

Folkestone & Hythe
Community Infrastructure Levy (CIL) Draft
Charging Schedule Examination
Statement of Compliance – November 2022

Planning Act 2008		
Reference	Requirements	How the council met the requirements
Section 212 – <i>Charging Schedule - Examination</i>		
Section 212(4) - In this section and sections 212A and 213 “the drafting requirements” means the requirements of this Part and CIL regulations (including the requirements to have regard to the matters listed in section 211(2) and (4)), so far as relevant to the drafting of the schedule.		
Section 211(2)	<p>A charging authority, in setting rates or other criteria, must have regard, to the extent and in the manner specified by CIL regulations to:</p> <p>(a) actual and expected costs of infrastructure (whether by reference to lists prepared by virtue of section 216(5)(a) or otherwise);</p> <p>(b) matters specified by CIL regulations relating to the economic viability of development (which may include, in particular, actual or potential economic effects of planning permission or of the imposition of CIL);</p> <p>(c) other actual and expected sources of funding for infrastructure.</p>	<p>a) To support the preparation of our draft Charging Schedule, the Council has had regard to infrastructure cost information contained within the two Infrastructure Delivery Plans, which were prepared as evidence to support the Adopted Places and Policies Local Plan and Core Strategy Review.</p> <p>b) The Council commissioned consultants Gerald Eve to prepare Viability Assessments, to underpin the review of its CIL Charging Schedule.</p> <p>c) The Council had regard to the sources of funding for infrastructure contained within the two Infrastructure Delivery Plans, which were prepared as evidence to support the Adopted Places and Policies Local Plan and Core Strategy Review.</p>
Section 211(4)	<p>The regulations may, in particular, permit or require charging authorities in setting rates or other criteria:</p> <p>(a) to have regard, to the extent and in the manner specified by the regulations, to actual or expected administrative expenses in connection with CIL;</p>	<p>The Council considers that using 5% of CIL receipts to cover administration expenses is justifiable. This is in line with advice in the PPG.</p> <p>In setting the CIL rates (which remain unchanged from the adopted CIL Charging Schedule), both the council and its viability consultants, Gerald Eve, have</p>

	<p>(aa) to have regard, to the extent and in the manner specified by the regulations, to actual and expected costs of anything other than infrastructure that is concerned with addressing demands that development places on an area (whether by reference to lists prepared by virtue of section 216(5)(a) or otherwise);</p> <p>(ab) to have regard, to the extent and in the manner specified by the regulations, to other actual and expected sources of funding for anything other than infrastructure that is concerned with addressing demands that development places on an area;</p> <p>(b) to have regard, to the extent and in the manner specified by the regulations, to values used or documents produced for other statutory purposes;</p> <p>(c) to integrate the process, to the extent and in the manner specified by the regulations, with processes undertaken for other statutory purposes;</p> <p>(d) to produce charging schedules having effect in relation to specified periods (subject to revision).</p>	<p>had regard to actual and expected costs of infrastructure and anything other than infrastructure that is concerned with addressing the demands that development places on the District.</p> <p>The Council is conducting a review of its CIL Charging Schedule to reflect the adoption of the Core Strategy Review, which includes additional site allocations with associated infrastructure requirements to support the planned growth.</p> <p>The Council's current CIL Charging Schedule came into effect in August 2016. It is anticipated that the revised Charging Schedule will be adopted by the council in early 2023.</p>
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Community Infrastructure Levy Regulations 2010 (as amended)

Reference	Requirements	How the council met the requirements
<i>Regulation 12 - Format and content of charging schedules</i>		
Reg 12(2)	<p>A draft charging schedule submitted for examination in accordance with section 212 of PA 2008 must contain:</p> <p>(a) the name of the charging authority;</p> <p>(b) the rates (set at pounds per square metre) at which CIL is to be chargeable in the authority's area;</p> <p>(c) where a charging authority sets differential rates in accordance with regulation 13(1)(a), a map which:</p> <p>(i) identifies the location and boundaries of the zones</p> <p>(ii) is reproduced from, or based on, an Ordnance Survey map</p>	<p>The Draft Charging Schedule (October 2022) submitted for examination contains the following:</p> <p>a) Confirmation that Folkestone & Hythe District Council is the charging authority</p> <p>b) Table 1, which sets out proposed CIL rates (£ per sq m) for different development typologies and across 4 defined zones within the District</p> <p>c) Proposed CIL Charging Maps (Figure 1 in respect of residential use and Figure 2 in respect of retail use) reproduced from OS mapping</p>

	<p>(iii) shows National Grid lines and reference numbers</p> <p>(iv) includes an explanation of any symbol or notation which it uses</p> <p>(d) an explanation of how the chargeable amount will be calculated.</p>	<p>with all relevant annotations, which identify the location and boundaries of the 4 proposed charging zones.</p> <p>d) An explanation (at Section 8) of how the chargeable amount will be calculated.</p>
Regulation 13 – <i>Differential Rates</i>		
13(1)	<p>A charging authority may set differential rates:</p> <p>(a) for different zones in which development would be situated;</p> <p>(b) by reference to different intended uses of development.</p>	Table 1 of the Draft Charging Schedule sets out the proposed CIL rates for different zones and different development typologies.
Reg 13(2)	In setting differential rates, a charging authority may set supplementary charges, nil rates, increased rates or reductions.	Table 1 sets nil rates for Strategic Sites, Table 2 sets out the rates that apply to retail uses across the District, and Table 3 sets nil rates for all other development (i.e. that not otherwise specified in tables 1 and 2).
Regulation 14 – <i>Setting rates</i>		
Reg 14(1)	<p>In setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike what appears to the charging authority to be an appropriate balance between:</p> <p>(a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and</p> <p>(b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.</p>	In considering the proposed differential rates, which remain unchanged from the currently adopted CIL Charging Schedule, the Council has considered the findings of the Viability Assessment 2022
Reg 14(2)	In setting rates in a charging schedule, a charging authority may also have regard to actual and expected administrative expenses in connection with CIL to the	The Council considers that using 5% of CIL receipts to cover administration expenses is

	extent that those expenses can be funded from CIL in accordance with regulation 61.	justifiable. This is in line with advice in the PPG.
Regulation 16 – <i>Publication of a Draft Charging Schedule</i>		
Reg 16(1)	<p>Before submitting a draft charging schedule for examination in accordance with section 212 of PA 2008, the charging authority must:</p> <p>(a) make a copy of the draft charging schedule, the relevant evidence and a statement of the representations procedure available for inspection –</p> <p>(i) at its principal office, and</p> <p>(ii) at such other places within its area as it considers appropriate;</p> <p>(b) publish on its website—</p> <p>(i) the draft charging schedule,</p> <p>(ii) the relevant evidence (to the extent that it is practicable to do so),</p> <p>(iii) a statement of the representations procedure, and</p> <p>(iv) a statement of the fact that the draft charging schedule and relevant evidence are available for inspection and of the places at which they can be inspected;</p> <p>(c) send to each of the consultation bodies—</p> <p>(i) a copy of the draft charging schedule, and</p> <p>(ii) a statement of the representations procedure.</p>	<p>a) Hard copies of the consultation material were placed at the District Council Civic Centre.</p> <p>b) The Draft Charging Schedule July 2022, together with associated evidence documents and a Statement of Representations Procedure were published on the council's CIL Consultation webpage.</p> <p>c) A notification email/letter was sent to 166 consultees on our consultation database, comprising 162 emails and 4 letters (parish councils with no registered email address), thus incorporating all the consultation bodies set out in Regulations 16(1A) and 16(2) below. This email/letter provided background to the CIL consultation and information on where people could view the documents and how to respond (addressing the requirements of a 'statement of representation procedure').</p>
Reg 16(1A)	<p>The charging authority must invite representations on the draft charging schedule from such of the following as the authority considers appropriate:</p> <p>(a) persons who are resident or carrying on business in its area;</p>	The council's consultation database included representatives from all of the consultation groups listed under Reg 16 (1A).

	<p>(b) voluntary bodies some or all of whose activities benefit the charging authority's area; and</p> <p>(c) bodies which represent the interests of persons carrying on business in the charging authority's area.</p>	
Reg 16 (2)	<p>In this regulation – “consultation bodies” means—</p> <p>(a) each of the following whose area is in or adjoins the charging authority's area –</p> <p>(i) a local planning authority within the meaning of section 37 of PCPA 2004;</p> <p>(ii) a local planning authority within the meaning of section 78 of PCPA 2004;</p> <p>(iii) a county council;</p> <p>(b) each parish council or neighbourhood forum whose area is in the charging authority's area;</p> <p>(c) the Mayor if the charging authority is a London borough council;</p> <p>(d) any other person exercising the functions of a local planning authority (within the meaning of TCPA 1990) for an area within, or which adjoins, the charging authority's area;</p> <p>“neighbourhood forum” means an organisation or body designated as such under section 61F(3) of TCPA 1990(1);”.</p> <p>“statement of the representations procedure” means a statement specifying—</p> <p>(a) the period within which representations about the draft charging schedule must be made in accordance with regulation <u>17(2)(a)</u>;</p> <p>(b) the address to which, and the name of the person (if any) to whom, representations about the draft charging schedule must be made in accordance with regulation <u>17(2)(b)</u>;</p> <p>(c) that representations may be made in writing or by way of electronic communications;</p> <p>(d) that persons making representations may request the right to be heard by the examiner; and</p>	<p>All the consultation bodies listed in Reg 16 (2) received a notification email about the public consultation.</p> <p>A specific Statement of Representations Procedure document was produced and published on the council's website, which included all the requirements listed under (a) to (e). These details were set out in the notification email/letter sent to consultees.</p>

	<p>(e) that representations may be accompanied by a request to be notified at a specified address of any of the following:</p> <p>(i) that the draft charging schedule has been submitted to the examiner in accordance with section 212 of PA 2008,</p> <p>(ii) the publication of the recommendations of the examiner and the reasons for those recommendations, and</p> <p>(iii) the approval of the charging schedule by the charging authority.</p>	
<p>Regulation 19 - <i>Submission of documents and information to the examiner</i></p>		
<p>Reg 19 (1)</p>	<p>The charging authority must submit the following to the examiner (in addition to the declaration required under section 212(4) of PA 2008):</p> <p>(a) the draft charging schedule;</p> <p>(b) a statement setting out -</p> <p>(i) if representations were made in accordance with regulation 17, the number of representations made and a summary of the main issues raised by the representations and a summary of how the representations received were taken into account, or</p> <p>(ii) that no such representations were made;</p> <p>(c) copies of any representations made in accordance with regulation 17;</p> <p>(d) where the charging authority modified the draft charging schedule after it was published in accordance with regulation 16, a statement of modifications; and</p> <p>(e) copies of the relevant evidence.</p>	<p>On 23 November 2022, the council submitted the following documents to the Examiner:</p> <ul style="list-style-type: none"> • Statement of Compliance (November 2022) • Draft CIL Charging Schedule – Submission Version (as modified) (November 2022) • Statement of Representations (October 2022) • Copies of all original representations received during the consultation period (with any personal information redacted) • Statement of Modifications (November 2022) • Viability Assessment (October 2022) • Viability Assessment appendices (October 2022) • Infrastructure Funding Gap Statement (as modified) (November 2022) • Infrastructure Schedule (as modified) (November 2022)

Reg 19 (2)	<p>Of the documents and statements mentioned in paragraph (1)—</p> <p>(a) a copy of each must be sent in paper form; and</p> <p>(b) a copy of those mentioned in paragraph (1)(a), (b) and (d) and, to the extent that it is practicable to do so, of those mentioned in paragraph (1)(c) and (e), must be sent electronically.</p>	All the documentation has been sent to the Examiner via the Programme Officer.
Reg 19(3)	<p>As soon as practicable after a charging authority submits a draft charging schedule to the examiner it must:</p> <p>(a) make available at the places where the documents mentioned in regulation 16(1)(a) were made available, a copy of the draft charging schedule and of each of the documents mentioned in paragraph (1);</p> <p>(b) publish on its website—</p> <p>(i) the draft charging schedule and the documents mentioned in paragraph (1)(a), (b) and (d),</p> <p>(ii) any of the documents mentioned in paragraph (1)(c) and (e) which it is practicable to so publish, and</p> <p>(iii) a statement of the fact that a copy of the draft charging schedule and of each of the documents mentioned in paragraph (1) are available for inspection and of the places at which they can be inspected; and</p> <p>(c) give notice to those persons who requested to be notified of the submission of the draft charging schedule to the examiner that the draft has been so submitted.</p>	<p>a) Hard copies of the submission material have been placed at the district council Civic Centre.</p> <p>b) All the submission material has also been published on the council's website.</p> <p>c) A notification email or letter has been sent to all those who requested to be notified that the draft charging schedule had been submitted to the examiner.</p>
Reg 19(4)	Where the charging authority modified the draft charging schedule after it was published in accordance with regulation 16, the charging authority must send a copy of the statement of modifications to each of the persons invited to make representations under regulation 16.	Everyone invited to make representations on the Draft Charging Schedule (under Reg 16) has received an email or letter notifying them that the council has made modifications to the Schedule and explaining how they can request to be heard by the Examiner regarding any of those modifications (in accordance with Reg 21).