

# Shepway District Council

## Community Infrastructure Levy: Preliminary Draft Charging Schedule

*(Draft date: August 2014)*

**Folkestone**

Hythe & Romney Marsh  
Shepway District Council



[www.shepway.gov.uk](http://www.shepway.gov.uk)

**Shepway District Council  
Community Infrastructure Levy:  
Preliminary Draft Charging Schedule  
Consultation**

The consultation on the Community Infrastructure Levy (CIL): Preliminary Draft Charging Schedule is the first stage in developing CIL in the district. All responses will be considered prior to a Draft Charging Schedule being prepared for further consideration during late 2014/ early 2015.

The consultation period on the CIL: Preliminary Draft Charging Schedule runs from Monday 18<sup>th</sup> August 2014, to Monday 13<sup>th</sup> October 2014 (comments to be received by 5pm).

For further information, please visit the Council's website at:

<https://www.folkestone-hythe.gov.uk/planning-policy/cil-revised-draft-charging-schedule-submission-version-nov-2022>

Or telephone: 01303 853364

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## 1) **The Charging Authority and Charging Area**

The Charging Authority is Shepway District Council.

The charging area covers the administrative area of Shepway District.

## 2) **The Consultation**

### **Purpose of Consultation**

This consultation document represents the first formal stage in Shepway District Council's preparation of a Community Infrastructure Levy (CIL) charging schedule. The document sets out:

- The background and regulations governing CIL;
- It's relationship to the delivery of the Local Plan;
- The viability methodology used to arrive at the proposed CIL rates;
- The proposed rates that developers will need to pay when undertaking different types of development in different parts of the District, once a CIL charging schedule is adopted; and
- An indication of how CIL receipts will be allocated in support of the infrastructure required to support development of the area.

The Preliminary Draft Charging Schedule and its consultation has been prepared in accordance with the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and statutory guidance. CIL Regulations and guidance documents can be accessed via the following websites:

<https://www.gov.uk/government/policies/giving-communities-more-power-in-planning-local-development/supporting-pages/community-infrastructure-levy>

[http://www.pas.gov.uk/web/pas-test-site/3-community-infrastructure-levy-cil/-/journal\\_content/56/332612/15149/ARTICLE](http://www.pas.gov.uk/web/pas-test-site/3-community-infrastructure-levy-cil/-/journal_content/56/332612/15149/ARTICLE)

### **Responding to the Consultation (key issues and questions)**

In responding to the consultation, the Council would in particular welcome comments and views on the following key issues and questions:

- 1) Given the viability assessment and the need to fund infrastructure, are the proposed CIL rates set at a reasonable level, to enable developments to achieve viability?
- 2) Given the viability assessment's analysis of value areas are the proposed CIL zones set realistically, to enable residential developments to achieve viability within each zone?

Comments are also invited on any points raised by this consultation document, whether related to the above questions or not.

### **How to Submit Comments**

Comments can be sent by completing and sending a consultation comments form, to the following addresses:

[planning.policy@folkestone-hythe.gov.uk](mailto:planning.policy@folkestone-hythe.gov.uk)

Or by sending a hard copy of the consultation comments form to:

CIL PDCS Consultation  
Shepway District Council  
Planning and Building Control  
Planning Policy  
Civic Centre, Castle Hill Avenue  
Folkestone, Kent  
CT20 2QY

A copy of the consultation comments form can be downloaded via the following web-link:

(Deprecated)

### **Timescale for Submitting Comments**

The consultation period on the Preliminary Draft Charging Schedule, runs from Monday 18<sup>th</sup> August 2014, to Monday 13<sup>th</sup> October 2014 (comments to be received by 5pm). Please note all comments received will be made public.

### **Timetable for Shepway District Councils Adoption of a CIL Charging Schedule**

The Government's CIL regulations require the Council to go through a number of stages before it can adopt and set a commencement date for its CIL Charging Schedule. This is reflected in the following indicative timetable:

<b>Activity</b>	<b>Timing</b>
CIL: Preliminary Draft Charging Schedule consultation	18 <sup>th</sup> August to 13 <sup>th</sup> October 2014
Review of comments received and preparation of Draft CIL Charging Schedule	October to December 2014
Draft CIL Charging Schedule issued for further consultation and representations	January to February 2015
Draft of Regulation 123 List	
Submission of draft CIL Charging Schedule to Secretary of State	Early spring 2015
Examination in Public for Draft CIL charging schedule	Late Spring 2015 (exact date to be set)
Shepway District Council's adoption of CIL charging schedule	Summer 2015
Commencement date of CIL charging schedule	Summer 2015
<i>Note: The Council will use its best endeavours to keep to the above indicated timetable, but reserves the right to amend this if circumstances as they become known, determine this to be necessary.</i>	

### **3) The Community Infrastructure Levy**

#### **What is CIL?**

CIL allows local authorities in England and Wales (defined as Charging Authorities) to raise funds from developers undertaking new building projects. It effectively replaces much of the existing process of planning obligations commonly known as 'Section 106' agreements.

The primary use of CIL is to gain financial contributions from development to help fund new or improved infrastructure required to support the growth identified in Shepway District Council's Core Strategy Local Plan, across the district to 2031.

CIL will not however, be the sole funding source available to fund infrastructure needs. It therefore needs to be combined with other sources including those available from public sector bodies, infrastructure and service providers. CIL will also operate in parallel with a scaled back planning obligations / s106 system.

#### **Legislative Context**

CIL was introduced in the Planning Act 2008 and defined in the CIL Regulations 2010 (as amended). Local Authorities have to meet a number of requirements in developing and adopting their CIL charging schedules, with these set out by:

- The Planning Act 2008 (as amended by the Localism Act 2011);
- The CIL Regulations 2010, as amended in 2011 and 2012 and 2013 and 2014; and
- The CIL Guidance issued under S221 of the Planning Act 2008, which is statutory guidance.

#### **What are the advantages of CIL?**

The Government's CIL regulations and guidance outlines a range of key advantages over the current system of Section 106 Agreements including:

- It will be less time consuming, reduce the levels of negotiation with applicants and help speed up the planning system;
- It is a non-negotiable charge which is transparent and predictable, meaning that applicants will know their CIL liability prior to submitting a planning application;
- CIL provides a fairer system in that it relates contributions to the size of liable developments in respect of net new floor space provided by a development, and new residential dwellings;
- CIL collects contributions from a wider range of developments than under section 106, providing additional funding to allow local authorities to carry out a range of infrastructure projects that not only support growth but benefit the local community;

#### **Parish and Town Councils' Neighbourhood Fund**

Under the CIL Regulations, Parish and Town Council areas where CIL liable development takes place, will receive their own portion of CIL to spend on the infrastructure they want. In areas where there is no neighbourhood plan this will be 15%, capped at £100 per existing council taxed dwelling. Where a neighbourhood plan is in place the portion is an uncapped 25%.

## **How does CIL relate to planning obligations & s106?**

CIL regulations (as amended) require that Section 106 planning obligations are scaled back with pooling of obligations limited to no more than five schemes from April 2015. From then on, CIL is expected to provide the mechanism by which funding contributions are secured, to meet the cumulative and wider infrastructure needs, caused by developments.

Some site-specific infrastructure requirements will however remain without which, planning permission should not be granted. Some of these needs may be provided for by CIL funds, but some may also be subject to site or very local infrastructure needs. Typically this might be the situation for larger and / or more complex development sites.

For this reason, the scaled back section 106 planning obligations system will operate in parallel to CIL. In addition, section 106 agreements will remain for meeting affordable housing provisions.

To safeguard developers, authorities cannot charge for the same infrastructure items through both planning obligations and CIL. Under CIL Regulation 123, they should show which items or types will not be subject to planning obligations by publishing a list of infrastructure projects or types they intend will, or may be funded by CIL. The Regulation 123 list is presented as supporting evidence when the CIL Draft Charging Schedule is examined, but it is not part of the charging schedule as it can be reviewed and changed independently of it.

## **What developments are CIL liable?**

CIL is a locally set charge on new development. It is based on setting a £s per square meter charge levied on the gross internal floor space of the net additional area, of liable developments identified by a CIL charging schedule.

CIL regulations outline that most buildings that people normally use are liable to pay the levy, whether the proposal is for a new building, or an extension resulting in 100 sq. m or more of net increase in gross internal floor space. Developments creating additional dwellings, which may be less than 100 sq. m, are also liable.

If a charging authority chooses not to levy CIL on a particular type of development because of viability reasons, then it still has to identify this category of development as liable for £0 per sq. m, in its charging schedule.

## **Exemptions from CIL**

The CIL Regulations outline as follows that some development will not be subject to a charge:

- Development of less than 100 sq. m, unless it is a whole house, in which case the levy is payable;
- Self-build dwellings and residential annexes and extensions, where self-build has been defined as private individuals who self-finance their own projects and build or commission the construction of their own home, working on their own or with builders;
- Those parts of a development which are to be used as affordable housing;
- Development by registered charities for the delivery of charitable purposes;
- Buildings into which people do not normally go; buildings which people only enter intermittently for the purposes of inspection or maintenance; and structures which are not buildings, such as pylons;

- Specified types of development which local authorities have decided should be subject to a 'zero' rate and specified as such in their charging schedules;
- Vacant buildings brought back into the same use, but where there is no increase in floor space; and
- Development where the levy liability is calculated to be less than £50.

The CIL Regulations state that discretionary relief can be made available for charitable investment if the charging authority chooses to make it available in its area and publishes a local policy. To be considered for relief, the whole or greater part of the chargeable development must be held as an investment from which the profits will be applied for charitable purposes.

The CIL Regulations also state that discretionary relief can also be made available for 'exceptional circumstances', if the charging authority considers that:

- Requiring payment of the charge would have an unacceptable impact on the economic viability of the chargeable development; and
- Granting relief would not constitute State Aid.

The Council considers however that the viability evidence shows that CIL rates will not have an unacceptable impact on economic viability of chargeable development. Accordingly, the Council does not propose to make discretionary relief available for this exceptional circumstance.

### **Instalment Policy and when is CIL Payable**

Liability to pay CIL is triggered by commencement of the development. By default it must be paid within 60 days, but for schemes with phased outline permission payment will be triggered separately for each phase.

In addition and in accordance with Regulation 69b of the CIL Regulations (as amended), a charging authority can set its own policy allowing all large liabilities to be paid by instalments. To implement this, a Council would be required to publish an instalment policy on its website. Such a policy would not be part of the charging schedule and could be changed independently of it. An instalment policy would apply to all developments and should contain the following:

- The number of instalment payments;
- The amount or proportion of CIL payable in any instalment;
- The time from commencement by which the first and subsequent instalments must be paid;
- Any minimum amount of CIL below which CIL may not be paid by instalment.

The Council intends to consider the appropriateness of introducing an instalment policy prior to the adoption of its charging schedule during the summer of 2015.

### **Discretionary Charitable Relief Policy**

In accordance with Regulations 44 and 48 of the CIL Regulations (2010) (as amended), a charging authority can offer discretionary charitable relief for development proposals owned by charities, if they meet the qualifying criteria as set out in the CIL Regulations.

The Council intends to consider the appropriateness of introducing a discretionary charitable relief policy prior to the adoption of its charging schedule during the summer of 2015.



## **Payment in Kind Policy**

In accordance with Regulations 73 (A & B) and 74, CIL Regulations give a charging authority the discretion to accept payments in kind to allow land payments or infrastructure delivery (on or off site) 'in kind' for the whole or part of CIL, in respect of chargeable development.

The Council intends to consider the appropriateness of introducing a discretionary payment in kind policy prior to the adoption of its charging schedule during the summer of 2015.

## **CIL and Existing Planning Permissions**

Developments which receive planning consent and have concluded section 106 agreements prior to the commencement date of a CIL Charging Schedule, will not be liable to CIL. This also applies to planning consents that have not started on site work, and have not time lapsed.

Where a planning permission lapses, or is subject to significant modifications, after the commencement date of a CIL charging schedule, then the new consent will be subject to CIL.

## **The Evidence Base**

When establishing a CIL Charging Schedule and CIL rates, a local authority must show that there's need for infrastructure funding to support its Local Plan. The local authority also has to demonstrate available sources of infrastructure funding are insufficient to meet all infrastructure needs over the life span of the local plan, and that a funding gap therefore exists.

Having established a funding gap, CIL regulations require a charging authority to seek balance between infrastructure contributions from developers in support of the Local Plan's delivery, and their impact on development viability. A local authority is required to explain how it has achieved this balance at the examination in public stage of the CIL charging schedule process.

Therefore, a CIL charging schedule must be informed by available evidence, which includes:

- The Local Plan, its envisaged development and infrastructure assessment;
- An infrastructure delivery plan to demonstrate broad needs and a funding gap; and
- A viability assessment to test the likely impact of CIL rates on the viability of developments envisaged by the Local Plan.

A summary of the above Shepway District Council evidence is provided below, with full documents accessed via the following web link:

(Deprecated)

#### **4) Development and Infrastructure Context**

##### **Shepway District Council Core Strategy Local Plan**

The Core Strategy Local Plan sets out a long term vision for the district, and brings together the aims and actions of all interested parties, by directing and managing land-use and developments. The Core Strategy was adopted as part of the statutory development plan for the district on 18<sup>th</sup> September 2013, with the general plan period for the document running from 2006 to 2031. The document sets out policies to guide the scale, type and distribution of development.

The Core Strategy's Housing and Economic Growth Strategy (policy SS2), establishes the quantity of required development for housing and jobs. It sets out a long term objective of delivering an average minimum of 350 dwellings (Class C3) per annum, from 2006/7 and up to 2030/31. To support housing delivery, a target is set to provide for approximately 8,800 dwellings by 2030/31.

Allied to this rate of housing delivery, business activity and the provision of jobs will be facilitated through - supporting town centres; the protection of sufficient employment land across the district; and concerted efforts to deliver rural regeneration (especially in south and west Shepway). To support delivery, a target is set to enable development of approximately 20ha gross of industrial, warehousing and office developments (B classes), from 2006/7 to 2025/26; and approximately 35,000 sq. m gross of goods retailing space (Class A1).

##### **Core Strategy Local Plan Infrastructure Assessment and draft Delivery Plan**

The Core Strategy Local Plan Infrastructure Assessment and draft Delivery Plan (IDP) (June 2014) has been produced to support the delivery of the Core Strategy Local Plan's long term vision and policies on the scale, type and distribution of development, in the district, over the time period 2006 to 2031.

The document takes as its starting point the Core Strategy's approach to infrastructure planning, its infrastructure assessment, and its emphasis on development providing or contributing towards, the district's infrastructure needs currently, or in the future, as part of planned growth in housing and employment opportunities.

The cornerstone of the IDP's focus are the priority infrastructure initiatives and projects identified by the Core Strategy, which indicate in broad terms, the types of investments required to mitigate on-site, cumulative and wider impacts of developments, across the district, over the lifetime of the Local Plan.

The IDP has taken a snapshot of infrastructure categories and associated projects so far identified by delivery partners over the Local Plan period, to determine total cost estimates, the level of confirmed funding, the extent of funding contributions currently subject to agreement, and the extent of the funding gap. Key points from this assessment are summarised as follows:

- Up to 2031, infrastructure costs are estimated at over £112 million at 2014 prices.
- Up to 2031, a potential funding gap of over £19 million currently exists, if all infrastructure funding contributions currently under consideration and discussion come to fruition. In the worst case scenario, should no funding contributions materialise, the funding gap up to 2031 grows to over £69 million.

- Up to 2020, over £84 million of infrastructure investment has been identified by delivery partners. Available information puts confirmed funding at over £36 million, with approximately £48 million of funding to be confirmed and / or identified.

A number of the infrastructure projects identified by the IDP are however, currently part of live and / or pending planning applications; subject to funding discussions with partner organisations; bids for funding support to grant and investment making bodies; and s106 discussions. Progress on this activity will therefore influence the parameters of the IDP's infrastructure assessment and funding gap analysis, beyond the current June 2014 snapshot.

## **5) Independent CIL and Whole Plan Economic Viability Assessment**

In April 2014, the Council commissioned Dixon Searle Partnership to undertake a CIL and Whole Plan viability study. The assessment considered the cumulative impact of the Core Strategy Local Plan's policy requirements, including those relating to affordable housing provision. The study also looked at a range of evidence and market information on land and property values. A typology of development sites and development scenarios that reflected the composition of development opportunities across the district was also tested to assess the impact of CIL rates.

The CIL rates proposed in the PDCS are subsequently based on the results of the viability study. Key findings include:

- Shepway has a wider range of residential sales value areas than found in many other local authority areas, ranging from comparatively low value locations including parts of East Folkestone and rural locations such as Lydd, and comparatively high value areas in the North Downs, including Ellham.
- The ability of residential developments to sustain a level of CIL is influenced by value areas and policy requirements, the most significant relating to affordable housing – e.g. a low value area plus full affordable housing requirement, equates to a scenario, which renders developments unviable if a significant CIL rate is also imposed.
- The above 2 points have combined to mean that the most appropriate way to ensure a viable level of CIL charge on residential developments is to differentiate CIL rates according to a range of charging zones that reflect value areas as far as is practicable, across the district.
- Larger convenience and comparison retail developments such as supermarkets and retail warehouses were found to be able to accommodate a significant CIL rate.
- All other development categories were found to be at the margins of viability if CIL were to apply.
- Given the higher on-site infrastructure costs associated with larger and more complex development sites, consideration should be given to exempting larger and strategic development sites from paying CIL, with the focus remaining on securing infrastructure contributions via s106 agreements, within the limits imposed by the scaling back of planning obligations from April 2015.

In the context of the final point above, the Core Strategy's key sites at Folkestone Harbour and Seafront, Shorncliffe Garrison and Sellindge, are (at July 2014) subject to s106 discussions on the former site, and submission of planning applications for the latter 2 sites. It is therefore highly likely that these sites in particular will fall out with the CIL regime, given a combination of their complexity, the timing of their planning applications and respective s106 agreements, and the summer 2015 target date for the commencement of the Council's CIL charging schedule.

## 6) Proposed CIL Rates and Zones

### Residential

Based on the findings of the viability study, the maps included at appendix 1 and 2 propose the CIL rates indicated by the following tables for residential developments in the District:

<b>Residential Developments</b>	
<b>Zone (as per maps at Appendix 1 &amp; 2)</b>	<b>CIL rate /£ per sq m</b>
<b>A</b>	£0
<b>B</b>	£50
<b>C</b>	£100
<b>D</b>	£125

### Retail

Based on the findings of the viability study, the following District wide CIL rates are proposed to apply to retail developments:

<b>Retail Developments</b>	
<b>Retail development</b>	<b>CIL Rate – per sq m</b>
Large scale convenience retail (a)	£100
Large scale comparison retail (b)	£100
All other retail development (c)	£0
<u>Notes</u>	
(a) <i>Includes non town-centre, large stores and supermarkets selling food and non-food items.</i>	
(b) <i>Includes non town-centre large stores, retail warehouses and showrooms selling items not normally obtained on a frequent basis including – clothing and footwear; DIY, gardening, leisure, sports and recreational items; household goods, carpets, furniture and electrical goods; and vehicles.</i>	
(c) <i>Includes all other smaller scale town centre and local retail developments</i>	

## Strategic Development Sites

Based on the findings of the viability study, the following CIL rates are proposed to apply to the identified Core Strategy Local Plan strategic development sites, and other key developments sites considered appropriate by the Council:

Strategic and Key Development Sites	
Locations	CIL Rate – per sq m (for all development)
Folkestone Harbour & Seafront – as defined by Core Strategy Local Plan policy SS6: Spatial Strategy for Folkestone Seafront	£0
Shorncliffe – as defined by Core Strategy Local Plan Policy SS7: Spatial Strategy for Shorncliffe Garrison	£0
Sellindge – as defined by Core Strategy Local Plan Policy CSD9: Sellindge Strategy	£0
Key development sites in New Romney – as defined by Core Strategy Local Plan Policy CSD8: New Romney Strategy	£0
Key development sites in Hawkinge – as defined by Core Strategy SS1: District Spatial Strategy (with reference to consolidation of Hawkinge’s growth).	£0
<i>Note: The Council considers that the above strategic and key sites are more appropriately addressed through a s106 process given their current stage in the planning process.</i>	

## Other Developments

Based on the findings of the viability study, the following District wide CIL rates are proposed to apply to all other forms of development:

Other Developments	
Other	CIL Rate – per sq m
All other developments	£0

## 7) CIL Income Estimates and Use

### Estimated CIL Income

For residential development, based on the projected growth and approximate timing of delivery outlined by the Core Strategy Local Plan, and the residential CIL rates and zones proposed by the PDCS - it is currently estimated that in the region of £9 million could be generated from CIL income over the plan period to 2031. Depending on timing of delivery, approximately 43% of the total could be raised by 2020, with the remaining 57% generated from 2020 to 2031. Caution does however need to be exercised on the estimates, given they are based on full delivery of residential development sites identified by the SHLAA, and benign market conditions prevailing over a long period of time.

The amount available to the Council to fund infrastructure will however, be reduced due to the need to net off a 5% administration cost, and allocate neighbourhood funds to Parish and Town Councils at either the 15% or 25% rate if an area has an adopted neighbourhood plan, where developments takes place.

Revenues from CIL are therefore not expected to bridge the long term funding gap outlined by the Core Strategy Local Plan’s Infrastructure Assessment and draft IDP. It

should however, play a key role to enable the District Council, it's delivery partners, Parish and Town Councils, to bring forward the infrastructure required to support delivery of the Local Plan.

### **List of Relevant Infrastructure (Regulation 123 list)**

The list of relevant infrastructure that the council proposes will be wholly or partly funded by CIL will be identified in a Regulation 123 list.

The draft IDP provides however, an indication as to which broad infrastructure categories are currently under consideration for inclusion in the Council's draft Regulation 123 list. This will be further developed after the consultation closes on the CIL PDCS.

### **8) Monitoring and Review**

So as to ensure an appropriate CIL rate that reflects changing market and other influences on development viability and deliverability, the Council will put in place an appropriate monitoring and review framework that consists of:

- Reporting of the level of housing market activity and development in the Council's Authority Monitoring Report (AMR).
- Tracking of funding coming forward to meet infrastructure from CIL and other sources.
- The amount of CIL collected since the adoption and commencement dates of a CIL charging schedule; how it has been allocated; and the infrastructure projects part, or wholly supported through CIL.
- A continuation of existing s106 monitoring systems.

CIL Regulations allow adopted CIL rates to be updated annually for inflation, based on the Building Cost Information Service (BCIS) all tender prices index.

It is also anticipated that the CIL charging schedule and its rates will be reviewed within a 3 to 5 year time period, from its adoption date, or at an earlier date if changing market conditions support this.

**Appendices**

**APPENDIX 1: CIL charging zones for residential developments.**



Contains Ordnance Survey data  
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Drawn at 1: 115,000 on A4

**APPENDIX 2:  
CIL charging zones for  
residential developments.**

**Folkestone Town Inset Map**



Contains Ordnance Survey data  
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Drawn at 1: 26,000 on A4



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