



**Hertsmere Borough Council**

**COMMUNITY INFRASTRUCTURE LEVY (CIL)**

**PRELIMINARY DRAFT CHARGING SCHEDULE**

**February 2013**

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## How to comment on this document

Your comments and views are welcomed on the proposed CIL rates and other elements of the proposed approach. The consultation period runs from **1 March to 3 April 2013**.

**All responses must be received by 5pm on 3 April 2013.**

The supporting Viability Study and the Infrastructure Delivery Plan are also being made available for inspection. The documentation can be viewed at all Council Offices and Libraries. They are also available on-line at [www.hertsmere.gov.uk/CIL](http://www.hertsmere.gov.uk/CIL)

There are a number of ways in which you can make comments on the Preliminary Draft Charging Schedule document.

- By email to [local.plan@hertsmere.gov.uk](mailto:local.plan@hertsmere.gov.uk)
- By writing to us at:

### **CIL Consultation**

Policy and Transport  
Hertsmere Borough Council  
Civic Offices  
Elstree Way  
Borehamwood  
Hertfordshire  
WD6 1WA

Once the Council has considered all the representations received, it will produce a final Charging Schedule which will be subject to a further round of consultation. Consultation on the Charging Schedule is expected to take place in Spring 2013 and is expected the Council will submit the Charging Schedule for an independent public examination in late 2013.

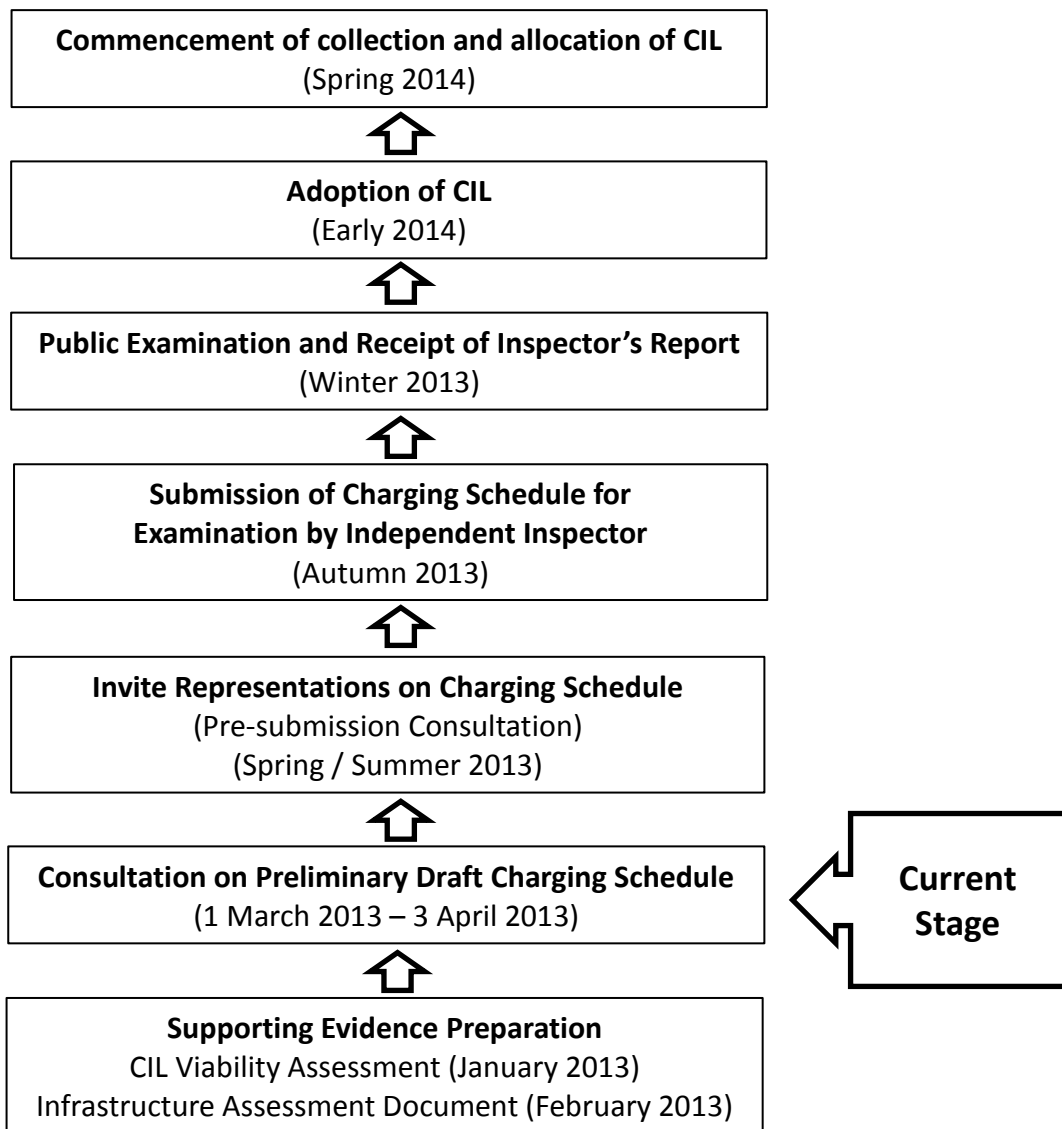
## Supporting documents

The Preliminary Draft Charging Schedule is supported by the follow documents as follows:

1. Infrastructure and Funding Report (February 2013)
2. CIL Viability Study (Stage 1 and Stage 2)
3. Infrastructure Assessment Document (February 2013)

The following diagram shows the stages in the production of the Community Infrastructure Levy:

## Community Infrastructure Levy (CIL)



## **1. Introduction**

- 1.1 The Community Infrastructure Levy (CIL) is a new levy that local authorities can choose to charge on new developments in their area. The money can be used to support development by funding the infrastructure that the council, local community and neighbourhoods deem as necessary.
- 1.2 Hertsmere Borough Council is a charging authority under the CIL Legislation and it is investigating the potential for adopting a CIL. The purpose of this consultation document is to set out the general principles of CIL and to seek views on the Hertsmere Borough Council Preliminary Draft Charging Schedule. The Charging Schedule sets out the charges the Council wishes to introduce as its CIL.

## **2. General Principles**

- 2.1 CIL is a discretionary, tariff-based development land tax, which the Council can choose to adopt to support the provision of local infrastructure. Once adopted CIL is fixed, non-negotiable and enforceable. CIL will be charged on new development, it is charged per square metre on net additional floorspace of development. CIL is not charged on affordable housing and buildings used for charitable purposes. The amount payable will be set at the time planning permission is granted and payment will be due at the commencement of development. Larger amounts will be payable in instalments over fixed time periods.
- 2.2 CIL was introduced in the 2008 Planning Act. The process for setting and implementing the Charge is set out in the CIL Regulations 2010, together with subsequent Amended Regulation in 2011 and 2012. The Government provided new Statutory CIL Guidance in December 2012 and further regulation is expected. Under the CIL Regulations, changes of the use of s106 Planning Obligations will become law from 6 April 2014. This will significantly restrict current infrastructure funding practices whether or not the council has adopted a CIL charge or not.
- 2.3 The Government advises Local Authorities to introduce a levy as they considered that it:
  - delivers additional funding to carry out a wide range of infrastructure projects that support growth and will benefit the local community;
  - gives Local Authorities the flexibility and freedom to set their own priorities for what the money should be spent on – as well as a predictable funding stream that allows them to plan ahead more effectively;
  - provides developers with much more certainty ‘up front’ about how much money they will be expected to contribute, which in turn encourages greater confidence and higher levels of inward investment;
  - ensures greater transparency for local people, because they will be able to understand how new development is contributing to their community; and,
  - enables local authorities to allocate a share of the levy raised in a neighbourhood to deliver infrastructure the neighbourhood wants.

### **3. S106 and CIL**

- 3.1 The CIL is intended to provide infrastructure to support the development of an area rather than making an individual planning application acceptable in planning terms (which is the purpose of Section 106 Agreements). As such, CIL will not fully replace Section 106 Agreements.
- 3.2 S106 agreements will continue to be the primary mechanism for securing affordable housing through the planning system. In addition, S106 agreements will still be used in certain situations to mitigate the direct impact of the development proposed. Hertsmere has undertaken
- 3.3 The CIL Regulations restrict the use of Planning Obligations to ensure that developments are not charged for the same items through both S106 Agreements and the CIL. The Council is required to publish a list of infrastructure it intends to fund via the levy. It will not be possible to seek planning obligations towards items on the infrastructure list. Furthermore, the Council will only be able to pool a maximum of five planning obligations towards a particular piece or type of infrastructure.

### **4. Development liable for CIL**

- 4.1 CIL will be applied to the majority of new developments, the following types of development will be liable for CIL:
  - Development comprising 100 sqm or more of new gross internal floorspace
  - Development of less than 100 sqm of new floor space that results in the creation of one or more dwellings
  - The conversion of a building that is no longer in lawful use.

## 5. Calculation and Charging of CIL

- 5.1 The local authority must demonstrate that new or improved infrastructure is needed to mitigate the impact of planned development. It must also show that there is a 'gap' in the available funding for the necessary infrastructure that requires the use of CIL.
- 5.2 The local authority must also show that, in its informed judgement, the proposed levy rates would not make development proposals unviable across the area as a whole. It is not necessary to show that all developments would be viable, but that the majority of planned developments would not be made unviable by the proposed CIL level. The viability assessment needs to take account of the costs of other on-site requirements, including affordable housing. Hertsmere has undertaken a comprehensive viability assessment to determine its proposed CIL rates. The CIL viability assessments (Stage 1 and 2) are available on the Council website.
- 5.3 The Council's proposed CIL rates will be examined by an independent examiner. This will involve an assessment of whether a charge is justified by the need for, and cost of, new or improved infrastructure, and whether the charge will have an unacceptable negative impact on the economic viability of development.
- 5.4 The CIL Regulation state that in setting its CIL rate the Council must: ***"... aim to strike what appears to the charging authority to be an appropriate balance between:***
- ***The desirability of funding CIL and the actual and expected costs of infrastructure required to support development, and;***
  - ***The potential effects of the imposition of CIL on the economic viability of development across its area."***
- 5.5 Based on this evidence the Council needs to make a reasoned judgement as to the appropriate level at which to charge CIL. The following sections outline how the council has set an appropriate rate of CIL in light of the available evidence on infrastructure (needs, costs and available funding) and viability.

## 6. Proposed CIL Charging Rates

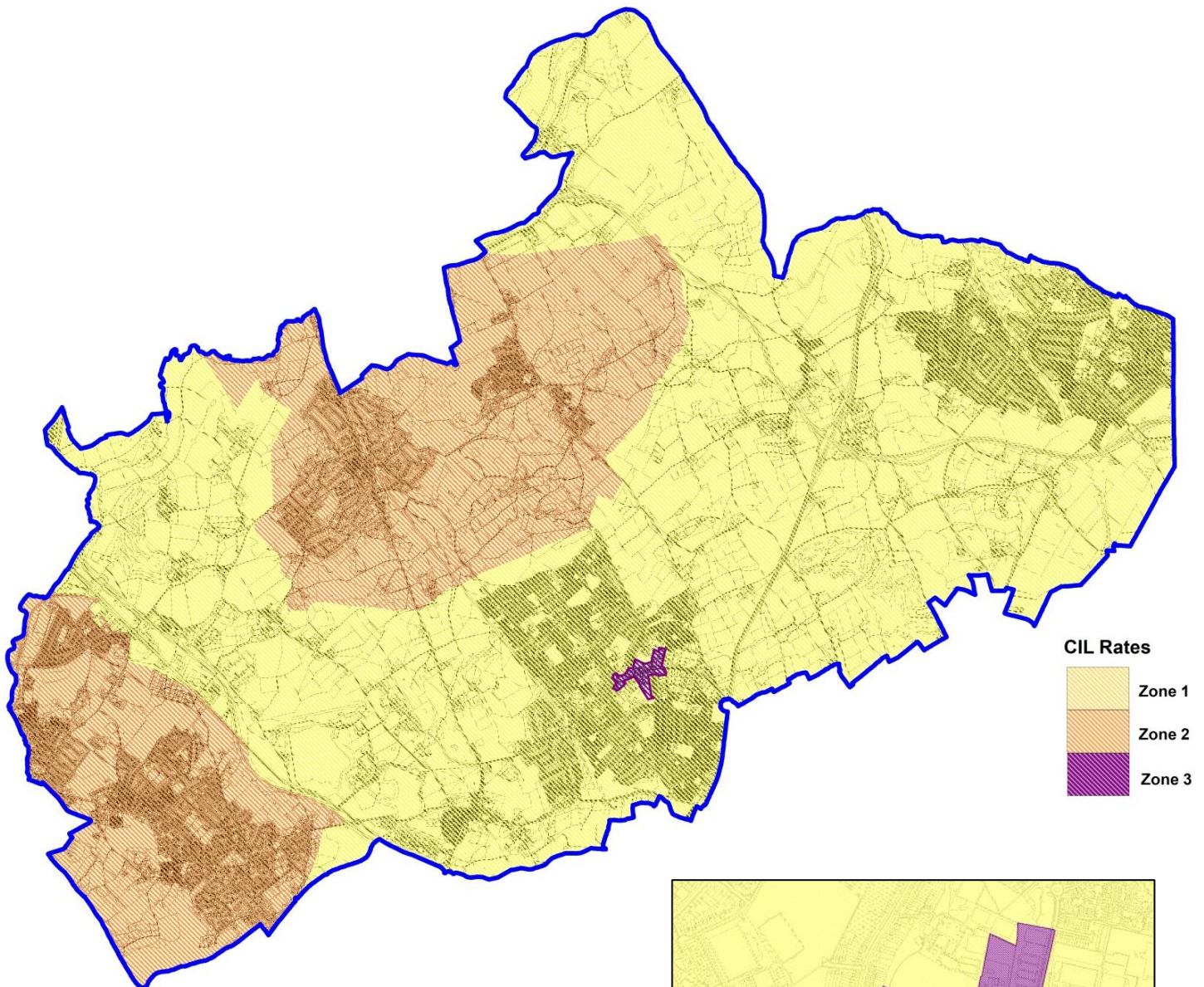
6.1 The Council's proposed charging rates are set out in the table below.

**Table 1 Preliminary Draft Charging Schedule - Proposed Charges (per sqm)**

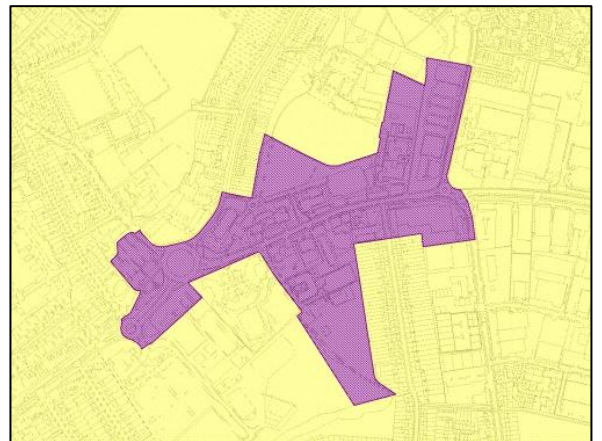
<b>Development type</b>	<b>Zone 1</b> Borehamwood, Potters Bar, Elstree	<b>Zone 2</b> Radlett, Bushey	<b>Zone 3</b> Elstree Way Corridor
<b>Residential</b>	£120	£210	£60
<b>Development type</b>	<b>Borough Wide</b>		
<b>Hotel</b>	£145		
<b>Care Home</b>	£163		
<b>Retail</b>	£84		
<b>Office</b>	£0		
<b>Industrial</b>	£0		



## 6.2 Map of Residential CIL Zones



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## **7. Exemptions and Payment Terms**

### **Exemptions**

- 7.1 The CIL Regulations exempt the following from paying the CIL:
- Development by registered charities for the delivery of their charitable purposes
  - Those parts of a development which are to be used as social housing
  - The conversion of any building previously used as a dwelling house to two or more dwellings
  - Development of less than 100 sqm of new build floorspace, provided that it does not result in the creation of a new dwelling
  - The conversion of, or works to, a building in lawful use that affects only the interior of the building
  - Development of buildings and structures into which people do not normally go (eg, pylons, wind turbines, electricity sub stations)

### **Discretionary Relief and Exceptional Circumstances Relief**

- 7.2 The CIL Regulations allow for the Council to provide further relief, at their discretion. The Council do not have to offer this relief, but if they chose to do so, they must adopt a discretionary relief policy. This is not part of the charging schedule and may be published at a different time.
- 7.3 The Council has not made a formal decision on whether it will offer discretionary relief for in accordance with the CIL Regulation Further information will be publicised in due course

### **Payment of CIL**

- 7.4 The default position is that the whole amount must be paid within 60 days of the development commencing. The Regulations allow Local Authorities to collect payment by instalments if they publish a policy.

## **8. Calculation of the Charge**

- 8.1 CIL is charged on the net additional internal floor area of development. Where buildings are demolished to make way for new buildings, the charge will be based on the floorspace of new buildings less the floorspace of the demolished buildings, provided the buildings were in lawful use prior to demolition. A building is considered to be in lawful use if a part of that building has been in use for a continuous period of at least 6 months within the period of 12 months ending on the day planning permission first permits the chargeable development.
- 8.2 The calculation of the chargeable amount to be paid by a development is set out in Regulation 40 of the Community Infrastructure Levy Regulations 2010, amendment Regulations 2011 and 2012
- 8.3 The calculation of the chargeable amount to be paid by a development is set out in Regulation 40 of the Community Infrastructure Levy Regulations 2010, amended Regulations 2011 and 2012 (see Appendix One).

## **9. Supporting documentation**

- 9.1 In order to set the rates, and to take into account these requirements, the following documents were used.

### ***Hertsmere Borough Council Local Plan Core Strategy***

- 9.2 The Hertsmere Borough Council Local Plan Core Strategy (adopted January 2013) sets out how much development will take place in the Borough to 2027 and the broad locations of that development. Furthermore, it provides the policy basis for the collection of developer contributions and the provision of on-site infrastructure to support new development through obligations, agreements and tariffs.

### ***CIL Viability Assessment***

- 9.3 An Economic Viability Assessment (January 2013) was prepared for the Council by consultants Lambert Smith Hampton (LSH). This assessed what level of CIL could be introduced for 11 different development types (5 forms of residential plus 6 other property uses – offices, industrial/distribution, hotels, care homes and gyms) without putting future development at risk. The viability assessment was based on well-established development appraisal techniques endorsed in RICS guidance. These involved looking at the impact of potential CIL rates on residual land values. The appraisal took account of other costs such as affordable housing and used assumptions which reflect the local market and relevant planning policy.

### ***Hertsmere Borough Council Infrastructure Assessment***

- 9.4 The Infrastructure Assessment (February 2013) forms part of the evidence base for the Local Plan Core Strategy. It gives a broad overview of the way certain infrastructure is planned and the agencies involved in its delivery. It also considers the costs and likely funding mechanisms for some items of infrastructure, in particular those that are critical to delivering the Core Strategy.
- 9.5 From the information received it is clear that the cost of the infrastructure required to support the development proposed by the Core Strategy exceeds the known funds available. A 'funding gap' is identified which justifies the preparation of a CIL charging schedule.

## Appendix One - Calculating the charge

Key points in calculating the CIL charge:

- CIL is charged on the net additional internal floor area of development.
- Where buildings are demolished to make way for new buildings, the charge will be based on the floorspace of new buildings less the floorspace of the demolished buildings, provided the buildings were in lawful use prior to demolition.
- A building is considered to be in lawful use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development.
- If the CIL amount calculated is less than £50 no charge will apply.
- The relevant rates are the rates as set out in the Charging Schedule which apply to type and location of the relevant development. They apply at the time planning permission first permits the chargeable development.

### **1. The amount of CIL charge must be calculated by applying the following formula:**

$$\text{CIL Charge} = \frac{\mathbf{R \times A \times I_p}}{I_c}$$

#### **Where-**

- A= the net chargeable area (New floorspace less any existing floorspace on the development site. The formula for calculating A in cases involving loss and/or change of use combined with more than one chargeable rate is given in 2 below)
- I<sub>p</sub>= the index figure for the year in which planning permission was granted
- I<sub>c</sub>= the index figure for the year in which the charging schedule containing rate R took effect
- R= the relevant chargeable rate

If it is necessary to apply several rate(s) to a chargeable development, the total amount will equal the sum of the amounts of CIL charge calculated at each relevant rate.

The index is the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors: the figure which should be used for a given year is the figure for 1st November of the preceding year.

### **2. Calculation of net chargeable area, A**

A is calculated by:

$$\text{Net Chargeable Area (A)} = \frac{\mathbf{GR - KR - \{ GR \times E \}}}{G}$$

#### **Where-**

- GR= the gross internal area of the part of the development at a specific rate
- G = the gross internal area of the development
- KR = the internal area of all buildings (excluding any new build) that on completion will be part of the development. Only floorspace in lawful use on the day planning permission is permitted can be included
- E= the gross internal areas of all buildings that will be demolished. Only floorspace in lawful use on the day planning permission is permitted

## Appendix Two - Residential CIL Zones

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