

# **Community Infrastructure Levy**

## **Preliminary Draft Charging Schedule Consultation**

**15<sup>th</sup> March – 26<sup>th</sup> April 2013**

## **Council's Response to the Representations**

**August 2013**

<b>Contents</b>	<b>1</b>
<b>Introduction</b>	<b>2</b>
<b>Council response to Consultation Questions:</b>	
<b>1 – Appropriate balance between providing infrastructure and economic viability of CIL</b>	<b>3</b>
<b>2 – Providing adequate evidence on infrastructure planning and economic viability of CIL</b>	<b>5</b>
<b>3 – Charging zones and rates in residential areas</b>	<b>9</b>
<b>4 – Differential rates according to affordable housing provision</b>	<b>11</b>
<b>5 – Differential rates for retail development</b>	<b>12</b>
<b>6 – Differential rates for other types of development</b>	<b>14</b>
<b>7 – Providing adequate evidence for nil rates</b>	<b>15</b>
<b>8 – Instalment policy for phased payments</b>	<b>16</b>
<b>9 – Additional exemptions to paying CIL</b>	<b>17</b>
<b>10 – Other comments</b>	<b>18</b>
<b>11 – Focus groups</b>	<b>21</b>
<b>List of representors</b>	<b>22</b>

**Solihull MBC**  
**Community Infrastructure Levy**  
**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**  
**Council's Response to the Representations**

---

## **Introduction**

This document provides a summary of the Council's responses to the representations received to the CIL Preliminary Draft Charging Schedule consultation. The document follows the order and addresses the questions posed in the Consultation paper, and includes:

- i) The respondent reference number of the representations received on each issue
- ii) The key issues raised by the respondents
- iii) The Council's response to the key issues and other issues raised

A total of 35 responses were received, although many had no comment to make on the majority of questions at this stage. Responses were received from a range of stakeholders including planning consultants, Government Departments / Agencies, parish councils, local groups / societies, as well as business interests.

A summary of all the consultation responses is provided in a separate document – „CIL Preliminary Draft Charging Schedule Consultation: Summary of Representations'.

Every effort has been made to ensure that all responses received have been incorporated in this document and addressed with a Council response.

DRAFT

**Solihull MBC**  
**Community Infrastructure Levy**

**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**

**Council's Response to the Representations**

---

**Q1. Do you believe that the proposed charges are an appropriate balance between funding infrastructure and the potential effects (taken as a whole) of the imposition of CIL on economic viability of development across the Borough? If not, why not?**

**All representations received:**

1, 2, 5, 13, 14, 15, 16, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34.

**Key Issues raised by the above representations:**

- Viability Analysis carried out on basis of traditional property investment, not applicable to existing operational businesses
- CIL will reduce Solihull's competitiveness
- CIL will generate funds for North Solihull Regeneration Area from rural residential and town centre development
- Rates are too rigid and do not directly reflect the true impact that development has on infrastructure
- Relationship between Infrastructure Delivery Plan and CIL rates is not clear
- Should state which infrastructure is proposed to be funded by CIL, and which by Section 106 agreements

**Council's response to all the representations received:**

- The Council have undertaken a tried and tested approach at examination of residual land valuation, taking into account local circumstances. This is a standard approach for viability studies and uses the recognised principles of residual valuation. The residual method also allows any Council policies emerging from the draft Local Plan to be taken into account within the modelling.
- The Council have not taken the approach of dividing the cost of infrastructure over the charging period and applying a flat levy rate across all forms of development for a number of reasons. Firstly, it is understood that for the majority of charging authorities, the infrastructure funding gap will exceed the amount that can be raised through CIL, and additional funding sources will be required. Secondly, the CIL charging rates must be based on economic viability that does not put at serious risk the overall development in the area. Thirdly, to date the most viable forms of development tend to be residential and retail. Fourthly, the Council has aimed to set a moderate rate with a reasonable buffer for abnormals.
- The CIL rates of each charging schedule are to be based on their own merits and local viability evidence. Because of this, it is not practicable to simply compare rates with other local authorities, as each market will be different. Notwithstanding the above, the Council will undertake further viability work on the retail rates to ensure they are robust and the evidence is sufficiently fine-grained in accordance with the DCLG Guidance<sup>1</sup>, Para. 27. The proposed CIL rates should not put the overall economic viability of development in the area at risk, but have a positive impact on the Borough in helping to unlock growth. Therefore, the levy would not result in reducing the town's competitive position in relation

---

<sup>1</sup> Department for Communities and Local Government – Community Infrastructure Levy Guidance - April, 2013

**Solihull MBC**  
**Community Infrastructure Levy**

**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**

**Council's Response to the Representations**

---

to neighbouring authorities. Birmingham City Council also published a Preliminary Draft Charging Schedule for consultation earlier this year, with higher proposed retail rates.

- The Government is committed to CIL as the main form of developer contribution to deliver much-needed infrastructure.
- The Inspector's CIL examination for Bristol City Council states that: "CIL is not based on any direct link between the impact of a particular scheme on services or facilities and mitigation contributions, but rather the overall needs of the wider area and, crucially, the ability to pay in viability terms."
- For ease of implementation and clarity, the charging rates have been kept as simple as possible, with differential rates/zones only where it is justified by the evidence.
- The reason for the rural area residential rate being higher is that the evidence and analysis support this higher rate.
- Further detail on a draft Regulation 123 list will be made available at the time of consultation on the Draft Charging Schedule; and to what extent CIL may fill the infrastructure funding gap. The Council will also publish the historic Section 106 contributions, and indicate which type of infrastructure could be funded by S106/S278 and which by CIL.
- Affordable housing targets have been met consistently in previous years; however, it should be noted that the CIL Viability Study is testing the draft Local Plan policies, which have more stringent criteria. All of the CIL Viability testing assumes the policy target of 40%, and is consistent with the assumptions in the Affordable Housing Study (June 2012). The Infrastructure Delivery Plan (IDP) has been written as part of the evidence base for the Solihull Draft Local Plan, and therefore has a wider remit than just the Community Infrastructure Levy. It is understood that CIL is not meant to remedy pre-existing deficiencies; however, much new development will put additional strain on existing infrastructure, rather than create wholly new infrastructure capacity issues.
- The IDP presents the most up-to-date information available at the time of publication in September 2012.
- Where the IDP lists either S106 or CIL as a form of funding; it is understood that the Regulation 123 list should prevent 'double-dipping' of both forms of developer contribution.

**Recommendations:**

- The Council will publish and consult on a draft Regulation 123 list as part of the Draft Charging Schedule consultation
- The Council will publish a list of historical Section 106 financial agreements for the past 5 financial years, and on-site contributions for affordable housing.

**Solihull MBC**  
**Community Infrastructure Levy**

**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**

**Council's Response to the Representations**

---

**Q2. Do you believe there is adequate evidence on infrastructure planning and economic viability to introduce a CIL? If not, what additional evidence do you believe is necessary?**

**All representations received:**

1, 2, 5, 9, 10, 13, 14, 15, 16, 24, 25, 26, 27, 28, 30, 31, 33, 34.

**Key Issues raised by the above representations:**

- Concerns regarding the methodology and transparency of raw data and assumptions
- Insufficient evidence provided to assess the Viability Study, e.g. full workings of appraisals:
  - Assumed build costs are too low.
  - BSV 20% uplift is too low – reasonable to expect competitive return of 50%.
  - Developer's profit of 16.67% of Gross Development Value is too low.
- As brownfield development will incur higher on-site costs, proposed CIL rate will direct businesses to develop greenfield sites.
- Inadequate evidence that Section 106s alone cannot pay for needed infrastructure.

**Council's response to all the representations received:**

*Methodology of Viability Analysis*

- The approach adopted has been to test a range of sites across the Borough on a high level basis. The output to the exercise is therefore a high level guide to likely scheme viability; taking into account a variety of development situations but using general assumptions rather than analysing specific site constraints.
- We do not consider that incorrect assumptions have been used in the viability study:
  - The base residential build costs come from the industry recognised Building Cost Information Service (BCIS) regionally adjusted for the West Midlands Region. Table 4.4. of the CIL Viability evidence uses the BCIS figures (rebased for the West Midlands Region) which have been agreed as a benchmark for build costs at previous CIL Charging Schedule examinations.
  - An allowance for external works has been added to the base build cost together with the sum of £8,000 per unit for additional costs related to delivering Code Level 4 and other cost items related to policy delivery for climate change etc on residential properties.
  - Paragraph 6.1 of the CIL Viability Analysis (2012) states that: "In the tables below, for each site and each level of CIL, the colour green comprises a viable scheme; amber comprises a marginal scheme where the RLV sits between EUV and BSV; and red indicates an unviable scheme."
  - In terms of the approach to an uplift on BSV, we have adopted 20% uplift to the existing use value to derive the "Benchmark Site Value". We consider the 20% uplift to be a reasonable assumption to reflect an incentive to enable the

**Solihull MBC**  
**Community Infrastructure Levy**

**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**

**Council's Response to the Representations**

---

release of land for development. The 20% uplift has been adopted by practitioners and recognised by Inspectors in many CIL viability studies. The justification for the methodology and use of terms 'existing use value' and 'benchmark value' is clearly set out in Paragraphs 3.1 to 3.16 of the CIL Viability Analysis Report (Dec 2012). The Benchmark Land Value is effectively the Threshold Land Value. It is acknowledged that the benchmark value is the threshold value at which a seller would be most likely to sell land.

- For brownfield / greenfield sites already allocated for development, we have assumed a Benchmark Land Value that reflects their greater readiness for development based on employment land prices.
- In the recent Planning Inspectorate examination report for the Greater Norwich Development Partnership, the Inspector stated that it was "reasonable to see a 25% reduction in benchmark values as the maximum that should be used in calculating a threshold land value". In addition the viability testing (reported in the CIL Viability Study) ran sensitivity analysis to assess the impact of increases / decrease to BSV and this was taken into account in proposing the CIL rates.
- The return on Gross Development Value is a blended rate comprising 20% on open market and 6.5% on affordable housing (HCA figure). The Council and CBRE would not expect as a matter of course to make the detailed appraisals available. The headline inputs are contained within Tables 4.5 and 4.6 of the CIL Viability Analysis (2012), which should provide sufficient information to assess the viability assumptions made.
- The costs of finance have been applied through the build period until final sales, with assumptions adopted on sales rates.
- We have published all of the relevant evidence including extracts within the text of Section 7 where the CIL rate can be justified above £150 psm.

*Retail*

- Landowners may currently have higher expectations of land price on retail, but the market will find its own level.
- The foodstore example (Site 15) is stated to be brownfield in Para. 7.6. i.e. the site previously had income producing uses on it. Similarly the small convenience store (Site 16) example assumes a brownfield location with previous industrial and retail uses. The additional example (Site 42) is also brownfield with various uses on the site.
- The contingency figure of 5% for commercial development is an allowance for unexpected or site specific cost items that cannot otherwise be identified through a high level, non specific review.
- The financial model used here allows CIL to be an input to the residual appraisal at varying rates. The output therefore is shown through the traffic light analysis where red/amber/green defines whether there is a sufficient margin between the RLV and the Benchmark Land Value to bring forward development. It is not therefore "circular".
- The level of developers' profit in the appraisals is reflective of the current development market.

**Solihull MBC**  
**Community Infrastructure Levy**

**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**

**Council's Response to the Representations**

---

*Affordable Housing*

- The CIL viability study assumes that the policies of the draft Local Plan including the draft Affordable Housing SPD are adopted. A 40% affordable housing content is therefore included in the financial modelling.
- It is acknowledged in the CIL Viability study that the affordable housing content may be subject to negotiation. The viability analysis therefore assumes that the policy is adhered to as a base case position. Any assumption that softens the policy would result in increasing the CIL liability.
- A correction is required to Para. 6.3 of the CIL Viability Study to reflect that the evidence relating to Residential Site 3 shows that it is not capable of supporting a CIL charge. It should be noted, from previous examinations, that it is not a requirement that all sites tested should be capable of delivering CIL. The CIL rate cannot be determined by the lowest value site.
- Both windfall and allocated sites have been tested as part of the process.

*Section 106 planning obligations*

- The blanket assumption of £1000 per dwelling for Section 106 contributions in the future relates to any required site specific on-site infrastructure costs and policy-related costs on residential sites. It is acknowledged that this amount will vary on a site-by-site basis.
- The likely infrastructure requirements listed for allocated housing sites in the Draft Local Plan are mainly based on site-specific needs that normally would be covered by Section 106 or 278 agreements, or can be incorporated as part of the design concept for the site.
- The scope of Section 106 obligations is restricted to those site-specific works that render the planning application acceptable in planning terms, as outlined in Regulation 122 of the CIL Regulations (2010) and Para. 204 of the NPPF.
- The Council considers that Section 106s alone would not be able to meet the essential infrastructure needs of the area, and CIL is only meant to contribute or partly contribute to infrastructure needs as a result of new development. Historical Section 106 contributions will be published alongside the draft Regulation 123 list at the next consultation stage of the Draft Charging Schedule.

*Other matters*

- The recent appeal in Shinfield, Reading is a site-specific valuation and not an appropriate comparison with calculating viability for CIL rates.
- To analyse conversions separately would require very broad and therefore meaningless assumptions as the development costs for conversions will be very site specific. Such schemes also potentially have a lower build cost.
- The viability analysis that supports a CIL Charging Schedule is meant to be high level and draw generic conclusions so that sites can be compared across the Borough. However, it is acknowledged that more fine-grained sampling would give greater evidential support to the proposed rates.



**Solihull MBC**  
**Community Infrastructure Levy**  
**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**  
**Council's Response to the Representations**

---

- Most businesses that would expand by more than 100sqm (net additional floor area) would not be CIL liable, e.g. offices, industrial, D1 and D2 and sui generis (with the exception of car dealerships).
- Reference to the Harman guidance of June 2012 will be made in the updated CIL Viability Study.
- The IDP presents the most up-to-date information available at the time of publication in September 2012. At the next iteration of the IDP, more information can be included about the HS2 effect, if and when it is known.
- The Council will welcome comments on the Draft Regulation 123 list as part of the Draft Charging Schedule consultation.

**Recommendations:**

- Further viability evidence will be provided in the updated CIL Viability Study (August 2013).

DRAFT

**Solihull MBC**  
**Community Infrastructure Levy**

**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**

**Council's Response to the Representations**

---

**Q3. Do you agree with the separate charging zones for residential development and the CIL rates based on these zones? If not, what changes do you believe are necessary to make them appropriate?**

**All Representations received:**

1, 2, 9, 14, 16, 24, 25, 26, 27, 31, 34.

**Key Issues raised by the above representations:**

- Market housing in rural areas is being used to subsidise increased infrastructure requirements for town centre and mature suburbs
- Too high a charge on rural housing
- Blanket approach fails to take account of wide differences within mature suburbs, town centres and rural areas

**Council's response to all the representations received:**

- The evidence shows that the urban and rural markets are different economically, as reflected in the Housing Market areas identified in the 2009 SHMA, and acknowledging the three broad area types in the draft Local Plan. It is acknowledged that there will be viability differences within the NSRA, mature suburbs and rural zones, however, to take these into account could result in a much greater number of zones, and undermine the clarity and ease of use of the Charging Schedule. Para 36 of the DCLG Guidance (previously referred to) states that "Charging authorities that plan to set differential levy rates should seek to avoid undue complexity, and limit the permutations of different charges that they set within their area". We consider that the testing of three zones provides an appropriate high level review of those particular areas and their local characteristics.
- A correction is required to Para. 6.3 of the CIL Viability Study to reflect that the evidence relating to Residential Site 3 shows that it is not capable of supporting a CIL charge. However it is not a requirement that all sites tested should be capable of delivering CIL as CIL needs to be viable across "most" of the area (see recent Mid Devon District Council examination).
- The viability evidence shows that residential development in the mature suburbs, including town centres, is mostly viable at £75sqm.
- Para. 40 of the May 2011 CIL guidance summarises the legislation with regards to brownfield redevelopment sites: "*Whilst any new build over [100 m<sup>2</sup>] will be subject to the Community Infrastructure Levy, the gross floorspace of any existing buildings on the site that are going to be demolished will be deducted from the final liability. Any floorspace resulting from the development to the interior of an existing building will similarly be deducted. Floorspace subject to demolition or resulting from change of use will only be disregarded where it has been in continuous lawful use for at least six months in the 12 months prior to the development being permitted.*"
- The rural residential rate of £150 psm is based on the economic viability analysis, however, further work is proposed on the residential market to add weight to the proposals comprising the analysis of additional sites. This is in accordance with the DCLG Guidance for more fine-grained sampling.

**Solihull MBC**  
**Community Infrastructure Levy**

**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**

**Council's Response to the Representations**

---

- None of the representors have provided alternative appraisals to evidence the statement that the proposed rural residential rates are too high
- The higher residential rate in rural areas is based on the evidence and not aimed to subsidise increased infrastructure requirements for town centre and mature suburbs. However, as stated above, CIL can be used for strategic infrastructure that is not necessarily tied to the new development to deliver wider benefits.
- The CIL guidance (DCLG, April 2013) allows for differential rates based on zones and/or intended uses.

**Recommendations:**

- The Council will undertake further viability analysis of rural residential sites.

DRAFT

**Q4. Should there be different residential rates based on the percentage of affordable housing to be provided on the site? If so what should the threshold be?**

**All Representations received:**

1, 2, 9, 10, 13, 14, 16, 24, 25, 26, 27, 28, 30, 31, 34.

**Key Issues raised by the above representations:**

- Need to account for affordable housing otherwise delivery will be reduced
- Should set affordable housing rate first, then CIL rate – see Inspector's Report to Mid-Devon CIL examination
- Limited support for differential thresholds
- Affordable housing already has a nil rate

**Council's response to all the representations received:**

- The CIL viability analysis assumes the policy level of 40% affordable housing provision on all eligible sites. Therefore, the Council has followed the approach recommended by the Inspector reporting on the Mid Devon District Council CIL Charging Schedule.
- 100% relief on affordable housing is dictated by the CIL Regulations (2010) as amended.
- The Council agrees that although differential residential rates based on the percentage of affordable housing would help to balance affordable housing delivery with CIL payments, the mechanism is not provided for in the Regulations.

**Recommendations:**

- To not differentiate residential rates based on the percentage of affordable housing to be provided on site.

**Q5. Do you agree with the differential rates for the different types of retail development and are the thresholds appropriate? If not what changes do you believe are necessary?**

**All Representations received:**

1, 2, 5, 13, 14, 15, 16, 27, 28, 29, 31, 34.

**Key Issues raised by the above representations:**

- What would be classed under „Other retail formats'? Use Class A1, or other retail formats normally classed as sui generis?
- Concerned that farm shops would have to pay CIL
- Representations call for more and less retail development categories
- Insufficient evidence for differential rates proposed
- Regulation 13 of CIL Regulations (2010) only allows for differential rates based on different intended uses.

**Council's response to all the representations received:**

- Garden centres would be classed as sui generis and only car dealerships under sui generis are proposed to be charged.
- “Retail – Other formats”, means other types of retail under the Use Class A1. As stated above, the appraisals are meant to be high-level and provide a suitable basis for comparison.
- The April 2013 updated CIL guidance (Para. 35 onwards) states that differential rates can be justified by “a comparative assessment of the economic viability of those categories of development.” Furthermore, Regulation 14 of the CIL Regulations refers to „different intended uses’; the CIL guidance confirms that the term „use’ is not restricted by the Town and Country Planning Act (Use Classes) Order 1987.
- A number of local authorities are adopting differential retail rates with Wycombe being the most notable with convenience supermarkets (over 280sqm net retail selling space) at £200 psm and all other retail at £125 psm. Portsmouth is another example with in-centre retail and small (less than 280 sqm) out of centre retail at £53 psm and all other retail at £105 psm. Precedents have therefore been set in relation to size.
- The intention is to define the threshold for the retail CIL rates, and the Council have chosen to present this as Gross Internal Floor area, rather than the net sales area which other authorities have used. At any rate, the CIL will be calculated on the GIA.
- The difference in the viability of the A1 foodstores is due to their size and the consequent nature of the trading operation. These will have different characteristics as the small convenience stores are likely to fit into or beside high street shopping, whereas the larger stores will have their own sites with extensive car parking. It is not therefore a geographical location issue which is driving the land values between the two sizes, but a different business model and therefore different intended use. The small convenience store has reduced viability outcomes. Section 7 of the CIL Viability Report describes all

**Solihull MBC**  
**Community Infrastructure Levy**

**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**

**Council's Response to the Representations**

---

the relevant evidence, including extracts from the viability analysis, where the CIL rate can be justified above £150 psm.

- In order to analyse retail conversions as well as new build would require very broad and therefore meaningless assumptions, as the development costs for conversions will be bespoke and site-specific. Such schemes also potentially have a lower build cost.
- The 280sqm figure is based on the Sunday trading law threshold, which relates to the net sales area. The 550sqm rate is based on GIA, which is likely to result in a net sales area of 280sqm or less. To avoid ambiguity this will be made clearer in the document.
- The retail rates and zones are based on the economic viability analysis. Areas of the Borough cannot be zoned to confer competitive advantage as this would breach European State Aid rules.
- The proposed rates for supermarkets/convenience stores (>550m<sup>2</sup>) and (<550m<sup>2</sup>) apply across the Borough, with the exception of North Solihull Regeneration Area. Other A1 retail formats have a lower rate in Town Centres than elsewhere due to the viability evidence. This is explained in Para.'s 7.10- 7.16 of the December 2012 CIL Viability Study.
- Draft Policy P2 of the draft Local Plan states that Town Centres will be the focus for new retail development. However, draft Policy P19 describes the economic development needs of local centres, which may include new retail development that is appropriate in nature and scale.
- The evidence has been provided for differential retail rates in relation to the difference between a foodstore and convenience store. In order to ensure the evidence is sufficiently fine-grained, the Council will undertake further viability work to substantiate the proposed rates.

**Recommendations:**

- Undertake viability analysis of an additional foodstore example for fine grain testing.
- The updated CIL Viability Study (August 2013) will be amended to clarify the retail threshold between a foodstore and a small convenience store. The larger foodstore is categorised as 550sqm of gross internal floor area and above.

**Solihull MBC**  
**Community Infrastructure Levy**  
**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**  
**Council's Response to the Representations**

---

**Q6. Do you agree with the rates for the other types of development? If not what changes do you think are necessary to make them appropriate?**

**All Representations received:**

1, 6, 7, 9, 12, 14, 15, 16, 30, 31, 34, 35.

**Key Issues raised by the above representations:**

- Assume that residential Gypsy sites will be classified under 'all other uses' and thus attract no levy
- CIL rate for hotels too onerous
- Shirley should be nil rated

**Council's response to all the representations received:**

- Welcome support for other rates proposed.
- Gypsy sites (mobile homes and caravans) are sui generis and not C3, and therefore would not be liable to pay the levy.
- Farm shops are classed as A1, unless they are considered an ancillary use. However, in many cases a farm shop would be a conversion of an existing building and therefore potentially not liable to pay CIL.
- CIL rate for hotels is considered minimal at £25 psm. Local evidence suggests that the hotel market is viable in Solihull given recent development activity in the Borough. Further work, however, will be commissioned.
- The proposed rates and zones (including nil rates) are based on the economic viability analysis. Areas of the Borough cannot be zoned to confer competitive advantage as this would breach European State Aid rules. The two residential care sites (Sites 32 and 33) are both Use Class C2 as stated in the Viability Study.
- It is considered an unlikely scenario that a new-build office development would change its use to C1 (hotel) after practical completion to avoid a charge, as the subsequent conversion costs will be greater than the CIL charge.

**Recommendations:**

- Undertake further viability analysis of hotels.
- Do not alter any of the other nil rates.
- Further evidence on the analysis of C2 and C3 rates will be provided in the updated CIL Viability Study (August 2013). C3 sheltered housing viability evidence will have different variables, e.g. build costs and communal areas.

**Solihull MBC**  
**Community Infrastructure Levy**  
**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**  
**Council's Response to the Representations**

---

**Q7. Do you agree there should be a nil rate for the development types not listed (i.e. including office, industrial & agricultural developments)? If not, why not?**

**All Representations received:**

1, 9, 14, 15, 16, 17, 31, 34, 35.

**Key Issues raised by the above representations:**

- General support for nil rates
- Developments not listed could still be large employers and place extra demand on public transport system and therefore require a contribution

**Council's response to all the representations received:**

- The viability evidence does not support a CIL charge for office development at this time.
- It is acknowledged that the developments not listed could potentially be large employers that could place extra demand on the public transport system, and financial contributions, if necessary, could still be sought through Section 106 or Section 278 agreements.
- The viability evidence (December 2012) does not support the view that C3 retirement living accommodation should be a lower or nil rate. The effect of CIL on elderly people's housing within Use Class C3 will be further tested and included in the updated CIL Viability Study. Different variables will be adopted to those in standard residential building assumptions, for example, different build costs and sizes for communal areas.
- The Council does not expect training centres with residential accommodation to be chargeable; training centres are specifically excluded in Table 8.1.
- The proposed rates are based on the type of development, not the development agency. The CIL Regulations only exempt charitable institutions from CIL charges, if the development is for charitable purposes.

**Recommendations:**

- Do not alter the nil rates proposed in the Draft Charging Schedule
- Include further explanation for the nil rate for agriculture in the updated CIL Viability Report (August 2013)
- Undertake further viability analysis of C3 retirement living accommodation rate.



**Solihull MBC**  
**Community Infrastructure Levy**  
**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**  
**Council's Response to the Representations**

---

**Q8. Do you believe the Council should allow CIL payments to be made in instalments, and if so what should they be?**

**All Representations received:**

1, 2, 5, 9, 13, 14, 16, 20, 23, 27, 28, 30, 31, 34.

**Key Issues raised by the above representations:**

- General support for phased payments
- Instalments should be linked more to completion/occupation than commencement

**Council's response to all the representations received:**

- The Council agrees that the phasing of CIL payments will ease cash flow for developers. The principle of phasing is to allow a cash-flow benefit to the developer as the development is unlikely to be revenue generating until much later in the development process.
- It will be necessary to balance the timing of the CIL receipts with the delivery of infrastructure necessary for sites to come forward and unlock growth, if the monies were received on completion, then it would delay the delivery of infrastructure.
- It will be easier to administer the CIL charge if payment is linked to commencement of development and not the completion of development.

**Recommendations:**

- The Council will consult on an instalment policy at the Draft Charging Schedule stage of consultation; however, the instalment policy is not part of the formal Charging Schedule and will not be tested at examination.

**Solihull MBC**  
**Community Infrastructure Levy**  
**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**  
**Council's Response to the Representations**

---

**Q9. Do you believe the Council should offer additional exemptions in the circumstances listed above?**

**All Representations received:**

1, 2, 5, 9, 13, 14, 16, 27, 28, 30, 31, 32, 34, 35.

**Key Issues raised by the above representations:**

- General support for exceptional circumstances, based on particular priorities:
  - Essential workers in rural businesses
  - Site-specific viability
  - Accommodation for the elderly
  - Creation of employment opportunities in North Solihull
  - Heritage assets

**Council's response to all the representations received:**

- The consistent view from PINS presented in previous CIL examination reports is that exemptions should be treated as very rare cases, for which each will be assessed on its own merits. As each case is individual, the particular circumstances cannot necessarily be foreseen and it would be inconsistent with the legislation to list which exemptions should apply. However, it is up to the Council to state whether it will grant discretionary relief alongside the publication of a Charging Schedule.
- The Council does not treat accommodation for „key workers’ as a form of affordable housing, and would not meet the definitions of affordable housing within the NPPF.
- CIL is only applicable to buildings that people normally enter and will not be payable for by the buildings used/built for charities, for charitable purposes (Regulation 43). As CIL would only be payable on extensions of 100 sqm (net additional floor area), it would not apply to most change of uses or moderate extensions. Therefore, in the majority of cases, heritage assets are unlikely to meet the eligibility criteria.
- It is the national CIL Regulations which exempt charitable institutions from CIL charges, if the development is for charitable purposes.
- CIL is meant to be a simpler and more transparent process of pooling developer contributions than Section 106 agreements. Arguing each case on viability terms would undermine its very rationale.
- CIL is a financial instrument, and should not be directed by policy. Exemptions or discounts for developments that create employment opportunities in North Solihull would be policy-driven.

**Recommendations:**

- The Council will not consider exemptions beyond those provided for in the Regulations.

**Solihull MBC**  
**Community Infrastructure Levy**  
**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**  
**Council's Response to the Representations**

---

## **Q10. Other comments**

### **All Representations received:**

1, 2, 3, 4, 5, 6, 8, 9, 11, 14, 16, 17, 18, 19, 20, 21, 22, 23, 30, 31, 33, 34, 35.

**Key Issues raised by the above representations:** (not already noted and addressed elsewhere in this document)

- What checks would be in place to ensure the meaningful proportion received by Parish Councils was being spent to benefit of local community?
- Concern if infrastructure enhancements to the natural environment were only ad hoc
- WM Police should receive proportion of CIL to provide essential services
- Concern raised that CIL charges will undermine affordable housing delivery

### **Council's response to all the representations received:**

- Car dealerships are the only type of development within sui generis that are proposed to accommodate a CIL rate.
- The CIL Charging Schedule and background papers are not a policy position statement, and although the local policy standards should be taken into account when assessing the viability evidence, it is not a policy-driven, but a viability-based document.
- Offices and hospitals would be excluded from the charging schedule.
- Para 3.31 of the CIL Viability Study (December 2012) highlights that there is perceived to be insufficient value from agricultural buildings to justify CIL. Some other authorities have proposed a rate commensurate with industrial buildings but the proposed industrial CIL charge is zero for this Borough.
- Public bodies are not automatically exempt from paying CIL; the charges are based on development type not development agency. However, in many cases the types of development brought forward by public bodies would not be liable for CIL under the Council's proposals.
- The CIL Regulations only exempt charitable institutions from CIL charges, if the development is for charitable purposes.
- The Council has considered the accumulation of charges levied on development, e.g. affordable housing, local standards and Section 106 agreements in the viability evidence.
- CIL will be amended each year by an inflation index, in accordance with the Regulations.
- The document does not set a review date, however it is considered important to monitor and review the effectiveness of policies and the charging schedule. Full review is likely to take place every 3 years, as any proposed change to the Charging Schedule would require full consultation and re-submission of viability and infrastructure planning evidence. It would be too onerous, and premature to review the charging schedule to this extent on an annual basis.
- CIL receipts and expenditure will be published annually on the Council's website, in accordance with the Regulations.
- If landowners decide to build houses to keep within their own long-term ownership to diversify their income through a residential portfolio of properties, these would represent a

**Solihull MBC**  
**Community Infrastructure Levy**  
**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**  
**Council's Response to the Representations**

---

very small percentage of the housing market, and would not want warrant changing the rate for the rest of the Borough.

- Under current guidance, self-builders would not be exempt from CIL. However, the Government consulted on this issue in April-May 2013 as part of wider CIL reforms, and a response to the consultation is expected in the near future.<sup>2</sup>
- The Council agrees that CIL should be introduced with a minimum delay after the introduction of the Local Plan.
- Only 5% of the CIL receipts can be passed onto administrative costs; it is yet to be decided whether the Council will take advantage of this.
- CIL is not an additional stealth tax, but an evidence-based approach to developer contributions that is fairer and more transparent than just Section 106 contributions.
- In general, we consider that CIL will not be a critical factor in determining whether development proceeds at the levels that have been proposed in the draft Charging Schedule.
- The cost of CIL should not be passed onto the house price but the land value. House prices ultimately are a function of supply and demand and not related to build cost/development cost.
- Para 8.5 of the Viability Study suggests a regular review of CIL to see how the local market is responding to CIL charges and whether there has been any consequent impact on policy delivery.
- The Council is grateful for PCCWM for bringing to our attention that local authorities in the country have paid Section 106 contributions towards police authorities.
- Local Authority funding as well as other public services have been substantially cut as part of the Comprehensive Spending Review in 2010.
- There will always be a number of competing demands for a CIL pot, many of which are recognised in the NPPF and /or have a statutory function.
- The draft Regulation 123 list will be available for comment at the same time as the draft Charging Schedule.
- Most Police and Emergency services building will be classed as sui generis, and therefore exempt from CIL.
- The IDP of September 2012 does state that it is unlikely that developer contributions will be allocated to emergency services, but this does not preclude the emergency services for bringing forward evidence for the need of Section 106 contributions for specific planning applications.
- The IDP is a live document and will be updated in the future. We will continue engagement through the CIL and Local Plan consultation process.
- Policy P10 „Natural Environment’ of the Solihull Draft Local Plan refers to the need to enhance and protect biodiversity in a strategic way. The Nature Conservation Strategy (2010) sets out the strategic objectives for biodiversity conservation in the Borough, and developers should take these and other strategies relating to the natural environment into account.

---

<sup>2</sup> <https://www.gov.uk/government/consultations/community-infrastructure-levy-further-reforms>. Accessed 4th September 2013.

**Solihull MBC**  
**Community Infrastructure Levy**

**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**

**Council's Response to the Representations**

---

- We welcome working with the Environment Agency on the further development of the Infrastructure Delivery Plan.
- Not all the infrastructure schemes listed in Appendix A of the Infrastructure Delivery Plan will go on the Regulation 123 list. A draft Regulation 123 list will be published for consultation alongside the draft Charging Schedule. All those who responded to the consultation that they would like to attend a focus group will have further opportunity to comment then.
- The effect of CIL on elderly people's housing within Use Class 3 will be tested with 2 additional sites. Different variables to the standard residential appraisals will be adopted, such as build costs, sales values and size of communal areas.
- Parish Councils would have to publish their CIL expenditure each year on the Council's website.
- The Council has published the Infrastructure Delivery Plan (September 2012), which mainly focuses on strategic issues. The Council welcomes the opportunity to discuss more site-specific and infrastructure issues in general, or more particularly in relation to Neighbourhood and Village Plans.
- The Regulations are very clear on enforcement of the payment of CIL and deadlines.
- The costs of finance are considered to take appropriate account of the cash flow of schemes over their lifetime, i.e. Finance is applied during the build period until final sales, with assumptions adopted on sales rates.
- The 40% affordable housing quota has been included in all of the residential rate analysis. It is considered that the CIL rate should not be determined by the lowest value site.
- It is acknowledged in the Viability Study that the affordable housing content may be subject to negotiation and that in some instances, the levy may reduce the amount of affordable housing deliverable on a site, as CIL is charged first and affordable housing is negotiable. However, all the site appraisals have assumed a 40% affordable housing quota and taken the full target as the baseline. The draft Policy P4 of the draft Local Plan allows for some flexibility in certain circumstances, and all these factors will have to be taken into account on a site-by-site basis. Any assumption that softens the affordable housing policy would result in increasing the CIL liability.
- As the draft Policy P4 currently stands, rural exception sites would be 100% affordable, and therefore not liable to pay CIL. However, under the CLG CIL guidance of April 2013, it is stated in Para. 106 that:

*“The wider definition means that the neighbourhood funding pot can be spent on things other than infrastructure (as defined in the Community Infrastructure Levy regulations). For example, the pot could be used to fund affordable housing where it would support the development of the area by addressing the demands that development places on the area.”*

**Recommendations:**

- Further viability evidence will be provided in the updated CIL Viability Study (August 2013).

**Solihull MBC**  
**Community Infrastructure Levy**  
**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**  
**Council's Response to the Representations**

---

DRAFT

**Solihull MBC**  
**Community Infrastructure Levy**  
**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**  
**Council's Response to the Representations**

---

**Q11a. Do you wish to be invited to any focus groups that may be arranged?**

**All Representations received:**

1, 4, 13, 14, 15, 16, 17, 19, 22, 28, 30, 31, 35.

**Q11b. If so what subject areas or issues should be covered in a focus group?**

**All Representations received:**

2, 4, 13, 15, 16, 17, 22, 28, 30, 31, 35.

- Size thresholds of new development
- Development/Spend/Finance
- Retail levy rates
- Public transport and connectivity
- Zoning/Nil rate for Shirley regeneration envelope/nil rate for elderly and disabled accommodation
- Funds for enhancements to canals
- Balance between funding infrastructure through CIL and the effects on developments across the Borough
- Deliverability of affordable housing/extra care
- Creation of employment opportunities for North Solihull

**Recommendations:**

- Council will not hold focus groups, as there is such a range of issues raised, that the group would lack the necessary focussed approach. However, each of the representations have been considered in detail and responded to in this report.

**Solihull MBC**  
**Community Infrastructure Levy**

**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**

**Council's Response to the Representations**

**List of representors**

<b>CIL Ref</b>	<b>Consultee Name</b>	<b>Consultee Title</b>	<b>Consultee Organisation</b>	<b>Agent's Name</b>	<b>Agent Title</b>	<b>Agent's Organisation</b>	<b>Overall</b>
1	Graham Nicholson	Planning Officer	<b>Inland Waterways Association, Warks Branch</b>				Support
2	Erica McDonald	On behalf of Notcutts Ltd	<b>Notcutts Ltd</b>				Comment
3	Sarah Faulkner	Environment and Rural Affairs Advisor	<b>National Farmers Union</b>				Support
4	Neil Hathaway	Deputy Director of Estates and Facilities	<b>Birmingham &amp; Solihull Mental Health NHS Foundation Trust</b>				Support
5			<b>Asda</b>	<i>Nicola Gooch</i>		<i>Thomas Eggar LLP</i>	Object
6	Rose Freeman	Planning Policy Officer	<b>The Theatres Trust</b>				Support
7	Roger Yarwood	Planning Officer	<b>National Federation of Gypsy Liaison Groups</b>				Support
8	Josie & Peter Herbert						Comment
9	Donna Taverner	Rural Advisor	<b>Country Land &amp; Business Association (Midlands)</b>				Comment
10	Robert Jays	Planner	<b>William Davis</b>				Object
11	Hayley Anderson	Planning Obligations Officer	<b>Birmingham City Council</b>				No comment
12	Peter Frampton		<b>Framptons</b>				Object
13			<b>WM Morrisons Supermarkets Plc</b>	<i>Kate Tinsley</i>	<i>Senior Planner</i>	<i>Peacock &amp; Smith</i>	Object
14	Chris Noble	Chairman	<b>Cheswick Green Parish Council</b>				Support



**Solihull MBC**  
**Community Infrastructure Levy**

**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**

**Council's Response to the Representations**

<b>CIL Ref</b>	<b>Consultee Name</b>	<b>Consultee Title</b>	<b>Consultee Organisation</b>	<b>Agent's Name</b>	<b>Agent Title</b>	<b>Agent's Organisation</b>	<b>Overall</b>
15	Jonathan Haywood	Economic Development Officer	<b>Centro</b>				Comment
16	Trevor Eames	Secretary	<b>Solihull Ratepayers Association</b>				Object
17			<b>West Midlands Police</b>	<i>Gail Collins</i>	<i>Senior Consultant Planner</i>	<i>Tyler Parkes</i>	Object
18	Becky Clarke	Technical Specialist	<b>Environment Agency</b>				Comment
19	Cathy Tibbles	Clerk	<b>Castle Bromwich Parish Council</b>				Comment
20			<b>McCarthy &amp; Stone Retirement Lifestyles Ltd</b>	<i>Ziyad Thomas</i>	<i>Policy Planner</i>	<i>The Planning Bureau Ltd</i>	Object
21	Kate Wheeler	Lead Adviser	<b>Natural England</b>				Comment
22	Katherine Burnett	Area Planner	<b>Canal and Rivers Trust</b>				Comment
23	Hilary Goodreid	Parish Clerk	<b>Hockley Heath Parish Council</b>				Comment
24			<b>Bluemark Projects</b>	<i>Chris May</i>	<i>Director</i>	<i>Pegasus Planning Group</i>	Comment
25			<b>Gallagher Estates</b>	<i>Chris May</i>	<i>Director</i>	<i>Pegasus Planning Group</i>	Comment
26			<b>Bloor Homes</b>	<i>Chris May</i>	<i>Director</i>	<i>Pegasus Planning Group</i>	Comment
27			<b>Catesby Property Group</b>	<i>James Adgey</i>	<i>Senior Planner</i>	<i>Deloitte LLP</i>	Object
28	Martin Robeson		<b>Martin Robeson Planning Practice</b>				Object
29			<b>Sainsbury's Supermarkets</b>	<i>Damien Holdstock</i>	<i>Planner</i>	<i>Turley Associates</i>	Object
30			<b>West Midlands HARP Planning Consortium</b>	<i>Felicity Tozer</i>		<i>Tetlow King Planning</i>	Object

**Solihull MBC**  
**Community Infrastructure Levy**  
**Preliminary Draft Charging Schedule Consultation – 15<sup>th</sup> March – 26<sup>th</sup> April 2013**  
**Council's Response to the Representations**

<b>CIL Ref</b>	<b>Consultee Name</b>	<b>Consultee Title</b>	<b>Consultee Organisation</b>	<b>Agent's Name</b>	<b>Agent Title</b>	<b>Agent's Organisation</b>	<b>Overall</b>
31	Richard Campbell-Kelly	Property & Insurance Manager	<b>NEC Group</b>	<i>Kathryn James</i>		<i>NEC Group</i>	Comment
32	Rohan Torkildsen	Planning Adviser	<b>English Heritage</b>				Comment
33	Matthew Taylor		<b>Highways Agency</b>				Comment
34	Andrew Burrow		<b>Berkswell Parish Council</b>				No comment
35	Jon Hockley		<b>Birmingham Airport</b>				Comment

DRAFT