

Community Infrastructure Levy Draft Charging Schedule
Regulation 19(1)(b) consultation statement

Stevenage Borough Council

July 2019

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1. Introduction

- 1.1. Stevenage Borough Council published its Draft Charging Schedule for consultation between 18 April and 17 May 2019. Consultation was carried out in accordance with Regulation 16 of the Community Infrastructure Levy Regulations 2010 (as amended).
- 1.2. This statement provides an overview of the consultation responses received and the main issues these raised, in line with Regulation 19(1)(b) of the CIL Regulations.

2. Overview of representations

2.1. The Council received responses to the Draft Charging Schedule from 9 representors.

2.2. Representations were received from:

- Hertfordshire County Council (HCC)
- Historic England
- Mace
- Hill Residential
- North Hertfordshire District Council
- Sport England
- Taylor Wimpey and Persimmon Homes
- Philip Reeves
- Michael Davies

2.3. One late representation was also received from CPRE. This is discussed in more detail later in this report.

3. Summary of main issues raised

3.1. A brief summary of the representations submitted is set out in the table below. This identifies the key issues raised and a brief council response to those comments.

3.2. A more detailed summary of the representations can be found within Appendix 1.

Respondent(s)	Key points raised	SBC response
HCC NHDC	The proposed rates are too low – higher rates could be supported. A smaller buffer should be used in the modelling and the evidence base should be updated to reflect increased sales values.	The proposed CIL rates are based on a robust evidence base. Evidence cannot be continuously updated – it has to be set at a certain point in time. Officers have committed to working with HCC on a joint evidence base to inform a review of CIL within a year of its adoption.
HCC	Rate should be £0 for sheltered and extra care homes provided by not-for-profit organisations.	The proposed CIL rates are based on a robust evidence base, which demonstrates CIL would be viable for these uses.
HCC	Infrastructure to serve strategic sites (North, West and SG1) should be provided with via S106 and S278, not CIL.	SBC have chosen to implement CIL, which will be required alongside S106, for strategic sites. This decision is based on a robust viability evidence base.
HCC Mace NHDC	Governance arrangements for spending money require further discussion and consideration before the examination.	Agreed. SBC is currently working on proposals relating to governance.
Historic England	Discretionary relief for where development affects heritage assets is proposed	SBC has not chosen to implement discretionary relief for this purpose.
Historic England NHDC	Comments around how CIL money should be spent	These comments will be taken into account when determining how CIL monies should be spent. The IDP sets out a schedule of infrastructure

Respondent(s)	Key points raised	SBC response
		improvements required to support the Local Plan.
Mace	Circumstances where CIL can be paid 'in-kind', i.e. by providing land or infrastructure instead, should be set out	Agreed. SBC will provide further detail about payment in kind prior to the examination process.
Individual	Agree with no CIL being charged for employment uses – this market is fragile	Support noted.
Hill Residential Taylor Wimpey and Persimmon	CIL rates are too high. Concerns around evidence used to justify rates and known site specific costs being omitted.	The proposed CIL rates are based on a robust evidence base, which demonstrates CIL would be viable.
Hill Residential HCC Taylor Wimpey and Persimmon	No statement produced to show how responses to previous consultation have been taken into account	Full CIL responses are available to view online and a summary table of representations, along with a note to show how SBC has dealt with each point, is appended to this report.
Hill Residential	Welcome inclusion of a draft Instalment Policy. However, the proposed policy should be in line with recommendations on this contained within the evidence base.	Support noted. SBC will consider revising the policy in accordance with comments received, in advance of the CIL examination.
Hill Residential NHDC Sport England Taylor Wimpey and Persimmon HCC	Welcome draft R123 List. However, concerns it does not provide sufficient detail.	SBC will provide additional guidance on what will be delivered through S106/CIL in advance of the independent examination.
Sport England	Welcome £0 CIL rate for sports/leisure facilities	Support noted.
HCC Taylor Wimpey and Persimmon	Imminent change to CIL regs. must be taken into account. It may be appropriate to delay the introduction of or review CIL as a result.	SBC does not consider the proposed changes to the CIL regulations would require new CIL rates to be considered. A commitment to review rates within 1 year of adoption has already been provided by SBC.

4. Late representation

- 4.1. As discussed in section 2, one late representation was received in response to the DCS consultation, from CPRE. In summary, this raises the point that CIL rates should be higher for Greenfield sites than PDL, based on costs/values, and this would help discourage Greenfield development. It also suggests an outer town centre zone should be included to
- 4.2. This representation was sent to the Borough Council 7 days beyond the deadline, so was not made in accordance with the CIL regulations.

5. Conclusion

- 5.1. No modifications were proposed to the DCS as a result of the consultation responses received. However, work is being undertaken to review the Instalments Policy, produce guidance on Payments in Kind and to move forward with Governance arrangements to consider how CIL income is subsequently spent. We have also committed to reviewing our CIL rates within a year of adoption, as a joint approach with Hertfordshire County Council, to identify any potential changes in viability.

Appendix 1: Detailed summary of DCS representations

Name / Organisation	Representation summary	SBC comment
HCC Growth & Infrastructure Unit	<p>The proposed CIL rates and R123 list will significantly hinder the ability to secure the funding needed to provide services and infrastructure. The rates are less than what we believe development is able to support in Stevenage. Previous HCC reps in respect of sheltered and extra care housing specifically noted when these are provided by not-for-profit organisations development economics are different. The CIL rate should be zero in these cases.</p>	<p>In setting CIL, the Council has struck a balance between the effect the levy will have and viability and the requirement to fund infrastructure to support new development (as required by CIL Regulation 14). Rates of CIL must be informed by viability evidence. Different rates are recommended for Sheltered Housing (£100/m²) and Extracare Housing (£40/m²) in the 2017 CIL Viability Update. This is reflected in the Draft Charging Schedule. It is not appropriate to set differential rates of CIL for particular developers or types of developer. However, affordable housing in this sector (as per the wider market) would not be subject to CIL.</p>
HCC Growth & Infrastructure Unit	<p>Acknowledged there should be a buffer, but HCC is concerned about the 'significant cushion' referred to in the CIL Viability Report and further concerned that modelling completed in 2019 outlines a cushion of 50% for a strategic site. In other areas we are aware of a buffer of around 20%. Concerns that maximum rates are not being tested and applied. Sales values have increased significantly since the viability work was prepared. High level work commissioned by HCC indicates that with sales values averaging £400k p/unit, a CIL rate of £300 p/m² is achievable on greenfield sites. New build houses in Stevenage currently range from £438k to £780k. A sales value of £438k would support a CIL rate of over £500 p/m². This considerable step change in viability requires further consideration. The rates proposed are set at less than 3% GDV - HCC would argue development in Stevenage can bear higher rates. Smaller sites (fewer than 10) that are not required to provide affordable housing could bear higher rates. This is not uncommon. SBC acknowledges the CIL income won't get anywhere near the funding gap demonstrated. HCC consider higher rates, tested to a lower buffer, would maximise the ability to mitigate development. SBC's viability evidence was produced prior to countywide work on Herts Infrastructure Funding Prospectus (HIFP). This contains quite different figures, which indicates a much higher funding gap.</p>	<p>In line with the CIL Guidance (25-019-20190315), allowance is made for a 'buffer' of at least 30% is allowed for. In setting CIL, the Council has struck a balance between the effect the levy will have and viability and the requirement to fund infrastructure to support new development (as required by CIL Regulation 14). Evidence cannot be continuously updated – it has to be set at a certain point in time. Officers have committed to working with HCC on a joint evidence base to inform a review of CIL within a year of its adoption.</p>

HCC Growth & Infrastructure Unit	HCC would like to be reassured that infrastructure required to serve North Stevenage, Stevenage West and SG1 (and other sites over 500 units) will be excluded from the R123 list and provision will be made by S106 and S278 agreements. HCC notes the proposed R123 list includes secondary schools. HCC considers new secondary schools should be funded through S106, and only expansions through CIL. An amendment is suggested accordingly. R123 list should specifically exclude fire hydrants. R123 list does not provide enough flexibility in terms of transport - a more refined list is suggested.	A mix of CIL and S106 will be sought on strategic sites. Further clarification on the breakdown of what will be funded through each mechanism will be provided prior to the examination. All secondary school provision will be funded through CIL. Under the new CIL Regulations, coming into effect from 1 Sept 2019, the obligation to produce a 123 List is removed.
HCC Growth & Infrastructure Unit	Parallel political processes will be required to determine how CIL monies should be prioritised. There will be a need to agree governance arrangements between the two authorities and in setting priorities, as per NPPG. Clarification on timescales for allocating CIL funding would be useful. It is crucial HCC have information on what money is likely to come in to deliver projects - to assess financial viability and deliverability. We have been unable to see how previous CIL reps have been taken into account. A statement would be helpful. The CIL regs are likely to change in the near future. HCC would request a revisit of the CIL approach in Stevenage once this happens.	The spending of CIL income and governance arrangements for this are yet to be finalised. The Council will consult HCC on the proposed options once drafted. A statement setting out how each of the PCDS consultation responses has been dealt with is attached to the July Executive Report and is available on the Council's website. The CIL Regulations have now been made and are due to come into effect on 1 Sept 2019. As such, they will be taken into account accordingly.
Historic England	The Localism Act allows CIL to be used for the maintenance and on-going costs associated with heritage assets. Historic England encourages LA's to consider identifying ways CIL can be used to implement Local Plan policies relating to heritage assets in accordance with NPPF.	The spending of CIL income and governance arrangements for this are yet to be finalised.
Historic England	There may be circumstances where the viability of a scheme to secure the reuse and long term viability of a heritage asset is compromised by the need for CIL payments. We encourage LA's to assert their right to apply discretionary relief for development that affects heritage assets and their settings/significance, that may become unviable if it was subject to CIL. Conservation of heritage assets should be taken into account when setting CIL rates.	The DCS sets out the circumstances in which relief is available.
Historic England	Suggests reference in the R123 list to 'Our Streets and Spaces public realm projects' as the type of infrastructure CIL will be spent on. Development specific obligations and S106 will continue to offer opportunities for funding. You may wish to clarify this in your schedule.	Under the new CIL Regulations, coming into effect from 1 Sept 2019, the obligation to produce a 123 List is removed. The spending of CIL income and governance arrangements for this are yet to be finalised.

Mace	The LA should set out circumstances where CIL can be paid 'in kind' e.g. land or infrastructure is provided instead of cash. This can provide time, cost and efficiency benefits. It can also provide more certainty for developers about when infrastructure items will be delivered. It is noted consideration has been given to phasing. In terms of phased developments, each phase should represent a separate chargeable development and that each separate chargeable development would be liable in line with an instalment policy.	Further guidance will be provided relating to payments in kind, which will sit alongside the charging schedule once adopted.
Mace	Reg 123 List has been reviewed. It will be important to clarify how SBC has collaborated with HCC in setting levy rates and priorities on the Reg 123 List. This agreement is essential for crystallising costs that need to be accounted for at an early stage. It is necessary for a statement to be provided for the relevant CIL information that sets out how CIL monies will be pooled into a fund for infrastructure needed to support development of the Borough and strategic infrastructure elsewhere.	Under the new CIL Regulations, coming into effect from 1 Sept 2019, the obligation to produce a 123 List is removed. The spending of CIL income and governance arrangements for this are yet to be finalised. The Council will consult HCC on the proposed options once drafted.
Michael Davies	The viability of new industrial or office development is very tight at the moment and you should be very careful about doing anything which adversely affects that. The fragile retail market needs to be considered.	Noted. Employment uses will not be subject to CIL.
Hill Residential Limited	Following on from PDCS representation, Hill's interests specifically relate to the proposed residential CIL rates which remain unchanged. Hill are supportive of the principle that development helps deliver needed infrastructure and do not oppose CIL, but need to ensure an appropriate rate is set. Setting CIL at the correct level is important to avoid further under-delivery of market and affordable homes.	Support for principle of CIL noted. In setting CIL, the Council has struck a balance between the effect the levy will have and viability and the requirement to fund infrastructure to support new development (as required by CIL Regulation 14).
Hill Residential Limited	Previous rep raised concerns around justification of charging zones. Comments have not been taken into account. Proposed zone boundary is based on Stevenage Central Inset Map rather than policy or values. Comparison to heatmap of property values provided. The boundaries do not reflect market values. A number of areas will be captured by the higher CIL rate that are located in the lowest value areas. A number of sites lie just outside Zone 1 which fall into category of key town centre uses and function as part of town centre. These CIL rates may hold back development. Further testing should be undertaken.	It is accepted that values do not alter across hard lines. The setting of CIL zones is a quantitative and qualitative basis. The central area of the area where flatland development predominates. A range of typologies have been tested in line with the PPG which says 'Assessing the viability of plans does not require individual testing of every site or assurance that individual sites are viable' at 10-003-20180724.

Hill Residential
Limited

Hill are disappointed their previous comments were not taken on board by SBC. A number of concerns around evidence base were raised. The viability testing used to inform the proposed CIL rates is now further out of date. The concerns remain largely the same: A wider range of typologies should be tested. Benchmark land values have not been updated since 2015 study and are out-of-date. Build costs are out-of-date and too low. Same rate should not be applied to flatted schemes. A number of other assumptions are linked to these. Abnormals are too low. No explanation by SBC of the methodology for using the evidence to get to the proposed rates. There are vast differences between typologies 8 and 9 (Town centre flats) and other PDL typologies. Hill questions how these typologies are indicating significantly more viability in the updated study.

Previous responses have been considered by SBC. A statement setting out how each of the PDCS responses has been dealt with is attached to the July Executive Report and is available on the Council's website.

The assumptions used in the 2017 Viability Update are carried forward from those set out in the 2015 study (updated as appropriate). The 2015 study was subject to detailed review and challenge through the Local Plan Examination where it was found sound (see para 185 of Inspector's Report).

In line with the CIL Guidance (in the PPG) says that 'Viability assessments should be proportionate, simple, transparent and publicly available in accordance with the viability guidance. Viability assessments can be prepared jointly for the purposes of both plan making and CIL charging schedules. This has been done. It is accepted that it is unfortunate the adoption of the Plan was delayed by the Secretary of State; however the approach taken is appropriate and proportionate.

The base modelling is set out in the Whole Plan Viability Study, including CIL – Sept 2015. This included a wide range of typologies (see Chapter 9) that were developed to be representative of the nature of development anticipated under the Stevenage Local Plan.

The 2019 NPPF and updated PPG clarify the derivation of the Benchmark Land Values. The approach taken is fully in line with the updated guidance (EUV Plus approach), allowing for 'a reasonable premium to the landowner'. This was carried forward from the earlier work. No alternative evidence has been presented.

The BLV were tested through the consultation process and carried forward from the local plan process.

The build costs and the values are over a year old, but are consistent with the evidence that supported the Local Plan so considered proportionate. The same costs are NOT used for flats as for other types of development. The appropriate BCIS cost for each housing type is used. The figure for low rise flats is £1262/m² and high rise is £1617/m². This compares to £1088/m² for terraced, £1086/m² for semi-detached and £1,267/m² for detached housing.

The s106 assumption of £2k p/unit was a cautious estimate tested through the consultation process and informed by discussions with officers.

Hill Residential Limited	<p>Welcome release of proposed Instalment Policy for consultation. HDH provided a range of potential instalment policies within their study document depending on level of liability. The largest with a payment profile over 6 yrs. The proposed policy indicates full payment will be required within 2 yrs. This does not reflect HDH's modelling. Suggest instalments should reflect the length of the permission granted, with equal instalments due annually post commencement. Not clear whether Exceptional Circumstances Relief will be made available or how Discretionary Social Housing and Charitable Relief will be available in operation. Hill do not consider it any detriment to SBC in making such reliefs available.</p>	<p>Noted. SBC will review the draft Instalments policy in accordance with comments received, in advance of the CIL examination. The DCS sets out where discretionary relief is available.</p>
Hill Residential Limited	<p>Welcome that SBC has now produced R123 List. Concerned infrastructure types and projects are not clear, specifically for schools. Also no reference to early year's provision. Wording changes recommended. No evidence on what £2,000 per unit S106 assumption is based on. Concerned this is low. Suggest SBC carefully considers the items to be sought through S106 and those to go on the R123 List. Until this is done, SBC cannot fully understand whether their rates take into account policy requirements. If CIL is set too high it can lead to adverse impact on affordable housing provision.</p>	<p>Under the new CIL Regulations, coming into effect from 1 Sept 2019, the obligation to produce a 123 List is removed. Further clarification on the breakdown of what will be funded through each mechanism will be provided prior to the examination. The s106 assumption of £2,000 per unit was a cautious estimate tested through the consultation process and informed by discussions with officers.</p>
North Hertfordshire District Council	<p>Pleased to see the evidence underpinning the proposed rates now includes direct reference to the IDP. We welcome that the IDP infrastructure list has been broadly translated into a number of items on your R123 list. The R123 list does not include contributions towards health. We would welcome clarity on your intended approach in this regard. NHDC would welcome proactive discussion with SBC to identify and develop key projects which may inform the distribution of monies. We would encourage greater consideration and clarity over the eventual governance arrangements prior to the examination. Without clarity at this stage, it could compromise the ability to deliver the infrastructure required.</p>	<p>Under the new CIL Regulations, coming into effect from 1 Sept 2019, the obligation to produce a 123 List is removed. Further clarification on the breakdown of what will be funded through each mechanism will be provided prior to the examination. The spending of CIL income and governance arrangements for this are yet to be finalised. The Council will consult NHDC on the proposed options once drafted.</p>

North Hertfordshire District Council	<p>Given that a number of housing sites are identified along our shared administrative boundary, we re-emphasise the importance of ensuring sufficient funds will be available to achieve the timely delivery of sites and infrastructure required to support them. As such, it is essential the rates proposed are set at an appropriate level. The post consultation viability note states that the £100/m2 rate continues to be viable, which is welcomed. However, we are concerned whether higher rates of CIL could actually be supported as the evidence in the note suggests. This could be used to fund a greater proportion of off-site infrastructure. We have concerns some of the assumptions underpinning the infrastructure and mitigation costs in the viability assessment may not have been subject to appropriate scrutiny.</p>	<p>In setting CIL, the Council has struck a balance between the effect the levy will have and viability and the requirement to fund infrastructure to support new development (as required by CIL Regulation 14). The proposed rates are based on a robust evidence base.</p>
Philip Reeves	<p>Another stealth tax which will no doubt be used to pay for SBC luxurious and unnessecary new offices.</p>	<p>Noted. CIL is chargeable on new development to pay for supporting infrastructure. It is not a tax for residents.</p>
Sport England	<p>This section of the charging schedule is broadly supported. However, clarity should be provided in this section on whether, in tandem with the adoption/preparation of the CIL, a planning obligations SPD (or similar guidance) will be prepared which sets out detail of the Council's approach to securing infrastructure through section 106 agreements for infrastructure excluded from a the Regulation 123 list. In view of the limited detail that can be provided in a Regulation 123 list, the level of detail required to support the securing of planning obligations in practice, the complications associated with the pooling restrictions etc, such guidance would be welcomed and considered necessary to facilitate the effective operation of both CIL and planning obligations. Sport England has published a detailed advice note https://www.sportengland.org/facilities-planning/planning-for-sport/planning-tools-and-guidance/community-infrastructure-levy-and-planning-obligations-advice-note/ on the relationship between CIL and planning obligations in relation to community sports facilities which may assist in this regard.</p>	<p>An SPD will be drafted to provide further guidance on what we expect to be funding from CIL and S106. Under the new CIL Regulations, coming into effect from 1 Sept 2019, the obligation to produce a 123 List is removed.</p>

Sport England	<p>The proposal for 'All other development' that would include community sports and leisure facility related development to have a zero CIL charge is welcomed. Most community sports facilities such as leisure centres, playing fields etc are operated by local authorities, clubs and voluntary/charitable organisations on a not for profit basis to meet community needs. If CIL was charged for new facilities, or enhancements to existing facilities, this may have viability implications for implementing the proposals. In Sport England's experience, viability work from elsewhere has shown that such uses would not justify CIL payments on viability grounds and therefore have been specifically excluded being charged CIL.</p>	Support noted.
Taylor Wimpey and Persimmon	<p>Formal objection to the imposition of CIL as a 'blanket' levy across all residential areas outside Stevenage Central without the comprehensive assessment of all applicable costs borne by strategic allocation of the site known as Stevenage West. The evidence base is flawed due to a number of inaccurate assumptions and omissions. The proposed levy is too great a burden, rendering the scheme unviable. The site should be zero rated.</p>	<p>The proposed CIL rates are based on a robust evidence base, which demonstrates CIL would be viable (see also response to Hill Residential in relation to the evidence base, above).</p>
Taylor Wimpey and Persimmon	<p>The extent of access works and costs have not been appropriately considered. We agree no new vehicular access point is required to support the allocation. However, significant work is required to realign the approach to the underpass. The current L-shaped road layout is not appropriate to support a 1,350 home development. The necessity for this work is accepted by SBC and Highways England, such that work is being undertaken with SBC to agree the extent of playing field land to be Appropriated. In addition, to achieve pedestrian/cycle access, the existing tunnel will need to be widened or a new bore required. Either scenario incurs significant cost which has not been included.</p>	<p>It was demonstrated, and accepted by the Inspector, through the Local Plan Examination that sufficient access to serve the 1,350 homes can be provided using existing access routes (albeit improved), and a new bore is not required for this part of the site. Highways estimates provided by the developer were used to inform the modelling. A further note will be provided on this to the developer to explain in more detail how the costs have been determined. Discussions will be ongoing to try to resolve this issue in advance of the examination.</p>
Taylor Wimpey and Persimmon	<p>Having reviewed the draft Reg 123 List, a number of the items listed will be delivered on the Stevenage West site. The prospect of double counting is an obvious concern.</p>	<p>A mix of CIL and S106 will be sought on strategic sites. Further clarification on the breakdown of what will be funded through each mechanism will be provided prior to the examination and an SPD will be produced in due course.</p> <p>Under the new CIL Regulations, coming into effect from 1 Sept 2019, the obligation to produce a 123 List is removed.</p>

Taylor Wimpey and Persimmon	Do not consider the Charging Schedule is supported by appropriate available evidence. The Council and HDH should apply the known available costs, as detailed in this response. Detailed comments are provided in relation to each assumption in the viability assessment and update, including issues such as property values, land benchmark assumptions, construction costs, policy requirements, abnormals, interest, VAT, and developer returns. Detailed costs are provided in addition. Factoring in these additional costs would lead to the site being zero rated. These costs are subject to further surveys, which will underpin future representations.	See detailed response to Hill Residential (above)
Taylor Wimpey and Persimmon	The January viability update applied a marginal increase in response to reps, but consider there is still a lack of understanding of the costs required to make the scheme acceptable in planning terms. Information on infrastructure costs for Stevenage West has been provided to the Borough Council and consultant. It is frustrating that despite discussions and submissions a number of costs continue to be omitted.	See response relating to highways issues above. Remodelling was undertaken following the PDCS consultation to take into account comments received. The modelling already takes into account other Local Plan requirements. In terms of abnormals, the updated PPG says (10-012): abnormal costs, including those associated with treatment for contaminated sites or listed buildings, or costs associated with brownfield, phased or complex sites, should be taken into account when defining benchmark land value. The same thing is said about site-specific infrastructure costs, which might include access roads, sustainable drainage systems, green infrastructure, connection to utilities and decentralised energy (PPG10-012). In line with this, these costs must be reflected in the price paid for the land by the developer.
Taylor Wimpey and Persimmon	Evidence does not meet the NPPF/PPG tests. Costs are not fully taken into account. If costs were accurate it would demonstrate CIL is not viable.	The Viability Assessments used to inform the proposed CIL rates have been carried out in line with NPPF and PPG tests and guidance.
Taylor Wimpey and Persimmon	Recommendations in the Government Technical Consultation change the indices used from BCIS All-Price Tender Index to an averaged local house price index, and rates for retail will be indexed against the National Consumer Price Index. These changes are likely to significantly increase cost burden (from 2023) because of the inflationary nature of the new indices. This should be taken into account. It may be appropriate to delay the examination until these changes have been enshrined in law in 2019 to avoid the need for an immediate review.	The CIL Regulations have now been laid before Parliament and are due to come into effect on 1 Sept 2019. As such, they will be in place prior to adoption and will be taken into account by the Inspector accordingly.