West Oxfordshire District Council

Community Infrastructure Levy (CIL)

Preliminary Draft Charging Schedule (PDCS)

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November 2013
1. **Introduction**

1.1 The District Council is currently preparing a new Local Plan for West Oxfordshire to identify how much new development will come forward and where.

1.2 An important consideration is the impact that this growth will have on the District’s infrastructure such as local roads, schools, health facilities, libraries and open spaces.

1.3 It is essential that proper investment in infrastructure is made and this is reflected in Core Policy 5 of the Draft Local Plan (2012) set out below.

<table>
<thead>
<tr>
<th>Core Policy 5 – Supporting Infrastructure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where necessary and viable, development will be required to deliver, or contribute towards the provision of appropriate supporting infrastructure.</td>
</tr>
<tr>
<td>This will include, where applicable the strategic infrastructure items identified within the Council’s Infrastructure Delivery Plan (IDP) as well as non-strategic infrastructure requirements including those associated with individual development proposals.</td>
</tr>
<tr>
<td>Such provision will be secured through mechanisms including conditions on planning permissions, planning obligations and/or the Community Infrastructure Levy (CIL).</td>
</tr>
</tbody>
</table>

1.4 Traditionally, the planning system has delivered infrastructure through planning obligations secured under Section 106 of the Town and Country Planning Act 1990, whereby a developer or landowner enters into a formal agreement to deliver necessary improvements such as a new road or increased school capacity before obtaining planning permission.

1.5 However, the Government is scaling back the use of planning obligations and the primary means of funding infrastructure through planning and development is now intended to be the Community Infrastructure Levy (CIL) which is a charge that local authorities can levy on most new developments on a pound (£) per m² basis to help fund the provision, improvement, replacement, operation or maintenance of infrastructure.

1.6 CIL came into force in April 2010 and is gradually being rolled out by most local authorities across England. Earlier in the year, Cabinet agreed to undertake the preparatory work needed to consider the introduction of CIL into West Oxfordshire.

1.7 That work has now been completed and has been used to prepare this CIL Preliminary Draft Charging Schedule (PDCS) which will be published for an 8-week period of public consultation.

1.8 All comments received on the PDCS will be taken into account by the Council in developing its CIL Draft Charging Schedule (DCS) in 2014.
2. **About the Community Infrastructure Levy (CIL)**

2.1 CIL came into force in April 2010 and is a levy that local authorities can choose to charge on new developments within their area. The money raised from CIL can then be used to help fund new infrastructure such as roads, healthcare, libraries, green spaces and schools. It is intended to complement other, existing sources of funding.

**The Charging Authority**

2.2 For the purposes of CIL, the charging authorities in England are the District and Metropolitan District Councils, London Borough Councils, unitary authorities, national park authorities, the Broads Authority and the Mayor of London.

2.3 Once it has been adopted, West Oxfordshire District Council will be the charging authority for the purposes of operating CIL in West Oxfordshire.

**How much is CIL?**

2.4 The charging authority must set out its CIL rate on a pound (£) per m² basis. However, there is no standard rate and the regulations allow charging authorities to set different rates depending on infrastructure needs and the viability of development in that particular location.

2.5 So for example in one area a charging authority may impose a CIL charge for residential development of £100 per m² whereas in another area, the rate may be £200 per m².

2.6 In arriving at an agreed CIL rate, it is essential that the charging authority strikes an ‘appropriate balance’ between the desirability of funding new infrastructure through CIL and the need to ensure that new development remains viable and deliverable.

2.7 In other words, the CIL rate should not be set at such a high level that it would render development unviable and jeopardise future growth. Robust evidence of future infrastructure requirements and the economic viability of development in the local area is therefore essential (see Section 3.0).

**How is CIL calculated?**

2.8 Once the CIL rate (or rates) has been set, the total amount payable is calculated on the basis of the gross internal area (GIA) of any net additional liable development.

2.9 To provide a very simple illustration, if the CIL rate for residential development is £100 per m² and a developer proposes to build one new house with a GIA of 100m² the amount payable through CIL would be £10,000 (i.e. £100 x 100m²).

2.10 Similarly if a developer were proposing to build 10 new houses each with a GIA of 100m² the total amount payable through CIL would be £100,000 (i.e. £100 x 100m² x 10).

2.11 It should be noted that CIL is charged on the basis of any net additional liable floorspace. In other words if a new development of 10,000m² involves the demolition of 5,000m² of existing floorspace, CIL is only chargeable on the 5,000m² of additional floorspace over and above what existed previously (i.e. the net amount).
2.12 Payment for CIL can be made by land as well as by money. It is for the charging authority to choose whether to accept payment (in whole or in part) by land.

2.13 Further detail on how CIL is calculated is set out at Appendix 1.

**Liability and Exemptions**

2.14 Development will generally be liable for CIL in the following circumstances:

- It is a building that people normally use;
- It is a development that creates 100m² or more of new build floorspace measured as Gross Internal Area (GIA);
- It is a development of less than 100m² new build GIA that results in the creation of one or more dwellings.

2.15 Development will not generally be liable for CIL in the following circumstances:

- It is a building that people do not normally go into or go into intermittently (e.g. for maintenance);
- Structures which are not buildings such as pylons and wind turbines;
- Buildings for which planning permission has been granted for a temporary period;
- Changes of use that involve no net increase in floorspace;
- Affordable housing subject to an application by a landowner for CIL relief;
- Development by charities for charitable purposes subject to an application by a charity landowner for CIL relief.

2.16 The CIL regulations allow the charging authority to offer discretionary relief in a number of circumstances including to a charity landowner where the greater part of the chargeable development will be held as an investment, from which the profits are applied for charitable purposes.

2.17 Relief may also be granted in exceptional circumstances on the basis of an unacceptable impact on the economic viability of a development.

2.18 The Council does not intend to offer discretionary or exceptional circumstances relief from CIL in West Oxfordshire.

**When is CIL paid?**

2.19 When planning permission is granted, the District Council will issue a liability notice setting out the amount payable through CIL, and the payment procedure.

2.20 The Council’s intention is to require any CIL payment to be made within 60 days of the commencement of development. We do not propose to accept payment by instalments.

**Who collects CIL?**

2.21 In most cases, responsibility for the collection of CIL rests with the charging authority. Whilst the regulations allow for the collection responsibilities to be passed to other public authorities, it is our intention that West Oxfordshire District Council as charging authority is also the collection authority for CIL in West Oxfordshire.
2.22 The CIL (amendment) Regulations 2013 require the District Council to pass on 15% of any CIL revenues collected directly to those Parish and Town Councils where development has taken place. In areas where there is a Neighbourhood Development Plan (NDP) in place the amount passed on increases to 25%.

2.23 There is a cap on the maximum amount of CIL receipts that may be passed onto Parish and Town Councils (up to £100 per existing Council tax dwelling per year) although the regulations allow the charging authority to pass on more.

**How is CIL spent?**

2.24 Charging authorities must spend their CIL receipts on infrastructure that has been identified as being necessary to support future growth.

2.25 Infrastructure to be funded by CIL must be clearly identified in a schedule known as the '123 list' (in reference to Regulation 123 of the CIL regulations). Importantly, if an item is identified on the 123 list, the charging authority cannot also seek contributions towards it through a Section 106 planning obligation as to do so would constitute 'double-dipping' with the developer paying twice for the same item of infrastructure.

2.26 A proportion of CIL revenue collected by the charging authority (up to 5% of total receipts) can be used to cover the costs of administering CIL (including initial set-up costs). In accordance with the regulations it is the Council’s intention to use a proportion of its CIL receipts to cover the costs incurred to date and moving forward.

2.27 Town and Parish Councils that receive CIL payments from their local authority can spend them on the following:

- The provision, improvement, replacement, operation or maintenance of infrastructure; or
- Anything else that is concerned with addressing the demands that development places on an area (e.g. affordable housing).

2.28 Any additional funds passed to Town or Parish Councils over and above the limit defined at paragraph 2.23 above can only be spent on infrastructure.

**Accounting for how CIL money is spent**

2.29 Both the charging authority and any communities in receipt of CIL must report annually on how much money they have received through CIL and what it has been spent on. This is to ensure maximum transparency.

2.30 In West Oxfordshire, it is our intention to report on CIL through our existing LDF monitoring report which is produced annually.

**Relationship of CIL to Section 106 legal agreements (planning obligations)**

2.31 CIL is intended to complement the existing system of Section 106 planning obligations which is being scaled back. The intention is that Section 106 planning obligations will continue to be used for the delivery of affordable housing (not covered by CIL) and also ‘site-specific’ matters such as access, open space and drainage (provided such improvements are not identified as specific CIL funded items on the 123 list).
2.32 Planning obligations can also be used to secure contributions to more general items of infrastructure such as schools and libraries (again provided they are not on the CIL 123 list).

2.33 Any planning obligation should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development

2.34 Historically, local authorities have ‘pooled together’ numerous planning obligations towards particular items of infrastructure (e.g. contributions from many individual developments towards the cost of a large project such as a new leisure centre). However, it is the Government’s intention to limit the pooling of such agreements to no more than five from April 2015 onwards.

3. Justification for CIL in West Oxfordshire

3.1 In order to introduce CIL into West Oxfordshire, the District Council will be required to demonstrate firstly that there is a need for it and secondly that the proposed charge it intends to implement is reasonable and strikes an ‘appropriate balance’ between the desirability of funding new infrastructure through CIL and the need to ensure that new development remains viable and deliverable.

3.2 Dealing with each of these issues in turn.

The Need for CIL in West Oxfordshire

3.3 All new development has an impact on the capacity of existing infrastructure such as roads, schools and open spaces. New and improved infrastructure must therefore be provided in order to satisfactorily mitigate the impact of new development.

3.4 To provide a simple example, if a new development of housing is proposed in a particular area, and the local primary school was already at capacity, it would be entirely reasonable for a financial contribution to be sought from the developer towards increasing the capacity of that school in order to cater for the new children that would move into the new housing.

3.5 In support of the Draft Local Plan (2012) the Council published a Draft Infrastructure Delivery Plan (IDP) in November 2012. The Draft IDP sought to identify the infrastructure that will be needed to support future growth in West Oxfordshire over the local plan period to 2029.

3.6 A range of infrastructure items were identified including improvements to transport, health, education, open space and so on.

3.7 Although there are uncertainties surrounding some of the costs, it is already evident that there is insufficient funding available from existing sources to deliver the infrastructure needed to support future growth. The introduction of CIL in West Oxfordshire will therefore make an important contribution towards reducing this funding deficit.
3.8 The Council will publish a separate ‘Infrastructure Funding Gap Analysis’ as part of its supporting evidence base for CIL.

**The ‘Appropriate Balance’**

3.9 In arriving at its CIL rate, it is essential that the Council strikes a balance between the desirability of funding new infrastructure through CIL and the need to ensure that new development remains viable and deliverable.

3.10 It would be no good for example if the Council set a residential CIL rate of £1,000 per m² and in doing so, rendered most new housing schemes unviable due to the high costs incurred by the developer. This would obviously have a direct and harmful impact on the delivery of new housing in the District.

3.11 Charging authorities must therefore be able to show and explain how their proposed CIL rate (or rates) will contribute towards the implementation of their relevant plan.¹

3.12 To provide the necessary evidence the Council commissioned consultants AspinallVerdi to prepare an economic viability assessment (EVA). The report sets out the justification for the proposed CIL rates set out in Section 4.0 below and should be read alongside.

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¹ Community Infrastructure Levy Guidance (April 2013) – Department for Communities and Local Government
4. Proposed CIL Rates for West Oxfordshire

Residential Development

4.1 The proposed residential CIL rates for West Oxfordshire are set out in Table 1 below.

<table>
<thead>
<tr>
<th>Zone (see Figure 1)</th>
<th>Type/size of scheme</th>
<th>Recommended CIL rate (£ per m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Higher Value</td>
<td>1 (single dwelling)</td>
<td>£0</td>
</tr>
<tr>
<td></td>
<td>2-5 units (inclusive)</td>
<td>£0</td>
</tr>
<tr>
<td></td>
<td>6+ units</td>
<td>£200</td>
</tr>
<tr>
<td></td>
<td>Sheltered housing</td>
<td>£200</td>
</tr>
<tr>
<td></td>
<td>Extra care housing</td>
<td>£100</td>
</tr>
<tr>
<td>Medium Value</td>
<td>1 (single dwelling)</td>
<td>£0</td>
</tr>
<tr>
<td></td>
<td>2-5 units (inclusive)</td>
<td>£0</td>
</tr>
<tr>
<td></td>
<td>6+ units</td>
<td>£200</td>
</tr>
<tr>
<td></td>
<td>Sheltered housing</td>
<td>£100</td>
</tr>
<tr>
<td></td>
<td>Extra care housing</td>
<td>£0</td>
</tr>
<tr>
<td>Lower Value</td>
<td>1 (single dwelling)</td>
<td>£0</td>
</tr>
<tr>
<td></td>
<td>2-5 units (inclusive)</td>
<td>£0</td>
</tr>
<tr>
<td></td>
<td>6+ units</td>
<td>£200</td>
</tr>
<tr>
<td></td>
<td>Sheltered housing</td>
<td>£0</td>
</tr>
<tr>
<td></td>
<td>Extra care housing</td>
<td>£0</td>
</tr>
</tbody>
</table>

Table 1 - Recommended Residential CIL Rates

4.2 It can be seen that the recommended residential CIL rates vary by scheme size, type and location.

4.3 Small scale residential developments of 1-5 dwellings would be exempt from CIL. They would however be expected to pay a commuted sum towards affordable housing. A separate consultation paper dealing with affordable housing has been made available alongside this preliminary draft charging schedule and should be read in conjunction.

4.4 Residential schemes of 6 or more dwellings would be expected to pay a flat CIL rate of £200 per m² irrespective of location.

4.5 For sheltered housing the CIL charge would vary according to whether the development is located in the higher value zone, medium value zone or lower value zone (see Figure 1).
4.6 In the higher value zone, the CIL charge for sheltered housing would be £200 per m², in the medium value zone it would be £100 per m² and in the lower value zone no CIL charge would apply.

4.7 For extra-care housing a CIL charge of £100 per m² would apply in the higher value area only (see Figure 1).
Non-Residential Development

4.8 The proposed commercial CIL rates are set out in Table 2 below.

<table>
<thead>
<tr>
<th>Use</th>
<th>Location</th>
<th>Recommended CIL rate (£ per m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offices</td>
<td>District wide</td>
<td>£0</td>
</tr>
<tr>
<td>Industrial</td>
<td>District wide</td>
<td>£0</td>
</tr>
<tr>
<td>Shops</td>
<td>District wide (except Town Centres)</td>
<td>£160</td>
</tr>
<tr>
<td>Shops</td>
<td>Town Centres (as per Local Plan)</td>
<td>£110</td>
</tr>
<tr>
<td>Supermarkets</td>
<td>District wide</td>
<td>£175</td>
</tr>
<tr>
<td>Retail Warehouses</td>
<td>District wide</td>
<td>£140</td>
</tr>
</tbody>
</table>

Table 2 - Recommended Commercial and Retail CIL Rates

4.9 The commercial and retail CIL rates recommended above are intended to apply on a District wide basis (with the exception of shops in Town Centres – the boundaries of which will be defined through the Local Plan).

4.10 It can be seen that offices and industrial uses would not be required to pay a CIL charge. This is because the supporting evidence suggests that this would not be viable.

Other Uses (A2-A5 and sui generis)

4.11 The viability study produced in support of this preliminary draft charging schedule suggests that where units have the potential to be used for A2-A5 as well as A1 retail (e.g. as part of an open ‘A’ use consent within a District Centre, CIL should be levied at the retail rate above (£160 per m²).

4.12 Similarly in the case of new ‘stand-alone’ family pubs or drive-thru franchises which may be proposed as part of the facilities on strategic sites and in other ‘greenfield’ ‘main-road’ locations, the supporting evidence suggests that CIL should be levied at the retail rate (£160 per m²).

4.13 The Council does not intend to charge CIL on C1 (hotel) uses, D1 uses (non-residential institutions) D2 uses (assembly and leisure) or agricultural development (unless it were a retail use proposed as part of a farm diversification scheme in which case the retail rate above would apply).

4.14 In relation to sui-generis uses (that don’t fall within a particular use class) the consultant recommends that in the case of uses such as car showrooms which often compete for land with retail uses, it would be reasonable to levy the CIL retail rate where such uses are coming forward pursuant to a retail consent on ‘greenfield’ ‘main road’ locations.

Calculation of CIL

4.15 The Council will calculate the amount of CIL payable in accordance with the CIL Regulations as amended. The methodology is summarised at Appendix 1.
5. **Responding to the Consultation**

5.1 The consultation on the PDCS will last for a period of 8-weeks to allow the maximum opportunity for interested parties to respond. The PDCS and supporting evidence will be made available online, at the District Council Offices, Town Centre Shops and Visitor Information Centres.

5.2 All those required to be notified by the CIL regulations will be notified and those parties held on the Council’s LDF stakeholder database will also be invited to comment.

5.3 To help you make a response we have attached a standard response form at Appendix 3. You do not have to use this form but it might help you set out your views more clearly.

5.4 Written comments should be sent to the following address:

   Planning Policy  
   West Oxfordshire District Council  
   Elmfield Office  
   New Yatt Road  
   Witney  
   OX28 1PB

5.5 Electronic responses should be sent to the following email address:

   planning.policy@westoxon.gov.uk

5.6 The deadline for responding to the consultation is 5th February 2014.

6. **Next steps**

6.1 Officers will review all of the comments received on this preliminary draft charging schedule and decide how best to proceed. The course of action taken will to a large extent depend on the issues raised through the consultation.

6.2 Subject to any further evidence gathering and changes to the PDCS, the intention is for the Council to consult on a Draft Charging Schedule (DCS) before formally submitting it for examination.

6.3 This is likely to take place in spring 2014.
**Appendix 1**

**Calculation of CIL**

The amount of CIL chargeable will be calculated by applying the following formula:

\[
\frac{R \times A \times I_p}{I_c}
\]

Where:

- \( A \) = the deemed net area chargeable at rate \( R \) (see Tables 1 and 2 above)
- \( I_p \) = the index figure for the year in which planning permission was granted; and
- \( I_c \) = the index figure for the year in which the charging schedule containing rate \( R \) took effect.

The value of \( A \) (above) will be calculated by applying the following formula—

\[
G_R - K_R - \left( \frac{G_R \times E}{G} \right)
\]

Where:

- \( G \) = the Gross Internal Area (GIA) of the chargeable development
- \( G_R \) = the Gross Internal Area (GIA) of the part of the development chargeable at rate \( R \)
- \( E \) = an amount equal to the aggregate of the gross internal areas of all buildings which:
  a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
  b) are to be demolished before completion of the chargeable development; and
- \( K_R \) = an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which:
  a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use;
  b) will be part of the chargeable development upon completion; and
  c) will be chargeable at rate \( R \).
Appendix 2

Sources of Further Information

**Legislation**

*CIL Regulations 2010*


*CIL (Amendment) Regulations 2011*


*The Local Authorities (Contracting Out of Community Infrastructure Levy Functions) Order 2011*


*CIL (Amendment) Regulations 2012*


*CIL (Amendment) Regulations 2013*


*Consultation on CIL further reforms*


**Guidance**


**General Information**

*Planning Advisory Service (PAS)*


*Planning Portal*

Appendix 3

CIL Preliminary Draft Charging Schedule (PDCS)
Consultation Questions

1. Do you agree that there is a need to introduce the Community Infrastructure Levy (CIL) in West Oxfordshire?

2. Do you support the recommended CIL rates for residential uses set out in Table 1?

3. Do you agree that small-scale residential schemes of 1-5 dwellings should be exempt from CIL and instead pay a commuted sum towards affordable housing?

4. Do you agree with the extent of the high, medium and lower value zones illustrated at Figure 1?

5. Do you support the recommended CIL rates for retail uses set out in Table 2?

6. Do you agree that offices and industrial uses should be exempt from CIL?

7. Do you agree that where A2 – A5 uses (financial and professional services, restaurants and cafes, drinking establishments and hot-food takeaways) have the potential to be used for A2-A5 uses as well as A1 retail (e.g. as part of an ‘open’ consent for A-class development such as a District Centre) they should be charged the proposed CIL retail rate?

8. Do you are agree that in relation to sui generis uses (e.g. car showrooms) that come forward pursuant to a retail consent on greenfield ‘main road’ locations, it would be reasonable to levy the proposed CIL retail rate?

9. Do you agree that CIL should not be levied on C1 uses (hotels) D1 uses (non-residential institutions) D2 uses (assembly and leisure) and agricultural development?

10. Are there any other comments you wish to make?