

# Crawley Borough Council

**Report to Overview and Scrutiny Commission  
7 September 2015**

**Report to Cabinet  
9 September 2015**

# 2

## **Crawley Community Infrastructure Levy (CIL) Draft Charging Schedule**

Report of the *Head of Strategic Housing and Planning Services*  
Report No. SHAP/50

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### **1. Purpose**

- 1.1 The purpose of this report is for Cabinet to approve the Council's Community Infrastructure Levy (CIL) Draft Charging Schedule for a six week public consultation and submission to the CIL Examiner for independent examination.

### **2. Recommendations**

- 2.1 To the Overview and Scrutiny Commission:

That the Commission consider the report and decide what comments, if any, it wishes to submit to the Cabinet.

- 2.2 To the Cabinet

- 2.21 The Cabinet is recommended to:

- a) approve the Draft Charging Schedule, and supporting evidence including the Draft Regulation 123 List for a statutory six week consultation period as set out in Appendix 1 and 2.
- b) delegate authority to the Head of Strategic Housing and Planning Services in consultation with the Cabinet Member for Planning and Economic Development to consider the representations received from the statutory consultation period and to make minor amendments to the Charging Schedule deemed necessary, before submission to the CIL Examiner for independent examination.
- c) delegate the approval of any additional evidence or statements or minor amendments required as part of the CIL Examination to the Head of Strategic Housing and Planning Services in consultation with the Cabinet Member for Planning and Economic Development.

### **3. Reasons for the Recommendations**

- 3.1 The Crawley Borough Local Plan 2030 is in its final stages of adoption and the Council is looking to develop its Community Infrastructure Levy (CIL) that will set a charge on new development to help fund infrastructure set out in the Local Plan.

Following a commitment by the Council to adopt and implement the CIL in Crawley, the procedure set out in the CIL Regulations 2010 (as amended) must be followed. In line with this, a CIL Preliminary Draft Charging Schedule was prepared and consulted on in February-March 2015. The Charging Schedule sets out the proposed charges for each development for the borough and is supported by the following evidence base documents:-

- Draft Regulation 123 List: - a list of infrastructure types or schemes to be wholly or partly funded by money raised through CIL.
- Whole Plan and CIL Viability Assessment: - this provides justification for the rates proposed in the Charging Schedule.
- Infrastructure Delivery Schedule: - to demonstrate that there is an infrastructure funding gap in Crawley.

3.2 In order to progress towards the adoption of CIL and to use the income from new development to fund infrastructure, the Council must approve the CIL Draft Charging Schedule and its supporting evidence. There is then a statutory six week public consultation period held, before the Council submits its CIL rates to the CIL Examiner for independent examination in public.

## **4. Background**

### What is CIL?

- 4.1 CIL was introduced by the Planning Act 2008 and its application in subsequent CIL Regulations issued in 2010 and amended thereafter, as a tool which local authorities can choose to charge on new development within its area, when it is viable to do so. The money raised by the levy will help to provide funds to assist in the delivery of a wide range of infrastructure to support development in Crawley.
- 4.2 The purpose of CIL is to gain financial contributions from certain viable types of development to help fund new or improved infrastructure to support the level of growth identified in the Crawley Borough Local Plan 2015-30. Although CIL will make a contribution to bridging the infrastructure funding gap, other funding sources will still be necessary.
- 4.3 The CIL charge is based on a calculation related to £'s per m<sup>2</sup> of net additional floorspace and is payable on 'buildings that people normally go into'. The charge will apply to development of 100m<sup>2</sup> or more, or the creation of a single dwelling, even if under 100m<sup>2</sup>. There are a number of exemptions to this; including affordable housing, self-build housing and starter homes.
- 4.4 CIL has a number of advantages over the current system of Section 106 planning agreements. This includes:-
- More transparency, meaning there is greater certainty for developers over what they will pay and also allows the Council to plan more effectively for infrastructure.
  - 15% of CIL receipts are to be allocated for spending in agreement with the local community, in the area where the development is taking place.
  - Payment is non-negotiable, which helps to speed up the planning process.
  - CIL money can be pooled to fund infrastructure and has the flexibility to be spent on infrastructure priorities identified across the borough, rather than for specific purposes as with S106 agreements.

- 4.5 The Council will be responsible for calculating the individual levy payments and ensuring the payment is made. Payment is due from the date of commencement of the liable development. The whole amount must be paid within 60 days of commencement, unless the Council adopts an instalments policy, which is under consideration.
- 4.6 The collection process for the levy operates on the exchange of formal notices, with the collection process steps as follows:-
- The person(s) who pay CIL provide the Council with an Assumption of Liability Notice, required with the planning application;
  - A Liability Notice is issued by the Council along with the planning permission decision, stating how much CIL is payable. The responsibility to pay the levy lies with the landowner;
  - Before the development starts the developer provides the council with a Commencement Notice, providing the start date;
  - The Council will then issue a Demand Notice to ensure that payment is received within 60 days of commencement.

#### S106 Planning Agreements under The Town and Country Planning Act 1990 and CIL

- 4.7 Since April 2015, the Council is no longer able to pool more than five planning obligations (S106 agreements) to pay for a single infrastructure project or type of infrastructure. This will make it difficult to use S106 agreements to secure appropriate funding to help deliver the level of infrastructure necessary to support development.
- 4.8 The introduction of CIL will allow the Council to pool money to fund and deliver the strategic or boroughwide infrastructure required to support development and growth set out in the Crawley Borough Local Plan 2030.
- 4.9 However, S106 agreements will still have a role to play. They will still be used to secure affordable housing and to mitigate the direct impact of a development on individual sites i.e. a new traffic junction or pedestrian crossing etc. In accordance with regulation 122 of the CIL regulations 2010 (as amended), planning obligations should only be used where they meet the following tests:-
- They are **necessary** to make the development acceptable in planning terms
  - They are **directly** related to the development
  - They are **fairly and reasonably** related in scale and kind to the development
- 4.10 To ensure that both S106 agreements and CIL are complementary to one another and to avoid double charging, the Council must publish a Regulation 123 List which sets out the types of infrastructure it intends to fund through CIL money. This means that S106 agreements will not be used to fund such infrastructure. The purpose of the List is to ensure that there is no duplication between CIL and section 106 contributions. The publication of the List provides clarity for all concerned. A draft Regulation 123 List will be published as part of the consultation and is set out in Appendix 2.
- 4.11 A draft Supplementary Planning Document (SPD) will also be prepared to provide further guidance on how CIL and S106 agreements will work together in practice. This will replace the current Planning Obligations SPD (2008). This could be adopted following adoption of CIL but work on a draft will be initiated in early 2016 to provide initial Crawley specific guidance.

- 4.12 Please see Appendix 3 for an example of how S106 agreements and CIL can work together in practice.

## 5. Progress to Date

- 5.1 The Charges proposed in the Charging Schedule are based on a viability assessment, which we commissioned Nationwide CIL Services to undertake for both the Local Plan and CIL.
- 5.2 The viability study assesses the economic viability of housing and commercial development proposed across the area covered by the Local Plan 2015-30 and the ability of these developments to make contributions to infrastructure through a Community Infrastructure Levy.

### Preliminary Draft Charging Schedule Consultation

- 5.3 Following the commitment by the Council to implement a CIL charge in Crawley, an initial six week consultation on a Preliminary Draft Charging Schedule took place from 16th February-30<sup>th</sup> March 2015. The consultation was primarily web-based, with invitations sent by email and post to interested parties, including the development industry, landowners, statutory consultees and local and national businesses.
- 5.4 The rates proposed at this stage were as follows:-

Use	Charge (£ per sqm)	Zone
Residential	£100	Boroughwide
Retail A1-A5	£80	Boroughwide
Industrial	£20	Airport Zone (safeguarded land and airport boundary)
All other uses	£0	Boroughwide

- 5.5 Ten responses were received. This included responses from WSCC, infrastructure providers, Gatwick Airport Ltd, British Airways, technical stakeholders, landowners and retail providers. No representations were received on the proposed residential levy. Details of responses received to the preliminary consultation are summarised below.
- 5.6 The main issues in responses focused on the £20 industrial charge within the proposed airport zone, the £80 retail charge, car parking, the Regulation 123 List and the Infrastructure Delivery Schedule.
- £20 Industrial Charge: British Airways suggested that operational land within the airport should be excluded from CIL and so should be a £0 CIL charge.
  - £80 Retail Charge: ALDI and Gatwick Airport raised concerns over the single charge for all forms of retail development and requested further scenario testing to be undertaken.
  - Car Parking: Gatwick Airport requested that car parking should be reflected in the cost appraisals and that a £0 is applied to ancillary car parking.

- Regulation 123 List: English Heritage suggested that protecting, enhancing and conservation of heritage assets should be added to the list to be funded by CIL. Whilst Gatwick Airport sought clarification over infrastructure set out in Gatwick's capital investment programme and whether they will be funded by CIL or S106.
- Infrastructure Delivery Schedule: Network Rail and WSCC requested a number of infrastructure projects to be added to the Schedule which could be eligible for CIL funding.

## 6. CIL Viability Update and Findings 2015

6.1 Following the close of the consultation, the Council's viability consultants undertook an update to the CIL Viability Assessment. The purpose of this was to explore the issues and questions raised during the consultation and to undertake new commercial viability appraisals and scenario testing. This will ensure that the charges proposed are based on the most up to date evidence.

6.2 The update included:-

- further analysis of the proposed airport charging zone
- further scenario testing on the retail charge
- exploring issues relating to Gatwick Airport, the airport boundary and safeguarding
- clarity regarding car parking provision

### Proposed New Charges

6.3 After considering all responses made at the Preliminary Draft Consultation and undertaking additional viability work, the Draft Charging Schedule has now been revised and includes the following charges:-

Use	Charge (£ per sqm)	Zone
Residential	£100	Boroughwide
General Retail A1-A5 excluding Food Supermarket	£50	Boroughwide (outside airport zone)
Food Supermarket Retail A1 (less than 3000sqm)	£100	Boroughwide (outside airport zone)
Food Supermarket Retail A1 (3000sqm plus)	£150	Boroughwide (outside airport zone)
All other uses	£0	Boroughwide

*\*ancillary commercial car parking structures will not be subject to CIL Charges.*

## Gatwick Airport (GAL)

- 6.4 With their focus being on promoting a second runway, GAL have not yet developed a new detailed masterplan for growth of the airport with a single runway, or two runways. GAL is anticipated to commence work on a new masterplan in early 2016, in close consultation with CBC and WSCC, with publication in 2017 assuming there is a clear Government decision about the location of future runway expansion. As it is not yet clear what scale, type or location of development is likely to take place at Gatwick, it is not possible to assess development viability with any degree of certainty at this time. It is also not possible to determine what the infrastructure requirements to support this new development might be, and therefore whether or not there is an infrastructure funding gap.
- 6.5 The 2030 Borough Local Plan identifies a clearly defined boundary for the airport, and contains Gatwick site specific policies. Within this area, unique permitted development rights, and operational requirements exist. There is also a S106 Legal Agreement between GAL, CBC and WSCC which covers specific operational, monitoring and financial commitments for the airport operating as a single runway two terminal airport. A new S106 legal agreement would be negotiated alongside development of the new masterplan for growth of Gatwick in either the single or two runway scenarios. This work would include identification of any site specific infrastructure required to support the growth of the airport.
- 6.6 Currently, it is considered that, because the level of development and infrastructure needs are not yet known, and because infrastructure serving development at Gatwick Airport is likely to be site specific, it is not appropriate to establish CIL rates for development within the defined airport zone. It is anticipated that infrastructure requirements will be significant and will be dealt with through the development of the new site specific S106 agreement. The Council will reconsider this position on CIL rates for the airport zone once there is more certainty with regard to the emerging masterplan for single or two runway airport growth, the costs of any S106 agreements relating to the future development, and a the impact on infrastructure across the borough. This approach has been supported by GAL with an agreement to review as the information or decisions at national government level evolve. CIL rates can be reviewed at any time, subject to the necessary process of consultation and examination.

## Industrial

- 6.7 Industrial development viability has altered significantly since the initial assessments were carried out, having been previously positive. The revised cost assessment indicated that industrial construction costs have risen sharply and this largely accounts for the significant change in the viability position. The industrial charge has, therefore been removed from the Charging Schedule.
- 6.8 Further analysis of the viability of office development may be necessary once a final government decision is made over future runway expansion at either Heathrow or Gatwick Airport, and once Gatwick have produced a masterplan for future development at the airport.

## Retail

- 6.9 In response to the comments raised at the consultation stage regarding the initial commercial viability study, further more detailed assessments have been undertaken into the viability of retail development. The assessments have now looked at the potential for differential charges for food supermarket and general retail, which were

assessed on the basis of both the particular A use-class (i.e. A1/A2/A3 etc.) and scale. All types of retail use were found to be viable though very different viability margins were identified according to their use and scale.

- 6.10 General retail rates (A1-A5) of the scale and type envisaged to emerge over the plan period indicated potential rates of £99-£187 per sqm dependent on brownfield or greenfield scenarios.
- 6.11 Potential Food Supermarket rates varied significantly dependent on scale. The smaller convenience and supermarket appraisals for units under 3000sqm indicated rates of £226-£423 dependent on greenfield or brownfield scenarios. The larger supermarket and superstore tests demonstrated much higher CIL potential of £583-£764 dependent on greenfield or brownfield scenarios.
- 6.12 The consultants have taken caution in respect of large scale food retail rates as transactional evidence is low due to a lack of activity in the sector. As specific retail projects emerge, it is likely that landowners will expect significant premiums in order to release sites, which may reduce viability significantly. This has been taken into account when setting the rates, with a buffer of around 30-40% for commercial retail rates and because rates cannot be set based on existing use (only on proposed use), brownfield rates should generally be used at the starting point.

### Car Parking

- 6.13 The updated viability appraisals do not make allowances for any external car parking beyond surface spaces. It is acknowledged that certain uses e.g. retail/office/leisure may require multi storey/undercroft car parking in order for their commercial operation to function, without necessarily gaining additional revenue or value. The costs of such ancillary car parking structures are not allowed for in the viability appraisals as it is not considered to be likely in most types of development.
- 6.14 Nevertheless, where it is required it is accepted that CIL charges on such spaces may place an unreasonable burden and threaten the viability of the development. This issue was tackled effectively at the Worthing CIL Examination in November 2014. The Inspector concluded that, given the potential for CIL to undermine the viability of retail development incorporating ancillary car parking, it is appropriate to specifically exclude ancillary car parking from the CIL charge.
- 6.15 Therefore, in light of this, a note will be added to the Draft Charging Schedule to clarify that ancillary commercial car parking structures are excluded from any CIL charges.

## **7. Next Steps**

- 7.1 A six week consultation on the Draft Charging Schedule is due to take place in September to October 2015. Following this, minor modifications can be made to the Charging Schedule where appropriate; these will be published for comment, before submission to the CIL Examiner.

The proposed timetable is set out below:-

Stage	Date
Preliminary Draft Charging Schedule Consultation	16 February – 30 March 2015 (6 weeks) (Completed)
Update to CIL Viability Assessment	End of July 2015
Advertise the new viability evidence and the anticipated start of Consultation in September	August 2015
Cabinet Approval to publish for consultation the Draft Charging Schedule	9 September 2015
Draft Charging Schedule Consultation	September – October 2015 (6 weeks)
Potential for further additional 4-week consultation on any modifications proposed to the Draft Charging Schedule	November 2015
Submission to CIL examiner	November 2015
CIL Examination	February 2016
Adoption Of CIL- Full Council	April 2016

- 7.2 CIL places the onus and responsibility on the charging authority (the Council) to ensure that the right infrastructure is provided at the right time by a range of infrastructure providers. This will also consider the distribution mechanisms for the 15% local fund. Therefore, a clear governance structure will need to be developed alongside the adoption of CIL to ensure that CIL money is prioritised and allocated appropriately. It is the intention that this will be developed between September-February and will be available for consideration by Cabinet prior to adoption in April 2016. An early meeting with officers at WSCC is planned for September.

## **8. Information & Analysis Supporting Recommendation**

- 8.1 It is clear from the Government that CIL is the preferred mechanism for pooling developer contributions from numerous sites. Cabinet could decide not to proceed with measures to introduce CIL and continue to rely on section 106 planning obligations and existing funding arrangements to meet the infrastructure that's required. However, as of April 2015, the Council will no longer be able to pool more than five planning obligations (S106 agreements) to pay for a single infrastructure project or type of infrastructure. This change will place severe restrictions on the use of S106 agreements to secure appropriate funding to help deliver the scale and level of infrastructure necessary to support development.
- 8.2 The charges proposed in the Draft Charging Schedule are based on a robust viability assessment and are considered to strike a balance between securing additional investment for infrastructure and the potential economic effect of imposing the levy upon development across the borough. Although, the introduction of CIL is not compulsory, it is considered that implementing a CIL in Crawley would be the recommended option and should be progressed in a timely manner.



## **9. Implications**

- 9.1 Staffing implications for the implementation and governance of CIL will be met through existing staff resources.
- 9.2 The CIL is a clear and non-negotiable charge which provides greater transparency for both developers and the council. Once implemented, it has the potential to generate approximately £9,000,000 for infrastructure funding over the Local Plan period 2015-30.
- 9.3 The allocated Local Plan budget includes funds to cover the costs of the works associated with adopting CIL, including consultant's fees, consultation and the CIL Examination. However, as detailed in the CIL regulations, the Council can use up to 5% of their total levy receipts to recover administrative expenses associated with adopting CIL.
- 9.4 The CIL regulations also require that 15 % of levy receipts are allocated for spending in agreement with the local community where the development is taking place. This will require engagement with the local community on identifying local infrastructure priorities and may be achieved using existing consultation and engagement processes.
- 9.5 The Council must produce a Regulation 123 list which will show the infrastructure that the council will expect to provide through CIL (Appendix 2)
- 9.6 The Council can review its CIL if circumstances change in the future, such as the economic climate or more certainty over future growth at Gatwick Airport.
- 9.7 The process for the introduction of CIL as set out in this report is in accordance with the Community Infrastructure Levy Regulations 2010 as amended.

## **10. Background Papers**

- Preliminary Draft Charging Schedule (Feb 2015)  
<http://www.crawley.gov.uk/pw/web/PUB241226>
- Emerging Viability Assessment Update (August 2015) NCS
- Viability Assessment (April 2015) NCS  
<http://www.crawley.gov.uk/pw/web/PUB250730>
- Infrastructure Delivery Schedule (February 2015)  
<http://www.crawley.gov.uk/pw/web/PUB241225>
- Emerging Infrastructure Delivery Schedule Update (August 2015)
- Crawley 2030: The Crawley Borough Local Plan 2015-30  
<http://www.crawley.gov.uk/pw/web/PUB260009>

Report author and contact officer:

Bethany Lester

[bethany.lester@crawley.gov.uk](mailto:bethany.lester@crawley.gov.uk)

01293 8008

## **Appendices**

Appendix 1: Draft Charging Schedule

Appendix 2: Draft Regulation 123 List

Appendix 3: Example of a Planning Application

# Crawley Community Infrastructure Levy:

Draft Charging Schedule  
September– October 2015



# Consultation: Draft Charging Schedule

(Regulation 16 of the CIL Regulations 2010, as amended)

## September – October 2015 (6 weeks)

The consultation on the Draft Charging Schedule is the second stage in preparing the Community Infrastructure Levy for Crawley. Once this period of consultation closes, all comments will be considered before submitting the Draft Charging Schedule and supporting evidence to an independent Planning Inspector for examination.

All comments must be submitted in writing by using one of the following methods:

### By Post:

Forward Planning  
Crawley Borough Council  
Town Hall  
The Boulevard  
Crawley  
RH10 1 UZ

### By Email:

[forward.planning@crawley.gov.uk](mailto:forward.planning@crawley.gov.uk)

By law, representations cannot be made anonymously. Please provide your name, company name (if applicable) and your client's name/company (if applicable). Please note that representations will be made publically available, along with your name.

During the consultation period all the documents relating to this consultation can be viewed online at [www.crawley.gov.uk/communityinfrastructurelevy](http://www.crawley.gov.uk/communityinfrastructurelevy)

For further information please contact the Forward Planning Team by email at [forward.planning@crawley.gov.uk](mailto:forward.planning@crawley.gov.uk) or call us on 01293 438624.

## Introduction

The Draft Charging Schedule (DCS) is the second stage in setting a Community Infrastructure Levy in Crawley. This DCS sets out the proposed charges on development for public consultation. Following this, all consultation comments received along with the Draft Charging Schedule and supporting evidence including

the draft Regulation 123 List will be submitted to the CIL Examiner for independent examination.

## What is CIL?

CIL was introduced by the Planning Act 2008 as a tool which local authorities can choose to charge on new development within its area, when it is viable to do so. The money raised by the levy will help to provide funds to assist in the delivery of a wide range of infrastructure to support development in Crawley.

The purpose of CIL is to gain financial contributions from certain viable types of development to help fund new or improved infrastructure to support the level of growth identified in the Crawley Borough Local Plan. Although CIL will make a contribution to bridging the infrastructure funding gap, other funding sources will still be necessary.

The CIL charge is based on a calculation related to £'s per m<sup>2</sup> of net additional floorspace and is payable on 'buildings that people normally go into'. The charge will apply to development of 100m<sup>2</sup> or more, or the creation of a single dwelling, even if under 100m<sup>2</sup>. There are a number of exemptions to this; including affordable housing, self-build housing and starter homes.

## Reasons for Implementing CIL in Crawley

CIL has a number of advantages over the current system of Section 106 planning agreements. This includes:-

- More transparency, meaning there is greater certainty for developers over what they will pay and also allows the Council to plan more effectively for infrastructure.
- 15% of CIL receipts are to be allocated for spending in agreement with the local community, in the area where the development is taking place.
- Payment is non-negotiable, which helps to speed up the planning process
- CIL money can be pooled to fund infrastructure and has the flexibility to be spent on infrastructure priorities across the borough, rather than for specific purposes as with S106 agreements.

## S106 and CIL

Since April 2015, the Council is no longer able to pool more than five planning obligations (S106 agreements) to pay for a single infrastructure project or type of infrastructure. This will make it difficult to use S106 agreements to secure appropriate funding to help deliver the level of infrastructure necessary to support development.

The introduction of CIL will allow the Council to pool money to fund and deliver the strategic or boroughwide infrastructure required to support development and growth set out in the Crawley Borough Local Plan 2030.

However, S106 agreements will still have a role to play. They will still be used to secure affordable housing and to mitigate the direct impact of a development on individual sites i.e. a new traffic junction or pedestrian crossing etc. In accordance with regulation 122 of the CIL regulations 2010 (as amended), planning obligations should only be used where they meet the following tests:-

- They are **necessary** to make the development acceptable in planning terms
- They are **directly** related to the development
- They are **fairly and reasonably** related in scale and kind to the development

To ensure that both S106 agreements and CIL are complementary to one another and to avoid double charging, the Council must publish a Regulation 123 List which sets out the types of infrastructure it intends to fund through CIL money. This means that S106 agreements will not be used to fund such infrastructure. The purpose of the List is to ensure that there is no duplication between CIL and section 106 contributions. The publication of the List provides clarity for all concerned. A draft Regulation 123 List will be published as part of the consultation and is set out in Appendix 2.

A draft Supplementary Planning Document (SPD) will also be prepared to provide further guidance on how CIL and S106 agreements will work together in practice. This will replace the current Planning Obligations SPD (2008). This could be adopted following adoption of CIL but work on a draft will be initiated early 2016 to provide initial Crawley specific guidance.

### What is a charging schedule?

The CIL Charging Schedule sets out the proposed CIL charges that the Council intends to charge on development within its area. The charges proposed must be informed by appropriate available evidence and must strike a balance between the desirability of funding the total cost of infrastructure required to support development of its area and the effects of CIL on the economic viability of development.

The CIL Regulations 2010 (as amended) require the Council to undertake two stages of public consultation on the proposed Charging Schedule, followed by an examination by an independent Planning Inspector. The first stage of consultation on a Preliminary Draft Charging Schedule took place in February-March 2015. Taking representations made at the preliminary stage into account, this Draft Charging Schedule is the Second Stage of consultation required.

## **Evidence Base**

This Draft Charging Schedule is supported by the following evidence base documents:-

- Crawley 2030: The Crawley Borough Local Plan 2015-2030 (2014)
- The Crawley Infrastructure Plan supporting the Local Plan (2014)
- The Infrastructure Delivery Schedule (2015)
- Crawley Borough Council Whole Plan and CIL Viability Assessment (August 2015) NCS

## Crawley 2030: The Crawley Borough Local Plan 2015-30

Crawley 2030, the Crawley Borough Local Plan 2015-30 sets the way forward for planning the future of the town over the next 15 years. Once adopted, the document will provide the basis for future planning decisions in Crawley. The Plan includes a housing requirement for a minimum of 5,100 net dwellings over the Plan period.

Policy IN1: Infrastructure Provision of the Local Plan (2014)<sup>1</sup> makes reference to CIL and seeks to ensure that all new development is supported by the necessary infrastructure and that developers will be expected to contribute to meeting the need for additional infrastructure generated by their development.

The Infrastructure Plan (November 2014) was prepared to support the Local Plan and demonstrates that the overall level of growth proposed by the Plan can be supported by both existing and proposed infrastructure. This has been developed into the Infrastructure Delivery Schedule (2015) which demonstrates the infrastructure funding gap in Crawley.

## The Infrastructure Delivery Schedule (IDS) 2015

An Infrastructure Delivery Schedule has been prepared to show the types of infrastructure that will be required to support growth set out in the Local Plan. This has been informed by information in the Crawley Infrastructure Plan Nov 2014.

The schedule has identified the total cost of infrastructure that it wishes to fund in whole or in part from the levy by considering the costs of individual schemes required and other funding sources that may be available. This work has demonstrated that there is an infrastructure funding gap in Crawley of approximately £122,036,177. This justifies the need for implementing CIL.

Once implemented CIL has the potential to generate approximately £9,000,000 over the Local Plan period 2015-30. This will not fund all the infrastructure required, but it will make a significant contribution to bridging the funding gap identified. The IDS will form the basis of the Regulation 123 List which has been prepared to show the types of infrastructure that the council intends to fund wholly or partly by CIL.

## Crawley Borough Council Whole Plan and CIL Viability Assessment (August 2015)

Following the close of the Preliminary Draft Charging Schedule consultation, the Council's viability consultants undertook an update to the April 2015 Whole Plan and CIL Viability Assessment. The purpose of this was to explore the issues and questions raised during the consultation and to undertake new commercial viability

<sup>1</sup> Crawley 2030: The Crawley Borough Local Plan 2015-30 p115. Crawley Borough Council;

appraisals and further scenario testing. This was to ensure that the charges proposed are based on the most up to date evidence.

The update included:-

- Further analysis of the proposed industrial charge in the Airport Zone.
- Further scenario testing on the retail charge
- Exploring issues relating to Gatwick Airport, the airport boundary and safeguarding
- Clarity regarding car parking.

## The Charges

After considering all responses made at the Preliminary Draft Consultation and undertaking additional viability work, the Draft Charging Schedule has now been revised and includes the following charges:-

Use of Development	Proposed Charge (£ per sqm)	Zone
Residential	£100	Boroughwide
General Retail A1-A5 (excluding Food Supermarket)	£50	Boroughwide (Outside of the Airport Zone)
Food Supermarket A1 (less than 3000sqm)	£100	Boroughwide (Outside of Airport Zone)
Food Supermarket A1 (3000sqm plus)	£150	Boroughwide (outside of Airport Zone)
All other uses	£0	Boroughwide

\*ancillary commercial car parking structures will not be subject to CIL charges

### Residential

The results of the viability testing clearly demonstrate that Affordable Housing delivery at the council's policy target of 40% plus a nominal 10% Low Cost Housing enables delivery of residential development proposed by the Plan with a substantial viability margin for flexibility and potentially permitting a significant viability margin for CIL.

The testing showed that the Crawley Local Plan Policies are viable and all forms of residential development are capable of yielding significant levels of CIL. Based on a 20% profit return on all residential development (with no profit reduction for

affordable housing), Greenfield development demonstrated viable CIL rate potential of £356-£419 per sqm, Brownfield rates varied from £208-£345 per sqm. Using the split profit methodology with a reduced return of 10% on the affordable units, Greenfield development demonstrated viable CIL rate potential of £469-£548 per sqm, Brownfield rates varied from £318-£475 per sqm.

The viability assessment recommends that there is insufficient variations in residential value to justify a differential zone approach to setting CIL rates across Crawley. Taking account of the viability results, the generic nature of the tests, a reasonable buffer to allow for additional site specific abnormal costs the study recommended a residential CIL rate of £100 per sqm

## Industrial

Industrial development viability has altered significantly since the initial assessments were carried out, having been previously positive. The revised cost assessment indicated that industrial construction costs have risen sharply and this largely accounts for the significant change in the viability position. The industrial charge has, therefore been removed from the Charging Schedule.

Further analysis of the viability of office development may be necessary once a final government decision is made over future runway expansion at either Heathrow or Gatwick Airport, and once Gatwick Airport Limited (GAL) has produced a masterplan for future development at the airport.

## Retail

In response to the comments raised at the Preliminary Draft consultation stage regarding the initial commercial viability study, further more detailed assessments have been undertaken into the viability of retail development. The assessments have now looked at the potential for differential charges for food supermarket and general retail, which were assessed on the basis of both the particular A use-class (i.e. A1/A2/A3 etc.) and scale. All types of retail use were found to be viable though very different viability margins were identified according to their use and scale.

General retail rates (A1-A5) of the scale and type envisaged to emerge over the plan period indicated potential rates of £99-£187 per sqm dependent on brownfield or greenfield scenarios.

Potential Food Supermarket rates varied significantly dependent on scale. The smaller convenience and supermarket appraisals for units under 3000sqm indicated rates of £226-£423 dependent on greenfield or brownfield scenarios. The larger supermarket and superstore tests demonstrated much higher CIL potential of £583-£764 dependent on greenfield or brownfield scenarios.

The viability consultants have taken caution in respect of large scale food retail rates as transactional evidence is low due to a lack of activity in the sector. As specific retail projects emerge, it is likely that landowners will expect significant premiums in order to release sites, which may reduce viability significantly. This has been taken into account when setting the rates, with a buffer of around 30-40% for commercial



retail rates and because rates cannot be set based on existing use (only on proposed use), brownfield rates should generally be used at the starting point.

## Car Parking

The updated viability appraisals do not make allowances for any external car parking beyond surface spaces. It is acknowledged that certain uses e.g. retail/office/leisure may require multi storey/undercroft car parking in order for their commercial operation to function, without necessarily gaining additional revenue or value. The costs of such ancillary car parking structures are not allowed for in the viability appraisals as it is not considered to be likely in most types of development.

Nevertheless, where it is required it is accepted that CIL charges on such spaces may place an unreasonable burden and threaten the viability of the development. This issue was tackled effectively at the Worthing CIL examination in November 2014. The Inspector concluded that, given the potential for CIL to undermine the viability of retail development incorporating ancillary car parking, it is appropriate to specifically exclude ancillary car parking from the CIL charge.

Therefore, in light of this, a note has been added to the Draft Charging Schedule to clarify that ancillary commercial car parking structures are excluded from any CIL charges.

## **Charging Area**

The CIL charging area will be all areas of Crawley borough outside of the defined Airport Zone which will be exempt from CIL as shown by the Map in Appendix 1.

## Gatwick Airport

With their focus being on promoting a second runway, GAL have not yet developed a new detailed masterplan for growth of the airport with a single runway or two runways.

GAL is anticipated to commence work on a new masterplan in early 2016, in close consultation with CBC and WSCC, with publication in 2017 assuming there is a clear Government decision about the location of future runway expansion. As it is not yet clear what scale, type or location of development is likely to take place at Gatwick, it is not possible to assess development viability with any degree of certainty at this time. It is also not possible to determine what the infrastructure requirements to support this new development might be, and therefore whether or not there is an infrastructure funding gap.

The Crawley Borough Local Plan identifies a clearly defined boundary for the airport and contains Gatwick site specific policies. Within this area, unique permitted development rights and operational requirements exist. There is also a S106 legal Agreement between GAL, CBC and WSCC which covers specific operational, monitoring and financial commitments for the airport operating as a single runway

two terminal airport. A new S106 legal agreement would be negotiated alongside development of the new masterplan for growth of Gatwick in either the single or two runway scenarios. This work would include identification of any site specific infrastructure required to support the growth of the airport.

Currently it is considered that, because the level of development and infrastructure needs are not yet known, and because infrastructure serving development at Gatwick Airport is likely to be site specific, it is not appropriate to establish CIL rates for development within the defined airport zone. It is anticipated that infrastructure requirements will be significant and will be dealt with through the development of the new site specific Section 106 Agreement.

The council will reconsider this position on CIL rates for the airport zone once there is more certainty with regard to the emerging masterplan for single or two runway airport growth, the costs of any S106 agreements relating to the future development, and the impact on infrastructure across the borough. This approach has been supported by GAL with an agreement to review as the information or decisions at national government level evolve. CIL rates can be reviewed by the council at any time, subject to the process of consultation and examination.

## **Implementing CIL**

The Council will need to calculate the chargeable amount of CIL payable using the locally set rates above, multiplied by the gross internal area of new buildings and enlargements to existing buildings, taking demolished floorspace into account. The formal calculation methodology is provided in Regulation 40 of the CIL Regulations 2010 (as amended).

### Who will pay CIL?

Subject to viability considerations CIL can be levied on most types of new development which creates net additional floorspace, where the gross internal area of new build exceeds 100sqm. That limit does not apply to new houses or flats and a charge can be levied on a single house or flat of any size, unless it is built by a self-builder or is affordable housing.

### Who will not pay CIL?

The following will not pay CIL<sup>2</sup>:-

- Minor development of less than 100 sqm net additional gross internal floorspace, unless this is a whole house, in which case the levy is payable.
- houses, flats, residential annexes and residential extensions which are built by 'self-builders'
- Social (affordable) housing that meets the relief criteria set out in regulation 49/a
- Changes of use that do not increase floorspace
- Development by charitable institutions which meets the relief criteria set out in regulations 43-48.

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<sup>2</sup> Community Infrastructure Regulations (England) (2010) as amended: Part 6 Exemptions and Relief

- Buildings into which people do not normally go
- Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery
- Structures which are not buildings, such as pylons and wind turbines
- Specified types of development which local authorities have decided should be subject to a zero rate and specified as such in their charging schedules.
- Vacant buildings brought back into their previous use

The floorspace of any buildings that are demolished as part of development proposals will be off-set against the new overall floorspace liability. CIL is not charged on changes of use or internal alterations where there is no net gain in floorspace, provided that the building has been in continuous use for at least six months of the three year period preceding planning permission being granted.

It should be noted that for eligible sites CIL is non-negotiable. However, under the terms of the Regulations and statutory guidance the Council could offer discretionary relief from liability for exceptional circumstances. This would provide the Council with some flexibility to deal with individual sites where development is desirable but not considered viable. At this stage the Council has not adopted an exceptional circumstances policy, but this can be activated or deactivated at any time as long as notice is given by the Council.

### When is CIL Payable?

Payment of CIL is due from the date of commencement of the liable development. The default position is that the whole amount must be paid within 60 days of commencement, unless the Council adopts an instalments policy which is under consideration.

CIL operates on the exchange of formal notices:-

- The person(s) who pay CIL provide the Council with an Assumption of Liability Notice, required with the planning application;
- A Liability Notice is issued by the Council along with the planning permission decision, stating how much CIL is payable. The responsibility to pay the levy lies with the local landowner;
- Before the development starts the developer provides the Council with a Commencement Notice, providing the start date;
- The Council will then issue a Demand Notice to ensure that payment is received within 60 days of commencement.

### What will CIL be spent on?

Once implemented CIL has the potential to generate approximately £9,000,000 for more strategic infrastructure needs within the borough and will contribute towards bridging the funding gap between the total cost of infrastructure required to support development and the amount of funding available from other sources.

The Infrastructure Delivery Schedule (2015) identifies a range of infrastructure requirements that are considered necessary to deliver the Local Plan. This has been

developed into a Regulation 123 List which identifies general infrastructure types that will be wholly or partly funded by CIL money to ensure there is no double charging for developers.

The CIL regulations require that 15% of the levy receipts will be allocated for spending in agreement with the local community in the area where development is taking place. The Council can also use up to 5% of the levy receipts received to cover the costs of implementing the Charging Schedule.

## **Timetable and Next Steps**

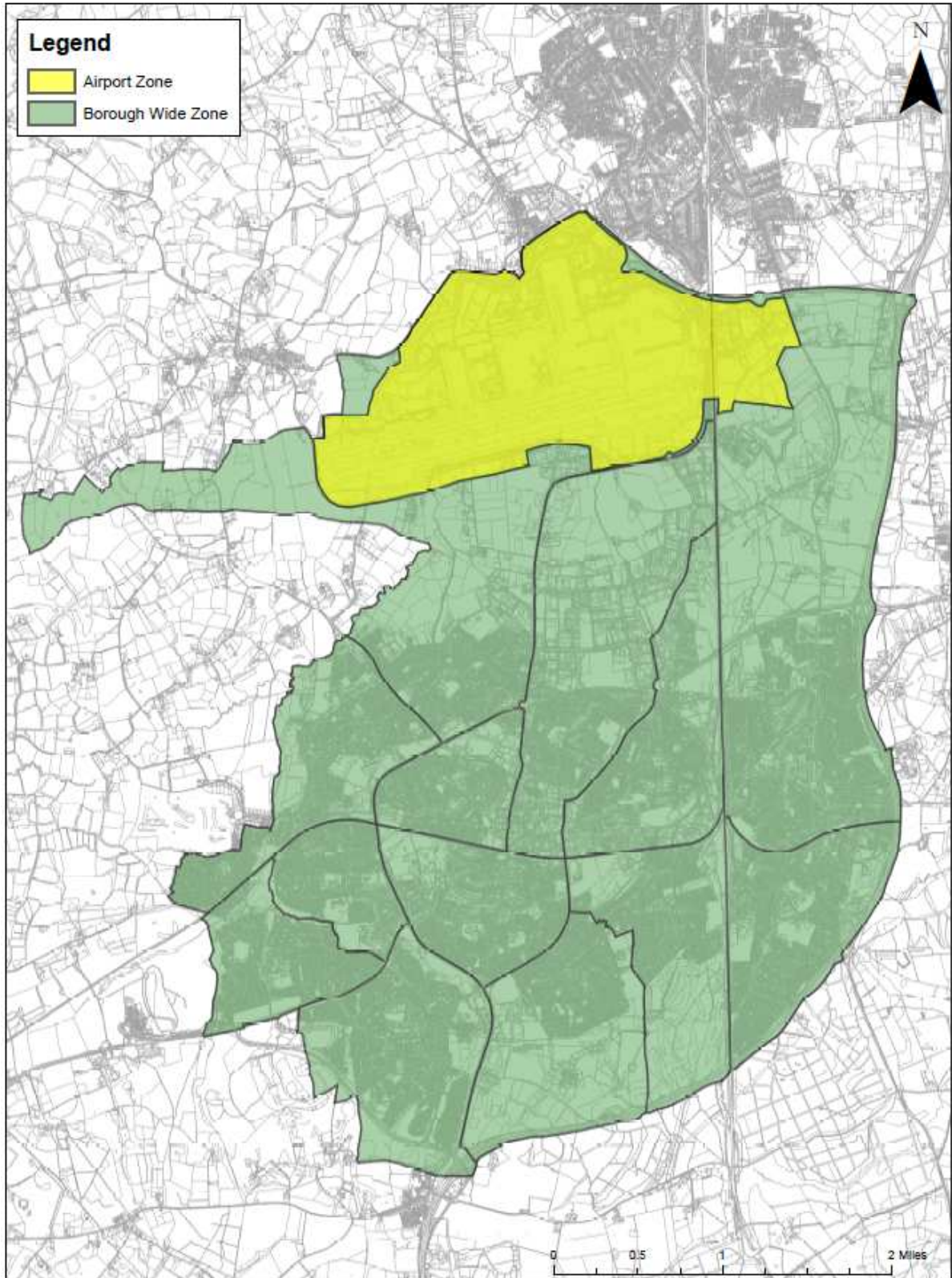
The Draft Charging Schedule together with its supporting evidence and any representations received during this stage of consultation will be submitted to an Independent Planning Inspector for examination.

The proposed timetable for the remaining stages of implementing CIL is set out below:-

<b>Stage</b>	<b>Date</b>
Preliminary Draft Changing Schedule	16 February - 30 March 2015 (6 weeks) (Completed)
<b>Draft Charging Schedule Consultation</b>	<b>September - October 2015 (6-weeks)</b>
Submission to the CIL examiner	November 2015
CIL Examination	February 2016
Adoption of CIL- Full Council	April 2016

## Appendix 1 to Draft Charging Schedule: Map of CIL Charging Area

## COMMUNITY INFRASTRUCTURE LEVY (CIL) CHARGING AREA



### Appendix 2: Draft Regulation 123 List for Consultation

Regulation 123 of the CIL Regulations requires the council to publish a list of infrastructure that it intends to fund wholly or partly through CIL money.

The purpose of the list is to distinguish between those types of infrastructure that the council intends to fund through CIL and those areas where a Section 106 Planning Agreement or S278 Highways Agreement will be sought. This will ensure that a developer/landowner is not charged twice for the same piece of infrastructure.

Once introduced, CIL will become the main mechanism for collecting infrastructure contributions from a development. S106 agreements will continue to be used for affordable housing as well as site specific mitigation from a development that may be required in order for a development to come forward (e.g. a new road junction).

The council's draft Regulation 123 List is set out in the table below. The first column provides those types of infrastructure that the Council intends to fund through CIL. This is based on those infrastructure types and projects which are set out in the Infrastructure delivery Schedule to demonstrate an infrastructure funding gap in Crawley.

The second column shows the types of infrastructure which will be provided or funded by a developer through a planning obligation (S106 agreement) and relate to site specific infrastructure requirements. In accordance with Regulation 122, the use of planning obligations will only be used when they meet the following tests:-

- Necessary to make the development acceptable in planning terms
- Directly related to the development
- Fairly and reasonably related in scale and kind to the development.

The Regulation 123 List can be amended at any time by the Council, subject to appropriate local consultation.

<b>CIL</b>	<b>S106 /S278 Agreement</b>
	Affordable Housing
	Development at Gatwick Airport (within the defined airport boundary)
Strategic Transport and Highways, including Sustainable Transport projects	Transport/sustainable transport and highways improvements which are required as a result of a development
Education	Provision of education facilities which are required as a result of a development
Open Space and Play Facilities	New provision and management of open space and play facilities which are required as a result of a development
Green Infrastructure	New provision and management of green infrastructure which is required as a result of development
Health	New provision and improvements to health facilities which are required as a result of a development
Social and Community Infrastructure	New provision and improvements to social and community facilities which are required as a result of a development
Emergency Services	New provision and improvements to public services which are required as a result of a development
Flooding	Flooding and environmental improvements which are required on site as a result of a development



### Appendix 3: Example of a Planning Application

Development Proposal	Pre- April S106 Pooling Restriction	Post April S106 Pooling Restriction with CIL Adopted	Post April S106 Pooling Restriction with No CIL Adopted
Residential Development for 30 dwellings on a brownfield site which has been cleared, with no existing building.	S106= £173,000.00 approx	CIL= £162,000 approx + possible S106 contribution for site specific mitigation, but amount unknown until an application comes in.	S106 contribution for site specific mitigation, but amount unknown until an application comes in.  Pooling restriction will apply.