

Southend-on-Sea Community Infrastructure Levy

Preliminary Draft Charging Schedule
(PDCS) Consultation Document
2014

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1. INTRODUCTION

- 1.1 This document is a consultation document issued as the first step in setting the Southend-on-Sea Community Infrastructure Levy (CIL). It contains the proposed CIL charging schedule and explains the general principles of CIL, and the method used to arrive at the proposed charging rates.

What is CIL?

- 1.2 The Community Infrastructure Levy Regulations 2010 (“the CIL regulations”) came into force on 6 May 2010 and set out how CIL is to be introduced into an area. Subsequently, amendment regulations came into force in February 2011, November 2012, April 2013 and February 2014.
- 1.3 The CIL (as set out in the Planning Act 2008) allows local authorities to raise funds from new local development to make a financial contribution towards the infrastructure needed as a result of that development. The Council will use CIL alongside a range of other funding to continue to invest in a portfolio of infrastructure projects that are vital to delivery of the Local Plan.
- 1.4 Most development will have an impact on infrastructure needs within an area in some way or another. Whether it is on education, utilities, community facilities, health, transport, open space or anything else. Without improvements and/or new provision, additional development could place undue pressure on existing facilities and services. Therefore, it is reasonable that development should partly contribute towards these costs as part of a complex blend of funding including Local Government Grants and Council Capital Funding.

What developments are liable for CIL?

- 1.5 The levy may be payable on development which creates net additional floor space, where the gross internal area of new build exceeds 100 square metres (hence, CIL will not be payable on most householder extensions). This limit does not apply to new houses or flats, and a charge can be levied on a single house or flat of any size, unless it is built by a ‘self builder’. The following do not pay the levy:
- development of less than 100 square metres (see Regulation 42 on Minor Development Exemptions) - unless this is a whole house, in which case the levy is payable
 - houses, flats, residential annexes and residential extensions which are built by ‘self builders’ (see Regulations 42A, 42B, 54A and 54B, inserted by the 2014 Regulations)
 - social housing that meets the relief criteria set out in Regulation 49 or 49A (as amended by the 2014 Regulations)
 - charitable development that meets the relief criteria set out in Regulations 43 to 48
 - buildings into which people do not normally go (see Regulation 5(2))

- buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery (see Regulation 5(2))
- structures which are not buildings, such as pylons and wind turbines
- specified types of development which the Council has decided should be subject to a 'zero' rate based on local viability evidence, and specified as such in this charging schedule
- vacant buildings brought back into the same use (see Regulation 40 as amended by the 2014 Regulations)

Where the levy liability is calculated to be less than £50, the chargeable amount is deemed to be zero so no levy is due.

Mezzanine floors of less than 200 square metres, inserted into an existing building, are not liable for the levy unless they form part of a wider planning permission that seeks to provide other works as well.

The levy is charged on new development. Normally, this requires planning permission from the local planning authority, the Planning Inspectorate, or the Secretary of State on appeal. However, some developments not requiring planning permission (permitted development) will also be liable for CIL if they do not fall into the exemption criteria above (see related guidance on the General Permitted Development Order here:

<http://planningguidance.planningportal.gov.uk/blog/guidance/when-is-permission-required/what-are-permitted-development-rights/>).

Where a planning permission is phased, each phase of the development is treated as if it were a separate chargeable development for levy purposes (see Regulation 8(3A) as amended by 2014 Regulations).

Setting CIL rates

- 1.6 The level of CIL payable will not be negotiable and is set by the charging schedule.
- 1.7 In the proposed CIL rates the Council has sought to strike an appropriate balance between the need for CIL to fund the infrastructure necessary to support the development of Southend, taking into account other actual and expected sources of funding; and the potential effects of the imposition of CIL on the economic viability of development across the area. In this context, the Council has taken full account of the findings of the Viability Study (see Section 2), which includes the local policy requirement for affordable housing.

What can CIL be spent on?

- 1.8 In accordance with Community Infrastructure Levy Regulation 59, the Council can spend CIL on *“the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area”*.

Infrastructure could be physical (e.g. roads); it could be green (e.g. open spaces) or it could be social (e.g. schools, community buildings). It can be used to pay for strategic infrastructure serving a wide area or it could be localised infrastructure to help reduce the impact of new development on the immediate locality. Any on-going maintenance or operational costs must be directly related to the additional demands arising from new development. The Council can also retain up to 5% per annum of CIL receipts to meet upfront and continuing costs of preparing and implementing a CIL.

- 1.9 A capped 15% proportion of CIL revenue will need to be spent on locally determined infrastructure in areas where development takes place. This will rise to 25% for those areas with an adopted neighbourhood plan in place. In Parished areas (e.g. Leigh Town Council), the relevant proportion of CIL will be passed to Parish/Town Councils. In non-Parished areas, the Council will engage with the relevant communities to determine how CIL is spent, with consultation at the Ward level providing the starting point for establishing priorities.
- 1.10 The governance and prioritisation of future CIL spend is the responsibility of the charging authority (Southend Borough Council). However, in practice (and in line with statutory guidance) the prioritisation of projects will need to be undertaken in partnership with other infrastructure providers including Essex County Council (e.g. projects relation to A127/A13 will involve ECC). During the CIL consultation and adoption process the Council will consider further what governance arrangements need to be put in place to guide this process.

What happens to planning obligations (Section 106 agreements)?

- 1.11 CIL spending is not restricted in the same way as Section 106 (s.106) planning obligations. CIL breaks the link between the development and the development site, and can be spent more flexibly to allow infrastructure to benefit from funds collected from any number of developments.
- 1.12 Even after CIL is in place, site specific impact mitigation may still be necessary in order for a development to be granted planning permission, and this will continue to be secured through Section 106 agreements, Section 278 agreements or planning conditions (in addition to levy payments). However, to some extent CIL replaces planning obligations. From April 2015, or once a CIL charging schedule is adopted, whichever is sooner, it will not be possible for a local authority to enter into s.106 planning obligations that pool together developer contributions from more than five schemes for any particular infrastructure item (e.g. s.106 contributions towards education or public transport provision have previously been used in an aggregate manner in order to address cumulative impacts arising from a number of developments).
- 1.13 To ensure that local authorities do not charge twice by seeking contributions through s.106, s.278 and CIL, CIL Regulation 123 states that planning

obligations cannot be entered into where it would fund or provide relevant infrastructure listed on the Council's website that may be funded through CIL. The potential infrastructure projects that CIL will contribute funding to will be set out in what is referred to as the '**Regulation 123 Infrastructure List**' and a planning obligation will not be sought for any item of infrastructure included in this list.

- 1.14 Included as part of this consultation (and available separately) is a revised version of the Council's Planning Obligations Supplementary Planning Document (SPD2) together with a draft Regulation 123 Infrastructure List. These documents intend to make clear what the Council's infrastructure needs and priorities are, and the route through which developers will be expected to contribute to the costs of this infrastructure. The draft Regulation 123 Infrastructure List is based on the projects and priorities outlined in the Infrastructure Delivery Plan (see Section 2 below for further details). The Council will publish a final Regulation 123 Infrastructure List once a CIL charging schedule has been adopted.
- 1.15 The development appraisals forming part of the Viability Study (as summarised in Section 2 below) supporting Southend's proposed CIL have factored in an allowance of £1,012 per residential unit to address any s.106/s.278 costs of site mitigation. As affordable housing (required by Core Strategy policy CP8) will continue to be secured by planning obligations, this requirement has also been factored into the appraisals. These assumptions are reflected in the proposed levy charge rates.

2. EVIDENCE

- 2.1 The preliminary draft charging schedule is informed by an appropriate evidence base, which identifies the infrastructure required to support the growth outlined in the Local Plan, the infrastructure funding gap (i.e. the amount of funding still to be found as of the date of the IDP after actual and expected sources have been identified) and an assessment of the likely impact of CIL on the viability of development across the borough. The evidence base documents include:
- An up to date Local Plan – Core Strategy (DPD1) available at: http://www.southend.gov.uk/downloads/download/276/core_strategy
 - The Infrastructure Delivery Plan for Southend-on-Sea (IDP), June 2014 available at: http://www.southend.gov.uk/info/200160/local_planning_framework/483/community_infrastructure_levy_cil
 - Southend-on-Sea CIL Viability Study, May 2014, BNP Paribas available at: http://www.southend.gov.uk/info/200160/local_planning_framework/483/community_infrastructure_levy_cil

- 2.2 The paragraphs below discuss these documents in more detail.

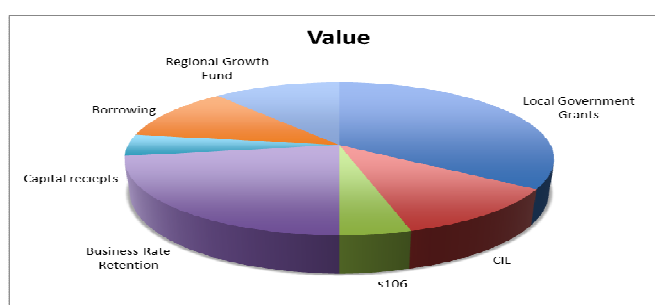
An up to date Local Plan

- 2.3 Statutory guidance (DCLG CIL Guidance February 2014, paragraph 2:2:1) sets out that councils must have an up to date development strategy for the area in which they propose to charge. And a charging authority must demonstrate how the proposed levy rates will contribute towards the implementation of the Local Plan.
- 2.4 Southend-on-Sea adopted its Core Strategy (Development Plan Document 1, DPD1) in December 2007 and for the purposes of CIL is considered to be relevant and up to date. Preparation of the Council's Preliminary Draft Charging Schedule has been based on the proposed levels of growth and development set out in DPD1 for the plan period up to 2021.
- 2.5 In 2007 an infrastructure assessment was undertaken as part of preparing the Local Plan, which identified the scale and type of infrastructure needed to deliver the area's local development and growth needs. As a considerable amount of time has passed since the Core Strategy's adoption it was deemed appropriate to commission an up to date Infrastructure Delivery Plan (IDP) to ensure that the infrastructure planning underpinning the Core Strategy accurately reflects the Council's latest priorities. The IDP (summary details included below) should be read in conjunction with this consultation document.

Southend-on-Sea's Infrastructure Requirements

- 2.6 The IDP looked at the following infrastructure categories:
- Schools and other educational facilities
 - Health and social wellbeing
 - Utilities
 - Transport, including pedestrian facilities
 - Flood defences
 - Managing the impact of unstable land
 - Emergency services
 - Waste
 - Social and community (including libraries, museums, galleries, arts and heritage, cemeteries, allotments and community halls)
 - Leisure and recreational facilities (including children's play, youth and sports facilities)
 - Open space/green infrastructure and public realm
- 2.7 The IDP and the Preliminary Draft Charging Schedule (PDCS) have been drafted in accordance with the CIL Regulations and statutory guidance (DCLG CIL Guidance February 2014, paragraph 2:2:2:1). These documents take into account the potential growth targets within the Core Strategy and set out the infrastructure that would be needed to support development and growth within the borough up to 2021. The Council has drawn together evidence from existing infrastructure planning documents and worked with a variety of infrastructure providers to understand their future requirements, including the costs for these and sources of funding.
- 2.8 Predicting infrastructure needs so far into the future is not straightforward. The detail of most development schemes is not known, the nature of public services can change and other unpredictable changes in services often occur. Therefore, the IDP represents current strategic thinking at this moment in time. It provides the Council with a good starting point and a guide for planning future infrastructure but should be considered as a live, working document that will be subject to revision as service requirements change and more detail is known regarding growth.
- 2.9 The costs identified in the IDP are for the period 2015 to 2021 to provide a strategic overview of what infrastructure is likely to be required as a result of emerging growth during the remaining plan period. Table 1 provides a summary of these costs by infrastructure category. In determining the size of its infrastructure funding gap, the Council has considered known and expected infrastructure costs and the possible sources of funding to meet those costs. This is not to say that additional sources of funding will not come forward during the Local Plan period but the process assists the Council, as a CIL charging authority, to identify a levy funding target in an effort to contribute to filling the funding gap identified as at the date of the IDP. As can be seen from the following indicative diagram, CIL cannot be expected to pay for all infrastructure required as a result of growth but forms part of a complex blend of funding.

Chart 1: The funding 'pie'



2.10 The infrastructure funding gap is calculated by considering the total 'Cost' for 2015-2021 minus total 'Funding' from known and reasonable funding streams in Table 1:

$$£203,535,400 - £100,124,000 = £103,411,400$$

Table 1: Summary of infrastructure costs

Infrastructure category	Cost	Funding (known)	Funding gap
Education	£19,500,000	£0	£19,500,000
Health	£624,000	£0	£624,000
Social services/over 50s support	Not known	Not known	Not known
Waste water	£0	£0	£0
Potable water	£0	£0	£0
Gas	£0	£0	£0
Electricity	£12,304,000	£12,304,000	£0
Transport	£53,000,000	£25,000,000	£28,000,000
Flooding and unstable land	£43,170,000	£39,140,000	£4,030,000
Police	£7,500,000	£1,000,000	£6,500,000
Fire	£0	£0	£0
Ambulance	Not known	Not known	Not known
Waste	£8,660,000	£5,020,000	£3,640,000
Libraries	£3,630,000	£380,000	£3,250,000
Museums and galleries	£35,000,000	£15,000,000	£20,000,000
Other arts, theatres and heritage	Not known	Not known	Not known
Cemeteries	£2,280,000	£2,280,000	£0
Allotments	£1,250,000	£0	£1,250,000
Community halls	£1,622,400	£0	£1,622,400
Children's play	£310,000	£0	£310,000
Youth facilities	£790,000	£0	£790,000
Outdoor sports	£1,195,000	£0	£1,195,000
Indoor sports	£0	£0	£0
Other recreation	£1,700,000	£0	£1,700,000
Open space/public realm	£11,000,000	£0	£11,000,000
Green infrastructure	Not known	Not known	Not known
Total	£203,535,400	£100,124,000	£103,411,400

* Substantial bid has been made to the Growth Fund and outcome will be known in July 2014. For the purpose of this study, it has been assumed that approximately 50% of the total amount included in the bid for £42.24m will be awarded, however this figure will be updated once the final grant award is known.

- 2.11 As at the date of the IDP, the evidence identifies a funding gap for 2015-21 of approximately **£103.4 million**. Whilst projects within the IDP may change, it is clear that the funding gap is significant and that there is a need for the CIL to contribute to infrastructure funding. Such a substantial funding gap is not unusual among local authorities; for example, Thurrock identified an infrastructure funding gap of £446.14m (as at 31st March 2013) and Chelmsford identified an infrastructure funding gap of £113m (“Updated Infrastructure Planning and Funding Gap Assessment, February 2013”, Chelmsford City Council). It should be noted that the cost of purchasing land for some infrastructure has not been included in the IDP, as it is not known which elements may or may not require this. There are also some gaps where providers have not been able to comment or where further information is required; in which case the funding gap is likely to increase.
- 2.12 The role of the IDP is not to provide absolute assurances as to how the Council intends to spend CIL, but to illustrate that the intended CIL targets are justifiable given local infrastructure need and based on appropriate available evidence. It is not a formal investment programme and does not entail commitment by the Council or other statutory providers.

QUESTION 1: Do you agree with the contents of the IDP and does the evidence show that there is a sufficient funding gap and justification to introduce a CIL?

Viability Study

- 2.13 In order to establish what proportion of the funding gap could be funded through a CIL, a viability assessment was undertaken by BNP Paribas on behalf of the Council. The CIL Regulations are clear that a CIL should not put at serious risk the overall development of an area, and that there would need to be an appropriate balance between using CIL to help fund infrastructure and the economic effects (taken as a whole) on development across the borough (hereafter referred to as the 'balance test').
- 2.14 Guidance published by The Local Housing Delivery Group (chaired by Sir John Harman) in June 2012, "Viability Testing Local Plans", states the following in defining 'viability':

"An individual development can be said to be viable if, after taking account of all costs, including central and local government policy and regulatory costs and the cost and availability of development finance, the scheme provides a competitive return to the developer to ensure that development takes place and generates a land value sufficient to persuade the land owner to sell the land for the development proposed. If these conditions are not met, a scheme will not be delivered."

However, it is worth noting that even where the Viability Study identifies some types of development as unviable this does not mean that sites will not be developed within the Borough. Viability is only one of many factors which affect whether a site is developed. For example, commercial owner occupiers may wish to locate in Southend-on-Sea. Alternatively, a business may wish to develop their own premises by reference to their own cost benefit analysis, which will bear little relationship to the residual land value calculations that a speculative landlord developer may undertake.

- 2.15 The results of the development appraisals and analysis in the study indicate a degree of variation in viability of development in terms of different uses. In light of these variations, two options are available to the Council under the CIL regulations:
- i) The Council could set a single CIL rate across the City, having regard to the least viable types of development and least viable locations. This option would suggest the adoption of the 'lowest common denominator', with sites that could have provided a greater contribution towards infrastructure requirements not doing so. In other words, the Council could be securing the benefit of simplicity at the expense of potential income foregone that could otherwise have funded infrastructure.
 - OR
 - ii) The Council has the option of setting different rates for different types of development.

The results of the Viability Study point firmly towards the second option and this is therefore the proposed route.

2.16 The key findings of the Viability Study are summarised as follows:

RESIDENTIAL

2.17 A series of development typologies were appraised in the Viability Study, reflecting both the range of sales values/capital values and also sizes/types of development and densities of development across the Southend area. The inputs to the appraisals were based on research of the local housing market and data from other identified sources.

2.18 Residential values in the area reflect national trends in recent years but do of course vary between different sub-markets. The Viability Study considered comparable evidence of transacted properties in the area and also properties on the market to establish appropriate values for each scheme for testing purposes. This exercise indicates that developments in the Borough will attract average sales values ranging from circa £3,229 per square metre (£300 per square foot) to £1,938 per square metre (£180 per square foot). In general higher values are achieved along the seafront and particularly in the Leigh-on-Sea, Chalkwell and Thorpe Bay areas. The market areas are illustrated in the map shown in Figure 1 below and the following average sales values were applied in the appraisals reflecting the ranges shown on the map:

Table 2: Average sales values adopted in Southend-on-Sea appraisals

Area	Ave values £s per square metre	Ave values £s per square foot
1 - North central area, Airport, Westborough, Victoria and Prittlewell	£1,938	£180
2 - Southchurch	£2,153	£200
3 - Mid central area	£2,369	£220
4 -Shoeburyness	£2,476	£230
5 -Eastwood, Belfairs and Blenheim	£2,530	£235
6 - South central area (below railway)	£2,799	£260
7 -Thorpe Bay	£2,960	£275
8 - Leigh-on-Sea and Chalkwell	£3,229	£300

2.19 In relation to affordable housing, social rents have been tested at target rents and the study has modelled affordable rent units based on 80% of market rents for the rented element of our appraisals, as long as these do not exceed the Local Housing Allowance levels. These are shown in Table 3.

Figure 1: Average sales values in Southend-on-Sea

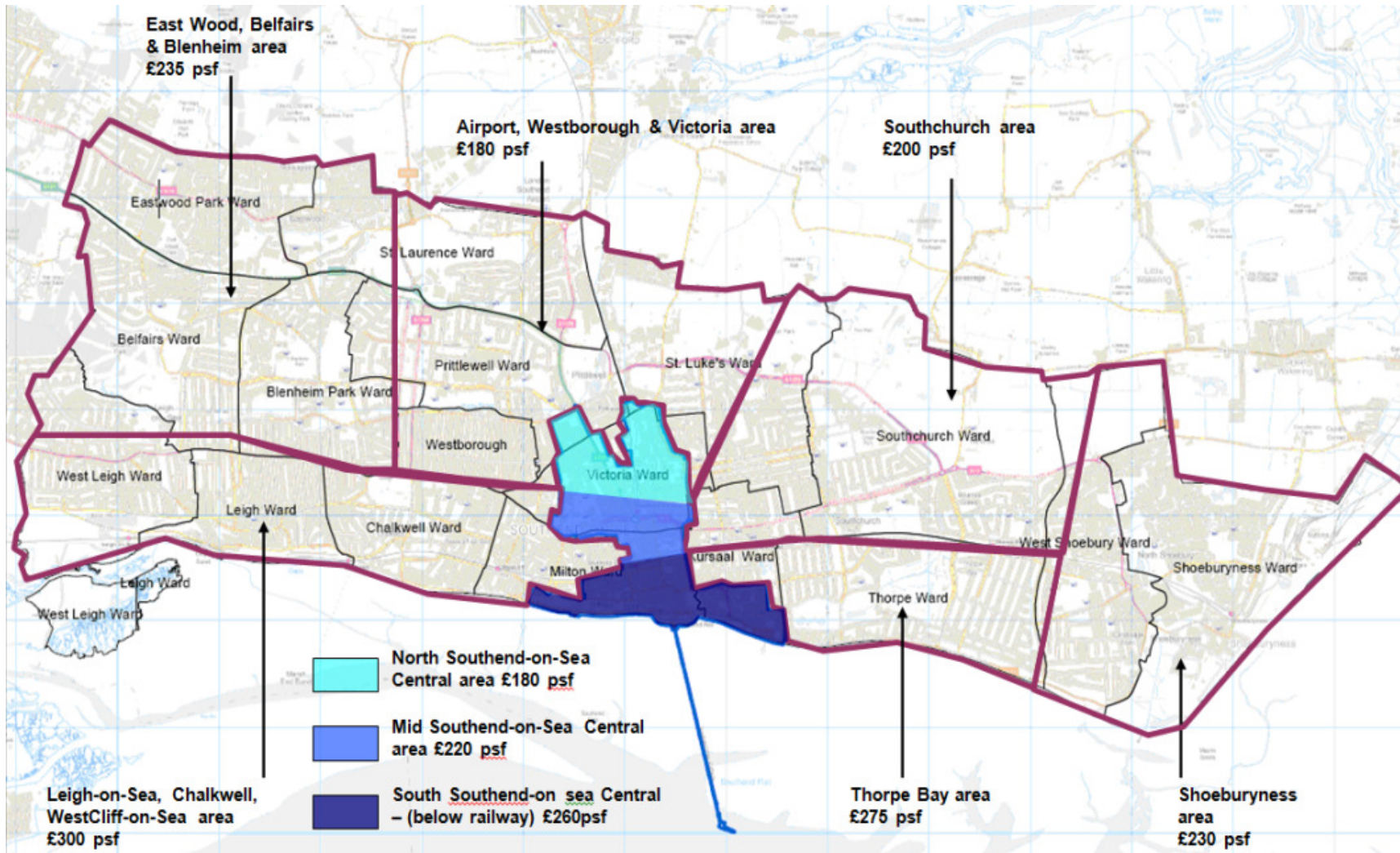


Table 3: Summary of average private rents, 80% of private rents and Local Housing allowance levels

Property type	Ave Market Rent per week	80% of Market Rent per week	Local Housing Allowance (per week)	Rent adopted in study
One bed	£138.46	110.77	£114.23	£110.77
Two bed	£173.08	138.46	£149.76	£138.46
Three bed	£230.77	184.62	£184.62	£184.62
Four bed	£300.00	£240.00	£229.62	£229.62

2.20 The ability of residential schemes to make CIL contributions varies depending on the area and the current use of the site. Having regard to these variations, residential schemes should be able to absorb a **maximum CIL rate of between a nominal rate of around £20 per square metre and £100 per square metre**. DCLG guidance requires that charging authorities do not set their CIL at the margins of viability. Other authorities have set their rates at a discount (buffer) to the maximum rate, with discounts ranging from circa 20% to 50%. On this basis, a buffer of circa 30% is recommended for Southend-on-Sea Borough Council.

2.21 Taking a broad view across the appraisals in the study, the maximum and suggested residential rates are as follows:

Table 4: Maximum and suggested CIL rates – residential

Market Areas	Maximum CIL indicated by appraisals (£ per sqm)	CIL after buffer (£ per sqm)	Suggested three Zone Approach to CIL (£ per sq m)	Suggested two Zone Approach to CIL (£ per sq m)
1 - North central area, Airport, Westborough, Victoria and Prittlewell	N/A	Nominal rate of around £20	£10	£20
2 - Southchurch	N/A	Nominal rate of around £20	£10	£20
3 - Mid central area	N/A	Nominal rate of around £20	£10	£20
4 - Shoeburyness	£30	£21	£20	£20
5 - Eastwood, Belfairs and Blenheim	£30	£21	£20	£20
6 - South central area (below railway)	£50	£35	£40	£40
7 - Thorpe Bay	£80	£56	£40	£40
8 - Leigh-on-Sea and Chalkwell	£100	£70	£40	£40

- 2.22 Whilst the maximum rates are higher than the suggested rates, the inclusion of a buffer will help to mitigate a number of risk factors (primarily the potentially adverse impact on land supply of setting the rates at a high level and ‘shocking’ the market). However, there is no prescribed percentage buffer and this is entirely a matter for the charging authority’s judgement.
- 2.23 As identified in Table 4, it is recommended that consideration be given to combining areas into one charging zone, thereby simplifying the charging schedule into less charging areas to avoid undue complexity, which could result in a cumbersome administrative process. It is also worth noting that Market Areas 1, 2 and 3 have been identified as being generally unviable and as such the application of CIL is unlikely to be the defining factor in scheme delivery. The imposition of CIL at a zero level will not make schemes viable, nor will the imposition of a nominal CIL charge affect the delivery of the Local Plan. Other factors (i.e. sales values, build costs or benchmark land values) would need to change to make the scheme viable. In this regard it is recommended that the Council considers a **maximum nominal rate of around £20 per square metre for Areas 1-5 and a £40 per square meter rate for Areas 6-8.**
- 2.24 The appraisals for **extra care** and **retirement housing** (see Table 9 for definition) identify that such developments generate surpluses that would support a CIL Charge to varying degrees depending on the existing use of the site. On this basis it is recommended that a **nominal rate of £20 per square metre** be adopted across the entire Borough for such development.

COMMERCIAL

- 2.25 A series of commercial development typologies were also appraised, reflecting a range of use classes at average rent levels achieved on lettings of commercial space in actual developments. In each case, the assessment assumes an intensification of the existing use on the site, based on the same type of commercial development. In each case, the assessment assumes an intensification of the site, based on a range of current commercial use values. In each case, the existing use value assumes that the existing building is 30%-50% of the size of the new development, with a lower rent and higher yield reflecting the secondary nature of the building.
- 2.26 **Office development:** At current rent levels, office development across the Borough is unlikely to generate sufficient surpluses to accommodate a CIL charge. A **nil or nominal rate** is therefore recommended for office development.
- 2.27 **Industrial and warehousing:** These uses are unlikely to generate positive residual land values. A **nil or nominal rate** is therefore recommended for these uses.

2.28 **Convenience based supermarkets and superstores and retail warehousing (net retailing space of over 280 square metres)** are likely to be viable across the Borough with a maximum CIL rate of £106 per square metre. After allowing for a buffer, which we consider to be appropriate to deal with site specific issues, a **£70 per square metre** CIL rate is recommended.

2.29 Residual values generated by **all other forms of retail (A1-A5) developments** are higher than current use values to varying degrees across the Borough. However, to a degree smaller retail development will involve the re-use of existing retail space, which will not be CIL liable. In order to capture value from schemes that add floorspace, and in particular larger format stores that generate higher value, differential rates are recommended.

- Residual values generated by **all other retail (A1-A5) developments** in the **primary shopping area of Southend Town Centre** are identified as unlikely to generate significant surpluses to fund CIL. The residual land values are only likely to exceed current use values by a small margin to allow for a CIL to be levied on sites in a lower value use i.e. offices instead of existing retail use. On this basis it is recommended that a **nil or nominal rate** be adopted for retail development in the prime shopping area of Southend Town Centre.

Leigh-on-Sea and elsewhere in the Borough, rents for all other retail (A1-A5) development are considerably lower and the appraisals identify that developments are unable to viably support a CIL charge. A **nil or nominal rate** is therefore recommended for retail development outside the prime shopping area.

2.30 At current values **hotel developments** are identified as not being able to generate a surplus and in this regard it is recommended that a **nil or nominal rate** be set for hotel use.

2.31 **All other uses** that have not been discussed above include D1, D2 and *sui generis* uses. Individual viability testing of the large and varied range of possible uses that could come forward in this category has not been undertaken as it would be too complex to test with any degree of reliability. Some uses in this category would be viable, generating reasonably high revenues. However, some uses in this category would not be viable for the most part; this typically includes community facilities that do not accommodate revenue generating operations. It is therefore suggested that a **nil or nominal rate** could be applied to all other uses not referred to in paragraphs 2.16-2.30. If a nominal rate is adopted (with some exceptions for community facilities, emergency services, and public healthcare and education) it is unlikely to be a major factor in developers' decision making and could be absorbed without having a significant impact on viability and deliverability of development across the Borough.

SENSITIVITY ANALYSIS

- 2.32 The housing and commercial property markets are inherently cyclical and the Council is testing its proposed rates of CIL at a time when the market is recovering after a severe recession.
- 2.33 Residential values in Southend have recovered to a degree but still remain circa 8.4% below the 2008 peak levels.¹ Forecasts for future house price growth indicate continuing growth in the 'mainstream' UK and East of England markets. Current experience in Southend-on-Sea indicates that delivering the Council's affordable housing targets is possible, although challenging in many cases. The Council have on occasions accepted a reduced level of provision upon the acceptance of a proven viability case.
- 2.34 The Viability Study has allowed for the following scenarios in the sensitivity analyses that have been applied in the viability testing:
- Increase/decrease in sales values and build costs
 - Reduced affordable housing (20%, 10% and 0%)
 - Different tenures of affordable housing including Affordable Rent and Social Rent
- 2.35 Sensitivity analyses have also been incorporated into the commercial appraisals to allow for changes in rent levels and yields.
- 2.36 A key point to note in the residential viability testing is that even a reduction in affordable housing does not always remedy viability issues. In these situations, it is not the presence or absence of planning obligations that is the primary viability driver – it is simply that the value generated by residential development is lower than some existing use values. In these situations, sites would remain in their existing use.
- 2.37 Further details in relation to the sensitivity analyses can be found in the Viability Study available as part of this consultation.

VIABILITY 'BUFFER'

- 2.38 The results of the Viability Study indicate that although viability of development is currently challenging in certain locations and for many uses, it should be possible for rates of CIL to be levied across the Borough. However, this approach is subject to allowing for a buffer or margin to address risks to delivery. There are four key risk factors:
- i. Individual sites might incur exceptional costs (decontamination, difficult ground conditions etc.) and as a result the residual land value could fall. Developers will try and reflect such costs in their offer to the landowner, but the extent of any issues is not always fully apparent until the land value is fixed. Where sites have an existing use,

¹ As identified from the Land Registry's online House Price Index database (<http://www.landregistry.gov.uk/public/house-prices-and-sales/search-the-index>)

- an owner will not be prepared to accept a reduction below the value of the current building to accommodate exceptional costs on a redevelopment;
- ii. Current use values on individual sites will inevitably vary and will fall somewhere between the values used in our appraisals. As a result, the ability of schemes to absorb high rates of CIL could be adversely affected.
 - iii. Sales values could fall or normal build costs could rise over the life of the charging schedule, adversely affecting scheme viability. While the Council could change its rates to adapt to these changes, this cannot be done quickly due to the need to develop a refreshed evidence base and follow the statutory consultation and examination process; and
 - iv. Imposing a high rate of CIL (that vastly exceeds the current levels of Section 106 obligations) in the Council's first charging schedule could 'shock' the land market with a consequential risk that land supply falls. This factor has led many charging authorities to seek to limit their CIL rates to no more than around 3-5% of development costs, or to set their CIL rates so that they are broadly comparable to existing Section 106 contributions.

2.39 The rates suggested in Section 3 are based on the finding of the Viability Study and are considered to include a suitable buffer that strikes an appropriate balance between collecting money for infrastructure whilst not putting the viability of development seriously at risk. The analyses included in the following paragraphs in this section seek to evidence this.

2.40 Tables 5 and 6 show the suggested CIL rates as a proportion of the maximum viable rate and as a % of the Gross Development Value (i.e. to take into account scheme income, development costs and amount available to pay for land).

Table 5: CIL as a proportion of scheme value – residential

CIL Market Areas	Maximum CIL (£s per sqm) ²	Suggested CIL (£s per sqm)	Suggested CIL as % of maximum viable rate	Suggested CIL as % of Gross Development Value ³
Area 1	N/A	Nominal rate of around £20	N/A	1.2%
Area 2	N/A	Nominal rate of around £20	N/A	1.1%
Area 3	N/A	Nominal rate of around £20	N/A	1.0%
Area 4	£30	£20	67%	0.9%
Area 5	£30	£20	67%	0.9%
Area 6	£50	£40	80%	1.6%
Area 7	£80	£40	50%	1.6%
Area 8	£100	£40	40%	1.4%

² The percentages for residential schemes are based on the appraisals for site type 5.

³ The percentages here assume that CIL is levied on the entire floorspace of the development (except for affordable housing, which benefits from affordable housing relief) and that there is no deduction for existing floorspace. These percentages therefore represent the worst case scenario.

Table 6: CIL as a proportion of scheme value – commercial

Use	Maximum CIL (£s per sqm)	Suggested CIL (£s per sqm)	Suggested CIL as % of maximum viable rate	Suggested CIL as % of Gross Development Value ⁴
Office	N/A	Nominal rate of around £10	N/A	0.35%
Industrial and warehousing	N/A	Nominal rate of around £10	N/A	0.82%
All other retail (A1-A5)	N/A	Nominal rate of around £10	N/A	0.26%
Hotel	N/A	Nominal rate of around £10	N/A	0.38%
Convenience based supermarkets and superstores and retail warehousing (net retailing space of over 280 square metres)	£106	£70	66%	2.54%

2.41 As can be seen from Table 5, for residential schemes, the application of CIL is unlikely to be an overriding factor in determining whether or not a scheme is viable. When considered in the context of total scheme value, CIL will be a modest amount, typically accounting for between 0.9% and 1.6% of value. Some schemes would be unviable even if a zero CIL were adopted. The Viability Study therefore recommends that the Council pays limited regard to these schemes.

2.42 And as can be seen from Table 6, with respect to commercial schemes, the application of a nominal CIL is unlikely to be the determining factor in whether a developer brings forward a site or whether not a scheme is viable. The suggested nominal charge of £10 per square metre is a marginal factor in a scheme's viability i.e. less than 1% of GDV in terms of the uses tested. The CIL Guidance identifies that a charging authority does not have to set a nil rate, the setting of a nominal rate would allow the Council to achieve the balance required by the CIL regulations between the delivery of development and the provision of infrastructure to support the growth envisaged in the Council's local plan. In addition, it is considered that the suggested £70 per square metre rate, at 66% of the maximum viable rate and 2.54% of GDV for large supermarkets, superstores and retail warehousing meets the balance test as outlined in paragraph 2.13.

⁴ The percentages here assume that CIL is levied on the entire floorspace of the development and that there is no deduction for existing floorspace. These percentages therefore represent the worst case scenario. Gross Development Value (GDV) is defined as the total current market value of the completed scheme.

- 2.43 Also to inform the Viability Study and PDCS, an analysis of Section 106 records was carried out for the period April 2008-December 2013 (inclusive), the relevant extracts of which are included below:

Table 7: Section 106 analysis

Total amount requested for residential only schemes (EXCLUDING pooled contributions other than affordable housing in lieu payments⁵) :	£950,072
If analyse residential only schemes (939 units) and EXCLUDE POOLED CONTRIBUTIONS : total amount requested on those schemes/no. of open market and affordable housing residential units = average £ contribution /residential unit	£1,012
Total amount requested for commercial only schemes (EXCLUDING pooled contributions) :	£873,970
If analyse commercial only schemes and EXCLUDE POOLED CONTRIBUTIONS : total amount requested on those schemes/total sqm (46,159sqm) = average £ contribution /sqm	£19

- 2.44 The appraisals supporting Southend’s proposed CIL rates have factored in an allowance to address any costs of site specific mitigation (payable in addition to CIL) based upon the above s.106 analysis/average rates.
- 2.45 Table 8 shows the CIL liability that would be payable for a range of dwelling types if residential rates of £20 and £40/sqm were to be applied:

Table 8: Suggested CIL rates applied to different dwelling types

Dwelling type	Average internal floor area (sqm) ⁶	Average value in Zone 1 (Market areas 1-5) (£) ⁷	Suggested CIL in Zone 1 £20/sqm (£ per average dwelling)	Average value in Zone 2 (Market areas 6-8) (£) ⁸	Suggested CIL in Zone 2 £40/sqm (£ per average dwelling)
Studio (1 bed space)	37.5	85,988	750	112,350	1,500
1 bedroom flat (2 bed space)	45	103,185	900	134,820	1,800
2 bedroom flat (3 bed space)	57	130,701	1,140	170,772	2,280
2 bedroom flat (4 bed space)	67	153,631	1,340	200,732	2,680
3 bedroom flat (5 bed space)	75	171,975	1,500	224,700	3,000
3 bedroom flat (6 bed space)	85	194,905	1,700	254,660	3,400

⁵ The Council currently pools contributions relating to general education or public realm or public transport improvements from a number of developments. However, from April 2014 the pooling restriction as outlined in paragraph 1.12 will apply. Therefore, any contributions that are currently pooled have been excluded from the analysis to accurately reflect the residual s.106 payment that may be due in addition to CIL (with the exception of affordable housing as this is not included in CIL).

⁶ The average floor areas have been based on Policy Table 4 (Indicative Residential Space Standards) of the Submission Version Development Management DPD (March 2014).

⁷ Average value of residential property in market areas 1-5 (Zone 1) has been found to be £2,293/sqm – see Table 2.

⁸ Average value of residential property in market areas 6-8 (Zone 2) has been found to be £2,996/sqm– see Table 2.

2 bedroom house (3 bed space)	66	151,338	1,320	197,736	2,640
2 bedroom house (4 bed space)	77	176,561	1,540	230,692	3,080
3 bedroom house (5 bed space)	82	188,026	1,640	245,672	3,280
3 bedroom house (6 bed space)	95	217,835	1,900	284,620	3,800
4 bedroom house (7 bed space)	108	247,644	2,160	323,568	4,320
AVERAGE	72	165,617	1,445	216,393	2,889

- 2.46 Whereas in many areas house prices have fallen in the last 5 years, in Southend the average house price increased by as much as £16,092 between November 2012 and November 2013 (TGSE Housing Market Trends Quarterly Report January 2014). To provide some context to the cost of CIL in relation to residential property values, the CIL estimated liabilities shown in Table 8 would represent 0.01% of the average property price in Southend in both Zone 1 and 2, and for all dwelling types. This is considered to be a nominal amount for a developer although cumulatively such contributions will be critical to assisting in the delivery of infrastructure to support development.
- 2.47 In summary, it is considered that a suitable viability buffer has been taken into account in proposing rates to allow for site specific mitigation under s.106/s.278/planning conditions in addition to CIL without affecting viability across the Borough such that CIL puts at risk delivery of the Local Plan.

QUESTION 2: Do you agree with the assumptions, methodology and conclusions of the Viability Study? If you disagree please explain reasons and justification for any alternatives.

3. PRELIMINARY DRAFT CHARGING SCHEDULE

Proposed CIL rates

- 3.1 Table 9 identifies the CIL rates that are proposed in the Preliminary Draft Charging Schedule.

Table 9: Proposed CIL rates

Development type	Proposed CIL rate
Residential (Class C3 and C4) – Zone 1 (Market areas 1-5)	£20
Residential (Class C3 and C4) – Zone 2 (Market areas 6-8)	£40
Extra care and retirement housing (see below for definition)	£20
Convenience based supermarkets and superstores and retail warehousing (net retailing space of over 280 square metres)	£70
Development by a predominantly publicly funded or 'not for profit' organisation (see below for definition) including medical and health services, social care, education, emergency services, waste facilities, community facilities, sport and leisure facilities only	£0
All other uses not cited above	£10

Definition of '**extra care and retirement housing**': Housing within Class C3 which is purpose built or converted for sale to elderly people with a package of estate management and care services as necessary and which consists of grouped, self-contained accommodation with communal facilities. These premises often have emergency alarm systems and/or wardens. These properties would not provide the same level of care as residential care homes (Class C2) where residents do not live in self-contained accommodation.

Definition of '**not for profit organisation**': An organisation that does not earn profits for its owners but conducts business for the benefit of the general public; all the money earned by or donated to the organisation is used in pursuing the organisation's objectives.

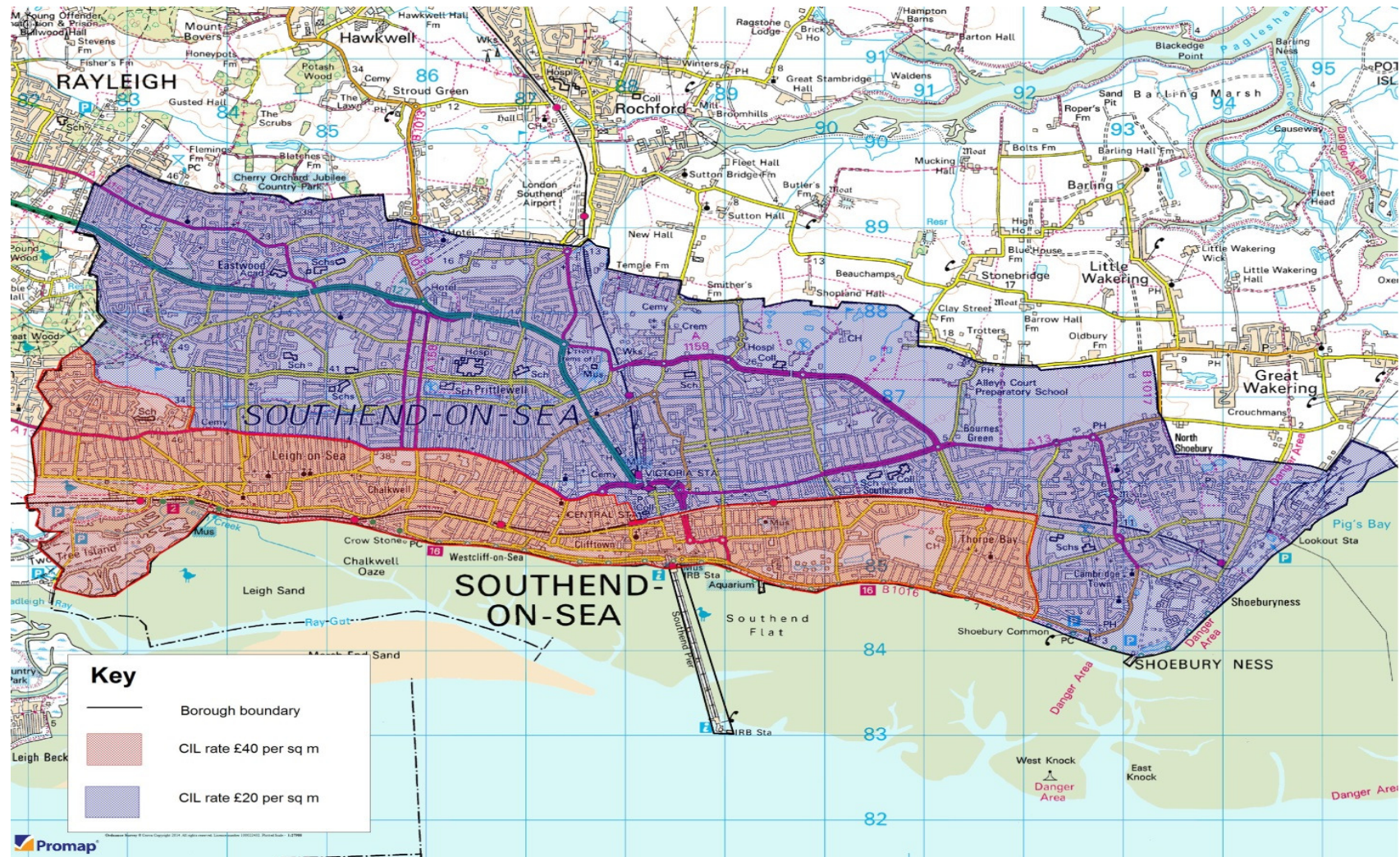
Map of residential charging areas

- 3.2 The proposed residential charges have been based on zones that reflect the average sales values in the Borough. Figure 2 shows the two proposed zones.

Explanation of rates by development type

- 3.3 **Residential:** In areas of the Borough where sales values have been found to be lower a nominal CIL rate of £20 per square metre has been chosen (shown as £20/sqm zone in Figure 2 – Zone 1). In higher value areas viability evidence shows that a rate of £40 per square metre can be accommodated (shown as £40/sqm zone in Figure 2 – Zone 2).

Figure 2: Proposed Residential Charging Zones



- 3.4 **Extra care and retirement housing** (see Table 9 for definition): Viability evidence has demonstrated that these types of development generate surpluses that can support a CIL charge to varying degrees dependant on the existing use of the site. On this basis, a rate of £20 per square metre across the entire Borough has been chosen.
- 3.5 **Convenience based supermarkets and superstores and retail warehousing (net retailing space of over 280 square metres)**: Viability evidence has demonstrated that these uses are likely to be viable across the Borough with a maximum CIL rate of £106 per square metre. The 280 square metre threshold is drawn from the Sunday trading laws and is the threshold being used by a number of Charging Authorities. Although the charging schedule includes a split for retail based on the size of unit it does not try to differentiate between in and out of town. Whilst in policy terms a town centre/out-of-town centre split may be desirable, the rules on setting different CIL rates are strict. Because CIL is essentially a tax, Charging Authorities are not allowed to use 'policy' based reasons to determine the chosen rates. Where larger schemes do occur in the town centres, they are likely to involve demolition or change of use of existing buildings. CIL is only charged on the net increase in floorspace, therefore many town centre schemes, even if the resultant unit is large, will only include a modest net increase in floorspace. After allowing for a buffer, which is considered to be appropriate to deal with site specific issues, a CIL rate of £70 per square metre has been chosen.
- 3.6 In respect of **all other uses**, the viability study looked at offices, industrial and warehousing, other forms of retail (A1-A5) and hotels. It was found that at current levels these uses are unlikely to generate sufficient surpluses to accommodate a significant CIL charge; hence a nominal rate has been chosen. In addition, consideration was given to D1, D2 and *sui generis* uses but, given the large number of uses that fall within these categories, individual viability testing of the range of possible uses that could come forward has not been undertaken as it would be too complex to test all these uses with any degree of reliability. Therefore, a nominal rate is proposed for all uses that are not mentioned in paragraph 3.3, 3.4 and 3.5 on the basis that such a rate is unlikely to be a significant factor in developers' decision making and could be absorbed without having a significant impact on viability across the Borough but will contribute to the infrastructure to support the growth. There are some proposed **exceptions** to the nominal rate applicable to 'All other uses' taking into consideration the uses that will be placing a demand on growth associated infrastructure and those that will be providing the infrastructure required to support growth that CIL could possibly be spent on (i.e. as identified in the IDP and Regulation 123 Infrastructure List). Therefore, a zero rate will apply to **any community facilities that are predominantly publicly funded or run on a 'not for profit' basis, including medical and health services, education, emergency services, community facilities, sport and leisure facilities.**

How the chargeable amount will be calculated

- 3.7 The precise amount charged for each development will be calculated in accordance with Regulation 40 of the CIL Regulations 2010 (as amended). As stipulated in the Regulations, all charges are based on the gross internal floorspace area. Calculating the chargeable rate will take into account inflation in accordance with the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors 'All in Tender Price Index'. Hence, CIL liabilities will reflect the economic cycle to some extent until such time that the charging schedule is reviewed. Appendix 1 provides some examples of how CIL liabilities will be calculated.
- 3.8 In addition to the CIL liability, there may also be site specific contributions/provision requirements, including the provision of affordable housing. These will be dealt with through Section 106 planning obligations, Section 278/38 highway agreements or conditions. The viability study was not only concerned with CIL viability, but also considered the costs of affordable housing (so that delivery of affordable housing in the Borough is not adversely affected by CIL) and made assumptions about other contributions which might be required. Further details can be found in the Viability Study (see paragraph 2.1 for link to document). The rates are therefore considered reasonable, taking into account all financial burdens being placed on development.

Projected CIL income

- 3.9 It is difficult to estimate the likely income from CIL as development can be unpredictable particularly as the majority of development will be on brownfield sites within the Borough. Any estimate is highly sensitive to multiple assumptions. However, the Council's Annual Monitoring Reports monitor residential, Use Class B1-B8, A1 and A2, and D2 development. Information available in relation to these uses over a three year period, including 2009/10, 2010/11 and 2011/12, has been analysed to allow the following projections should development continue in a similar pattern to the last 3 years:

Residential:

Completions 2009/10 = 144; 2010/11 = 204; 2011/12 = 354 (**Average 234/year**)
Deducting 20%⁹ affordable housing as CIL exempt = **Average 187/year**
Average dwelling size of 72sqm
Average proposed CIL rate of £30¹⁰/sqm
Projected annual CIL income **£403,920**
Projected monthly CIL income **£33,660¹¹**

B1-B8:

There was a loss of this floorspace during this period so there would have been no CIL income.

A1 and A2:

There was a loss of this floorspace during this period so there would have been no CIL income.

D2:

Increase in floorspace 2010-2012 = 4,967sqm = average of 2,484sqm/year
Proposed nominal CIL rate of £10/sqm
Projected annual CIL income **£24,840**
Projected monthly CIL income **£2,070**

- 3.10 Based on average s.106 income from the last six financial years (see Table 10) and assumptions as detailed above, the following outlines the projected annual/monthly income from CIL and s.106 planning obligations (site specific obligations only that will continue after April 2015):

2008/9 – 2013/14 actual s.106 income:

Average total annual s.106 income £531,782
Average total monthly s.106 income £44,315

Average annual s.106 income (excluding pooled contributions) £313,653
Average monthly s.106 income (excluding pooled contributions) £26,138

Projected income:

Projected annual CIL income £428,760
Projected monthly CIL £35,730

Projected annual s.106 and CIL income £742,413
Projected monthly s.106 and CIL income £61,868

⁹ 20% affordable housing policy used (larger schemes will require 30% AH and some schemes may be 100% affordable housing) to illustrate the maximum estimated CIL income.

¹⁰ Average proposed CIL rate used as difficult to predict if residential development will come forward in high or low value areas.

¹¹ The 2012 AMR states that "The implementation of all outstanding residential planning permissions would result in an additional 2,027 net additional dwellings, of which 1,706 are predicted to be delivered in the next five years, meeting the 5 year housing supply target + 5% of 1,670." This shows that a significant number of dwellings will pay no CIL having secured permission prior to the introduction of CIL. Hence, the projected CIL income may not be realised for 3 years i.e. until new permissions granted subject to CIL are implemented.

Table 10: Section 106 income

Type of contribution	April 2008 - March 2009	April 2009 - March 2010	April 2010 - March 2011	April 2011 - March 2012	April 2012 - March 2013	April 2013 - March 2014	TOTAL	AVERAGE £/year
Education contributions	295,267	117,233	1,044	50,144	581,803	132,937	1,178,428	196,405
Public realm works (e.g. parks and open space provision and associated facilities, landscaping/trees, streetscape improvements)	32,000	725	22,000	18,808	928,262	0	1,001,795	166,966
Site specific highway works	92,650	66,859	105,770	39,400	10,000	14,842	329,521	54,920
CPZ contributions	0	0	0	166,907	15,000	10,000	191,907	31,985
Affordable housing	11,000	661	0	120,000	69,641	80,000	281,302	46,884
Cycle routes	0	50,289	0	0	0	0	50,289	8,382
Bus infrastructure	0	10,058	0	0	0	0	10,058	1,676
Other public transport contributions	0	0	70,000	0	0	0	70,000	11,667
Public art	0	12,500	0	0	0	0	12,500	2,083
CCTV	0	0	23,000	10,000	0	0	33,000	5,500
S106 admin and monitoring fee	0	0	10,000	4,800	9,956	7,138	31,894	5,316
Total annual S106 receipts (£):	430,917	258,325	231,814	410,059	1,614,662	244,917	3,190,694	531,782
Excluding pooled contributions (rows highlighted yellow):	135,650	80,745	160,770	359,915	1,032,859	111,980	1,881,919	313,653

- 3.11 If a charging schedule were to be in place by the start of FY 2015/16 then six years would remain of the plan period up to 2021, and based on the above projections, this could generate **£2,572,560** in CIL income. However, this figure simply reflects a projected maximum sum and does not take into account the ‘lag’ period, mentioned in footnote number 12, or the neighbourhood proportion that will need to be deducted as outlined in paragraph 1.9.
- 3.12 Taking into account the emerging growth targets for the area and economic viability, CIL could potentially raise £2.5million towards the £103.4million funding gap identified up to 2021, leaving £100.9million to be found through other means and/or prioritising infrastructure provision.
- 3.13 As outlined above, the funding gap is of such significance that it is highly unlikely that CIL income will exceed the identified funding gap, therefore Southend Borough Council can demonstrate a requirement to charge a CIL at the rates proposed. CIL will not generate sufficient funds to pay for the entire infrastructure needs across the authority area but will make an important contribution to infrastructure funding, even if as match funding. The Council will set out its intentions for how revenue raised from the levy will be spent in its published Regulation 123 Infrastructure List (see Appendix 3 for draft).

QUESTION 3: Do you agree with the rates outlined in Table 9. If not, please provide a justification and evidence in relation to any proposed alternatives.

QUESTION 4: Are there any significant uses that we have missed out from Table 9 that should be included? If yes, please provide reasons why considered significant.

QUESTION 5: Do you agree with the proposed zones as shown in Figure 2. If not, please provide reasons why and suggested alternatives.

4. IMPLEMENTING CIL

How CIL will be collected

- 4.1 The Council will issue a notice of liability as soon as practicable on or after the day on which a planning permission first permits development stating the chargeable amount in relation to the development. The responsibility to pay the levy runs with the ownership of land on which the liable development will be situated and is a local land charge. Payment of the levy is due from the date the chargeable development commences. A commencement notice must be submitted to the Council no later than the day before the day on which the chargeable development is to be commenced. It is the intention of the Council to prepare and make available the appropriate documentation and templates on its website prior to implementing the CIL.
- 4.2 Unlike contributions received via s.106, CIL funds will go into a central 'pot' on receipt and will be pooled to be spent on the projects identified in the Regulation 123 Infrastructure List.

Payment by instalments

- 4.3 Regulation 69B of the amended CIL Regulations permits a charging authority to allow persons liable to pay CIL to do so by instalments following the publication of an instalment policy. Where there is no instalment policy in place or where an instalment policy is not applicable, the amount must be paid in full at the end of the period of 60 days beginning at commencement of development.
- 4.4 The draft Instalment Policy included in Appendix 2 sets out the Council's proposals for such a policy, which would be put in place once the charging schedule has been adopted. Whilst the draft Instalment Policy will not itself be subject to Public Examination, the draft policy has been included as part of this consultation to enable interested parties to consider its implication on development finance and delivery.

Payment in kind

- 4.5 The Regulations provide the potential for a charging authority to accept payments in kind for CIL, in the form of a transfer of land to be used for infrastructure provision (as set out in Regulations 73 and 74). The value of the land needs to be equal to the amount of the CIL that would have been paid – with the land value being assessed by an independent valuer. It is in lieu of CIL, and is in addition to any transfer of land which may be required via planning obligations as site specific impact mitigation. It is the Council's prerogative to agree to a transfer.

Exemptions from CIL: Mandatory exemptions

- 4.6 The CIL regulations offer mandatory exemptions from CIL for certain types of development:
- Where the overall chargeable amount of a scheme is less than £50 (Regulation 40)
 - Development of less than 100sqm provided that it does not result in the creation of a new dwelling (Regulation 42) – Minor Development Exemption
 - The conversion of any building previously used as a dwelling house to two or more dwellings
 - The conversion of, or works to, a building in lawful use that affects only the interior of the building
 - Those parts of a development that are to be used as affordable housing (Regulation 49) – Social Housing Relief
 - Development by registered charities for the delivery of their charitable purposes (Regulation 43) – Charitable Relief
 - Structures or buildings that people do not normally go into, or go into only intermittently for maintenance (e.g. sports pitches, sub-stations or wind turbines) (Regulation 6)
 - Self-build (whole house, annexes and extensions)
- 4.7 A claim for relief/exemption from paying CIL must be submitted and processed before commencement of the development (standard forms will be made available for completion).

Exemptions from CIL: Discretionary relief (charitable, social housing and exceptional circumstances)

- 4.8 The regulations allow charging authorities to permit discretionary relief from CIL (e.g. where a reduced or nil payment may be accepted). These cases are likely to be rare but could include the following:
- Development by charities for investment activities (as defined by Regulation 44)
 - Development by charities where relief would normally constitute State Aid (as defined in Regulation 45)
 - Provision of affordable housing by someone other than the local authority or a Registered Provider (as defined in Regulation 49A)
 - Where the Council considers there are exceptional circumstances to justify relief (as defined in Regulation 55).
- 4.9 It is not the intention of the Council to offer **discretionary charitable or social housing relief** at present. At this stage the need for discretionary relief in addition to the mandatory relief is not considered justifiable and moreover, discretionary relief will only add uncertainty for developers in relation to infrastructure contributions, which is a situation not dissimilar to the current

system of planning obligations where lengthy planning application negotiations, particularly on viability grounds, are time consuming and costly to both developer and the Council. A policy of this kind could be introduced at any stage though if considered necessary (subject to appropriate public consultation) and this position will be kept under review.

- 4.10 Regulation 55 of the CIL Regulations permits a charging authority to grant relief from liability to pay CIL in **'exceptional circumstances'**. This may only happen if a planning obligation has been entered into in respect of the planning permission that permits the chargeable development and the charging authority considers that payment of the levy would have an unacceptable impact on the economic viability of development. In such cases a developer would be expected to demonstrate this (as set out in Regulation 57) via an 'open book' approach with an agreed independent valuer (paid for by the developer). Relief can also only be granted if it does not constitute 'notifiable state aid' (as defined in European Law).
- 4.11 It is not the intention of the Council to offer **discretionary exceptional circumstances relief** at present. The circumstances in which a policy of this nature would be likely to be used would be extremely rare given that the CIL rate that will be set is based on viability evidence, and as stated above, will add undesirable uncertainty for developers. A policy of this kind could be introduced at any stage though if considered necessary (subject to appropriate public consultation) and this position will be kept under review.

Enforcement

- 4.12 Almost all parties liable to pay the levy are likely to pay their liabilities without problem or delay, guided by the information sent by the charging authority in the liability notice. However, where there are problems in collecting the levy, charging authorities are able to penalise late payment and discourage future non-compliance. The regulations provide for a range of proportionate enforcement measures ranging from surcharges on late payments to up to three months imprisonment in extreme cases.

QUESTION 6: Do you consider that the draft Instalment Policy is reasonable? If not, why not?

QUESTION 7: Do you agree that the Council's interpretation of the legislation regarding exemptions and relief is correct?

QUESTION 8: Do you consider that the Council should offer discretionary charitable relief (in addition to mandatory relief)? If yes, in what circumstances would discretionary charitable relief be justified?

QUESTION 9: Do you consider that the Council should offer discretionary social housing relief (in addition to mandatory relief)? If yes, in what circumstances would discretionary social housing relief be justified?

QUESTION 10: Do you consider that the Council should offer discretionary relief in exceptional circumstances? If yes, what exceptional circumstances do you think would justify relief?

QUESTION 11: Do you have any other comments on the PDCS or evidence base documents? Please provide reasoning with your answers.

5. MONITORING, REPORTING AND REVIEW OF CIL

Annual Monitoring

5.1 As required by Regulation 62, the Council will publish an Annual CIL Report (for the financial year), which shows:

- the amount of CIL collected;
- the amount of CIL that has been spent;
- information on how CIL funds have been spent (i.e. which infrastructure projects, and how much has been used to cover administrative costs);
- the amount of CIL retained at the end of the reporting year.

Review

5.2 The results of the Viability Study have informed the proposed CIL rates, and these results are reflective of current market conditions, which are likely to improve over the medium term. The Council will therefore keep the viability situation under review so that levels of CIL can be adjusted to reflect any future changes.

5.3 The operation and implementation of CIL will be monitored and the Council will commence a review of the charging schedule in 2018, or earlier should the market be perceived to have changed significantly.

6. COMMENTS, RESPONSES AND NEXT STEPS

Responding to this consultation

6.1 Once you have looked through the Preliminary Draft Charging Schedule and associated documents (Viability Study, IDP and SPD2 Refresh) please send us your comments. Please be aware that your comments will be published on the Council's website together with your name.

6.2 The consultation period runs for a 6 week period from **. The deadline for receipt of comments is **5pm ** 2014.**

6.3 Our preferred method for comment is online at:
<http://southend.jdi-consult.net/ldf/index.php?>

Alternatively you can comment by e-mail at:
ldf@southend.gov.uk

or by post to:

Corporate Director of Place, PO Box 5557, Civic Centre, Victoria Avenue,
Southend-on-Sea, SS2 6ZF [*Please mark any such correspondence clearly with
"Response to CIL Consultation"*]

6.4 The CIL Preliminary Draft Charging Schedule and associated documents are also available at the Civic Centre, on the Council's website and in libraries in the Borough.

6.5 Your views are important to us, and we recognise that the planning system is not always easy to understand and find your way around. We want to make sure that as many people as possible have an opportunity to have their say as the new Community Infrastructure Levy is prepared. You can contact us using one of the following methods:

- You can phone us on 01702 205004 (ask to speak to the Section 106 and CIL Officer); or,
- You can email us at ldf@southend.gov.uk.

6.6 The key questions on which we invite your comments are:

- 1) Do you agree with the contents of the IDP and does the evidence show that there is a sufficient funding gap and justification to introduce a CIL?
- 2) Do you agree with the assumptions, methodology and conclusions of the Viability Study? If you disagree please explain reasons and justification for any alternatives.
- 3) Do you agree with the rates outlined in Table 9. If not, please provide a justification and evidence in relation to any proposed alternatives.

- 4) Are there any significant uses that we have missed out from Table 9 that should be included? If yes, please provide reasons why considered significant.
- 5) Do you agree with the proposed zones as shown in Figure 2. If not, please provide reasons why and suggested alternatives.
- 6) Do you consider that the draft Instalment Policy is reasonable? If not, why not?
- 7) Do you agree that the Council's interpretation of the legislation regarding exemptions and relief is correct?
- 8) Do you consider that the Council should offer discretionary charitable relief (in addition to mandatory relief)? If yes, in what circumstances would discretionary charitable relief be justified?
- 9) Do you consider that the Council should offer discretionary social housing relief (in addition to mandatory relief)? If yes, in what circumstances would discretionary social housing relief be justified?
- 10) Do you consider that the Council should offer discretionary relief in exceptional circumstances? If yes, what exceptional circumstances do you think would justify relief?
- 11) Do you have any other comments on the PDCS or evidence base documents? Please provide reasoning with your answers.

Stages of consultation through to adoption

- 6.7 The Council will carry out a number of steps before introducing the charging schedule to ensure that responses received are taken into account. This Preliminary Draft Charging Schedule is Stage 1 in the process. The stages to get to adoption and preliminary dates are as follows:

Stage	Preliminary Dates
Consultation on the Preliminary Draft Charging Schedule (PDCS) and associated documents (Viability Study, IDP and SPD2 Refresh)	July-September 2014
Consultation on Draft Charging Schedule (DCS)	November-December 2014
Submission of Draft Charging Schedule to Secretary of State for examination	January 2015
Independent Examination	March 2015
Inspector's Report	April 2015
Adoption of Charging Schedule by Southend Borough Council	June 2015

Relevant document links

<p>CIL preliminary draft charging schedule, Infrastructure Development Plan, Viability Study and other associated Southend Borough Council CIL documents http://www.southend.gov.uk/info/200160/local_planning_framework/483/community_infrastructure_levy_cil</p>
<p>Planning Portal – CIL information web page http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil</p>
<p>Department for Communities and Local Government (DCLG) – CIL information web page https://www.gov.uk/government/policies/giving-communities-more-power-in-planning-local-development/supporting-pages/community-infrastructure-levy</p>
<p>Department for Communities and Local Government (DCLG) – February 2014 CIL guidance http://www.planningportal.gov.uk/uploads/cil/cil_guidance_main.pdf</p>
<p>Planning Advisory Service (PAS) - CIL information web page www.pas.gov.uk/3-community-infrastructure-levy-cil</p>
<p>The Community Infrastructure Levy Regulations 2010 www.legislation.gov.uk/uksi/2010/948/contents/made</p>
<p>The Community Infrastructure Levy (Amendment) Regulations 2011 www.legislation.gov.uk/uksi/2011/987/contents/made</p>
<p>The Community Infrastructure Levy (Amendment) Regulations 2012 www.legislation.gov.uk/uksi/2012/2975/contents/made</p>
<p>The Community Infrastructure Levy (Amendment) Regulations 2013 www.legislation.gov.uk/uksi/2013/982/contents/made</p>
<p>The Community Infrastructure Levy (Amendment) Regulations 2014 www.legislation.gov.uk/uksi/2014/385/contents/made</p>

Appendix 1

Examples of how CIL liabilities are calculated

For the avoidance of doubt, a planning application for the **change of use** of an existing building will not be liable to CIL unless it involves an extension which provides 100sqm or more of additional floorspace, or involves the creation of a new dwelling even when it is below 100sqm. The amount payable will depend whether or not the existing building has been in continuous lawful use for at least six months in the last 3 years prior to the development being permitted. Mezzanine floors of less than 200sqm are not liable for CIL unless they are to be installed as part of a planning permission which permits other works as well. See below for further details in relation to changes of use.

Scenario 1

The development of a new dwelling in the Zone 1, either detached or attached to an existing dwelling. The new dwelling is 90sqm.

Though the development is less than 100sqm, it results in the creation of a new dwelling and therefore CIL applies.

The CIL charge for residential development in the Zone 1 is £20/sqm.

The calculation is as follows:

$90\text{sqm} \times £20/\text{sqm} = \text{CIL liability of } £1,800$

Scenario 2

The development of an extension to an existing dwelling. The existing dwelling is 105sqm and the extension is 45sqm.

The size of the existing dwelling is irrelevant. The only matter of relevance is the size of the extension. As the extension is for less than 100sqm of development, and does not result in the creation of a new dwelling, **CIL does not apply.**

Scenario 3

The conversion of an existing dwelling to two flats. The existing dwelling is 105sqm and the conversion will not result in any new build floor space.

The size of the existing dwelling is irrelevant. As the conversion does not result in any new development (i.e. it all takes place within the existing dwelling), **CIL does not apply.**

Scenario 4

The conversion and extension of an existing dwelling in Zone 2 to form 2 flats. The existing dwelling is 105sqm and the extension is 45sqm.

The size of the existing dwelling is irrelevant here. What is relevant is the level of new build. Although it is only 45sqm, because it results in a new dwelling, CIL applies.

The CIL charge for residential development in Zone 2 is £40/sqm.

The calculation is as follows:

$45\text{sqm} \times £40/\text{sqm} = \text{CIL liability of } £1,800$

Scenario 5

The demolition of an existing dwelling that is considered to be “in-use” (in accordance with the definition in Regulation 40 (11)) in Zone 1 and the construction of a block of flats in its place. The existing dwelling is 120sqm and the block of flats is 1,000sqm.

The development of the block of flats results in the creation of a new dwelling therefore CIL applies. However, because the existing dwelling is “in-use”, its floor space is deducted when calculating the CIL liability.

The CIL charge for residential development in Zone 1 is £20/sqm.

The calculation is as follows:

Process 1 – deduct existing floor-space from new floor space

The chargeable area is 1,000sqm – 120sqm = 880sqm

Process 2 – calculate CIL liability based on the net increase in floor space

880sqm x £20/sqm = **CIL liability of £17,600**

Scenario 6

The demolition of an existing dwelling not considered to be “in-use” (in accordance with the definition in Regulation 40 (11)) in Zone 1 and the construction of a block of flats in its place. The existing dwelling is 120sqm and the block of flats is 1,000sqm.

The development of the block of flats results in the creation of a new dwelling therefore CIL applies. Because the existing dwelling is not in-use, its floor space is not deducted when calculating the CIL liability

The CIL charge for residential development in Zone 1 is £20/sqm.

The calculation is as follows:

1,000sqm x £20/sqm = **CIL liability of £20,000**

Scenario 7

The conversion of an office block of 5,000sqm, not considered to be “in-use” (in accordance with the definition in Regulation 40 (11)), to 4,000sqm of retirement housing and 1,000sqm of development for convenience based supermarket over 280sqm.

As the site is not “in-use”, the conversion is considered as new development and the existing floor space is not deducted when calculating the CIL liability.

The CIL charge for retirement housing is £20/sqm

The CIL charge for convenience based supermarkets over 280sqm is £70/sqm

The calculation is as follows:

Process 1 – calculate the retirement housing liability

4,000sqm x £20/sqm = £80,000

Process 2 – calculate the supermarket liability

1,000sqm x £70/sqm = £70,000

Process 3 – calculate the total liability

Retirement housing (£80,000) + supermarket (£70,000) = **CIL liability of £150,000**

Scenario 8

The demolition of a building of 5,000sqm that is “in-use”, and its replacement with a building of 10,000sqm, comprising 1,000sqm of development for convenience based supermarket over 280sqm, 5,000sqm public funded school and 4,000sqm of hotel development.

The key issue here is that the existing building is “in-use”. Therefore the total amount of existing floor space can be deducted from the CIL liability. As the new building comprises a range of uses, the deduction of the existing floor space is applied on a pro rata basis across the new uses.

The CIL charge for convenience based supermarkets over 280sqm is £70/sqm

The CIL charge for a public funded school is £0/sqm

The CIL charge for hotel development is £10/sqm

The calculation is as follows:

Process 1 – calculate the deduction factor for the existing floor-space

5,000sqm (existing floorspace) / 10,000sqm (new floor space) = 0.5

Process 2 – calculate the supermarket liability

1,000sqm x £70/sqm x 0.5 = £35,000

Process 3 – calculate the school liability

5,000sqm x £0/sqm x 0.5 = £0

Process 4 – calculate the hotel liability

4,000sqm x £10/sqm x 0.5 = £20,000

Process 5 – calculate the total liability

Supermarket (£35,000) + School (£0) + Hotel (£20,000) = **CIL liability of £55,000**

Scenario 9

The demolition of a building of 5,000sqm which is not “in-use”, and its replacement with a building of 10,000sqm, comprising 1,000sqm of development for convenience based supermarket over 280sqm, 5,000sqm public funded school and 4,000sqm of hotel development.

As the building is not “in-use”, the existing floor space is not deducted when calculating the CIL liability.

The CIL charge for convenience based supermarkets over 280sqm is £70/sqm
The CIL charge for a public funded school is £0/sqm
The CIL charge for hotel development is £10/sqm
The calculation is as follows:

Process 1 – calculate the supermarket liability

1,000sqm x £70/sqm = £70,000

Process 2 – calculate the school liability

5,000sqm x £0/sqm = £0

Process 3 – calculate the hotel liability

4,000sqm x £10/sqm = £40,000

Process 4 – calculate the total liability

Supermarket (£70,000) + School (£0) + Hotel (£40,000) = **CIL liability of £110,000**

Scenario 10

The conversion of an office block of 5,000sqm, 600sqm of which is “in-use”, to 4,000sqm of retirement housing and 1,000sqm of development for convenience based supermarket over 280sqm.

The size of the existing building is irrelevant. As the conversion does not result in any new development (i.e. it all takes place within the existing building) and part of the building is “in-use”, **CIL does not apply.**

When CIL is payable on a change of use to an existing building:

- Additional floorspace 100 square metres or more (or the creation of a new dwelling even when it is below 100 square metres) and existing building in continuous lawful use for at least six months in the last 3 years prior to the development being permitted - **CIL payable on new floorspace only**
- Additional floorspace 100 square metres or more (or the creation of a new dwelling even when it is below 100 square metres) but existing building not in continuous lawful use for at least six months in the last 3 years prior to the development being permitted - **CIL payable on existing floorspace and new floorspace**
- Additional floorspace less than 100 square metres (where no new dwellings created) but existing building in continuous lawful use for at least six months in the last 3 years prior to the development being permitted - **No CIL payable**
- Additional floorspace less 100 square metres (where no new dwellings created) and existing building not in continuous lawful use for at least six months in the last 3 years prior to the development being permitted - **No CIL payable**

N.B. A change of use which creates one or more dwellings will be CIL liable **even if there is no extension**, and will only avoid payment if the building has been in continuous lawful use for 6 months out of the last 3 years prior to the development

being permitted. However, there is a specific exemption in the 2011 amendment regulations that excludes conversion of a single dwelling house from the meaning of 'development' at Regulation 6.

Appendix 2

CIL Instalment Policy (Draft)

Southend Borough Council as Charging Authority for its area will permit the payment of CIL liability by instalment in accordance with Regulation 69B of the Community Infrastructure Levy Regulations 2010 (as amended).

This Instalment Policy will take effect on xx/xx/xxxx.

Level of CIL payable	Number of instalments	Proposed instalment policy
Less than £25,000	No instalments	Full payment within 60 days of commencement ¹² of development
£25,000 - £74,999	3	10% of payment within 60 days of commencement 40% of payment within 180 days of commencement 50% of payment within 270 days of commencement, or remaining balance to be paid upon substantial completion should this date fall within 270 days
£75,000 or more	3	10% of payment within 60 days of commencement 40% of payment within 360 days of commencement 50% of payment within 540 days of commencement, or remaining balance to be paid upon substantial completion should this date fall within 540 days
Notes:		
<ol style="list-style-type: none"> As permitted under Regulation 9(4) of the Community Infrastructure Levy Regulations 2010 (as amended), where outline permission has been granted which permits development to be implemented in phases, each phase of the development as permitted by Southend Borough Council is a separate chargeable development, and the Instalment Policy will therefore apply to each chargeable development and the associated separate chargeable amount. Nothing in this Instalment Policy prevents the person with assumed liability to pay CIL, to pay the outstanding CIL (in whole or in part) in advance of the instalment period set out in this policy. 		

The requirements set out in Regulation 70 of the CIL Regulations must be complied with if the persons liable for paying CIL wish to do so by instalment, in accordance with the published Instalment Policy. The Instalment Policy will only apply where:

- The Council has received a CIL Assumption of Liability form prior to the commencement of the chargeable development (Regulation 70(1)(a)), and
- The Council has received a CIL Commencement Notice prior to commencement of the chargeable development (Regulation 70(1)(b)) and the Council does not challenge the date of commencement specified.

If the above requirements are not met, the CIL liability is payable in full at the end of the period of 60 days beginning with the intended commencement date of the chargeable development.

¹² The commencement date is defined in CIL Regulation 7 and will as advised by the developer in their Regulation 67 Commencement Notice

Where the above requirements have been met, instalment payments must be made in accordance with the published Instalment Policy. Where an instalment is not received in full on or before the day on which it is due, the unpaid balance of the CIL liability becomes payable in full immediately (Regulation 70(8)(a)).

To summarise, in order to be eligible to pay a CIL liability by instalment, all the relevant forms must be submitted to the Council prior to the commencement of the chargeable development, and all the payments must be made in accordance with the published CIL Instalment Policy and Regulatory requirements.

Appendix 3

Regulation 123 Infrastructure List (Draft)

Types of infrastructure to be funded in whole or part by CIL:

- Schools, other educational facilities and employment schemes (**excluding** any facility/provision that will primarily meet demand arising directly from a large site)
- Health, social wellbeing and emergency services (**excluding** any facility that will primarily meet demand arising directly from a large site)
- Utility infrastructure **except** where related to a specific site
- Highway and public transport improvements **except** where related to site specific mitigation or demand directly arising from a site
- Flood defences and management of unstable land **excluding** any local and site specific mitigation measures to ensure a development meets national requirements
- Waste facilities **excluding** any site specific mitigation measures
- Social and community facilities (**excluding** any facility that will primarily meet demand arising directly from a large site)
- Leisure and recreational facilities (**excluding** any facility that will primarily meet demand arising directly from a large site)
- Green infrastructure and open space/public realm **except** where mitigating for the loss of existing provision or primarily meeting demand arising directly from a large site

NOTE: This list is subject to amendment in accordance with the provisions of the Community Infrastructure Levy Regulations 2010 (as amended).

NOTE: This draft Regulation 123 Infrastructure List is likely to be re-drafted during the CIL consultation process so that reference is made to specific items of infrastructure or infrastructure projects when further discussions have been had regarding infrastructure priorities and CIL governance arrangements.