West Oxfordshire District Council

Community Infrastructure Levy (CIL)

Draft Charging Schedule (DCS)

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February 2015
I. 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. The intention is to publish the final pre-submission draft plan in March 2015.

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 Policy OSS of the pre-submission draft Local Plan set out below.

Policy OSS – Supporting Infrastructure

Where necessary and viable, new development will be required to deliver, or contribute towards the provision of appropriate supporting infrastructure either directly as part of the development, or through an appropriate financial contribution towards off-site provision.

This will include, where applicable the strategic infrastructure items identified within the Council’s Infrastructure Delivery Plan (IDP) and CIL Regulation 123 list as well as non-strategic infrastructure requirements including those associated with individual development proposals.

Such provision will be secured through appropriate mechanisms including the use of planning conditions, planning obligations and/or the Community Infrastructure Levy (CIL).

Favourable consideration will be given to development proposals that make appropriate provision for supporting infrastructure in a timely manner. Conversely, development proposals that fail to make adequate or timely provision for necessary supporting infrastructure will be resisted.

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 to focus on affordable housing and site-specific infrastructure that is needed to enable a development to proceed.

1.6 CIL, which is a charge that local authorities can levy on most new developments will play a complementary role, focusing on the type of ‘tariff-style’ contributions that have been traditionally been sought through Section 106 including for example school places, open space, library provision etc.

1.7 CIL came into force in April 2010 and is gradually being rolled out by most local authorities across England. In 2013 it was agreed by Cabinet that the Council should undertake the preparatory work needed to consider the introduction of CIL into West Oxfordshire. Following this, the CIL Preliminary Draft Charging Schedule (PDCS) was prepared and published for an 8-week period of public consultation in November 2013.
1.8 All comments received to the consultation have been considered in detail and the Council’s viability evidence has been updated to take account of those comments as well as changes to national policy and guidance. The updated viability evidence has informed this Draft Charging Schedule (DCS).

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 certain types of 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:

- Houses, flats, residential annexes and residential extensions which are built by self-builders (subject to an application for relief);
- 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;
- Vacant buildings brought back into the same use.

2.16 The Community Infrastructure Levy Regulations make a number of provisions for charging authorities to give relief from CIL. Some types of relief are mandatory¹ others are offered at the charging authority’s discretion². The District Council will offer mandatory relief in accordance with the CIL regulations (as amended) but does not intend to offer any form of discretionary relief from CIL.

¹ For example a charitable institution which owns a material interest in the land (a charity landowner) will get full relief from their share of the liability where the chargeable development will be used ‘wholly, or mainly, for charitable purposes’ and they meet the requirements of Regulation 43 of the CIL Regulations.

² For example discretionary social housing relief for affordable dwellings which meet the criteria set out in Regulation 49A of the CIL regulations.
**When is CIL paid?**

2.17 When planning permission is granted, the District Council will issue a liability notice setting out the amount payable through CIL, and the payment procedure. The Council’s current intention is to require any CIL payment to be made within 60 days of the commencement of development.

2.18 Further consideration will be given to the option of paying by instalments and if the Council considers that an instalment policy should be introduced, this will be made available including on the Council’s website.

**Who collects CIL?**

2.19 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.

2.20 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%.

2.21 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?**

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

2.23 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.

2.24 The Council has prepared a draft 123 list which will be made available as part of the proposed consultation on this Draft Charging Schedule.

2.25 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.

2.26 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

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Anything else that is concerned with addressing the demands that development places on an area (e.g. affordable housing).

2.27 Any additional funds passed to Town or Parish Councils over and above the limit defined at paragraph 2.21 above can only be spent on infrastructure.

**Accounting for how CIL money is spent**

2.28 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.

2.29 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)**

2.30 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 and drainage (provided such improvements are not identified as specific CIL funded items on the 123 list).

2.31 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

2.32 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 pre-submission draft Local Plan, the Council has also produced an updated Infrastructure Delivery Plan (IDP). This seeks to identify the infrastructure that will be needed to support future growth in West Oxfordshire over the local plan period to 2031. A range of infrastructure items have been identified including improvements to transport, health, education, open space and so on.

3.6 Although there are uncertainties surrounding some of the costs, it is 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.

3.7 A separate ‘Infrastructure Funding Gap Analysis’ has been prepared and will be published as part of the consultation on this Draft Charging Schedule. The analysis confirms that there is a significant funding gap and therefore clear justification for the introduction of CIL into West Oxfordshire.

3.8 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.

3.9 For example, it would be ineffective 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.

3.10 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

3.11 To provide the necessary evidence the Council commissioned consultants AspinallVerdi to prepare an update of their original economic viability assessment (EVA) published alongside the preliminary draft charging schedule. The updated EVA takes account of consultation responses received as well as more recent data (e.g. updated sales values and build cost assumptions).

3.12 They have also taken into account relevant changes to national policy and guidance (including the exemption of certified self-build schemes from CIL and the introduction of a new national threshold of 11 or more dwellings for the on-site provision of affordable housing).

¹ Community Infrastructure Levy Guidance (June 2014) – Department for Communities and Local Government
3.13 Their findings are reflected in the charging schedule set out in Section 4 below:

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>District wide</td>
<td>Schemes of 5 units or less (except certified ‘self-build’ which is exempt)</td>
<td>£200 per m²</td>
</tr>
<tr>
<td>District wide (outside of the Cotswolds AONB)</td>
<td>6-10 units (inclusive)</td>
<td>£200 per m²</td>
</tr>
<tr>
<td>District wide (within the Cotswolds AONB)</td>
<td>6-10 units (inclusive)</td>
<td>£100 per m²</td>
</tr>
<tr>
<td>District wide</td>
<td>Schemes of 11 units or more</td>
<td>£100 per m²</td>
</tr>
<tr>
<td>High and Medium Value Zone</td>
<td>Sheltered housing</td>
<td>£100 per m²</td>
</tr>
<tr>
<td>Low Value Zone</td>
<td>Sheltered housing</td>
<td>£0</td>
</tr>
<tr>
<td>High Value Zone</td>
<td>Extra care housing</td>
<td>£100 per m²</td>
</tr>
<tr>
<td>Medium and Low Value Zone</td>
<td>Extra care housing</td>
<td>£0</td>
</tr>
</tbody>
</table>

*Table 1 - Recommended Residential CIL Rates*

4.2 For schemes of 5 or less units (except certified ‘self-build’ which is exempt) the CIL charge is £200 per m² which will apply on a District-wide basis. This is a significant change from the Preliminary Draft Charging Schedule (PDCS) which proposed a zero CIL rate for schemes of 5 or less units. The reason for this is that since the PDCS was published, the Government has introduced new national policy to exempt residential schemes of 1-5 units from having to contribute towards the provision of affordable housing (either on-site or in the form of a commuted sum).

4.3 The updated EVA report takes this into account and concludes that in the absence of an affordable housing requirement, small residential schemes of less than 5 units should be financially able to make a CIL contribution of £200 per m².
6 – 10 units

4.4 National policy allows the Council to seek an affordable housing commuted sum from schemes of 6 – 10 units within designated rural areas which includes the Cotswolds Area of Outstanding Natural Beauty (AONB). As such, having regard to the updated viability evidence, the Council proposes that for residential schemes of 6 – 10 units within the AONB, a CIL rate of £100 per m² will be sought, alongside an affordable housing commuted sum of £100 per m² (i.e. £200 per m² in total).

4.5 For schemes of 6 – 10 units outside of the Cotswolds AONB, where the Council is unable to seek an affordable housing commuted sum due to national policy, a CIL rate of £200 per m² will apply on a District-wide basis.

11 or more units

4.6 Larger residential schemes of 11 or more units will be required to pay a CIL charge of £100 per m². This lower rate takes account of the fact that such schemes will trigger an on-site affordable housing requirement which will have a significant impact on the gross development value of the scheme.

Sheltered Housing

4.7 In relation to sheltered housing, a CIL charge of £100 per m² will apply in the high and medium value zones but not in the low value zone where a zero rate would apply.

Extra-Care Housing

4.8 In relation to extra-care housing, a CIL charge of £100 per m² will apply in the high value zone only.

Extent of Value Zones

4.9 The high medium and low value zones referred to in the charging schedule are illustrated on the plan overleaf which also includes the boundary of the Cotswolds AONB.
Figure 1 – CIL Value Zones
Non-Residential Development

<table>
<thead>
<tr>
<th>Use</th>
<th>Location</th>
<th>Recommended CIL rate (£ per m$^2$)</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>A1 - A5 Uses (greenfield sites)</td>
<td>District wide</td>
<td>£175 per m$^2$</td>
</tr>
<tr>
<td>A1-A5 Uses (previously developed sites outside designated Town Centres)</td>
<td>District wide (except Town Centres)</td>
<td>£50 per m$^2$</td>
</tr>
<tr>
<td>A1 – A5 Uses (previously developed sites in designated Town Centres)</td>
<td>Designated Town Centres (as defined by the Local Plan)</td>
<td>£30 per m$^2$</td>
</tr>
</tbody>
</table>

Table 2 - Recommended Commercial and Retail CIL Rates

4.10 The proposed rates for a number of commercial uses are set out in Table 2 above. The extent of the Town Centre boundaries referred to are shown on the plans attached at Appendix 3. A zero charge will apply to office and industrial development due to current lack of viability although this will be kept under review.

Other Uses

4.11 No charge will be levied on other uses including C1 uses (hotels), D1 uses (non-residential institutions), D2 uses (assembly and leisure), agricultural development and sui generis uses.

Calculation of CIL

4.12 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 DCS will last for a period of 6-weeks to allow the maximum opportunity for interested parties to respond. The DCS 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 Written comments should be sent to the following address:

Planning Policy
West Oxfordshire District Council
Elmfield Office
5.4  Electronic responses should be sent to the following email address:

planning.policy@westoxon.gov.uk

5.5  The deadline for responding to the consultation is **8th May 2015**.

6.  **Next steps**

6.1  Unless there are any materially significant issues raised during consultation on the Draft Charging Schedule, it is anticipated that the DCS will be submitted in early summer 2015 with a view to examination in autumn 2015 potentially following on from the examination into the pre-submission draft West Oxfordshire Local Plan.

6.2  If any materially significant issues are raised during the DCS consultation period, it may be necessary to consult further on those changes prior to submission to the examiner.
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:

\[A = \text{the deemed net area chargeable at rate } R \text{ (see Tables 1 and 2 above)}\]

\[I_p = \text{the index figure for the year in which planning permission was granted; and}\]

\[I_c = \text{the index figure for the year in which the charging schedule containing rate } R \text{ took effect.}\]

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:

\[G = \text{the Gross Internal Area (GIA) of the chargeable development}\]

\[G_R = \text{the Gross Internal Area (GIA) of the part of the development chargeable at rate } R\]

\[E = \text{an amount equal to the aggregate of the gross internal areas of all buildings which:}\]

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

c) will be chargeable at rate \( R \).

\[K_R = \text{an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which:}\]

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

**Background Papers:**

- West Oxfordshire CIL Preliminary Draft Charging Schedule (December 2013)
- AspinallVerdi Local Plan and CIL Viability Study (September 2013)
- AspinallVerdi Local Plan and CIL Update Viability Study Update (February 2015)

**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
- CIL (Amendment) Regulations 2014 – (Updated Planning Practice Guidance replaced this standalone guidance in June 2014)

**Guidance**


**General Information**

- Planning Advisory Service (PAS)
- Planning Portal
Appendix 3

Designated Town Centre Boundaries – West Oxfordshire

Carterton Town Centre

Witney Town Centre
Woodstock Town Centre