

RYEDALE
DISTRICT
COUNCIL



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COMMUNITY INFRASTRUCTURE LEVY

Preliminary Draft Charging Schedule

Consultation Document
September 2013

Introduction

- 1 The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and is defined in the CIL Regulations 2010 (as amended). Local authorities in England and Wales can elect to prepare and adopt a CIL to assist in funding the infrastructure needed to support planned growth. The CIL is a charge, expressed in pounds sterling (£) per square metre, that is levied on the net additional floor space created by most new development.
- 2 The purpose of this document is to set out Ryedale District Council's Preliminary Draft Charging Schedule (PDCS) for the collection of CIL. This report provides a brief explanation of the CIL and the process that is required for the Council to introduce it. Appendix 1 of this report contains the PDCS which is the subject of a 6 week consultation ending on 8 November 2013.

The Charging and Collecting Authority

- 3 Ryedale District Council as the local planning authority is a charging authority and may therefore charge the CIL in respect of development in the planning authority areas of Ryedale District¹.
- 4 The collecting authority for the finance generated by CIL will largely be the District Council as the charging authority. However, where the County Council grants planning permission for development in Ryedale it will be the County Council who will be the collecting authority². Where the County Council is the collecting authority it will pass the CIL payment on to the charging authority minus any reasonable administrative expenses incurred in collecting the CIL on the charging authorities behalf³.

What development will be liable to pay CIL

- 5 Most development that involves the creation of buildings that people normally use will be liable to pay CIL⁴. However, the regulations provide for a number of exemptions to CIL⁵ against which the levy will not be charged, including:
 - New buildings or extensions under 100 square metres of gross internal floor space which does not involve the creation of a new dwelling;
 - The changes of use, conversion or subdivision of a building that does not involve an increase in floorspace;
 - The creation of a mezzanine floor within a building;

¹ Under the terms of Part 11 of the Planning Act 2008. This is excluding the area of Ryedale that falls within the North York Moors National Park.

² Regulation 10(4) of the CIL Regulations 2010 (as amended).

³ In line with Regulation 76 of the CIL Regulations 2010 (as amended).

⁴ This includes development permitted by a 'general consent' (including permitted development).

⁵ Under Part 2 and Part 6 of the CIL Regulations 2010 (as amended).

- Temporary development permitted for a limited period;
 - Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery;
 - Structures which are not buildings, such as pylons and wind turbines;
 - Affordable housing;
 - Development by charities for charitable purposes; and
 - If it is for a use or geographic area that has a zero or nil charge (£0/m²) set out in a CIL Charging Schedule.
- 6 CIL is charged on the gross internal floorspace⁶ of new development. Where planning permission is granted for a development that involves the extension or demolition of a building in lawful use⁷, the level of CIL payable will be calculated based on the net increase in floorspace. This means that the existing floorspace contained in the building to be extended or demolished will be deducted from the total floorspace of the new development, when calculating the CIL liability. This means that most developments on previously developed brownfield sites will generally have a lower CIL liability than developments that take place on greenfield sites.
- 7 The Council will have the ability to claw back any CIL relief where a development no longer qualifies for that relief within a period of seven years from the commencement of the development. For example, should a charity develop a building for charitable purposes and subsequently sell the building to the open market within seven years then the Council will be able to claw back the CIL that would have been charged on the building had it been used for private use.
- 8 The Regulations also allow charging authorities to permit discretionary relief from CIL in certain circumstances (e.g. where a reduced or nil payment may be accepted). Should the Council decide to offer discretionary relief it will publish its policy on the grounds for relief in time for the examination of the charging schedule next year. The cases for relief are likely to be rare, but could include the following:
- Development by charities for investment activities from which the profits will be applied for charitable purposes (as defined by Regulation 44);
 - Development by charities where relief would normally constitute State aid (as defined in Regulation 45); and
 - Where the Council considers there are exceptional circumstances to justify relief (as defined in Regulation 55). In these situations the development site must also have a

⁶ The gross internal floorspace is the internal area of the building, and should include rooms, circulation and service space such as lifts and floorspace devoted to corridors, toilets, storage, ancillary floorspace (e.g. underground parking) etc.

⁷ The definition of lawful use is contained in Regulation 40(10) of the CIL Regulations 2010 (as amended), which states that: "...a building is in use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development."

planning obligation (Section 106 Agreement) relating to the planning permission which is greater than the value of the CIL charge, and the combined cost of the Section 106 agreement and CIL charge would have an unacceptable impact on the economic viability of the development. In such cases the developer would be expected to demonstrate this (as set out in Regulation 57) via an 'open book' approach with an independent valuer.

- Relief can also only be granted if it does not constitute notifiable State aid (as defined in European law).

9 Given these requirements, most development will not be eligible for charitable or exceptional circumstances relief. However, the District Council will be prepared to consider applications for relief, and will confirm this by issuing a statement before the charging schedule takes effect.

How the chargeable amount will be calculated

10 The amount of CIL charge a development is liable to pay will be calculated according to Regulation 40 of the CIL Regulations 2010 (as amended). The method involves multiplying the relevant CIL rate for the type/location of the development by the net additional floorspace – and factoring in an inflation measure to allow for changes in building costs over time. A summary of the method is set out below:

CIL rate x Net additional new build floorspace x Inflation measure

11 The inflation measure used will be the national 'All-in Tender Price Index' published by the Building Cost Information Service (BCIS) of Royal Institution of Chartered Surveyors. The inflation measure involves dividing the Index costs from the year planning permission is granted, by the Index costs from the year the Charging Schedule is adopted. Full details of the method are set out in the Regulations.

12 The CIL Regulations specify that where the overall chargeable amount on a scheme is less than £50, it is deemed to be zero.

Evidence to support the CIL

13 The development of the PDCS has been informed by appropriate evidence which includes:

- The adopted Ryedale Plan: Local Plan Strategy, the emerging Local Plan Sites Document and the draft Helmsley Plan;
- The Council's Infrastructure Delivery Plan (IDP); and
- A CIL Economic Viability Assessment (EVA).

14 The Council's has recently adopted its Ryedale Plan: Local Plan Strategy (LPS). Amongst a suite of other policies, the LPS sets out how much housing, employment and retail development should go where over the plan period to 2027. Policy SP1

sets out the general location of development and settlement hierarchy. SP2 establishes the approach to the distribution of housing across Ryedale. It sets out that over the Plan period the Council will make provision for a minimum of 200 net new homes per annum. The focus of growth is the District's main settlements of Malton and Norton, Pickering, Kirkbymoorside and Helmsley as these have the greatest range of jobs, shops and services and thereby offer the greatest opportunity to deliver sustainable development. Outside of the market towns a number of 'service villages' have been identified providing a local focus for growth as these settlements offer the best access to jobs and have a reasonable level of services and facilities. The LPS makes provision for a total of 45 hectares of employment land over the plan period. This comprises 36ha in Malton and Norton, 6.75ha to Pickering and 2.25ha to Kirkbymoorside and Helmsley. The LPS also makes provision for retail development, however a number of commitments have been recently approved and the remaining requirement will need to be considered through the Council's Local Plan Sites allocation document.

- 15 The Council's emerging Local Plan Sites Document (LPSD) and Helmsley Plan (HP) will make allocations of land principally for housing and employment uses. The LPSD will also potentially allocate retail uses depending on the remaining requirements taking into account recent commitments. The allocations will be accompanied by development briefs/ principles which ensure that appropriate development takes place in line with the aims and objectives of the plan. Where required, allocations may include other uses including new transport infrastructure, new open space/ recreation facilities, and education facilities.
- 16 In order to introduce the CIL local planning authorities, as the charging authority, have to demonstrate that there is a shortfall in funding between the expected total cost of infrastructure needed to support development over the plan period and the level of funding likely to be forthcoming from mainstream sources of funding. This is known as the 'funding gap'. The Council's Infrastructure Delivery Plan⁸ (IDP) identifies the key infrastructure requirements needed to support the level of planned growth set out in the LPS to 2027.
- 17 Testing the economic viability of development is central to the CIL charge setting process and is required to justify the introduction of the CIL to an authority area. Authorities must ensure that the proposed levy rates will not threaten the ability to develop viably the sites and the scale of development identified in the Local Plan. To this end the Council commissioned Roger Tym & Partners (now Peter Brett Associates) to prepare a CIL Economic Viability Assessment (EVA) for the District. The EVA has been prepared in line with Government guidance on the preparation of the CIL issued in April 2013. This work was completed in August 2013 and is available on the Council's website⁹.

⁸ The IDP is available to view online using this link;
http://extranet.ryedale.gov.uk/pdf/Infrastructure%20Delivery%20Plan_submission_complete.pdf

⁹ The CIL Economic Viability Assessment (2013) is available to view using this link:
<http://ldf.ryedale.gov.uk>

- 18 The EVA assesses the viability of the development of a wide range of land uses in the District including housing, office, industry, retail, hotels, community facilities and other sui generic uses, and maps variations in viability across the District. The assessment takes account of the development costs arising from existing and emerging planning policy and regulatory requirements (e.g. affordable housing, sustainable construction & design and open space provision). The assessment also makes an allowance for residual S106/278 contributions for measures that are required to make development acceptable and are directly related in scale and kind to the proposed development. A stakeholder event was held in July 2013 with local property agents and developers to discuss the key assumptions that underpin the viability assessment and changes made to these assumptions where it was considered appropriate.
- 19 A basic principle of the CIL is that where it is economically viable to do so, development should be charged. However, the CIL is not to be used as a policy tool to encourage certain types of development over others by applying a lower or zero rate where development is viable. Differential rates can be applied to different types of development, or to different geographical areas, based on the outcome of the economic viability assessment. Where it has been demonstrated that it would not be viable to apply a CIL charge on a certain type of development, on in a particular geographic area, either a zero CIL rate or a base rate can be applied.
- 20 As can be seen in PDCS set out in Appendix 1, the Council does not propose to charge a base rate on all other chargeable development not specifically identified in the schedule. Therefore a nil charge has been applied given the low levels of development involved and the general low viability of these other forms of development.
- 21 The EVA concludes that there is scope to introduce a CIL in Ryedale District and the proposed CIL rates contained in the PDCS reflect the recommendations of the viability evidence. Based on the viability evidence, the Council is proposing to create a differential charging zone for residential development within the wards of Rillington, Sherburn, Norton West and Norton East (see Appendix 1 for details of the proposed rates). This is based on lower sales value within these wards compared to the rest of the District.
- 22 The Regulations recognise that the CIL charge may make some development unviable and advises that CIL should not be set at such a low rate as to ensure that every development remains viable. In setting the levy rates the Council has sought to strike an appropriate balance between:
- a) the desirability of funding from CIL in whole, or in part, the actual and estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and,

- b) the potential effects, taken as a whole, of the imposition of CIL on the economic viability of development across its area.

Liability and Collection of CIL

- 23 The Levy applies to new development for which planning permission is granted after the Charging Schedule has taken effect, and the amount of CIL payable (the 'Chargeable Amount') is calculated on the day that development is first permitted (which can be the day on which planning permission is granted, if it is granted without conditions or reserved matters being attached, or which can be the day on which the last pre-commencement condition or reserved matters is agreed/approved). Where an outline planning permission permits development to be implemented in phases, each phase of the development is a separate chargeable development¹⁰.
- 24 Liability to pay CIL for qualifying development will be assumed at the time planning permission is granted. Payment of CIL is due from the date the chargeable development commences with payment normally required within 60 days. The liable party is required to notify the collecting authority about the start date of the development.
- 25 The Council recognises the implications that a large CIL liability required at the commencement of a development project could have on cash flows and the ability to raise finance. Therefore the Council is exploring the option to introduce an instalments policy for the payment of CIL over fixed time periods depending on the amount of CIL liable.

Payment in kind

- 26 Under the regulations charging authorities may, at their own discretion, consider accepting land as payment in kind in lieu of CIL¹¹. This will only normally be considered for land in excess of that needed to deliver the infrastructure required by the permitted development (e.g. if the development permitted requires a new school of scale x, the land for a school of scale x will be provided without cost and not in lieu of CIL). The value of land for in lieu payment will be determined by an independent valuer.

Relationship between CIL and S106

- 27 The CIL Regulations 2010 currently¹² include a deadline of 6 April 2014 beyond which restrictions on the pooling of planning obligations (i.e. S106 Agreements and commuted sums) will come into force. From this date the Council will not be able to pool more than 5 contributions from separate developments towards a single item of

¹⁰ As set out under Regulation 9(4) of the CIL Regulations 2010 (as amended).

¹¹ Under Regulation 73 of the CIL Regulations 2010 (as amended).

¹² A Ministerial announcement has suggested that this may be extended to April 2015.

infrastructure not to be funded by the CIL. This means that it will become difficult to deliver larger scale items of infrastructure such as schools, transport schemes etc. where the pooling of many individual planning contributions is often necessary. However, there will continue to be an important role for planning obligations in mitigating the site specific impacts of a development and for providing affordable housing.

- 28 As part of the CIL the Council will need to prepare a list, referred to formally as a Regulation 123 list, setting out the types of infrastructure that it intends to fund through CIL. CIL cannot be used as well as Section 106 to deliver the same piece of infrastructure. The Council will therefore endeavour to produce a list that is clear to ensure that a development is not charged twice for the same infrastructure. An early draft of the infrastructure list is also set out in Section 4 of the Economic Viability Report (EVA) in Table 4.1. A final version of the list has to be published in time for the examination of the Charging Schedule. The Council intends to publish a revised draft Regulation S123 list alongside the Draft Charging Schedule. The draft Regulation 123 list in Table 4.1 will therefore be refined prior to the publication of the Draft Charging schedule in discussion with key infrastructure providers and partners including the Highways Agency, North Yorkshire County Council and the Environment Agency.
- 29 The Regulation 123 list can be reviewed at any time and the Council will regularly monitor the list to ensure it remains appropriate and up to date. This will be reported through the publication of the Council's Monitoring Report that would identify progress on collecting and spending CIL. In line with Government guidance on the preparation and implementation of the CIL the Council will undertake appropriate local consultation when reviewing the Regulation S123 list.

Spending of the CIL levy

- 30 The finance generated from the CIL must be used to deliver infrastructure in the District that is needed to support the level of housing and employment growth proposed within the LPS and the emerging LPSD and HA. This could include funding new or safer road schemes, schools, health and, flood defences, open spaces and leisure facilities. This may be new infrastructure, or may involve repairing, expanding or enhancing existing infrastructure, if that is necessary to support new development. In certain circumstances it may also be spent on the on-going costs of providing infrastructure, which could include maintenance and operational activities.
- 31 It is important to note that CIL is not meant to replace mainstream sources of funding for infrastructure and will not cover the full costs of all of the infrastructure projects identified in the Council's Infrastructure Delivery Plan. The Council will work closely with the relevant infrastructure and service providers to discuss the funding of infrastructure projects.

- 32 The Regulations also allow up to 5% of the CIL collected each year to be used to pay for the administrative expenses incurred by the charging authority. The District Council anticipates that it is likely to seek an element of reimbursement, to cover the costs associated with collection, implementation and monitoring of CIL. This will be accounted for in the Council's monitoring of the expenditure of CIL.

Neighbourhood Funds

- 33 Amendments to the CIL Regulations¹³ were introduced in April 2013 whereby a 'local council' (i.e. parish/town council) with an adopted neighbourhood development plan will receive 25% of the CIL receipts generated by development within the neighbourhood plan area (provided that the development was granted planning permission after the neighbourhood plan was adopted) to spend on local infrastructure. In areas without a neighbourhood development plan in place: the local council will receive 15% of CIL receipts generated by development in the area (with a cap on the CIL revenue the charging authority has a duty to give local councils equal to £100 per dwelling in the area in each financial year).
- 34 This 'Neighbourhood Fund' will be passed directly to parish/town councils where development occurs, and these locally elected councils will be directly accountable for its expenditure and reporting. Where an area does not have a town or parish council the charging authority will hold the neighbourhood fund on the areas' behalf and spend the money in line with the neighbourhood's needs guided by the results of appropriate local consultation.
- 35 The 2013 amendments to the CIL regulations allow the charging authority to require the repayment of neighbourhood funds that remain unspent 5 years after they were transferred to a local council¹⁴. Any returned funds are placed in the pooled CIL fund to be spent on district-wide infrastructure projects. The Council will need to determine its position on requiring the return of unspent neighbourhood funds.

Reporting

- 36 As required by Regulation 62, the Council will publish an annual report on the operation of the levy over each financial year¹⁵. This will form part of the Council's Annual Monitoring Report and will include the following information:
- How much CIL monies have been collected;
 - How much of that money has been spent;
 - Information on how CIL monies have been spent, including on which infrastructure
 - projects, and how much has been used to cover administrative costs; and,

¹³ The Community Infrastructure Levy (Amendment) Regulations 2013.

¹⁴ Regulation 59E of the CIL (Amendment) Regulations 2013.

¹⁵ As required by Regulation 62 of the CIL Regulations 2010 (as amended).

- The amount of CIL retained at the end of the reporting year.

37 Parish and town councils who receive CIL monies will have a duty to report to the District Council annually on how they have used their Neighbourhood Funds.

Monitoring and review of CIL

38 The Council recognises the need to closely monitor the proposed CIL charges, given that changes in the property market, construction costs and changes in local or national policy over time can impact on development viability. Following the intended adoption of the CIL Charging Schedule in 2014, the Council intends to review CIL in line with the recommendations of the EVA in paragraph 11.14-11.17. Regularly monitoring of the relevant indicators will take place to ensure the CIL charge remains appropriate.

Next steps

39 This Preliminary Draft Charging Schedule is the subject of consultation for six weeks ending the **15 November 2013**. This consultation is aimed particularly at neighbouring authorities, local community representatives, infrastructure providers and the development industry, although all interested parties are welcome to make comments.

40 Following completion of the consultation on the Preliminary Draft Charging Schedule the representations received will be reviewed and if required alterations made or further economic viability testing undertaken. The next stage is to then prepare and publish a Draft Charging Schedule that will be the subject of a further six week consultation due to take place during late 2013/ early 2014. It is anticipated that an examination will take place in Spring 2014 with the adoption of the CIL Charging Schedule during the Summer of 2014.

Your views

41 We would like to receive any comments you may have on the Preliminary Draft Charging Schedule (PDCS) provided in Appendix 1 and any other supporting documentation for the introducing CIL. This can viewed on the Council's website using this link:

<http://ldf.ryedale.gov.uk>

42 Responses should be sent to:

By email: cil@ryedale.gov.uk

Or post:

Ryedale CIL Consultation
FAO Charlotte Bogg
Ryedale District Council
Malton
North Yorkshire
YO17 7HH

- 46 Please note that comments cannot be treated as confidential and that they will be made available as public documents.
- 47 For any queries regarding this consultation, please contact Daniel Wheelwright on (01653) 600666 (ext 313) or email: daniel.wheelwright@ryedale.gov.uk

APPENDIX 1: THE PRELIMINARY DRAFT CHARGING SCHEDULE (PDCS)

RYEDALE DISTRICT COUNCIL - COMMUNITY INFRASTRUCTURE LEVY (CIL): PRELIMINARY DRAFT CHARGING SCHEDULE

This Charging Schedule has been prepared in accordance with Part 11 of the Town and Country Planning Act 2008 (as amended by Part 6 of the Localism Act 2011) and the Community Infrastructure Regulations 2010 (as amended). It is supported by local evidence regarding infrastructure requirements and the impact of the CIL on the viability of development in the District, as set out in the background reports. These can be found on the Council's website as part of the CIL evidence base (<http://ldf.ryedale.gov.uk>).

Levy Rates

The rates below will be charged against the gross internal floor area of:

- All new dwellings;
- All other built development exceeding 100 square metres in size; and
- The net additional floor area of all replacement development (after the area of demolished buildings in lawful use has been deducted) where it exceeds 100 square metres.

Use	Proposed CIL charge (per sq.m) ¹⁶
Private market houses:	
<i>Lower Charging Zones</i>	£55
<i>All Other Areas</i> ¹⁷	£70
Supermarkets ¹⁸	£120
Retail Warehouses ¹⁹	£60
Public/Institutional Facilities as follows: education, health, community and emergency services	£0
All other chargeable development	£0

How the CIL charge will be calculated

In accordance with the Regulations, where applicable, the Council will issue a Liability Notice that states the chargeable amount on the granting of planning permission or as soon as possible after the grant of planning permission. The Council will calculate the amount of CIL chargeable using the formulae set out in Part 5 of the CIL Regulations (as amended). Full details of the way in which the CIL will be calculated, together with an overview of the CIL and the full Regulations can be found on the Planning Advisory website:

http://www.pas.gov.uk/3-community-infrastructure-levy-cil/-/journal_content/56/332612/15149/ARTICLE

Charge Zones

The plan on the following page identifies the extent of the two residential charging zones for the District:

¹⁶ The chargeable rate will be index linked to the national All-in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors.

¹⁷ Defined as the Wards of Rillington, Sherburn, Norton West and Norton East as shown on the map on the following page.

¹⁸ Supermarkets are defined as large format, self-service stores, usually with large adjacent dedicated car parks, that are principally used as people's main weekly food and essential consumer goods shopping (although some comparison goods will often also be sold). A large proportion of supermarket customers will use a trolley, rather than a basket in the store.

¹⁹ Retail warehouses are defined as large format stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods. They can be stand-alone units, but are often developed as part of retail parks. Retail warehouses mainly cater for car-borne customers by having large adjacent dedicated car parks.

