

Community Infrastructure Levy (CIL): Draft Charging Schedule

Report of the Director of Regeneration and Strategy

1. Purpose of Report

- 1.1 This report outlines proposals to introduce Community Infrastructure Levy (CIL) across Calderdale and to undertake the necessary regulatory processes through the publication of the Draft Charging Schedule (DCS) (Appendix 1 to this report) for consultation in accordance with the CIL Regulations 2010 (as amended). This report is concerned with the Regulatory arrangements associated with the introduction CIL. It does not provide a framework for the spending of the CIL receipts. That will be worked through once the formal approvals have been given and the Council is in the position to formally introduce the CIL.

2. Need for a decision

- 2.1 CIL is a discretionary measure allowing local authorities to apply a fixed levy to all new developments unless these are exempted by the Regulations or zero-rated as part of the Charging Schedule.
- 2.2 The final adoption of a Charging Schedule for CIL is a key Council decision which will require approval of Council. The publication of the DCS signals the Council's ongoing policy intent to introduce the Levy and therefore requires approval by both Cabinet and Council.

3. Recommendation

It is recommended that:

- 3.1 The Council continues the regulatory and administrative processes involved in bringing forward a CIL; and
- 3.2 Cabinet recommends to Council that it:-
- 3.2.1 endorses the Draft Charging Schedule (DCS) and approves publication of the DCS for consultation in accordance with the CIL Regulations 2010 (as amended) for consultation over a minimum of 6 weeks which should run alongside that of the Calderdale Local Plan;

3.2.2 delegates authority to the Director of Regeneration and Strategy in consultation with the Cabinet Lead for Planning, Housing and Environment to make any minor editorial amendments to the DCS prior to consultation;

and

3.2.3 delegates authority to the Director of Regeneration and Strategy in consultation with the Cabinet Lead for Planning, Housing and Environment to make any modifications to the DCS following the statutory consultation, and to submit the DCS to the Planning Inspectorate for public examination.

4. Background and/or details

- 4.1 Section 206 of the Planning Act 2008 confers the power to charge the CIL on certain bodies known as “charging authorities” (CA). The CA, if they decide the bring CIL into effect have certain responsibilities:-
- i. To prepare and publish a document known as a “draft charging schedule” which sets out the rates of CIL which will apply in the authority’s area. The setting of the rates and charging schedule involves consultation and independent examination.
 - ii. To apply the CIL revenue to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area, and
 - iii. To report to the local community on the amount of CIL revenue collected, spent and retained on an annual basis.
- 4.2 CIL is intended to be the primary method of collecting non site specific contributions from the development or use of land. The Government considers CIL to be a fairer and more transparent way of funding new infrastructure than under Section 106 because it ensures that the majority of developments contribute to the cumulative funding available to address the impact of development on infrastructure. The new process is unlike Section 106 Planning Obligations, which are individually negotiated on a case by case basis and tend to apply only to larger developments. CIL will apply to all new buildings above 100sq.m and any development that constitutes the formation of a single dwelling (even when this is below the size threshold of 100sq.m), unless they are specifically excluded by the Regulations.
- 4.3 There is no legal requirement for the Council to implement CIL, but from 6th April 2015 the Council is prevented from using Section 106 Planning Obligations to lever general contributions from new development for community infrastructure such as highways, education, open space, flood prevention or public transport. Where very specific items of infrastructure, which meet the relevant tests set by the Regulations can be identified, these can still be sought through a S106 Planning Obligation – but the cumulative amounts for any single piece of infrastructure is limited to five separate agreements. The rules have been put in place to ensure that double charging does not happen (through CIL and S106), rather than to restrict the ability of the Council to identify and enter a S106 for very specific pieces of required infrastructure. This cumulative effect is taken from a base date of 6th April 2010. However, proposed changes to the regulatory framework introduce the possibility of more S106 agreements being achieved. In particular for an authority which has introduced CIL, the pooling restrictions associated with S106 obligations are to be abolished.
- 4.4 In setting a CIL Charging Schedule, the Government is clear that the proposed Schedules must be based upon evidence of infrastructure requirements, which cannot be funded by other means, and that the chargeable levy should not be set so high as to ‘unduly burden’ future development proposals to make them unviable. That means that the evidence has to identify a funding gap which CIL can help to bridge.

- 4.5 The money raised through CIL can be used on a wide variety of infrastructure which requires funding, that the district, local communities or neighbourhoods need – for example a new strategic road scheme, extension to a school or improvement to a local park. It will be for the Council to determine, and publish, how it intends to use CIL through the provision of a Regulation 123 List, which also established the sorts of development proposals where the Council cannot enter into S106 Agreements. Under the new regulatory framework and legislation the need for a Regulation 123 List is being abolished but remains currently.
- 4.6 The Regulatory Framework associated with CIL has changed almost every year since it was introduced. The Government, had indicated that they may abolish CIL and introduce a Local Infrastructure Tariff. However they have recently reaffirmed CIL as a major part of infrastructure planning and released a consultation on further regulatory changes, some of which will require legislative changes before they can be brought into effect. However it is clear that CIL is being retained, and therefore the next stages in bringing it forward in Calderdale should be followed through.

Determining Infrastructure Requirements

- 4.7 To understand the infrastructure needs of Calderdale an Infrastructure Delivery Plan (IDP) was collated – looking at existing infrastructure needs and requirements in 2012. An update of the IDP has been undertaken during 2018 and reaffirms the gap in infrastructure funding, upon which CIL is predicated.

Evidence Prepared to Support CIL

The Council commissioned consultants GVA to undertake the necessary work to assess the viability of introducing CIL in Calderdale and to produce a Preliminary Draft Charging Schedule (PDCS) in accordance with the requirements of the CIL Regulations. This evidence has looked at known infrastructure; the funding gap identified and the manner in which this could be covered by CIL without undermining the viability of development within the District. As part of the ongoing preparation of the Calderdale local Plan further viability work has been undertaken and confirms the infrastructure funding gap, and the viability of the delivery of the Local Plan.

On the back of the IDP and the viability work a Preliminary Draft Charging Schedule (2015) established the following proposed charges across the district.

AREA	Use	Proposed Preliminary Draft Charging Schedule CIL Charge
ZONE 1	Residential - Houses	£85.00psm
ZONE 2	Residential - Houses	£25.00psm
ZONE 3	Residential - Houses	£25.00psm
ZONE 4	Residential - Houses	£85.00psm
ZONE 5	Residential - Houses	£5.00psm
ZONE 6	Residential - Houses	£85.00psm
ZONE 7	Residential - Houses	£5.00psm
ZONE 8	Residential - Houses	£40.00psm
ZONE 9	Residential - Houses	£5.00psm
ALL	Retails – Convenience >500sq.m	£45.00psm
ALL	Retail Warehousing	£100.00psm
ALL	Hotels	£60.00psm
ALL	Residential Institutions/Care Homes (Use	£60.00psm

	Class C2)	
ALL	All other chargeable uses	£5.00psm
NOTE 1 : the Regulations permit different charges for different types of development. A distinction has been made between Houses and Flats/Apartments, given the challenging viability considerations associated with these types of development.		
NOTE 2 : ZONE 7 : in the Halifax Town Centre and Skircoat Zone most development is likely to be flatted or homes on brownfield sites. Both these development types have viability issues. As a result they will be picked up by the “All Other Chargeable Uses” charge.		
NOTE 3 : the charges set out above are based on initial testing and will be refined as the Local Plan and CIL viability work progresses and considers the cumulative impact of other policy requirements.		

The PDCS was subject to Consultation in accordance with the Regulations governing the introduction of CIL during November and December 2015. Representations were received against the PDCS Consultation and these set out in Appendix 2 to this Report.

The comments have been addressed and the re-working of the viability study associated with the Draft Local Plan has updated the information underlying the proposed CIL charges, and the Draft Charging Schedule (attached as appendix 1 to this report) sets out the following proposed charges.

PROPOSED DRAFT CHARGING SCHEDULE CIL CHARGEABLE RATES

Area	Type of development in Calderdale	CIL Charge per square meter	
		Greenfield	Brownfield
Zone 1	Residential – Houses	£85psm	£85psm
Zone 2	Residential – Houses	£25psm	Zero
Zone 3	Residential – Houses	£10psm	Zero
Zone 4	Residential – Houses	£85psm	Zero
Zone 5	Residential – Houses	£5psm	Zero
Zone 6	Residential – Houses	£85psm	Zero
Zone 7	Residential – Houses	Zero	Zero
Zone 8	Residential – Houses	£40psm	Zero
Zone 9	Residential – Houses	£5psm	Zero
All	Retail – Convenience > 500sq.m*	£45psm	£45psm
All	Retail warehousing	£100.00psm	£100.00psm
All	Hotels	£60.00psm	£60.00psm
All	Residential Institutions / Care Homes (Use Class C2)	£60.00psm	£60.00psm

All	All Other Chargeable Uses **	£5.00psm	£5.00psm
<p><i>*Retail Convenience >500sq.m</i> <i>Large format foodstores that sell a full range of grocery items and are shopping destinations mainly used for a person's main weekly food shop, although generally they also contain a smaller range of comparison goods. They are sometimes called supermarkets. Supermarkets normally have their own large dedicated car park.</i></p> <p><i>** All Other Chargeable Uses</i> <i>This will include apartments/flats in all areas.</i></p>			

- 4.8 The map identifying the CIL Charging Zones can be seen in the Appendix 1 to this Report.
- 4.9 The CIL charges are index linked from the date of adoption to the national all-in tender price index by the Building Cost Information Service of the Royal Institute of Chartered Surveyors. The figure for a given year is the figure for 1st November of the preceding year.
- 4.10 The amount to be charged for each development will be calculated in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended).
- 4.11 The provision of apartments is an important part of the housing supply. However the evidence indicates that the viability of apartments is lower than that for general housing. As a result the introduction of a CIL charge for apartments could undermine the viability of such developments, and is not considered appropriate.

5. Options considered

- 5.1 The introduction of CIL is not mandatory. The choice is straight forward. Either the Council introduces CIL or it does not.

OPTION 1 : Moving Forward with CIL :

- 5.2 CIL will give the Council an additional income stream to help fund identified and needed infrastructure associated with development and the growth of the District. Whilst the Regulatory process is complicated, the benefits that will accrue to the Council and people of Calderdale could be significant.
- 5.3 The Tables set out under the Financial Implications show receipts for S106 Planning Obligations over the period 2001-2014 together with potential CIL funds over the life of the Local Plan – 2016 to 2031.
- 5.4 Where Neighbourhood Areas have been defined under the Regulations relating to the preparation of Neighbourhood Plans, part of the CIL raised will be passed across to the local area for spending on projects of their choice, this is known as the “meaningful Proportion”. The meaningful proportion for neighbourhoods that have an adopted neighbourhood plan or neighbourhood development order (including a community right to build order) is 25% of the CIL revenue from that area. Areas without a neighbourhood plan will receive 15% of the revenue, and this will be capped at £100 per existing council tax dwelling per year in that area. The meaningful proportion is not tied to the Reg123 List but can be spent on:

- (a) “The provision, improvement, replacement, operation or maintenance of infrastructure; or,
- (b) Anything else that is concerned with addressing the demands that development places on an area” (Regulation 59C).

5.5 The Government are introducing significant changes to the CIL Regulatory and Legislative Framework. These are not yet in effect but by introducing CIL the Council will be able to pool S106 contributions in future (which is not allowed under the current regime). Also the Government is removing the requirement for the Regulation 123 List which will also streamline spending and the requirements associated with S106 Agreements. The Government is also proposing to remove the two formal consultation phases of CIL preparation, and allow Councils to show out how they have engaged with the development industry in setting the Charge, before submitting the Draft Charging Schedule to Examination. However as the CIL is being prepared under existing Regulations the requirements for a further statutory consultation and the setting of the Reg123 List still apply to the process that is to be followed.

OPTION 2 : Not Introducing CIL :

5.6 Not taking forward CIL means that the Council will be restricted in its ability to pool Section 106 Planning Obligations to fund infrastructure needed to off-set and mitigate the effects of new development. S106 will be able to be used for specific aspects relating to the making of the site acceptable in planning terms and to ensure affordable housing is secured – but securing funds for matters like open space, to off-set the loss of employment land or education contributions would not be permitted. This would make funding infrastructure and mitigating the impact of new development much more difficult. The changes being introduced by the Government do not remove the restrictions on pooling S106 agreements unless CIL has been introduced.

Next Steps and Indicative Timescales

5.7 The CIL regulations set a process which is heavily regulated with a number of discreet stages. The following table indicates possible dates for the different stages, with final introduction of CIL planned for April 2020.

Stage	Date	Notes
Consultation on CIL Preliminary Draft Charging Schedule and Regulation 123 List	October – November 2015	This stage of Consultation was undertaken in 2015.
Consultation on Draft Charging Schedule	Likely mid summer 2018	(6 week long consultation period)
Draft Charging Schedule submitted for Examination	Submit for Examination winter 2018 (subject to progress of the Local Plan)	
Independent Examination	During 2019, alongside Local Plan	
Introduction of the CIL – charging to commence	Potential April 2020	To be approved by full Council

Please note that as much advance notice as possible will be given as to the date on which the Council intends to adopt the final CIL. This is to ensure that applicants with pending planning applications including those with S106 still to be concluded have sufficient time to determine their approach. If applications are not determined (and S106s completed) by the date that CIL is adopted then they will become CIL liable.

6. Financial implications

- 6.1 Over the period 2001 to 2014, receipts from Section 106 agreements were £6,700,073 (£478,576 per year). It should be noted that this level income from S106 will rapidly tail-off between now and the adoption of CIL because new agreements are not generally being signed (this was largely prohibited by the CIL Regulations from April 2015). Based on the Council's anticipated need for new housing and retail floor space the maximum potential receipt from CIL is £24,469,500 over the 15 year life of the LP (£1,631,300 per year). S106 for affordable Housing are excluded from this figure as CIL cannot be used to deliver affordable housing.
- 6.2 There are many uncertainties over the CIL income though. The figures in the paragraph above rely on Calderdale's anticipated development needs being fully met (i.e. the quantity of new housing and retail development identified in the Local Plan all being developed), which cannot be guaranteed. Furthermore the CIL Regulations makes certain development exempt from the charging – for example Affordable Housing, Self-Build Homes and buildings that are not usually entered by people (such as sub-stations) are exempt from the charge. However, Tables 6.1 and 6.2 provide an indication of the potential for CIL to bring forward a new funding stream across Calderdale.
- 6.3 Infrastructure will clearly be needed to support the growth and development of Calderdale. The Local Plan will identify some of the infrastructure requirements and interrelationships for example between new housing, education, health services and transport and CIL will help to provide additional resources to deliver much needed infrastructure.
- 6.4 In accordance with Budget Council decisions agreed in 2017 and 2018, the budget for the Regeneration and Strategy allows for the Directorate to utilise £150k by the introduction of a CIL to support the budget process in 2019/20 onwards.

TABLE 6.1 : SUMMARY OF Section 106 Funds received since 2001

This Table summarises S106 Planning Obligation funds that have been received since 2001, in order to provide a comparison with the potential receipts from CIL.

	2001 £	2002 £	2003 £	2004 £	2005 £	2005 £	2007 £	2008 £	2009 £	2010 £	2011 £	2012 £	2013 £	2014 £	Heading TOTALS £
Education	0	0	25,000	25,000	161,839	302,571	33,925	97,917	0	0	0	0	0	50,000	696,252
Community	0	0	0	0	0	5,000	0	0	0	0	0	0	0	1,500	6,500
Transport	72,500	0	70,600	45,272	200,212	45,000	13,500	0	0	100,000	24,230	88,750	0	10,000	670,064
Regeneration	0	0	200,000	0	0	50,000	0	0	0	0	0	0	0	0	250,000
Open Space	0	685,000	55,000	193,000	200,000	373,000	137,994	74,651	73,501	23,449	378,500	56,316	279,314	65,000	2,594,725
Affordable Housing	0	75,000	0	493,000	0	275,000	95,183	17,121	0	0	237,724	0	175,000	0	1,368,028
Leisure Services	0	0	0	0	30,000	56,524	51,139	0	0	0	0	0	0	0	137,663
Employment	0	0	0	0	0	100,000	250,381	205,178	0	0	368,000	33,282	20,000	0	976,841
Yearly TOTALS	72,500	760,000	350,600	756,272	592,051	1,207,095	582,122	394,867	73,501	123,449	1,008,454	178,348	474,314	126,500	OVERALL RECEPITS £6,700,073

NOTE: Section 278 agreements have also been reached to fund specific highway improvements associated with development. CIL does not remove the potential for the use of s278.

TABLE 6.2 : MAXIMUM Potential CIL Receipts Over the Local Plan Period to 2032

The following Table sets out a simplistic assessment of potential CIL receipts making the following assumptions:

1. The distribution of new housing growth is as per the Preferred Options for the Core Strategy and is used for illustrative purposes only;
2. Exemptions for Affordable Housing, but no other exemptions included in calculations;
3. For the purposes of this table the average size of new dwellings being provided is assumed to be 80sq.m in area. However CIL is chargeable on the actual floorspace of individual proposals and so therefore cannot be generalised accurately in this way.
4. NOTE: these Charging Zones do not correspond to the Local Plan Areas directly, and as a result the figures are purely illustrative.

	Zone 1 – Hebden Bridge / Heptonstall/ Wadsworth	Zone 2 – Todmorden / Walsden/ Cornholme	Zone 3 – / Sowerby Bridge /Luddenden /Mytholmroyd	Zone 4 – Ripponden / Rishworth/ Barkisland	Zone 5 – Elland - Greetland	Zone 6- Northowram - Shelf	Zone 7 – Halifax TC / Skircoat	Zone 8 – Brighouse - Hipperholme	Zone 9 – North and West Halifax / Shibden Valley
Potential CIL Charge- Housing	£85.00	£25.00	£10.00	£85.00	£5.00	£85.00	£0.00	£40.00	£5.00
TOTAL No. New Homes from the Draft Plan 2017	171 of which 35% AH CIL on 111	719 of which 15% AH CIL on 611	690 of which 15% AH CIL on 587	358 of which 35% AH CIL on 233	821 of which 10% AH CIL on 739	691 of which 30% AH CIL on 484	1,200 of which 35% AH CIL on 780	4,972 of which 15% AH CIL 4,226	3525 of which 10% AH CIL on 3173
TOTAL Potential CIL from Dwellings assumes 80sq.m average size	£754,800	£1,222,000	£469,600	£1,584,400	£295,600	£3,291,200	£0	£13,523,200	£1,269,200

	Zone 1 – Hebden Bridge / Heptonstall/ Wadsworth	Zone 2 – Todmorden / Walsden / Cornholme	Zone 3 – / Sowerby Bridge /Luddenden /Mytholmroyd	Zone 4 – Ripponden / Rishworth/ Barkisland	Zone 5 – Elland / Greetland	Zone 6- Northowram / Shelf	Zone 7 – Halifax TC / Skircoat	Zone 8 – Brighouse - Hipperholme	Zone 9 – North and West Halifax / Shibden Valley
Retail – Halifax Town Centre - Comparison	-	-	-	-	-	-	£5.00	-	-
Retail – Greater than 500sq.m	£45.00	£45.00	£45.00	£45.00	£45.00	£45.00	£45.00	£45.00	£45.00
Retail Warehousing	£100.00	£100.00	£100.00	£100.00	£100.00	£100.00	£100.00	£100.00	£100.00
Potential Area	700sq.m conv 1,900sq.m comp	1,900sq.m conv 2,500sq.m comp	400sq.m comp	-	1,200sq.m comp	-	13,000sq.m conv 40,000sq.m comp	3,500sq.m conv 4,000sq.m comp	-
Potential CIL Income	£31,500 + £190,000 = £221,500	£85,500 + £250,000 = £335,500	£40,000	-	£120,000	-	£585,000 + £200,000 = £785,000	£157,500 + £400,000 + £557,500	

Potential Amounts from Residential £22,410,000 (£1,494,000 per year); Potential amounts from retailing £2,059,500 (£137,300 per year)

MAXIMUM total potential approximately £24,469,500 (£1,631,300 per year): *CIL REVENUES WILL BE LESS THAN THIS* as a result of exemptions and distribution of development. In addition the Publication Local Plan will propose different distribution and scale of development and “affordable housing” than was set out in the Draft Local Plan in 2017.

For Zone 7 Halifax Town Centre/Skircoat : potential development has generally been assumed to be apartments/flats. These have different viability assumptions – hence a lower proposed CIL charge.

NOTE : these figures are for illustrative purposes only and should be treated with caution as they are NOT forecasts of CIL receipts.

- 6.5 Over the period 2001 to 2014, receipts from S106 were £6,700,073. (£478,576 per year) as shown in Table 6.1). This compares to a **maximum** potential from the CIL of £24,469,500 (£1,631,300 per year).
- 6.6 The case for bringing forward is clear and the option of taking forward CIL is recommended.

WHAT WILL CALDERDALE SPEND CIL ON?

- 6.6 CIL must be spent on “infrastructure” which is either needed to facilitate development or would be regarded as mitigating the impact of development. It cannot be used to address existing infrastructure issues. The funding stream is not a “general” income to the Council and must be reported upon on an annual basis. As a result the Council needs to be clear about what it would spend CIL upon and needs to publish a draft Regulation 123 List alongside the Draft Charging Schedule.
- 6.7 There are different options associated with the Regulation 123 List. Either it is very specific or it is very general or a combination of the two approaches.
- 6.8 Some Councils have produced a list that sets out specific (named) highway, public transport, cycling, health centres, and other infrastructure that will be funded by CIL. Other authorities have produced a more generic list of headings such as Education, Open Space or Transport.
- 6.9 The Regulation 123 List can be amended once it is established to reflect priorities pertaining at the time. Items cannot be removed from the list just to facilitate their funding through a site specific S106. Where a change to the list would have a significant impact on the viability evidence that supported the examination of the charging schedule a review of the charging schedule may be required (with all the associated consultation and Examination process. The Regulatory changes being introduced by the Government remove the requirement for the Reg123 List, thus streamlining the CIL process. But currently there is a requirement to prepare and establish the Reg123 List. The spending of CIL receipts will be considered in a future report once the CIL has been Recommended for introduction by the Examiner appointed to consider the Draft Charging schedule.
- 6.10 The draft Regulation 123 List set out here for information.

Draft Regulation 123 Infrastructure List	
The Council is required to set out a list of those projects or types of infrastructure that it intends will be, or may be, wholly or partly funded through the Community Infrastructure Levy (CIL). In order to ensure that individual developments are not charged for the same infrastructure items through both Section 106 Agreements and the CIL, a S106 contribution cannot then be made towards an infrastructure item already on the List. This Draft Regulation 123 List is provided as part of the consultation on the Draft Charging Schedule and will be updated at the Draft Charging Schedule stage.	
Types of Infrastructure	Notes

Draft Regulation 123 Infrastructure List	
Flood Risk Mitigation Schemes	
Primary, Secondary and adult education	<i>Except for large scale residential development which will be expected to provide schools either as an integral part of the development or as the result of no more than 5 separate planning obligations</i>
Green Infrastructure Improvements in terms of quantity and quality	<i>Except for on-site public open space required to make development acceptable</i>
Highway Schemes (Strategic Schemes could be named)	<i>The use of Section 278 is still possible to ensure developments are acceptable in planning terms and to mitigate their immediate impacts.</i>
Public transport schemes	
Pedestrian and cycle networks	
Community, sports, leisure and recreation facilities	
Public realm improvements	<i>Except for on-site provision where this is required to make development acceptable</i>
<p><i>(The above list is based on the infrastructure requirements set out in the Local Development Framework and the Council's infrastructure planning evidence).</i></p> <p>The Council will review this list at least once a year, as part of monitoring of CIL collection and spend, and any changes will be justified and subject to appropriate local consultation. The list does not identify priorities for spending within it, or any apportionment of the CIL funds across the District, and does not signify a commitment from the Council to fund the projects listed through the CIL.</p> <p>The Council will work with local communities and Parish/Town Councils to agree local priorities for spend. The 'meaningful proportion' held by local communities may be spent on items listed above but it does not have to be.</p>	

CONTINUED USE OF SECTION 106 AGREEMENTS

- 6.11 For clarity, the following matters will continue to be secured through S106 Agreements for:
- Affordable housing;
 - Site specific matters needed to make the development acceptable in planning terms.
- 6.12 Under the current rules associated with CIL only 5 S106 Agreements can be “pooled” to assist in the funding of specific infrastructure. In Calderdale the pooling limit has been met already and therefore unless there are very specific elements

that are required to make a planning application acceptable that can only be secured through a S106 agreement, further S106 agreements are limited. The introduction of CIL under new Regulations being brought forward will remove this limitation in the pooling of S106 agreements.

7. Legal Implications

- 7.1 The CIL Regulations 2010 (as amended in 2012) deal with the detailed implementation of CIL and cover matters such as the procedure for setting CIL, the charging and collecting of the levy and liability for payment. A charging authority cannot adopt CIL unless it has first produced a charging schedule based on appropriate available evidence which has informed the preparation of the charging schedule.
- 7.2 The establishment of a CIL charge in the borough will require public examination governed by the requirements of the CIL Regulations.

8. Consultation

- 8.1 The Council undertook consultation on the Preliminary Draft Charging Schedule for CIL during late 2015 in accordance with the two stage consultation process laid down by the Regulations. This Consultation asked a series of questions about the evidence and the policy framework to be associated with CIL in Calderdale. A number of comments were made and these, together with the considered response are attached as Appendix 2 to this Report.

9. Environment, Health and Economic Implications

- 9.1 The introduction of CIL will assist in the provision of funding towards the delivery of infrastructure that could achieve social and health benefits together with environmental and economic improvements. The evidence lying behind CIL has demonstrated that there is unlikely to be negative implications for viability of sites or development, and therefore will have a neutral effect on development. Infrastructure that could be funded including roads, schools, flood defences, open spaces

10. Equality and Diversity

- 10.1 The Equality Act 2010 introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 10.2 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

10.3 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality.

10.4 It is considered that there are no direct equality and diversity implications arising from this recommendation.

11. Summary and Recommendations

11.1 The introduction of a Calderdale CIL will ensure that the Council can continue to receive revenue to help fund infrastructure needed to mitigate the cumulative impacts of development. The current method of gaining contributions from development for wider infrastructure needs, Section 106 agreements, is scaled back after April 2015 and restricted to affordable housing and site specific infrastructure required to make a development acceptable in planning terms. If the Council wishes to pool development contributions after this date it is important that work upon CIL is progressed.

11.2 To justify the implementation of CIL the Council has demonstrated a funding gap between the infrastructure required for the sustainable growth of the district, as evidenced by the growth projected within the Local Plan and the available funding from existing funding mechanisms. CIL should not ‘unduly burden’ development and a balance must be struck between the desirability of funding infrastructure from the levy and the potential effects, taken as a whole, of the imposition of the levy on the economic viability of development across Calderdale.

11.3 The introduction of CIL is justified by the evidence and the Council should move forward to publishing the Draft Charging Schedule for comment before subjecting the CIL Draft Charging Schedule to independent examination.

For further information on this report, contact:

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The documents used in the preparation of this report are:

1. Local Plan and CIL Viability Assessment 2015 and 2017;
2. CIL Regulations 2010 (as amended);
3. Infrastructure Delivery Plan (IDP) 2018;

The documents are available for inspection at:

Spatial Planning Team, 1st Floor Westgate House, HALIFAX HX1 1PS

APPENDIX 1



COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE

[Insert Date]

Under the Planning Act 2008 and
Community Infrastructure Levy Regulations 2010 (as amended)

If you have any comments on the Draft Charging Schedule including associated evidence base and other documents please comment through the consultation portal on the Council's web site.

www.calderdale.objective.co.uk/portal/planning_services

Or write to the following address by [insert date and time].

Calderdale Council: Economy and Environment
Planning & Highways
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Calderdale Council is a charging authority for the purposes of Part 11 Section 206 of the Planning Act 2008 and may therefore charge the Community Infrastructure Levy in respect of development in the Calderdale District.

i. Statement of Statutory Compliance

The CIL Draft Charging Schedule has been approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012, 2013, 2014, 2015 and 2018) and Part 11 of the Planning Act 2008 (as amended by Part 6 of the Localism Act 2011). In setting the levy rates, Calderdale Council considers it has struck an appropriate balance between;

- a) the desirability of funding from CIL in whole or in part the actual and estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding, and*
- b) the potential effects, taken as a whole, of the imposition of CIL on the economic viability of development across the Calderdale District.*

A full statement of Statutory Compliance will be included within the Draft Charging Schedule, which is submitted for Examination.

1.0 INTRODUCTION

- 1.1 This document is the consultation paper on the Draft Charging Schedule (DCS) for the Calderdale Community Infrastructure Levy (CIL). As well as the proposed Charging Schedule itself, this document provides a brief background to the charging schedule and explains general principles of the CIL and its links to Section 106 and Section 278 Agreements.
- 1.2 The Charging Schedule will not form part of the statutory development/ Local Plan but is being worked up and tested alongside that document.

The CIL in Calderdale

- 1.3 The CIL is a tariff system that local authorities can choose to charge on new developments in their area by setting a Charging Schedule. The CIL is a charge levied on new buildings and extensions to buildings according to their floor area. In this way money is raised from developments to help the Council pay for infrastructure such as schools, public transport improvements, greenspace, highways, and other facilities to ensure sustainable growth. It can only be spent on infrastructure needs as a result of new growth and will be a mandatory charge. The CIL will replace the Section 106 'tariff' approaches which have been used for this purpose. S106s will continue to be used for affordable housing and anything required for the specific development site to make it acceptable in planning terms so long as they satisfy the three tests introduced through R122(2) of the CIL Regulations 2010. The three tests for planning obligations include:
 - Are they necessary to make the development acceptable in planning terms;
 - Are they directly related to the development; and
 - Are they fairly and reasonably related in scale and kind to the development.
- 1.4 The CIL should not be set at such a level that it risks the delivery of the development plan, and has to be based on viability evidence.

- 1.5 The purpose of this document is to set out the CIL Draft Charging Schedule for Calderdale Council. It has been prepared in accordance with the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 as amended by the Community Infrastructure Levy (Amendment) Regulations 2011, 2012, 2013, 2014, 2015 and 2018.
- 1.6 The CIL will help to deliver the Calderdale Local Plan (and Site Allocations Plan once adopted) by bringing in funding for infrastructure to support new growth. It is set at rates which are considered will not deter the development and growth as set out in the Local Plan, or impact on affordable housing provision. The rates have been set taking into account the cumulative effect of all the planning policies set out within the new Local Plan and other national regulatory requirements.

Who will pay the CIL and how will it be collected?

- 1.7 The levy's charges will become due from the date that a chargeable development is commenced. The definition of commencement of development for the levy's purposes is the same as that used in planning legislation (see Regulation 7 and Section 56(4) of the Town and Country Planning Act 1990), unless planning permission has been granted after commencement. When planning permission is granted, the Council will issue a liability notice setting out the amount of the levy that will be due for payment when the development is commenced, the payment procedure and the possible consequences of not following this procedure.
- 1.8 The owner of the land is liable to pay the CIL, unless another party claims liability, (i.e. a prospective developer / purchaser). This is in keeping with the principle that those who benefit financially when planning permission is given should share some of that gain with the community. That benefit is transferred when the land is sold with planning permission, which also runs with the land. However, liability to pay the levy can also default to the landowners where the collecting authority has been unable to recover the levy from the party that assumed liability for the levy, despite making all reasonable efforts. The CIL can also be paid to the Council 'in kind' through the transfer of land or the provision of infrastructure.

What will the CIL be spent on and where?

- 1.9 The levy can be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities (for further details, see [section 216\(2\) of the Planning Act 2008](#), and [Regulation 59](#), as amended by the [2012](#) and [2013](#) Regulations). This definition allows the levy to be used to fund a very broad range of facilities such as play areas, parks and green spaces, cultural and sports facilities, academies and free schools, district heating schemes and police stations and other community safety facilities.
- 1.10 The Regulations specify that CIL cannot be spent on affordable housing, and must only be spent on infrastructure required as a result of new growth. It should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development.

- 1.11 The levy can also be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support new development.
- 1.12 The Draft Charging Schedule is primarily concerned with the rates the CIL is to be set at, rather than the Council's mechanisms for allocating the CIL revenue and the specific infrastructure items which it will contribute towards. The Government's 'CIL Guidance' sets out the need to consider the relationship of the CIL alongside the ongoing use of S106 agreements. The Council has to publish on its website a list of those projects or types of infrastructure that it intends to fund through the levy, called the Regulation 123 List. S106 requirements will only relate to those matters that are directly related to a specific site (so long as they satisfy the three tests introduced through R122 (2) of the CIL Regulations 2010) and are not set out in the Reg123 List. Annex 1 contains further discussion of the links between S106s and the CIL and the Reg123 List.
- 1.13 In prioritising the spending of the CIL, the Council will need to balance neighbourhood funding with funding of strategic infrastructure. There will need to be close working with communities through neighbourhood planning, the Site Allocations Plan, and other mechanisms to determine local infrastructure priorities. The Regulations specify that there is a duty to pass on (as a minimum) a 'meaningful proportion' of the funds raised through the levy to a parish or town council for the area where the development that gave rise to the payment takes place. This aims to ensure that where a neighbourhood accepts new development, it receives money for infrastructure to help it manage those impacts, and the local community has control over identifying their infrastructure priorities.
- 1.14 The meaningful proportion for neighbourhoods that have an adopted neighbourhood plan or neighbourhood development order (including a community right to build order) is 25% of the CIL revenue from that area. Areas without a neighbourhood plan will receive 15% of the revenue, and this will be capped at £100 per existing council tax dwelling per year in that area. The meaningful proportion is not tied to the Reg123 List but can be spent on:
- (c) "The provision, improvement, replacement, operation or maintenance of infrastructure; or,
 - (d) Anything else that is concerned with addressing the demands that development places on an area" (Regulation 59C).
- 1.15 Where development crosses more than one parish council's boundary, each council will receive a proportionate amount of the levy payment based on how much development is located within their area. Where there is no town or parish council the Council has to spend it in the local area in consultation with the community.
- 1.16 There is a clear link to the emerging Site Allocations Plan, which will set out the infrastructure requirements in relation to newly proposed sites, and will be subject to various stages of formal public consultation. It is also assumed that neighbourhood plans (and other community led and locally identified plans and proposals) will set out the community's priorities for infrastructure needs and spending. Spending by the Council will also require identification of infrastructure priorities which will be informed by the Council's Infrastructure Delivery Plan and the capital spending

programme, which in turn is informed by the delivery and spending plans of many other agencies and infrastructure providers.

2.0 EVIDENCE FOR THE DRAFT CHARGING SCHEDULE

- 2.1 The development of the Draft Charging Schedule has been informed by a range of evidence. All the evidence base documents can be downloaded from the Councils website.
- 2.2 Published alongside the Preliminary Draft Charging Schedule (PDCS) were the following:
- Calderdale Infrastructure Delivery Plan (IDP) – Autumn 2012;
 - Review of the Infrastructure Delivery Plan – September 2013 – undertaken by Fore Consulting;
 - Calderdale Local Plan and CIL Viability Assessment – October 2013 – undertaken by Bilfinger GVA;
 - Draft Regulation 123 List (2013).
- 2.3 New documents to support the Draft Charging Schedule are as follows:
- Council Responses to Representations on the Preliminary Draft Charging Schedule;
 - Draft Calderdale Infrastructure Delivery Plan – 2018;
 - Local Plan and Preferred Sites for Allocation Viability Assessment (January 2018). Updated Draft Regulation 123 List (2018);

a) The Infrastructure Delivery Plan and Identifying the Funding Gap

- 2.4 The Council published its Infrastructure Delivery Plan (IDP) in the Autumn of 2012 to support the submission of the Core Strategy for Examination. The IDP identifies the Districts social, physical and green infrastructure needs. It was put together in partnership with external infrastructure providers, and focuses on the infrastructure needed to support the new development planned through the Core Strategy.
- 2.5 To demonstrate a CIL funding gap as required by the Regulations, the IDP was reviewed by Fore Consulting to identify whether the CIL was an appropriate tool for plugging any gaps, with projects removed where full funding was already identified, or where the item was not within the Regulations' definition for CIL spending (i.e. to meet new growth).
- 2.6 The review of the IDP identified a justifiable aggregate funding 'gap' (of around £260 million), and the elements of infrastructure that would be appropriate to be considered for funding through CIL (mainly local transport and education). However, it is not expected that CIL will fund the entire gap, instead it is anticipated that CIL will contribute towards the funding deficit alongside other funding streams.
- 2.7 This provides the best available information at the present time on the funding gap for the infrastructure needed to support planned development in the District, and for

which CIL is a suitable mechanism for contributing to filling that gap. However, as part of the New Local Plan preparation the current IDP is being updated to reflect the additional infrastructure programmes that utilities and other stakeholders have prepared and the implications of potential growth across Calderdale's communities. Infrastructure in all its forms from sewerage and utilities, community facilities and sports pitches, to transport, health and education facilities and other interventions will be reflected in the revised IDP as it is developed.

b) Economic Viability Evidence

- 2.8 Consultants Bilfinger GVA (BGVA) were appointed to undertake the necessary work to assess the viability of introducing CIL in Calderdale and to produce a Preliminary Draft Charging Schedule (PDCS) in accordance with the requirements of the CIL Regulations. BGVA in discussion with the Council agreed the various assumptions and inputs to be used in the Study. They tested a range of uses across the District using a residual appraisals methodology of hypothetical sites based on appropriate sample sizes and typologies. This took into account the Council's policy requirements (including those in the then emerging Core Strategy). The methodology was in line with Government CIL Guidance, the Harman Report (Viability Testing Local Plans) (2012), and Royal Institute of Chartered Surveyors Guidance on Financial Viability in Planning (2012).
- 2.9 The previous study concluded that there was scope to introduce a CIL in Calderdale and the CIL rates contained in the PDCS (available on the Council's website) reflect the findings of the previous viability evidence.
- 2.10 However, following the publication of the PDCS the Council elected to withdraw the Core Strategy and progress towards the adoption of a New Local Plan. The Calderdale Local Plan will be the new development plan for the Borough. A copy of the initial draft Local Plan and supporting evidence base is available on the Council's web site.
- 2.11 GVA was commissioned to update the previous viability evidence to consider the policies set out within the New Local Plan. In addition, rather than relying on hypothetical development scenarios for housing and employment uses the updated assessment is based on the draft housing and employment allocations with the Calderdale Local Plan Initial Draft (July 2017). The assessment does, however, still rely on some hypothetical development scenarios with respect to other land uses.
- 2.12 The Local Plan and Preferred Sites for Allocation Viability Assessment (January 2018) provides the most recent evidence on viability. This is available on the Council's website. The CIL rates as proposed in the PDCS have been amended (where appropriate) to reflect the findings set out within this assessment. A summary of the main changes are shown in the table below.

Charges in the Preliminary Draft Charging Schedule : 2015

Area	Use		PDCS – Proposed Rate	DCS – Proposed Rate	
				Greenfield	Brownfield
Zone 1	Residential Houses	-	£85.00psm	£85psm	£85psm
Zone 2	Residential Houses	-	£25.00psm	£25psm	Zero
Zone 3	Residential Houses	-	£25.00psm	£10psm	Zero
Zone 4	Residential Houses	-	£85.00psm	£85psm	Zero
Zone 5	Residential Houses	-	£5.00psm	£5psm	Zero
Zone 6	Residential Houses	-	£85.00psm	£85psm	Zero
Zone 7	Residential Houses	-	-	Zero	Zero
Zone 8	Residential Houses	-	£40.00psm	£40psm	Zero
Zone 9	Residential Houses	-	£5.00psm	£5psm	Zero
All	Retail Convenience 500sq.m	- >	£45.00psm	£45psm	£45psm
All	Retail Warehousing		£100.00psm	£100.00psm	£100.00psm
All	Hotels		£60.00psm	£60.00psm	£60.00psm
All	Residential Institutions / Care Homes (Use Class C2)		£60.00psm	£60.00psm	£60.00psm
All	All other Chargeable Uses		£5.00psm	£5.00psm	£5.00psm

Note 1: The Regulations permit different charges for different types of development. A distinction was made between houses and flats / apartments, in the PDCS, recognising the challenging viability considerations associated with these types of development. Within the PDCS it was assumed that flats / apartments would be picked up by the 'All other Chargeable Uses' charge. This distinction has been carried forward into the DCS.

Note 2: Within the DCS a further distinction has been made between Greenfield and Brownfield residential sites recognising the challenges associated with bringing forward these sites for development.

Note 3: Zone 7: in the PDCS it was assumed that most of the development in the Halifax Town Centre and Skircoat Zone would be flatted development on brownfield sites. It was assumed within the PDCS that these types of development have viability issues and as a result they would be picked up by the 'All other chargeable uses' charge. The DCS makes a specific distinction for Zone 7 and does not assume that development will be picked up by the 'All other Chargeable Uses' charge,

c) Finding the Appropriate Balance

- 2.13 This is a matter of judgement for the Council, bearing in mind the aims to both gain sufficient funding to make a contribution towards the infrastructure needed to

support growth and thereby contribute positively towards the delivery of the Local Plan, but to not set the rates so high that they could threaten the viability of growth and development as a whole.

- 2.14 The impact on affordable housing also needs to be considered, as once adopted the CIL will not be negotiable, whereas affordable housing will remain negotiable and therefore there will be pressure to reduce provision where schemes are not viable. The CIL rates proposed have been established having taken into account the cumulative impact of policies set out within the Calderdale Local Plan Initial Draft (July 2017), including Policy HS6 (Affordable Housing). Therefore, the CIL will help to deliver the Local Plan by bringing in infrastructure funding without impacting on the affordable housing policy which is a key strand of the development plan and meeting housing needs in the District.

3.0 THE DRAFT CHARGING SCHEDULE

- 3.1 The CIL will be charged on the net additional floor area (gross internal area), i.e. after the area of any demolished buildings has been deducted. It will be levied in pounds per square metre.
- 3.2 CIL will be applied on the chargeable floor space of all new development apart from that exempt under the Community Infrastructure Levy Regulations 2010 (as amended) and specifically Part 2 and Part 6. These exemptions from the CIL rates are:
- a) Where the gross internal area of a new buildings or extensions to buildings will be less than 100 square metres (other than where the development will comprise one or more dwellings);
 - b) Houses, flats, residential annexes and residential extensions which are built by 'self builders' where an exemption has been applied for and obtained, and, in regard to a self build home or a residential annex, a Commencement (of development) Notice served prior to the commencement of the development (see [Regulations 42A, 42B, 54A, 54B and 67\(1A\), inserted by the 2014 Regulations](#));
 - c) A building into which people do not normally go (see Regulation 6 (2));
 - d) A building into which people go only intermittently for the purpose of maintaining or inspecting fixed plant or machinery (see Regulation 6 (2));
 - e) A building for which planning permission was granted for a limited period;
 - f) Charitable development that meets the relief criteria set out in [Regulations 43 to 48](#) and where an exemption has been obtained, and a Commencement (of development) Notice served, prior to the commencement of the development;
 - g) Social housing that meets the relief criteria set out in [Regulation 49 or 49A](#) (as amended by the 2014 Regulations) and where an exemption has been obtained, and a Commencement (of development) Notice served, prior to the commencement of the development;
 - h) Vacant buildings brought back into the same use (see Regulation 40 as amended by the 2014 regulations);
 - i) Structures which are not buildings, such as pylons and wind turbines
 - j) Floorspace resulting from change of use development where part of the building has been in continuous lawful use for at least six months in the three years prior to the development being permitted;

- k) Mezzanine floors inserted into an existing building, unless they form part of a wider planning permission that seeks to provide other works as well; and
- l) Specified types of development which are identified as being subject to a 'zero' rate and specified as such in the Charging Schedule.

- 3.3 The Council has chosen to adopt an Instalments Policy, which allows developers to pay their CIL charges in phased stages. This is set out in Annex 2.
- 3.4 The Council has also chosen to adopt an Exceptional Circumstances Policy, whereby developers can request through a viability appraisal for some or all of the CIL charge to be waived. It is set out in Annex 3 and has very narrow criteria and only available where the relief would not constitute State Aid.
- 3.5 The map on the following page shows the residential charging zones. They can also be downloaded separately, along with all the evidence base documents, from the Councils web site.
- 3.6 The CIL payments are index linked from the date of adoption to the national all-in tender price index by the Building Cost Information Service of the Royal Institute of Chartered Surveyors. The figure for a given year is the figure for 1st November of the preceding year.
- 3.7 The amount to be charged for each development will be calculated in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended).

PROPOSED CIL CHARGEABLE RATES :The Draft Charging Schedule

Area	Type of development in Calderdale	CIL Charge per square meter	
		Greenfield	Brownfield
Zone 1	Residential – Houses	£85psm	£85psm
Zone 2	Residential – Houses	£25psm	Zero
Zone 3	Residential – Houses	£10psm	Zero
Zone 4	Residential – Houses	£85psm	Zero
Zone 5	Residential – Houses	£5psm	Zero
Zone 6	Residential – Houses	£85psm	Zero
Zone 7	Residential – Houses	Zero	Zero
Zone 8	Residential – Houses	£40psm	Zero
Zone 9	Residential – Houses	£5psm	Zero
All	Retail – Convenience > 500sq.m*	£45psm	£45psm
All	Retail warehousing	£100.00psm	£100.00psm
All	Hotels	£60.00psm	£60.00psm
All	Residential Institutions / Care Homes (Use Class C2)	£60.00psm	£60.00psm
All	All Other Chargeable Uses **	£5.00psm	£5.00psm

*Retail – Convenience :

Large format foodstores that sell a full range of grocery items and are shopping destinations mainly used for a person's main weekly food shop, although generally they also contain a smaller range of comparison goods. These are often termed "supermarkets". Supermarkets normally have their own large dedicated car park.

** All Other Chargeable Uses

This will include apartments/flats in all areas.

Calculation of chargeable amount

Extract from the Community Infrastructure Levy (Amendment) Regulations 2014.

Regulation 40

- (1) The collecting authority must calculate the amount of CIL payable ("chargeable amount") in respect of a chargeable development in accordance with this regulation.*
- (2) The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.*
- (3) But where that amount is less than £50 the chargeable amount is deemed to be zero.*
- (4) The relevant rates are the rates, taken from the relevant charging schedules, at which CIL is chargeable in respect of the chargeable development.*
- (5) The amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula:*

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

Where -

- A = the deemed net area chargeable at rate R, calculated in accordance with paragraph (7);*
- I_p = the index figure for the year in which planning permission was granted; and*
- I_c = the index figure for the year in which the charging schedule containing rate R took effect.*

- (6) In this regulation the index figure for a given year is—*
 - (a) the figure for 1st November for the preceding year in the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors; or*
 - (b) if the All-in Tender Price Index ceases to be published, the figure for 1st November for the preceding year in the retail prices index.*

- (7) The value of A must be calculated by applying the following formula—*

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

Where -

- G = the gross internal area of the chargeable development;
- G_R = the gross internal area of the part of the chargeable development chargeable at rate R ;
- K_R = the aggregate of the gross internal areas of the following—
 - (i) retained parts of in-use buildings, and
 - (ii) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;
- E = the aggregate of the following—
 - (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development, and
 - (ii) for the second and subsequent phases of a phased planning permission, the value E_x (as determined under 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.

(8) The value E_x must be calculated by applying the following formula—

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

Where -

- E_P = the value of E for the previously commenced phase of the planning permission;
- G_P = the value of G for the previously commenced phase of the planning permission; and
- K_{PR} = the total of the values of K_R for the previously commenced phase of the planning permission.

(9) Where a collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish that a relevant building is an in-use building, it may deem it not to be an in-use building.

(10) Where a collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish—

- (a) whether part of a building falls within a description in the definitions of K_R and E in paragraph (7); or
- (b) the gross internal area of any part of a building falling within such a description, it may deem the gross internal area of the part in question to be zero.

(11) In this regulation—

“building” does not include—

- (i) a building into which people do not normally go,
- (ii) a building into which people go only intermittently for the purpose of maintaining or inspecting machinery, or
- (iii) a building for which planning permission was granted for a limited period;

“in-use building” means a building which—

- (i) is a relevant building, and
- (ii) contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development;

“new build” means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings;

“relevant building” means a building which is situated on the relevant land on the day planning permission first permits the chargeable development;

“relevant charging schedules” means the charging schedules which are in effect—

(i) at the time planning permission first permits the chargeable development, and

(ii) in the area in which the chargeable development will be situated;

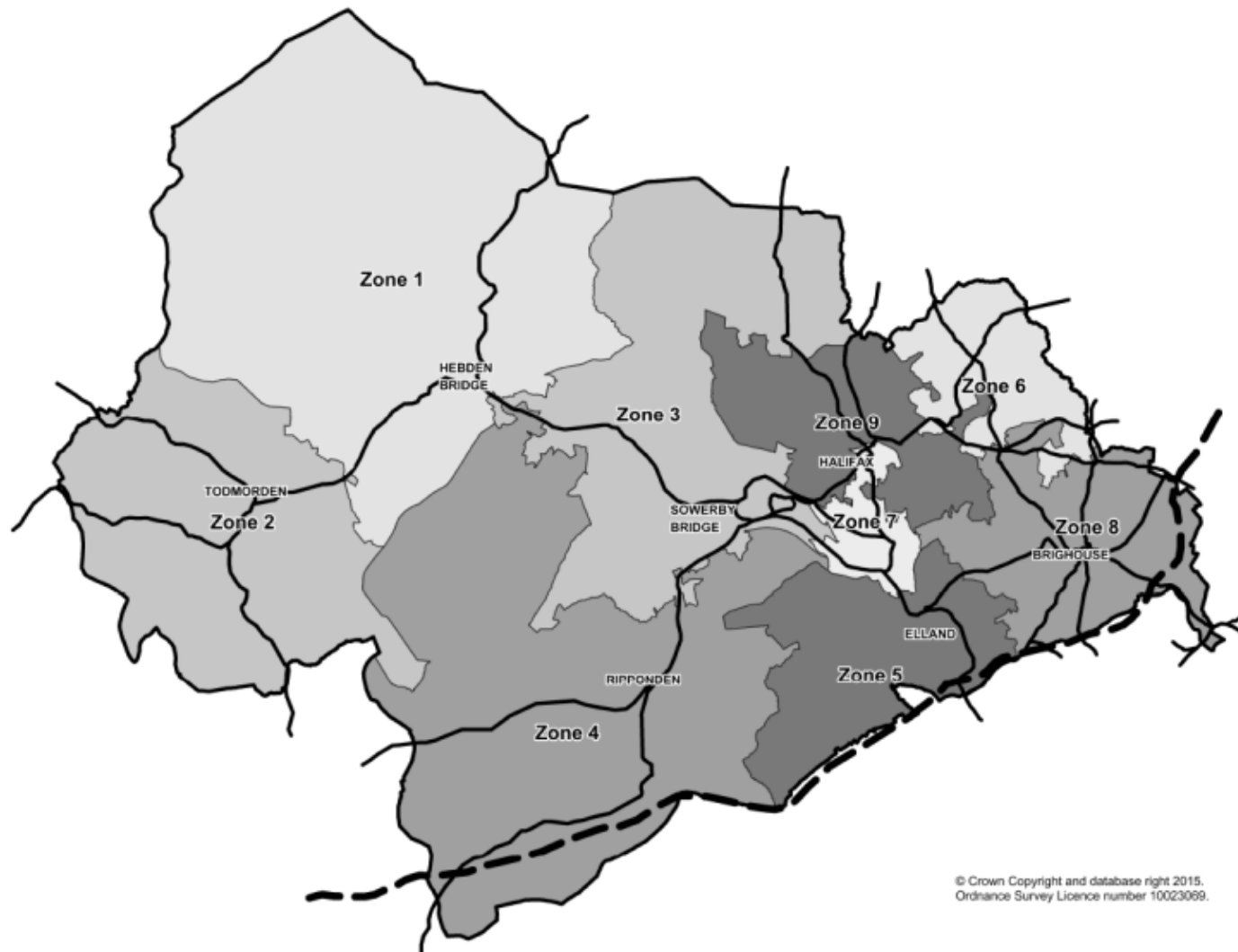
“retained part” means part of a building which will be—

(i) on the relevant land on completion of the chargeable development (excluding new build),

(ii) part of the chargeable development on completion, and

(iii) chargeable at rate R.”

RESIDENTIAL CHARGING ZONES



4.0 How to comment on the CIL Draft Charging Schedule

- 4.1 If you have any comments on the Calderdale Draft Charging Schedule please write to the following address by **5.00pm on [date]**

Calderdale Council Regeneration and Strategy
Planning
Spatial Planning Team
Westgate House
Halifax
HX1 1PS

- 4.2 **You should also include in your representation whether you wish to be heard by the examiner at the inquiry.** If you do not make this request within the time period then the Regulations do not permit you to speak at the inquiry.
- 4.3 The relevant documents and associated evidence base are published on the Council's website
- 4.4 The Draft Charging Schedule is intended to be submitted for Examination in [date] with the independent examination taking place shortly afterwards. The Examiner can approve or reject the Schedule, or suggest modifications which the Council must make if it wishes to adopt the Schedule. The CIL Charging Schedule has to be approved for adoption by resolution of Full Council. It is intended to start charging the CIL on xxx date *[tbc once progressed through examination]*.
- 4.5 Applicants with pending planning applications need to be aware of this timetable in determining their approach.

ANNEX 1 – RELATIONSHIP BETWEEN THE CIL AND SECTION 106 AGREEMENTS

In April 2015 the Regulations scaled back the limit and the use of S106s. The Government's intention is to break the link between the development of a specific site and its contribution to infrastructure provision. This is because the levy is intended to provide strategic infrastructure to support the development of an area rather than to make individual planning applications acceptable.

Therefore any infrastructure which is directly required to make development acceptable in planning terms will continue to be sought through S106 so long as they satisfy the three tests introduced through R122(2) of the CIL Regulations 2010. The three tests for planning obligations include:

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

Regulation 123 provides for the Council to set out a list of those projects or types of infrastructure that it intends to fund through the levy. In order to ensure that individual developments are not charged for the same infrastructure items through both S106s and the CIL, a S106 contribution cannot then be made towards an infrastructure item already on the List. The Council will publish its Reg123 List on its website and the Draft Reg123 List is provided as part of the consultation on the Draft Charging Schedule. S106s can still be used to fund a specific item of infrastructure, but there is a limit of five separate obligations which can be pooled for this purpose, as it is intended that the CIL becomes the main mechanism for pooled contributions.

The Council is able to update the Reg123 List, however any changes must be justified and subject to appropriate local consultation. It is proposed to make any changes annually as a result of monitoring in the Authority Monitoring Report. The Reg123 List does not identify priorities for spending within it, or any apportionment of the CIL funds across the District, and does not mean that the Council must pay the CIL towards all the items listed as this will also depend on the amount collected. There are various options available to the Council in deciding such matters, and this is a separate workstream to the adoption of the CIL Charging Schedule.

Larger scale developments typically have larger and more concentrated impacts on the local community and infrastructure network. Under the CIL regime, there will still therefore be a need for provision of infrastructure on-site as part of the determination of a planning application. For instance, education infrastructure is an integral component of balanced sustainable communities. New housing creates a need for more school places, and these may in some instances be accommodated across the existing school network through payments from the CIL for extensions. Where a scheme in itself creates such a level of need for school places that it cannot be easily accommodated elsewhere, it follows that the site should provide the land for a school on site. On large scale major sites therefore it is likely to be necessary to provide schools directly on site to meet the needs of the development, or it may be appropriate to locate the school on a nearby site where the school will meet the needs of a number of medium to large scale developments. In such cases an appropriate S106 contribution will be secured. If necessary the Council will ensure that these schools will not be funded through CIL receipts, that the obligations meet the statutory tests and that no more than five separate planning obligations will be secured for the same school.

Where CIL and S106 payments are both required viability may be taken into account through the exceptional circumstances policy (as set out in Annex 3).

Contributions for highway works that are secured through section 278 of the Highways Act are not subject to the pooling restriction.

Payments-in-kind

In accordance with Regulation 73 and 73A of the CIL Regulations (as amended) the Council may accept one or more infrastructure / and or land payments in satisfaction of the whole or part of the CIL due in respect of a chargeable development. This will be subject to the following conditions:

1. The Council must be satisfied that the transfer of land and / or provision of infrastructure is appropriate to support the delivery of the Local Plan and development in the District. It is at the Councils' discretion whether to accept the transfer of land or infrastructure in lieu of CIL.
2. The land is acquired by the Council as the charging authority or a person nominated by the Council.
3. The Councils' Regulation 123 list sets out the range of infrastructure to be funded in whole or in part by CIL. The Council may consider accepting infrastructure projects and / or types of infrastructure from this list to discharge part or all of a levy liability.
4. The Council may consider accepting an infrastructure payment relating to infrastructure to be provided outside the District if it will be used to support the development of the plan area.
5. The chargeable development must not have commenced before a written agreement with the Council to pay part or all of the CIL amount as land / and or infrastructure has been made. This written agreement must be prepared in accordance with the criteria set out in Regulation 73 and 73A of the CIL Regulations (as amended).
6. The person transferring the land and / or providing infrastructure to the Council as payment must have assumed liability to pay CIL and completed the relevant CIL forms.
7. Where CIL is paid by way of a land payment and / or infrastructure the amount of CIL paid is the amount equal to the value of the acquired land and / or infrastructure.
8. The land and / or infrastructure to be acquired must be valued by a suitably qualified and experienced independent person to be agreed with the Council. The valuation of land must represent the price that the land might reasonably be expected to obtain if sold on the open market on the day the valuation takes place and reflect the relevant purposes for which the land will be utilised. The valuation of infrastructure provided must reflect the cost of providing the infrastructure on the day the valuation takes place.
9. The land, subject to transfer, must be free from any interest in land and any encumbrance to the land, buildings or structures. (This may require the owner to demonstrate that the land is suitable through the submission of further information to the Council, including but not limited to topographical information, reports on contamination and archaeology and details of any underground services.)
10. The land, and or infrastructure subject to transfer must be fit for a relevant purpose being the land and or infrastructure appropriate to support the delivery of the Local Plan and development in the District.
11. The Council may transfer the land, at nil cost to a third party for the provision of infrastructure (this will be limited to other infrastructure providers).

ANNEX 2 – INSTALMENTS POLICY

The responsibility to pay the levy is with the landowner on which the proposed developed is to be situated. The Regulations define the landowner as a person who owns a 'material interest' in the relevant land to be developed.

This draft Instalments Policy is made in line with Regulations 69B and 70 of the Community Infrastructure Levy Regulations 2010 (as amended) and is as follows:

- a) This Instalments Policy takes effect on xxx date *[to be updated on adoption of the CIL]*.
- b) *This instalments Policy may be altered by Calderdale Council following a period of monitoring and is included within the Charging Schedule for information but is not a part of it.*
- c) The CIL instalment policy calculates payment days from commencement of development on site. The Commencement date will be taken to be the date advised by the developer in the commencement notice under CIL Regulation 67.

Payment of instalments are as follows:

≤ £9,999	Due in full within 2 calendar months of commencement
£10,000 to £59,999	Due in 2 equal instalments within: 3 months of commencement 6 months of commencement
£60,000 to £99,999	Due in 3 equal instalments within: 3 months of commencement 6 months of commencement 9 months of commencement
£100,000 to £499,999	Due in 4 equal instalments within: 3 months of commencement 6 months of commencement 12 months of commencement 18 months of commencement
≥ £500,000	Due in 4 equal instalments within: 3 months of commencement 6 months of commencement 12 months of commencement 24 months of commencement

Where the amount of the levy payable is >£500,000 Calderdale Council may consider an in-kind payment of land or infrastructure. Land that is to be paid in kind may contain existing buildings and structures and must be valued by an independent valuer who will ascertain its 'open market value', which will determine how much liability the in-kind payment will off-set. Payments in kind must be entered into and agreed before commencement of development. Land or infrastructure provided in kind must be provided to the same timescales as cash payments dependant on their value.

ANNEX 3 – EXCEPTIONAL CIRCUMSTANCES POLICY

Regulations 55 to 58 allow charging authorities to set discretionary relief for exceptional circumstances. Use of an exceptional circumstances policy enables the charging authority to avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise. It is a mechanism to enable growth and deliver development where CIL and S106 conflict.

Calderdale Council intends to have an Exceptions Policy for exceptional circumstances. The Exceptions Policy is included within the Charging Schedule for information but is separate to it and may be altered/revoked following monitoring.

The Council will have to comply with notification requirements and publish a statement confirming that relief for exceptional circumstances is available in Calderdale from a specified date. The process would then be that a landowner would have to submit a claim in accordance with the Regulations. The Council may grant relief from liability to pay CIL if (a) it appears to the Council that there are exceptional circumstances which justify doing so; and (b) the Council considers it expedient to do so. The Regulations specify the requirements that must be met in making this assessment, and these are set out below:-

Reg 55(3) A charging authority may grant relief for exceptional circumstances if –

- (a) It has made relief for exceptional circumstances available in its area;
- (b) A planning obligation under S106 of TCPA 1990 has been entered into in respect of the planning permission which permits the chargeable development; and
- (c) The charging authority-
 - (i) Considers that the cost of complying with the planning obligation is greater than the amount of CIL being charged;
 - (ii) Considers that to require payment of the CIL charged by it in respect of the chargeable development would have an unacceptable impact on the economic viability of the chargeable development, and
 - (iii) Is satisfied that to grant relief would not constitute a State aid which is required to be notified to and approved by the European Commission.

The person claiming relief must be an owner of a material interest in the relevant land. A claim for relief must be submitted in writing and be received before commencement of the chargeable development. It must be accompanied by an assessment carried out by an independent person of the cost of complying with the planning obligation, the economic viability of the chargeable development, an explanation of why payment of the chargeable amount would have an unacceptable impact on the economic viability of that development, an apportionment assessment (if there is more than one material interest in the relevant land), and a declaration that the claimant has sent a copy of the completed claim form to the owners of the other material interests in the relevant land (if any).

For the purposes of the above paragraph an independent person is a person who is appointed by the claimant with the agreement of the charging authority and has appropriate qualifications and experience.

A chargeable development ceases to be eligible for relief for exceptional circumstances if before the chargeable development is commenced there is a disqualifying event. This is where the development is granted charitable or social housing relief, is disposed of, or has not been commenced within 12 months.

APPENDIX 2

Comments on CIL 2015 Consultation:

QUESTIONS ASKED DURING THE 2015 CONSULTATION

Consultation was undertaken on the Preliminary Draft Charging Schedule, in accordance with the CIL Regulations (as amended) in late 2015.

The Consultation was structured around a number of specific questions as follows:

- Q1 Do you agree with the assumptions and approach of the Economic Viability Study?
- Q2 Do you agree that the Council has presented appropriate evidence for determining the level of CIL that would be viable across the Borough?
- Q3 Do you agree that the rates proposed represent an appropriate balance between the desirability of funding infrastructure and the need to maintain the overall viability of growth / development across the Borough?
- Q4 Do you agree with the different rates and charging zones for the development types proposed?
- Q5 Do you think the boundaries between the different zones are appropriate?
- Q6 Do you support the draft instalments policy?
- Q7 Do you support the Council adopting an exceptional circumstances policy

The following Table indicates the scale of comments made and the following pages set out the comments in detail and the Council's considered response.

Question No	Number of Negative Representations	Number of Supporting Representations
1	8	6
2	6	2
3	1	3
4	1	3
5	2	3
6	0	5
7	1	5

These comments together with the updated viability assessment of the Local Plan (2018) and Infrastructure Delivery Plan (IDP) (2018), have influenced the drafting of preparation of the Draft Charging schedule, for the next Consultation

Comments on CIL 2015 Consultation:

QUESTIONS ASKED DURING THE 2015 CONSULTATION

Q1. Do you agree with the assumptions and approach of the Economic Viability Study?

YES/NO	Respondent	Comment	Considered Response
NO	NHS Manchester (Rosanna Cohen)	<p>The Calderdale: Local Plan and CIL Viability Assessment (October 2015), used as part of the CIL charge evidence base, does not consider the impact of the proposed charges on D1 and C2 healthcare uses. As such, there does not appear to be an appraisal of the impact of the proposed charges on the viability of healthcare developments and therefore the ability of the NHS to provide for future healthcare infrastructure requirements. Changing healthcare requirements and a shift towards community residential care facilities as opposed to hospital based facilities is occurring across England. This requires development within communities in modern premises that are fit for purpose and financially viable.</p> <p>Under the proposals it is possible that the charge for a new community hospital facility could amount to hundreds of thousands of pounds. This would have a clear impact on the viability of such a project and could prevent the delivery of much needed facilities.</p> <p>The Infrastructure Delivery Plan (2012), which is used as evidence for the production of CIL, recognises the potential impact of projected population growth and the ageing population in Calderdale on NHS services. Population is</p>	<p>Development by a predominantly publicly funded or not for profit organisations, including sports and leisure centres, <u>medical or health services</u>, community facilities, and education will be zero rated within the Draft Charging Schedule. Also where developments are owned by a charitable institution and that chargeable development is used wholly or mainly for charitable purposes it will also be exempt from liability to pay CIL.</p> <p>We will work with all infrastructure providers (including Calderdale Clinical Commissioning Group) in developing the R123 List as appropriate. However, the Council does want to manage expectations in that CIL will only be a small element of the overall infrastructure funding gap and will not be able to fund all requests. It may be that certain projects can be funded by the local communities from their meaningful proportion if identified as priorities.</p> <p>A link to the Local Plan and CIL Viability Assessment is provided within the Planning Policy pages on the Council's website:</p> <p>www.calderdale.gov.uk/environment/planning/planning-policy/community-infrastructure-levy</p>

YES/NO	Respondent	Comment	Considered Response
		<p>expected to increase by 16% between 2009 and 2033, and this increase will be seen most significantly in the 65 years plus age group.</p> <p>In light of recent estates planning work undertaken on by NHS PS on behalf of Calderdale Clinical Commissioning Group, we would ask to be included in any review of the Regulation 123 list, to ensure that new development in your area is suitably covered by the required health facilities.</p> <p>The CIL Economic Viability Assessment Update (2015), referred to on page 13 of the PDCS</p> <p>Consultation document, is not available via the internet link provided.</p>	
	Chris Watson	<p>I am writing in regards to the Calderdale CIL Preliminary Draft Charging schedule to express my concerns over the terminology used by the Council for the 'Residential Institutions / Care Homes (C2 Use Class)' CIL rate. I am concerned that the term may have unintended consequence and as such I respectfully request the Council consider revising this definition.</p> <p>In the Calderdale Local Plan and CIL Viability Assessment the assessment of the viability of nursing / care homes is tested and it is concluded that this form of development can support a CIL charge. No other development in the classified under Use Class C2: Residential Institution of the Town and Country Planning Use Classes Order is tested and as such I assume that the proposed CIL rate was intended to only be levied against nursing / care homes.</p> <p>The definition as it currently stands can be read to include all development falling under Use Class C2 of the Use Classes Order, as it references the terms 'Residential Institution' and 'C2 Use Class'. Other forms of development that could be caught under Use Class C2 include residential schools,</p>	<p>Our intention was for CIL to be levied against nursing / care homes rather than all of the other development classified under Use Class C2.</p> <p>Development by a predominantly publicly funded or not for profit organisations, including sports and leisure centres, medical or health services, community facilities, and education will be zero rated within the Draft Charging Schedule. Also where developments are owned by a charitable institution and that chargeable development is used wholly or mainly for charitable purposes it will also be exempt from liability to pay CIL.</p>

YES/NO	Respondent	Comment	Considered Response
		<p>colleges, hospitals and training centres, which would be an unfortunate unintended consequence.</p> <p>I note that no other form of development reference the Use Classes Order and the term 'Residential Nursing / Care home' is sufficiently clear by itself. I therefore request you amend the term 'Residential Institutions / Care Homes (C2 Use Class)' to simply 'Residential Nursing / Care home' accordingly.'</p>	
NO	Alcuin Homes	<p>This representation has been prepared by WYG on behalf of Alcuin Homes who are a privately owned house builder. This representation should be read alongside the representations made in respect of the Calderdale Potential Sites and Other Aspects of the Local Plan consultation.</p> <p>We consider that the Calderdale Preliminary Draft Charging Schedule is not based on up to date evidence about the infrastructure needs of the area and the ability of development in that area to fund that infrastructure in whole or in part. The Calderdale Infrastructure Delivery Plan was published in Autumn 2012 and therefore needs to be updated to reflect current needs. The Preliminary Draft Charging Schedule refers to Fore Consulting being commissioned to critically review the Infrastructure Delivery Plan; however this review does not appear to be publically available.</p> <p>Due to the scale of the charging zones map at page 16 of the Preliminary Draft Charging Schedule it is difficult to identify individual sites and therefore identify what charging zone they fall within.</p> <p>The Calderdale Local Plan and CIL Viability Assessment 2015 (LPCVA) has been prepared by GVA to support the Local Plan and Community Infrastructure Levy Preliminary Draft Charging Schedule. The reference to the housing market zones in the LPCVA as hot, medium and cold zone is</p>	<p>The CIL Guidance states that Authorities are required to rely on evidence that is appropriate and available. The Regulations also allow for front loading of the development of CIL, so long as there is an identified infrastructure gap. For the purposes of this current stage of the CIL, Fore Consulting were commissioned, as part of the Local Plan and CIL Viability Assessment to critically review the Infrastructure Delivery Plan (Autumn 2012), and identify the overall funding gap. The review by Fore consulting is the best available information at this time and clearly demonstrates a large funding gap in Calderdale which justifies a need to develop a CIL; it is of a different purpose to the Infrastructure Delivery Plan which supports the delivery of the Local Plan. The infrastructure projects or types of infrastructure items that the Council intends will be wholly or partly funded by CIL will be set out in its Regulation 123 List, which will be published alongside the Draft Charging Schedule.</p> <p>The CIL charging zones will be updated and presented on an OS map base. This will be a standalone map to accompany the diagrammatic version within the Draft Charging Schedule. This map will be presented on the Council's website in a format which allows zooming down to individual site boundaries. If there is any difficulty for applicants in determining which boundary a particular site may be located in, Council officers can use their GIS</p>

YES/NO	Respondent	Comment	Considered Response
		<p>unclear and needs clarification. Figure 4.3 in the Calderdale Strategic Housing Market Assessment (SHMA) 2010 identifies 'very hot', 'hot', 'medium' and 'cold' zones however this is not referred to in the LPCVA.</p> <p>The LPCVA does not then corresponded with the charging zones in the Preliminary Draft Charging Schedule (for residential this is zone A, B, C and D). It is therefore difficult to understand what is being referred to in the various documents and this needs clarifying to ensure that the LPCVA is an appropriate and robust evidence document to support the Preliminary Draft Charging Schedule.</p> <p>Paragraph 9.10 of the LPCVA states that the potential for CIL has been modelled having also considered the cumulative impact of Policy TPH6 (affordable housing). This does not correspond with the 'Potential Sites and other aspects of the Local Plan' which is currently out for consultation as Policy TP7 covers affordable housing. It is unclear if these affordable housing levels in the proposed Local Plan are the same as those in the LPCVA and therefore it is difficult to draw definitive conclusions.</p> <p>The affordable housing provision is based on the Calderdale SHMA and Economic Viability Assessment (2011) and this is not up to date or based on current market conditions. There have been major changes to national planning policy, guidance and legislation since 2011 and the Economic Viability Assessment should be updated to ensure that the affordable housing policies can be found sound.</p> <p>The 2015 LPCVA makes limited reference to affordable housing but does recognise that affordable housing targets are achievable only on greenfield unconstrained sites. The LPCVA states that even when remediation costs are excluded brownfield sites are unable to sustain the levels of affordable housing set out in the Local Plan (paragraph 8.3 of the LPCVA). This further states that only 11.5% of the future</p>	<p>system to provide an even higher level of detail.</p> <p>The LPCVA aligns itself with the market value geographies / housing areas, which have been used as the basis for analysis for producing key sources of evidence including the Affordable Housing EVA and the SHMA 2015 update. This was to ensure consistency with the existing evidence base but also to ensure that CIL would not undermine the delivery of affordable housing targets.</p> <p>Reference to the four sub market zones is clearly referenced at Section 7.40 to 7.41 (inclusive of figure 1 and Table 49) of the LPCVA. The appraisal results (Section 8) and conclusions (Section 9) clearly demonstrate the impacts of CIL and other local plan standards by reference to these 4 sub market areas. Table 52 (page 108 of the LPCVA) shows the recommended CIL charges for the very hot, hot, medium and cold sub market areas.</p> <p>For clarity</p> <p>Zone A = Very Hot sub market area;</p> <p>Zone B = Hot sub market area;</p> <p>Zone C = Medium sub market area; and</p> <p>Zone D = Cold sub market area.</p> <p>Policy TP7 sets out the policy for affordable housing but supporting Table 8.9 details the provision of affordable housing in accordance with Policy TPH6. The thresholds and proportion of affordable housing stated in Table 8.9 within the 'Potential Sites and other aspects of the Local Plan' have been included within the LPCVA (refer to Table</p>

YES/NO	Respondent	Comment	Considered Response
		<p>land supply for housing is brownfield (paragraph 8.5 of the LPCVA). The LPCVA is therefore not consistent with Policy CP1 which sets a minimum target of 55% of new housing to be built on brownfield land.</p> <p>The primary role of the Local Plan viability assessment is to provide evidence to show that the requirements set out within the NPPF are met.</p> <p>The LPCVA also identifies that brownfield sites are unable to sustain CIL. The analysis in the LPCVA identifies that the SHLAA shows that only 12% of the future housing capacity (non-consented sites) is brownfield and therefore draws the conclusion that sufficient sites are viable to deliver the Plan's housing requirements over the Plan period. However proposed Local Plan Policy CP1 includes a brownfield target of 55% for new housing. Policy CP1 will clearly be undeliverable as CIL is non-negotiable. The conclusions drawn in the LPCVA are not consistent with the policies in the Local Plan and seem to have been prepared in isolation.</p> <p>The conclusions from the LPCVA, that brownfield sites are unable to sustain either CIL or affordable housing, has significant implications for the Local Plan, which expects 55% of housing on brownfield sites. For CIL to be introduced Policy CP1 needs to be amended to acknowledge that the majority of the housing requirement will be met on greenfield sites to ensure that the Local Plan is deliverable. This has major consequences for the housing policies and the number of the draft housing allocations in the Local Plan.</p> <p>When the costs of the zero carbon standards are modelled in the LPCVA, the assessment of viability shows a significant decrease in the potential CIL charging rate. Whilst the Government's current intention is to not require zero carbon standards, it should be noted that the proposed Local Plan Policy CP4 Climate Change and Policy CP6 Sustainable Design and Construction include energy efficiency</p>	<p>35).</p> <p>The viability of affordable housing has been modelled with reference to the thresholds and proportion of affordable housing in accordance with Policy TP7. The tenure and mix of affordable housing has referenced the Calderdale SHMA (2015). Therefore, the viability of affordable housing with Calderdale (originally set out within the 2011 EVA) has been updated within the current LPCVA. The results are set out within Section 8 (para 8.3 to 8.5).</p> <p>The National Planning Policy Framework sets out a core planning principle that planning policies should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. The Council has a strong desire to promote development on Brownfield land and sets out a target of 55% of new housing to be on Brownfield land. The Council accept that there are a number of potential physical constraints, when developing brownfield sites that could lead to abnormal costs for developers. Such issues are site specific and can vary enormously; therefore it is difficult to accurately assess the viability of Brownfield development in area wide assessments such as the LPCVA. The cost data applied within the LPCVA is based on guidance published by the Homes and Communities (HCA Remediation Cost Guidance 2015), which provides indicative costs for contamination and site preparation. In total the LPCVA modelled costs ranging from circa £780,000 per ha for small sites up to £475,000 per the for large sites. The LPCVA assumed that all sites would be contaminated and require significant site preparation in advance of their development.</p> <p>The LPCVA demonstrated that when sites were not contaminated and affordable housing was excluded the development of brownfield land for housing was viable in</p>

YES/NO	Respondent	Comment	Considered Response
		<p>requirements that will add significant additional costs to new development.</p> <p>These policies have not been assessed in the LPCVA and therefore the recommended maximum CIL charges do not take account of all of the scale of obligations and policy burdens included in the Local Plan.</p> <p>This is inconsistent with the National Planning Policy Framework (NPPF) which states at paragraph 173: “Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable” (underlining our emphasis).</p> <p>Paragraph 174 of the NPPF further states: “Local planning authorities should set out their policy on local standards in the Local Plan, including requirements for affordable housing. They should assess the likely cumulative impacts on development in their area of all existing and proposed local standards, supplementary planning documents and policies that support the development plan, when added to nationally required standards. In order to be appropriate, the cumulative impact of these standards and policies should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle. Evidence supporting the assessment should be proportionate, using only appropriate available evidence”</p>	<p>the Very Hot and Hot Market value areas generating average land values of £210,000 per acre in the very hot area and £143,000 per acre in the hot value area. The SHLAA identifies that around 37% of the brownfield land is located within these areas.</p> <p>When site preparation costs are reduced to 50% (down from £390,000 per ha to £195,000 per ha) and remediation of contamination is excluded then development is viable in all but the cold market value areas even with affordable housing as per the requirements stipulated in Policy TP7 This exercise demonstrated that brownfield land values average £140,000per acre in the very hot market areas, £108,000per acre in the hot market value areas and £56,000per acre in the medium value areas.</p> <p>Assuming no contamination and a reduced cost for site preparation combined with no requirement for affordable housing but including CIL at the rates specified in the PDCS the development of Brownfield land for housing is viable in all areas generating average land values of £241,000 per acre in the very hot market area, £176,000 per acre in the hot value area, £98,000 per acre in the medium value area and £53,000 per acre in the cold value area.</p> <p>The development of Brownfield land is, therefore, viable and able to sustain CIL but it is accepted that viability will be influenced by the extent of the abnormal costs. However, it is accepted that some brownfield sites will not be able to sustain the CIL charges proposed. This fact is recognised in the Guidance. In these circumstances the Council will work with developers to consider flexibility in relation to other planning obligations. In addition the Government has also recently undertaken a range of initiatives to support brownfield development including introducing a £1 billion “brownfield fund” to help cover site remediation costs. The introduction of permission in principle and a brownfield register to identify sites which are suitable for new housing</p>

YES/NO	Respondent	Comment	Considered Response
		<p>(underlining our emphasis).</p> <p>The Planning Practice Guidance (PPG) states: "Charging authorities should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the relevant Plan. They will need to draw on the infrastructure planning evidence that underpins the development strategy for their area. Charging authorities should use that evidence to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential impact upon the economic viability of development across their area. The levy is expected to have a positive economic effect on development across a local plan area. When deciding the levy rates, an appropriate balance must be struck between additional investment to support development and the potential effect on the viability of developments."</p> <p>To conclude, we have some serious concerns about the Calderdale CIL Preliminary Draft Charging Schedule and the evidence base which is used as justification. When the brownfield targets set out in the Local Plan are assessed, the LPCVA shows that the specified level of affordable housing and CIL is unviable in all areas.</p> <p>Furthermore the policies and standards set out in the Local Plan have not been modelled in the LPCVA and if this is also assessed then the maximum viable charging rates are also likely to reduce</p>	<p>development, as proposed in the Housing and Planning Bill, is also intended to expedite the granting of planning permission on brownfield sites.</p> <p>The Council has also had a target for the use of brownfield land since 2006 and in all subsequent years has exceeded the current target (55%). Therefore, whilst this technical assessment may suggest that Brownfield development is unviable the Council has physical evidence of delivery, which supports their interim target of 55%. This is real life evidence to balance against the EVS which is necessarily more hypothetical and strategic in approach.</p> <p>Policy CP4 Climate Change states that the Council will expect development proposals to contribute to mitigating and adapting to the predicted impacts of climate change by increasing levels of renewable and low carbon energy generation, through both a range of technologies and domestic, community and commercial scale schemes, whilst taking account of cumulative and environmental impacts.</p> <p>It was not possible to accurately quantify the likely cost implications and therefore it was not possible to consider the impact of this policy within the assessment. However, the assessment has not set the CIL based on the margins of viability. Instead the rates set out within the PDCS are based on 70% of the maximum charges identified through the LPCVA. Therefore any impacts associated which Policy CP4 will be reflected in this cushion.</p> <p>Policy CP6 Sustainable Design and Construction states that all new residential development will be expected to incorporate sustainable design and construction principles throughout the development process in line with Governments objective of setting energy standards through Building Regulations. The LPCVA did model the impact of achieving Zero Carbon standards which was set to be</p>

YES/NO	Respondent	Comment	Considered Response
			<p>introduced through building regulations this year; However, in July 2015 the Government issued a statement whereby they backtracked on their plans to tighten energy efficiency standards. The Government has also shelved the allowable solutions scheme – a mechanism that would have allowed developers to deliver greenhouse gas savings elsewhere if it was not cost effective to do so on site. As a result there is now some uncertainty whether the Government will actually press ahead with the tightening of Building Regulations this year to ensure all schemes comply with zero carbon standards. On this basis the viability of CIL has been based on current costs. This approach was endorsed in the High Court following a challenge by Fox Strategic Land on the Examiners approach when recommending that Chorley Borough Council's Community Infrastructure Levy (CIL) Charging Schedule should be adopted. The developer claimed the Examiner had been irrational in his approach to dealing with the Councils evidence on likely residential development land values by failing to see shortcomings in the Councils evidence. One of the 'shortcomings' raised by the developer was the Council had failed to justify the residential CIL charge beyond 2016. In particular they argued that the Council had failed to allow for the potential effects of a development plan policy coming into effect on that date which would require all new dwellings to comply with Level 6 of the Sustainable Homes Code. However, the judge concluded there was 'no need' for the Examiner to ask the Council for evidence to show that the residential CIL rate would not prejudice the viability of housing development after 2016....</p> <p>CP6 also states that all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable methods of construction. It was not possible to accurately quantify the likely cost implications and therefore it was not possible to consider the impact of this policy within the assessment. However, it is anticipated that most of these</p>

YES/NO	Respondent	Comment	Considered Response
			<p>requirements can be achieved through the use of appropriate materials and layout etc. and could typically be achieved without any additional development costs.</p> <p>The rates set out within the PDCS are also based on 70% of the maximum rates set out within the LPCVA. Therefore any impacts associated with Policy CP4 will be reflected in this cushion.</p> <p>There is a clear and large funding gap which justifies the requirement to charge a CIL. There is no singular appropriate balance, it is up to the Council to decide the appropriate balance of their CIL based on their own evidence and circumstances. This is clear in the CIL Regulations and Guidance (e.g. Regulation 14 where the Charging Authority “must <u>aim</u> to strike <u>what appears</u> to the charging authority to be <u>an</u> appropriate balance, it is a matter of judgement. Calderdale Council has set the rates within the PDCS at a discount of 30% to the maximum rates set out within the LPCVA. The Council therefore believes that an appropriate has been set and that it reflects the evidence accordingly. The rates have not been set at the maximum and therefore are in accordance with the guidance.</p> <p>It is considered that in accordance with the CIL Guidance the Calderdale CIL Charging Schedule will contribute towards the implementation of the Local Plan and support the development of the District by helping to provide infrastructure required as a result of new growth, and allowing delivery of the scale of development set out within the Local Plan. If the Charging rates are too low, development will be constrained by insufficient infrastructure and a lack of local support.</p> <p>The policies and standards set out within the local plan have been modelled and when setting the rates in the PDCS a cushion of 30% has been applied to the maximum</p>

YES/NO	Respondent	Comment	Considered Response
			rates,
NO	PS Ryley & Co (Mr Iain Crouch)	<p>My concern is that in Zones A & B in particular, the impact of a levy set at £75psm will mean a minimum CIL charge of £7,500 per dwelling. Likewise a levy set at £65psm in Zone C will result in a minimum charge of £6,500 per dwelling. This will have a proportionately greater impact on returns from smaller sites, as construction costs, professional fees and planning fees are not linear. Imposition of an additional £7,500 cost per plot will mean firstly that the developer (developers of smaller sites tend to have to fund projects using loans at commercial rates) will have to finance the sum for a period unknown between implementation and sale, and secondly that in order to maintain a margin, the cost plus interest will ultimately be added to the purchase price. On sites that have minimal viability at present due to stagnation in the housing market (as has been experienced in many parts of the District since 2007), this additional cost may preclude the eventual sale of new dwellings. The knock-on effect of this from the perspective of Calderdale's targets for housing is that fewer small sites are likely to be built upon until the market picks up sufficiently to make it worthwhile.</p> <p>My alternative suggestion therefore is that the charging structure be revised to take account the fact that smaller sites are already proportionately more costly to develop for the reasons stated above.</p>	<p>The LPCVA does distinguish between small and large developments and includes a higher cost for professional fees on smaller sites. However, the differences in costs have to be viewed in the context of policy variations such as those for affordable housing which is not sought on sites below a certain threshold. In addition the smaller sites don't have the significant infrastructure requirements that many larger schemes have to fund upfront. As a result the evidence within the LPCVA suggests, to the contrary, that smaller sites will be more viable to develop.</p>
NO	The Canal and River Trust (Mr Martyn Coy)	Thank you for consulting the Trust in relation to the Draft Charging Schedule.	The Regulation 123 List for the Draft Charging Schedule stage will be more specific about the projects on which it is intended to spend the CIL, but it is not required to identify priorities within that list. Specific infrastructure requests will

YES/NO	Respondent	Comment	Considered Response
		<p>The Trust has a range of charitable objectives including:</p> <ul style="list-style-type: none"> • To hold in trust or own and to operate and manage inland waterways for public benefit, use and enjoyment; • To protect and conserve objects and buildings of heritage interest; • To further the conservation, protection and improvement of the natural environment of inland waterways; and • To promote sustainable development in the vicinity of any inland waterways for the benefit of the public. <p>We would wish to comment on the Draft Regulation 123 List and note that Green Infrastructure (GI) and pedestrian/cycle networks are included within the Draft Regulation 123 List. Please note that the inland waterway network is a form of GI and provides pedestrian and cycle routes along the towpaths. We understand that any infrastructure included on an adopted Regulation 123 list cannot be funded through s106 agreements. To date, s106 agreements have been important as a tool for seeking the mitigation of impacts of development on our waterway network.</p> <p>Clearly GI covers a wide range of types of infrastructure and as such it is likely that only certain GI projects will actually benefit from CIL funding. Having regard to this context, we are concerned that our waterway infrastructure, including the Calder & Hebble Navigation and the Rochdale Canal, are subsumed within a very broad type of infrastructure, i.e. GI, on the Draft Regulation 123 List. Therefore, we consider that there is a need to more precisely define GI projects on the Regulation 123 List so as to prevent a situation occurring in which specific types of GI fail to actually benefit from CIL and at the same time cannot be funded through s106 agreements.</p> <p>As such, we would welcome the opportunity to discuss specific projects for inclusion on the Draft 123 list. For</p>	<p>be taken into account in the drafting of the R123 List and the separate prioritisation of spending once the CIL is adopted and starts to be collected. We will work with the Canal and River Trust in these tasks at the appropriate point.</p> <p>However, the Council does want to manage expectations in that CIL will only be a small element of the overall infrastructure funding gap and will not be able to fund all requests. It may be that certain projects can be funded by the local communities from their meaningful proportion if identified as priorities.</p>

YES/NO	Respondent	Comment	Considered Response
		<p>example, we have identified that the section of towpath from Sowerby Bridge, through Todmorden to Walsden is in need of investment to improve the towpath surface and access to it.</p> <p>Therefore, we recommend that this section of the towpath should be included as a project on the Draft 123 list as improvements to this section would benefit Green and pedestrian/cycle infrastructure. This would help promote the use of the towpath and improve sustainable transport options within the area as well as providing more opportunities for leisure and recreation for local residents.</p>	
NO	Highways England (Mrs Toni Rios)	<p>This is mainly evidence relating to the Infrastructure Delivery Plan Capacity improvement schemes on the strategic road network (SRN) are necessary to address the impact of increasing traffic levels caused by growth in long distance travel and by traffic generated by or attracted to developments proposed in the Local Plans of planning authorities in West Yorkshire and neighbouring areas.</p> <p>The overall scale of development indicated in the <i>Potential Sites & Other Aspects of the Local Plan</i> consultation document will have a significant adverse traffic impact on the operation of the SRN in West Yorkshire and its junctions with the local primary road network. The overall impact is greater when the land use development proposals for Calderdale are assessed in combination with those of neighbouring local planning authorities.</p> <p>Highways England has a number of planned improvements to the strategic road network serving Calderdale funded as part of the government's Road Investment Strategy (RIS). The schemes are intended to provide additional capacity at congested locations. These schemes should be included in the Infrastructure Schedule in the Calderdale Infrastructure Delivery Plan (IDP). The RIS schemes of particular relevance</p>	<p>Specific infrastructure requests will be taken into account in the drafting of the Regulation 123 List and the separate prioritisation of spending once the CIL starts to be collected. We will work with Highways England in these tasks.</p> <p>However, the Council does want to manage expectations in that the CIL will only be a small element of the overall infrastructure funding gap and will not be able to fund all requests. It may be that certain projects can be funded by the local communities from their meaningful proportion if identified as priorities.</p>

YES/NO	Respondent	Comment	Considered Response
		<p>to Calderdale are as follows:</p> <ul style="list-style-type: none"> • M1/M62 Lofthouse Interchange: Scheme to enhance the capacity of the interchange to be developed in the current roads period with the objective of commencing construction in the period 2020/21-2024/25. • M62 junctions 20-25: Smart motorway scheme intended to start in the current roads period (2015/16-2019/20). • M62/M606 Chain Bar: Scheme to provide an M62 westbound to M606 northbound link intended to start in the current roads period (2015/16-2019/20). <p>The initial results of modelling undertaken as part of the Highways England West Yorkshire Infrastructure Study (WYIS) indicate that capacity improvement measures additional to the schemes included in the RIS will be needed to cater for demand generated by development in Calderdale and neighbouring districts during the period to 2030. The draft version of the WYIS was completed in November 2015 and is now under consideration by Highways England. It will be shared with the Council in the near future although it should be noted that the development data included in this modelling was based on that available at the beginning of this year and reflects the 2012 preferred options.</p> <p>Additional schemes identified in the WYIS that are relevant to Calderdale will need to be included in the IDP. Further modelling work will be needed to determine the traffic thresholds or triggers for the additional improvement schemes.</p> <p>The additional schemes that are relevant to Calderdale and that should be included in the IDP are listed below:</p>	

YES/NO	Respondent	Comment	Considered Response
		<p><i>Needed by 2022:</i></p> <ul style="list-style-type: none"> • M62 junction 24: Three lanes approach from M62 westbound off slip on A629 to provide improved stacking capacity. • M62 new junction 24a: The West Yorkshire Infrastructure Study tests the addition of a new junction at 24a to the network. Initial modelling results indicate that this would provide strategic and local road network benefits through increased connectivity and network resilience. However, more detailed feasibility work involving Highways England, Kirklees and the West Yorkshire Combined Authority is ongoing. Modelling of the best performing option is underway with a view to providing a better understanding of the scheme benefits. • M62 junction 25: Signalisation (in conjunction with the Kirklees Cooper Bridge scheme) to maintain the level of circulatory operation in the context of increased traffic flows. • M62 junction 27: Widening of slip roads on west side of junction on approach to the junction to give benefits through improved stacking capacity. • M62 junction 27: Scheme of capacity improvements to the northern dumbbell roundabout giving enhanced junction operating capacity. • <p><i>Needed by 2030:</i></p> <ul style="list-style-type: none"> • M62 junction 24: Provision of two lanes from the A629 around the northern circulatory carriageway to the M62 eastbound including closure of the southern circulatory. • M62 junction 26: Upgrade of the M62 westbound diverge to type D1 ghost island (or D2 parallel diverge) to give enhanced junction operating capacity. • M62 junction 27: New link road from M621 to M62 	

YES/NO	Respondent	Comment	Considered Response
		<p>south, new link road between M62 westbound and M621 westbound slip road and associated segregated left turning lane on A62 south.</p> <ul style="list-style-type: none"> • M62 junction 29 (Lofthouse): Increase current two lanes eastbound and westbound on M62 through Lofthouse Interchange to three lanes in each direction. This is intended to provide capacity additional to the M1/M62 Lofthouse Interchange RIS scheme. <p>M62 new junction 24a is identified as a Core Project within Kirklees to be funded by the West Yorkshire plus Transport Fund (WY+TF). None of the other schemes identified in the WYIS are funded.</p> <p>It is possible that the West Yorkshire Infrastructure Study may underestimate the overall impact of Local Plan development in Calderdale and, depending on the eventual mix of sites and land uses, the list of additional schemes to be included in the IDP may well change if any further capacity enhancement schemes are found to be necessary. This will become clear when the final list of sites proposed for development is published in the Draft Local Plan.</p> <p>In general, the committed RIS schemes where construction is to be commenced in the period 2015/16-2019/20 should provide sufficient capacity on the SRN in and around Calderdale to accommodate traffic generated by Local Plan development in West Yorkshire. Between 2020 and the end of the Local Plan period there will be a need to implement the capacity enhancement schemes identified in the WYIS.</p> <p>Where sites have a severe impact on the SRN measures will be required to reduce and mitigate that impact. Sites which have severe individual impacts will need to demonstrate that any committed RIS schemes are sufficient to deal with the additional demand generated by that site.</p> <p>Where committed schemes will not provide sufficient capacity</p>	

YES/NO	Respondent	Comment	Considered Response
		or where Highways England does not have committed investment, sites may need to deliver or contribute to additional schemes identified by the Highways England WYIS and included in the IDP.	
NO	Strata Homes	<p>CALDERDALE COMMUNITY INFRASTRUCTURE LEVY PRELIMINARY DRAFT CHARGING SCHEDULE</p> <p>We write on behalf of our client, Strata Homes ('Strata') in respect of the publication of the Calderdale Community Infrastructure Levy Preliminary Draft Charging Schedule (PDCS).</p> <p>a) Southedge Quarry Context</p> <p>These representations are focussed on the potential implications of the proposed PDCS on our client's land interests at Southedge Quarry, Hipperholme.</p> <p>The remainder of this letter deals with the policies of the PDCS that determine when and how the rates should be applied and provides Strata's comments on these matters. Strata have not commented on the appropriateness of the charging rates as currently set and reserve the right to do so as the charging schedule goes through further refinement and following further review of scheme viability.</p> <p>The Site covers an area of approximately 15.5 ha and is recognised in the draft Local Plan as appropriate to accommodate in the order of 450 residential units. The Site has a key role to play in assisting the Council in meeting their objectively assessed housing needs and its deliverability is fundamental in this regard.</p> <p>The Site was historically used for the tipping of municipal waste and as such any redevelopment proposal will need to</p>	<p>For the purposes of this current stage of the CIL, Fore Consulting were commissioned, as part of the Local Plan and CIL Viability Assessment to critically review the Infrastructure Delivery Plan (Autumn 2012), and identify the overall funding gap. The review by Fore consulting is the best available information at this time and clearly demonstrates a large funding gap in Calderdale which justifies a need to develop a CIL; it is of a different purpose to the Infrastructure Delivery Plan which supports the delivery of the Local Plan. The infrastructure projects or types of infrastructure items that the Council intends will be wholly or partly funded by CIL will be set out in its Regulation 123 List, which will be published alongside the Draft Charging Schedule.</p> <p>At present the Council cannot identify specific sites which may require school provision on site. As work progresses on the Site Allocations Plan this will be clarified and may require a review of the CIL on adoption of the Site Allocations Plan.</p>

YES/NO	Respondent	Comment	Considered Response
		<p>dispose of the waste either on or off site and deal with any resultant land contamination issues. These remediation requirements carry significant abnormal costs which have a material bearing on the viability and deliverability of the proposed development. The costs are to be experienced up front and in advance of the site's development for residential use.</p> <p>Circumstances such as those set out above necessitate the Council to adopt a Phased Payments or Instalments Policy and to include an Exceptional Circumstances Policy (to be applied when the requirements of CiL are demonstrated to undermine a Site's deliverability) and the remainder of our representations focus on these matters in particular.</p> <p>b) Our Concerns on the PDCS</p> <p><i>1. Draft Section 123 List</i></p> <p>The Draft Section 123 List is acknowledged by officers to be 'non-specific' and to be subject to further review alongside the Local Plan as it moves through the various consultation stages. The List as currently drafted sets out the types of infrastructure that would benefit from CiL contributions but fails to identify specific projects or infrastructure that are to be delivered by CiL.</p> <p>The PDCS has been released alongside the draft Local Plan and in advance of the Council's assessment of employment needs within the Borough and as such, a full and informed understanding of the distribution of new growth. The Section 123 List, as set out within the PDCS, is acknowledged to be premature in this respect and its release for public comment is considered contrary to National Planning</p> <p>Policy Guidance in that it fails to be underpinned by '<i>evidence on infrastructure planning</i>'.</p>	

YES/NO	Respondent	Comment	Considered Response
		<p>Strata object to the setting of the initial draft Regulation 123 List in this context and request that appropriate opportunity be provided to comment on the draft List once provided.</p> <p>Without prejudice to the comments that Strata may wish to provide on the Regulation 123 List, we object to the 'notes' within the Regulation 123 List table of the PDCS as they relate to Primary and Secondary Education.</p> <p>As drafted, the Regulation 123 List introduces an expectation for all large scale residential development sites across the Borough, to provide both primary and secondary school provision as an integral part of the development or through separate planning obligations. This would infer that all 'large scale residential development' sites will be considered for onsite provision whether there is a need for this or not. Without a proper understanding of which sites would be affected (because there is no definition of 'large scale residential') and the effects that such a requirement will have on viability, there is a prospect that this provision could undermine delivery of new housing sites.</p> <p>This requirement is premature with the Council yet to conclude on the scale and distribution of their housing requirement and associated schooling needs through the emerging Local Plan. Only when a fix is reached on the location of housing and employment growth will the Council be able to determine the need and viability of new school provision. These matters need to be reassessed in advance of publishing the Draft Charging Schedule.</p>	
NO	Crosslee plc	<p>This representation has been prepared by WYG on behalf of Alcuin Homes who are a privately owned house builder. This representation should be read alongside the representations made in respect of the Calderdale Potential Sites and Other Aspects of the Local Plan consultation.</p> <p>We consider that the Calderdale Preliminary Draft Charging</p>	<p>The CIL Guidance states that Authorities are required to rely on evidence that is appropriate and available. The Regulations also allow for front loading of the development of CIL, so long as there is an identified infrastructure gap. For the purposes of this current stage of the CIL, Fore Consulting were commissioned, as part of the Local Plan and CIL Viability Assessment to critically review the</p>

YES/NO	Respondent	Comment	Considered Response
		<p>Schedule is not based on up to date evidence about the infrastructure needs of the area and the ability of development in that area to fund that infrastructure in whole or in part. The Calderdale Infrastructure Delivery Plan was published in Autumn 2012 and therefore needs to be updated to reflect current needs. The Preliminary Draft Charging Schedule refers to Fore Consulting being commissioned to critically review the Infrastructure Delivery Plan; however this review does not appear to be publically available.</p> <p>Due to the scale of the charging zones map at page 16 of the Preliminary Draft Charging Schedule it is difficult to identify individual sites and therefore identify what charging zone they fall within.</p> <p>The Calderdale Local Plan and CIL Viability Assessment 2015 (LPCVA) has been prepared by GVA to support the Local Plan and Community Infrastructure Levy Preliminary Draft Charging Schedule.</p> <p>The reference to the housing market zones in the LPCVA as hot, medium and cold zone is unclear and needs clarification. Figure 4.3 in the Calderdale Strategic Housing Market Assessment (SHMA) 2010 identifies 'very hot', 'hot', 'medium' and 'cold' zones however this is not referred to in the LPCVA.</p> <p>Reference to the four sub market zones is clearly referenced at Section 7.40 to 7.41 (inclusive of figure 1 and Table 49) of the LPCVA. The appraisal results (Section 8) and conclusions (Section 9) clearly demonstrate the impacts of CIL and other local plan standards by reference to these 4 sub market areas. Table 52 (page 108 of the LPCVA) shows the recommended CIL charges for the very hot, hot, medium and cold sub market areas.</p> <p>The LPCVA does not then corresponded with the charging</p>	<p>Infrastructure Delivery Plan (Autumn 2012), and identify the overall funding gap. The review by Fore consulting is the best available information at this time and clearly demonstrates a large funding gap in Calderdale which justifies a need to develop a CIL; it is of a different purpose to the Infrastructure Delivery Plan which supports the delivery of the Local Plan. The infrastructure projects or types of infrastructure items that the Council intends will be wholly or partly funded by CIL will be set out in its Regulation 123 List, which will be published alongside the Draft Charging Schedule.</p> <p>The CIL charging zones will be updated and presented on an OS map base. This will be a standalone map to accompany the diagrammatic version within the Draft Charging Schedule. This map will be presented on the Council's website in a format which allows zooming down to individual site boundaries. If there is any difficulty for applicants in determining which boundary a particular site may be located in, Council officers can use their GIS system to provide an even higher level of detail.</p> <p>The LPCVA aligns itself with the market value geographies / housing areas, which have been used as the basis for analysis for producing key sources of evidence including the Affordable Housing EVA and the SHMA 2015 update. This was to ensure consistency with the existing evidence base but also to ensure that CIL would not undermine the delivery of affordable housing targets.</p> <p>Zone A = Very Hot sub market area; Zone B = Hot sub market area; Zone C = Medium sub market area; and Zone D = Cold sub market area.</p> <p>Zone A = Very Hot sub market area;</p>

YES/NO	Respondent	Comment	Considered Response
		<p>zones in the Preliminary Draft Charging Schedule (for residential this is zone A, B, C and D). It is therefore difficult to understand what is being referred to in the various documents and this needs clarifying to ensure that the LPCVA is an appropriate and robust evidence document to support the Preliminary Draft Charging Schedule.</p> <p>Paragraph 9.10 of the LPCVA states that the potential for CIL has been modelled having also considered the cumulative impact of Policy TPH6 (affordable housing). This does not correspond with the 'Potential Sites and other aspects of the Local Plan' which is currently out for consultation as Policy TP7 covers affordable housing. It is unclear if these affordable housing levels in the proposed Local Plan are the same as those in the LPCVA and therefore it is difficult to draw definitive conclusions.</p> <p>The affordable housing provision is based on the Calderdale SHMA and Economic Viability Assessment (2011) and this is not up to date or based on current market conditions. There have been major changes to national planning policy, guidance and legislation since 2011 and the Economic Viability Assessment should be updated to ensure that the affordable housing policies can be found sound.</p> <p>The primary role of the Local Plan viability assessment is to provide evidence to show that the requirements set out within the NPPF are met.</p> <p>The LPCVA also identifies that brownfield sites are unable to sustain CIL. The analysis in the LPCVA identifies that the SHLAA shows that only 12% of the future housing capacity (non-consented sites) is brownfield and therefore draws the conclusion that sufficient sites are viable to deliver the Plan's housing requirements over the Plan period. However proposed Local Plan Policy CP1 includes a brownfield target of 55% for new housing. Policy CP1 will clearly be undeliverable as CIL is non-negotiable. The conclusions</p>	<p>Zone B = Hot sub market area; Zone C = Medium sub market area; and Zone D = Cold sub market area.</p> <p>Reference to the four sub market zones is clearly referenced at Section 7.40 to 7.41 (inclusive of figure 1 and Table 49) of the LPCVA. The appraisal results (Section 8) and conclusions (Section 9) clearly demonstrate the impacts of CIL and other local plan standards by reference to these 4 sub market areas. Table 52 (page 108 of the LPCVA) shows the recommended CIL charges for the very hot, hot, medium and cold sub market areas.</p> <p>For clarity Zone A = Very Hot sub market area; Zone B = Hot sub market area; Zone C = Medium sub market area; and Zone D = Cold sub market area.</p> <p>Policy TP7 sets out the policy for affordable housing but supporting Table 8.9 details the provision of affordable housing in accordance with Policy TPH6. The thresholds and proportion of affordable housing stated in Table 8.9 within the 'Potential Sites and other aspects of the Local Plan' have been included within the LPCVA (refer to Table 35).</p> <p>The viability of affordable housing has been modelled with reference to the thresholds and proportion of affordable housing in accordance with Policy TP7. The tenure and mix of affordable housing has referenced the Calderdale SHMA (2015). Therefore, the viability of affordable housing with Calderdale (originally set out within the 2011 EVA) has been updated within the current LPCVA. The results are set out within Section 8 (para 8.3 to 8.5).</p> <p>The National Planning Policy Framework sets out a core planning principle that planning policies should encourage</p>

YES/NO	Respondent	Comment	Considered Response
		<p>drawn in the LPCVA are not consistent with the policies in the Local Plan and seem to have been prepared in isolation.</p> <p>The conclusions from the LPCVA, that brownfield sites are unable to sustain either CIL or affordable housing, has significant implications for the Local Plan, which expects 55% of housing on brownfield sites. For CIL to be introduced Policy CP1 needs to be amended to acknowledge that the majority of the housing requirement will be met on greenfield sites to ensure that the Local Plan is deliverable. This has major consequences for the housing policies and the number of the draft housing allocations in the Local Plan.</p> <p>The assessment in the LPCVA has modelled the potential for CIL having considered the cumulative impact of affordable housing based on Policy TPH6 (affordable housing. This does not, however, consider the cumulative impact of other policies and standards in the Local Plan.</p> <p>When the costs of the zero carbon standards are modelled in the LPCVA, the assessment of viability shows a significant decrease in the potential CIL charging rate. Whilst the Government's current intention is to not require zero carbon standards, it should be noted that the proposed Local Plan Policy CP4 Climate Change and Policy CP6 Sustainable Design and Construction include energy efficiency requirements that will add significant additional costs to new development.</p> <p>These policies have not been assessed in the LPCVA and therefore the recommended maximum CIL charges do not take account of all of the scale of obligations and policy burdens included in the Local Plan.</p> <p>This is inconsistent with the National Planning Policy Framework (NPPF) which states at paragraph 173: "Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should</p>	<p>the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. The Council has a strong desire to promote development on Brownfield land and sets out a target of 55% of new housing to be on Brownfield land. The Council accept that there are a number of potential physical constraints, when developing brownfield sites that could lead to abnormal costs for developers. Such issues are site specific and can vary enormously; therefore it is difficult to accurately assess the viability of Brownfield development in area wide assessments such as the LPCVA. The cost data applied within the LPCVA is based on guidance published by the Homes and Communities (HCA Remediation Cost Guidance 2015), which provides indicative costs for contamination and site preparation. In total the LPCVA modelled costs ranging from circa £780,000 per ha for small sites up to £475,000 per the for large sites. The LPCVA assumed that all sites would be contaminated and require significant site preparation in advance of their development.</p> <p>The LPCVA demonstrated that when sites were not contaminated and affordable housing was excluded the development of brownfield land for housing was viable in the Very Hot and Hot Market value areas generating average land values of £210,000 per acre in the very hot area and £143,000 per acre in the hot value area. The SHLAA identifies that around 37% of the brownfield land is located within these areas.</p> <p>When site preparation costs are reduced to 50% (down from £390,000 per ha to £195,000 per ha) and remediation of contamination is excluded then development is viable in all but the cold market value areas even with affordable housing as per the requirements stipulated in Policy TP7 This exercise demonstrated that brownfield land values average £140,000per acre in the very hot market areas,</p>

YES/NO	Respondent	Comment	Considered Response
		<p>be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable” (underlining our emphasis).</p> <p>Paragraph 174 of the NPPF further states: “Local planning authorities should set out their policy on local standards in the Local Plan, including requirements for affordable housing. They should assess the likely cumulative impacts on development in their area of all existing and proposed local standards, supplementary planning documents and policies that support the development plan, when added to nationally required standards. In order to be appropriate, the cumulative impact of these standards and policies should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle. Evidence supporting the assessment should be proportionate, using only appropriate available evidence” (underlining our emphasis).</p> <p>The Planning Practice Guidance (PPG) states: “Charging authorities should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the relevant Plan. They will need to draw on the infrastructure planning evidence that underpins the development strategy for their area. Charging authorities should use that evidence to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential impact upon the economic viability of development across their area. The levy is expected to have a positive economic effect on development across a local</p>	<p>£108,000per acre in the hot market value areas and £56,000per acre in the medium value areas.</p> <p>Assuming no contamination and a reduced cost for site preparation combined with no requirement for affordable housing but including CIL at the rates specified in the PDCS the development of Brownfield land for housing is viable in all areas generating average land values of £241,000 per acre in the very hot market area, £176,000 per acre in the hot value area, £98,000 per acre in the medium value area and £53,000 per acre in the cold value area.</p> <p>The development of Brownfield land is, therefore, viable and able to sustain CIL but it is accepted that viability will be influenced by the extent of the abnormal costs. However, it is accepted that some brownfield sites will not be able to sustain the CIL charges proposed. This fact is recognised in the Guidance. In these circumstances the Council will work with developers to consider flexibility in relation to other planning obligations. In addition the Government has also recently undertaken a range of initiatives to support brownfield development including introducing a £1 billion “brownfield fund” to help cover site remediation costs. The introduction of permission in principle and a brownfield register to identify sites which are suitable for new housing development, as proposed in the Housing and Planning Bill, is also intended to expedite the granting of planning permission on brownfield sites.</p> <p>The Council has also had a target for the use of brownfield land since 2006 and in all subsequent years has exceeded the current target (55%). Therefore, whilst this technical assessment may suggest that Brownfield development is unviable the Council has physical evidence of delivery, which supports their interim target of 55%. This is real life evidence to balance against the EVS which is necessarily more hypothetical and strategic in approach.</p>

YES/NO	Respondent	Comment	Considered Response
		<p>plan area. When deciding the levy rates, an appropriate balance must be struck between additional investment to support development and the potential effect on the viability of developments.”</p> <p>To conclude, we have some serious concerns about the Calderdale CIL Preliminary Draft Charging Schedule and the evidence base which is used as justification. When the brownfield targets set out in the Local Plan are assessed, the LPCVA shows that the specified level of affordable housing and CIL is unviable in all areas.</p> <p>Furthermore the policies and standards set out in the Local Plan have not been modelled in the LPCVA and if this is also assessed then the maximum viable charging rates are also likely to reduce</p>	<p>The following policies have been considered within the LPCVA:</p> <p>Policy TPH3 Residential Density Policy THP5 – Market Development Mix / Types Policy TPH6 – Affordable Housing Policy TPH4 – Property / unit sizes Policy CP13 – Sustainable Construction Policy TPH5 – Lifetime Homes Standards Policy TPRE 1 – Renewable and Low Carbon Energy Policy TPH1 – Allocating land for Housing</p> <p>Policy CP4 Climate Change states that the Council will expect development proposals to contribute to mitigating and adapting to the predicted impacts of climate change by increasing levels of renewable and low carbon energy generation, through both a range of technologies and domestic, community and commercial scale schemes, whilst taking account of cumulative and environmental impacts.</p> <p>It was not possible to accurately quantify the likely cost implications and therefore it was not possible to consider the impact of this policy within the assessment. However, the assessment has not set the CIL based on the margins of viability. Instead the rates set out within the PDCS are based on 70% of the maximum charges identified through the LPCVA. Therefore any impacts associated which Policy CP4 will be reflected in this cushion.</p> <p>Policy CP6 Sustainable Design and Construction states that all new residential development will be expected to incorporate sustainable design and construction principles throughout the development process in line with Governments objective of setting energy standards through Building Regulations. The LPCVA did model the impact of achieving Zero Carbon standards which was set to be introduced through building regulations this year; However,</p>

YES/NO	Respondent	Comment	Considered Response
			<p>in July 2015 the Government issued a statement whereby they backtracked on their plans to tighten energy efficiency standards. The Government has also shelved the allowable solutions scheme – a mechanism that would have allowed developers to deliver greenhouse gas savings elsewhere if it was not cost effective to do so on site. As a result there is now some uncertainty whether the Government will actually press ahead with the tightening of Building Regulations this year to ensure all schemes comply with zero carbon standards. On this basis the viability of CIL has been based on current costs. This approach was endorsed in the High Court following a challenge by Fox Strategic Land on the Examiners approach when recommending that Chorley Borough Council's Community Infrastructure Levy (CIL) Charging Schedule should be adopted. The developer claimed the Examiner had been irrational in his approach to dealing with the Councils evidence on likely residential development land values by failing to see shortcomings in the Councils evidence. One of the 'shortcomings' raised by the developer was the Council had failed to justify the residential CIL charge beyond 2016. In particular they argued that the Council had failed to allow for the potential effects of a development plan policy coming into effect on that date which would require all new dwellings to comply with Level 6 of the Sustainable Homes Code. However, the judge concluded there was 'no need' for the Examiner to ask the Council for evidence to show that the residential CIL rate would not prejudice the viability of housing development after 2016....</p> <p>CP6 also states that all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable methods of construction. It was not possible to accurately quantify the likely cost implications and therefore it was not possible to consider the impact of this policy within the assessment. However, it is anticipated that most of these requirements can be achieved through the use of</p>

YES/NO	Respondent	Comment	Considered Response
			<p>appropriate materials and layout etc. and could typically be achieved without any additional development costs.</p> <p>The rates set out within the PDCS are also based on 70% of the maximum rates set out within the LPCVA. Therefore any impacts associated with Policy CP4 will be reflected in this cushion.</p> <p>There is a clear and large funding gap which justifies the requirement to charge a CIL. There is no singular appropriate balance, it is up to the Council to decide the appropriate balance of their CIL based on their own evidence and circumstances. This is clear in the CIL Regulations and Guidance (e.g. Regulation 14 where the Charging Authority “must <u>aim</u> to strike <u>what appears</u> to the charging authority to be <u>an</u> appropriate balance, it is a matter of judgement. Calderdale Council has set the rates within the PDCS at a discount of 30% to the maximum rates set out within the LPCVA. The Council therefore believes that an appropriate has been set and that it reflects the evidence accordingly. The rates have not been set at the maximum and therefore are in accordance with the guidance.</p> <p>It is considered that in accordance with the CIL Guidance the Calderdale CIL Charging Schedule will contribute towards the implementation of the Local Plan and support the development of the District by helping to provide infrastructure required as a result of new growth, and allowing delivery of the scale of development set out within the Local Plan. If the Charging rates are too low, development will be constrained by insufficient infrastructure and a lack of local support.</p> <p>The policies and standards set out within the local plan have been modelled and when setting the rates in the PDCS a cushion of 30% has been applied to the maximum</p>

YES/NO	Respondent	Comment	Considered Response
			rates,
YES	Mr Ian Stuart	The boundaries of CIL and S106 need clear definition. There will need to be regular reviews of the types of scheme CIL can fund, in order that expenditure can be matched to constantly changing priorities, and meet public expectations	<p>In April 2015 the Regulations scaled back the limit and the use of S106s. The Government's intention is to break the link between the development of a specific site and its contribution to infrastructure provision. Therefore any infrastructure which is directly required to make development acceptable in planning terms will continue to be sought through S106s. This means S106 obligations will remain alongside CIL but will be restricted to infrastructure required to directly mitigate the impact of the proposal. The Regulations therefore restrict the use of planning obligations to ensure that no development is charged twice for the same item of infrastructure through both CIL and S106s.</p> <p>The Council will set out at the CIL Examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the CIL. The council will also set out those known site specific matters where S106 contributions may continue to be sought. The principal purpose is to provide transparency on what the charging authority intends to fund in whole or in part through the levy and those known matters where S106 contributions may continue to be sought.</p> <p>Where CIL and S106 payments are both required viability may be taken into account through the exceptional circumstances policy. As it is possible for the CIL to be paid through a payment 'in kind' of land, this may be an option where it is not viable for a site to provide both CIL and on-site infrastructure through S106.</p> <p>The Council is able to update the Reg123 List at any point in time, however any changes must be justified and subject to appropriate local consultation. It is proposed to make any changes annually as a result of monitoring in the</p>

YES/NO	Respondent	Comment	Considered Response
			Authority Monitoring Report.
NO	Mrs Jane Harrison	<p>The CLA represents more than 34,000 members who collectively manage and/or own about half of all rural land in England and Wales. CLA members can be individuals, businesses, charities, farmers and estate managers who represent around 250 different types of rural businesses. They generate jobs, provide land and buildings for investment, housing for local people as well as producing food and a whole range of land-based environmental goods and services. They also manage and/or own as much as one third of all heritage in England and Wales, making the CLA by far the largest heritage-owner group. In the North we have 6,500 members covering the same range. This means that we have a particular interest in the application of CIL's in rural areas.</p> <p>The CLA analysed a number of CIL front-runners' viability assessments and preliminary charging schedules and we are very concerned that agricultural, horticultural and forestry developments, and small scale rural developments, are being swept up with urban-focussed development charges. Clearly this would be to the detriment of the rural economy as a whole as urban-focussed charges would stop critically needed development in the countryside. The CIL regulations do allow for differential rates subject to being underpinned by clear evidence.</p> <p>Agricultural and other Essential Rural Workers Dwellings</p> <p>I am concerned that the levy set on Residential property in the Zones A, B, C and D covers all residential development with the sole exception of social and self-build housing. The Viability Assessment (produced by GVA) has failed to consider that there are a number of situations where new rural dwellings are required to accommodate those employed in agriculture, horticulture, forestry and other rural</p>	<p>Social housing is not liable to pay the CIL, and the CIL Regulations set out that social housing includes rented dwellings where the dwelling will be let by a private registered provider of social housing /a registered social landlord / a local housing authority on an assured agricultural occupancy (or an arrangement that would be an assured agricultural occupancy but for paragraph 12(1)(h) or 12ZA of Schedule 1 to the Housing Act 1988).</p> <p>The Council does need to make sure that the CIL doesn't affect viability of development as a whole, and it must support the development plan which includes support for the rural economy. However, at present as long as a building has been in lawful use for 6 months out of the last 12 months then a change of use would not be liable for the CIL. It is therefore considered that most farm building developments would not be required to pay, and any extensions for business start-ups which were below 100sqm would also not be liable. If business start-ups were entirely removed from the requirement to pay the CIL, there would be potential State Aid issues and the CIL cannot be based on policy proposals, so it is not proposed necessary to alter the CIL requirement specifically for redundant farm buildings.</p> <p>The PDCS CIL rates only have a nominal £5 psm charge for retail developments with the exception of convenience stores greater than 500sq.m. It is, therefore, considered that the majority of farm shops and new village shops would be subject to the nominal charge. They may also be change of use in which case they would also not be liable for the charge.</p> <p>If the buildings are mainly used for storage (i.e. large barns) for the storage of machinery and grain etc could argue that the new floor space only relates to a building into which</p>

YES/NO	Respondent	Comment	Considered Response
		<p>businesses.</p> <p>Such properties are not sold for development gain and are usually restricted by some form of occupancy condition (S106). Indeed, in some cases a new dwelling will allow a family business to plan succession by providing accommodation for the next generation. In such cases, a charge of between £25psm or £75psm (depending on the Zones) would simply be an additional cost of construction and is likely to render many such projects unviable. As these properties are crucial to the operation of rural businesses and sustainable rural communities, I ask that they be considered separately, based on a suitable viability assessment, or classified with affordable housing for CIL purposes. Our view is that CIL should not apply to these dwellings.</p> <p>Evidence is emerging that Council's are taking notice of comments received from the CLA on publication of their Preliminary Draft Charaina Schedules. Where there has been a to charge a levy on agricultural dwellings on the publication of the Draft Charging Schedule the levy has been reduced to £0psm.</p> <p>Indeed, West Lancashire Borough Council modified their Draft Charging Schedule to take into account my comments that agricultural dwellings should attract a nil rate. The Examiner agreed and their Charging Schedule, which was approved this month, has set a nil rate. The Use Definition is: "Agricultural workers dwelling -dwelling in which the occupation of the property is limited (usually by condition) to those employed in agriculture."</p> <p>All Other Chargeable Uses</p> <p>The PDCS indicates that the proposed CIL charge for 'All Other Chargeable Uses (including apartments) will be £5.00psm or NIL. However, there appears to be no information on the different types of developments which will</p>	<p>people do not normally go or only go intermittently and therefore is not liable for CIL.</p>

YES/NO	Respondent	Comment	Considered Response
		<p>be charged a levy or not. This requires clarification but would expect buildings erected for agricultural, forestry and horticultural purposes are not buildings into which people normally go and therefore must be, specifically, exempted, or at the very least zero-rated, in your forthcoming draft charging schedule.</p>	
YES	Natural England (Merlin Ash)	<p>Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.</p> <p>Natural England is not a service provider, nor do we have detailed knowledge of infrastructure requirements of the area concerned. However, we note that the National Planning Policy Framework Para 114 states "Local planning authorities should set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure. "We view CIL as playing an important role in delivering such a strategic approach.</p> <p>As such we advise that the council gives careful consideration to how it intends to meet this aspect of the NPPF, and the role of the CIL in this. In the absence of a CIL approach to enhancing the natural environment, we would be concerned that the only enhancements to the natural environment would be ad hoc, and not deliver a strategic approach, and that as such the Local Plan may not be consistent with the NPPF.</p> <p>Potential infrastructure requirements may include:</p> <ol style="list-style-type: none"> 1. Access to natural greenspace. 2. Allotment provision. 3. Infrastructure identified in the local Rights of Way Improvement Plan. 	<p>Specific infrastructure requests will be taken into account in the drafting of the Regulation 123 List and the separate prioritisation of spending once the CIL starts to be collected. We will work with Natural England in these tasks.</p> <p>However, the Council does want to manage expectations in that the CIL will only be a small element of the overall infrastructure funding gap and will not be able to fund all requests. It is therefore considered that while the CIL may contribute to networks of biodiversity and green infrastructure, the other policies of the local plan will also ensure compliance with the NPPF and particularly paragraph 114.</p> <p>The spending of CIL is not to be directly examined other than through consideration alongside the R123 List. However, it is useful for Natural England to have identified potential additions to the R123 and these will be taken into account. It has been accepted at other CIL examinations that the CIL can be spent to mitigate the Habitats Directive, if necessary.</p> <p>It may be that certain projects can be funded by the local communities from their meaningful proportion if identified as priorities.</p>

YES/NO	Respondent	Comment	Considered Response
		<ol style="list-style-type: none"> 4. Infrastructure identified by any Local Nature Partnerships and or BAP projects. 5. Infrastructure identified by any Green infrastructure strategies. 6. Other community aspirations or other green infrastructure projects (e.g. street tree planting). 7. Infrastructure identified to deliver climate change mitigation and adaptation. 8. Any infrastructure requirements needed to ensure that the Local Plan is Habitats Regulation Assessment compliant (further discussion with Natural England will be required should this be the case.) <p>We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.</p>	
YES	Sport England (Richard Fordham)	<p>'Sporting and recreation facilities' are included within the definition of Community Infrastructure Levy (CIL) infrastructure in the 2008 Planning Act (section 216) which means money raised can be used to fund new or enhanced sports facilities. Sport England therefore recommends that Sports development to be added to the list of developments exempt from paying CIL on pages 5 and 6 of the draft charging schedule.</p> <p>The Regulation 123 List sets out what CIL money will be spent on. It advises that CIL will be used to fund community sports, leisure and recreation facilities.</p> <p>Paragraph 73 of the NPPF requires Local Authorities to undertake a robust and up to date assessment of need for outdoor and indoor sports provision and to use the assessment to identify specific need, deficiencies/surpluses in both quantity and quality within their area and therefore understand what provision is required. Sport England is aware the Council is undertaking a Playing Pitch Strategy which will set out priorities and actions in relation to pitches</p>	<p>Specific infrastructure requests will be taken into account in the drafting of the Regulation 123 List and the separate prioritisation of spending once the CIL starts to be collected. We will work with Sport England in these tasks.</p> <p>However, the Council does want to manage expectations in that the CIL will only be a small element of the overall infrastructure funding gap and will not be able to fund all requests.</p> <p>The spending of CIL is not to be directly examined other than through consideration alongside the R123 List. However, it is useful for Sport England to have identified potential additions to the R123 and these will be taken into account.</p> <p>It may be that certain projects can be funded by the local communities from their meaningful proportion if identified as priorities.</p>

YES/NO	Respondent	Comment	Considered Response
		<p>across Calderdale. However the Council's evidence base for built sports facilities (sport strategy) needs to be undertaken. Sport England would encourage the Council to undertake an assessment of the needs and opportunities for built sports facilities in line with Sport England's guidance https://www.sportengland.org/facilities-planning/planning-for-sport/planning-tools-and-guidance/assessing-needs-and-opportunities-guidance. It is essential that the evidence of sporting needs and priorities must be fed into both the CIL Reg123 list.</p> <p>In order to increase likelihood of the levy being spent on sport, the Reg 123 list should detail specific projects for sport. Rather than the Reg 123 list having a generic section relating to the provision of sport provision. Sport England would recommend the Council to list the sports projects in order of priority and in some detail. Such will increase the likelihood of delivery. Unless the Council identify specific projects on the 123 list, it may be more effective for sporting contributions to be sought through planning obligations however this is only in the case where it can be linked to a strategic housing development.</p> <p>After April 2015, no more than five planning obligations can be used to pool funds for any one piece of infrastructure/project. Therefore the Council will need to think quite strategically and plan effectively for sports infrastructure delivery in the future linking development sites with specific projects to meet identified sporting needs. This will enable the Council to take a proactive approach and ensure the most effective use of planning obligations and CIL together to help deliver this/meet the needs of the population.</p>	
YES	CMBC Housing Team		Support welcomed
YES	Ripponden	The introduction of the Community Infrastructure Levy (CIL) to replace the Section 106 payments is broadly welcomed by	The Regulations clearly states that structures which are not buildings, such as pylons and wind turbines are exempt

YES/NO	Respondent	Comment	Considered Response
	Parish Council	<p>the Parish Council because it gives more flexibility. However the Parish Council disagrees that wind turbines should be exempt, wind turbines and pylons should attract a higher rate because of their environmental and amenity damage.</p> <p>The Parish Council suggests that Calderdale Council should review the 100sqm exemption after 5 years to establish its effectiveness.</p>	<p>from the charge.</p> <p>The Regulations exempt minor development from the charge. In particular the Guidance stipulates that new development below the threshold of 100sq.m (1,076sq.ft) is not liable for the charge. However, this provision will not apply where the chargeable development comprises one or more dwellings (unless they are self-build homes, in which case they will also be exempt).</p>
YES	CMBC Housing	<p>Yes on the whole, but needs more clarity on the relationship between CIL and S106 requirements where scheme viability is an issue.</p> <p>It does appear a little harsh at point 2.28 that if planning permission is granted on appeal following the implementation of CIL that such a scheme would be liable for CIL payments if the LPA were unjustified in their decision to refuse planning permission. (where there was no CIL requirement when the original application was submitted)</p> <p>Also I do not agree with the assumption in Table 38 that all small affordable housing sites (under 0.5ha) would be 100% apartments development, nor that on larger brownfield sites that such a high proportion of 1 and 2 bed flats would be sought.</p>	<p>In April 2015 the Regulations scaled back the limit and the use of S106s. The Government's intention is to break the link between the development of a specific site and its contribution to infrastructure provision. Therefore any infrastructure which is directly required to make development acceptable in planning terms will continue to be sought through S106s. This means S106 obligations will remain alongside CIL but will be restricted to infrastructure required to directly mitigate the impact of the proposal. The Regulations therefore restrict the use of planning obligations to ensure that no development is charged twice for the same item of infrastructure through both CIL and S106s.</p> <p>The CIL rates have been set mindful of the site specific S106 provision by applying a cushion of 30% to the maximum rates set out within the LPCVA.</p> <p>The Council accept that larger scale developments typically have larger and more concentrated impacts on the local community and infrastructure network. Under the CIL regime, there will still therefore be a need for provision of infrastructure on-site as part of the determination of a planning application. For these larger schemes, where CIL and S106 payments are both required viability may be taken into account through the exceptional circumstances</p>

YES/NO	Respondent	Comment	Considered Response
			<p>policy.</p> <p>The relevant date for determining liability is the date of the issuing of the planning permission decision notice. If this is after the date CIL is adopted then the scheme will be liable.</p> <p>Whilst the LPCVA has been based on a range of assumptions it is accepted that these will differ in certain circumstances.</p>
YES	Historic England (Mr Ian Smith)	<p>Thank you for consulting Historic England about the Calderdale Community Infrastructure Levy Preliminary Draft Charging Schedule. Historic England recognises the importance of Community Infrastructure Levy as a source of funding to deliver the infrastructure required to underpin the sustainable development of the Borough. We have the following comments to make in response to the questions posted in the document:-</p> <p>We have no comments to make regarding rates of CIL which it is proposed to charge. In terms of our area of interest, the suggested rates of CIL seem unlikely to impact upon future investment in developments which could help secure the future of the heritage assets of Calderdale.</p> <p>Indicative Regulation 123 List</p> <p>We welcome the identification of public realm improvements as one of the potential projects within the indicative Regulation 123 List. A high-quality public realm is an essential component to encouraging people to live in and visit the Borough and attract continued investment into Calderdale.</p>	
	Yorkshire Wildlife Trust (Lauren)	Draft Regulation 123 Infrastructure List Yorkshire Wildlife Trust is pleased to note that green infrastructure is included within the Draft Regulation 123 Infrastructure List.	Support welcomed however, the Council does want to manage expectations in that the CIL will only be a small element of the overall infrastructure funding gap and will not

YES/NO	Respondent	Comment	Considered Response
	Garside)	<p>At a national level the NPPF gives local authorities a duty in their forward planning work to include Green Infrastructure and connect up habitat:</p> <p>'The planning system should contribute to and enhance the natural and local environment by: ... minimising impacts on biodiversity and providing net gains in biodiversity where possible... including by establishing coherent ecological networks that are more resilient to current and future pressures' (Paragraph 109 NPPF)</p> <p>'set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure' (Paragraph 114 NPPF)</p> <p>Other policy drivers for providing GI are the Natural Environment White Paper from 2011 see</p> <p>http://www.defra.gov.uk/environment/natural/whitepaper/ and the review of designated sites in the UK by Professor Sir John Lawton "Making Space for Nature" which provided part of the evidence for the White Paper see http://www.defra.gov.uk/publications/2011/06/07/government-response-making-space-for-nature-review</p>	<p>be able to fund all requests.</p> <p>Whilst CIL may contribute to networks of biodiversity and green infrastructure, the other policies of the local plan will also ensure compliance with the NPPF and particularly paragraph 114.</p>
YES	Network Rail (Mr Jeremy Wayman)	Support	Support welcomed

Q2. Do you agree that the Council has presented appropriate evidence for determining the level of CIL that would be viable across the Borough?

YES/NO	Respondent	Comment	Considered Response
NO	NHS Manchester (Rosanna Cohen)	<p>NHS Property Services Letter of Representations on the Calderdale Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS)</p> <p>NHS PS supports the requirement for new development to contribute to community infrastructure and to mitigate any harmful impacts arising from proposals. However, we have some serious concerns about the Draft Charging Schedule in its current form. The draft charging schedule currently includes a £60/sq.m charge for 'Residential Institutions/Care Homes (Use Class C2)'. New hospitals (use class C2) would fall into this category and would therefore be subject to a CIL charge. A £5/sq.m or nil charge has been proposed for 'All Other Chargeable Uses.' Health centres or GP surgeries (use class D1) would fall into this category and could therefore be subject to a CIL charge of up to £5/sq.m.</p> <p>The current draft charging schedule has no specific reference to hospitals (Use Class C2) or other healthcare premises (Use Class D1). The provision of healthcare developments (Use Classes C2 and D1) should have a nil CIL rate, because such a charge could compromise the delivery of infrastructure that is required to support growth. Healthcare uses do not generally accommodate revenue-generating operations and have operating costs that are often</p>	<p>Development by a predominantly publicly funded or not for profit organisations, including sports and leisure centres, medical or health services, community facilities, and education will be zero rated within the Draft Charging Schedule. Also where developments are owned by a charitable institution and that chargeable development is used wholly or mainly for charitable purposes it will also be exempt from liability to pay CIL.</p>

YES/NO	Respondent	Comment	Considered Response
		higher than the income they receive. They therefore require public subsidy. Many of these developments will be infrastructure themselves, which CIL or planning obligations may be required to fund. The viability of vitally important healthcare developments for the local community could therefore be compromised by the proposed CIL charge.	
YES	Mr Ian Stuart		Support welcomed
NO	CMBC Housing	General Comment - Not sure I fully understand the Neighbourhood Fund. If a 100m2 residential property is developed in Zone B, this attracts a CIL charge of £75psm, equating to a total of £7,500.6.6 indicates that in areas without a neighbourhood development plan in place, the local council will receive 15% of CIL receipts (£1,125 in this case), however the next line goes on to state that this would be subject to a cap equal to £100 per dwelling, meaning that only £100 would be received to spend on local infrastructure from the original £7,500, equating to just over 1%?!	The Council will be required to pass 15% of CIL receipts to relevant parish and town councils arising from developments in their areas. This would rise to 25% in areas with an adopted Neighbourhood Development Plan. The payments to areas without a Neighbourhood Development Plan in place will be capped to £100 per existing council tax dwelling per year. This means that a parish with 500 existing dwellings cannot receive more than £50,000 of CIL receipts per year (500x£100).
YES	CMBC Housing	<p>Yes on the whole, although I have concerns regarding how CIL will interact with S106 obligations in reality. If a scheme is not viable with the full level of planning obligations and verified through independent financial valuation, how will the split between CIL and S106 contributions be calculated?</p> <p>I also have concerns that there is little reference to brownfield sites within the Preliminary draft charging schedule. The EVA appears to conclude in 9.11 that</p>	<p>CIL is mandatory if a scheme is unviable at the proposed CIL rates the only form of negotiation will be through a reduction in other S106 Obligations. The exceptional circumstances policy is being offered to avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise. It is a mechanism to enable growth and deliver development where CIL and S106 conflict. Regulation 55(3) of the Regulations set out the specific criteria that must be followed.</p> <p>The National Planning Policy Framework sets out a core planning principle that planning policies should encourage</p>

YES/NO	Respondent	Comment	Considered Response
		<p>"Brownfield sites are unable to sustain CIL" which is a concern for funding future infrastructure given the Council's priority for maximising the use of previously developed (brownfield) land with a minimum target of 55% over the Local Plan period</p>	<p>the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. The Council has a strong desire to promote development on Brownfield land and sets out a target of 55% of new housing to be on Brownfield land. The Council accept that there are a number of potential physical constraints, when developing brownfield sites that could lead to abnormal costs for developers. Such issues are site specific and can vary enormously; therefore it is difficult to accurately assess the viability of Brownfield development in area wide assessments such as the LPCVA. The cost data applied within the LPCVA is based on guidance published by the Homes and Communities (HCA Remediation Cost Guidance 2015), which provides indicative costs for contamination and site preparation. In total the LPCVA modelled costs ranging from circa £780,000 per ha for small sites up to £475,000 per the for large sites. The LPCVA assumed that all sites would be contaminated and require significant site preparation in advance of their development. The LPCVA demonstrated that when sites were not contaminated and affordable housing was excluded the development of brownfield land for housing was viable in the Very Hot and Hot Market value areas generating average land values of £210,000 per acre in the very hot area and £143,000 per acre in the hot value area. The SHLAA identifies that around 37% of the brownfield land is located within these areas.</p> <p>When site preparation costs are reduced to 50% (down from £390,000 per ha to £195,000 per ha) and remediation of contamination is excluded then development is viable in all but the cold market value areas even with affordable housing as per the requirements stipulated in Policy TPH6. This exercise demonstrated that brownfield land values average £140,000per acre in the very hot market areas, £108,000per acre in the hot market value areas and £56,000per acre in the medium value areas.</p>

YES/NO	Respondent	Comment	Considered Response
			<p>Assuming no contamination and a reduced cost for site preparation combined with no requirement for affordable housing but including CIL at the rates specified in the PDCS the development of Brownfield land for housing is viable in all areas generating average land values of £241,000 per acre in the very hot market area, £176,000 per acre in the hot value area, £98,000 per acre in the medium value area and £53,000 per acre in the cold value area.</p> <p>The development of Brownfield land is, therefore, viable and able to sustain CIL but it is accepted that this will be determined by the extent of the abnormal costs. However, it is accepted that some brownfield sites will not be able to sustain the CIL charges proposed. This fact is recognised in the Guidance. In these circumstances the Council will work with developers to consider flexibility in relation to other planning obligations. In addition the Government has also recently undertaken a range of initiatives to support brownfield development including introducing a £1 billion "brownfield fund" to help cover site remediation costs. The introduction of permission in principle and a brownfield register to identify sites which are suitable for new housing development, as proposed in the Housing and Planning Bill, is also intended to expedite the granting of planning permission on brownfield sites.</p> <p>The Council has also had a target for the use of brownfield land since 2006 and in all subsequent years has exceeded the current target (55%). Therefore, whilst this technical assessment may suggest that Brownfield development is unviable the Council has physical evidence of delivery, which supports their interim target of 55%. This is real life evidence to balance against the EVS which is necessarily more hypothetical and strategic in approach</p>
NO	Network Rail (Mr Jeremy Wayman)	We note that 'Public Transport Schemes' are included within the Draft Regulation 123 Infrastructure	

YES/NO	Respondent	Comment	Considered Response
		<p>List. Where growth areas or significant housing allocations are identified close to existing rail infrastructure it is essential that the potential impacts of this are assessed. Many stations and routes are already operating close to capacity and increase in patronage may create the need for upgrades to the existing infrastructure including improved signalling, passing loops, car parking, cycle facilities, improved access arrangements, ticketing facilities or platform extensions.</p> <p>As Network Rail is a publicly funded organisation with a regulated remit it would not be reasonable to require Network Rail to fund rail improvements necessitated by commercial development. It is therefore appropriate to require developer contributions to fund such improvements. It would be appropriate to require contributions towards rail infrastructure where they are directly required as a result of the proposed development and where the acceptability of the development depends on access to the rail network.</p> <p>Network Rail therefore requires new developers to fund any enhancements to our infrastructure required as a direct result of new development <i>and any policy or guidance should specifically name 'rail infrastructure'.</i></p> <p>The likely impact and level of improvements required will be specific to each station and each development meaning standard charges and formulae may not be appropriate. Therefore, in order to fully assess the potential impacts, and the level of developer contribution required, it is essential that a Transport Assessment is submitted in support of a planning application that this quantifies in detail the likely impacts on the rail network.</p>	

YES/NO	Respondent	Comment	Considered Response
		<p>To ensure that developer contributions can deliver appropriate improvements to the rail network we therefore request that any Policy or guidance on Developer Contributions (CIL) in the Local Plan or any Supplementary Planning Guidance includes provision for rail. The policy and/or supporting Guidance should include the following:</p> <ul style="list-style-type: none"> • A requirement for developer contributions to deliver improvements to the rail network where appropriate. • A requirement for Transport Assessments to take cognisance of impacts to existing rail infrastructure to allow any necessary developer contributions towards rail to be calculated. • A commitment to consult Network Rail where development may impact on the rail network and may require rail infrastructure improvements. In order to be reasonable these improvements would be restricted to a local level and would be necessary to make the development acceptable. <p>IDENTIFICATION OF COUNCIL'S ASPIRATIONS FOR FURTHER RAILWAY INFRASTRUCTURE</p> <p>Network Rail acknowledges the Council's aspiration for a railway station at Elland. As one of the key stakeholders, Network Rail would welcome any further discussions in terms of the above aspirations and aims at the appropriate stages.</p> <p>LEVEL CROSSINGS</p> <p>The safety, reliability and efficiency of the rail infrastructure are of paramount importance to Network Rail and we cannot agree to any proposals which jeopardise these requirements. Level crossings are</p>	

YES/NO	Respondent	Comment	Considered Response
		<p>safe if used correctly. Most level crossing risk has resulted from user error or abuse. We are committed to reducing the risk at level crossings where reasonably practicable and will seek to close and/or divert crossings or enhance their safety through the provision of improved safety features or equipment. We will work with local councils to take a holistic approach to reducing level crossing risk and will encourage planning authorities to co-operate in securing level crossing closures or improvements in connection with new developments.</p> <p>We would encourage the inclusion of a policy statement which makes it clear to developers that no new crossings will be permitted, that proposals which increase the use of level crossings will generally be resisted and where development would prejudice the safe use of a level crossing an alternative bridge crossing will require to be provided at the developers expense.</p> <p>Site assessments must take cognisance of the impact of development proposals on level crossings. Transport assessment and developer contributions policy and supplementary guidance must ensure infrastructure risks are identified and mitigation secured.</p>	

Q3. Do you agree that the rates proposed represent an appropriate balance between the desirability of funding infrastructure and the need to maintain the overall viability of growth / development across the Borough?

YES/NO	Respondent	Comment	Considered Response
NO	PS Ryley & Co (Mr Iain Crouch)	See under Q 1	
YES	Mr Ian Stuart	Generally, yes, but only the passage of time will reveal whether an appropriate balance has been achieved.	Comment noted
YES	CMBC Housing	But still have concerns regarding brownfield sites not being able to sustain CIL payments.	Comment noted
YES	Network Rail (Mr Jeremy Wayman)	Support	Support welcomed

Q4. Do you agree with the different rates and charging zones for the development types proposed

YES/NO	Respondent	Comment	Considered Response
NO	PS Ryley & Co (Mr Iain Crouch)	(see comments under Q1)	
YES	Mr Ian Stuart	Support	Support welcomed
YES	CMBC Housing	Support	Support Welcomed
YES	Network Rail (Mr Jeremy Wayman)	Support	Support Welcomed

Q5. Do you think the boundaries between the different zones are appropriate?

YES/NO	Respondent	Comment	Considered Response
NO	PS Ryley & Co (Mr Iain Crouch)	<p>The boundaries as proposed do not take into account the fact that many areas within Zones A and C</p> <p>in particular have comparatively low house prices, and because of this the potential return from housing development in those areas is less, assuming the cost of development across the District (minus the cost of</p>	<p>The LPCVA has considered the viability of housing development within each zone, which are based on the market value zones established through the affordable housing EVA. The PDCS proposes differential rates to reflect the differences in value / viability across the District. The CIL has to be based on the evidence of economic viability. CIL is not permitted to be based on Council Tax</p>

YES/NO	Respondent	Comment	Considered Response
		land) is equal. Would it not be fairer to base CIL charges on an aggregate of Council Tax levels on land surrounding each site?	levels/bands.
YES	Mr Ian Stuart	Support	Support welcomed
YES	CMBC Housing	Support	Support welcomed
NO	CMBC Housing	There ought to be consistency with the 9 Local Plan areas	The LPCVA aligns itself with the market value geographies / housing areas, which have been used as the basis for analysis for producing key sources of evidence including the Affordable Housing EVA and the SHMA 2015 update. This was to ensure consistency with the existing evidence base but also to ensure that CIL would not undermine the delivery of affordable housing targets.
YES	Network Rail (Mr Jeremy Wayman)	Support	Support welcomed

Q6. Do you support the draft instalments policy?

YES/NO	Respondent	Comment	Considered Response
YES	PS Ryley & Co (Mr Iain Crouch)		Support welcomed
Yes	Strata Homes	<i>Instalments Policy</i> Our client supports the Council's proposal for an Instalments Policy in recognition of the substantial	Support welcomed The CIL regulations allow for the setting of phased payments based on time periods measured from commencement of

YES/NO	Respondent	Comment	Considered Response
		<p>upfront costs that may be experienced on large scale development sites, in particular where there are long lead-in times for site remediation and provision of particular pieces of infrastructure in advance of bringing forward the proposed land use and realisation of any increases in land value. Strata question the appropriateness of the stages specified and objects to the fixing of these specific phases in advance of the publication of any evidence base or justification as to why these timeframes are considered acceptable.</p>	<p>development and as proportions of the total charge liable for the particular development. Instalments cannot be linked to completions or stages of development or the type and size of development, although large developments may be formally split into distinct phases so that each phase is considered as a separate development for the purpose of CIL payments. However the instalments policy is discretionary and the Council is not required to consult on the Instalments policy. Regulation 69B of the Regulations set out the specific criteria that must be followed. In setting the policy the council have been mindful of the impact on development but also the need to secure enough up front funding to allow infrastructure delivery, especially for local communities and the need for there to be an incentive for new development.</p> <p>Where the Council is willing to accept it, a planning application can be subdivided into 'phases' for the purposes of the levy. This is expected to be especially useful for large scale, locally planned development, which is an essential element of increasing housing supply.</p> <p>The Council accept that large scale developments which are delivered over a number of years face particular issues in relation to cashflow and the delivery of on-site infrastructure. The regulations allow for both detailed and outline permissions (and therefore 'hybrid' permissions as well) to be treated as phased developments for the purposes of the levy. This means that each phase would be a separate chargeable development and therefore liable for payment in line with any instalment policy that may be in force. The principle of phased delivery must be apparent from the planning permission. The Council will work with developers to allow such developments to be delivered in phases.</p>
YES	Mr Ian Stuart		Support welcomed
YES	CMBC Housing		Support welcomed

YES/NO	Respondent	Comment	Considered Response
YES	Network Rail		Support welcomed

Q7. Do you support the Council adopting an exceptional circumstances policy

YES/NO	Respondent	Comment	Considered Response
YES	PS Ryley & Co (Mr Iain Crouch)		Support welcomed
YES	Strata Homes	<p>Strata support the Council's proposal to introduce an Exceptional Circumstances Policy to avoid rendering sites with specific and exceptional cost burdens, unviable. However, the Council's PDCS and associated Policies fail to recognise that the Council have found that it is unviable to charge CiL on brownfield sites and that '<i>Cil would further compound the viability challenges associated with Brownfield sites</i>'. The PDCS should be amended to reflect the fact that CiL is unviable on brownfield sites.</p> <p>The Council have acknowledged that their target for developing previously developed land as set out in their draft Local Plan is in itself ambitious. Their ability to realise this target will be further undermined whilst there remains concern over the viability of CIL in these locations.</p> <p>Within this context the Exceptional Circumstances Policy appears to being overly relied upon and as a means by which to test and verify the viability of</p>	<p>Support welcomed</p> <p>The Council accept that there are a number of potential physical constraints, when developing brownfield sites that could lead to abnormal costs for developers. Such issues are site specific and can vary enormously; therefore it is difficult to accurately assess the viability of Brownfield development in area wide assessments such as the LPCVA. The cost data applied within the LPCVA is based on guidance published by the Homes and Communities (HCA Remediation Cost Guidance 2015), which provides indicative costs for contamination and site preparation. In total the LPCVA modelled costs ranging from circa £780,000 per ha for small sites up to £475,000 per the for large sites. The LPCVA assumed that all sites would be contaminated and require significant site preparation in advance of their development. The LPCVA demonstrated that when sites were not contaminated and affordable housing was excluded the development of brownfield land for housing was viable in the Very Hot and Hot Market value areas generating average land values of £210,000 per acre in the very hot area and £143,000</p>

YES/NO	Respondent	Comment	Considered Response
		<p>particular categories of development rather than the exceptional cases relating to specific sites for which the Policy is intended (NPPG paragraph 129). As stated under National Planning Policy Guidance, any Exceptional Circumstances relief needs to be <i>'based upon an objective assessment of economic viability'</i> on a scheme by scheme basis and cannot be relied upon to deal with fundamental concerns on the viability of CiL across a particular area land use category.</p> <p>c) Summary</p> <p>In summary of our representations and recommendations on the Council's PDCS and associated policies:</p> <p>(i) The publication and consultation on the draft Regulation 123 List is premature, being undertaken in advance of the Council setting their spatial strategy and concluding what infrastructure is required over the Plan Period. Strata reserve the right to comment on the draft Regulation 123 List once this information becomes available and a completed List is published.</p> <p>(ii) It is inferred within the draft Regulation 123 List that all 'large scale residential development' sites will be considered for onsite school provision whether there is a need for this or not. This requires clarification in the draft Regulation 123 List and once a conclusion has been reached on the need for new school provision within the Borough.</p> <p>(iii) Strata support the inclusion of an Instalments Policy albeit request recognition be given within the Policy wording or in a separate Phased Payments Policy to the ability to pay by instalments on a phased basis.</p>	<p>per acre in the hot value area. The SHLAA identifies that around 37% of the brownfield land is located within these areas.</p> <p>When site preparation costs are reduced to 50% (down from £390,000 per ha to £195,000 per ha) and remediation of contamination is excluded then development is viable in all but the cold market value areas even with affordable housing as per the requirements stipulated in Policy TP7. This exercise demonstrated that brownfield land values average £140,000per acre in the very hot market areas, £108,000per acre in the hot market value areas and £56,000per acre in the medium value areas.</p> <p>Assuming no contamination and a reduced cost for site preparation combined with no requirement for affordable housing but including CIL at the rates specified in the PDCS the development of Brownfield land for housing is viable in all areas generating average land values of £241,000 per acre in the very hot market area, £176,000 per acre in the hot value area, £98,000 per acre in the medium value area and £53,000 per acre in the cold value area.</p> <p>The development of Brownfield land is, therefore, viable and able to sustain CIL but it is accepted that viability will be influenced by the extent of the abnormal costs. However, it is accepted that some brownfield sites will not be able to sustain the CIL charges proposed. This fact is recognised in the Guidance. In these circumstances the Council will work with developers to consider flexibility in relation to other planning obligations. In addition the Government has also recently undertaken a range of initiatives to support brownfield development including introducing a £1 billion "brownfield fund" to help cover site remediation costs. The introduction of permission in principle and a brownfield register to identify sites which are suitable for new housing development, as proposed in the Housing and Planning Bill, is also intended to expedite the granting of planning permission on brownfield</p>

YES/NO	Respondent	Comment	Considered Response
		(iv) The draft PDCS should provide an exemption for brownfield sites on the basis that CiL would further compound the viability challenges associated with their development.	<p>sites.</p> <p>The Council has also had a target for the use of brownfield land since 2006 and in all subsequent years has exceeded the current target (55%). Therefore, whilst this technical assessment may suggest that Brownfield development is unviable the Council has physical evidence of delivery, which supports their interim target of 55%. This is real life evidence to balance against the EVS which is necessarily more hypothetical and strategic in approach.</p> <p>The exceptional circumstances policy is being offered to avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise. It is a mechanism to enable growth and deliver development where CIL and S106 conflict. Regulation 55(3) of the Regulations set out the specific criteria that must be followed.</p> <p>The Regulations do not permit differential rates for Brownfield sites.</p>
YES	Mr Ian Stuart		Support Welcomed
YES	Sport England (Richard Fordham)		Support Welcomed
YES	Ripponden Parish Council	The Parish Council would like to be consulted when the exceptions policy is being considered for use.	Support Welcomed and comment noted.
YES	Historic England (Mr Ian Smith)	Under the CIL regulations, Local Authorities have the right to offer discretionary relief from CIL in exceptional circumstances in order to ensure that the levy does not prevent otherwise desirable development. Although it is accepted that the decision to offer exceptional relief is not part of the Charging Schedule, nonetheless, we welcome the acknowledgement within the document	Exceptional circumstances relief will only be offered in exceptional circumstances.

YES/NO	Respondent	Comment	Considered Response
		that such relief may be offered in exceptional circumstances. In terms of our area of interest, we consider that CIL relief should be offered where the requirement to pay CIL would have a harmful impact upon the economic viability of developments which involve heritage assets particularly those which are at risk.	
YES	Network Rail		Support welcomed