

# PLYMOUTH COMMUNITY INFRASTRUCTURE LEVY

Preliminary Draft Charging Schedule



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## I. INTRODUCTION

Plymouth City Council has set a timetable to introduce a Community Infrastructure Levy (CIL) by summer 2012. When this is achieved, CIL will be the primary means by which the Council secures developer contributions towards mitigating the impacts of growth on the city's infrastructure.

This document presents our Preliminary Draft Charging Schedule (PDCS). As such it identifies our current thinking on the level at which Plymouth's CIL might be set and how it might be implemented. We have also published alongside the PDCS the evidence which has led us to identify the proposals set out in this document. This is your opportunity to inform the debate and influence how CIL is implemented.

### **Plymouth Community Infrastructure Levy Supporting Evidence Base Documents**

- Plymouth Infrastructure Needs Assessment Funding Gap Analysis – November 2011
- Plymouth CIL Viability Evidence Report – November 2011
- GVA Assumptions Report - October 2011 - see

<http://www.plymouth.gov.uk//communityinfrastructurelevy>

The information contained in the PDCS and supporting documentation should be read alongside the associated regulations and advice contained on the Government Legislation, Department of Communities, and Planning Advisory Service websites:

<http://www.legislation.gov.uk/uksi/2010/948/contents/made>

<http://www.legislation.gov.uk/ukdsi/2011/9780111506301/note>

<http://www.communities.gov.uk/planningandbuilding/planningsystem/communityinfrastructurelevy/>

<http://www.pas.gov.uk/pas/core/page.do?pageId=122677>

### **I.1 The Plymouth Context**

Plymouth has an ambitious growth agenda. A key requirement is that growth delivers sustainable communities and, to this end, development must make a positive contribution to meeting the reasonable costs of new infrastructure such as transport, utilities, education, community facilities, health, leisure and waste management facilities. Without such infrastructure improvements, the additional development could place undue pressure on existing facilities and services, thereby compromising the overall objective of delivering the vision for Plymouth. These improvements can be secured in a number of ways including the use of CIL.

## 1.2 What is CIL?

The CIL is one of the tools available to Local Planning Authorities (who are also known in the context of CIL as ‘charging authorities’) which allows them to raise funds to pay for infrastructure that is needed as a result of development, or to mitigate its impacts. The levy is a fixed rate charge per square metre of net additional floorspace, and is payable on commencement of chargeable development or through an agreed phasing of payments during construction. Other tools include bespoke Section 106 agreements which are and will continue to be negotiated on a case by case basis.

CIL is not intended to pay for all infrastructure but it could become a useful and important funding source to help deliver on Plymouth’s growth ambitions. Furthermore, from the 6<sup>th</sup> April 2014, or once a CIL charging schedule is adopted, whichever is sooner, it will not be possible for a Local Authority to enter into Section 106 agreements that pool together developer contributions from more than 5 schemes for any particular infrastructure item. This restriction is not applicable to CIL, which can be spent more flexibly, allowing infrastructure to benefit from funds collected from any number of developments.

## 1.3 CIL Exemptions and Discretionary Relief

Some types of developments are exempted from paying CIL by Part 6 of the Community Infrastructure Levy Regulations 2010 (as amended). Exempt developments are summarised below (please read the regulations to fully understand the detail of what is exempt):

- Any new build – that is a new building or extension to an existing building – of less than 100 square metres gross internal floorspace, except new dwellings, (new dwellings must pay CIL, irrespective of their gross internal floorspace).
- Any new build constructed for charitable purposes and occupied by charitable institutions (refer to Regulations 43-48).
- Social Housing (as defined by Regulation 49, see also Regulations 50-54).
- Changes of use, provided these do not result in new build enlargements to existing buildings of 100 square metres or more.

In addition to these exemptions, Charging Authorities may also provide discretionary relief from paying CIL but this is only to be permitted in exceptional circumstances. The fact that a development might be unviable at the time a planning application is being considered is unlikely to constitute an exceptional circumstance in relation to the CIL Regulations.

### Question:

- (i) **Bearing in mind the procedures for granting discretionary relief in exceptional circumstances outlined in the CIL Regulations (Regulations 55-57), do you have any views on the circumstances in which it might be appropriate for Plymouth City Council (as Charging Authority) to consider granting discretionary relief?**

## **1.4 Relationship between Section 106 Agreements and CIL**

Although the CIL process should result in a scaling back in the use of Section 106 agreements (planning obligations), it will not replace them altogether. Planning obligations will still be needed to mitigate the impacts of some developments and may remain the method by which affordable housing is secured as part of wider development proposals (although in the future there may be an opportunity to deliver affordable housing through CIL, or through a combination of S106 and CIL – see sections 3.2 and 4 below).

Local Authorities may also choose to continue to use S106 agreements to pool contributions for particular infrastructure items, if this is seen as being a more appropriate way to deliver that infrastructure than CIL. However, CIL Regulations 122 and 123 currently limit the circumstances in which contributions secured through S106 agreements can be pooled, and the regulations also effectively prohibit local authorities from ‘charging developers twice’, i.e. from seeking contributions for delivering the same infrastructure through two different mechanisms, (S106 and CIL). Regulation 123 specifies that a planning obligation can not be entered into where it would fund or provide ‘relevant infrastructure’ listed on the Council’s website that may be funded through CIL.

We are currently reviewing our Planning Obligations & Affordable Housing Supplementary Planning Document (SPD) to make sure that we change our process for negotiating planning obligations once our CIL is adopted.

### **Question:**

- (ii) Bearing in mind that planning obligations will not be able to be negotiated in the future for things that CIL funds, do you have any views as to what should be left to planning obligations and what should be covered by CIL? Do you have any other suggestions about changes that you think we should make to our Planning Obligations & Affordable Housing SPD so that our approach to planning obligations works efficiently alongside CIL?**

## **1.5 Principles of CIL Rate Setting**

The approach we have taken towards CIL is in accordance with the legislative requirements of the Regulations and has been evidenced where necessary. In addition, we have adopted some key objectives to guide our approach as follows:

- **Certainty** – To give maximum certainty to developers about the cost of development and to communities about the benefit of development.
- **Simplicity** – To create maximum simplicity in our approach to CIL charging.
- **Viability** – To ensure that the growth necessary to deliver the vision for Plymouth is not compromised.

## 2. SCOPE OF THIS CONSULTATION

### 2.1 Stages of Consultation

This document is the first formal step required to adopt a CIL charging schedule. We have already carried out some initial discussions with Developer and Registered Provider representatives to help inform our assumptions and now we are ready to seek wider views. We are keen to ensure that any CIL is set at an appropriate rate having regard to evidence of development viability and the funding gap we have for delivering the infrastructure needed to accommodate growth in the city.

Once we have considered all of the representations received we will produce a Draft Charging Schedule which will be subject to a further consultation period. This will be followed by an independent examination to ensure our approach is sound and that all unresolved representations get a proper hearing.

### 2.2 Legislative Requirements

This section sets out some, but not all of the important legislative requirements relating to CIL, including what issues will be considered at examination and how it can be used once it is adopted.

#### *CIL Regulation 14*

Charging authorities wishing to introduce CIL should propose a rate which does not put at serious risk the overall development of their area. The charging authority must aim to strike an appropriate balance between:

- The desirability of using CIL to help fund (in whole or in part) infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and,
- The potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.

#### *CLG Community Infrastructure Levy Guidance – Charge Setting and Charging Schedule Procedures*

This Government guidance states that the ‘*examiner should not use the CIL examination to question a charging authority’s choice in terms of ‘the appropriate balance’, unless the evidence available to the examination shows that the proposed rate (or rates) will put the overall development of the area at serious risk.*’ It is important to note that the scope of the examination will be to assess the impact of CIL on overall development viability, not individual cases.

## 2.3 Spending Receipts Collected Through CIL

The CIL Regulations provide local authorities with significant flexibility when it comes to the expenditure of CIL receipts, although the overall objective of CIL is to provide resources to help address the infrastructure needs arising from development.

The Government's is currently consulting on whether and how a 'meaningful proportion' of CIL receipts should be spent within the vicinity of any development that pays CIL<sup>1</sup>. However, CIL is primarily designed as a tool to help fund higher cost strategic infrastructure (e.g. schools and major transport improvements) so that an area grows in a sustainable way.

The question of how CIL receipts are used is not a matter for the examination into the CIL Charging Schedule. However, we will publish proposals relating to how CIL receipts will be used in Plymouth when we adopt, or before adoption of our CIL Charging Schedule.

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<sup>1</sup> See <http://www.communities.gov.uk/publications/planningandbuilding/cilreformconsultation>

### **3. PLYMOUTH'S CIL EVIDENCE – FUNDING GAP, VIABILITY, AND GEOGRAPHICAL DIFFERENTIATION**

The section below addresses two main issues: The 'Funding Gap Analysis' is intended to show that there is a sufficient aggregated deficiency in infrastructure funding to warrant the proposed CIL rate. The 'Viability Evidence' demonstrates that there is scope to set the proposed CIL rate at a level which will not put the overall development of the area at serious risk. This section also describes our approach towards setting different rates in different geographical areas of the city.

#### **3.1 Funding Gap Evidence**

In July 2011 Plymouth City Council published its Infrastructure Needs Assessment (INA), an assessment of the infrastructure needed to support the growth of Plymouth. In particular it assessed the strategic infrastructure requirements which facilitate the proposals set out in the LDF Core Strategy. Using this evidence base we have produced a 'Plymouth Infrastructure Needs Assessment Funding Gap Analysis', which is available on our website alongside this PDCS.

The funding gap analysis focuses on infrastructure which we have identified as being 'critical' or 'becoming critical' to the accommodation of growth in Plymouth. Infrastructure identified as being 'critical' to accommodating growth in Plymouth needs to be delivered within the next five years, whereas most of the infrastructure identified as 'becoming critical' needs to be delivered within the next five to ten years. The document demonstrates that there is a considerable aggregate funding gap, and therefore ample justification for the introduction of a CIL in Plymouth.

#### **Question:**

**(iii) Do you agree that the 'Plymouth Infrastructure Needs Assessment Funding Gap Analysis' shows that there is a sufficient justification for introducing CIL?**

#### **3.2 Viability Evidence**

Our viability evidence includes two key elements, firstly a set of assumptions and scenarios that reflect the economics of property development in Plymouth, and secondly a series of viability appraisals that test sensitivities around the assumptions and scenarios. These are complemented by a narrative that explains how the proposed CIL rates have been derived from the appraisal results.

The provision of affordable housing is necessary to provide for the needs of Plymouth's communities, and is a critical consideration in evaluating residential development economics. Affordable housing provision can be secured through planning obligations, but this has significant implications for the viability of housing schemes.

Policy CS15 of our Adopted Core Strategy (April 2007) sets out our policy on affordable housing. We seek 30% provision of affordable housing on sites of 15 homes or more, subject to development viability. In the current adverse economic conditions, the achievement of 30% has in most cases proved unachievable on viability grounds. As a result, and in the interests of supporting our local economy, we have taken a flexible approach to negotiating affordable housing and other planning obligations, as set out in our Market Recovery Scheme. This has allowed for a reduction of up to 50% in affordable housing provision where this can be justified through an open book appraisal (i.e. 15% rather than 30% of total provision). Our approach has enabled developments to proceed even during the worst national economic conditions in a generation.

In the circumstances, our evidence suggests that it is appropriate to base our CIL rate on a scenario in which 15% affordable housing is delivered. This does not mean that we will not negotiate for a higher level at planning application stage, but it does mean that our CIL rate does not start from the premise that a development is unviable. This would be the case were the CIL rate to be calculated on the premise that each residential development would deliver 30% affordable housing.

Our evidence suggests that the provision of affordable housing is often not cost neutral – it does not generate a level of income which is sufficient for developers to cover their build costs.

These matters are addressed in more detail in the Viability Evidence that accompanies this Preliminary Draft Charging Schedule.

The proposed rates for non-residential uses have been generated through a similar process as that used for residential development. These too are justified in the narrative that is part of the Viability Evidence. (The proposed CIL rates are presented in Chapter 5 below).

**Question:**

- (iv) Do you consider that the key assumptions that underlie the Viability Evidence are appropriate? If not, what alternative assumptions would you suggest and why?**

### **3.3 Geographical Differentiation**

Following on from the principles set out in paragraph 1.5 above, we wish to avoid introducing unnecessary complexity through CIL. It would be confusing and difficult to justify charging different rates in different parts of the city and we have therefore decided not to differentiate on the basis of geography, i.e. it is proposed that the same rates will apply across the city. (The proposed CIL rates are presented in Chapter 5 below).

If we were to differentiate between different parts of the city, it would be necessary to draw precise lines on a map to identify areas or sites which are more or less able to make CIL contributions. Even where there are noticeable differences in land values between areas, (land values are one of the key factors which influence our scope to set CIL rates), drawing lines to identify where the values change would not be straightforward, and there is also strong evidence to indicate that developers / developments are able to ‘create value’ even in the areas with lowest land values.

**Question:**

- (v) Do you agree that it is best to avoid setting different rates in different parts of the city? If you disagree please explain how you would go about, and how you would justify setting different rates in different areas.**

## 4. AFFORDABLE HOUSING

Under the existing CIL regulations affordable housing is specifically excluded from being delivered through CIL receipts, and therefore Section 106 planning obligations are the key tool for securing affordable housing through the planning process. However, the Government is currently consulting on whether it should allow local authorities to deliver affordable housing through CIL, or through a combination of Section 106 and CIL – see footnote 1 on page 5. We think these options should be considered. Some of the issues to reflect on are identified below:

- It remains an important policy objective of Government to secure affordable housing ‘on-site’ and in mixed communities. This is also an objective of our Core Strategy. If affordable housing was to be delivered through CIL, or through a combination of Section 106 and CIL, new mechanisms could be needed to secure affordable houses in the locations and on the sites where they are most needed.
- The negotiation of affordable housing through the planning application process can be difficult. A CIL, or Section 106 plus CIL based approach has the potential to simplify the planning application process.

We will keep the options under close review until clarity is provided through the adoption of amended CIL Regulations by Government. It is important to note that while the current Government consultation (see footnote 1 on page 5) seeks views on whether the CIL Regulations should be amended to provide for affordable housing to be delivered through CIL or through a combination of Section 106 and CIL, the Draft 2012 Amendment Regulations published alongside the consultation document do not propose amendments to provide for this. It could be inferred from this that the Government intends to continue to provide for affordable housing to be delivered by Section 106 in the immediate future. However, we would welcome your thoughts on whether we should move to alternative approaches to securing developer contributions for affordable housing should this become a genuine option for us in the future.

### Question:

- (vi) **What do you think are the advantages and disadvantages of delivering Affordable Housing through:**
- (i) **the current Section 106 mechanism**
  - (ii) **the CIL mechanism**
  - (iii) **a combination of both mechanisms**

**Please state your preference and give reasons for your preference. Please detail what you consider to be the main obstacles to delivering Affordable Housing on site and in mixed communities, and explain how you think they could be overcome. If you believe there are opportunities to delivery Affordable Housing in more cost-efficient ways, please explain how you think this might be achieved using your preferred delivery mechanism.**

## 5. PRELIMINARY DRAFT CHARGING SCHEDULE

Plymouth's proposed CIL rates are as follows. *Table 1 assumes affordable housing continues to be delivered through the current Section 106 mechanism.*

TABLE 1 - PROPOSED CIL RATES IN PLYMOUTH – in £s per square metre									
<b>All Other Uses**</b>	<b>B1/B2/B8**</b> (Offices, industrial units, storage and distribution)	<b>A Uses</b> (food stores of 10,000 ft <sup>2</sup> or more)	<b>A Uses</b> (shops including food stores of less than 10,000 ft <sup>2</sup> , financial and professional services, restaurants and cafes, drinking institutions, takeaways)	<b>Hotels and Cinemas</b>	<b>C2</b> (Residential institutions)	<b>Purpose-built student accommodation</b>	<b>C3</b> (high rise – 6 storeys or more <sup>§§</sup> )	<b>C3</b> (less than 15 units, non high-rise)	<b>C3</b> (15 units or more, non high-rise)
<b>£0</b>	<b>£0</b>	<b>£100</b>	<b>£30</b>	<b>£0</b>	<b>£0</b>	<b>£60</b>	<b>£0</b>	<b>£60</b>	<b>£30</b>
<p>*those parts of buildings which are not 6 storeys or more only qualify for this rate where they are located immediately below parts of buildings which are 6 storeys or more</p> <p>**none of these uses are considered to generate sufficient value to provide for CIL to be levied</p>									

The assumptions that underpin Table 1 are included in the accompanying Viability Evidence.

### Questions:

- (vii) **Do you support the proposed rates in Table 1 above? Please explain your reasoning.**
- (viii) **We have proposed different rates for different types of retail development in our Draft Charging Schedule. Do you think there are grounds on which this cannot be justified?**
- (ix) **Do you believe there are any other uses which we should consider levying CIL on? If so, which uses?**

## 6. OTHER ISSUES

In addition to the principal considerations relating to CIL rate setting discussed above, there are some other important related matters that we would like to seek your views on through this consultation.

### 6.1 Phased Payments / Instalments

The 2011 Amendments to the 2010 CIL Regulations provide for CIL Charging Authorities to determine their own instalments policy. Although we are able to seek payment of CIL in full on commencement of development, we are supportive of the principle of using phased payments to improve the viability and deliverability of development. The details of how any phased payment mechanism might operate have yet to be determined.

#### Question:

- (x) **What are your thoughts on the use of phased CIL payments? Should a proportion of CIL be payable on commencement, with other payments being staged up to the point of completion? Do you have suggestions as to how the phasing of payments should be structured? Should different payments phasing be applied to the different uses in Table I above?**

### 6.2 Payments in Kind

The CIL Regulations allow for payments in kind to be made in place of CIL receipts.

#### Question:

- (xi) **Would you utilise this flexibility if made available? How might this flexibility benefit you in the Plymouth context?**

## 7. NEXT STEPS

We are determined to set the CIL at a level that allows for the continued growth of Plymouth and thereby the achievement of the vision for the City. Development must be viable for the vision to be achieved, and the rates herein are based on the viability evidence at our disposal. Your contribution to this consultation process will be vital and we are keen to hear your thoughts to inform the debate. We look forward to receiving your comments and suggestions. Please submit your comments, by 5.00pm on Tuesday 13<sup>th</sup> December 2011, by one of the following methods:

*By post:* Planning Service, Department for Development and Regeneration, Plymouth City Council, Civic Centre, Plymouth, PL1 2AA (please mark your envelope and comments with 'CIL Preliminary Draft Charging Schedule Consultation').

*By email:* [planningpolicy@plymouth.gov.uk](mailto:planningpolicy@plymouth.gov.uk) (please put 'CIL Preliminary Draft Charging Schedule Consultation' in the subject line of your email).

*Through our online consultation portal:* see <http://plymouth.limehouse.co.uk/portal>

Following the Preliminary Draft Charging Schedule stage, we will consider all of the views that are put forward and produce a Draft Charging Schedule which will provide for representations to be made prior to that Draft Schedule's Examination. A Draft Revised Planning Obligations and Affordable Housing Supplementary Planning Document (SPD) will be published for consultation at the same time as the Draft Charging Schedule.

Once the Examination of the Draft Charging Schedule is complete, we will look to adopt a Final Charging Schedule, along with a revised Planning Obligations and Affordable Housing SPD. We will also publish details of the infrastructure on which we intend to spend CIL receipts at this time.

When development viability improves in response to changing market conditions, we may initiate a review of our adopted Charging Schedule. As laid out in the Regulations, this would require us to repeat the procedure being followed in preparing this PDCS and in moving to adoption of our initial Charging Schedule.