the time the first payment is due is calculated from the date the development is commenced at which time a demand notice will be issued setting out the Instalments Plan in detail.

Failure to submit the assumption of liability form (CIL Form 1), prior to commencement of development, will disqualify an applicant from paying by instalments and the total amount liable will become payable within 60 days of commencement of development.

In accordance with Regulation 83, failure to notify the charging authority of commencement through the submission of a statutory commencement notice (CIL Form 6) will result in the total amount liable, along with any surcharges and interest specified in the regulations, becoming payable immediately.

Failure to pay an instalment on or before the due date identified in the statutory demand notice will result in the total outstanding amount liable, along with any surcharges and interest specified in the regulations, becoming payable immediately.

INSTALMENTS POLICY:

This Instalments Policy will take effect from 1st January 2019.

Table 1: Schedule of Instalments

Total Amount of CIL Liability	Number of Instalments	Payment periods and Proportion of CIL Due			
		1 st Instalment	2 nd Instalment	3 rd Instalment	4 th Instalment
£100,000 or less	One	100% payable within 18 months of commencement of development			
£100,001 to £1,000,000	Three	10% payable within 60 days of commencement of development	45% payable within 6 months of commencement of development	45% payable within 12 months of commencement of development	
£1,000,001 and above	Four	10% payable within 60 days of commencement of development	30% payable within 6 months of commencement of development	30% payable within 12 months of commencement of development	30% payable within 24 months of commencement of development

ENDS