

COMMUNITY INFRASTRUCTURE LEVY Charging Schedule

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Specialist Advisory Team
Customer First
Eastbourne Borough Council
1 Grove Road
Eastbourne
East Sussex
BN21 4TW

Tel: (01323) 410000
Fax: (01323) 641842
Text Relay: 18001 01323 410000

Email: planning.policy@eastbourne.gov.uk

Price: £20

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1. Introduction

- 1.1 Eastbourne Borough Council (The Council) has prepared a Community Infrastructure Levy (CIL) Draft Charging Schedule which was adopted by the Council on 1 April 2015.
- 1.2 The Charging Schedule was submitted for independent Public Examination on 10 October 2014. Representations submitted during two consultation stages on the Draft Charging Schedule (February and June 2014) were considered at the Examination.
- 1.3 Changes were made to the Charging Schedule to take account of representations made during the Preliminary Draft consultation stage¹ and the resulting need for additional viability evidence and testing. In summary this has resulted in CIL charges which are robust, based upon detailed viability evidence. These charges will not compromise the Council's ability to deliver its spatial development strategy.
- 1.4 This document sets out the general explanation of CIL, the background to its preparation and the methodology used to determine the proposed CIL rates. An accompanying 'CIL Guidance Document on Definitions and Regulations June 2014' has also been published to provide further explanation of the CIL process and links to key information from Government.
- 1.5 The Charging Schedule is supported by an evidence base which includes a detailed viability assessment. The viability assessment document examines the levels of CIL that can be achieved across the Borough without affecting the overall viability of development identified in the Eastbourne Core Strategy Local Plan. Only developments that are shown to be viable will be charged CIL.
- 1.6 The Charging Schedule is also supported by a revised Infrastructure Delivery Plan and accompanying Funding Gap and Section 106 Analysis document, to demonstrate that there is a funding deficit between the total cost of required infrastructure and the infrastructure delivered or financed by the Council or external partners and agencies. This analysis justifies the position of the Council to move forward with a CIL charging regime.
- 1.7 This document has been prepared in accordance with the CIL Regulations 2010 (as amended) and statutory guidance. These background documents are also available as part of this consultation and the following link is provided to the Communities and Local Governments Website:
<https://www.gov.uk/government/policies/giving-communities-more-power-in-planning-local-development/supporting-pages/community-infrastructure-levy>

¹ The CIL Preliminary Draft Charging schedule underwent public consultation from 19 July – 30 August 2013 and a summary of representations can be found in the accompanying CIL Consultation and Cooperation Statement.



- 1.8 This document has been shaped internally with continued engagement with infrastructure providers, stakeholders and Members, and was presented at the Council's Cabinet on 5 February 2014 to seek authority to submit the Charging Schedule for representations to be made.
- 1.9 Part of the South Downs National Park (SDNP) is located within the western part of the Borough. As the SDNP Authority manages growth and development within the SDNP, it will introduce its own CIL in due course to cover development within its area. Areas within Eastbourne Borough, that are designated within the SDNP boundary will therefore not be included in this Charging Schedule.

2. An Explanation of CIL

- 2.1 The Community Infrastructure Levy (CIL) allows local authorities in England and Wales (defined as Charging Authorities) to raise funds from developers undertaking new building projects. It effectively replaces much of the existing process of planning obligations commonly known as 'Section 106' agreements. The primary use of CIL is to gain financial contributions from certain types of viable development to help fund new or improved strategic infrastructure required to support the growth identified in a local authority's Core Strategy. For example strategic and local transport infrastructure would include the provision of cycle lanes. CIL places a charge per square metre on development. It will not be the sole funding source for all infrastructure delivered, but will supplement public sector revenue streams.
- 2.2 CIL has a number of significant advantages over the current system of Section 106 agreements, including:
- Payment is non-negotiable, which helps speed up the planning process;
 - The CIL charge is transparent and predictable, meaning that applicants will know their CIL liability prior to submitting a planning application;
 - All liable developments will contribute to the cost of infrastructure provision, not just large scale development;
 - A proportion of CIL will be made available to allow local priorities to be delivered;
 - From April 2015², CIL will be the main mechanism for securing developer contributions for infrastructure to support growth. Section 106 planning agreements will be significantly scaled back after this date.
- 2.3 The money raised from CIL will be used to pay for infrastructure to support development, ensuring that new development bears a proportion of the cost of delivering the new infrastructure required. CIL can be spent on any community infrastructure required to support growth, provided the infrastructure is on the Council's published Regulation 123 list. The draft proposed Regulation 123 list is submitted alongside the Charging Schedule.

Development that is Liable for CIL

- 2.4 CIL legislation states that all new residential units, and the erection of or extensions to other buildings (over 100 sq. m. net additional gross internal floorspace in size) are liable to pay CIL. All net additional dwellings (self contained houses or flats) are liable regardless of their size. The floorspace of any buildings that are demolished as part of development proposals will be off-set against the new overall floorspace liability. In some instances CIL will

² Confirmed in revised CIL Legislation (February 2014).

apply to the floorspace allowed under permitted development as well as development for which a planning application is required.

- 2.5 CIL is not charged on changes of use or internal alterations where there is no net gain in floorspace, provided that the building has been in continuous use for at least 6 months of the 3 year period preceding planning permission being granted. Development proposals that already have a planning permission when the CIL charging schedule comes into force are not liable for CIL. This includes any subsequent Reserved Matters applications following outline planning permission. However, if development proposals with planning permission are not commenced within a conditioned time limit, any subsequent renewal or amendment applications will be liable to CIL if by that time a CIL Charging Schedule has been adopted by the Council.

Exemptions and Relief from CIL

- 2.6 The CIL Regulations set out the exemptions for paying CIL and stipulates that the following types of development will not be liable for CIL:
- Minor development of less than 100 sq. m. net additional gross internal floorspace, unless it results in the creation of net additional dwelling(s);
 - Full relief is applied on all those parts of chargeable development that are to be used as social/affordable housing (Criteria set out in Regulation 49/49A);
 - All forms of residential development including annexes and extensions which are built by 'self builders';
 - A registered charity landowner will receive full relief from their portion of the liability where the chargeable development will be used wholly or mainly for charitable purposes (Regulation 43-48);
 - The conversion of or works to a building in lawful use that affects only the interior of the building;
 - Mezzanine floors of less than 200 sq m inserted into an existing building, unless they form part of a wider planning permission which seeks to provide other works;
 - Development of buildings and structures into which people do not normally go into or enter under limited circumstances (for example an electricity sub-station or wind turbine) (Regulation 5(2));
 - Vacant buildings brought back into the same use (Regulation 40) – buildings must have been in use for six continuous months out of the last three years for the levy to apply only to the net additional floorspace;
 - Development granted planning permission before the date that CIL is formally adopted and built out before the expiry of the planning consent;
 - When the resulting CIL is calculated as £50 or less, then a CIL payment will not be charged by the Council.

- 2.7 The Council has chosen to not apply an exceptional circumstances policy as it is felt that the viability charges are fair and reasonable based upon the viability of all proposed schemes across the Borough.
- 2.8 Any development which the Council has identified as 'zero rated' within its CIL charging rates, at this moment in time is considered to be financially unviable. This takes account of evidence prepared at this current time, and will be subject to review in future years. Any changes to CIL rates by development type will be subject to a full review and publication/examination of a fully revised CIL Charging Schedule.

When is CIL Payable?

- 2.9 Payment of CIL is due from the date of commencement of the liable development. The default position is that the whole amount must be paid within 60 days of commencement, unless the development falls under the criteria for the Council's phasing policy (Policy CCS2), under which payment can be made in instalments.
- 2.10 CIL operates on the exchange of formal notices:
- The person(s) who pay CIL provide the Council with an **Assumption of Liability Notice**, required with the planning application;
 - A **Liability Notice** is issued by the Council along with the planning permission decision, stating how much CIL is payable. The responsibility to pay the levy lies with the local landowner and is a local land charge;
 - Before the development starts the developer provides the Council with a **Commencement Notice**, giving the start date;
 - The Council will then issue a **Demand Notice** (the bill) to ensure that payment is received within 60 days of commencement.

Calculating the Chargeable Amount

- 2.11 In order to calculate CIL payments due it is necessary for the following details to be supplied with the planning application:
- The gross internal area of all buildings and their uses on the site prior to development (if any);
 - The gross internal area of buildings to be demolished and their uses (if any); and
 - The proposed gross internal area of all buildings and their uses on the site once the development has been completed.
- 2.12 The Council will calculate the amount of CIL payable ('the chargeable amount') in respect of a chargeable development in accordance with the



requirements and formulas in Regulation 40 of the CIL Regulations 2010 (as amended). The amount of CIL chargeable at a given rate must be calculated by applying the prescribed formula as defined in the CIL Regulations and shown in Appendix A of this Charging Schedule.

- 2.13 The total chargeable amount for a development scheme is equal to the sum of the amounts of CIL chargeable for each use (at each relevant rate) for the development permitted. For example if the development scheme includes both residential and retail elements, the chargeable amount will be calculated taking the sum of the relevant charges for each of these uses.
- 2.14 The relevant rates are the rates at which CIL is chargeable (Table 1, Section 4), which are in effect (a) at the time planning permission first permits the chargeable development; and (b) in the area in which the chargeable development will be situated.

3. Evidence Base

3.1 CIL Regulation 14 requires that when setting CIL rates charging authorities must aim to strike an appropriate balance between:

- The desirability of funding infrastructure (in whole or in part) from CIL; and
- The potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across the charging authority's area.

This balance is a central consideration of the CIL rate setting process.

3.2 The Charging Schedule is informed by the best available evidence base which includes Borough level viability assessments and an up-to-date Infrastructure Delivery Plan. These pieces of evidence assess the infrastructure requirements and potential levels of CIL that can be achieved across the district by type of development. Only development types that are shown to be generally viable will be charged CIL. In addition, evidence has been prepared to show that there will be a funding gap between identified public resources for infrastructure and the level of infrastructure that will need to be delivered in support of the growth being identified in the adopted [February 2013] Eastbourne Core Strategy Local Plan ('The Core Strategy'). This evidence documentation is available for consideration in support of the Charging Schedule.

3.3 The Core Strategy and Proposed Draft Employment Land Local Plan³ identify that a total of 5,022 net dwellings and 43,000 sq. m. of employment land will be delivered within the plan period 2006-2027. Viability evidence in support of CIL has looked in detail at the location of new development (both neighbourhood location and type of land e.g. brownfield/greenfield), the affordable housing requirements for residential schemes, and the typical sizes of and mixes of development coming forward to assess overall viability. It is considered that although there is a noticeable disparity between viability on brownfield and greenfield sites, current or emerging CIL legislation does not allow for, nor does it support this differentiation. Brownfield development forms a significant proportion of the Council's spatial development strategy and therefore acts as the primary guide to setting residential CIL rates. The revised charge takes account of further viability testing to fully consider site specific abnormal costs and the reduced viability of apartment development. The revised charge ensures that the overall CIL rate for residential development is fair and robust across the whole Borough. It is not considered that the variations in residential sub-markets across the Borough are significant enough to justify a differential zone approach and as such a single rate is proposed.

³ The Employment Land Local Plan is currently being progressed by the Council.

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- 3.4 Only residential and retail (A1-A5 Planning Use Class) developments have been assessed as viable for a CIL charge. Retail viability testing showed a wide range of proposed costs by type, but for ease and in line with planning regulations and recent case law it is proposed to have one standard charge for retail development across the A1-A5 retail Planning Use Classes. No other types of development will be liable for a CIL payment, and therefore will be zero rated.
- 3.5 It is important to confirm that the proposed CIL rates have been tested based on the full affordable housing requirement being delivered on each development scheme, which is 30% in low value market areas and 40% in high value market areas. Testing was also set at Level 3 and 4 of the Code for Sustainable Homes. This is important to ensure that CIL rates do not affect the ability to deliver affordable housing and sustainable development. This is a key priority for the Council in conformity with the spatial development strategy identified in the Core Strategy, and ensures that CIL rates are viable overall.
- 3.6 It is also important that when CIL charges are recommended, that they are not set at or near to the maximum level assessed in the viability evidence. The Council consider that the proposed CIL rates (Table 1, Section 4) will be resistant to market and policy changes, given that they have been set at an appropriate amount that is viable within the current economic climate.

4. Proposed CIL Charging Rates and Phasing Arrangements

- 4.1 The proposed CIL rates for Eastbourne are set out in Policy CCS1 'CIL Charging Rates' below, with Table 1 setting the rates by development type and Figure 1 identifying the zones to which the residential CIL charges apply.

**POLICY CCS1:
Community Infrastructure Levy Charging Rates**

The Council has set CIL charges for dwellings (C3 Use Class), excluding residential apartments, and retail (A1-A5 Planning Use Classes) per square metre of net additional (gross internal floorspace) development as identified in Table 1, for those areas defined in Figure 1. These charges will apply to all liable developments as identified in the CIL Charging Schedule planning document.

Table 1: Proposed Charging Rates for Eastbourne Borough Council CIL

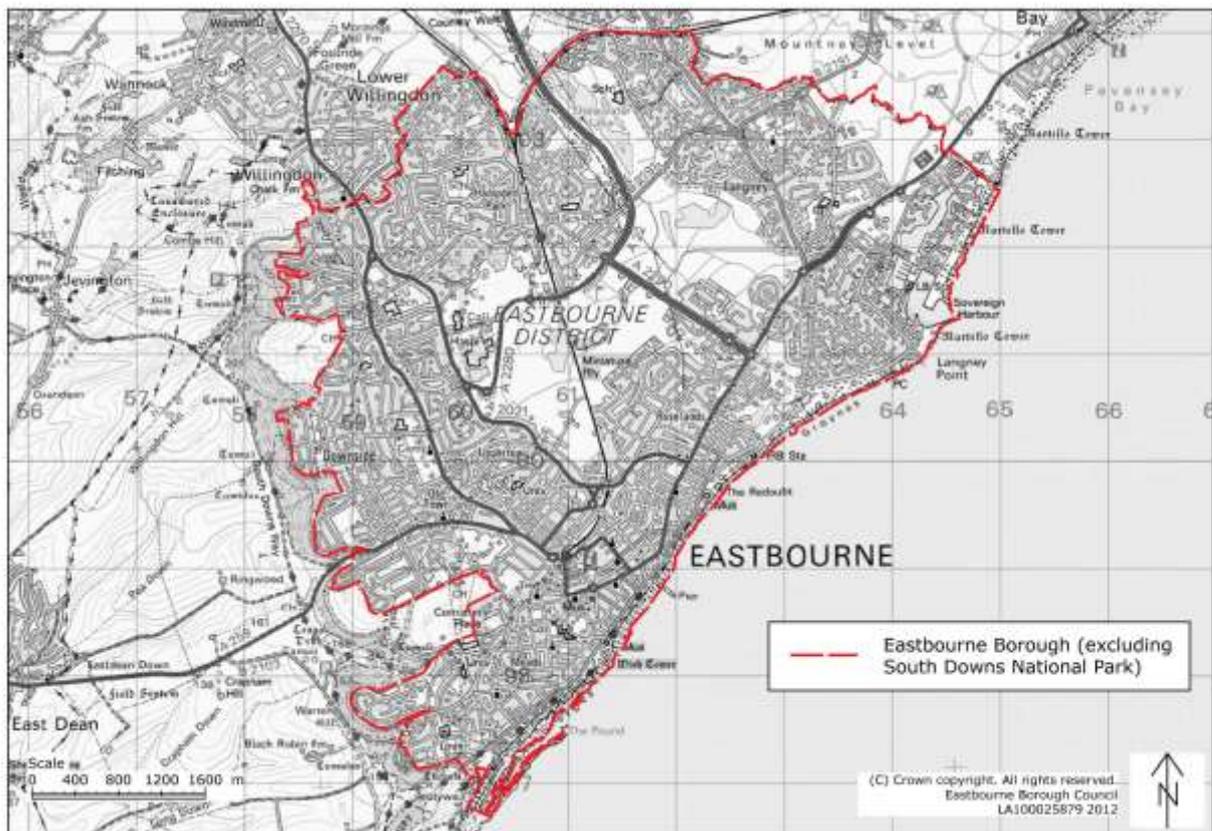
Type of Development (Use Class Order 1987 as amended)	CIL rate/sq. m for net additional floorspace
Dwellings* (C3) excluding residential apartments	50
Retail (A1-A5) #	80
All other uses	0

* Where there is a net gain in dwellings

Where the development is 100 sq. m. or greater.

Figure 1: CIL Charging Area

The CIL Charging Area will be all areas within the local authority boundary excluding the South Downs National Park, as identified below.



Phasing

- 4.2 The Council consider that if a planning application is large enough to be delivered through appropriate phases, then CIL payments should be linked to these phases to ensure that development remains viable overall. The Council will negotiate relevant phasing on major applications during the determination of the planning application. Set phases and their relevant land use descriptions will need be confirmed in an accompanying Section 106 agreement and these phasing stages will be linked to CIL liability. Therefore, the CIL charge will be calculated at each phase of the development, and will be liable for payment on commencement of each relevant phase. This is confirmed in Policy CCS2 below.



**POLICY CCS2:
Phasing of CIL Payments**

For major planning applications where the development scheme is phased as detailed in an accompanying Section 106 agreement, then CIL liability will be calculated for each separate phase. The phasing arrangements including quantum of development (net additional gross internal floorspace) delivered by each development type (Planning Use Class) should be clearly distinguished at each phase. CIL payment will be liable on commencement of each relevant phase.

5. Other Matters

- 5.1 The Council has prepared a Draft Regulation 123 Infrastructure List which is provided as an accompanying background document. This provides a list of the infrastructure types that the Council currently considers it is likely to apply CIL revenues towards. It is important to note that this list is subject to future review and may change before the adoption and implementation of CIL by the Council at the beginning of 2015.
- 5.2 The Council has provided evidence on global infrastructure costs in its Infrastructure Delivery Plan as well as in its Funding Gap analysis for the provision of cross-boundary infrastructure, such as transport provision. The Council will continue to work closely with East Sussex County Council and Wealden District Council on the governance arrangements in order to implement CIL and ensure that CIL monies are collected in both Eastbourne and South Wealden towards the delivery of strategic transport infrastructure in the Eastbourne and South Wealden area.
- 5.3 There will be circumstances where infrastructure identified will also be critical to development to our neighbouring authorities and funding streams may be available from these sources, including potential CIL contributions raised by neighbouring authorities, especially transport and education provision with Wealden District Council. There will also be circumstances where CIL contributions collected will be required to be spent outside the Borough including transport provision in Wealden.
- 5.4 The Council will monitor the effectiveness of CIL through the Local Monitoring Report (normally published each year in December). This will take account of the economic climate and any change to the economic viability within the local area. The review of CIL charges will need to be implemented through a full review of the CIL Charging schedule and supporting viability evidence. A full review will be undertaken when necessary in future years.



Appendices

APPENDIX A: Calculating the Chargeable Amount

Calculation of the Chargeable Amount

The collecting authority must calculate the amount of CIL payable (the "chargeable amount") in respect of a chargeable development in accordance with regulation 40. The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates (regulation 40(2)). The 'relevant rates' are the rates, from the relevant charging schedules, at which CIL is chargeable in respect of the chargeable development.

Regulation 40(5) provides that the amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula:-

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

Where:-

A = The deemed net area chargeable at rate R;

I_p = The index figure for the year in which planning permission was granted;

I_c = The index figure for the year in which the charging schedule containing rate R took effect.

The Chargeable Development

The 'chargeable development' is the development for which planning permission is granted. Regulation 9 provides that:-

(a) Where planning permission is granted by way of a general consent, the chargeable development is the development identified in a notice of chargeable development submitted to the collecting authority in accordance with regulation 64 (or by the authority under regulation 64A).

(b) In the case of a grant of outline planning permission which permits development to be implemented in phases, each phase of the development is a separate chargeable development.

(c) Where planning permission is granted under section 73 of TCPA 1990, the effect of which is to change a condition subject to which a previous planning permission was granted by extending the time within which development must be commenced, the chargeable development is the development for which permission was granted by the previous permission.

The Net Area Chargeable

Regulation 40(6) (as amended) provides that the 'net area chargeable' (A in the formula in paragraph 3.2 above) must be calculated by applying the following formula:-

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

Where:-

G = the gross internal area of the chargeable development;

G_R = the gross internal area of the part of the chargeable development chargeable at rate R;

K_R = the aggregate of the gross internal areas of the following:-

- (i) retained parts of in-use buildings, and
- (ii) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;

E = the aggregate of the following:-

- (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development, and
- (ii) for the second and subsequent phases of a phased planning permission, the value E_x (as determined under regulation 40(8)), unless E_x is negative, provided that no part of any building may be taken into account under both of paragraphs (i) and (ii) above.

Regulation 40(8) provides that the value E_x must be calculated by applying the following formula:-

$$E_P - (G_P - K_{PR})$$

Where:-

E_P = the value of E for the previously commenced phase of the planning permission;

G_P = the value of G for the previously commenced phase of the planning permission; and

K_{PR} = the total of the values of K_R for the previously commenced phase of the planning permission.

The Index Figures

The index figures referred to in the formula in paragraph 3.2 above (I_p and I_c) are the national All-in Tender Price Index figures that published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors (RICS); and the figure for a given year is the figure for 1st November of the preceding year (regulation 40(7)).