



**DACORUM BOROUGH COUNCIL**

**COMMUNITY INFRASTRUCTURE LEVY**

**PRELIMINARY DRAFT CHARGING SCHEDULE**

**DECEMBER 2012**



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# 1 Introduction

## Background

- 1.1 This consultation document sets out Dacorum Borough Council's preliminary draft rates for its Community Infrastructure Levy (CIL). The CIL was introduced under the Planning Act 2008 and is a new tariff system that allows Councils to make a charge on most forms of new development to help fund supporting infrastructure in their areas.
- 1.2 Before the Council can adopt its CIL Charging Schedule it must undergo two formal rounds of consultation followed by an Independent Examination. This first stage of consultation is an opportunity for respondents to help shape the Draft Charging Schedule. This Preliminary Draft Charging Schedule (PDCS) has been prepared in accordance with the Community Infrastructure Levy Regulations 2010<sup>1</sup> (as amended) and statutory guidance<sup>2</sup> and is informed by technical evidence which is published alongside this document.

## How to comment on this document

- 1.3 Comments and feedback are welcomed on this document. The consultation period runs for seven weeks closing on 12 March 2013.
- 1.4 Please submit comments online using the survey on the Council's website. Alternatively, comments can be made using the representation form that is available.
- 1.5 Copies of the PDCS, representation form and background information are available on the Council's website and at the Borough Council Offices. The PDCS and representation forms are also available at local libraries subject to opening times. Anyone without internet access will be able to fill in a representations form and send it to the following address:

By online survey: [www.dacorum.gov.uk/cil](http://www.dacorum.gov.uk/cil)

Email forms to: [cil@dacorum.gov.uk](mailto:cil@dacorum.gov.uk)

Post forms to: Strategic Planning and Regeneration  
Dacorum Borough Council  
Civic Centre  
Marlowes  
Hemel Hempstead  
Hertfordshire  
HP1 1HH

**The closing date for comments is 5.15pm on 12 March 2013**

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<sup>1</sup> Community Infrastructure Levy Regulations (2010), Community Infrastructure Levy (Amendment) Regulations 2011 and Community Infrastructure Levy (Amendment) Regulations 2012

<sup>2</sup> Community Infrastructure Levy Guidance: Charge setting and charging schedule procedures (2010)

## **2 Context**

### **What CIL is**

- 2.1 The Community Infrastructure Levy (CIL) is a new way of collecting contributions from development towards the provision of infrastructure required to support growth in the borough. It is a tariff style system and will be applied per square metre of development and may vary by use and by geography.
- 2.2 Dacorum Borough Council is responsible for setting the charge, collecting the money and allocating the money for spend. The rates must be set based on evidence of the economic viability of development and on infrastructure need and an associated funding gap.

### **What development is liable for CIL**

- 2.3 New buildings and extensions to buildings which are over 100 square metres gross internal floorspace are liable to pay CIL. All new dwellings are liable regardless of size. CIL is only payable on net new floorspace. The floorspace of any building that is reused or demolished as part of development proposals will be deducted from the overall CIL payment, subject to certain limitations<sup>3</sup>.
- 2.4 CIL is not charged on buildings into which people do not normally go or on buildings into which people only go intermittently for the purpose of inspecting or maintaining fixed plant or machinery. Structures which are not buildings such as pylons and wind turbines will not be liable to pay the levy. Affordable housing and development for use by charities<sup>4</sup> is also exempt from the payment of CIL.
- 2.5 In order to qualify for relief from CIL, affordable housing (referred to in the regulations as Social Housing) must satisfy the conditions under regulation 49 of the CIL Regulations (2010). In brief these conditions are that the dwelling(s) must either:
- a) be let by a registered provider of social housing, a registered social landlord or a local housing authority, subject to the types of tenancy specified; or
  - b) be occupied under shared ownership arrangements in accordance with the conditions under regulation 49(4) of the CIL Regulations (2010).
- 2.6 Development proposals that already have planning permission when a CIL Charging Schedule is adopted are not liable for CIL. This includes any subsequent 'Reserved Matters' applications following outline planning permission. However, if development proposals with planning permission are

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<sup>3</sup> Floorspace of a building subject to demolition or change of use can only be deducted from CIL liability where part of the building has been in continuous lawful use for at least six months in the twelve months prior to the development being permitted.

<sup>4</sup> NB the charity must also own a material interest in the land – see CIL Regulation 43.

not commenced within the conditioned time limit, any subsequent renewal or amendment applications will be liable to pay CIL if by that time a CIL Charging Schedule has been adopted.

- 2.7 In cases where a planning application has been approved prior to the adoption of CIL, and an application is submitted to vary a condition after the adoption of CIL, this may trigger a CIL charge. This will generally only apply where the amount or type of floorspace changes from the original permission. Each case will be dealt with on its own individual merits in accordance with the CIL regulations.

### **Section 106 Agreements**

- 2.8 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 does not fully replace Section 106 (S106) Agreements. However, the way S106 Agreements are applied to new developments will change.
- 2.9 From the adoption of CIL (or April 2014, whichever is earliest) S106 monies towards a particular piece or type of infrastructure will only be able to be pooled from a maximum of 5 planning obligations. This means that S106 is only likely to be sought from larger developments, or where infrastructure requirements are on-site or very site specific. The Council's current Planning Obligations SPD will no longer be applied to new residential development.
- 2.10 The CIL Regulations 2010, as subsequently amended, 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 will have to publish a list of infrastructure it intends to fund via the levy; planning obligations will not be able to be sought towards items on this list.

### **What CIL can be spent on**

- 2.11 CIL monies must be spent on infrastructure to support the development of the borough; its focus should be on the provision of new infrastructure rather than correcting existing shortages in capacity. In addition to new infrastructure, CIL receipts may be used to expand and enhance existing infrastructure, if it will serve the needs of new development.
- 2.12 Unlike contributions made via S106 Agreements, CIL receipts are not earmarked for particular infrastructure related to the development from which they are raised. Instead, CIL monies are pooled into a fund which can be used for any infrastructure needed to support the development of the borough, or for strategic infrastructure needs elsewhere. The Council is responsible for allocating the money raised through CIL towards infrastructure required to support the development of the borough. Section 10 of this document explains how CIL monies might be allocated towards different infrastructure requirements.

- 2.13 Through the provisions of the Localism Act (2011) and the CIL (Amendment) Regulations 2012, the Council is required to pass a 'meaningful proportion' of CIL receipts to local neighbourhoods where development has taken place. The Government has yet to set out what proportion of CIL receipts should be passed to local neighbourhoods.
- 2.14 In parished areas, it is expected that the Town or Parish Council will receive the local contribution; the Government is yet to decide how the local contribution will be received in non-parished areas.

### **3 Evidence Base**

- 3.1 The CIL Regulations and statutory guidance state that, in setting its CIL rates, the Council must aim to strike an appropriate balance between the desirability of funding infrastructure from CIL and the potential effects of the imposition of CIL on the economic viability of development across the borough. This balance of considerations lies at the centre of the charge setting process, and allows the Council to decide upon the appropriate balance for Dacorum.
- 3.2 To inform their consideration of this balance, the Council has considered technical evidence regarding the need and potential funding arrangements for infrastructure and the economic viability of development. This evidence on infrastructure and development viability is discussed in sections 4 and 5 of this document respectively.
- 3.3 The following documents make up the technical evidence base and are available from the Council offices and via the link below:
  - Infrastructure Delivery Plan Update, June 2012
  - Infrastructure Funding Gap Assessment, December 2012
  - CIL Viability Study (BNP Paribas), December 2012
  - Assessing Viability Community Infrastructure Levy: A stage 1 Economic Viability Assessment Prepared for 8 Hertfordshire Authorities, December 2012
  - Pre-Submission draft Core Strategy (October 2011) as amended by a schedule of changes (contained within the report of representations, June 2012)

## **4 Infrastructure Planning**

### **Background**

- 4.1 Government guidance recommends that the evidence on infrastructure needs should be drawn directly from the infrastructure planning that underpins the Development Plan. The Council prepared an Infrastructure Delivery Plan (InDP) in conjunction with the Core Strategy, which identifies the known infrastructure requirements arising from development expected to occur the period 2011-31.
- 4.2 The Examination into the Core Strategy is currently underway. The Hearing was conducted by a Planning Inspector in October 2012, which included an assessment of the technical evidence including the InDP. The Council is awaiting the outcome of the Inspector's report on the Core Strategy, which will identify whether it is sound, or whether changes are required. The Council hopes to adopt the Core Strategy in the Spring of 2013.
- 4.3 The InDP was developed in liaison with infrastructure providers and sets out what infrastructure is required, and when, to support the development planned through the Core Strategy. The InDP also considers how new infrastructure might be funded and delivered. It contains an Infrastructure Delivery Schedule (IDS), which is a list of the infrastructure schemes which are planned or required to support the development of Dacorum. The IDS will be updated on a regular basis.

### **The Infrastructure Funding Gap**

- 4.4 In order to consider where the appropriate balance lies between the desirability of funding infrastructure and the impact on the viability of development, the Council must first identify the cost of infrastructure it wishes to fund through CIL. It is not possible to identify an exact cost as there are too many unknowns, especially over the 25 year plan period. However, it has been possible to establish a robust estimate based on a selection of infrastructure schemes which are indicative of those likely to be funded by CIL.
- 4.5 Government guidance states that the Council should focus on providing evidence of an aggregate funding gap that demonstrates the need to levy CIL. This should be the funding gap associated with the schemes likely to be funded by CIL once alternative sources of funding have been taken into account.
- 4.6 To support this PDCS, the Council has prepared a report on the infrastructure funding gap – 'The Infrastructure Funding Gap Assessment' (December 2012). This report provides an explanation of the schemes used to demonstrate an infrastructure funding gap. It is available on the Council's website: [www.dacorum.gov.uk/cil](http://www.dacorum.gov.uk/cil).

4.7 It is not considered appropriate to base the infrastructure funding gap on all of the infrastructure requirements identified in the InDP. Instead, it is based on those requirements identified in the InDP that meet the following criteria:

- The total cost of the project is known<sup>5</sup>;
- The project is specific to Dacorum (or the cost of the Dacorum element of a wider scheme is known);
- The project will support the development of the borough, rather than correct an existing shortage in capacity;
- The project is for something tangible, i.e. not a review or feasibility study;

4.8 Furthermore, schemes for the provision of utilities infrastructure have been removed from the funding gap analysis as they will be funded via revenue from consumer bills.

4.9 Table 4.1 shows the Infrastructure Funding Gap by type of infrastructure. The difference between the total identified cost and the funding gap represents identified alternative sources of funding. In some instances, the funding is secured, for example, if it is already allocated from the Council's Capital budget. In other cases, a reasonable alternative to CIL has been identified, for example funding from the Department for Transport. Where a scheme is likely to be funded via a S106 Agreement rather than CIL, then this is assumed as a reasonable alternative source of funding.

**Table 4.1: Infrastructure Funding Gap 2011 - 2031**

<b>Infrastructure Type</b>	<b>Total identified infrastructure cost</b>	<b>Funding Gap</b>
Transport	£34.6m	£16m
Education	£64.6m	£38.9m
Green spaces	£7.9m	£2.95m
Police	£0.7m	£0
Waste	£3.1m	£1.1m
Sports facilities	£8m	£0m
Burial space	£1.8m	£1.8m
<b>Total</b>	<b>£120.7m</b>	<b>£60.8m</b>

4.10 The Infrastructure Funding Gap is not a prioritised list of infrastructure delivery and it does not identify the infrastructure which will necessarily be funded by CIL. Its purpose is demonstrate the existence of a funding gap for the provision

<sup>5</sup> The exception for this is where there is a requirement for land, the cost of which is unknown.

of infrastructure requirements, which justifies the imposition of a CIL. A discussion about how CIL monies might be allocated to infrastructure schemes can be found in section 10 of this document.

- 4.11 The Infrastructure Funding Gap identified in table 4.1 is inevitably an under-estimation of the true funding gap for all the infrastructure required for the period 2011-31. This is because a number of requirements do not have costs of provision identified, and so have been removed from the assessment. It is also important to note that the list of infrastructure requirements is a lot more accurate for the short term and so most of the schemes relate to first half of the Plan period. More detailed requirements for the period 2021-31 are likely to be identified nearer the time.

## **5 Assessing Economic Viability**

### **Background**

- 5.1 The CIL Regulations require that the proposed CIL rates have regard to *‘the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development’* across the borough. This requires that the levy rates will not make the majority of development unviable across the borough.
- 5.2 The regulations allow for different rates to apply:
- a) For different zones in which development would be situated; and/or
  - b) By reference to different intended uses of development
- 5.3 In setting differential rates, the Council may set supplementary charges, nil rates, increased rates or reductions. However, differential rates must be based solely on economic viability evidence and not for other purposes. This includes planning policy objectives.
- 5.4 In order to meet these requirements, the Council appointed consultants BNP Paribas Real Estate to undertake viability assessments of development across the borough to test suitable CIL rates for different types of development in different parts of the borough. As a key aim of CIL is to enable the delivery of growth, and given its nature as a fixed tariff, it is important not to set CIL rates that are on the limit of viability. This was a key consideration for the viability work, and the Council when selecting its proposed rates.
- 5.5 This work was informed by a more broad brush assessment of viability undertaken by consultants Lambert Smith Hampton for 8 Hertfordshire authorities. This high-level study examined economic viability of residential development across postcode sectors, and of other types of development across the whole study area (i.e. across all 8 authority areas). The study suggested a set of CIL rates for Dacorum, however, it acknowledged the need for a more in-depth study to consider viability in more detail.
- 5.6 The Council has had regard to the high-level study, but its proposed CIL rates are based on the evidence provided by the more detailed assessment undertaken by BNP Paribas Real Estate.

### **Assessing economic viability**

- 5.7 The model used by BNP Paribas Real Estate to assess the economic viability of development is known as ‘residual valuation’. This is the same methodology as is used by developers when determining how much money to bid for land. It is used to test the effect of different levels of CIL on a range of generic development types on different types of existing use. The method involves calculating the total value of the completed scheme and deducting development

costs (construction, fees, finance and CIL) and developer's profit. The difference is known as the residual land value.

- 5.8 The residual land value is normally a key variable in determining whether a scheme will proceed. If a proposal generates sufficient positive land value (i.e. in excess of existing use value), it will usually be implemented. The margin above the existing use value that will motivate a landowner to implement a scheme may vary considerably on individual sites, and there may be particular reasons why the premium to the landowner should be lower or higher on one site than another.

### **Residential development**

- 5.9 The consultants, working with Council Officers, undertook significant research. The ability of 10 different types of residential development to pay varying levels of CIL across 7 sub-market areas on 4 different types of existing use was tested. The testing took account of requirements for sustainable design and construction, affordable housing and other potential S106 requirements. In addition, several sensitivity tests were done to assess the impact of varying the development values and costs and the level of affordable housing required on-site.
- 5.10 The assessment found that the level of CIL which residential development can afford to pay varies significantly in different parts of the borough, and that there is strong justification for having different residential CIL rates for different parts areas. The study identified the potential for four different residential CIL rates across the borough, with scope for three different rates to be applied across Hemel Hempstead, which was considered geographically by ward boundaries.
- 5.11 In considering the optimal number of residential CIL rates across the borough, the Council has had regard to the likely additional benefit alongside the complexity of administering different residential rates. The consideration also had regard to the level of residential development planned and expected in different parts of the borough. This is important to ensure that the CIL rate does not put proposals at risk in areas where significant amounts of development is expected.
- 5.12 Its consideration of the above factors, led the Council to conclude that there should be three residential CIL rates across the borough, with a single rate across Hemel Hempstead. This is due to the complexity of administering more than one rate for a single development within the town. It was recognised that some types of residential development in the northern part of Hemel Hempstead may be put at risk by a CIL rate of £100/sqm. However, a relatively small proportion of overall development is expected to take place in Highfield, Grovehill and Woodhall Farm.

5.13 The assessment also considered the economic viability of retirement housing, care homes and extra care housing. It found that retirement housing could afford to pay a CIL, but that care homes and extra care housing could not.

5.14 The results and analysis of the appraisals, along with the conclusions and recommendations are set out in the CIL viability study, which is available on the Council's website:

[www.dacorum.gov.uk/cil](http://www.dacorum.gov.uk/cil)

### **Non-residential development**

5.15 As CIL is chargeable on nearly all new buildings where there is a net increase in floorspace, the economic viability of non-residential uses must also be assessed. It would not be practical to test all potential non-residential uses. The main focus of the viability work is therefore on the types of uses which would usually be developed in the borough.

5.16 The types of development tested are office, large and small retail, industrial and warehousing, hotel and those developments falling into Class D1 and D2 of the Use Classes Order. Classes D1 and D2 cover non residential institutions and assembly and leisure uses<sup>6</sup>. The commercial appraisals use the residual valuation method to consider hypothetical developments of these uses at average rent levels, on sites of the same existing use, but a more intense scale.

5.17 The assessment found that in most cases the types of non-residential development tested cannot sustain a CIL charge. Therefore, for the most part, a zero rate is proposed. The only non-residential use that can support a CIL charge is retail development. The assessment differentiates between small and large retail developments as they have different viability characteristics, and uses the Sunday Trading Law threshold of 280 sqm (net retail floorspace) as a suitable way to distinguish between them.

5.18 The assessment found that across the borough large retail developments can support a CIL charge, but that small retail developments can only support a CIL charge in Berkhamsted town centre. The Council proposes to impose a uniform nil charge for small retail across the borough as only a relatively small amount of new retail development is expected in Berkhamsted town centre.

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<sup>6</sup> For a comprehensive definition of the uses covered by Class D1 and D2 of the Use Class Order, please see: <http://nlplanning.com/uploads/ffiles/2012/02/630315.pdf>

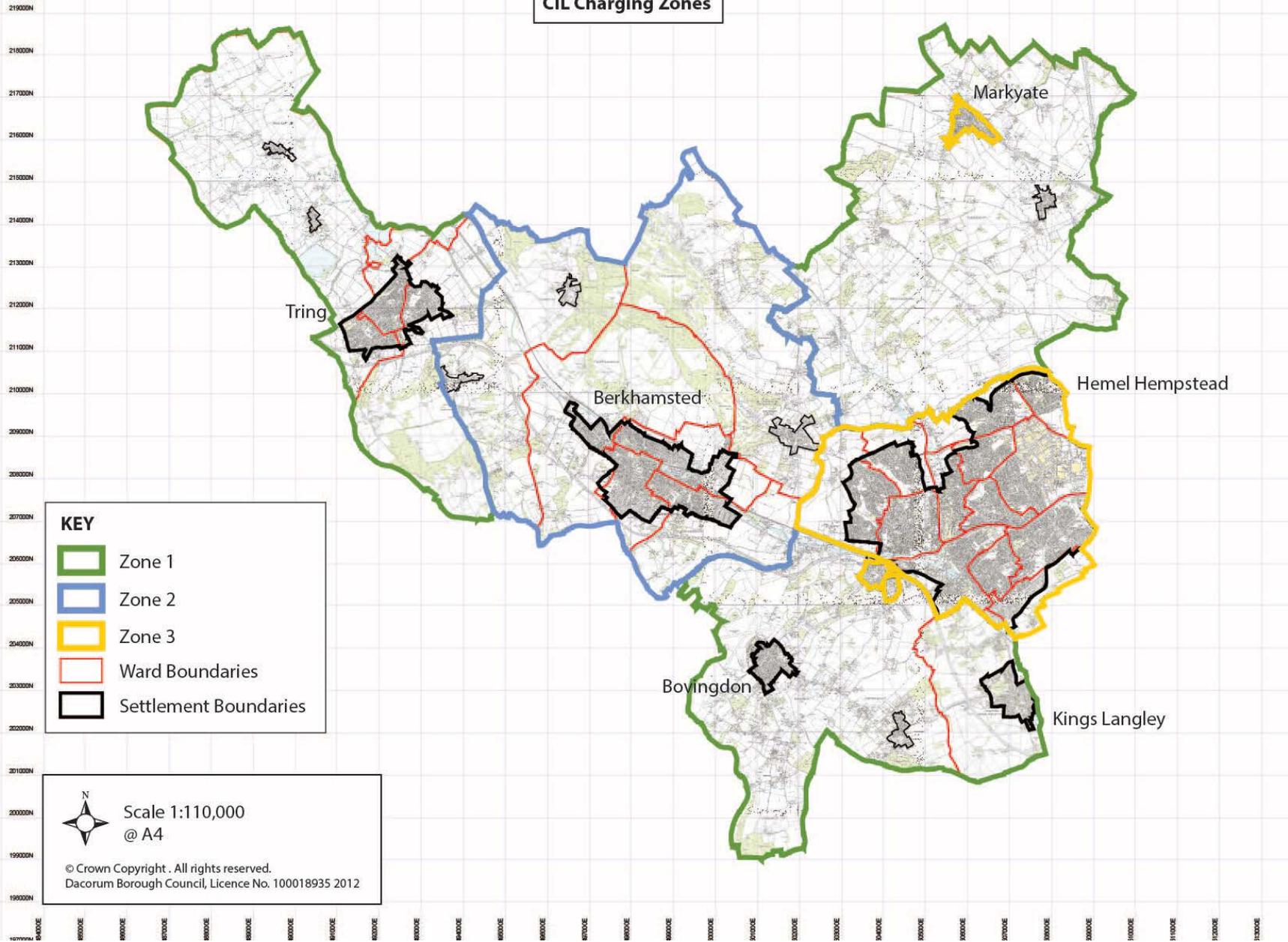
## 6 Proposed CIL Charge Rates and Zones

6.1 Taking account of the evidence regarding infrastructure need and economic viability of development the table below sets out the proposed CIL rates for Dacorum Borough expressed as £ per square metre. The physical extent of each Charging Zone is set out in the maps on pages 16-18.

**Table 6.1: Proposed CIL Rates for Dacorum Borough**

Development Type	CIL rate (per sqm)		
	Zone 1: Elsewhere	Zone 2: Berkhamsted and surrounding areas	Zone 3: Hemel Hempstead and Markyate
Residential	£150	£250	£100
Retirement Housing	£125		
Large Retail (over 280sqm)	£200		
Other	Nil		

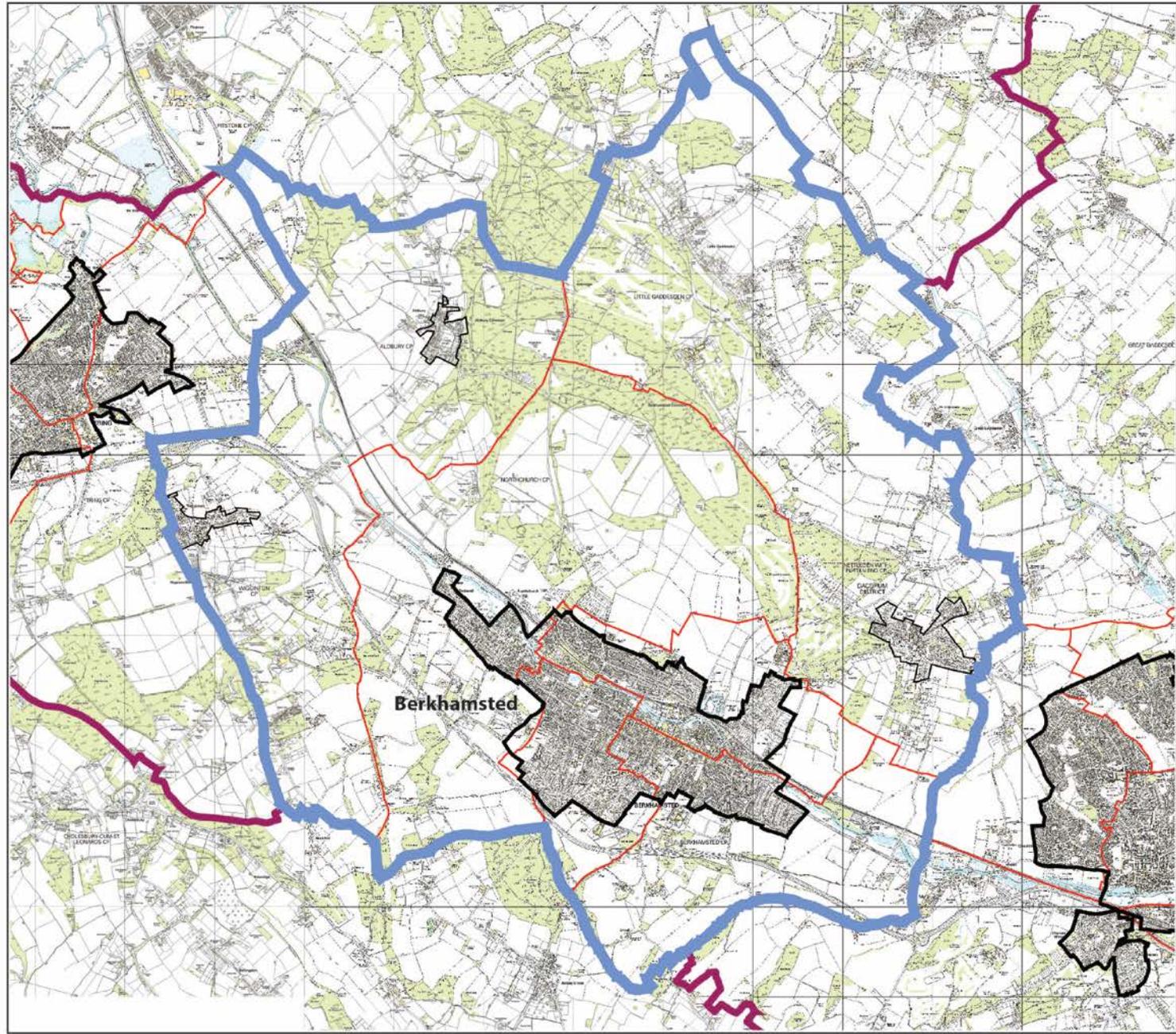
# CIL Charging Zones



### CIL Charging Zone 2

**KEY**

- Zone 2
- Ward Boundaries
- Settlement Boundaries
- Borough Boundary



 Scale 1: 55,000  
@ A4

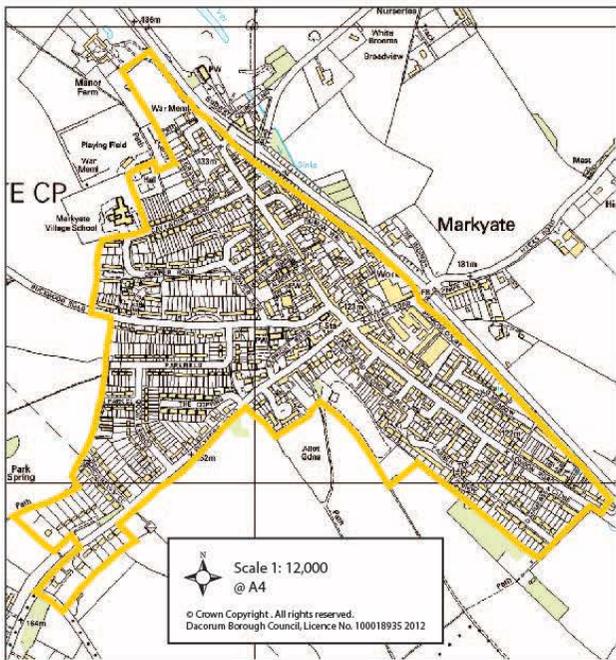
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**CIL Charging Zone 3**

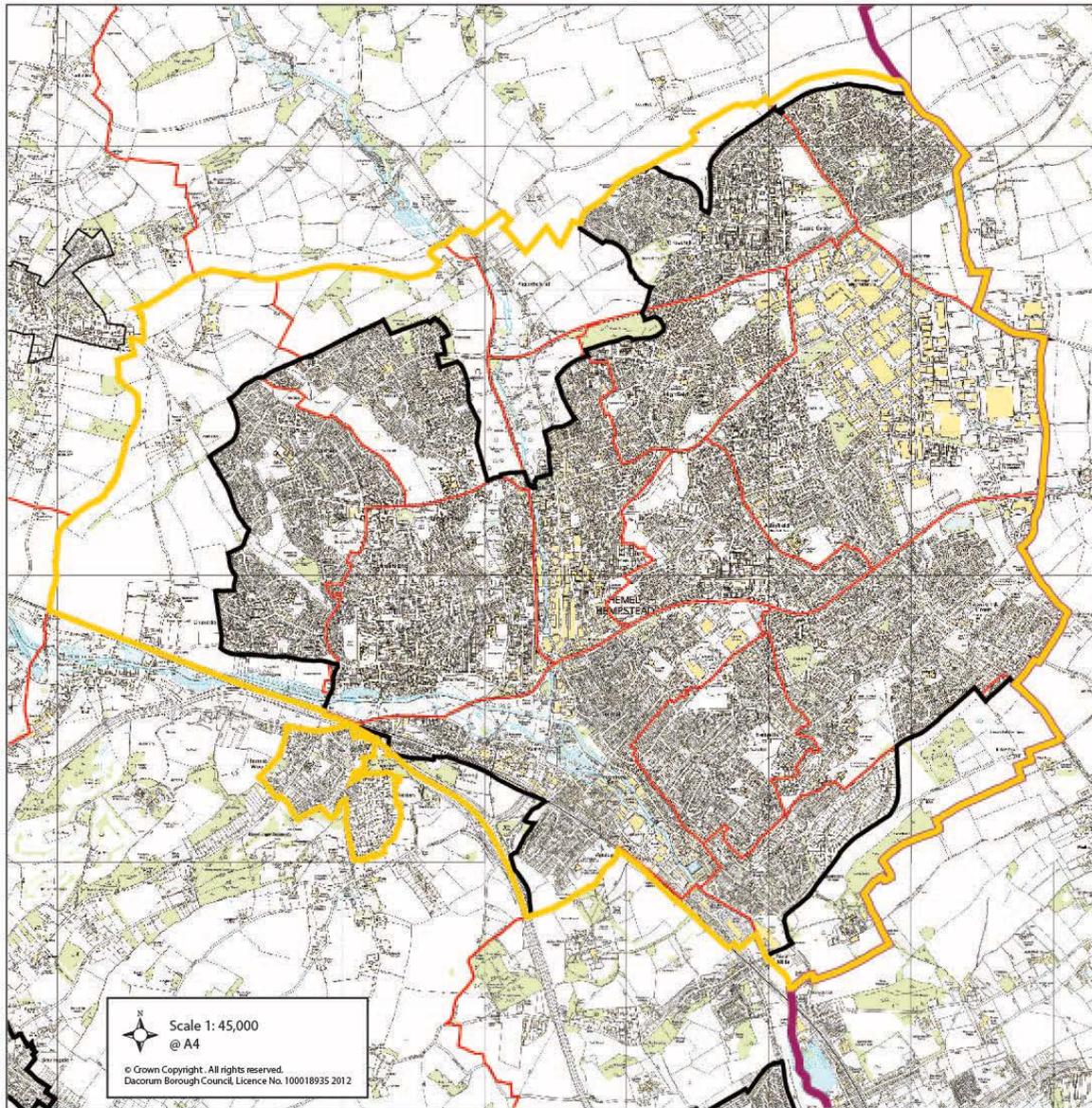
**KEY**

-  Zone 3
-  Ward Boundaries
-  Settlement Boundaries
-  Borough Boundary

**Markyate**



**Hemel Hempstead**



## Potential CIL receipts

6.2 Some initial calculations have been prepared to indicate the amount that might be generated by CIL from residential development. The results of these calculations for any given year are shown in table 6.2. This is based on the CIL rates in Table 6.1, the distribution of housing assumed in the Core Strategy applied the annual target of 430 new dwellings for the whole borough and the assumptions set out under Table 6.2.

**Table 6.2 – Potential annual CIL receipts from residential development**

<b>CIL Charging Zone</b>	<b>Anticipated number of dwellings (annual average)<sup>1</sup></b>	<b>CIL liable floorspace (sq m)<sup>2</sup></b>	<b>Annual Income</b>
1	45	2,476	£0.62m
2	43	2,393	£0.36m
3	342	18,888	£1.89m
<b>Total</b>	<b>430</b>	<b>23,757</b>	<b>£2.87m</b>

1: Based on the distribution of dwellings set out in Table 8 of the Pre-Submission Core Strategy applied to the annual target of 430 for the whole borough

2: Based on average dwelling size of 100 sq m. 15% of floorspace is discounted on the assumption it will come forward in existing buildings. A further 35% is discounted on the assumption it will be provided as affordable housing and therefore exempt from paying CIL.

6.3 The figures in Table 6.2 should be treated with caution as they are based on a number of assumptions that are liable to change. Furthermore, it is unlikely that CIL will generate this sort of level of income in its first few years of operation. This is due to a number of reasons; firstly, the liability to pay CIL is linked to planning permission and so few developments will become liable immediately. Secondly the requirement to pay CIL is linked to the commencement of development, which is often a significant period of time after the grant of planning permission. Thirdly, the Council is likely to operate an instalments policy for CIL liabilities above a particular threshold (see section 9) which will further delay the receipt of CIL monies.

6.4 A similar exercise has not been undertaken for the amount likely to be generated by CIL from retirement housing or large retail development. The Council do not have projections for the amount of retirement housing that might reasonably be developed over the period of the Core Strategy (i.e. up to 2031). Although there are projections for the amount of retail floorspace that might come forward during the Core Strategy period (2006-2031), these are not broken down into small and large retail.

## Reviewing the Charging Schedule

6.5 The Council envisages that a review of the Charging Schedule is to be undertaken in 2016, unless market conditions are unchanged. It is difficult to say with any degree of certainty when the most appropriate time to review the charging schedule will be as market conditions can change at any time. Assuming that the charging schedule is adopted in early 2014, a period of two years would seem a sensible point to review the

charging schedule given that it is a new system, both for the Council and the development industry.

## **7 Exemptions from CIL**

### **Statutory exemptions from CIL**

7.1 The CIL Regulations exempt the following from paying the CIL:

- Development of less than 100 sq m gross internal floorspace, unless it involves the creation of a new dwelling
- Affordable housing – full relief from the CIL is available for those parts of a chargeable development which are to be used as affordable housing
- Development to be used wholly or mainly for charitable purposes, provided that the land is owned (at least partly) by the charity.

### **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 Discretionary relief may be offered for development on land belonging to a charity, which is not used for charitable purposes, but is used as an investment from which the profits will be used for charitable purposes

7.4 Further, the regulations allow the Council to offer relief from the levy in exceptional circumstances where a specific scheme would be unviable if it were to pay the levy. The guidance and regulations make it clear that this would only apply in very exceptional circumstances where the development meets certain criteria. Firstly, the development must be subject to a Section 106 agreement, the value of which must exceed the total cost of the CIL charge. Also a relief must not constitute a notifiable state aid.

7.5 The Council has not made a formal decision on whether it will offer discretionary relief for either of the circumstances outlined above, however, it is likely that it will offer exceptional circumstances relief. Further information will be publicised in due course.

## 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 Council will calculate the amount of CIL payable, known as the “chargeable amount” in respect of a chargeable development in accordance with Regulation 40 of the CIL Regulations 2010, as amended in 2011. This states that:
- (a) The chargeable amount is the amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates;
  - (b) Where the chargeable amount is less than £50 it is deemed to be zero;
  - (c) The relevant rates are those set out in the charging schedules which are in effect:
    - i. At the time planning permission first permits the chargeable development; and
    - ii. In the area in which the chargeable development will be situated.
  - (d) The amount of CIL chargeable at a given relevant rate must be calculated by applying the following formula:

$$\frac{R \times A \times I_p}{I_c}$$

Where

- R = the relevant chargeable rate
- A = deemed net area chargeable at rate R
- $I_p$  = the index figure<sup>7</sup> for the year in which planning permission was granted
- $I_c$  = the index figure for the year in which the CIL Charging Schedule containing rate R took effect.

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<sup>7</sup> The index referred to is the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institute of Chartered Surveyors; and the figure for a given year is the figure for 1<sup>st</sup> November of the preceding year. But in the event that the All-in Tender Price Index ceases to be published, the index referred to is the retail price index; and the figure for a given year is the figure for November the preceding year.

(e) The value of A in (d) must be calculated by applying the following formula:

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

Where

- G = the gross internal area of the chargeable development
- $G_R$  = the gross internal area of the part of the development chargeable at rate R
- $K_R$  = an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build<sup>8</sup>) on completion of the chargeable development which
  - On the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use<sup>9</sup>;
  - Will be part of the chargeable development upon completion; and
  - Will be chargeable at rate R
- E = an amount equal to the aggregate of the gross internal areas of all buildings<sup>10</sup> which:
  - on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
  - are to be demolished before completion of the chargeable development.

8.3 In practice, where there is no existing floorspace involved, A in the formula above will simply be the amount of new floorspace proposed.

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<sup>8</sup> "New build" means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings.

<sup>9</sup> A building is considered to be in 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.

<sup>10</sup> "Building" does not include:

- (a) A building into which people do not normally go;
- (b) A building into which people go only intermittently for the purpose of maintain or inspecting machinery; or
- (c) A building for which planning permission was granted for a limited period.

### Worked example – Calculation of CIL payable for a mixed use development

Planning permission has been granted for a mixed use development in Hemel Hempstead with a gross floors area of 1,500 sq metres combining 1,200 sq metres of residential and 300 sq metres of retail floorspace.

There is 450 sq metres of lawful floorspace existing on the site at the time permission is granted that will be demolished prior to completion of the new development.

The CIL rates are £100/sqm for residential and £200/sqm for large retail (over the floorspace threshold for 280sqm).

The amount of CIL chargeable is the aggregate amount for these two uses.

The formula to calculate the CIL payable on the development is:

$$\frac{R \times A \times I_p}{I_c}$$

Where:

$$I_p = 216; I_c = 224$$

A is calculated using the following formula:

$$A = G_R - K_R - \left( \frac{G_R \times E}{G} \right)$$

Residential:

$$\frac{100 \times A \times 216}{224}$$

$$A = 1200 - 0 - ((1200 \times 450) / 1500) = 840$$

$$\text{CIL payable for residential element} = \frac{100 \times 840 \times 216}{224} = \text{£81,000}$$

Retail:

$$\frac{200 \times A \times 216}{224}$$

$$A = 300 - 0 - ((300 \times 450) / 1500) = 210$$

$$\text{CIL payable for retail element} = \frac{200 \times 210 \times 216}{224} = \text{£40,500}$$

$$\text{Aggregate chargeable amount} = \text{£81,500} + \text{£40,500} = \text{£122,000}$$

## **9 Payment and collection of CIL**

- 9.1 In line with the CIL regulations, the Council will issue a 'liability notice' as soon as practicable after the day on which a planning permission first permits development. The liability notice informs the applicant/landowner of the amount of CIL that they are required to pay, taking into account any relief or exemption for which the development qualifies.
- 9.2 The default responsibility to pay the charge runs with the ownership of the land, however another party may assume liability for the CIL charge. Payment of the CIL charge is due from the date the chargeable development commences, and the liable person must inform the Council when the development will commence at least a day beforehand.
- 9.3 The default position for the payment of the CIL charge, as set out in the Regulations, is that it is due in full within 60 days of the commencement of the chargeable development. However, the Regulations permit authorities to adopt an 'Instalments Policy' to enable liable parties to pay the CIL charge in instalments.
- 9.4 Although the Council does not need to state its intention to adopt an Instalments Policy until the CIL Charging Schedule is adopted, and it is not subject to any scrutiny at the CIL examination, comments are welcomed at this stage. If the Council does adopt an Instalments Policy, it will need to state the following:
- The amount of CIL below which, the charge may not be paid in instalments;
  - The number of instalment payments;
  - The amount or proportion of CIL payable in any instalment;
  - The time (from the commencement of development) that the instalment payments are due;
  - If a stepped instalment policy is adopted, then the above information would need to be set out for each step.

## **10 Using CIL monies**

- 10.1 CIL monies must be spent on infrastructure to support the development of the borough; its focus should be on the provision of new infrastructure rather than correcting existing shortages in capacity. In addition to new infrastructure, CIL receipts may be used to expand and enhance existing infrastructure if it will serve the needs of new development.
- 10.2 As set out in paragraphs 2.6-2.8 there will still be a role for S106 Agreements to deal with site specific infrastructure requirements and there are mechanisms in place to avoid developers being 'double charged' for provision of specific infrastructure items. The CIL Regulations allow the Council to publish a list of infrastructure types or specific schemes that it intends will, or may, be wholly or partly funded by CIL. The Council will not be able to seek S106 contributions towards infrastructure on this list. This list (often referred to as the 'Regulation 123 list') does not form part of this consultation, nor does it form part of the Independent Examination of the CIL Charging Schedule. This list will be prepared by the Council prior to the adoption of the CIL Charging Schedule.
- 10.3 It is clear from the evidence set out in sections 4, 5 and 6, that CIL will not be able to fund all of the infrastructure required across the borough. Therefore, the Council will need to make decisions about how to prioritise between the different infrastructure projects eligible to receive CIL monies. The corporate governance and operational processes needed to underpin this role are currently being considered.
- 10.4 The Council will work with infrastructure providers and the local community to establish protocols for prioritising infrastructure projects for receipt of CIL monies. Alongside this, the Council will develop a set of transparent governance procedures for the allocation and release of CIL monies.
- 10.5 As set out in paragraphs 2.11-2.12, a meaningful proportion of CIL monies received will be passed back to the local communities where the development occurred. Procedures for the transparent allocation of this money will need to be developed (by the appropriate organisation) once the Government issues the final regulations.

## 11 Next Steps

- 11.1 Following the consultation period on this Preliminary Draft Charging Schedule the comments received will be considered by the Council. The Council will consult again on a Draft Charging Schedule. Following these two stages of consultation, the Draft Charging Schedule with any amendments considered appropriate, will be the subject of an Independent Examination.
- 11.2 The Examiner will consider whether the Draft Charging Schedule meets the requirements of the Planning Act (2008), the CIL Regulations and the Statutory Guidance. The examination will also consider whether it is supported by appropriate evidence and whether the CIL rates would put at risk the economic viability of development across the area. The Examiner will then issue a report, and subject to this, the Council can adopt the CIL Charging Schedule.
- 11.3 The Council's timetable for progressing the CIL Charging Schedule to adoption is as follows:

<b>Stage</b>	<b>Timescale</b>
Consultation on Preliminary Draft CIL Charging Schedule	December 2012 – January 2013
Consultation on Draft CIL Charging Schedule	May – June 2013
Independent Examination and receipt of Inspector's Report	Autumn/Winter 2013
Adoption of Charging Schedule	Spring 2014

## 12 Consultation questions

- 1 Do you think that the identified infrastructure needs are supported by evidence and are up to date? If no, please explain.
- 2 Do you think that a sound funding gap has been identified to justify the need for a CIL in Dacorum Borough? If no, please explain.
- 3 Do you think that the rates proposed put the overall development of the area at risk? If yes, please explain.
- 4 Do you think that having different residential rates in zones 1, 2 and 3 is appropriate and supported by evidence? If no, please explain.
- 5 If you support the differential rates, do you think the boundaries between the different zones are appropriate boundaries? If no, please say what boundaries should be used instead?
- 6 Do you think that it is appropriate to have a single rate for retirement housing across the whole borough? If no, please explain.
- 7 Do you think that the proposed rate for retirement housing is appropriate? If no, please explain.
- 8 Do you think that the proposed rate for large retail is appropriate? If no, please explain.
- 9 Do you think that the proposed threshold for large retail is appropriate? If not, what would a more appropriate threshold be?
- 10 Do you think that there should be a nil rate for all 'other' uses as stated in the preliminary draft charging schedule table? If no, which uses do you think should have a CIL charge, and why?
- 11 Do you think that the Council should adopt an exceptional circumstances policy? If no, please explain.
- 12 Do you think that the Council should adopt an instalments policy? If yes, what thresholds of CIL liability would be sensible triggers for different payment stages?
- 13 Do you have any other comments on the PDCS?