

BIRMINGHAM CITY COUNCIL

Appendix

REPORT OF DIRECTOR OF PLANNING AND REGENERATION

PLANNING COMMITTEE

6 August 2015

Community Infrastructure Levy

1. Purpose of report

- 1.1 To inform members of the proposed adoption date of 4 January 2016 for the Community Infrastructure Levy Charging Schedule.

2. Recommendations

- 2.1 To note the attached Cabinet Report.
- 2.2 To note the proposed adoption date of the Community Infrastructure Levy Charging Schedule.

3. Contact Officer

Hayley Anderson
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Waheed Nazir
Director of Planning and Regeneration

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	CABINET
Report of:	Director Planning and Regeneration
Date of Decision:	27th July 2015
SUBJECT:	ADOPTION OF THE COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE
Key Decision: No	Relevant Forward Plan Ref: N/A
If not in the Forward Plan: (please "X" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
Relevant Cabinet Members:	Cllr Tahir Ali, Cabinet Member for Development, Transport and the Economy. Cllr Ian Ward, Deputy Leader
Relevant O&S Chairman:	Cllr Victoria Quinn, Economy, Skills and Sustainability Overview and Scrutiny Committee
Wards affected:	All

1. Purpose of report:
1.1 To seek approval to adopt the Community Infrastructure Levy (CIL) and for the CIL Charging Schedule to take effect on Monday 4 th January 2016.

2. Decision(s) recommended: That Cabinet:-
2.1 Approves this report and agrees to recommend the adoption of the Community Infrastructure Levy Charging Schedule.
2.2 Recommends to City Council that the Community Infrastructure Levy Charging Schedule be adopted and commence on Monday 4 th January 2016.

Lead Contact Officer(s):	Ian MacLeod/Hayley Anderson
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3. Consultation

3.1 Internal

The CIL Regulations 2010 (as amended) outlines the stages which must be followed in order to adopt a CIL. As part of a two stage public consultation and an Examination in Public process (set out in Section 5), reports have been presented and approved by Cabinet to allow publication of Preliminary Draft and Draft CIL charges. Officers have also attended Economy and Transport Overview and Scrutiny Committee in relation to the draft charging schedule (17th October 2014) and sought comments from services including Education, Leisure, Transportation, Housing and Legal Services involved in current Town and Country Planning Act 1990 (TCPA) Section 106 (S106) processes.

3.2 External

The CIL Regulations 2010 (as amended) outlines the stages which must be followed in order to adopt a CIL. Both consultations were available online with direct links to an online consultation portal (Objective and Be Heard). Emails were sent notifying statutory consultees such as adjoining authorities as well as interested parties, working groups etc advising them of the consultation processes and dates. Throughout the Examination in Public, a dedicated Programme Officer (in line with the Regulations) acted as a conduit between the City Council and the public and all documents were available on line and in print.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

The CIL is a mechanism to secure funding to contribute to the infrastructure needed to support the growth of the city and the implementation of the Birmingham Development Plan (BDP). CIL will contribute towards the overarching objectives of the Councils Business Plan and Budget 2015 plus specifically a 'Green and Sustainable City' and 'Infrastructure Development and Smart City'.

4.2 Financial Implications

(Will decisions be carried out within existing finance and Resources?)

4.2.1

Once adopted, the CIL, as a mandatory charge, has the potential to generate funds for the City Council which can be used to support the provision of infrastructure required to support growth within Birmingham. The CIL will also generate funds which can be used to provide strategic infrastructure across the whole of the city whilst changes in the law governing TCPA S106 agreements mean, (from April 2015), the City Council can only secure TCPA S106 obligations which relate directly to the development site. The CIL will provide greater flexibility than the existing TCPA S106 mechanism, as it will allow the City Council to utilise the CIL infrastructure funds where there is greatest need. The CIL will be reviewed within three years to ensure charges reflect development viability.

4.2.2

The process for determining where CIL money is spent, in accordance with overall corporate priorities, will be incorporated into the City Council's annual budget report. These priorities will be based upon the Regulation 123 list (CIL Regulations 2010 as amended) which defines the City Council's Infrastructure priorities as reported to Cabinet (see Cabinet report 15th September 2014). Revenue from CIL is estimated to be in line with current S106 contributions which are around £3million per annum but CIL provides greater flexibility on where it is spent.

- 4.3 Legal Implications
Under the Planning Act 2008, a Local Authority is enabled but not required to adopt a CIL. The detailed requirements and procedures which must be followed in preparing a CIL are set out in the Planning Act 2008 (Chapter 29, Part II) and in the Community Infrastructure Levy Regulations 2010, as amended.
- 4.4 Public Sector Equality Duty (see separate guidance note)
In overall terms the CIL has been assessed as having a positive impact on the promotion of equality. By providing essential investment in infrastructure across the city, it will help create opportunity for all. (EA ref: DE0912CL)
As stated in Department for Communities and Local Government (DCLG) guidance, Charging Schedules will not require a Sustainability Appraisal.

5. Relevant background/chronology of key events:

- 5.1 CIL is a mandatory charge per square metre on certain developments to support the provision of infrastructure needed to support growth in the city. The CIL Regulations 2010 (as amended) outlines the stages which must be followed in order to adopt a CIL. These regulations also clarified the future role of TCPA S106 agreements, and it became apparent that in order to continue to secure income via planning obligations, the City Council would need to adopt a CIL.
- 5.2 In early 2012, external consultants GVA were appointed to examine the viability of different types of development across the city and propose CIL charges for public consultation. This Preliminary Draft Charging Schedule was approved by Cabinet for public consultation for a period of eight weeks during December 2012 and January 2013. This consultation also included specific meetings with the development sector and public drop in sessions.
- 5.3 Taking account of comments received, a revised set of charges was published for public consultation for six weeks from September 2014 to November 2014. This consultation again followed Cabinet approval.
- 5.4 The charges proposed in the Draft Charging Schedule were more favourably received, and were duly submitted for Examination on 4th February 2015, unaltered.
- 5.5 The Examination in Public was held on 30th April 2015 and the City Council has now received the Examiner's report. The report is to be welcomed and concludes that the proposed charges "provide an appropriate basis for the collection of CIL in our area", and that "CIL will secure an important funding stream for infrastructure necessary to support the planned growth in the city". Only two minor modifications are proposed by the Examiner. The first is a clarification that all Use Class C2 development will be zero rated for CIL purposes. The second is to increase the retail convenience size threshold at which CIL would apply, from 2,000 sq.m. to 2,700 sq.m.
- 5.6 The Examiner suggests that the CIL charges are reviewed within three years of adoption to ensure the charges remain appropriate and relevant. It should also be noted that we are one of the first (and few) local authorities to receive approval to commence charging our CIL in advance of an adopted Development Plan which is testament to the detail contained within the draft Birmingham Development Plan.

5.7 Next Steps

Section 213 of the Planning Act 2008 (as amended) states that a Charging Authority must approve a Charging Schedule at a meeting of the authority and by a majority of votes of Members present. Following this approval, the City Council intends for CIL to take effect on Monday 4th January 2016 and CIL will be charged on all relevant applications at the time planning permission first permits development (i.e. when the Planning Decision Notice is issued), irrelevant of submission date.

6. Evaluation of alternative option(s):

- 6.1 To do nothing – This would result in a loss of funding for infrastructure provision across the city as the scope of TCPA S106 agreements will be reduced.

7. Reasons for Decision(s):

- 7.1 To secure a source of funding for infrastructure provision to enable Birmingham to grow in line with the Birmingham Development Plan.

Signatures**Date**

Cllr Tahir Ali
Cabinet Member for
Development, Transport and
the Economy

.....

Cllr. Ian Ward,
Deputy Leader

.....

Waheed Nazir
Director Planning &
Regeneration

.....

List of Background Documents used to compile this Report:

- Relevant Officer's file(s) on the matter save for confidential documents.
- Community Infrastructure Levy – Preliminary Draft Charging Schedule Consultation 29 October 2012
- Community Infrastructure Levy – Draft Charging Schedule Consultation 15 September 2014

List of Appendices accompanying this Report (if any):

1. CIL Charging Schedule
2. CIL Examiner's Report
3. Equality Analysis

Report Version**Dated**

15 July 2015

PROTOCOL PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report at section 4.4 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in the standard section (4.4) of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
 - (a) whether there is adverse impact upon persons within the protected categories
 - (b) what is the nature of this adverse impact
 - (c) whether the adverse impact can be avoided and at what cost – and if not –
 - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
 - a summary of the adverse impact and any possible mitigating actions (in section 4.4 or an appendix if necessary)
 - the full equality impact assessment (as an appendix)
 - the equality duty – see page 9 (as an appendix).

Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

1	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"> (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2	<p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
3	<p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p>
4	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> (a) tackle prejudice, and (b) promote understanding.
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none"> (a) age (b) disability (c) gender reassignment (d) pregnancy and maternity (e) race (f) religion or belief (g) sex (h) sexual orientation

Community Infrastructure Levy Charging Schedule

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1.0 What is the Community Infrastructure Levy?

The Community Infrastructure Levy (CIL) is a charge on new buildings in England and Wales. It is a mechanism to ensure certain types of new development contribute to the infrastructure needed to support that development. This infrastructure will support the growth aspirations for Birmingham as outlined in the Birmingham Development Plan which includes proposals for over 50,000 new homes and 100,000 new jobs. This infrastructure could include new schools, roads, parks and public transport improvements.

The charge provides a greater level of certainty for developers and land owners regarding their contributions and will be charged per net square metre of new development.

We will need approval from Full Council to begin charging a CIL, and subject to this approval, we intend to commence charging on Monday 4th January 2016.

2.0 CIL and other planning documents

To adopt a CIL, we need bring together “relevant evidence” which shows our aspirations for growth, the infrastructure needed to support that growth and its cost. We also need to show that the proposed charge will not discourage new developments from being built.

These documents are available on our website at www.birmingham.gov.uk/cil and www.birmingham.gov.uk/plan2031/evidencebase and include the following:

- The CIL Charging Schedule
- CIL Charging Maps
- CIL Economic Viability Assessment (GVA report) – October 2012
- The Birmingham Development Plan (Pre Submission Version)
- The Birmingham Development Plan Policies Map
- Site Delivery Plan
- Infrastructure Delivery Plan
- Preliminary Draft Charging Schedule information and consultation responses
- Regulation 123 list

The Birmingham Development Plan (BDP) was submitted to the Secretary of State for Examination on July 1st 2014, and the Examination Hearing Sessions have now finished. It is anticipated that the BDP will be adopted in 2016.

You can find the Birmingham Development Plan here www.birmingham.gov.uk/plan2031

3.0 The Infrastructure Development Plan

The Infrastructure Delivery Plan (IDP) identifies the infrastructure needed to support the growth of the City. This document helps to identify the types and costs of infrastructure, the delivery timetable and gaps in funding. The IDP is a collaborative effort and we have worked with a wide range of departments and stakeholders who have a role in delivering that infrastructure. The IDP clearly demonstrates a funding gap for the delivery of critical infrastructure which CIL will help to address. You can find the latest version of the IDP [here](#)

4.0 The Community Infrastructure Levy Preliminary Draft Charging Schedule – Viability Study (GVA)

We appointed GVA to carry out a viability study. We wanted this study to look at the viability of various hypothetical developments across the City. When assessing viability, GVA considered planning policy requirements (e.g. standards for sustainable buildings) which can add to the cost of a new development. This study shows possible CIL charges across the City, with different charges by type and location of those developments.

5.0 The Draft Charging Schedule

Following the Preliminary Draft Charging Schedule consultation, a number of responses raised specific issues regarding retail use categories, residential assumptions and values and charges specifically in relation to the Green Belt proposals in the Birmingham Development Plan. We requested GVA conduct further analysis to address the concerns mentioned.

In addition to supplementary testing, we have further amended the charges to take into account the current economic situation. While the economy is no longer in recession, the recovery is delicately balanced. CIL charges should not prejudice this recovery, and must strike an appropriate balance between funding for infrastructure and CIL's impact on economic viability. The proposed charges contained within the CIL also take into account unforeseen costs, additional planning policy requirements and on site Section 106 (S106) contributions. Once adopted, there is the possibility of an early review and potential amendment to CIL charges as the economy continues to recover.

5.1 Additional Retail Testing

Additional, hypothetical development schemes were tested (specifically convenience stores, city centre retail and convenience store with petrol station). The scenarios tested are high level and cannot be used as an example of what an individual developer or operator would be prepared to pay for land at any given location.

The appraisals assume a zero contribution towards S106 costs.

The paper can be found [here](#).

5.2 Additional Employment Testing, including Sustainable Urban Extension (Peddimore Employment Proposal)

Additional employment scenarios were tested, specifically in relation to industrial development on a greenfield site and offices in the prime and fringe of the city centre, to demonstrate potential charges for employment use. The scenarios tested are high level and cannot be used as an example of what an individual developer or operator would be prepared to pay for land at any given location.

To test the viability of a range of schemes on Green Belt employment land, three different scenarios were tested – pre-let industrial use, speculative industrial use and speculative business park use. The papers can be found [here](#).

5.3 Additional Miscellaneous Testing and Analysis

This paper updates the initial viability testing from October 2012. This paper reviews the original, proposed CIL rates and gives a greater viability “cushion” for CIL charges. This ensures the CIL will remain viable even with the varying circumstances for each development scheme. The paper can be found at [here](#).

5.4 Residential Urban Extension

Additional testing was undertaken for a large, strategic scale development of 5,000 units. This is a hypothetical example which mirrors the potential characteristics of the scheme recommended in the Sustainable Urban Extension (SUE). It is assumed that developments will be undertaken by large regional and national developers who benefit from economies of scale.

The testing assumes there will be significant on-site mitigating requirements for such a large scale development, and therefore S106 contributions are unlikely to be pooled with S106 agreements for other schemes.

Testing was undertaken assuming S106 contributions equivalent to £10,000 and £20,000 per dwelling. Further tests also assumed 20% and 35% affordable housing. In all cases, the assumptions adopted give a positive residual land value which suggests the scheme is deliverable; however the appraisals do not equal or exceed the adopted base land values. Therefore, the testing recommends a zero charge for residential development in the Green Belt. The paper can be found at [here](#).

5.5 Affordable Housing Providers and Birmingham Municipal Housing Trust

Amended guidance for the CIL was published on the Planning Practice Guidance website on 12 June 2014, and this replaced the previous standalone guidance that was published in February 2014.

This guidance states that we may offer further, discretionary relief for affordable housing types which do not meet the criteria required for mandatory social housing relief and are not regulated through the National Rent Regime.

The majority of Birmingham Municipal Housing Trust (BMHT) schemes deliver socially rented housing. These properties are funded through a mixture of internally generated resources, grant funding and recycled surpluses from house sales with the land being provided to the scheme at no cost. There is no developer profit achieved on a BMHT scheme as any surpluses created from the homes for sale are reinvested into new homes for rent or into community benefits such as road improvements or public open space.

Therefore it is proposed to exempt BMHT developments from CIL charges. This paper can be found at [here](#).

Similarly, we propose to exempt all social housing providers registered with the Homes and Communities Agency from CIL charges.

6.0 The CIL Examination Process

We submitted our CIL Draft Charging Schedule to the Planning Inspectorate on Wednesday 4th February 2015 for public examination. Our CIL Examination was held at our offices at Lancaster Circus on Thursday 30th April 2015 and all information relating to the Examination, including the Full Report, can be found [here](#).

The Inspector's Report concludes that our Charging Schedule provides an appropriate basis for the collection of the levy, that the charges are set at levels which will not put the overall development of the Birmingham area at risk, and will secure an important funding stream for infrastructure necessary to support planned growth in the city.

Following the Examination, we now need Full Council approval to adopt a CIL, and subject to this approval, we intend to adopt our CIL and commence charging on Monday 4th January 2016.

7.0 CIL Charges

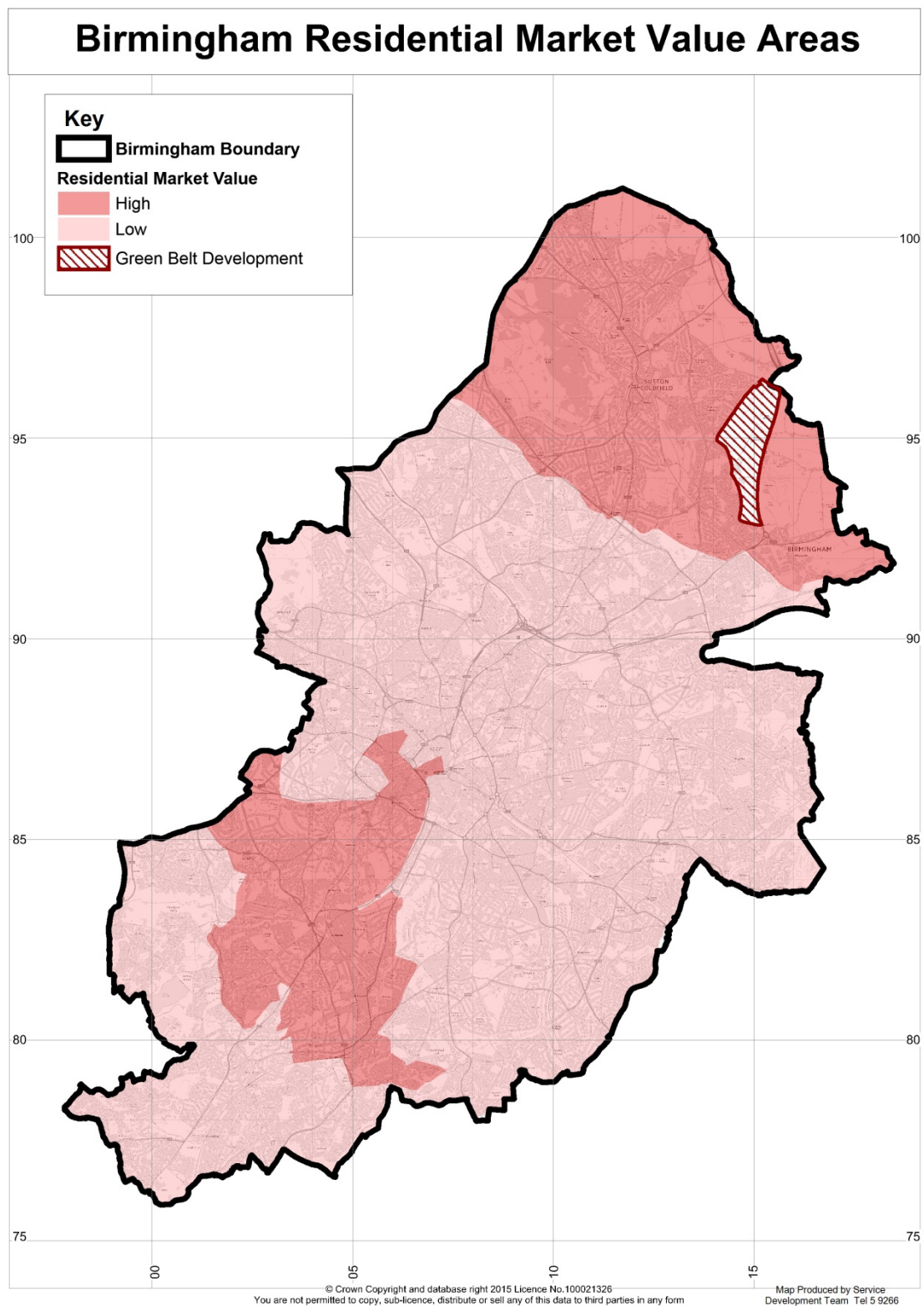
Development Type	Detail	Charge/sqm
Retail convenience ¹	<2,700 sqm	£0
Retail convenience ¹	>2,700 sqm	£260
Retail ²	All other	£0
Retail ²	Greenbelt Development (Sustainable urban extension)	£0
Industrial/Employment	All areas	£0
Offices	All areas	£0
Residential	Value zones 1,2 & 3 (High value area)	£69
Residential	Value zones 4,5,6 & 7 (Low value area)	£0
Residential	Green Belt Development (Sustainable urban extension)	£0
Residential	Social Housing Providers registered with HCA and Birmingham Municipal Housing Trust developments	£0
Student housing	All areas, except Green Belt Development (Sustainable urban extension)	£69
Student Housing	Green Belt Development (Sustainable urban extension)	£0
Hotel	City centre	£27
Hotel	Green Belt Development (Sustainable urban extension) and rest of city	£0
Leisure	All areas	£0
Education	All areas	£0
Health	All areas	£0
Use class C2 ³	C2 use	£0
All other development	All areas	£0

1. Retail convenience can also include non-food floorspace as part of the overall mix of the unit.

2. Retail - This category will include those retail units selling goods not bought on a frequent basis.

3. The Town and Country Planning (Use Classes) Order 1987 (as amended) defines Use Class C2 Residential Institutions as – residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.

7.1 Charging Zone Maps

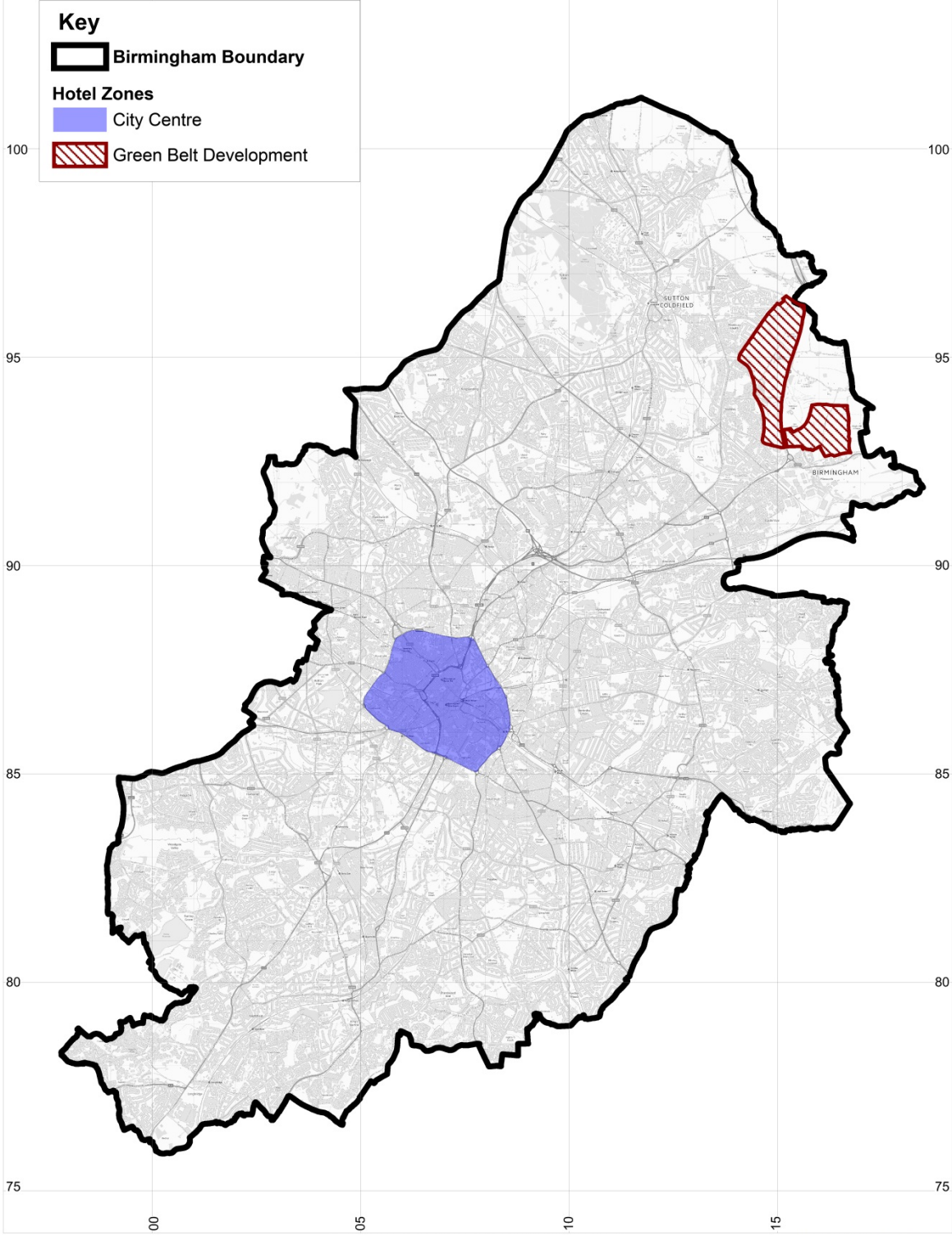


Please note – where the residential charging zone dissects a building on the above plan, the postcode used for the planning application site address will determine which charging zone the application falls under.

For clarity, the following post codes were identified in the GVA CIL Economic Viability Assessment report (October 2012):

Market Value Area							
	High			Low			
	1	2	3	4	5	6	7
Postcodes	B15, B17, B73, B74, B75	B30, B29, B72, B76	B1, B2	B3, B13, B12, B14, B20, B27, B24, B38, B45, B23, B31, B32, B33	B9, B18, B19, B28, B10, B26, B44	B5, B6, B8, B11, B16, B21, B25, B34, B35, B36, B42	B7, B4

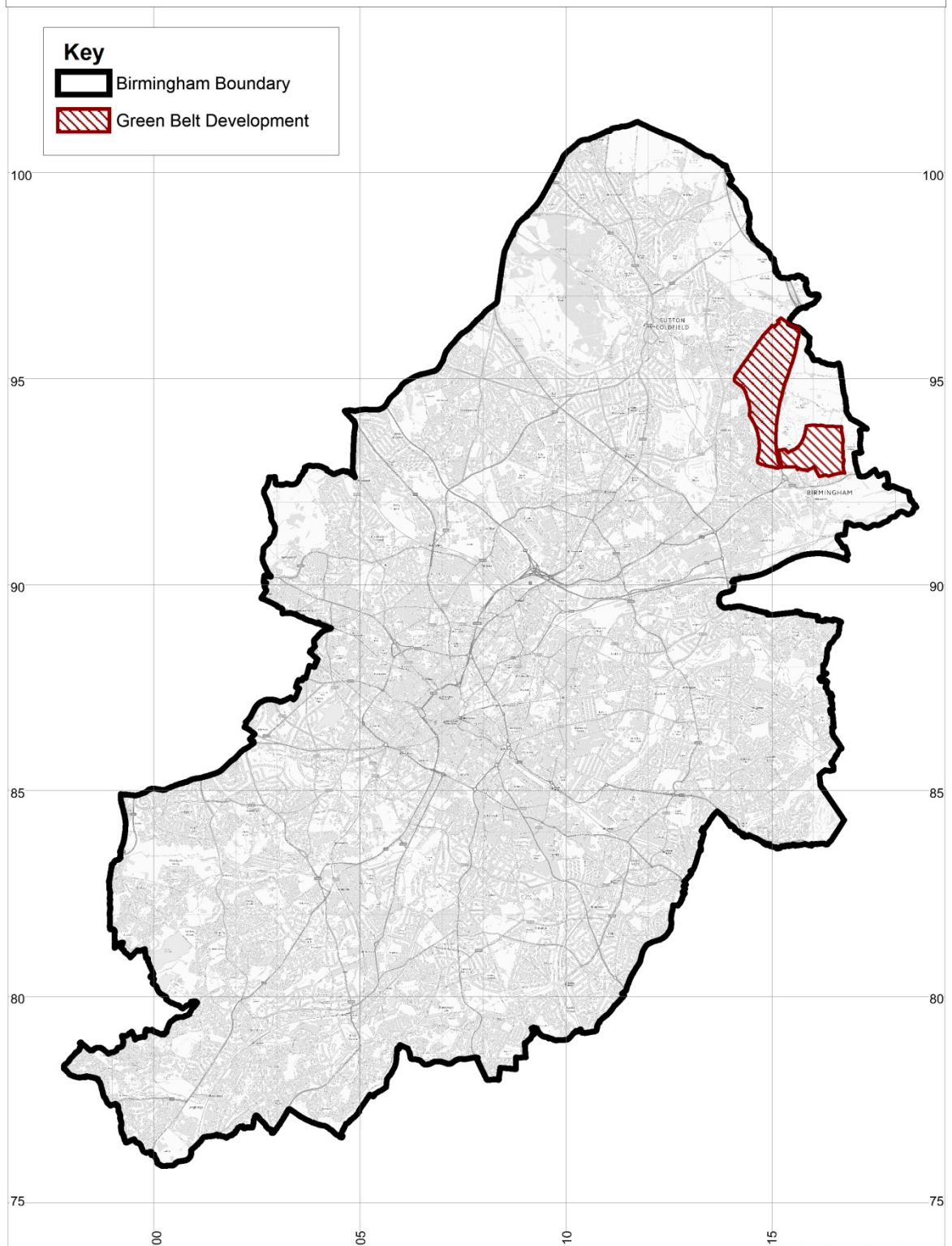
Birmingham Hotel Zones



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8.0 Regulation 123 list

The Regulation 123 list (R123) is a list of infrastructure projects which we hope to fund or part fund through CIL. We have published a list and you can find this [here](#). We can revise this list at any time following the adoption of CIL, subject to appropriate consultation.

The projects on this list have been chosen as they support the development of Birmingham, as outlined in the Birmingham Development Plan. We can use the CIL to provide new infrastructure, increase the capacity of existing infrastructure or repair failing infrastructure, if it is necessary to support development.

9.0 What will be liable for CIL?

CIL may be payable on a development which creates net additional floor space, where the gross internal area of new build exceeds 100 sq.m. If the development creates a new dwelling, CIL is usually payable, irrelevant of size. CIL applies to all types of planning consent, including Local Development Orders and Neighbourhood Development Orders.

10.0 What will be exempt from CIL?

- Developments of less than 100 sq.m., unless it is a new house or flat. If it is a new house or flat, CIL is payable.
- Houses, flats, residential extensions or residential annexes which are built by self-builders, and will be occupied by those self-builders.
- Social housing
- Charitable development
- Buildings into which you do not normally go
- Buildings where you only go intermittently, for inspecting/maintaining fixed plant, machinery etc.
- Any structures which aren't buildings such as pylons
- Any development with a £0 charge as defined in the Charging Schedule
- Vacant buildings brought back into the same use
- Mezzanine floors of less than 200 sq.m. unless they form part of a wider planning permission providing other works.

For detailed, up to date information on the various exemptions, please see the [CIL Regulations 2010](#) (as amended) and also the [CIL Planning Practice Guidance](#).

11.0 Calculation

The formula used to calculate CIL liability is defined within the CIL regulations. This involves multiplying our CIL charging rate by the net increase in Gross Internal Area (GIA) and adjusting for inflation.

$$\frac{R \times A \times Ip}{Ic}$$

R – the CIL rate for that use

A – the deemed net area chargeable at rate R

Ip – the index figure for the year in which planning permission was granted

Ic – the index figure for the year in which the charging schedule took effect

The All-In Tender Price Index is an inflation index published by the Royal Institute of Chartered Surveyors Building Cost Information Service and the figure for any given year is the figure for November of the previous year.

CIL calculations leading to a liability of less than £50 are treated as zero rated and are not payable.

Further detail on calculating the amount due is contained in the [CIL regulations](#), including how to calculate the net chargeable area of the development.

If you need any help or advice calculating your CIL liability, please contact Hayley Anderson at hayley.anderson@birmingham.gov.uk or 0121 303 4820.

12.0 Who pays?

Landowners are liable for payment of CIL, but other parties can take on the liability to pay their CIL contribution. If no one assumes liability, or payment is not forthcoming from other parties, the liability will automatically default to the landowner.

13.0 [When and how will I pay?](#)

- When planning permission is granted through a decision notice (or appeal decision) on or after the date of publication of a CIL Charging Schedule for that area; or
- When development is permitted by a 'general consent' (e.g. permitted development).

Please note CIL will be chargeable on all relevant applications at the time planning permission first permits development. This is in accordance with Regulation 40 of the CIL Regulations 2010 (as amended).

There are a number of stages in the CIL collection process which we must follow:

- If you are applying for planning permission, you must include a completed copy of the [Additional CIL Information Form](#) with your application to help us calculate the sum payable
- If your development is granted planning permission by way of a general consent (such as General Permitted Development Orders or Local Development Orders), you must submit a [Notice of Chargeable Development](#) if the development is liable for CIL
- Someone must also assume liability for payment by submitting an [Assumption of Liability Form](#). This could be the developer, landowner or another interested party
- We will then issue a Liability Notice which sets out the charges due and the payment procedure
- Whoever assumes liability must then send us a [Commencement Notice](#) stating when development will start
- We will send a Demand Notice which states the payments and due dates for payment in line with our payment and instalment procedures
- When development starts, and payments are received in line with the procedures, we will issue a receipt for all payments received.

14.0 Can I pay my CIL in kind?

It may be possible to pay your CIL liability in kind, through either land or infrastructure, and we will assess each application and make a decision on a case by case basis. Please contact Hayley Anderson at Hayley.anderson@birmingham.gov.uk or 0121 303 4820 for further information.

Please note, should we agree to an in kind payment of CIL liability, these payments must be agreed through a land or infrastructure agreement before starting on site and can be full or part payment of the CIL liability.

Land or infrastructure must be valued by an independent valuer to ascertain open market value of land or the cost of the infrastructure to decide how much of the CIL liability will be paid by the in kind payment.

Further information regarding in kind payments is contained within the [CIL regulations](#).

15.0 Instalments

We have introduced an Instalment Policy which will take effect when the CIL is adopted.

Total CIL payment due	Payment Terms
Less than £30,000	Total payable within 60 days of commencement
£30,000 - £100,000	25% payable within 60 days of commencement 75% payable within 240 days of commencement (c. 8 months)
£100,001 - £500,000	25% payable within 60 days of commencement 25% payable within 240 days of commencement (c. 8 months) 50% payable within 365 days of commencement (c. 1 year) NB Full payment is due if full occupation/opening of development is earlier than the dates set out above.
£500,001 - £1,000,000	20% payable within 60 days of commencement 20% payable within 240 days of commencement of development (c. 8 months) 30% payable within 365 days of commencement (c. 1 year) 30% payable within 540 days of commencement (c. 18 months) NB Full payment is due if full occupation/opening of development is earlier than the dates set out above.
More than £1,000,001	20% payable within 60 days of commencement 20% payable within 240 days of commencement of development (c. 8 months) 20% payable within 365 days of commencement (c. 1 year) 20% payable within 540 days of commencement (c. 18 months) 20% payable within 730 days of commencement (c. 2 years) NB Full payment is due if full occupation/opening of development is earlier than the dates set out above.

If these instalment terms are broken, we will issue a Demand Notice which requires full payment immediately.

Similarly, if no Commencement Notice is received and we have to determine the “deemed commencement” date, we will issue a Demand Notice for CIL liability, which must be paid immediately in full.

16.0 Developer contributions and S106 Agreements

You could be asked to contribute towards infrastructure in different ways. This could be through CIL, S106 agreements, S278 highway agreements and any conditions which may be attached to your planning permission.

However, these different types of developer contribution all serve different purposes and the regulations will limit any perceived or actual “double dipping” with developers paying twice for the same thing.

16.1 Section 106 agreements

The CIL should provide infrastructure to support the development of the whole area covered by the Development Plan. However, some site specific issues or mitigation might still be needed to make sure planning permission is granted.

When we have adopted CIL, Section 106 requirements should be scaled back to those matters which are directly related to a specific site, and are not set out in a Regulation 123 list.

Whilst the majority of our viability appraisals assume a zero CIL liability, there may still be a need for on-site requirements, and these will be assessed on each planning application. The CIL “viability cushion” should still allow for an on-site S106 contribution if required.

You should note that while S106 agreements will remain, they will continue to be negotiable and therefore will be negotiated *after* the CIL contribution has been calculated.

S106 agreements should continue to be;

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development

From April 2015 we can't pool unlimited S106 agreements for infrastructure. If we have signed five or more obligations for a specific type of infrastructure or project since 6 April 2010, and you can also fund that piece of infrastructure or project through the CIL, we cannot sign any more of those S106 agreements. This also includes S106 agreements signed against applications made under Section 73 to vary a planning condition.

If you can't fund a piece of infrastructure through the CIL (such as affordable housing), we can pool unlimited S106 agreements, as long as we have regard to wider policies on planning obligations set out in the National Planning Policy Framework.

16.2 Section 278 agreements

Section 278 agreements are agreements between the highway authority and someone who agrees to pay all or part of the highways works. Section 278 agreements **cannot** be used for works which are included on the Regulation 123 list (i.e. works which could be funded by CIL). However, unlike S106 agreements, there is no limit on pooling S278 agreements.

17.0 Percentage to neighbourhoods

We have to pass on a percentage of CIL receipts to those communities affected by new developments.

15% of CIL receipts must be passed to Parish and Town Councils where development has taken place. This is capped at £100 per council tax dwelling, per year.

If there is a Neighbourhood Plan or a Neighbourhood Development Order (including a Community Right to Build Order) in place, the amount passed to that Neighbourhood Plan area is increased to 25%, with no annual cap.

Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 25% uncapped, paid to Parish	Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 15% capped at £100/dwelling, paid to Parish
Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 25% uncapped, local authority consults with community	Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 15% capped at £100/dwelling, local authority consults with community

These percentages will still apply if there are no Neighbourhood Plans or Parish Councils, but we will keep these contributions, and engage with local communities to determine how best to spend the money. The funds will be passed on every six months, at the end of October and April.

If a developer has contributed in kind CIL payments in the form of infrastructure, we will ensure a cash equivalent contribution to local communities.

The percentage passed to neighbourhoods can be spent on a wider range of infrastructure than the rest of CIL, as long as it still supports the development of the area.

18.0 Review

The CIL viability study can only demonstrate viability at a moment in time and cannot forecast future changes in the market. Therefore we will keep our CIL charges under review to make sure they remain appropriate. If market conditions change significantly, or the infrastructure funding gap changes, we will review and alter the CIL charges as necessary. Any proposed changes to the CIL charge will be posted on the CIL pages on our website, and you will have the opportunity to comment before any changes are made.

We can decide to stop charging a CIL at any time. If we were to do this, any CIL liability relating to a development which hasn't started would be dissolved and no CIL would be payable.

19.0 Monitoring

Regulations state we must let you know how we're spending any CIL income. We will publish a report (at least) annually (by 31 December each year, for the previous financial year) explaining how much we've received in CIL payments, how much we've spent, and on what, and how much we're carrying over into future years.

Town and Parish Councils must also report on their CIL spending.

20.0 Sustainability

The CIL charging schedule does not require a Sustainability Appraisal as it is a short financial document rather than a "land use planning" document.

Glossary and Further Information/FAQs.

Is CIL payable if existing buildings are being demolished or converted?

The gross internal area of any buildings on the site that are going to be demolished or re-used may be deducted from the calculation of CIL liability. However, deductions are only applied where those buildings have been in lawful use for a continuous period of at least 6 months within the period of three years ending on the day planning permission first permits the chargeable development. In this context, “in use” means that at least part of the building has been in use.

It will be for the applicant or their agent to demonstrate that a building has been in use by providing appropriate evidence such as Council Tax records or Business Rates documentation.

The day “planning permission first permits development” is defined in the CIL regulations as the date at which development may commence. If there are any pre-commencement conditions attached to the planning permission, this date is the date at which the final pre-commencement condition is discharged. If there are no such conditions, then the date is the date of planning permission.

In relation to outline applications, subject to any phasing arrangements that may apply, development will only be permitted when the last of the reserved matters is approved.

Is CIL payable if my scheme does not need planning permission?

A CIL payment is required whether or not the development needs planning permission. If you intend to carry out development authorised by “general consent” (including permitted development) you should serve the City Council with a Notice of Chargeable Development.

Do charities have to pay CIL?

If you are a charitable institution, and you own a material interest in the land, you will get full relief from your portion of CIL where the chargeable development will be used wholly, or mainly, for charitable purposes. We can also offer discretionary relief to a charity landowner if the greater part of the development will be held as an investment and the profits applied for charitable purposes.

To qualify for charitable relief:

- You must be a charitable institution
- You must own a material interest in the land
- You must not own this interest jointly with a person who is not a charitable institution.

And a charitable institution is defined in the regulations as:

- A charity
- A trust of which all the beneficiaries are charities

- A unit trust scheme in which all the unit holders are charities

If you are providing social housing, we will also grant full relief from CIL charges, for those social housing units. This relief may also be available for those parties who are not charities.

An [application](#) for relief must be made to the City Council before commencement of the development to which it relates.

Be aware that if you claim charitable relief, you must continue to be eligible for that charitable relief for seven years following the commencement of your development. If, at any point in those seven years:

- The purpose of the development changes to an ineligible use;
- The owner of the interest in the land changes, and no longer qualifies for relief;
- The terms of the leasehold changes, and no longer qualifies for relief.

You must inform us of this change within 14 days, and we will “clawback” the relevant parts of the relief given. If you do not notify us within 14 days, we will charge an additional 20% of the chargeable amount, or £2,500 (whichever is lesser).

The regulations regarding charitable relief can be found [here](#).

What if I am building social housing?

Full CIL relief can be given to those parts of a development which are going to be used as social housing if a claim is submitted to the City Council by an owner of a material interest in the relevant land.

This will benefit most social rent, affordable rent, and intermediate rent accommodation provided by the Council or Private Registered Provider, and also shared ownership dwellings.

When [applying](#) for this relief, you must provide evidence that the chargeable development qualifies for social housing relief. To ensure that relief is not used to avoid CIL payments, the regulations provide that any relief must be repaid if the development no longer qualifies for the relief granted within seven years from the commencement of the development.

The regulations regarding social housing relief can be found [here](#).

Social housing relief is calculated according to the formulas in [Regulation 50](#).

Discretionary social housing relief applies to those affordable dwellings which meet the criteria set out in Regulation 49A (2014 Regs).

What if I am building my own home?

If you are building your own home, or have commissioned your own home, and you are going to live in that home for a minimum of three years after completion, you don't have to pay CIL.

You can submit your [Part 1 Claim](#) at any time as long as the work hasn't commenced, and this exemption does not apply retrospectively. As with other exemptions, you must notify us if your circumstances change during those three years.

To claim the exemption, you will need to submit your [Part 2 Claim](#) within six months of completion.

The regulations regarding self-build housing relief can be found [here](#).

What about residential extensions or annexes?

If you want to extend your house, and your residential extension is under 100 sq.m., you don't have to pay CIL. You must submit this [form](#) before you start work on your extension or annex.

The regulations regarding residential extensions and annexes can be found [here](#).

How do you decide if a building has been abandoned?

We will decide if a building has been legally abandoned. We will take into account;

- The condition of the property
- The period of non-use
- Whether there has been an intervening use, and
- Any evidence regarding the owner's intention

What about phased developments?

It is possible to allow a planning application to be divided into "phases" for the CIL, which is especially useful for large, planned developments. This applies for both detailed and outline permissions (and therefore "hybrid" permissions too), and each phase would be treated as a separate chargeable development. This allows for payments in line with the instalment policy which we have adopted.

The principle of phased delivery must be apparent from the planning permission.

For outline permissions, if the CIL is in force when the outline permission is granted, each phase of that permission is subject to CIL, or any replacement CIL charging schedules which may be introduced.

What happens if I want to alter my permission? Do I pay twice?

If you want to revise or submit a new planning application for a development which has started but is not finished, we are able to take into account any CIL payments which can be credited against the new permission. This is called abatement. However, if your development has finished, you cannot apply for abatement.

If the revised development has a lower CIL liability than the original, no refunds will be paid.

You can only apply for abatement before development commences under the alternative permission.

Can I appeal against a CIL decision?

Yes, in certain circumstances, you can appeal against the levy calculation. Further guidance can be found [here](#).

What happens if I have overpaid?

We will pay back any overpayment as long as the refund exceeds the administrative costs for processing that refund. We will not refund overpayments if those overpayments are the result of an in kind payment.

What if no one assumes liability for the development?

If no one assumes liability, the liability falls to the owners of the land. This also means that full payment will become due when development commences. If no one assumes liability, we may approach potential people or organisations who might want to assume liability and point out the benefits (such as payment in instalments) if they assume liability.

Liability can be transferred at any time up to the day before the final payment is due by submitting a [Transfer of Assumed Liability form](#).

What happens if I don't pay?

The regulations allow us to impose penalties for late payment.

If a party has assumed liability and doesn't pay, we can issue a Default Liability Notice to the owners of any material interest in the land within the chargeable development.

If the debt still isn't settled, we can take more direct action to recover the CIL funds due. We can stop any development on site until payment is received, and in extreme cases, we can seize and sell assets, or even apply to send the liable party to prison for up to three months.

Can CIL be spent outside the Birmingham boundary?

Yes, if we believe that the infrastructure will benefit the development of the wider area. We can also pool our CIL receipts with other charging authorities to fund large, strategic projects which we would all benefit from.

Links to other relevant information:

DCLG CIL information

Planning Practice Guidance - Community Infrastructure Levy

CIL regulations**HMSO**

Community Infrastructure Regulations (March 2010) (Statutory Instrument 2010 no. 948):

http://www.legislation.gov.uk/ukxi/2010/948/pdfs/ukxi_20100948_en.pdf

(It should be noted that these principal regulations have been amended in part by subsequent regulations and the HMSO web site should be consulted for all relevant amendments)

Further information is available from:

The Planning Portal

The Planning Advisory Service - CIL

CIL - How to make an appeal

CIL forms

CIL Form - CIL Form Guidance

Form 1: Assumption of Liability

Form 2: Claiming Exemption or Relief

Form 3: Withdrawal of Assumption of Liability

Form 4: Transfer of Assumed Liability

Form 5: Notice of Chargeable Development

Form 6: Commencement Notice

Report to Birmingham City Council

by Mr Philip Staddon BSc, Dip, MBA, MRTPI

an Examiner appointed by the Council

4 June 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT BIRMINGHAM CITY COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 4 February 2015

Examination hearings 30 April 2015

File Ref: PINS/P4605/429/8

Non-Technical Summary

This report concludes that the Birmingham City Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The Council is able to demonstrate that it has sufficient evidence to support the Schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in its draft Birmingham Development Plan 2031, at risk. The proposals will secure an important funding stream for infrastructure necessary to support planned growth in the city.

Introduction

1. This report contains my assessment of Birmingham City Council's draft Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance set out in the National Planning Practice Guidance (NPPG).
2. To comply with the relevant legislation and guidance the local charging authority has to submit a charging schedule that should set an appropriate balance between helping to fund necessary new infrastructure and the potential effect of the proposed CIL rates on the economic viability of development across its area.
3. The basis for the examination, on which Hearing sessions were held on 30 April 2015, is the 'updated' Draft Charging Schedule (DCS), which consolidates the originally published DCS with changes proposed through a later Statement of Modifications (SOM). The original DCS was published for public consultation between 29 September 2014 and 10 November 2014 and the SOM in the month before 4 March 2015. For the avoidance of doubt, all further references in this report to the 'DCS' relate to the updated version incorporating the SOM changes.
4. The DCS proposals include CIL charges for residential development, student housing, a particular type of retail development and for certain hotel developments.
5. The proposed CIL charges for 'residential' development relate to three residential market zones defined on a map in the DCS. The first zone relates to the 'High' value market value areas which comprises the northern part of the city's administrative area (the Sutton Coldfield locality) and parts of the south-west of the city's area (including the suburbs of Harborne, Bournville and King's Norton); a CIL charge of £69 per square metre (psm) is proposed in this zone. The second zone is notated as 'Green Belt

Development' and is drawn around a proposed urban extension west of the A38 at Langley; CIL would be zero rated in this zone i.e. £0 psm. All of the remainder of the city's administrative area would fall within the defined 'Low' market value areas where it is proposed that the CIL charge would also be zero rated. The DCS makes clear that residential development by 'Social Housing Providers registered with the HCA and Birmingham Municipal Housing Trust development' would be zero rated for CIL; this exemption would include any market housing developed by these providers to cross subsidise affordable housing provision.

6. Student housing developments would incur a CIL charge of £69 psm in all locations except for the urban extension zone at Langley (where it would be zero rated).
7. Retail CIL charges would apply only to 'retail convenience' developments for schemes with a floorspace exceeding 2,000 square metres.
8. Hotel developments would be subject to a £27 psm CIL charge within a defined city centre zone. Elsewhere such developments would be zero rated.
9. For completeness, the DCS lists zero rated CIL charges for other types of retail development and for industrial / employment, offices, leisure, education, health 'Extra Care' and 'all other development'.

Background evidence – the city, the development plan, infrastructure needs and economic viability evidence

Birmingham

10. Birmingham is a major city with a population of just over 1 million. Since the 1980s the city has been through economic restructuring, estate regeneration and transformation of its environment. The city is a major employment centre, drawing in workers from across the West Midlands. It is a leading European business destination with an economic output of £20bn per annum. Many international companies are based in the area, including Jaguar Land Rover, Kraft, KPMG, Deutsche Bank and GKN. The local economy is supported by five universities and six major colleges, supporting over 73,000 undergraduate and postgraduate students. Birmingham is a major centre for culture, sports, leisure and shopping with a number of world class venues and over 30 million people visiting a year. In addition to the city centre's shopping areas, there is a network of over 70 local centres serving its urban and suburban communities. It is a major, diverse and dynamic city.

The Birmingham Plan 2031 – Submission Draft

11. The emerging Birmingham Plan 2031 sets out the Council's vision and strategy for the sustainable growth of the city in the period to 2031. The Plan seeks to respond to identified challenges that include an anticipated

population growth of 150,000 (estimated to result in 80,000 new households), the need to respond to climate change and the need to accommodate and deliver the longer term levels of growth needed through development beyond its existing built up and administrative areas.

12. Once adopted, the Plan will set out the statutory framework to guide decisions on development and regeneration in Birmingham up to 2031 and will replace the strategic content of earlier plans and documents. It sets out how and where new homes, jobs, services and infrastructure will be delivered and the type of places and environments that will be created.
13. The production of the Plan, by its very nature and scope, has been a complex and major endeavour. Indeed, its preparation can be traced back to 2007 and it has evolved over the years seeking to respond to new evidence, issues and changes in national planning policy. The Plan was submitted for examination in July 2014 and that 'submission draft' set out the following overall levels of growth:
 - 51,100 additional homes.
 - 2 regional investment sites (20 and 25 hectares) and an 80 hectare strategic employment site.
 - About 270,000 sq.m. gross of comparison retail floorspace (by 2026).
 - A minimum of 745,000 sq.m. of office floorspace.
 - New waste, recycling and disposal facilities.
14. In terms of the Plan's housing proposals, it seeks to maximise the level of housing delivery within the built up area, with a focus on re-using existing urban land. Key locations for such development will be the city centre, a portfolio of defined 'growth areas' and, more generally, sites spread throughout the urban and suburban areas. However, the Plan recognises that this cannot accommodate the full levels of population growth and its associated housing requirements and proposes that land at Langley should be released from the Green Belt to accommodate a Sustainable Urban Extension (SUE) of about 6,000 new homes. The balance of growth that would not be met in the city's area (circa 30,000 new households) is expected to be delivered beyond its administrative boundaries. The Plan explains (paragraph 4.7) that the Council will seek to work collaboratively with neighbouring authorities to achieve this end.
15. The Plan's employment proposals seek to deliver an additional 100,000 jobs in the period to 2031, through a focus on the city centre, existing 'core employment areas' and the promotion of growth areas. The largest strategic employment allocations are an 80 hectare site at Peddimore and 'regional investment sites' at Aston and Longbridge.
16. The Plan's approach to retail development is linked strongly to the city's established hierarchy of centres, with most planned new floorspace directed

to the higher tiers of the city centre itself, the sub-regional centre at Sutton Coldfield and three 'district growth points', with the large network of district and local centres serving specific community catchment areas.

17. The promotion of Birmingham's significant tourism and cultural roles is set out in the Plan, along with the importance of providing supporting facilities such as hotels.
18. The Plan seeks to promote the provision of good quality student accommodation and there is policy support for purpose built student accommodation schemes on-campus and, subject to specified criteria, in off-campus locations.

The Birmingham Plan 2031 – Examination progress and CIL implications

19. The Plan was submitted for examination in July 2014. Following the Hearing sessions, the appointed Inspector issued his interim findings in January 2015. These require the Council to carry out further work before the examination can continue. The further work relates to three broad areas. First, the need for an updated and more robust objective assessment of housing need. Second, the need to undertake additional work on the Plan's Sustainability Appraisal (SA), specifically concerning the approach to Green belt releases. Third, the need to bring forward modifications to address the housing 'shortfall' (that will need to be met by other Councils).
20. The Council advised that the additional work was now complete and it was awaiting the Inspector's more detailed report setting out the need for proposed modifications to make the plan sound. A further round of public consultation on the proposed modifications and the revised SA is planned to take place over the summer. The Council hopes to be in a position to adopt a modified Plan either late this year or early in 2016.
21. The Council is keen to progress its CIL proposals now that 'pooling' restrictions on S.106 contributions have come into force and, more generally, to establish a funding stream for infrastructure to support its growth strategy. The progression of the CIL proposals ahead of the conclusion of the Birmingham Plan 2031 examination process raises some issues, along with some widely held misconceptions, about the CIL legislative / regulatory requirements and the associated guidance.
22. In terms of the statutory provisions, there is nothing contained within either The Planning Act 2008 or The Localism Act 2011 that makes having an up to date and adopted Plan in place a prerequisite of the implementation of a CIL regime. Many of the Councils that have adopted CIL to date have the benefit of recently examined and adopted plans, whilst others have submitted their CIL proposals for examination alongside their development plans (as suggested in paragraph 175 of the NPPF). These scenarios are at the ideal end of the spectrum and ensure, in theory at least, that the CIL proposals are conceived in terms of the most up to date strategic policy

framework defining 'the development of an area'¹ that CIL is intended to support. However, not all prospective charging authorities will be able to present a CIL schedule alongside freshly adopted development plans, due either to the inevitably long gestation period and / or (as is the case in Birmingham) if they encounter complexities and delays in the process.

23. The important point is the evidence base itself, rather than the procedural status of the development plan (although clearly these matters are closely linked). The Birmingham Plan 2031 is a mature policy document that has been the subject of extensive public consultation and is supported by a detailed evidence base. Whilst there remain issues to be resolved, modifications to be made and further consultation to be undertaken, I am satisfied that these matters do not present any obstacle to the principle of progressing a CIL regime.
24. The 'development' of the city, in the terms envisaged in S.205 of the Planning Act 2008, is clear, and the strategy of concentrating most growth on largely brownfield sites within the urban area, supported by strategic Green Belt releases, is very unlikely to change. There is a sufficiently stable development plan backcloth to enable high level CIL viability assessments to be made. However, my comments should not be treated as any predetermination of the Plan's outcome and, at the examination Hearings, the Council did concede that there could be circumstances that would require the CIL proposals to be revisited e.g. any changes to the Green Belt housing release (which has its own tightly drawn CIL zone). However, those are matters to be addressed if and when they arise.

Infrastructure planning evidence

25. The draft Birmingham Plan 2031 is supported by an Infrastructure Delivery Plan (IDP) which assesses and analyses the city's future infrastructure needs. It is a wide ranging document that identifies and assesses a diverse range of physical, environmental and social infrastructure to enable growth to occur and to facilitate the delivery of key proposals. It includes known infrastructure costs and identifies funding sources and lead agencies. It is a 'live' document and the Council is continually updating it.
26. The Council has undertaken an infrastructure funding gap assessment. For the entire 'essential' infrastructure set out in the IDP, it assesses a net funding gap of circa £461.7 million in the plan period (to 2031). Although I am not wholly convinced by the categorisation of certain infrastructure as 'essential', i.e. that development and planned growth could not occur without such projects, the evidence of major infrastructure demands is compelling. The most significant funding requirements relate to transport and education.
27. The Council estimates that its CIL receipts in the plan period would be circa £90.7 million. It estimates a potential 'average annual CIL receipt' of circa £5.6 million, with almost half (£2.8 million) coming from convenience retail

¹ S.205(2) of The Planning Act 2008

(supermarkets), with residential development (higher value zone) generating £1.7 million and lesser amounts from city centre hotels (£0.6 million) and student housing (£0.5 million).

28. I have some reservations about the robustness of these figures which have been arrived at by looking backwards (actual past delivery in 2009 – 14) rather than forward (planned delivery) for the various CIL paying development types. This may have some credence for residential development but is unlikely to be the case for commercial developments such as hotels, supermarkets and student housing schemes, which will tend to progress when the market identifies capacity, but will cease if the finite market is considered to be sated. Furthermore, the Council's projections have not factored in the effect of discounting CIL for existing floorspace, which is likely to be a factor on many former employment sites and will reduce receipts. In my view, the Council may have overestimated the likely CIL receipts.
29. However, these factors do not affect my overarching conclusions that the funding gap is substantial and that CIL revenue would make an important contribution to filling that gap. Taking the Council's assessed gap and revenue estimates at face value, CIL may equate to about 20% of the gap (although I think the true figure may be less). Even allowing for a degree of caution around the definition of 'essential' infrastructure, the evidence provides a compelling justification for introducing a CIL regime.
30. The Council has produced a Draft Regulation 123 list that sets out the infrastructure that it intends to fund, partly or wholly, through CIL receipts. The list includes a wide variety of infrastructure types covering transport, education, arts, parks, allotments, public realm etc. The document includes a clarification note on the continued use of S.106 agreements for site specific infrastructure and further clarifies that all infrastructure requirements associated with the SUE at Langley will be secured by S.106 mechanisms (and not by CIL).
31. Whilst I do not doubt the comprehensive nature of the list, it could be improved in a number of ways. First, it would be helpful to sort the projects and initiatives into clear infrastructure types, as this would provide much greater clarity and transparency. Second, in many cases the 'infrastructure' needs much greater definition as some projects just appear as locations e.g. 'Iron Lane, Stechford' and 'The Drum Arts Centre'; readers should be able to understand the destiny and purpose of any CIL receipts. Third, the Council's intentions on the use of CIL in respect of education projects are not clear from the current draft; this type of infrastructure appears on the Regulation 123 but also appears as an exclusion (to be secured by S.106 agreements) on 'large' sites. The list did not define 'large', although it became clear at the Hearing sessions that the reference related only to the SUE. All of these matters were discussed with the Council at the Hearing sessions and the Council agreed to address the issues through redrafting, which I would encourage it to undertake prior to the implementation of any CIL regime.

Economic viability evidence – methodology, data sources and assumptions

32. The Council commissioned consultants to undertake a Viability Assessment (VA) to support its CIL proposals. The VA was completed in October 2012 and has been supplemented with additional topic based viability evidence in December 2013. These supplements included additional viability testing in respect of the SUE, employment, retail and a paper covering 'miscellaneous' matters (an update on residential sales values and allowances for a 'viability cushion'). The evidence also includes a letter from the Council's consultants providing a commentary and analysis of developments relating to retirement homes, sheltered housing and 'extra care' schemes. Hereafter, I refer to this collective of evidence as the VA.
33. The VA employs a residual valuation approach. In simple terms, this involves deducting the total costs of the development from its end value to calculate a residual land value (RLV). That residual land value is then compared to assumed 'benchmark' land values (BLV) to test viability. If the RLV is higher than the BLV, the scheme would be judged viable and vice versa. Where there is a surplus above the assumed BLV this enables a maximum potential CIL value to be computed.
34. The testing of residential scheme viability included nine residential development 'typologies', along with a bespoke testing of the SUE assumed development. The nine typologies were devised by the Council to represent what it considered to be representative of likely future developments in the city and were informed by the sites in its Strategic Housing Land Availability Assessment (SHLAA). Four of the typologies were small schemes below the Council's affordable housing threshold and comprised: 1 house, 2 flats, 6 houses and 10 flats. The five larger development typologies, above the affordable housing threshold, were: 15 flats, 50 flats, 15 houses, 50 houses and 200 houses. The SUE testing was based on an assumed strategic scale development of 5,000 homes (a slightly lower figure than the 6,000 contained in the draft Birmingham Plan 2031). In my view, the range of sites tested is comprehensive and well grounded.
35. To undertake the viability analysis, the modelling on residential developments entailed making assumptions about a range of development costs and revenues.
36. To establish sales value assumptions the Council's consultants undertook a high level review of the city's housing market and defined seven 'market value areas' comprising defined postcodes. For each of these areas, average house price values (psm) were established from a combination of Land Registry data, the consultants own in-house expertise and a stakeholder workshop (held in March 2012). The average sales values ranged from the lowest of £1,615 psm (postcodes B7 and B4) to the highest of £2,585 psm (postcodes B15, B17, B73, B74 and B75). Although the data set appeared to be comprehensive, it was a little dated, with most of the values being drawn from 2011 and 2012. However, the Council advised that since this time, property prices had risen by about 7% in the city, suggesting that the values employed are conservative and cautious.

37. The establishment of robust BLVs is clearly of great importance in this type of viability modelling. The Council considers that most new housing development will come forward on land previously in employment use but it also expects some element of supply from existing residential sites, particularly in the lower value areas where developments seek to increase density and / or provide a better quality / higher value housing product.
38. The Council established BLVs based on a triangulation of Valuation Office Agency (VOA) data, known transactions and the CIL stakeholder workshop. It concluded that there were distinct differences between the higher and lower value areas of the city. In the higher value areas (market value areas 1, 2 and 3) it assessed a BLV of £1.1 million per hectare for existing employment land (which includes a premium of 20% on existing use value) and £1.9 million per hectare for existing housing land. In the lower value areas (market value areas 4, 5, 6 and 7), the figures were £595,000 per hectare and £740,000 per hectare respectively.
39. For the greenfield SUE, the Council assumed a BLV of £250,000 per hectare, which is reasonable in my view, and within the range indicated in research contained in the Department for Communities and Local Government (DCLG) study².
40. Base build costs for residential schemes were drawn from Building Cost Information Service (BCIS) rates. The build costs for the SUE reflected the economies of scale achievable on large volume housing sites. As with sales values, the build cost assumptions were a little dated (Quarter 1 2012) and clearly do not include recent years' inflation. However, I am satisfied that build cost changes can be considered 'in the round' alongside sales value increases and the viability 'buffers' employed in the CIL rate setting.
41. In addition to base build costs, the modelling included reasonable allowances for enabling costs and contingencies. For the SUE, much greater enabling costs are anticipated, reflecting the costs of providing infrastructure and services to a large greenfield site. The modelling assumed a cost of £20,000 per plot on the SUE, which would sit within the £17k – £23k range suggested in the Harman Report³ for 'strategic infrastructure and utility costs.'
42. Costs assumptions in respect of fees, contingencies and finance conformed with accepted industry norms. Developer profit was assumed at 20% of Gross Development Value (GDV) on market housing and 6% of GDV on affordable housing, which I consider reasonable.
43. Affordable housing was modelled at policy compliant levels in terms of proportion (35%), tenure split and the assumed absence of grant subsidy. Lower levels of affordable housing (0% and 20%) were also modelled to

² *Cumulative Impacts of Regulations on House Builders and Landowners* - Research Paper. Published by DCLG in 2011 (although commissioned by the previous Government in 2008).

³ *Viability Testing Local Plans* – Local Housing Delivery Group (Chaired by Sir John Harman) June 2012.

provide sensitivity tests.

44. The modelling assumed that there would be no residual S.106 planning agreement costs, as the Council considers that CIL will largely replace the use of S.106 agreements and obligations. However, it is apparent from the Council's Draft Regulation 123 list that some element of site specific mitigation may still be required to be secured through S.106 agreements. In most cases, this is likely to be limited but some consideration of these costs is required in the assessment of the modelling results and CIL proposals. For the SUE, substantial S.106 costs are anticipated and the modelling tested levels of £10,000 per plot and £20,000 per plot.
45. The commercial development modelling used similar assumptions and methodology. Notional schemes for care homes, offices, employment, retail, hotels, student accommodation, leisure, education and health developments were all tested. The assumptions employed for the notional commercial development schemes all appeared reasonable, including the assumed rents, yields, build costs, profit levels and BLVs.

Conclusions on background evidence

46. The Birmingham Plan 2031 provides a clear strategic planning framework to guide the sustainable growth of Birmingham. Although the Plan is yet to be adopted and more work and consultation is required, it is sufficiently mature and settled to enable the viability effects of CIL to be assessed. The Plan's strategy has a strong growth focus on brownfield sites within the existing urban areas of the city, supplemented by some strategic Green Belt releases for housing and employment.
47. The IDP identifies the infrastructure required to support Birmingham's planned growth in population and jobs. The evidence demonstrates a sizeable infrastructure funding gap that justifies the introduction of a CIL regime. CIL receipts will help to reduce that gap, although a significant funding shortfall will remain. There is some uncertainty over the level of CIL receipts and the Council would be wise to monitor performance closely once a CIL regime is operational.
48. Overall, the background economic viability evidence for both residential and commercial development that has been used is reasonable, robust, proportionate and appropriate. The interpretation and use of that evidence in defining the proposed CIL rates and zones is discussed more fully below.

Residential Development CIL – zones, charges and appraisal findings

The 'High' value CIL charging zone (£69 psm)

49. This zone comprises market value areas 1, 2 and 3 where sales values are generally acknowledged to be higher than in the remainder of the city. The modelling of the residential development typologies in these areas returned generally strong positive viability. Smaller schemes below the affordable

housing threshold fared particularly well, with most remaining viable at theoretical CIL rates of £250 psm. Larger schemes with affordable housing at full policy target levels, returned lower theoretical rates, but still achieved an average of £90 psm.

50. Taking all of the results together, the Council assessed that a CIL charge of £115 psm represented the level that the 'majority' of schemes (at least 70%) could sustain. It then applied a viability buffer of 40% to arrive at its proposed CIL charge for this zone of £69 psm. In my view, that is a reasonable buffer and allows most schemes to remain viable. I have also considered the effects of increases in sales values and build costs and conclude that, overall, these are likely to increase the comfort margin.
51. At the Hearing sessions, the Council advised that the SHLAA sites in the urban area (i.e. excluding the SUE) currently totalled 33,395 potential new homes and of these 6,173 (or 18.5%) would be in the 'High' value zone and would incur the £69 psm charge. That is a modest but nonetheless important proportion of overall planned housing delivery. In my assessment, the evidence demonstrates that the delivery of these planned homes will not be unduly threatened by the imposition of the CIL charge. Indeed, in most cases, schemes can comfortably absorb the charge, which would fall within a range of 2 – 5 % of development costs.

The 'Low' value CIL charging zone (£0 psm)

52. This zone comprises market values areas 4,5,6 and 7. The modelling of the residential development typologies in these areas returned less strong viability results. Although the lowest value area 7 did not return any positive viable results, the 'majority' of schemes across the whole zone, including larger schemes with full policy target affordable housing levels (35%), were able to support a maximum theoretical CIL charge of £55 psm.
53. Were the same approach to buffers to be employed (as in the 'High' zone) this would suggest a CIL charge of £33 psm. However, the Council has elected to apply a £0 rate. At the Hearing sessions, the Council explained that its primary concern was to maintain viability and maximise affordable housing content.
54. Strictly speaking, the £0 charge is a straightforward matter. A nil charge clearly cannot threaten viability across this zone. However, some have questioned the Council's approach that effectively exempts most new homes that are planned in Birmingham (81.5% of the SHLAA sites) from CIL charges, given that all development will contribute to infrastructure needs and the evidence does suggest that modest charges could be sustained. The Council will also need to consider the much more limited role for S.106 agreements once a CIL regime is in place.
55. At the Hearing sessions, the Council advised that it does not rule out a more widespread application of CIL charges in the future, but its immediate priority is maximising viability and delivery and avoiding any pressure to compromise on affordable housing requirements in areas where viability is

demonstrably lower. The Planning Practice Guidance (PPG) does advise that, where evidence points to low viability, a charging authority should consider setting a low or zero levy rate in that area (Reference ID: 25-021-20140612). The guidance further advises that there is no requirement for a proposed rate to exactly mirror the evidence (Reference ID 25-019-20140612).

The 'Low' / 'High' zone boundary challenges

56. The Council's two-zone CIL approach for most of the city (the SUE is dealt with separately below) does, perhaps unavoidably, create some tensions around the zoning boundaries. There were two notable challenges. First, a property estate company sought revisions to the zoning boundaries in the Hagley Road and Bristol Road areas (south-west of the city centre) i.e. to effectively move its holdings from the 'High' to the 'Low' zone. Second, a commercial site owner on Lifford Lane, similarly sought a 'Low' zone status and proposed that a site specific review mechanism should apply.
57. With regard to the first set of challenges, evidence was submitted which purported to show that property values in these areas were more akin to the 'Low' zone and revised alignments of zone boundaries (departing from their postcode origin) were promoted. I have considered these submissions carefully but I am not persuaded that the Council should be required to make the suggested modifications. There are a number of reasons that have led me to this view.
58. First, the Council's two-zone approach, based on postcodes, is simple, supported by its evidence base and avoids 'undue complexity'⁴. Second, the strategic and broad-brush approach to CIL proposed by the Council inevitably means that its two large zones will contain a range of sales values, above and below the averages adopted for the value areas. Third, the evidence presented by the representor did not convince me that sales values in these localities represented a clear value watershed. Fourth, these are densely developed urban areas and there is no development envisaged that would be critical to the delivery and implementation of planned growth in the city. Finally, it should be noted that the Council's evidence base suggests that even in the 'Low' zone, the 'majority' of tested developments could support CIL contributions. For all of these reasons, I do not consider the suggested modifications are justified or necessary.
59. The second set of challenges were more site specific but included similar concerns about inconsistencies in sales values in the 'High' and 'Low' zones. The site lies in the southernmost section of the 'High' zone and may come forward for re-development post 2018. It has the capacity to deliver several hundred homes. Whilst I can understand the site owner's desire to avoid the costs of CIL on what may be a complex development project, no viability evidence was available to suggest that CIL could not be sustained (as there is no scheme at this point in time). The suggestion of a mechanism to review the Low / High value status on a site by site basis is not workable

⁴ National Planning Practice Guidance - Paragraph: 021 Reference ID: 25-021-20140612

with a CIL regime which, on adoption, is a fixed instrument (until the point of any review and revision). The Council advised that it would be reviewing its CIL regime in advance of this particular site coming forward. I am satisfied that there is no need to amend the zone boundaries and the review mechanism is a more appropriate method to address these matters, should it prove necessary.

The SUE charging zone (£0 psm)

60. The Council's testing of the assumed SUE development at Langley used a range of enabling and S.106 costs. They are unavoidably broad brush assumptions given the relatively early life cycle stage of the proposals. However, a 'best case' viability scenario, employing the lowest enabling works cost (£70 million) and the lowest assumed S.106 contributions (£10,000 per plot), did not achieve the assumed greenfield BLV. The actual RLV under that scenario was, by my calculation, £205,185 per hectare, which is well below the assumed BLV of £250,000. Higher enabling and S.106 costs clearly reduce the RLV further, although a positive land value is achieved in all test scenarios.
61. The Council envisages that the SUE will come forward through a comprehensive outline planning application. Its preferred approach is to deal with the SUE's substantial and specific infrastructure requirements in a self-contained manner through a S.106 planning agreement. This approach is reflected in its proposed CIL zone, defined around the site boundaries of the SUE, and its proposed £0 CIL charge. The evidence confirms that the development is unable to sustain CIL charges on top of the heavy burden of anticipated site enabling costs and S.106 obligations.

Specialist residential development types for older people.

62. The VA evidence suggested that residential scheme viability for retirement housing schemes falling within the C3 Use Class would display similar overall viability characteristics to conventional housing schemes. However, the Council recognised that those variants involving significant elements of support and associated facilities that led to a C2 Use Class classification were less viable. Indeed, the testing suggested that such schemes would only be viable in the highest value area.
63. I am satisfied that the Council's approach to differentiate by Use Class, applying a £0 rate to Class C2 uses, reflects the evidence. A modification to the DCS is required to reflect the Council's intention to apply a zero CIL rate to all Class C2 uses (rather than just the 'Extra Care' developments stated in the DCS). This is reflected in my recommendations.

Commercial CIL – viability appraisal evidence and proposed CIL charges

The 'zero –rated' commercial development types

64. The VA's testing of office, industrial, warehouse, education and health developments demonstrated that these could not currently support CIL charges. The evidence suggested that commercial leisure developments had some potential to support very modest CIL charges. The Council does not propose CIL charges for any of these development types at this point in time and there would be no material impact on the amount of CIL receipts, due to the very limited number of such schemes anticipated to come forward.

Retail development

65. The VA tested a range of different types of retail development, in varying locations, sizes and covenant strengths. The initial 2012 VA testing generated potential CIL rates of £380 psm for a supermarket (5,000 sq. metres); £170 psm for a 'non food retail park' development (9,290 sq. metres) and £150 psm for a suburban food store (400 sq. metres). The Council's further testing in 2013 included a finer grained analysis of convenience retail types. It tested notional schemes of 1,500 sq. metres, 2,700 sq. metres and 5,000 sq. metres supermarket combined with a petrol filling station. The CIL results with a 40% buffer applied were, respectively, £0 psm, £470 psm and £260 psm (assuming 20% profit on GDV).
66. The Council's DCS proposes to apply a retail CIL charge of £260 psm solely to 'convenience' stores (supermarkets) over a 2,000 sq. metre size threshold (all other retail types would be zero rated). The Council advised that the city was generally well catered for with a network of centres and supermarkets and its greater priority was increasing comparison shopping floorspace to meet modelled capacity. That said, the Council's latest retail needs assessment suggests that, once commitments are allowed for, a growth in the range of 39,700 – 53,600 sq. metres of new convenience floorspace may be achievable in the period 2012 - 2031. The Council also acknowledged the importance of the smaller supermarket formats, and the discount operators, in terms of meeting future demands, driving consumer choice and addressing localised gaps in provision.
67. The key examination issue in respect of the proposed retail CIL charge relates to the size threshold at which it would apply. The later 2013 evidence clearly indicates that smaller format supermarket stores cannot sustain a CIL charge, whereas a 2,700 sq. metre store can sustain a quite significant CIL charge (of £470 psm). Representations from the discount supermarket sector argued that there was no clear rationale for the Council's proposed 2,000 sq. metre threshold and that there were discount formats above this threshold and below the tested 2,700 sq. metres that simply could not sustain the CIL charge. Given that further stores of this nature are anticipated in Birmingham (one operator suggested up to ten sites were in the pipeline), it was argued that these schemes could face viability issues.

68. This is quite a difficult area to arbitrate as the variable is not simply one of unit size and the economies of scale but of operator covenant strength (and associated rents and yields). In effect, the Council is seeking to promote a floorspace as a proxy to where low and high covenant strengths are likely to sit. Whilst there is nothing wrong with that approach, I share representative views that the evidence does not demonstrate that 2,000 sq. metres should be that watershed – it is simply a figure selected to fall in the middle ground between the unviable and viable tested schemes. At the Hearing sessions, the Council accepted that the use of 2,700 sq. metres was a more robust evidence based threshold, and indicated that it would not be unduly concerned about the use of the higher figure. I recommend that modification, as it will align the charging schedule more closely with the evidence and remove any potential risk to the viability of smaller formats of convenience retail development.

Hotel development

69. The VA testing of notional 150 bed hotel schemes indicated that there were differences in viability between city centre schemes and those elsewhere. City centre schemes generated a potential maximum CIL rate of £45 psm, whereas those elsewhere displayed weaker viability. The Council's proposed application of a £27 psm CIL charge in its defined city centre zone is supported by the evidence. Such a charge includes a healthy (40%) buffer from the maximum and I do not consider that hotel development viability will be compromised.

Student accommodation development

70. The VA tested notional student housing schemes of 50 and 250 units and both returned maximum CIL levels of £115 psm. The proposed application of a £69 psm CIL charge (which includes a 40% buffer) is supported by the evidence. The Council indicated that, although this market is mature, there are signs of some activity and new schemes may come forward in the Plan period.

Overall Conclusions

71. The evidence demonstrates that, subject to some minor modifications, the overall planned development of Birmingham will not be put at risk if the proposed CIL charges are applied. Two minor modifications are required. The first is a clarification that all Use Class C2 development will be zero rated for CIL purposes. The second is to increase the 'retail convenience' size threshold, at which CIL would apply, from 2,000 sq. metres to 2,700 sq. metres. Subject to these changes, I conclude that, in setting the CIL charges, the Council has used appropriate and available evidence which has informed assumptions about land and development values and likely costs. The CIL proposals are anticipated to achieve an important income stream that will help to address a well evidenced infrastructure funding gap.
72. However, my conclusions must include some comment on the very 'light touch' nature of the CIL proposals. Indeed, until at least the first review, the

vast majority of development planned in the city will not be contributing through CIL (or S.106 planning agreements) to the infrastructure requirements identified in the IDP. I understand the Council's desire to nurture growth, particularly given its reliance on growth beyond its own administrative boundaries, but care is needed to ensure that growth is appropriately supported by infrastructure (which must be funded). Earlier in this report, I also expressed some reservations about the robustness of CIL revenue estimates and whether these will fully materialise. These are not criticisms of the Council but they are important factors for the Council to monitor and review and may assist its thinking in terms of the timing and scope of its first formal CIL review. I recommend that the Council considers undertaking such a review within three years of adoption of the schedule.

73. Overall, I conclude that, subject to my recommended modifications, the Birmingham City Council Draft Community Infrastructure Levy Charging Schedule, as modified by its Statement of Modifications, satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Charging Schedule be approved.

LEGAL REQUIREMENTS	
National Policy / Guidance	The Charging Schedule complies with national policy / guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, and consistency with the development plan framework for Birmingham and is supported by an adequate financial appraisal.

P.J. Staddon

Examiner

Attached: Appendix A – Recommended Modifications

Appendix A

Modifications that the Examiner specifies so that the Charging Schedule may be approved.

These modifications should be read in conjunction with Examination Document SO2 'Draft Charging Schedule – Version 1 – Updated January 2015.'

Modification Number	Modification
EM1	<p>Page 8 – Table – left hand column</p> <ul style="list-style-type: none">• Delete 'Extra Care' and insert 'Use Class C2'• Add footnote 3 referencing above - <i>The Town and Country Planning (Use Classes) Order 1987 (as amended)</i>
EM2	<p>Page 8 – Table</p> <p>Second development type 'Retail convenience', middle column:</p> <ul style="list-style-type: none">• Delete '>2,000 sqm' and insert '>2,700 sqm'

Equality Analysis

Birmingham City Council Analysis Report

EA Name	Community Infrastructure Levy
Directorate	Economy
Service Area	P&R Planning And Development
Type	New/Proposed Policy
EA Summary	The impact of a new policy to secure planning obligation contributions from new development within the city.
Reference Number	EA000209
Task Group Manager	hayley.anderson@birmingham.gov.uk
Task Group Member	
Date Approved	2015-07-09 01:00:00 +0100
Senior Officer	Andrew.round@birmingham.gov.uk
Quality Control Officer	Richard.Woodland@birmingham.gov.uk

Introduction

The report records the information that has been submitted for this equality analysis in the following format.

Overall Purpose

This section identifies the purpose of the Policy and which types of individual it affects. It also identifies which equality strands are affected by either a positive or negative differential impact.

Relevant Protected Characteristics

For each of the identified relevant protected characteristics there are three sections which will have been completed.

- Impact
- Consultation
- Additional Work

If the assessment has raised any issues to be addressed there will also be an action planning section.

The following pages record the answers to the assessment questions with optional comments included by the assessor to clarify or explain any of the answers given or relevant issues.

1 Activity Type

The activity has been identified as a New/Proposed Policy.

2 Overall Purpose

2.1 What the Activity is for

What is the purpose of this Policy and expected outcomes?	The CIL is a charge which Local Authorities in England and Wales are empowered, but not required, to charge on most types of new development in their area. The proceeds of the CIL will be spent on local infrastructure to support the development of the area. It is for the Authority to determine the infrastructure which will be supported and the priority order of that infrastructure. The charge per square metre, once adopted, will become a mandatory charge on all new developments with an increase of net internal area of over 100sqm, or a single new dwelling.
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For each strategy, please decide whether it is going to be significantly aided by the Function.

Public Service Excellence	No
A Fair City	No
A Prosperous City	Yes
A Democratic City	No

2.2 Individuals affected by the policy

Will the policy have an impact on service users/stakeholders?	Yes
Will the policy have an impact on employees?	No
Will the policy have an impact on wider community?	Yes
<u>Comment</u> The CIL regulations ensure that all charges proposed relate solely to the development economics/viability of an area or type of development, and do not relate to individual builders/people/companies. It should also be noted that the infrastructure provided will have a positive benefit for individuals, businesses and visitors to Birmingham through improved public spaces, transport, education provision and cultural offerings.	

2.3 Analysis on Initial Assessment

The Department of Communities and Local Government undertook an Equalities Impact Assessment of CIL legislation and regulations in January 2012. Part of this assessment states that:

The Community Infrastructure Levy is unlikely to have an adverse impact on any social group. By making communities more sustainable, the Community Infrastructure Levy will facilitate economic growth and liveability and so create opportunity for all. The infrastructure and services that the Community Infrastructure Levy will provide (such as medical and community facilities and transport networks) will enhance accessibility and liveability for all sectors of society, and could help to deliver new infrastructure that serves different needs within the community, for example, by increasing mobility and accessibility. We do not anticipate the reforms to the Community Infrastructure Levy changing this assessment.

DCLG, Jan 2010, <http://www.parliament.uk/documents/impact-assessments/IA11-010AG.pdf>

It is clear that the Government do not expect the implementation of CIL to cause any adverse impact on any equality groups; indeed they anticipate that it will in general have a positive influence on a number of equalities groups.

The CIL will provide an income stream to contribute towards infrastructure projects in the city which will support the city to grow as outlined in the Birmingham Development Plan. This infrastructure can include but is not limited to highways, education facilities, public open space, public transport, and leisure facilities.
All projects funded wholly or in part through CIL will be subject to the Councils Standing Orders and will have due

regard to the aims of the General Duty.

The CIL will impact on those individuals and businesses who submit planning applications either for an individual dwelling (although self build individuals will be exempt from paying CIL) or for applications with an increase of 100sqm or more of gross internal area, as these developments will be liable for CIL payments. This is a mandatory charge and will be payable in instalments.

The CIL charge will be based on extensive, specialist, viability testing and will be published for public consultation twice, with further publication in advance of the Examination in Public.

As part of the first consultation stage, the relevant documents were published on the website for six weeks, along with paper copies available in all Libraries. Two public drop in sessions were also held, in addition to workshops with interested private sector agencies (developers, agents and consultants) to facilitate engagement. The consultation was published on Objective, and written responses were also accepted. All comments were taken into account, and the charges have been revised where appropriate to ensure they do not inhibit development, but also secure an income stream to provide necessary infrastructure.

As part of the second consultation stage, the revised charges will also be published on the website for a period of six weeks, there will be further drop in sessions, workshops and the consultation will be on Be Heard. If comments received require further amendment of CIL charges, the EA will be updated to reflect this.

Regulations clearly state how CIL will be calculated and spent to ensure there is no double counting of planning obligations with S106 agreements.

The consultation process and formal examination stage which follows will provide an opportunity to influence the charges and viability evidence of the CIL. The objective of CIL is to generate funds to provide infrastructure to support the development of the city, as outlined in the Birmingham Development Plan. Without this option, the change in regulations relating to planning obligations would lead to a decrease in planning obligation income. This could have implications for the city as the current infrastructure would not be improved or replaced to keep pace with the growth of the city, leading to overcrowded schools, a lack of public open space, poor highway infrastructure and public realm which is not fit for purpose.

However, if the CIL charges are too high, this could lead to a reduction in development activity, and therefore in the number of new houses and employment opportunities provided for a growing population. This could also lead to a reduction in the associated planning obligation income.

This risk can be mitigated by ensuring the charges are kept to a level which secures income but does not prohibit development, as is required in the CIL regulations. In addition, the regulations regarding S106 planning obligations will be scaled back once CIL is adopted, leading to an expectation that overall planning obligation contributions will remain on a par after the adoption of CIL and should not have any impact on the level of development activity.

There is no evidence that this policy will have an adverse impact on the lives of people.

It is anticipated that the funds received will provide infrastructure which will improve the lives of people within Birmingham.

3 Concluding Statement on Full Assessment

This screening has been undertaken as a collaborative exercise by the panel and has included a review of other screening statements. A full Equalities Assessment is not necessary. Should any equality issue arise post implementation of CIL, this will be considered.

4 Review Date

30/09/15

5 Action Plan

There are no relevant issues, so no action plans are currently required.