

**CALDERDALE COUNCIL**

**COMMUNITY INFRASTRUCTURE LEVY:**

**PRELIMINARY DRAFT CHARGING SCHEDULE  
(PDCS)**

**Consultation November/December 2015**



## **How to comment on the Preliminary Draft Charging Schedule**

If you have any comments on the Calderdale Preliminary Draft Charging Schedule, including the associated evidence base and other documents, please comment through the Consultation Portal on the Council's web-site :

<http://www.calderdale.gov.uk/environment/planning/planning-policy/local-plan/index.html>

or write to the following address answering the questions below by 5.00pm on Friday 18<sup>th</sup> December 2015

Calderdale Council : Economy and Environment  
Planning & Highways  
Spatial Planning Team  
Westgate House  
HALIFAX  
HX1 1PS

## **CALDERDALE : COMMUNITY INFRASTRUCTURE LEVY: PRELIMINARY DRAFT CHARGING SCHEDULE (PDCS)**

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## **1. Statement of Statutory Compliance**

- 1.1 The PDCS has been approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended<sup>1</sup>) and Part II of the Planning Act 2008, as amended. In setting the levy rates, Calderdale Council considers that 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 its area.
- 1.2 A full statement of Statutory Compliance will be included within the Draft Charging Schedule which is submitted for Examination.

## **2. Introduction**

- 2.1 This document is the consultation paper on the PDCS for the Calderdale Community Infrastructure Levy (CIL). In addition to the PDCS it also provides the background to the charging schedule and explains the general principles of CIL and its links to Section 106 and Section 278 Agreements.
- 2.1 The charging schedule will sit within the Calderdale Local Development Framework, but will not form part of the statutory development plan.

### **The CIL in Calderdale**

- 2.3 The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and is defined in the CIL Regulations 2010 (as amended). The CIL is a tariff system that local authorities in England and Wales can choose to charge on new developments in their area by setting a Charging Schedule. The CIL is a charge that is levied on the net additional floor space created by most new development. In this way money is raised from developments to help the Council pay for schools, roads and other facilities to ensure sustainable growth. It can only be spent on infrastructure which is needed as a result of new growth.
- 2.4 The CIL charge should not be set at such a level that it prejudices the delivery of the development plan and should also be based on viability evidence. Once approved CIL becomes a mandatory charge. From April 2015 CIL will replace the current Section 106 'tariff' approaches for education and green space contributions etc. S106 Agreements will continue to be used for affordable housing and anything required for the specific development site to make it acceptable in planning terms.

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<sup>1</sup> Amended by the Community Infrastructure Levy (Amendment) Regulations 2011, which came into force on 6<sup>th</sup> April, the Community Infrastructure Levy Regulations 2012, which came into force on 6<sup>th</sup> April 2012 and the Community Infrastructure Levy (Amendment) Regulations 2014.

- 2.5 The purpose of this document is to set out Calderdale Council's Preliminary Draft Charging Schedule (PDCS) for the collection of CIL. Appendix 1 of this report contains the PDCS.
- 2.6 These documents will be used as the basis for formal consultation between 6<sup>th</sup> November and 18<sup>th</sup> December 2015

### **Why is CIL being introduced?**

- 2.7 There are a number of reasons why CIL is being introduced in Calderdale:
- CIL will deliver more infrastructure funding than S106 because it requires contributions from a broader range of developments;
  - CIL is certain, predictable, transparent and developers can factor this charge into their schemes at an early stage. The Government's intention is that eventually this will charge will be reflected in land values and will reduce them accordingly;
  - The approval process should be accelerated, as there will be limited negotiations around S106 matters;
  - Without a CIL, income for infrastructure will be greatly reduced as the current system for collecting contributions via S106 Agreements is scaled back from April 2015;
  - It has been subject to viability testing which shows CIL to be a relatively modest charge and that it would not impact on the overall viability of development across the Borough;
  - A meaningful proportion will be passed back to the communities in which the development took place; and
  - The spending of CIL is more flexible than under the current S106 regime.

## **3. What development will be liable to pay CIL?**

- 3.1 Most development that involves the creation of buildings that people normally use will be liable to pay CIL. However, the Regulations provide for a number of exemptions against which the levy will not be charged. These include:
1. New buildings or extensions where the gross internal area of the new buildings or extensions is less than 100 square metres (other than where the development will comprise one or more dwellings);
  2. Self-build homes<sup>2</sup>
  3. Residential extensions and annexes;
  4. Changes of use, conversion or subdivision of a building that does not involve an increase in floor-space;
  5. Social housing<sup>3</sup>

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<sup>2</sup> Defined as private individuals who typically self-finance their own projects and who build or commission the build of their home, either by working on their own or working with builders.

6. The creation of a mezzanine floor within a building;
  7. Temporary development permitted for a limited period;
  8. Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery;
  9. Structures which are not buildings, such as pylons and wind turbines;
  10. Development by charities for charitable purposes; and
  11. If it is for a use or geographic area that has a zero or nil charge (£0/m2) set out in a CIL Charging Schedule.
- 3.2 Where planning permission is granted for a development that involves the redevelopment or demolition of a building in lawful use<sup>4</sup>, the level of CIL payable will be calculated based on the net increase in floor-space. This means that the existing floor-space contained in the building to be redeveloped or demolished will be deducted from the total floor-space of the new development, when calculating the CIL liability. This means that most developments on previously developed brownfield sites will generally have a lower CIL liability than developments that take place on greenfield sites.
- 3.3 The Council will have the ability to claw back any CIL relief where a development no longer qualifies for that relief within a period of seven years from the commencement of the development. For example, should a charity develop a building for charitable purposes and subsequently sell the building to the open market within seven years then the Council will be able to claw back the CIL that would have been charged on the building had it been used for private use.
- 3.4 The Regulations also allow charging authorities to permit discretionary relief from CIL in certain circumstances (e.g. where a reduced or nil payment may be accepted). The cases for relief are likely to be rare, but could include the following:
1. Development by charities for investment activities from which the profits will be applied for charitable purposes (as defined by Regulation 44).
  2. Development by charities where relief would normally constitute State aid (as defined in Regulation 45).
  3. Where the Council considers there are exceptional circumstances to justify relief (as defined in Regulation 55). In these situations the development site must also have a planning obligation (Section 106 Agreement) relating to the planning permission and the combined cost of the Section 106 agreement and CIL charge would have an unacceptable impact on the economic viability of the development. In such cases the developer would be expected to demonstrate this (as set out in Regulation 57) via an 'open book' approach with an independent valuer.

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<sup>3</sup> Social housing relief applies to social rented housing, intermediate rent or shared ownership, affordable rent (providing the rents are at least 20% below open market levels) and discount market sale (providing they meet the defined criteria at European and national level).

<sup>4</sup> The definition of lawful use is 'a building which has been in use for a continuous period of at least six months within the 3 years prior ending on the day planning permission first permits the chargeable development.'

4. Relief can also only be granted if it does not constitute notifiable State aid (as defined in European law).

3.5 Calderdale Council intends to have an Exceptions Policy for exceptional circumstances, which will be agreed by the Council. To put in place this policy the Council will need to comply with notification requirements and publish a statement confirming that relief for exceptional circumstances is available within Calderdale from a specified date. Further information is provided at Appendix x.

#### **4. How the chargeable amount will be calculated**

- 4.1 CIL is charged on the gross internal floor-space<sup>5</sup> of new development.
- 4.2 The amount of CIL charge a development is liable to pay will be calculated according to Regulation 40 of the CIL Regulations 2010 (as amended). The method involves multiplying the relevant CIL rate for the type/location of the development by the net additional floor-space and factoring in an inflation measure to allow for changes in building costs over time. A summary of the charging methodology is set out at Appendix 1a
- 4.3 The CIL Regulations specify that where the overall chargeable amount on a scheme is less than £50, it is deemed to be zero.

#### **5. Liability and Collection of CIL**

- 5.1 The Levy applies to new development for which planning permission is granted after the Charging Schedule has taken effect, and the amount of CIL payable (the 'Chargeable Amount') is calculated on the day that development is first permitted. Where a development is to be implemented in phases each phase of development can be treated as a separate chargeable development.
- 5.2 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.
- 5.3 The owner of the land is liable for CIL, unless another party claims liability (i.e. a prospective developer / purchaser). The liable party is required to notify the collecting authority about the start date of the development.
- 5.4 The Council recognise the implications that a large CIL liability required at the commencement of a development project could have on cash flows and the ability to raise finance. Therefore, the Council is exploring the option to introduce an instalments policy, which allows developers to pay their CIL charges in phased stages. A draft instalments policy is set out in Appendix 2.

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<sup>5</sup> The gross internal floor-space is the internal area of the building, and should include rooms, circulation and service space such as lifts and floor-space devoted to corridors, toilets, storage, ancillary floor-space (e.g. underground parking) etc.

## 6. Spending of the CIL levy

- 6.1 The finance generated from the CIL must be used to deliver infrastructure in the Borough that is needed to support the level of housing and employment growth proposed within the Core Strategy. Infrastructure has a very wide definition and includes transport, flood defences, schools, health and social care facilities, parks and green spaces, cultural and sports facilities as well as maintenance and improvement of facilities affected by development.
- 6.2 It is important to note that CIL is not meant to replace mainstream sources of funding for infrastructure and will not cover the full costs of all of the infrastructure projects identified in the Council's Infrastructure Delivery Plan. The Council will work closely with the relevant infrastructure and service providers to discuss the funding of infrastructure projects.
- 6.3 The Preliminary Draft Charging Schedule is primarily concerned with the proposed CIL rates, rather than the Council's mechanisms for apportioning the CIL revenue and the specific infrastructure items which it will contribute towards.

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 Preliminary Draft Charging Schedule (November 2015) and will be updated at the Draft Charging Schedule stage.	
Types of Infrastructure	Notes
<b>Flood Risk Mitigation schemes</b>	
<b>Primary and Secondary education</b>	<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>
<b>Green Infrastructure Improvements in terms of quantity and quality</b>	<i>Except for on-site public open space required to make development acceptable</i>
<b>Highway Schemes</b>	<i>Section 278 is still possible to ensure developments are acceptable in planning terms and to mitigate their immediate impacts.</i>
<b>Public transport schemes</b>	
<b>Pedestrian and cycle networks</b>	



<b>Community sports, leisure and recreation facilities</b>	
<b>Public realm improvements</b>	<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>	

### Neighbourhood Funds

- 6.5 The Regulations require a meaningful proportion of the funds raised through the levy to be passed back to a parish or town council, in which the development takes place. Neighbourhoods with an adopted neighbourhood plan will receive 25% of the CIL revenue from that area (provided that the development was granted planning permission after the neighbourhood plan was adopted) to spend on local infrastructure.
- 6.6 In areas without a neighbourhood development plan in place the local council will receive 15% of CIL receipts. This will be subject to a cap on the CIL revenue which is equal to £100 per dwelling, in the area, in each financial year.
- 6.7 These locally elected councils will be directly accountable for its expenditure and reporting. Where an area does not have a town or parish council the charging authority will hold the neighbourhood fund on the area's behalf and spend the money in line with the neighbourhood's needs, which will be guided through local consultation.
- 6.8 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.
- 6.9 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.
- 6.10 The Regulations permit the charging authority to require the repayment of any neighbourhood funds that remain unspent 5 years after they were transferred to a local council. Any returned funds are placed in the pooled CIL fund to be spent on area wide infrastructure projects. The Council will need to determine its position on requiring the return of unspent neighbourhood funds.

## **Administration**

- 6.11 The Regulations also allow up to 5% of the CIL collected each year to be used to pay for the administrative expenses incurred by the charging authority. The Council anticipates that it is likely to seek an element of reimbursement, to cover the costs associated with collection, implementation and monitoring of CIL. This will be accounted for in the Council's monitoring of the expenditure of CIL.

## **Governance**

- 6.12 No decisions have yet been made on spending or governance mechanisms of the CIL. These mechanisms have not yet been determined as it has not been appropriate to do so until there is a greater clarity on the amount of CIL which can be charged, which locations this will generally be in, and the amounts that will be collected overall.

## **7. Relationship between CIL and Section 106**

- 7.1 After adoption of CIL or from April 2015 (whichever is sooner) the Regulations will scale back and limit the use of S106 Agreements. Regulation 123 requires 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 S106 and CIL, the Council will publish the Regulation 123 list on its website. A S106 contribution cannot then be made towards an infrastructure item already on the Regulation 123 list.
- 7.2 S106 obligations 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 CIL becomes the main mechanism for pooled contributions.
- 7.3 Therefore, S106 will largely become restricted to any infrastructure which is directly required to make a development acceptable in planning terms.
- 7.4 The Council is currently in the process of preparing the List in order to comply with the requirements of the Guidance.
- 7.5 The Council is able to update the Regulation 123 list, however any changes must be clearly explained and subject to appropriate local consultation. 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 examination of the charging schedule a review of the charging schedule may be required.
- 7.6 Items on the list are also not guaranteed to receive CIL funding (depending on the amount collected) as the list does not identify spending priorities.

## **8. Payment in kind**

- 8.1 Under the regulations charging authorities may, at their own discretion, consider accepting land or infrastructure as payment in kind in lieu of CIL. An agreement to make an in kind payment must be entered into before commencement of development and provided to the same timescales as cash payments. Land 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 it will off-set.
- 8.2 However, where land is required within a development to provide built infrastructure to support that specific development it will be expected that land transfer will be at no cost to the Council and will not be accepted as a CIL payment in kind.

## **9. Reporting**

- 9.1 In accordance with Regulation 62 of the Regulations (as amended), the Council will publish an annual report on the operation of the levy over each financial year. This will form part of the Council's Annual Monitoring Report and will include the following information:
- How much CIL monies have been collected;
  - How much of that money has been spent;
  - Information on how CIL monies have been spent, including on which infrastructure projects, and how much has been used to cover administrative costs; and
  - The amount of CIL retained at the end of the reporting year.
- 9.2 Parish and town councils who receive CIL monies will have a duty to report to the Council annually on how they have used their Neighbourhood Funds.

## **10. Monitoring and Review of CIL**

- 10.1 The Council recognises the need to closely monitor the proposed CIL charges, given that changes in the property market, construction costs and changes in local or national policy over time can impact on development viability. Following the intended adoption of the CIL Charging Schedule in 2015, the Council intends to regularly monitor and review the relevant indicators to ensure the CIL charge remains appropriate.

## **11. Next Steps**

- 11.1 This Preliminary Draft Charging Schedule is the subject of consultation for six weeks ending the 18<sup>th</sup> December 2016. This consultation is aimed particularly at neighbouring authorities, local community representatives, infrastructure providers and the development industry, although all interested parties are welcome to make comments.
- 11.2 Following completion of the consultation on the Preliminary Draft Charging Schedule the representations received will be reviewed and if required alterations made or further economic viability testing undertaken. The next stage is to then prepare and publish a Draft Charging Schedule that will be the subject of a further six week consultation

## **12. Evidence for the Preliminary Draft Charging Schedule**

- 12.1 The development of the PDCS has been informed by appropriate evidence which includes:

### **Calderdale Infrastructure Delivery Plan (IDP)**

- 12.2 In order to introduce the CIL local planning authorities, as the charging authority, have to demonstrate that there is a shortfall in funding between the expected total cost of infrastructure needed to support development over the plan period and the level of funding likely to be forthcoming from mainstream sources of funding. This is known as the 'funding gap'. The Council's Infrastructure Delivery Plan (IDP)<sup>6</sup> identifies the key infrastructure requirements needed to support the level of planned growth set out in the Core Strategy. The IDP is intended to be a 'living' document which will continue to be updated and particularly to support the key stages of the Core Strategy and the progression of CIL.
- 12.3 For the purposes of this current stage of the CIL, Fore Consulting were commissioned, as part of the Local Plan and CIL Viability Assessment (see later) to critically review the document, and confirm that this still provides a robust evidence base for the production of CIL, particularly in terms of its identification of the critical infrastructure to support the planned growth in Calderdale.
- 12.4 The CIL guidance recognises that it is inevitable that predicting future infrastructure funding sources for the longer term contains uncertainties. For example Infrastructure requirements and costs may change over the plan period and will be updated accordingly in future revisions of the IDP or supporting CIL documentation. The critique of the IDP identified an overall funding gap of around £260 million. 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.

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<sup>6</sup> The IDP is available to view online using this link;  
<http://www.calderdale.gov.uk/environment/planning/planning-policy/evidence-base/infrastructure.html>

- 12.5 In preparing for CIL the Council will need to consider the information contained within the IDP and outline those items of infrastructure which it intends to finance in full or in part by CIL. This is known as the Regulation 123 List. As part of the review of the current IDP the elements of infrastructure that would be appropriate to be considered for funding through CIL (mainly local transport and education) have been considered.

### **Calderdale Local Plan and CIL Viability Assessment**

- 12.6 Testing the economic viability of development is central to the CIL charge setting process and is required to justify the introduction of the CIL to an authority area. Authorities must ensure that the proposed levy rates will not threaten the ability to develop viably the sites and the scale of development identified in the Core Strategy. To this end the Council commissioned GVA to prepare a Local Plan and CIL Economic Viability Assessment (EVA) for the Borough.
- 12.7 The EVA has been prepared in line with Government CIL and viability of local plans guidance<sup>7</sup>, and Royal Institute of Chartered Surveyor guidance on viability in planning<sup>8</sup>. This work was completed in November 2015 and is available on the Council's website<sup>9</sup>.
- 12.8 GVA 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 Borough using a residual appraisal methodology based on a range of hypothetical developments. This took into account the Council's current and potential future policy requirements, such as affordable housing, Code for Sustainable Homes and other relevant assumptions.
- 12.9 A basic principle of the CIL is that where it is economically viable to do so, development should be charged. However, the CIL is not to be used as a policy tool to encourage certain types of development over others by applying a lower or zero rate where development is viable. Differential rates can be applied to different types of development, or to different geographical areas, based on the outcome of the economic viability assessment. Where it has been demonstrated that it would not be viable to apply a CIL charge on a certain type of development, or in a particular geographic area, either a zero CIL rate or a nominal base rate can be applied.
- 12.10 The EVA concludes that there is scope to introduce a CIL in Calderdale and the proposed CIL rates contained in the PDCS reflect the findings of the viability evidence.

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<sup>7</sup> Viability Testing Local Plans – Advice for planning practitioners

<sup>8</sup> RICS: Financial Viability in Planning

<sup>9</sup> CIL Economic Viability Assessment Update (2015) is available to view using this link :

<http://www.calderdale.gov.uk/environment/planning/planning-policy/evidence-base/homes/index.html>

12.11 The Regulations recognise that the CIL charge may make some development unviable and advises that CIL should not be set at such a low rate as to ensure that every development remains viable. In setting the levy rates the Council has sought to strike 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 its area.

## **APPENDIX 1:**

### **CALDERDALE COUNCIL - COMMUNITY INFRASTRUCTURE LEVY (CIL):**

#### **PRELIMINARY DRAFT CHARGING SCHEDULE**

To charge CIL Calderdale Council must produce and adopt a Charging Schedule setting out the levy rates. This document is the Calderdale Preliminary Draft Charging Schedule (PDCS) issued for consultation. There is another formal stage of consultation on the Draft Charging Schedule, followed by submission to Inspector and an Examination.

This Charging Schedule has been prepared in accordance with Part 11 of the Town and Country Planning Act 2008 (as amended by Part 6 of the Localism Act 2011) and the Community Infrastructure Regulations 2010 (as amended). It is supported by local evidence regarding infrastructure requirements and the impact of the CIL on the viability of development in the Borough, as set out in the background reports. These can be found on the Council's website as part of the CIL evidence base : <http://www.calderdale.gov.uk/environment/planning/planning-policy/evidence-base/homes/index.html>

<http://www.calderdale.gov.uk/environment/planning/planning-policy/evidence-base/infrastructure.html>

#### **Proposed CIL Rates**

The CIL Regulations enable differential rates to be set for different types of development and in different parts of the Borough. The Regulations also enable rates to be differentiated by reference to the proposed size of development or the proposed number of units or dwellings.

CIL will be charged on the net additional floor area i.e. after the area of any demolished buildings has been deducted. It will be levied in pounds per square metre.

The Regulations provide for a number of exemptions against which the levy will not be charged. These include:

1. New buildings or extensions where the gross internal area of the new buildings or extensions is less than 100 square metres (other than where the development will comprise one or more dwellings);
2. Self-build homes<sup>10</sup>
3. Residential extensions and annexes;
4. Changes of use, conversion or subdivision of a building that does not involve an increase in floor-space;
5. Social housing<sup>11</sup>

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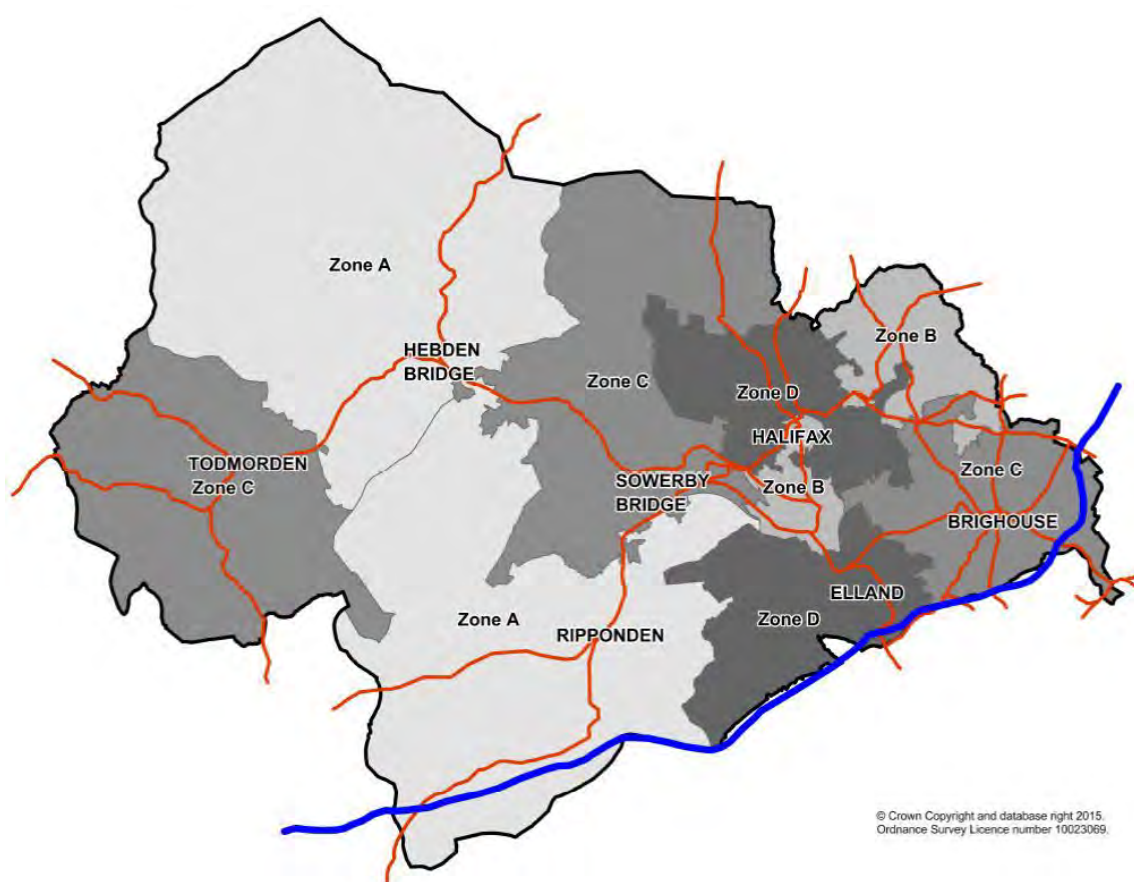
<sup>10</sup> Defined as private individuals who typically self-finance their own projects and who build or commission the build of their home, either by working on their own or working with builders.

<sup>11</sup> Social housing relief applies to social rented housing, intermediate rent or shared ownership, affordable rent (providing the rents are at least 20% below open market levels) and discount market sale (providing they meet the defined criteria at European and national level).

6. The creation of a mezzanine floor within a building;
7. Temporary development permitted for a limited period;
8. Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery;
9. Structures which are not buildings, such as pylons and wind turbines;
10. Development by charities for charitable purposes; and
11. If it is for a use or geographic area that has a zero or nil charge (£0/m<sup>2</sup>) set out in a CIL Charging Schedule; and
12. Floor-space resulting from change of use where the building has been in continuous lawful use for at least 6 months in the 3 years prior to the development being permitted.

The amount to be charged for each type of development is set out in the table below and will be calculated in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended). See Appendix 1a for detailed calculations to be used. For the purposes of the formulae in paragraph 5 of Regulation 40 (set out in Appendix 1a), the relevant rate (R) is the rate shown in the table below. The CIL payments are index linked. The map shows the different charging zones.

#### CHARGING ZONES : -





### PRELIMINARY DRAFT CHARGING SCHEDULE

Use	Area	Maximum possible Charge	PROPOSED CIL CHARGE
Residential (Houses)	Zones A	£230.00psm	<b>£75.00psm</b>
Residential (Houses)	Zones B	£110.00psm	<b>£75.00psm</b>
Residential (Houses)	Zones C	£95.00psm	<b>£65.00psm</b>
Residential (Houses)	Zones D	£40.00psm	<b>£25.00psm</b>
Retail – Convenience >500sq.m	All	£75.00psm	<b>£50.00psm</b>
Residential Institutions / Care Homes (Use Class C2)	All	£90.00psm	<b>£60.00psm</b>
All Other Chargeable Uses (including Apartments)	ALL	-	<b>£5.00psm or NIL</b>
			psm = £ per square metre

## **How to comment on the Preliminary Draft Charging Schedule**

If you have any comments on the Calderdale Preliminary Draft Charging Schedule, including the associated evidence base and other documents, please comment through the Consultation Portal on the Council's web-site :

<http://www.calderdale.gov.uk/environment/planning/planning-policy/local-plan/index.html>

or write to the following address answering the questions below by 5.00pm on Friday 18<sup>th</sup> December 2015

Calderdale Council : Economy and Environment  
Planning & Highways  
Spatial Planning Team  
Westgate House  
HALIFAX  
HX1 1PS

Please note that if you disagree with any aspects of the Schedule your response needs to be supported with actual evidence and examples, otherwise it may be difficult to give your comment much weight.

When commenting on the proposed rates set out in this PDCS, questions you may wish to consider include:

1. Do you agree with the assumptions and approach of the Economic Viability Study? If not what alternatives do you suggest;
2. Do you agree that the Council has presented appropriate evidence for determining the level of CIL that would be viable across the Borough and if not why not?
3. 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?
4. Do you agree with the different rates and charging zones for the development types proposed. If not which do you not agree with and why?
5. Do you think the boundaries between the different zones are appropriate? if not please say what amendments should be made?
6. Do you support the draft instalments policy?
7. Do you support the Council adopting an exceptional circumstances policy?

**Next Steps and Indicative Timescales**

Stage	Date	Notes
Consultation on CIL Preliminary Draft Charging Schedule and Regulation 123 List	6 <sup>th</sup> November to 18 <sup>th</sup> December 2015	This is the current stage of Consultation
Consultation on Draft Charging Schedule	Early/mid 2016 subject to progress of the Local Plan	
Draft Charging Schedule submitted for Examination	Mid/late 2016	
Independent Examination		
Adoption of the CIL – charging to commence		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.

## Appendix 1a– Calculation of Chargeable Amount

### Extract from the Community Infrastructure Levy Regulations 2010 (as amended).

*Note: this annex is formally part of the Preliminary Draft Charging Schedule)*

#### Calculation of chargeable amount

#### **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 dates.
3. But where that amount is less than £50 the chargeable amount is deemed to be zero.
4. The relevant rates are the rates at which CIL is chargeable in respect of the chargeable development taken from the charging schedules which are in effect:
  - a) at the time planning permission first permits the chargeable development; and
  - b) in the area in which the chargeable development will be situated.
5. The amount of CIL chargeable at a given rate (R) must be calculated by applying the following formula:

$$\frac{R \times A \times L_p}{L_c}$$

Where:

R = CIL rate

A= the deemed net area of development

L<sub>p</sub> = the index figure for the year in which planning permission was granted; and

L<sub>c</sub> = the index figure for the year in which the charging schedule contain the charging rate (R) took effect.

6. The value of (A) in paragraph 5 must be calculated by applying the following formula:

$$GR - KR - ((GR \times E)/G)$$

Where:

G = the gross internal area of the chargeable development

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

E= an amount equal to the aggregate of the gross internal areas of all buildings which:

- a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
- b) are to be demolished before completion of the chargeable development; and

KR = an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which:

- a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
- b) will be part of the chargeable development upon completion; and
- c) will be chargeable at rate R

7. The index referred to in paragraph (5) is 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; and the figure for a given year is the figure for 1<sup>st</sup> November of the preceding year.
8. But in the event that the All – in Tender Price Index ceases to be published, the index referred to in paragraph (5) is the retail prices index; and the figure for a given year is the figure for November of the preceding year.
9. Where the collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish:
  - a) the gross internal area of a building situated on the relevant land; or
  - b) whether a building situated on the relevant land is in lawful use, the collecting authority may deem the gross internal area of the building to be zero.
10. For the purposes of this regulation a building is in use if a part of that building has been in use for a continuous period of at least six months within the period of 3 years ending on the day planning permission first permits the chargeable development.
11. In this regulation 'building' does not include:
  - a) A building into which people do not normally go;
  - b) A building into which people go only intermittently for the purpose of maintaining or inspecting machinery; or
  - c) A building for which planning permission was granted for a limited period.
12. In this regulation 'new build' means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings.

## Appendix 2 – Draft Instalments Policy

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

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

- i. This instalments policy takes effect on [date]. [to be updated on adoption of the CIL]
- ii. 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.
- iii. Payment of instalments are as follows:

<£9,999		Due in full within 60 days of commencement
£10,000 £59,999	-	Due in 3 equal instalments within: a) 60days of commencement b) 120 days of commencement c) 180 days of commencement
£60,000 £99,000	-	Due in 4 equal instalments within: a) 60 days of commencement b) 120 days of commencement c) 180 days of commencement d) 240 days of commencement
£100,000 +		Due in 4 equal instalments within: a) 90 days of commencement b) 180 days of commencement c) 360 days of commencement d) 720 days of commencement

- iv. Where the amount of levy payable is greater than £xxxxx (figure to be inserted following Consultation on the PDCS) the council may consider an in kind payment of land. Payments in kind must be entered into and agreed before commencement of development. Land provided in kind must be provided to the same timescales as cash payments.

### Appendix 3 – Exceptional Circumstances Policy

**Regulations 55 and 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 which will be agreed by the Council. To put in place this policy the Council will need to comply with notification requirements and publish a statement confirming that relief for exceptional circumstances is available within Calderdale from a specified date. The process would then be that a landowner would have to submit a claim in accordance with the Regulation. 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 (as amended) specify the requirements that must be met in making this assessment, and these are set out below:

**Regulation 55(3) (as amended)** 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 the 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 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
  - (ii) 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 someone 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*