



REGENERATION AND ENVIRONMENT SCRUTINY COMMITTEE – 20TH MAY 2014

SUBJECT: COMMUNITY INFRASTRUCTURE LEVY (CIL) – APPROVAL AND IMPLEMENTATION OF THE CAERPHILLY COUNTY BOROUGH CIL CHARGING SCHEDULE

REPORT BY: ACTING DEPUTY CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To provide Members with a summary of the outcome, including Examiner modifications, of the Examination into the Caerphilly County Borough Community Infrastructure Levy Draft Charging Schedule.
- 1.2 To seek the Scrutiny Committee's observations and recommendations for the consideration of Cabinet and, thereafter, to recommend to Council to approve the following:
- (a) The adoption of the Community Infrastructure Levy Charging Schedule as amended by the Examiner in his Report of Examination, with the Charging Schedule taking effect from 1st July 2014; and
 - (b) The setting up and implementation of appropriate processes and procedures to enable the implementation of the CIL Charging Schedule on 1st July 2014;
 - (c) The adoption of the 4 CIL Guidance Notes as supporting guidance for the implementation of CIL.

Glossary Of Acronyms, Abbreviations And Terms

CIL	Community Infrastructure Levy
LDP	Caerphilly County Borough Local Development Plan
S106	Section 106 of the Town and Country Planning Act 1990
CIL Documents	CIL Charging Schedule, CIL Viability Report, Draft Regulation 123 List Of Infrastructure
IAR	Infrastructure Assessment Report
Charging Schedule	Caerphilly Community Infrastructure Levy Charging Schedule
R123 List	Regulation 123 List of Infrastructure, which sets out the infrastructure that CIL can be used to fund.
Consultation Period	20th March 2013 to 1st May 2013

2. SUMMARY

- 2.1 On 26th July 2011 the Council resolved to prepare CIL for the County Borough. Following two public consultations and an Examination in Public in respect of the Charging Schedule, the Examiner has concluded that, subject to the rate for D1 Primary Health Care being modified to £0, 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 Local Development Plan, at risk. This report seeks approval for the Council's Community Infrastructure Levy Charging Schedule and further it recommends that CIL be implemented on 1st July 2014.
- 2.2 In order for CIL to be implemented, it is necessary to set up appropriate procedures and process for collecting, administering and monitoring CIL. The collection of CIL is prescribed in detail in the CIL regulations and significant work has been undertaken by the Planning Administration Team to build the Modules in the Development Management Back Office System to enable CIL to be implemented on approval.
- 2.3 In administering and prioritising CIL spend, it is intended to utilise a robust assessment process that will require service areas to submit bids for CIL funding. The CIL Assessment Panel will assess each bid against a set of standard criteria in order to prioritise schemes for funding. The results of the assessments will be reported to Cabinet for decision-making and then be reported through the council's annual budget report.
- 2.4 In Wales, where all or part of a chargeable development is within the area of a community council then the charging authority i.e. the County Borough Council must pass 15% of the relevant CIL receipts to that community council. Whilst the CIL Regulations make provision for the community councils to spend their CIL funds according to their own priorities, the report recommends that the council provide guidance notes and assessment forms to assist in ensuring that the CIL is used to fund infrastructure in accordance with the CIL Regulations. The report also recommends that officers negotiate with Community Councils to agree annual payments of the CIL receipts, to make the administration of CIL less complex and to ensure the funding is considered as an integral part of the Council's own budgetary procedures. CIL Regulation 62A requires that all Community Councils must prepare a report for any financial year in which it receives CIL receipts. The Council will work in conjunction with Community Councils in preparing their monitoring reports.
- 2.5 The county borough does not have 100% coverage by Community Councils. Whilst not a requirement, the CIL Regulations allow the council to make an appropriate proportion of CIL receipts, available to fund appropriate infrastructure in those areas that do not have a community council. The report recommends that the council administer a ring-fenced pot of finance for the provision of infrastructure in those areas.
- 2.6 The CIL Steering Group has considered the issues relating to the administration of CIL and the prioritisation of CIL spend and have made 11 recommendations for consideration and approval by Members.

3. LINKS TO STRATEGY

- 3.1 The CIL will directly assist in the delivery of the council's land use objectives as set out in the Caerphilly County Borough Local Development Plan (LDP). CIL will expand upon LDP policy SP7 Planning Obligations, which sets out the strategic policy basis for securing Planning Obligations (S106 Agreements) where they are necessary to remove obstacles to planned development.
- 3.2 CIL will be one of the mechanisms for making direct contributions toward the provision of many of the allocations set out in LDP policies. Overall CIL will be a significant tool for the delivery of the Council's aspirations in terms of infrastructure that cannot be funded through other means and for which no alternative funding mechanisms are available.

- 3.3 As such, CIL will also support the council in achieving the aims of Caerphilly Delivers, the LSB single integrated plan, particularly the Prosperous, Greener and Safer themes.

4. THE REPORT

Introduction to CIL

- 4.1 On 26th July 2011, the Council resolved to prepare CIL for the county borough. CIL is a levy or charge that, on being approved by the Council, becomes a statutory requirement for relevant developments (developments for which a charge is sought) to pay. In essence it is a statutory tax on development. CIL is not intended to replace the current system of S106 agreements. However when CIL is formally implemented, statutory restrictions will be applied to S106 agreements which will severely restrict their use to addressing issues that are necessary to make developments acceptable in planning terms and for the provision of affordable housing. CIL will then be the vehicle for funding infrastructure to support development in accordance with the development plan that is not necessary to make development acceptable in planning terms.
- 4.2 Once implemented, CIL is a statutory levy on development and the CIL regulations set out prescriptive procedures for its collection and enforcement if the levy is not paid. To ensure payment, the regulations provide for a range of proportionate enforcement measures, such as surcharges on late payments. However ultimately in the event of continued non-compliance and where recovery measures have been unsuccessful, the liable party can be committed to a short prison sentence.

The Charging Schedule and the Examination

- 4.3 On 8th October 2013, following two formal consultation periods on the CIL Charging Schedule, the Council resolved to submit the Charging Schedule to the Planning Inspectorate for Examination.
- 4.4 The Examination was a joint examination with Merthyr Tydfil County Borough Council, which consisted of 7 Hearing Sessions held on one day, i.e. 14th January 2014. The Examiner issued the 'Report on the Examination of the Draft Caerphilly County Borough Council Community Infrastructure Levy Charging Schedule' (Examiner's Report) on the 20th February 2014.
- 4.5 The Examiner's Report set out a number of findings in respect of the Draft Charging Schedule. In summary the findings are:
- i) There is a sufficient infrastructure funding gap to support the implementation of CIL.
 - ii) The background economic viability evidence for both residential and commercial development is reasonable, robust, proportionate and appropriate and the Council has used appropriate available evidence.
 - iii) The evidence provides a convincing basis for the 3 residential charging zones, which are, in principle, sensible and robust.
 - iv) The evidence clearly identifies that, for the Lower Viability Area, housing development cannot support a CIL charge and a zero rate is appropriate.
 - v) In the Mid Range Viability Area the rate of £25 per square metre is justified. However, the variance in affordable housing requirements across the area results in a wide spectrum of viability levels and this issue should be monitored through the monitoring process.
 - vi) In the Higher Viability Area the £40 per square metre rate is supported by the evidence and is reasonable.

- vii) The evidence does not support taking a different approach toward agricultural workers dwellings from other dwellings.
- viii) The evidence clearly identifies that certain commercial development types (including all employment type developments (Use Classes B1, B2 and B8), care and nursing homes, hotels and cinemas), were not currently viable and could not sustain CIL charges. For all of these uses the £0 per square metre psm charge listed in the Draft Charging Schedule is justified.
- ix) For A1 retail development the £100 per square metre CIL rate is reasonable and would leave significant headroom for the retail development that is most likely to take place.
- x) For Class A3 developments the rate of £25 per square metre leaves sufficient scope for A3 developments to remain viable.
- xi) For Class D1 Primary Health Care development the CIL charge would not serve a positive purpose in terms of supporting the LDP, as set out in paragraph 30 of the 2013 CIL Guidance and the charge be reduced to £0 per square metre psm.
- xii) The Charging Schedule is approved subject to the modification to the D1 Primary Health care rate.

4.6 The examiner only recommended one modification to the Draft Charging Schedule submitted for Examination [xi.) above], i.e. that the £25 per square metre psm rate for D1 Primary Health Care development be reduced to a rate of £0 per square metre. The Examiner's reasons for this modification are:

- i) The evidence, overall is confusing and inconsistent.
- ii) No evidence relating to the county borough was put forward.
- iii) There are a number of different funding models used for such development and the rate seeks to address only some of them. As a result the Council has not defined the development type with sufficient precision to support a charge.
- iv) There is significant risk that such development would simply look to take place elsewhere, outside the county borough, with obvious implications for health care provision in the county borough.

4.7 In conclusion, the Examiner approved the Charging Schedule subject to the rate for primary Health care being reduced to £0 per square metre. The CIL regulations require that the CIL Charging Schedule be subject to full council approval, prior to its implementation. A copy of the revised Charging Schedule for Adoption is included as Appendix 1. For completeness the Council's Regulation 123 List is included as Appendix 2.

4.8 Whilst not forming part of the CIL Charging Schedule Examination, the Council prepared a draft Regulation 123 List Infrastructure, which sets out the infrastructure that would be eligible for CIL funding, and 4 Guidance Notes to assist the understanding and practical implementation of CIL. The four Guidance Notes are:

- i) Guidance Note 1: Example Calculations of CIL Liability.
- ii) Guidance Note 2: Instalment Policy.
- iii) Guidance Note 3: Social Housing Relief Policy.
- iv) Guidance Note 4: Charitable Relief Policy.

4.9 The Guidance Notes have now been updated to reflect changes brought in by the publication of the CIL Regulations amendments in 2014. It is intended that these Guidance Notes be used to provide guidance and information on CIL for developers and as such approval is now sought for the Guidance Notes for publication in accordance with the implementation of CIL. Copies of the 4 Guidance Notes are included as Appendices 3 to 6 of this report.

4.10 Further to due consideration by Members, it is recommended that (subject to Full Council approval) the CIL be introduced in the county borough as from 1, July 2014.

Practicalities of Implementing CIL

4.11 Whilst the Charging Schedule has been progressing through its process towards approval, consideration has also been given to how CIL will be implemented. The CIL Regulations set out specific and identified procedures for collecting CIL and these will be undertaken as part of the general planning application process. Ensuring that CIL revenue is spent appropriately and fairly is not set out in the CIL Regulations. Consequently it is this area that the CIL Working Group and the CIL Steering Group have focussed their attention, seeking to formulate a fair and equitable process to determine where CIL revenue will be used.

4.12 The first key consideration for this process relates to when decisions on spending are made. The CIL Regulations make no reference to this matter and therefore a council decision is needed. Both Groups concluded that establishing procedures that can use existing council procedures and decision mechanisms would be the most appropriate. Basically, given that the CIL revenue is an additional fund that the council has to make decisions on, both Groups concluded that it would be best if decision on CIL funding were taken as part of the council budget process on an annual basis. This recommendation is set out as Recommendation 6 of Recommendations from the Steering Group. The recommendations are included in the Notes of the Second Steering Group Meeting, which is set out in Appendix 7 to this report.

4.13 The second key consideration for the process is how to prioritise funding across a multitude of vastly differing infrastructure schemes. Both the CIL Working Group and the CIL Steering Group concluded that the fairest and most equitable process for prioritising CIL spend would be through a robust assessment process, namely:

- i) A Service Area that has an infrastructure requirement submits a scheme to an Assessment Panel for consideration for CIL funding;
- ii) All schemes submitted be assessed and scored against a series of criteria to provide a numerical ranking;
- iii) The ranked schemes be the subject of a Report to Cabinet for due consideration; and
- iv) The financial implication is outlined in the annual budget report.

4.14 To facilitate the process, a set of assessment criteria against which the schemes would be scored needed to be identified. The CIL Groups have considered draft criteria and a weighting scheme for them, as well as a guide on how the schemes should be scored. The agreed proforma, which sets out the criteria and scoring, and the guidelines for scoring schemes are included in Appendix 8 to this report.

4.15 The final key consideration in prioritising schemes for CIL funding is the question of who assesses the schemes. It is likely that a wide range of service areas within the council will bring forward schemes for consideration for CIL funding. The system of assessment needs to be transparent and free from any potential issues relating to partiality. Whilst it is intended that the ultimate decisions would be taken by Cabinet and be reported through the council's annual budget report, the assessment would need to be done independently of that process, with only the assessment findings being fed through to the Cabinet meeting. Given this, the CIL Groups considered that an assessment panel should be set up, comprised of representatives from a number of service areas that would be unlikely to submit schemes for assessment. The CIL Groups agreed a set of six service areas that appropriate officers

should be drawn from to form the panel, namely:

- Finance
- Corporate Policy
- Sustainable Development
- Housing
- Strategic Planning
- Legal

One officer will need to be identified from each service area and the six officers will form the CIL Assessment Panel. The role of the Assessment Panel will be to score each of the submitted schemes according to the Assessment Proforma and in accordance with the Guidelines on the scoring. Once assessed the findings of the assessment process will be set out in a report to Cabinet.

- 4.16 The CIL Working Group and the CIL Steering Group have considered the issues relating to administering CIL and prioritising the CIL spend to deliver necessary infrastructure. As a result the CIL Groups have produced a series of 11 recommendations addressing the key elements of the proposed system to be used for CIL implementation. These Recommendations can be split into two areas, namely:

General CIL Recommendations

Recommendation 1: That CIL revenue raised in year 1 be accumulated and targeted at projects in year 2., and

Recommendation 2: That the Assessment Panel recommend a number of smaller projects in year 2 that would result in quick wins in terms of delivery.

- 4.17 These two recommendations are linked, as they are both aimed at accruing sufficient funds to implement smaller infrastructure schemes to realise infrastructure on the ground as quick wins, to help demonstrate that CIL is delivering infrastructure. The first recommendation seeks to accumulate all CIL receipts from the first year of CIL Implementation, to build a fund of CIL revenue that can immediately fund some infrastructure projects. The second recommendation seeks approval for the Assessment Panel to dedicate a proportion of the accumulated CIL revenue to fund small-scale infrastructure projects to realise quick wins. The schemes would be subject to Cabinet approval.
- 4.18 The CIL Assessment Panel is a group of officers from service areas that would not submit bids for CIL funding, meaning that they can be impartial in their assessment of the submitted schemes. A recommended composition of service areas is set out as Appendix 7 to this report.

Recommendation 3: That a sufficient percentage of revenue raised be accumulated each year (50%) in order to ensure the delivery of major infrastructure projects.

- 4.19 The Infrastructure Assessment Report, published in conjunction with the Preliminary Draft CIL Charging Schedule in June 2012, set out infrastructure requirements to meet the development proposed in the Adopted LDP. This Report identified a wide range of infrastructure types with costs ranging from in excess of £25 million to schemes of less than £100,000. The need to deliver infrastructure through CIL could lead to the position that infrastructure schemes with lower costs would be prioritised before schemes with higher costs, purely because they could be afforded with CIL revenue that had been collected to that point. The higher cost schemes could not be funded through a single year's CIL revenue and would be dependant upon revenue being accumulated over a longer period of time encompassing many years. This recommendation seeks to set aside 50% of the total CIL receipts (after administration costs and neighbourhood fund payments have been taken out) to accumulate over a number of years to deliver more costly infrastructure schemes. The remaining 50% would be used to fund other schemes.

Recommendation 4: *That the priorities for CIL spend be reported to Cabinet for decision, and be included in the council's annual budget report for information.*

- 4.20 The implementation of CIL introduces a new source of infrastructure funding for the council, but it requires procedures to be put in place to administer its collection, its allocation for spend and its monitoring. A key aim in the thinking of the Working and Steering Groups was to ensure that as much of the administration for CIL is based upon and utilises existing council processes and procedures. In terms of CIL spend it was considered appropriate that decisions in respect of CIL spend be reported to Cabinet, as the appropriate body for such decisions, and the decisions be included in the council's annual budget report to Full Council. This recommendation seeks agreement to this procedure.

Recommendation 5: *That an annual monitoring report in respect of CIL be prepared, and agreed by Council in line with regulatory requirements and be placed on the Council website by 31 December each year.*

- 4.21 The CIL regulations require that a report is produced each year outlining the CIL receipts, how much of the CIL revenue was spent, and on what, and how much has been retained for future spend. This recommendation seeks to agree a deadline for the preparation of the annual monitoring report, which ties in with the council budget planning process.

Recommendations relating to CIL Regulation 59A-F – Duty To Pass CIL to Local Councils

- 4.22 In April 2013 amendments to the Community Infrastructure Regulations were published that set out a requirement for the council to pass a proportion of CIL receipts collected in their area to the respective Community Councils. The following recommendations consider how this process should be administered and monitored and what should happen in areas where there are no Community Councils. It should be noted that, for the purposes of these Regulations, the term "Community Council" encompasses both Community Councils and Town Councils.

Recommendation 6: *That in line with the requirements of the CIL Regulations, 15% of CIL receipts should be passed to the Community and Town Councils within the county borough to support local infrastructure projects.*

- 4.23 This recommendation ratifies the requirements of the CIL Regulations that charging authorities in Wales make provision to pass 15% of CIL receipts to the Community Councils. It should be noted that each Community Council only receives 15% of CIL receipts generated through development in their community council area, it is not a broad brush 15% of total CIL receipts dispersed to all community councils equally. If no CIL receipts were generated in a community council area, that community council would not receive anything from CIL revenue.

Recommendation 7: *Local infrastructure projects that are in accordance with the Regulation 123 List should be identified to guide projects to be implemented by the Community Councils and*

Recommendation 8: *Community Councils to be provided with: a Local List, an Assessment Proforma and a CIL Guidance Pack to help prioritise CIL spend.*

- 4.24 Both of these recommendations address the issue that community council are not included under the same requirements in terms of the types of infrastructure that they can fund, as the Council's R123 List doesn't apply to them. Community Councils are, however, bound by the CIL Regulation requirements that CIL be used to fund infrastructure to support development in accordance with the LDP.

Recommendation 9: *That the payment of CIL Funds to Community Councils be made annually*

Recommendation 10: *That written agreement is sought with all Community Councils to distribute CIL funds on an annual basis.*

- 4.25 The CIL Regulations make provision for the council to agree with the Community Councils a schedule of when CIL payments should be made. Given that the council's CIL decisions will be made annually, it makes sense for the community council payments to also be on an

annual basis. However this would need to be done via agreement with each and every community council. If agreement cannot be reached the CIL regulations sets the default position of 6 monthly payments. The recommendations seek agreement for officers to seek agreement with the community councils on payment periods.

Recommendation 11: In areas that are not covered by Community Councils, the council administer a CIL pot, equivalent to 15% of total CIL receipts generated in the area each year, to provide infrastructure in those areas according to the CIL regulations.

- 4.26 The CIL Regulations make provision for the council to make available a proportion of CIL receipts to areas that have no Community Council Coverage, in the same way as payments are made to Community Councils. The CIL regulations do not require that such payments be made, allowing the council to retain the full receipts in such areas for the general CIL budget. In the interests of fairness and consistency the Steering Group recommended that the principle of making a proportion of CIL available to those areas without a Community Council was appropriate. However, given that a locally constituted and democratic body was not in place in these areas, the Steering Group recommended that the Council ring-fence and administer the proportion of CIL receipts for spend in those areas.
- 4.27 Finally the processes of collecting, administering and enforcing the CIL charge are likely to evolve over time and are likely to require formal resolutions in respect of some of the procedures and practices. Given that it is undoubtedly going to be a changing scenario, it is likely that further reports, addressing issues relating to the implementation of CIL, will be reported through the council reporting mechanisms.

5. EQUALITIES IMPLICATIONS

- 5.1 The Draft Charging Schedule takes residential differences into account by including a banding of 3 Viability Areas, and it should also be remembered that any new developments, whether residential or commercial, are subject to equality considerations via building regulations, therefore no impact assessment has been undertaken on this report, as the issues covered do not address changes to council service provision or its policies and strategies.

6. FINANCIAL IMPLICATIONS

- 6.1 The preparation of a CIL charging schedule is an invest to save scheme which the Council has previously resolved to fund from balances. The Implementation of CIL will require setting up new processes and procedures in respect of the collection, administration and monitoring of CIL funding.

7. PERSONNEL IMPLICATIONS

- 7.1 The implementation of CIL is not, currently, considered to require any additional personnel. It is anticipated that CIL can be implemented using existing council processes and procedures. As such there are no direct personnel implications from this report.

8. CONSULTATIONS

- 8.1 All comments have been incorporated into the report.

9. RECOMMENDATIONS

- 9.1 That the Scrutiny Committee recommends that the Council agree the Charging Schedule, as modified by the Examiner, be approved for implementation on 1st July 2014.

- 9.2 That the Scrutiny Committee recommends that the Council approve the Regulation 123 List and the 4 Guidance Notes for publication in accordance with the implementation of CIL.
- 9.3 That the Scrutiny Committee recommends that the Council agree the 11 Recommendations from the CIL Steering Group.
- 9.4 That the Scrutiny Committee recommend that the Council agree the setting up and implementation of appropriate processes and procedures to enable the implementation of the CIL Charging Schedule on 1st July 2014.
- 9.5 That the Scrutiny Committee recommend that the Council agree that officers commence discussions with the Community Council to agree payment periods for paying the Community Councils their 15% of CIL receipts.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To satisfy the legislative requirements for implementing the CIL charge.
- 10.2 In order to assist in the implementation and understanding of the CIL charge.
- 10.3 To ensure that the appropriate provision have been made for the implementation of CIL.
- 10.4 To ensure that the appropriate provision have been made for the implementation of CIL.
- 10.5 To satisfy the requirement of the CIL regulations in making payments to Community Councils.

11. STATUTORY POWER

- 11.1 The council, as local planning authority, is empowered under the provisions of Part 11 of the Planning Act 2008 to undertake preparation and implementation of CIL.

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Consultees: Cllr H Andrews, Leader of Council
Cllr C Mann, Leader of the Majority Opposition
Cllr G Jones, Deputy Leader and Cabinet Member for Housing
Cllr K Reynolds, Deputy Leader and Cabinet Member for Corporate Services
Cllr D Hardacre, Cabinet Member for Performance and Asset Management
Cllr R Passmore, Cabinet Member for Education and Lifelong Learning
Cllr D Poole, Cabinet Member for Community and Leisure Services
Cllr T Williams, Cabinet Member for Highways, Transportation and Engineering
Cllr R Woodyatt, Cabinet Member for Social Services
Cllr K James, Cabinet Member for Regeneration, Planning and Sustainable Development
Cllr C Forehead, Cabinet Member for HR and Governance/Business Manager
Stuart Rosser, Chief Executive
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Terry Shaw, Head of Engineering Services
Rob Hartshorn, Head of Public Protection
Pauline Elliott, Head of Regeneration and Planning
Gail Williams, For Head of Legal Services
Gareth Hardacre, Head of People Management and Development
David Thomas, Senior Policy Officer (Equalities and Welsh Language)
Mike Eedy, Finance Manager

Appendices

- Appendix 1 - Caerphilly County Borough Council Community Infrastructure Levy Charging Schedule
- Appendix 2 - Caerphilly County Borough Council Community Infrastructure Levy Regulation 123 List of Infrastructure
- Appendix 3 - Caerphilly County Borough Council Community Infrastructure Levy Guidance Note 1 - Examples of how CIL liabilities are calculated
- Appendix 4 - Caerphilly County Borough Council Community Infrastructure Levy Guidance Note 2 – Instalment Policy
- Appendix 5 - Caerphilly County Borough Council Community Infrastructure Levy Guidance Note 3 – Social Housing Relief Policy
- Appendix 6 - Caerphilly County Borough Council Community Infrastructure Levy Guidance Note 4 – Charitable Development Relief Policy
- Appendix 7 - Notes of the Second Meeting of the Community Infrastructure Levy Steering Group
- Appendix 8 - CIL Infrastructure Assessment Criteria and Scoring Sheet

Background Papers:

Draft CIL Charging Schedule

Report on the Examination of the Draft Caerphilly County Borough Council Community Infrastructure Levy Charging Schedule

**Caerphilly County Borough Council
Community Infrastructure Levy**

Charging Schedule

Takes Effect From 1 July 2014

1. The Charging Schedule

1.1 Introduction

- 1.1.1 The purpose of this document is to set out Caerphilly County Borough Council's Charging Schedule for the Community Infrastructure Levy (CIL) in its area. The finance generated from the CIL will be used to secure infrastructure that is required to support development in

accordance with the Caerphilly County Borough Local Development Plan. This Charging Schedule has been prepared in accordance with the requirements of the Community Infrastructure Levy Regulations 2010 (as amended).

1.2 Approval of the Charging Schedule

- 1.2.1 The council resolved to approve the Charging Schedule at a meeting of the Full Council held on 10 June 2014, with an implementation date of 1 July 2014.
- 1.2.2 The Charging Schedule has been subject of two consultation periods (October/November 2012 and March/May 2013) and has been subject of public examination in January 2014, in accordance with the CIL Regulations.

1.3 Community Infrastructure Levy Rates

- 1.3.1 Caerphilly County Borough Council is the charging authority for the purposes of charging the Caerphilly County Borough Community Infrastructure Levy.
- 1.3.2 Tables 1 and 2 below set out the rates that Caerphilly County Borough Council will charge in respect of the relevant developments. All rates are expressed as pounds per square metre. The residential rates are set according to three charging zones (please refer to the map included at Appendix A for the three Residential Charging Zones), whilst the remainder of the charges are applicable across the whole of the county borough (please refer to the map included at Appendix B for the Commercial Charging Zone).

Table 1: Residential (C3) Development CIL Rates

Charging Zone	Rate (£ per square metre)
Lower Viability Area	£0
Mid-Range Viability Area	£25
Higher Viability Area	£40

TABLE 2: COMMERCIAL DEVELOPMENT CIL RATES

Type of Development	Rate (£ per square metre)
A1 Retail Development	£100
A3 Restaurants, Café & Drinking Establishments	£25
B1 Office Development	£0
B2 – B8 Industrial Development	£0
Care & Nursing Home Development	£0
D1 Non-Residential Institutions	£0
D2 Hotel Development	£0
D2 Cinema Development	£0

1.4 Calculating the CIL Amount

- 1.4.1 The chargeable amount will be calculated at the time planning permission first permits the chargeable development in accordance with the formula set out in Regulation 40 as follows:

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

Where

R = the CIL Rate set out in the tables above

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 took effect

1.4.2 CIL will be charged for the net additional floorspace, which is the floorspace remaining after the total existing floorspace has been deducted. Regulation 40 (7) sets out formula for calculating the net floorspace, as follows:

$$Gr - Kr - \left(\frac{Gr \times E}{G} \right)$$

Where

G = the gross internal area of the chargeable development;

G_R = the gross internal area of the part of the 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 paragraph (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

1.4.3 Where the chargeable amount is less than £50 it is deemed to be zero.

1.4.4 Where there is more than one use class on a development, the chargeable development in each use class is calculated separately and then added together to provide the total chargeable amount.

1.4.5 Where an outline planning permission permits development to be implemented in phases, each phase of the development is a separate chargeable development. In the case of outline planning applications where the floorspace of the development is not specified, the CIL charge will be calculated at the submission of reserved matters and the liability notice will follow the approval of reserved matters.

2. Exemptions from CIL

Applications of Regulations

- 2.1 CIL chargeable development does not include works to buildings into which people do not normally go or which people only go intermittently to inspect or maintain plant or machinery (Regulation 11).
- 2.2 CIL is not chargeable on minor developments where the gross internal area of the new building or extension will be less than 100 square metres unless the development will comprise one or more dwellings (Regulation 42).

Mandatory Exemptions

- 2.3 CIL is not chargeable for self-build residential annexes, extensions or single dwellings (Regulation 42A).
- 2.4 CIL is not chargeable on development where the owner of the land is a charitable institution and the development will be used wholly or mainly for charitable purposes (Regulation 43).

The Council has issued advice in respect of Charitable Relief in *CIL Guidance Note 4: Charitable Relief Policy*.

2.5 Social housing (also known as Affordable Housing) is eligible for relief from CIL (Regulation 43). Regulations 49-54 of the Community Infrastructure Levy Regulations 2010 (as amended) set out the conditions and procedures under which this exemption applies for social housing. The Council has issued advice in respect of Social Housing Relief in *CIL Guidance Note 3: Social Housing Relief Policy*.

2.6 CIL is not chargeable on self-build housing developments (Regulation 54A).

Discretionary Exemptions

2.7 The CIL Regulations also make provision for Charging Authorities to grant relief from CIL for certain development. Such relief is offered at the discretion of the Charging Authority, and is not granted as a matter of right.

2.8 Regulation 44 of the CIL Regulations makes provision for charging authorities to grant relief from CIL for charitable developments for investment activity. The council will grant such relief for qualifying developments (*refer to CIL Guidance Note 4 – Charitable Development Relief for further information.*)

2.9 Regulation 45 of the CIL Regulations makes provision for charging authorities to grant relief from CIL for charitable developments where CIL would constitute state aid. The Council will grant such relief for qualifying developments (*refer to CIL Guidance Note 4 – Charitable Development Relief for further information.*)

2.10 Regulation 49A of the CIL Regulations makes provision for charging authorities to grant relief from CIL for the low cost home-ownership element of social housing development. The Council will grant such relief for qualifying developments (*refer to CIL Guidance Note 3 – Social Housing Relief for further information.*)

2.11 Regulation 55 of the CIL Regulations makes provision for charging authorities to grant relief from CIL for developments where the viability of the development is compromised by exceptional circumstances. However, such relief can only be offered where there are exceptional circumstances, and the exceptional circumstances must be based on development viability. The CIL generally and the level of charge in particular are all based upon an assessment of development viability. Given this, issues likely to affect development viability have already been taken into account. As a result there are no readily identifiable circumstances that would be considered to be exceptional. Given these difficulties the Council has resolved **not** to make relief for exceptional circumstances available in the county borough.

3. How will the Levy be collected?

3.1 The levy becomes payable on the date that a chargeable development is commenced. The definition of commencement is the same as that used in planning legislation, unless planning permission has been granted after commencement.

3.2 When planning permission is granted the Council will issue a liability notice, which sets out:

- 1 the amount that will be due for payment when the development is commenced,
- 2 the payment procedure, and
- 3 the possible consequences arising from the failure to comply with the requirements of the Liability Notice.

3.3 The responsibility to pay the levy lies with the ownership of the land to which the development relates, and is transferred when ownership is transferred.

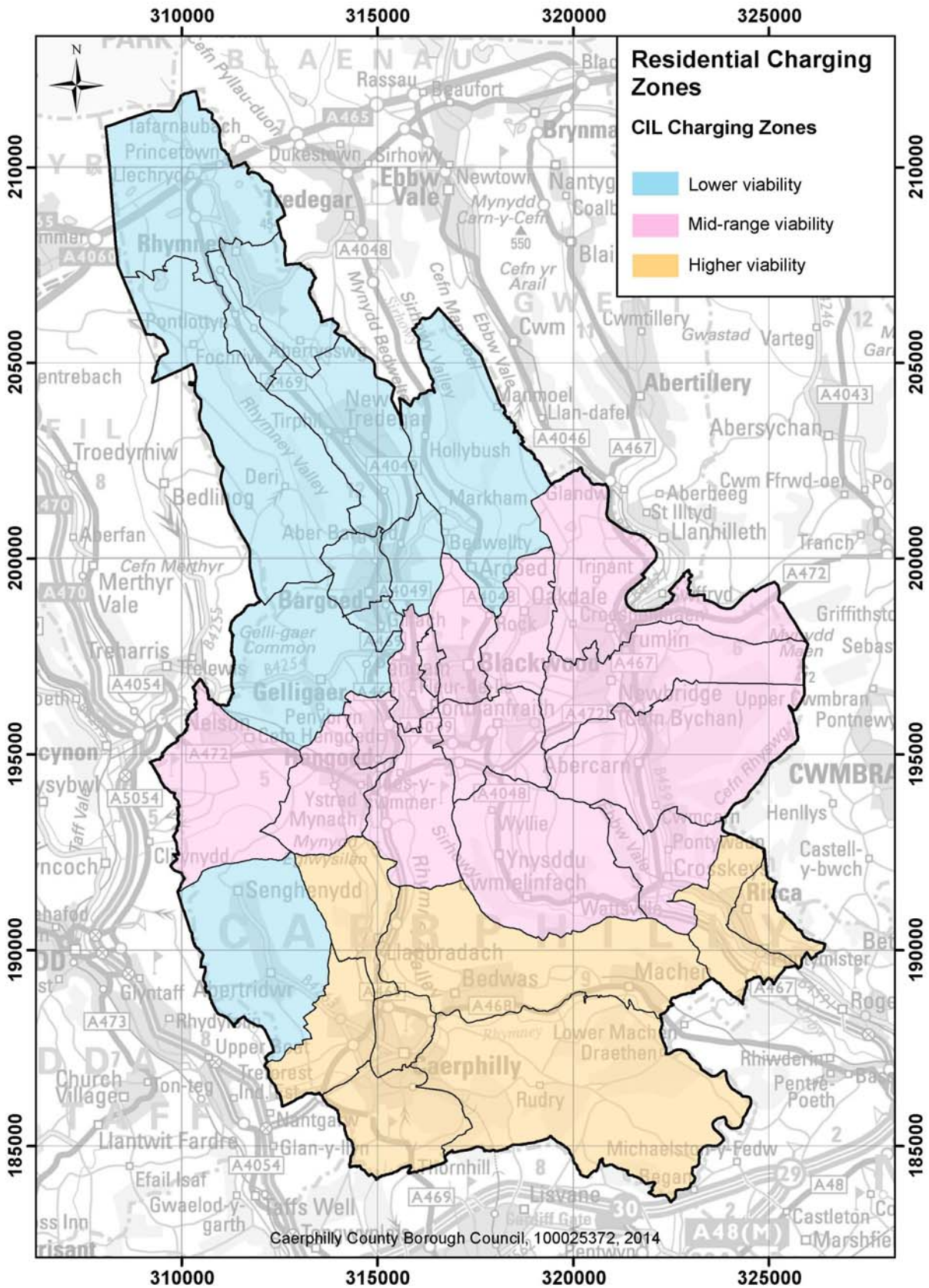
- 3.4 The liable party must submit a commencement notice to the Council prior to the commencement of development. The Council, as charging authority, will then serve a demand notice on each person liable to pay CIL in respect of the chargeable development.

4. What will the Levy be spent on once it is adopted?

- 4.1 CIL Regulation 123 requires the council to publish a list of infrastructure that CIL revenue can be used to fund. The Council published its Regulation 123 List on 1 July 2014, to coincide with the implementation of the Charging Schedule.

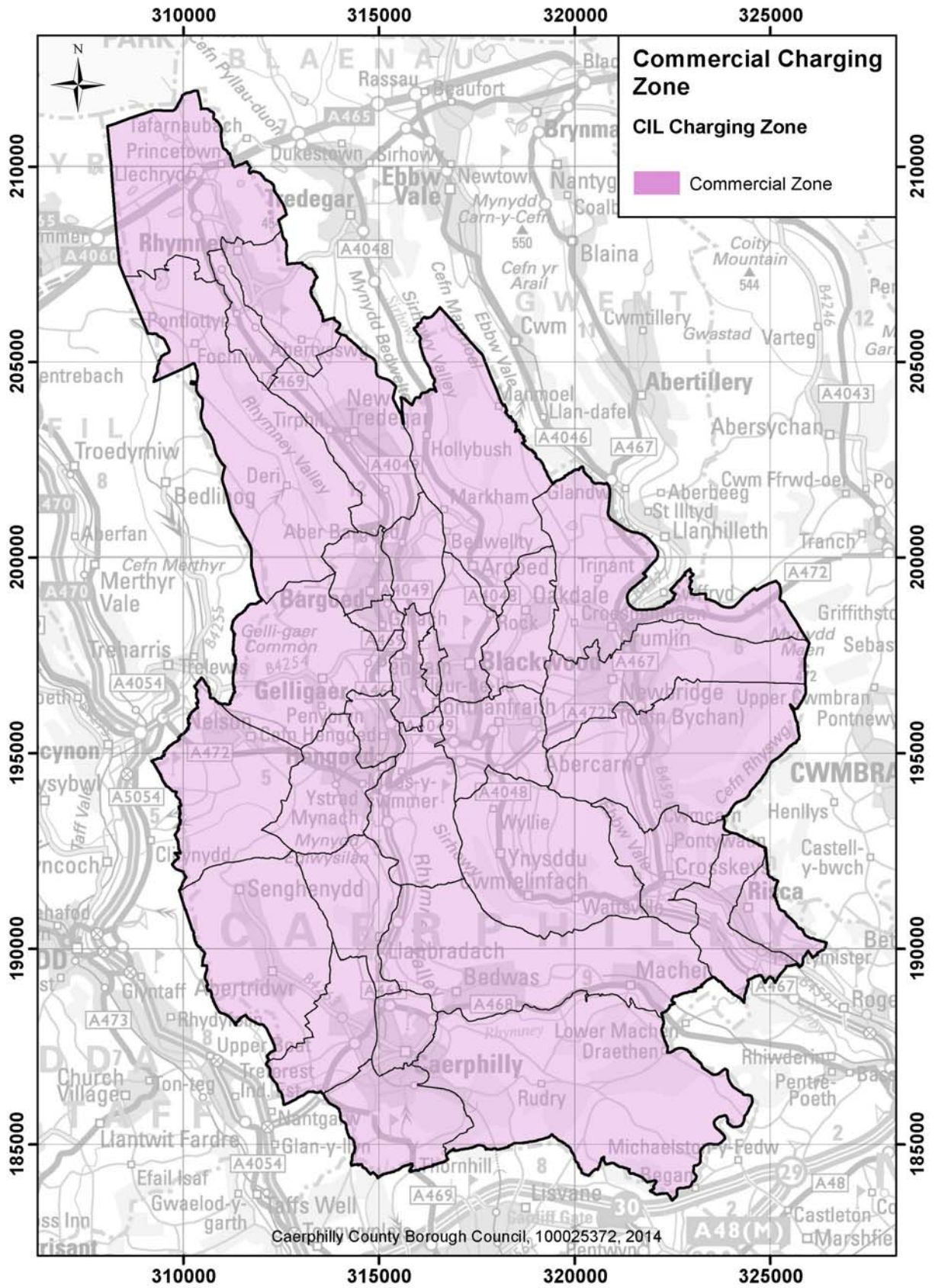
APPENDIX A

RESIDENTIAL CHARGING ZONES



APPENDIX B

COMMERCIAL CHARGING ZONE



**Caerphilly County Borough Council
Community Infrastructure Levy**

Regulation 123 List of Infrastructure

Takes Effect From 1 July 2014

1 Introduction

- 1.1 Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended) sets out the requirement for CIL Charging Authorities to publish a list of the infrastructure that can be funded through CIL. After 6 April 2015, or upon implementation of the Council's CIL Charging Schedule (whichever is the earliest), all infrastructure not included within the Council's published Regulation 123 List Of Infrastructure (Regulation 123 List) cannot be funded through CIL contributions, and can only be funded via Section 106 agreements, which will be subject to rigorous application of the statutory tests for obligations.

2 Preparation of The Regulation 123 List.

- 2.1 Regulation 123 Lists are not subject to the same procedural requirements that have been set out for the CIL Charging Schedule. Currently Regulation 123 only requires that the Regulation 123 Lists be published. It does not convey any requirement for consultation or set out any formal procedures. Consequently the Council may change its Regulation 123 List as it sees fit.
- 2.2 Comments made in respect of the List during the consultation processes have been taken into account in preparing the approved Regulation 123 List. The List was not a matter considered at the Examination.

3 What will the Regulation 123 List Include?

- 3.1 The Regulation 123 List sets out the infrastructure that will be eligible to be funded through CIL. The Infrastructure can be generic types of infrastructure, e.g. strategic highway improvements, or projects, e.g. upgrade to 21st century schools, or specific infrastructure items, e.g. a park and ride facility at Llanbradach. The Regulation 123 List draws heavily upon the infrastructure requirements set out in the Adopted Caerphilly County Borough Local Development Plan up to 2021 (LDP) and reflect the infrastructure requirements necessary to bring forward development identified in the LDP.
- 3.2 The Regulation 123 List also sets out those known, site-specific, matters where section 106 contributions are likely to be the funding mechanism. The principal purpose is to provide transparency on what the Council intends to fund through the levy, in whole or in part, and those matters where section 106 contributions will continue to be sought.

4 The Regulation 123 List

- 4.1 The list of infrastructure set out below defines the infrastructure types that are eligible to be funded through CIL, which then cannot be funded via planning obligations. It should also be noted that it is highly unlikely that CIL could ever realise sufficient levels to provide the entire range of infrastructure included in the List. Consequently, the fact that a specific infrastructure scheme falls within the infrastructure on the List does not mean that the infrastructure will be funded by CIL. The List sets out what is eligible for CIL funding and decisions on what infrastructure will be delivered through CIL rests with the Council and will be influenced by its own priorities and the amount of CIL available.
- 4.2 The infrastructure listed below will be eligible to be funded through the Caerphilly County Borough Community Infrastructure Levy.

The Caerphilly County Borough Council Regulation 123 List of Infrastructure

PHYSICAL INFRASTRUCTURE

- ***Policy TR5 Transport Improvement Schemes- Northern Connections Corridor.***
- ***Policy TR6 Transport Improvement Schemes – Caerphilly Basin.***
- ***Policy TR9 Highway Corridor Safeguarding – Caerphilly South East Bypass.***
- ***Policy TR8.1 Regeneration Led Highway Improvements – Heads of the Valleys Area.***
- ***Strategic public transport infrastructure (excluding site-specific links to the strategic network, for example a short length of cyclepath to link a site to a local or national route, a new bus stop within a new development to make it accessible).***
- ***Waste transfer / recycling bulking infrastructure.***
- ***Upgrade of existing Civic Amenity Sites.***
- ***Strategic Drainage Network.***
- ***Air Quality Action Plan Schemes (excluding air monitoring stations).***
- ***Network Connections – Superfast Broadband.***

SOCIAL INFRASTRUCTURE

- ***Education Provision (Schools).***
- ***Youth and Community Facility Provision & Upgrade to existing facilities.***
- ***Cemetery Provision.***
- ***Leisure Centre Provision & Upgrade to existing facilities.***

GREEN INFRASTRUCTURE

- ***Off-Site Formal Leisure Facilities (Playing pitches and associated changing facilities, Multi-use games areas, Neighbourhood Equipped Areas for Play)***

5 Relationship with S106 Developer Contributions

5.1 In order to ensure that planning obligations and the CIL can operate in a complementary way, the CIL Regulations scale-back the way planning obligations operate. Limitations are therefore placed on the use of planning obligations in three respects:

- putting the policy tests on the use of planning obligations (set out in Wales in Circular 13/97, *Planning Obligations*) on a statutory basis for developments which are capable of being charged the CIL;
- ensuring the local use of the CIL and planning obligations do not overlap; and
- limiting pooled contributions from planning obligations towards infrastructure, which may be funded by the CIL.

5.2 The CIL regulations place into law the policy tests on the use of planning obligations. The statutory tests are intended to clarify the purpose of planning obligations in light of the CIL.

5.3 From 6 April 2010 Regulation 122 has made it unlawful for a planning obligation to be taken into account when determining a planning application for a development that is

capable of being charged the levy, whether there is a local levy in operation or not, if the obligation does not meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the proposed development; and
- fairly and reasonably related in scale and kind to the development.

5.4 Conversely, the CIL is intended to provide infrastructure to support the development of an area, rather than to make individual planning applications acceptable in planning terms. As a result, there is likely to be site-specific impact mitigation requirements without which a development should not be granted planning permission. Some of these needs may be provided for through the CIL but others may not, particularly if they are very local in their impact. There is therefore still a legitimate role for development-specific planning obligations to enable the Council to be confident that the specific consequences of a development can be mitigated.

5.5 **The Council will therefore continue to secure Planning Obligations where they are necessary to remove obstacles to planned development and are therefore critical to the delivery of the site, for example to provide direct site access, flood protection and wildlife protection measures and for on-site leisure provision such as open space, local areas for play (LAPs) and local equipped areas for play (LEAPs).** Further, s106 contributions may still be sought for infrastructure, where:

- 1) it can meet the above tests; and
- 2) the Council has indicated that this type of infrastructure item will not be funded through CIL.

5.6 **Affordable housing** will continue to be funded through S106 Obligations. The Charging Schedule has set CIL at a level that has been assessed as viable with the provision of affordable housing and it is, therefore, expected that on-site provision of policy compliant affordable housing will be achievable.

6 Implications on Development Plan Policy

6.1 It is envisaged that as a consequence of the introduction of CIL, the following policies in the Adopted Caerphilly County Borough Local Development Plan will need revision at the first review of the plan:

Planning Obligations

SP7 The Council will seek to secure Planning Obligations (S106 Agreements) where they are necessary to remove obstacles to planned development, meet local needs and make development more sustainable. Such obligations will include:

AA Infrastructure for walking, cycling, public transport, parking

BB Schools and ancillary facilities

CC Community Facilities

DD Strategic highway improvements in the Northern and Southern Connections Corridors

E Flood defence measures required to mitigate the risk of flooding

F Formal and informal open and leisure space

G Affordable housing and

H Other facilities and services considered necessary

(Key Components Met: 1, 3, 6 & 7)

- 1.66 New development has the potential to increase pressure on existing community infrastructure and facilities such as transportation networks, schools, lifelong learning facilities, open space and other facilities. The provision of adequate infrastructure and services are a prerequisite of development taking place, as it is crucial for the environmental, social and economic sustainability of the County Borough. Where appropriate, the Council will seek obligations to mitigate against the effect of development. In line with national guidance the Council will negotiate obligations where these are necessary, relevant to planning, directly related to the proposed development, fairly and reasonably related in scale and kind to the proposed development and reasonable in all other respects.
- 1.67 In the case of previously used land, the Council will take into consideration abnormal costs associated with the redevelopment of a site when negotiating the level of planning obligation to be sought. Where a developer considers that the level of obligation sought may affect the viability of a development proposal to an unacceptable degree the Council will require the developer to provide sufficient evidence to support this position as part of the planning obligation negotiation process.

Transport Improvement Schemes – Northern Connections Corridor

TR5 The following strategic network improvements have been identified in respect of a Northern Connections Corridor Obligation:

TR5.1 A467 Newbridge to Crosskeys

TR5.2 A467 Newbridge to Crumlin

TR5.3 A472 Ystrad Mynach to Nelson

TR5.4 Newbridge Interchange

TR5.5 A472 Crown Roundabout to Cwm Du Roundabout

~~3-159~~3.107 The LDP will accommodate an increase in population during the Plan period and has allocated sites to cater for the housing, employment and other needs accordingly. This development will realise significant increases in traffic on the transport network of the County Borough, which will result in increased congestion. As a result general areas of improvement to the strategic network, which will seek to alleviate the cumulative impact of these developments, have been identified. Further work will be undertaken to consider the environmental, social and economic impacts of development in the area and appropriate schemes will be progressed as part of the development of a Northern Connections Corridor Obligation.

Transport Improvement Schemes – Caerphilly Basin

TR6 The following strategic network improvements have been identified in respect of the Caerphilly Basin Obligation:

TR6.1 Tafwys Walk

TR6.2 Trecenydd Roundabout

TR6.3 Pwllypant Roundabout

TR6.4 Bedwas Bridge Roundabout

TR6.5 Piccadilly Gyrotory

TR6.6 Penrhos to Pwllypant

TR6.7 Pwllypant to Bedwas

~~3-250~~3.195 The LDP will accommodate an increase in population during the Plan period and has allocated sites to cater for the housing need accordingly. This housing development will lead to significant increases in traffic on the transport network of the County Borough, which will result in increased congestion. As a result, specific improvements to the strategic network in the Southern Connections Corridor have been identified, which will alleviate the cumulative impact of the housing development. These schemes will be realised through a planning obligation levied against all residential developments.

**Caerphilly County Borough Council
Community Infrastructure Levy**

**Guidance Note 1:
Examples of how CIL liabilities are calculated**

Takes Effect From 1 July 2014

1.1 Purpose of document

- 1.1.1 This document contains examples of how CIL liabilities are calculated and covers many scenarios that will occur within Caerphilly County Borough. **The examples are as at January 2014**

1.2 Basis of CIL calculations

- 1.2.1 All CIL calculations are based on the net increase in the Gross Internal Area (GIA) of the development, as set out in Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended).

1.3 Indexation

- 1.3.1 CIL liabilities are index linked from the year in which the charging schedule took effect to the year in which planning permission is granted. The index used is the All-in Tender Price Index published by the Build Cost Information Service (BCIS), as set out in Regulation 40(7) of the Community Infrastructure Levy Regulations 2010.

1.4 Mandatory Relief for Charitable development and social housing

- 1.4.1 Examples of how levels of mandatory relief will be calculated can be found in *Guidance Note 3 - Social Housing Relief* and *Guidance Note 4 - Charitable Development Relief*.

1.5 Definition of “Lawful Use”

- 1.5.1 The definition of lawful use is contained in Regulation 40(10) of the Regulations 2010 as amended by 40 (11) of the Amendment Regulations 2014 and states:

“For the purposes of this regulation a building is in use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development.”

1.6 Exemption for self-build housing

- 1.6.1 The Amendment Regulations 2014 inserts an additional exemption for self-build housing. A person is eligible for an exemption from liability to pay CIL in respect of a chargeable development, or part of a chargeable development, if it comprises self-build housing or self-build communal development. Self build housing is a dwelling built by a specific person (including where built following a commission by that specific person) and occupied by that person as their sole or main residence (Refer to Regulation 54A of the Amendment Regulations 2014).

The Scenarios

Scenario 1

The development of a new dwelling in the Higher Viability Zone either detached or attached to an existing dwelling. The new dwelling is 90m².

Though the development is less than 100m², it results in the creation of a new dwelling and therefore CIL applies.

The CIL charge for residential development in the Higher Viability Zone is £40 m².

The calculation is as follows:

90m² x £40 per m² = **CIL liability of £3,600**

Scenario 2

The development of an extension to an existing dwelling. The existing dwelling is 105m² and the extension is 45m²

The size of the existing dwelling is irrelevant. The only matter of relevance is the size of the extension.

As the extension is for less than 100m² of development, and does not result in the creation of a new dwelling, CIL does not apply.

Scenario 3

The conversion of an existing dwelling to two flats. The existing dwelling is 105m² and the conversion will not result in any new build floor space.

The size of the existing dwelling is irrelevant.

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

Scenario 4

The conversion and extension of an existing dwelling in the Higher Viability Zone to form 2 flats. The existing dwelling is 105m² and the extension is 45m².

The size of the existing dwelling is irrelevant here. What is relevant is the level of new build. Although it is only 45m², because it results in a new dwelling, CIL applies.

The CIL charge for residential development in the Higher Viability Zone is £40 m²

The calculation is as follows:

$$45\text{m}^2 \times \text{£}40 \text{ per m}^2 = \text{CIL liability of £1,800}$$

Scenario 5

The demolition of an existing dwelling in lawful use (see note on Page 1) in the Higher Viability Zone and the construction of a block of flats in its place. The existing dwelling is 120m² and the block of flats is 1,000m²

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

The CIL charge for residential development in the Higher Viability Zone is £40 m².

The calculation is as follows:

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

$$\text{The chargeable area is } 1,000\text{m}^2 - 120\text{m}^2 = 880\text{m}^2$$

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

$$880\text{m}^2 \times \text{£}40 \text{ per m}^2 = \text{CIL liability of £35,200}$$

Scenario 6

The demolition of an existing dwelling not in lawful use (see note on Page 1) in the Higher Viability Zone and the construction of a block of flats in its place. The existing dwelling is 120m² and the block of flats is 1,000m².

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

The CIL charge for residential development in the Higher Viability Zone is £40 m².

The calculation is as follows:

$$1,000\text{m}^2 \times \text{£}40 \text{ per m}^2 = \text{CIL liability of £40,000}$$

Scenario 7

The demolition of a building of 5,000m², 1,000m² of which is in lawful use, and its replacement with a building of 10,000m², comprising 1,000m² of retail development, 5,000m² of office development and 4,000m² of hotel development.

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

The CIL charge for office development is £0 per square metre.

The CIL charge for retail development is £100 per square metre.

The CIL charge for hotel development is £0 per square metre.

The calculation is as follows:

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

$$5,000\text{m}^2 \text{ (existing floor-space)} / 10,000\text{m}^2 \text{ (new floor space)} = 0.5$$

Process 2 – calculate the office liability existing floor-space

$$5,000\text{m}^2 \times £0 \text{ per m}^2 \times 0.5 = £0$$

Process 3 – calculate the retail liability

$$1,000\text{m}^2 \times £120 \text{ per m}^2 \times 0.5 = £50,000$$

Process 4 – calculate the hotel liability

$$4,000\text{m}^2 \times £0 \text{ per m}^2 \times 0.5 = £0$$

Process 5 – calculate the total liability

$$\text{Office (£0)} + \text{Retail (£50,000)} + \text{Hotel (£0)} = \text{CIL liability of £50,000}$$

Scenario 8

A charitable institution gains planning permission for a supported housing residential development of 1,315 square metres GIA, and a retail unit (which will be occupied by the charitable institution) of 75m² GIA on a cleared site in the Higher Viability Zone.

The residential CIL rate in the Higher Viability Zone is £40m² and the retail CIL rate is £100m², therefore the total CIL liability is £60,100 (i.e. Residential liability of £52,600 + Retail liability of £7,500).

Prior to commencement of the development, the Council receives a claim for charitable relief.

The Council grants mandatory charitable relief for the residential element because the tests in Regulation 43 are satisfied, but does not grant charitable relief for the retail element because that is classed as an investment activity and the Council is not offering discretionary charitable relief for investment activity.

Consequently the CIL liability is reduced to £7,500 (i.e. the retail liability)

Scenario 9

A residential development of 4,000m² Gross Internal Area (GIA) on a cleared site in the Higher Viability Zone is granted planning permission.

The residential CIL rate in the Higher Viability Zone is £40 per m²; therefore the CIL liability is £160,000.

Prior to the commencement of the development, the Council receives a claim for 950m² of Social Housing Relief.

The calculation of the revised CIL liability is as follows:

Process 1 – Deduct the GIA eligible for relief from the total GIA

The total GIA (4,000m²) – the GIA eligible for relief (950m²) = 3,050m²

Process 2 – Recalculate the CIL liability

3,050m² x £40m² = **Revised CIL liability of £122,000**

Scenario 10

The conversion of the first floor of an existing property within the higher viability zone into 2 residential flats. The ground floor of the property is an A1 retail unit. The first floor is currently used as storage for the retail unit.

The size of the existing dwelling is irrelevant.

As the conversion does not result in any new development (i.e. it all takes place within the existing building), CIL does not apply.

Scenario 11

The conversion of a 2,000m² vacant chapel in the Mid Viability zone into a residential dwelling. The building is vacant and has not been in use for 5 years.

The building is no longer in Lawful Use; therefore the floor space is not deducted when calculating the CIL liability

The residential CIL rate in the Mid Viability Zone is £25 per m²; therefore the CIL liability is:

$$2,000\text{m}^2 \times £25\text{m}^2 = \text{CIL liability of } \mathbf{£50,000}$$

Note: This building is CIL eligible and would not fall under the provisions of Regulation 54A as amended by the Amendment Regulations 2014, Exemptions for self-build housing. Self-Build housing is classified as 'a building built by a person (including where built following a commission by that person) and occupied by that person as their sole residence'. The Chapel is a conversion of an existing building and so cannot be considered to be self-build.

Scenario 12

A 3000m² retail unit within Caerphilly Town Centre has been vacant and not in use for a period exceeding 12 months. An application has been submitted to convert the former retail unit into a Public House. The application would not result in an extension or amendment to the gross internal area.

The building is no longer in Lawful Use; therefore the floor space is not deducted when calculating the CIL liability. The CIL rate for Class A3 uses is £25 m² therefore the CIL liability is:

$$3,000\text{m}^2 \times £25\text{m}^2 = \text{CIL liability of } \mathbf{£75,000}$$

**Caerphilly County Borough Council
Community Infrastructure Levy**

**Guidance Note 2:
Instalment Policy**

Takes Effect From 1 July 2014

2.1 Instalment Schedule

2.1.1 In accordance with Regulation 69B of the Community Infrastructure Levy Regulations 2010 (as amended) Caerphilly County Borough Council will allow the payment of CIL by instalments, as set out in the following table.

Total CIL Liability	Number of Instalments	Payment Period
Up to £10,000	1	100% within 60 days of the commencement date.
Greater than £10,000 and less than £40,000	2 (equal instalments)	Instalment 1 - within 60 days of the commencement date Instalment 2 – within 180 days of commencement date
Greater than £40,000 and less than £100,000	4 (equal instalments)	Instalment 1 - within 60 days of the commencement date Instalment 2 – within 180 days of commencement date Instalment 3 – within 360 days of commencement date Instalment 4 – within 540 days of commencement date.
Greater than £100,000 and less than £200,000	5 (equal instalments)	Instalment 1 - within 60 days of the commencement date Instalment 2 – within 180 days of commencement date Instalment 3 – within 360 days of commencement date Instalment 4 – within 540 days of commencement date. Instalment 5 - within 720 days of commencement
Greater than £200,000	6 (equal instalments)	Instalment 1 - within 60 days of the commencement date Instalment 2 – within 180 days of commencement date Instalment 3 – within 360 days of commencement date Instalment 4 – within 540 days of commencement date. Instalment 5 - within 720 days of commencement Instalment 6 – within 900 days of commencement

2.2 Implementation of the Policy

2.1.2 Regulation 70 of the Community Infrastructure Levy Regulations 2010 (as amended) sets out the requirements that must be complied with in order to benefit from the CIL Instalment Policy. The CIL Instalment Policy will only apply in the following circumstances:

1. Where the Council has received a CIL Assumption of Liability form prior to commencement of the chargeable development (Regulation 70(1)(a)), and
2. Where the Council has received a CIL Commencement Notice prior to commencement of the chargeable development (Regulation 70(1)(b))

2.2.2 If either of the above requirements are not complied with, the total CIL liability will become payable within 60 days of the commencement of the chargeable development. In addition, surcharges may apply due to the CIL Assumption of Liability Form and / or the CIL Commencement Notice not being submitted to the Council prior to the commencement of the chargeable development.

2.2.3 Once the development has commenced, all CIL payments must be made in accordance with the CIL Instalment Policy. Where a payment is not received in full on or before the day on which it is due, the total CIL liability becomes payable in full immediately (Regulation 70(8)(a)).

2.2.4 In summary, to benefit from the CIL Instalment Policy, the relevant forms must be submitted to the Council prior to the commencement of the chargeable development, and all payments must be paid in accordance with the CIL Instalment Policy.

**Caerphilly County Borough Council
Community Infrastructure Levy**

**Guidance Note 3:
Social Housing Relief**

Takes Effect From 1 July 2014

3.1 Background

- 3.1.1 Development that incorporates social housing, as defined by Regulation 49 of the CIL Regulations, is entitled to relief from CIL on the social housing element of the development. This form of relief is termed Mandatory Social Housing Relief.
- 3.1.2 Development that incorporates social housing, as defined by either Regulation 49A or 49C of the CIL Regulations, may be subject to relief from CIL on the social housing element at the discretion of the Charging Authority. This form of Relief is termed Discretionary Social Housing Relief.

3.2 Mandatory Social Housing Relief (Regulation 49)

- 3.2.1 Regulation 49 of the Community Infrastructure Levy Regulations (2010) (as amended) sets out the conditions that must be met for a dwelling to be considered as social housing. In Caerphilly county borough, any dwelling that complies with the definition of Affordable housing as set out in Technical Advice Note 2: Planning and Affordable Housing is entitled to social housing relief.
- 3.2.2 In accordance with the CIL Regulations the Council will make available relief from CIL for social housing, as set out in Regulation 49, available to all qualifying developments.

3.3 Discretionary Social Housing Relief (Regulations 49A to 49C)

- 3.3.1 Regulations 49A to 49C of the CIL Regulations make provision for the council to grant relief from CIL for social housing in qualifying developments that accord with definitions set out in Regulations 49A and 49C. This relief is granted at the discretion of the Council, although if the council chooses to grant such relief, it must be made available to all qualifying developments.
- 3.3.2 In accordance with the CIL Regulations the Council will make available discretionary relief from CIL for social housing, as defined by Regulations 49A and 49C, for all qualifying developments.

3.4 Process for claiming Social Housing Relief

- 3.4.1 Regulation 51 of the Community Infrastructure Levy Regulations (2010) (as amended) sets out the procedures for claiming mandatory and discretionary social housing relief. It is important to note that unless these procedures are rigorously followed, development will cease to be eligible for social housing relief and/or claims for social housing relief will lapse.
- 3.4.2 In order to benefit from social housing relief, the person / organisation claiming social housing relief must:
1. have assumed liability to pay CIL, through the submission to the Council of a CIL Assumption of Liability form, prior to the commencement of the chargeable development; and
 2. be an owner of the relevant land.
- 3.4.3 The claim must:
1. be submitted to the Council on a CIL Claiming Exemption or Relief form, prior to commencement of the chargeable development; and
 2. include a relief assessment that identifies on a map the location of the dwellings to which social housing relief applies, sets out the gross internal area of each of the dwellings, and includes a calculation of the amount of social housing relief claimed.

- 3.4.4 If the chargeable development is commenced before the Council has notified the person / organisation claiming social housing relief of its decision, then the claim for social housing relief will lapse.
- 3.4.5 In addition, development will cease to be eligible for social housing relief if any of the following apply:
1. The Council has not received a CIL Commencement Notice prior to commencement of the chargeable development; or
 2. The Council has received a Withdrawal of Assumption of Liability form from the claimant prior to commencement of the chargeable development; or
 3. The Council has received a Transfer of Assumed Liability form prior to commencement of the chargeable development. (In this case a new claim for social housing relief can be made provided that it is made and determined prior to commencement of the chargeable development).

3.5 Summary

- 3.5.1 In summary, to benefit from social housing relief the relevant person / organisation must be an owner of the land, must have assumed liability to pay CIL and must have submitted their claim for relief, and received the Council's determination, prior to commencing the chargeable development.
- 3.5.2 They must also have submitted a CIL Commencement Notice to the Council and not withdrawn or transferred liability to pay CIL, prior to commencement of the chargeable development.
- 3.5.3 The Social Housing Relief only applies in cases where the persons liable for paying CIL have complied with all the relevant regulations and requirements. These requirements are set out in Appendix 1.

Examples of how Social Housing Relief is calculated

The following examples show how Social Housing Relief will be calculated. Scenario 2 deals with how existing floorspace is taken account of in calculating Social Housing Relief.

Scenario 1

A residential development of 4,000m² Gross Internal Area (GIA) on a cleared site in the Higher Viability Zone is granted planning permission.

The residential CIL rate in the Higher Viability Zone is £40 per m²; therefore the CIL liability is £160,000.

Prior to the commencement of the development, the Council receives a claim for 950m² of Social Housing Relief.

The calculation of the revised CIL liability is as follows:

Process 1 – Deduct the GIA eligible for relief from the total GIA

The total GIA (4,000m²) – the GIA eligible for relief (950m²) = 3,050m²

Process 2 – Recalculate the CIL liability

3,050m² x £40m² = **Revised CIL liability of £122,000**

Scenario 2

A residential development of 4,000m² GIA in the Higher Viability Zone is granted planning permission.

It is on a site currently occupied by a house in lawful use comprising 125m² GIA, which is to be demolished.

The residential CIL rate in the Higher Viability Zone is £40m². The existing floor-space is deducted from the CIL liability because it is in lawful use, giving a CIL chargeable area of 3,875m², and a CIL liability of £155,000.

Prior to the commencement of the development, the Council receives a claim for 950m² of Social Housing Relief.

It is tempting to multiply the floor area of the social housing units (950m²) by the rate of the CIL charge (£40m²) to determine the amount of relief and then deduct this from the total CIL liability calculated before relief was considered, to obtain the final liability, as was the case in Scenario 1. However, that would be wrong because there is demolition to consider and just as the demolished floor area reduced the total CIL liability, it also produces a pro rata reduction in the amount of Social Housing Relief.

The calculation of the revised CIL liability is as follows:

Process 1 – Calculate what percentage of the total GIA the discounted GIA comprises

Discounted GIA (125m²) / total GIA (4,000m²) x 100 = 3.125%

Process 2 – Calculate 3.125% of the GIA claim for Social Housing Relief to ascertain the level of GIA to be deducted from the relief claim

GIA claim for Social Housing Relief (950m²) / 100 x 3.125 = 30m²

Note: the above figure of 30m² has been rounded to the nearest square metre.

Process 3 – Calculate the revised GIA of the relief claim

Relief claim (950m²) – pro rata deduction (30m²) = 920m²

Process 4 – Deduct the GIA eligible for relief from the total chargeable area

Total chargeable area (3,875m²) – GIA eligible for relief (920m²) = 2,955m²

Process 5 – Recalculate the CIL liability

2,955m² x £40 per m² = **Revised CIL liability of £118,200**

Scenario 3

A social housing residential development of 2,000m² GIA on a cleared site in the Higher Viability Zone is granted planning permission.

The developer is a housing association.

The residential CIL rate in the Higher Viability Zone is £40m²; therefore the CIL liability is £80,000.

Prior to the commencement of the development, the Council receives a claim for 2,000m² of Social Housing Relief, as the whole of the development will be social housing.

Consequently Social Housing Relief is granted on the whole development and the CIL liability is reduced to £0.

APPENDIX 1

CIL Social Housing Relief Policy Guidance Note

Regulation 51 of the Community Infrastructure Levy Regulations 2010 as amended by the Amendment Regulations 2014 sets out the requirements that must be complied with in order to benefit from social housing relief.

The CIL social housing relief policy will only apply in the following circumstances:

1. Where the Council has received a CIL Claiming Social Housing Relief Form prior to commencement of the chargeable development (Regulation 51(3)(a)), and
2. Subject to Paragraph 4(a), Where the Council has received a CIL Commencement Notice prior to commencement of the chargeable development (Regulation 51(3)(b))

If either of the above requirements are not complied with, the total CIL liability will become payable within 60 days of the commencement of the chargeable development. In addition, surcharges may apply due to the CIL Assumption of Liability Form and / or the CIL Commencement Notice not being submitted to the Council prior to the commencement of the chargeable development.

In summary, to benefit from the CIL Social Housing Relief Policy, the relevant forms must be submitted to the Council prior to the commencement of the chargeable development.

**Caerphilly County Borough Council
Community Infrastructure Levy**

**Guidance Note 4:
Charitable Development Relief**

Takes Effect From 1 July 2014

.1 Background

4.1.1 Certain types of charitable development are entitled to an exemption from CIL. This guidance note identifies those types of development that qualify for exemption, provides information regarding the process for claiming charitable relief, and sets out examples of how it is to be calculated.

4.2 Definition of Charitable Development Entitled to Mandatory Relief

4.2.1 Regulation 43 of the Community Infrastructure Levy Regulations 2010 (as amended) sets out the conditions that must be met for a charitable development to be entitled to mandatory relief from CIL. These are:

1. The owner must be a charitable institution (i.e. a charity, or a trust of which all the beneficiaries are charities, or a unit trust scheme in which all the unit holders are charities); and
2. The chargeable development must be used wholly or mainly for charitable purposes and it must be occupied by or under the control of a charitable institution.

4.2.2 Relief under Regulation 43 does not apply, however, where:

1. Part of the exempted development would not be occupied, or under the control of, a charitable institution; or
2. The material interest is owned jointly, with one or more owners not being a charitable institution; or
3. The granting of mandatory relief would constitute a state aid.

4.3 Discretionary Charitable Relief

4.3.1 The CIL Regulations also make provision for a Charging Authority (the Council) to grant relief from CIL for certain charitable developments. Such relief is offered at the discretion of the Charging Authority, and is not granted as a matter of right.

4.3.2 Regulation 44 makes provision for the Council to grant relief from CIL for qualifying charitable investment developments. Such relief can be offered to the owner of a development if:

- (a) The Council is granting such relief; and
- (b) The owner is a charitable institution; and
- (c) The whole or the greater part of the chargeable development will be held by C or by C and other charitable institutions as an investment from which the profits will be applied for charitable purposes (whether of C or of C and other charitable institutions).

4.3.3 Discretionary Relief under Regulation 44 does not apply, however, where:

- (a) The owner will use the development for activities other than the sale of goods where the proceeds are applied to the charitable purpose; or
- (b) The material interest is owned jointly, with one or more owners not being a charitable institution.

4.3.4 The Council will grant discretionary relief from CIL for qualifying charitable investment developments under Regulation 44.

3.5 Regulation 45 makes provision for the Council to grant relief from CIL for qualifying charitable developments where:

- (a) The exemption of a charitable institution from liability to pay CIL in respect of a chargeable development would constitute a State aid; and
- (b) The charitable institution would otherwise be exempt from liability in respect of that development under regulation 43 (mandatory relief);
- (c) Discretionary charitable relief is available in the area in which the chargeable development will be situated; and
- (d) The collecting authority is satisfied that the aid in question does not need to be notified to and approved by the European Commission.

4.3.6 The Council will grant discretionary relief from CIL for qualifying charitable developments under Regulation 45.

4.4 Process For Claiming Mandatory Charitable Relief

4.4.1 Regulation 47 of the Regulations sets out the procedures for claiming charitable relief:

- The charitable institution claiming relief must submit a claim to the Council on a CIL Claiming Exemption or Relief form, prior to commencement of the chargeable development.
- If the chargeable development is commenced before the Council has notified the charitable institution of its decision; the claim for relief will lapse.
- Development will cease to be eligible for charitable relief if the Council has not received a CIL Commencement Notice, before commencement of the chargeable development.

4.4.2 If these procedures are not rigorously followed, development will cease to be eligible for charitable relief and/or claims for charitable relief will lapse.

4.5 Examples of how charitable relief is calculated

Scenario 1

A charitable institution gains planning permission for a supported housing residential development of 1,315 m² Gross Internal Area (GIA) on a cleared site in the Higher Viability Zone.

The residential CIL rate in the Higher Viability Zone is £40m²; therefore the CIL liability is £52,600.

Prior to the commencement of the development, the Council receives a claim for charitable relief.

The Council grants mandatory charitable relief because the tests in Regulation 43 are satisfied, and the CIL liability is reduced to £0.

Scenario 2

A charitable institution gains planning permission for a supported housing residential development of 1,315 square metres GIA, and a retail unit (which will be occupied by the charitable institution) of 75m² GIA on a cleared site in the Higher Viability Zone.

The residential CIL rate in the Higher Viability Zone is £40m² and the retail CIL rate is £100m², therefore the total CIL liability is £60,100 (i.e. Residential liability of £52,600 + Retail liability of £7,500).

Prior to commencement of the development, the Council receives a claim for charitable relief.

The Council grants charitable relief for the residential element because the tests in Regulation 43 are satisfied, but does not grant charitable relief for the retail element because that is classed as an investment activity and the Council is not offering discretionary charitable relief for investment activity.

Consequently the CIL liability is reduced to £7,500 (i.e. the retail liability)

4.6 CIL Charitable Development Relief Policy Guidance Note

4.6.1 Regulation 43 of the Community Infrastructure Levy Regulations 2010 (as amended) sets out the requirements that must be complied with in order to benefit from charitable development relief.

4.6.2 The CIL Charitable Development Relief Policy will only apply in the following circumstances:

1. Where the Council has received a CIL Claiming Charitable Development Relief Form prior to commencement of the chargeable development (Regulation 47(2)(a)); and
2. Where the Council has received a CIL Commencement Notice prior to commencement of the chargeable development (Regulation 51(3)(b)).

4.4.6.3 If either of the above requirements are not complied with, the total CIL liability will become payable within 60 days of the commencement of the chargeable development. In addition, surcharges may apply due to the CIL Assumption of Liability Form and / or the CIL Commencement Notice not being submitted to the Council prior to the commencement of the chargeable development.

4.6.4 In summary, to benefit from the CIL Charitable Development Relief Policy, the relevant forms must be submitted to the Council prior to the commencement of the chargeable development.

Caerphilly County Borough**Community Infrastructure Levy
Steering Group Meeting (2)
Draft Notes****Ebbw Room, Ty Penallta, 4 April 2014****MEMBERS IN ATTENDANCE**

Leader of Council	Cllr H Andrews
For Leader of the Majority Opposition	Cllr J Fussell
Deputy Leader and Cabinet member for Corporate Services	Cllr K Reynolds
Cabinet Member for Performance and Asset Management	Cllr D Hardacre
Cabinet Member for Education and Lifelong Learning	Cllr R Passmore
Cabinet Member for Community and Leisure Services	Cllr D Poole
Cabinet Member for Highways, Transportation and Engineering	Cllr T Williams
Cabinet Member for Social Services	Cllr R Woodyatt

OFFICERS IN ATTENDANCE

Chief Executive	Stuart Rosser
Head of Engineering Services	Terry Shaw
Head of Public Protection	Rob Hartshorn

MEMBER APOLOGIES

Cabinet Member for Regeneration, Planning and Sustainable Development	Cllr K James
Leader of the Majority Opposition	Cllr C Mann
Deputy Leader and Cabinet Member for Housing	Cllr G Jones
Cabinet Member for HR and Governance/Business Manager	Cllr C Forehead

OFFICER APOLOGIES

Acting Deputy Chief Executive	Sandra Aspinall
Corporate Director of Social Services	Dave Street
Acting Director of Corporate Services & S151	Nicole Scammell
Head of Regeneration and Planning	Pauline Elliott
For Head of Legal Services	Gail Williams

It was advised that the Leader of the Opposition (Cllr C Mann) was unable to attend and that Cllr J Fussell was attending in his place. It was noted that, at the first meeting of the Group, it was decided that substitutes were not appropriate. However it was the view of the Group that it was appropriate that a member of the Opposition was in attendance and it was agreed that Cllr Fussell should attend.

It was also advised that Rob Hartshorn was also attending but his post had been inadvertently omitted from the membership set out in the Terms of Reference. This issue was addressed under agenda item 3

1 Introduction to the Meeting

Cllr Andrews welcomed everyone to the meeting and outlined briefly what the meeting was to consider.

2 Notes of Previous Meeting

It was advised that all of the actions set out in the Notes of the previous meeting would be addressed in the subsequent agenda items of this meeting.

Decision: The Notes were agreed as an accurate representation of the meeting.

3 Terms of Reference

The amended Terms of Reference for the Group had been provided in the meeting documentation. It was advised that the membership of the Group should have included all Heads of Service from the Directorate of the Environment. However the Head of Public Protection had been inadvertently omitted from the list.

Decision: The Terms of Reference be agreed subject to the inclusion of the Head of Public Protection into the membership list set out in paragraph 4.1.

4 Update on Progress

The Group were advised that much had happened since the previous meeting. The CIL Charging Schedule had been the subject of two consultation periods (October – November 2012, March – May 2013) and had been submitted for Examination to the Planning Inspectorate in October 2013. The Examination consisted of one sitting day that was held in January 2014 and the Examiners Report was received in February 2014.

The Examiner found that the evidence base was robust. The Examiner did raise concerns in respect of the proposed charge of £60 per square metre for D1 Primary Healthcare developments. This issue was one that the officers were not entirely convinced about and, at the Council Meeting in October 2013 it was resolved that officers continue to negotiate with the Health Board to try to reach a compromise or agreement on the charge. Unfortunately agreement could not be reached and the issue was discussed at the Examination.

The Examiner ultimately considered that the Council was able to demonstrate that it had sufficient evidence to support the schedule and could show that the levy rates would be set at levels that would not put the overall development of the area, as set out in its Local Development Plan, at risk.

The Group were also advised that there had been two sets of amendments to the CIL Regulations since the previous meeting of the Steering Group. These amendments had addressed 3 significant issues.

Firstly it has been confirmed that affordable housing will remain a S106 matter and will not be subsumed into CIL.

Secondly the Regulations set out a requirement to pass 15% of CIL Receipts in a Community Council area to that Community Council.

Thirdly the Regulations exempt self-build housing from any CIL Charge.

Members raised a number of issues relating to the provision for passing CIL to the Community Councils. It was advised that the issues were addressed in the Recommendations arising from the Working Group meeting that were to be discussed next.

5 RECOMMENDATIONS OF THE OFFICER WORKING GROUP

The Group had been forwarded a set of 16 recommendations that were agreed at the CIL Working Group meeting held on 25 March 2014.

It was advised that, with Examiners Report approving the Charging Schedule subject to the modification to the rate for D1 Primary Health Care development, the CIL Charging Schedule is now ready to be approved by Council. The procedural elements of collecting the CIL is set out in detail in the CIL regulations and the Principal Administrative Officer in Planning Services, Helen Hotchkiss, who (deserves special mention for the amount of work she has done on the Development Management Back Office System) has been working for a considerable period of time to set up the internal process required to ensure that CIL can be implemented on approval.

Consequently it was advised that the Steering Group did not need to consider anything relating to these areas. It was also advised, however, that the issue of how CIL revenue was to be spent was the key remaining issue.

It was advised that the Working Group had considered the issue of how CIL revenue was to be allocated to infrastructure projects and had agreed a number of recommendations which were based around the main procedure of a Service area submitting had been agreed that were based upon the simple process of service areas submitting bids for funding for infrastructure, with the bids being assessed by an independent Assessment panel and prioritised for spend.

RECOMMENDATION 1 - THAT CIL REVENUE RAISED IN YEAR 1 BE ACCUMULATED AND TARGETED AT PROJECTS IN YEAR 2.

It was advised that the first and second recommendations are aimed at the same issue, namely realising the delivery of a number of small schemes in the second year to deliver “quick wins” to show CIL is working. This recommendation seeks to accumulate all of the CIL receipts from the first year to accumulate a pot from which schemes can be funded.

Decision: Recommendation agreed

RECOMMENDATION 2 - THAT THE ASSESSMENT PANEL RECOMMEND A NUMBER OF SMALLER PROJECTS IN YEAR 2 THAT WOULD RESULT IN QUICK WINS IN TERMS OF DELIVERY.

It was advised that the Assessment Panel is subject to a subsequent recommendation, but in essence it is a panel of independent officers whose responsibility will be to assess submitted infrastructure bids and prioritise them for spend. This recommendation sought to ensure that a number of small schemes are delivered in the second year to deliver “quick wins” to show CIL is working.

Decision: Recommendation agreed

Recommendation 3 - That a sufficient percentage of revenue raised be accumulated each year (50%) in order to ensure the delivery of major infrastructure projects.

It was advised that infrastructure to be funded by CIL could have widely varying costs from small-cost schemes to multi-million pound schemes, e.g. strategic highway improvements. It is conceivable that CIL could be targeted to those schemes that can be delivered with the current finance available, which would mean that high cost schemes would not be funded, as sufficient finance is unlikely to be realised in any year. As a result it is recommended to accumulate 50% of all CIL revenue each year to fund higher cost schemes.

Concern was raised over whether the amount accumulated could be amended in light of prevailing circumstances. It was advised that this could be revised annually as part of the annual monitoring process.

Decision: Recommendation agreed

RECOMMENDATION 4 - THAT SPEND IN RESPECT OF THE CIL REVENUE BE TREATED AS ANY OTHER COUNCIL INCOME AND BE REPORTED AS AN INTEGRAL PART OF THE ANNUAL BUDGET PROCEDURES.

It was advised that, in considering the procedures for assessing and prioritising spend, a key aim was to utilise existing council bodies and procedures as much as possible. In terms of the decision making process for determining spend, it was considered appropriate that the existing procedures for the annual council budget be used.

Discussion around this topic identified that a more appropriate body to make decision in respect of CIL spend was Cabinet, rather than full council. It was agreed that the Recommendations be amended to reflect this.

Decision: Recommendation be amended to read as follows:

“That the priorities for CIL spend be reported to Cabinet for decision, and be included in the council’s annual budget report for information.”

RECOMMENDATION 5 - THAT AN ANNUAL MONITORING REPORT IN RESPECT OF CIL BE PREPARED, AND AGREED BY COUNCIL IN LINE WITH REGULATORY REQUIREMENTS AND BE PLACED ON THE COUNCIL WEBSITE BY 31 DECEMBER EACH YEAR.

It was advised that the CIL Regs set out a requirement for the council to prepare a monitoring report each on how much CIL has been collected, how much, and upon what, CIL has been spent and how much CIL has been accumulated.

Given that the CIL process will run relative to the financial year, concern was raised as to why the deadline date was set so late when the information in respect of the CIL revenue and spend would be known by April.

It was advised that the recommendation set out the requirements of the legislation, which sets the date for publication of the report as 31 December for any reporting period.

Decision: Recommendation agreed

RECOMMENDATION 6 - THAT IN LINE WITH THE REQUIREMENTS OF THE CIL REGULATIONS, 15% OF CIL RECEIPTS SHOULD BE PASSED TO THE COMMUNITY COUNCILS WITHIN THE COUNTY BOROUGH TO SUPPORT LOCAL INFRASTRUCTURE PROJECTS.

It was advised that this recommendation reflected the requirements from the CIL Regulations.

The first issue raised in discussing this recommendation was whether the term "Community Councils" should be amended to include Town Councils. It was advised that it was a legal matter that would need to be reviewed before a specific response could be provided.

Note: During drafting of these notes, legal services confirmed that there is no difference between Community Councils and Town Councils in terms of their powers or in the way they operate and so this Regulation applies to both Community Councils and Town Councils.

This issue engendered significant debate revolving around the limitations that could be placed on Community Councils to ensure that they spend their CIL revenue on appropriate infrastructure. It was advised that the simple position is that the council passes the appropriate amount of CIL to the Community Council. It was advised that subsequent recommendations sought to provide Community Councils with guidance and documentation to assist in the prioritising of their spend and that the council will look to assist and advise them so that their spend ties in with the council's spend.

Concern was also raised in respect of whether the Community Councils had sufficient experience to ensure that any infrastructure projects they fund are compliant with the relevant regulations. It was advised that Community Councils all have budgets for which they are responsible for administering and for which they are audited. As such they are used to administering budgets and prioritising spend.

A question was raised in respect of what powers the council have to make sure that ensure that the Community Councils spend CIL on appropriate infrastructure. It was advised that the council will seek to provide a guidance pack that will provide guidance on what the CIL revenue can be used to fund, as well as providing them with assessment proformas, similar to those to be used by the council, to assist in prioritising schemes. Ultimately the council does have powers to reclaim the CIL revenue if it is not being spent on appropriate infrastructure.

Decision: Recommendation agreed

Recommendation 7 - Local infrastructure projects that are in accordance with the Regulation 123 List should be identified to guide projects to be implemented by the Community Councils.

It was advised that this was part of the guidance that the council will seek to provide for the Community Councils to assist in administering their CIL revenue.

A general question was raised in respect of whether the provision of CIL revenue would encourage the creation of new Community Councils in areas where there is, currently, no coverage. It was advised that whilst this is not necessarily the intention (subsequent Recommendations deal with the issue of areas without Community Council coverage) but it may be the case that it could encourage new Community Councils to be set up.

Decision: Recommendation agreed

Recommendation 8 - Community Councils to be provided with: a Local List, an Assessment Proforma and a CIL Guidance Pack to help prioritise CIL spend.

It was advised that this was also part of the guidance that the council will seek to provide for the Community Councils to assist in administering their CIL revenue.

Decision: Recommendation agreed

Recommendation 9 - That the payment of CIL Funds to Community Councils be made annually.

Recommendation 10 - That written agreement is sought with all Community Councils to distribute CIL funds on an annual basis.

Both Recommendations were addressed at the same time.

It was advised that the CIL regulations sets out a default position for payment to Community Councils as 6-monthly payments. The CIL Regulations also make provision for the Council to agree a schedule for payments with the Community Councils if alternative periods are more appropriate. Given the intention is for the council addresses the issue of CIL spend on an annual basis, it would make sense, for the payments to the Community Council to reflect that position. It was also advised that officers would need to discuss this issue directly with the Community Councils in order to reach such an agreement.

Concern was raised over what would happen if a Community Council did not agree to annual payments. It was advised that, unless an alternative arrangement is agreed, the default position set out in the CIL Regulations would apply, i.e. payments would be made every 6 months.

Decision: Recommendation agreed

Recommendation 11 - A proportion of CIL receipts should be made available to non-CC areas to ensure equality and fairness with Community Council areas

Recommendation 12 - 15% of CIL should be made available to non-CC areas in order to ensure consistency with the CIL Regulations.

Recommendation 13a - In non-CC areas, community groups in individual wards be invited to submit projects for consideration for neighbourhood CIL funding. The local ward member(s) should be involved in submissions to ensure democratic accountability.

OR

Recommendation 13b - The non-CC area should be treated as a single unit and provision be made to allow any community groups within the area to submit projects for consideration for neighbourhood CIL funding.

Recommendation 14 - All community projects to be assessed by the Assessment Panel to ensure their compliance with the CIL Regulations

Recommendation 15 - Local infrastructure projects that are in accordance with the Regulation 123 List should be identified within non-CC areas. Potential bidders to be provided with: a Local List, an Assessment Proforma and a CIL Guidance Pack.

Recommendation 16 - Payment of CIL to non-CC areas should be made annually in order to be consistent with the approach favoured regarding payments to Community Councils.

It was advised that a significant area of the county borough did not have Community Council coverage. In considering this issue, the CIL Officer Working Group made 6 recommendations to address the situation. The principle of making a proportion of CIL receipts available to areas without coverage was agreed in the interests of fairness and a level of 15% of total receipts was agreed for the same reasons.

The Officer Working Group could not agree a spatial basis for the provision of the CIL payments and, therefore, identified 2 recommendations for the Steering Group to consider, one treating the whole area without coverage as one unit and the other making provision for a more ward based approach. The Steering Group recommended that the Assessment panel be used to assess infrastructure schemes and the same guidance be provided for these areas as that provided to Community Council areas.

Concern was raised over the fact that there was no properly constituted body in these areas that could legitimately administer the CIL revenue. In the absence of such a body it was suggested that a more appropriate approach would be for the council to retain the revenue, but ring-fence it for spend in the areas not covered by Community Councils.

Decision: That the CIL Officer Working Group Recommendations 11 – 16 be deleted and be replaced by the following Steering Group Recommendation:

Recommendation 11: In areas that are not covered by Community Councils, the council administer a CIL pot, equivalent to 15% of total CIL receipts generated in the area each year, to provide infrastructure in those areas according to the CIL regulations.

6 ASSESSMENT CRITERIA, THEIR SCORING AND WEIGHTING

It was advised that consideration had been given to how the wide range of infrastructure schemes that had been submitted for CIL funding could be objectively and fairly assessed and ranked so that priorities can be identified for CIL spend. It was advised that a bidding process be used, whereby bids are submitted for infrastructure and these are assessed by an independent panel and are scored against a set of criteria, providing a score for each infrastructure which can then be ordered to provide priorities for CIL spend.

A draft assessment proforma had been produced and was forwarded to members for consideration. The assessment proforma set out 14 criteria, grouped in 3 categories. The first group (Eligibility Criteria) sets out 5 criteria that determine whether the scheme is eligible for CIL funding. These criteria are yes/no responses, with a no response meaning that the scheme is not eligible for CL funding. The second and third categories contain criteria that are scored out of 10 and address the relative desirability and deliverability of providing the infrastructure.

The Officer Working Group considered the criteria and recommended that a system of weighting be attributed to the criteria as some criteria were considered to be more important than others. The weighting modifies the score for each criterion accordingly.

To assist consistency in scoring guidance for scoring submitted schemes had also been produced and was forwarded to member for consideration. The guidance addresses each criterion and identifies the scores that should be awarded where schemes meet certain parts of the criteria.

Two concerns were raised in respect of the assessment of the schemes. Firstly it was noted that the guidance for scoring considered a schemes relevance to the LDP and the Single Integrated Plan for the criteria related to meeting corporate objectives. Concern was raised

that the document highlighted did not set out all council priorities and perhaps the criteria should be widened. It was acknowledged that the LDP, as the council's principal land-use document was appropriate to be included, but concern was raised over the Single Integrated Plan, as it does not set out all of the council's priorities. It was advised that the council does not, at the current time, have a single overarching document that sets out its priorities.

Decision: That the guidance be revised to consider compliance with the LDP and "council priorities" generally.

The second concern related to the weighting of the criteria that addressed whether CIL would be required for ongoing revenue costs. The assessment sheet identified that the weighting for this criteria would be 0.5 (which effectively halves its scores). The general consensus was that CIL funding should not, as far as possible, be used to address the revenue costs of schemes and that the weighting diminished the importance of the issue.

Decision: That the weighting for the issue "Is there a requirement for CIL contribution toward revenue costs of the infrastructure" be amended to 1.

Decision: The assessment sheet and guidance for scoring was agreed.

7 ASSESSMENT PANEL

It was advised that the Officer Working Group recommended that the assessment of the schemes would be undertaken by an impartial panel of officers to ensure fairness and objectivity. The officer Working Group recommended that the Assessment Panel comprise officers drawn from service areas that would be unlikely to submit infrastructure schemes for CIL funding. It was recommended that that officers be drawn from the following service areas:

- Finance
- Corporate Policy
- Sustainable Development
- Housing
- Strategic Planning
- Legal

The CIL Assessment Panel would assess and rank submitted schemes and report them to Cabinet for decisions on CIL spend.

Decision: Recommendation agreed

8 NEXT STAGES

It was advised that a Report for Council was being prepared to feed into Scrutiny Committee on 10 May, and then forwarded to Cabinet on 4 June and finally to Full Council for resolution on 10 June 2014.

If approved CIL would be implemented on 1 July 2014

It was advised that, for the current CIL Charging Schedule, it was unlikely that the Group would be required to meet again.

CIL Infrastructure Assessment Criteria and Scoring Sheet

Service Area:
Project name:
Project reference:

ELIGIBILITY CRITERIA (ALL FIVE ELIGIBILITY CRITERIA MUST BE MET)

	Y/N
The scheme is an infrastructure project identified in the Regulation 123 List	<u>Y</u>
The project does not benefit (or cannot attract) sufficient funding from other sources	Y
The ongoing revenue implications of the project have been fully assessed and evidence is provided of how these will be met in the future	Y
The infrastructure will support the development of the county borough in line with the local development plan.	Y
The scheme will contribute to the delivery of sustainable development in the county borough	Y

Desirability criteria

	Score	Weighting	Total
There is a statutory requirement for provision to be made	10	1.5	15
The scheme will upgrade and/or improve the existing infrastructure network to improve its efficiency and effectiveness	10	1	10
The CIL revenue will lever in match funding from other sources	10	2	20
The scheme meets corporate objectives and is a priority scheme for the Council	10	1.5	15
Is there a requirement for CIL contribution toward revenue costs of the infrastructure.	10	1	5
Totals	50		65

Deliverability criteria

	Score	Weighting	Total
Evidence is provided that demonstrates that the scheme can only be delivered with CIL support	10	1	10
The project description demonstrates how social, economic and environmental benefits will be delivered through the delivery of the scheme	10	1	10
Evidence is provided identifying the extent to which the project supports the development of the county borough in line with the Local Development Plan.	10	2	20
Are the necessary land and factors in place to enable the expedient delivery of the project	10	1.5	15
Totals	40		55

Overall score (desirability + deliverability)

120

GUIDANCE FOR SCORING SUBMITTED CIL SCHEMES

This Guidance note sets out the scoring system to be used on the Assessment Proforma for all schemes submitted for CIL funding. Each of the Assessment Criteria are considered in turn and, for the Desirability and Deliverability Criteria, relevant scores are provided with definitions of what is necessary to achieve that score.

It should be noted that, whilst the maximum score for these criteria is 10, not every number is used to score in any one criterion, e.g. the second desirability criteria can only realise scores of 10, 7, 4 and 0, and schemes can only be scored with these values.

In addition to this, each criterion is attributed a weighting and the total score for that criterion is the score awarded multiplied by the weighting, e.g. for the first desirability criteria a scheme realises a Criteria score of 8, but the total score for the criteria would actually be 12 (as the 8 is multiplied by the weighting of 1.5)

Eligibility Criteria (Yes / No Responses)			
Criteria	Response	Comment	
The scheme is an infrastructure project identified in the Regulation 123 List	Yes / No	<p>These criteria are Absolute tests.</p> <p>In order for a scheme to be progressed a “Yes” response must be returned on ALL Criteria</p> <p>One single “No” response and the project cannot be funded by CIL</p>	
The project does not benefit (or cannot attract) sufficient funding from other sources	Yes / No		
The ongoing revenue implications of the project have been fully assessed and evidence is provided of how these will be met in the future	Yes / No		
The infrastructure will support the development of the county borough in line with the local development plan.	Yes / No		
The scheme will contribute to the delivery of sustainable development in the county borough	Yes / No		
Desirability Criteria (Maximum score 10 points each)			
Criteria	Weight	Score	Definition
There is a statutory requirement for provision to be made	1.5		General Comment : The scoring for this Criterion is based on a balance between whether the infrastructure is a statutory requirement for the council and whether it is essential for permitted development
		0	There is no pressing need for either the council or permitted or commenced development
		2	It is desirable to provide this infrastructure for permitted or commenced development
		4	It is desirable for the council to deliver this infrastructure
		6	It is desirable for the council to deliver and desirable for permitted or commenced development
		8	It is desirable for the council to deliver and is essential for permitted or commenced development

		10	It is a statutory Requirement for the council to deliver this infrastructure
The scheme will upgrade and/or improve the existing infrastructure network to improve its efficiency and effectiveness	1	0	No evidence has been submitted
		4	Evidence has been submitted but it does not clearly demonstrate that the scheme will either improve or upgrade the existing infrastructure network or relates solely to new infrastructure
		7	Evidence has been provided that demonstrates that the scheme will, to a certain extent, upgrade and improve the existing infrastructure network
		10	Evidence has been provided that demonstrates that the scheme will significantly upgrade and improve the existing infrastructure network
Criteria	Weight	Score	Definition
The CIL revenue will lever in match funding from other sources	2	0	The scheme is not able to attract match funding
		3	The scheme has the potential to realise match funding of up to 50% of the total scheme cost
		5	The scheme has the potential to realise match funding of between 50% and 99% of the total scheme cost
		8	Scheme has been allocated match funding of up to 50% of the total scheme cost
		10	Scheme has been allocated match funding that equates to between 50% and 99% of the total scheme cost
The scheme meets corporate objectives and is a priority scheme for the Council	1.5	0	No evidence has been submitted, or evidence that has been submitted does not demonstrate that the scheme meets the objectives of any council document or plan.
		3	Evidence has been submitted that demonstrates that the scheme meets the corporate objectives of a council document, other than the LDP.
		6	Evidence has been provided that demonstrates that the scheme meets the Council's priorities, but not the LDP.
		8	Evidence has been provided that demonstrates that the scheme meets the objectives of the LDP, but does specifically address the Council's priorities
		10	Evidence has been provided that demonstrates that the scheme meets the Objectives of both the LDP and the Council's priorities
Is there a requirement for CIL contribution toward revenue costs of the infrastructure.	0.5	0	No evidence has been submitted, or evidence has been submitted that identifies that a significant CIL contribution is essential to meet the ongoing revenue costs of the scheme.
		3	Evidence has been submitted that a small CIL contribution will be required toward revenue costs
		5	Evidence has been submitted that does not conclusively demonstrate that there will be no requirement for CIL funding to wards revenue costs
		10	Evidence has been provided that demonstrates that the scheme will require no CIL contribution to the revenue costs of the scheme after implementation

Deliverability Criteria (Maximum score 10 points each)			
Criteria	Weight	Score	Definition
Evidence is provided that demonstrates that the scheme can only be delivered with CIL support	1	0	No evidence has been provided or the evidence does not clearly demonstrate that the scheme can only be delivered with CIL funding
		10	Evidence has been provided that clearly demonstrates that the scheme can only be delivered with CIL funding
The project description demonstrates how social, economic and environmental benefits will be delivered through the delivery of the scheme	1	0	No evidence has been provided or evidence has been provided that does not clearly identify whether any social, economic or environmental benefits will be realised.
		5	Evidence has been provided that clearly identifies that the scheme will realise benefits to 1 of the 3 factors.
		8	Evidence has been provided that clearly identifies that the scheme will realise benefits to 2 of the 3 factors.
		10	Evidence has been provided that clearly identifies that the scheme will realise benefits for all 3 factors.
Criteria	Weight	Score	Definition
Evidence is provided identifying the extent to which the project supports the development of the county borough in line with the Local Development Plan.	2	0	No evidence has been submitted or the evidence does not clearly demonstrate that the scheme will support development in accordance with the development plan.
		4	Evidence has been submitted that clearly demonstrates that the scheme will encourage development that is in accordance with the Adopted Development Plan
		6	Evidence has been submitted that demonstrates that the scheme will encourage allocated development in the Adopted Development Plan
		8	Evidence has been submitted that clearly demonstrates that the scheme will enable development that is in accordance with the Adopted Development Plan
		10	Evidence has been submitted that clearly demonstrates that the scheme will enable allocated development in the Adopted Development Plan
Are the necessary land and factors in place to enable	1.5	0	No evidence has been submitted or, the evidence does not clearly demonstrate that the scheme can be delivered within 24 months for schemes funded from the cumulative pot, or within 12 months for all other schemes

the expedient delivery of the project		4	For schemes funded through the cumulative pot, Evidence has been submitted that clearly demonstrates that, whilst all land and factors are not in place, the delivery of the scheme will be commenced within 24 months of funding being awarded
		6	Evidence has been submitted that clearly demonstrates that, whilst all land and factors are not in place, the delivery of the scheme will be commenced within 12 months of funding being awarded
		8	Evidence has been submitted that clearly demonstrates that, whilst all land and factors are not in place, the and delivery of the scheme will be commenced within 6 months of funding being awarded
		10	Evidence has been submitted that clearly demonstrates that all land and factors are in place and delivery the scheme can be commenced immediately upon funding being awarded