

## Report to Cabinet

30 March 2017

By the Cabinet Member for Planning and Development

KEY DECISION



**Horsham  
District  
Council**

Not Exempt

### **Adoption of Horsham District Council Community Infrastructure Levy (CIL) Charging Schedule**

#### **Executive Summary**

Following three rounds of public consultation, the Council has received the Independent Examiner's report following his examination of the draft Horsham District Council Community Infrastructure Levy (CIL) Charging Schedule. The Independent Examiner has recommended that the draft Horsham CIL Charging Schedule be approved without any further modifications. This report recommends that Cabinet recommends to Full Council the adoption of the Horsham District Council Community Infrastructure Levy (CIL) Charging Schedule and for the levy to apply from 1 October 2017, or as soon as practical thereafter, in consultation with the Cabinet Member.

#### **Recommendations**

Cabinet is recommended to:

- i) Note the relevant CIL rates for different types of development in Horsham district that are set out in the Horsham CIL Charging Schedule at Appendix 1;
- ii) Note the recommendations of the Independent Examiner at paragraphs 24-26 of Appendix 2; and
- iii) Recommend to Full Council that the Horsham District Council CIL Charging Schedule be adopted and to be implemented from 1 October 2017, or as soon as practical thereafter, in consultation with the Cabinet Member.

#### **Reasons for Recommendations**

- i) For information
- ii) For information
- iii) To enable the Horsham CIL Charging Schedule to be adopted as Council Policy and to ensure that CIL contributions are provided to support the development identified in the HDPF over the Plan period (up to 2031).

## **Background Papers**

- Preliminary Horsham Draft Charging Schedule (consultation occurred between 16 May and 27 June 2014)
- Horsham CIL Draft Charging Schedule (consultation occurred between 6 May and 17 June 2016).
- Draft Planning Obligations & Affordable Housing Supplementary Planning Document (SPD) (May 2016)
- Infrastructure Delivery Plan (April 2016)
- CIL Viability Update Assessment & Appendices (February 2016)
- CIL Proposed Modifications (consultation occurred between 18 November 2016 and 19 December 2016)
- Independent Examiner report on the draft Horsham District CIL Charging Schedule, 1 March 2017.

**Wards affected:** All

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## **Background Information**

### **1 Introduction and Background**

- 1.1 As part of the changes introduced under the Planning Act 2008, the Government introduced the Community Infrastructure Levy (CIL); and this was brought into law by the CIL Regulations 2010, as amended.
- 1.2 CIL is a charge which local authorities in England and Wales can levy on most types of new development in their areas when it is viable to do so. The proceeds of the levy provide infrastructure to support the development of an area in line with local authorities' development plans; in this case, the Horsham District Planning Framework, which was adopted in November 2015.
- 1.3 In order to be able to introduce the levy, a council must produce and adopt a CIL Charging Schedule, setting out the charging area(s) for the district and the charging rate. This involves two periods of public consultation (and potentially a third – Proposed Modifications) followed by an Examination by an Independent Examiner.
- 1.4 The Council carried out the first period of public consultation on the Preliminary Draft CIL Charging Schedule between 16 May and 27 June 2014. The second period of public consultation, on the Draft CIL Charging Schedule, was held between 6 May and 17 June 2016.
- 1.5 The Council recommended a small number of proposed modifications to the Draft CIL Charging Schedule to the Independent Examiner following the comments received. The main change was the exclusion of Kilnwood Vale from the Charging Schedule because it already has planning permission and the necessary infrastructure would be, or is already, funded through site-specific Section 106 planning obligations. The Proposed Modifications were subject to public consultation between 18 November and 19 December 2016, when it was submitted for Examination.
- 1.6 In addition to the work that was carried out on the Draft CIL Charging Schedule, a Draft Planning Obligations & Affordable Housing Supplementary Planning Document (SPD) was produced. This was in order to clarify what would be liable for a Section 106 contribution once the CIL charge was in operation. The draft SPD was consulted on at the same time as the Draft CIL Charging Schedule (May to June 2016). It will be finalised after the CIL Charging Schedule has been adopted by Council, for implementation at the same time as the CIL Charging Schedule (1 October 2017).
- 1.7 The Examination into the draft CIL Charging Schedule was held by written representations only and the Independent Examiner's report was received on 1 March 2017. It recommends that the Horsham District CIL Charging Schedule be approved, incorporating the modifications proposed by the Council. No other changes have been required.

## **2 Relevant Council policy**

- 2.1 The Horsham District Planning Framework (HDPF) is the relevant plan that sets out how growth and development will take place in the district in the period to 2031. The CIL charge is set an appropriate level to ensure that the plan is economically viable and sufficient infrastructure is identified to deliver the proposed development.

## **3 Details**

- 3.1 It is proposed to start charging CIL on relevant planning applications (in accordance with the CIL Regulations) from 1 October 2017. The Charge will be £135 per sqm for new residential floorspace and £100 per sqm for large format retail development including supermarkets and retail warehousing. The money collected will be used to assist in the provision of key pieces of infrastructure that are needed to support development in Horsham district over the lifetime of the HDPF and as set out in the Infrastructure Delivery Plan and Regulation 123 list.

## **4 Next Steps**

- 4.1 Subject to Council's agreement to adopt the CIL Charging Schedule when it meets on 26 April 2017, it will be published and advertised in accordance with the necessary regulations on 2 May 2017. The Council will seek to start charging CIL on 1 October 2017.

## **5 Views of the Policy Development Advisory Group and Outcome of Consultations**

- 5.1 The Council undertook extensive consultation during the preparation of the CIL Charging Schedule in accordance with the CIL regulations and a number of changes were made to the document in response to this.
- 5.2 The Preliminary Draft Charging Schedule was consulted on between 16 May and 27 June 2014). 25 different consultees provided comments to the Council. These included a number of statutory consultees; developers; parish councils and local consultees.
- 5.3 The Council was involved in the publication and Examination of the Horsham District Planning Framework between August 2014 and November 2015. The document was submitted for Examination on 8 August 2014. Examination hearings into the Plan were held between 4 November 2014 and 3 July 2015. The Horsham District Planning Framework was adopted in November 2015. Thereafter, work resumed on the publication of the CIL Draft Charging Schedule.
- 5.4 The Draft Charging Schedule was consulted on between May and June 2016. By the close of the consultation, 24 representations on the CIL Draft Charging Schedule had been received. These were from 5 statutory consultees including West Sussex County Council, 9 developers, 7 Parishes or Neighbourhood Councils, and 3 residents.

- 5.5 The Modifications to the Draft Charging Schedule were consulted on between 18 November 2016 and 19 December 2016. At this stage, only 13 comments were made on the document, with the majority of these comments being clarifications to the document proposed by Horsham District Council.
- 5.6 The Planning and Development Policy and Development Advisory Group considered the CIL Charging Schedule at its meetings on 14 July and 8 September 2016 and agreed the anticipated timetable for adoption and implementation at its meetings on 12 January and 7 March 2017.

## **6 Other Courses of Action Considered but Rejected**

- 6.1 One alternative course of action would have been to not implement a CIL Charging Schedule and to continue using Section 106 agreements when seeking developer contributions to mitigate development in Horsham. However, given the tightening of the rules through CIL regulation 122 on what a Council can seek a section 106 agreement for (it must be necessary, directly related to the development and reasonable) and also the pooling restrictions imposed by the Government (no more than 5 separate legal agreements can be pooled for a single infrastructure project or type of infrastructure e.g. education), it was decided by HDC to implement a CIL Charging Schedule.

## **7 Resource Consequences**

- 7.1 Estimates have been made of the likely income generated by the adoption of the CIL Charging Schedule. This has been estimated at approximately £21 million between 2017/18 and 2030/31.
- 7.2 Charging authorities can use funds from the levy to recover the costs of administering the levy. Regulation 61, as amended by the 2014 Regulations allows councils to spend up to 5% cent of their total levy receipts on administrative expenses. This is to ensure that the overwhelming majority of revenue from the levy is directed towards infrastructure provision.
- 7.3 Administrative expenses associated with the levy include the costs of the functions required to establish and run a levy charging scheme. These functions include levy set-up costs, such as consultation on the levy charging schedule, preparing evidence on viability or the costs of the levy examination. They also include ongoing functions like establishing and running billing and payment systems, enforcing the levy, the legal costs associated with payments in-kind and monitoring and reporting on levy activity.
- 7.4 To help charging authorities with initial set up costs, the regulations allow for a 'rolling cap' on administrative expenses. This covers the period comprising the first part year that an authority sets a levy and the following 3 financial years taken as a whole. From year 4 onwards of an authority's levy operation, the restriction works as a fixed in-year cap, meaning that an authority may spend up to 5% of receipts received in-year by the end of that year on its administrative expenses.

7.5 There are no HR consequences resulting from this decision.

7.5 There are no staffing consequences resulting from this decision.

## **8 Legal Consequences**

8.1 The legal implications are incorporated in the body of this report.

## **9 Risk Assessment**

9.1 Following the adoption of the CIL Charging Schedule, there is a six week period when the decision to adopt the document can be judicially reviewed. The Council has sought to minimise the likelihood of a successful challenge.

## **10 Other Considerations**

10.1 There are no Crime & Disorder; Human Rights; Equality & Diversity or Sustainability consequences resulting from this decision.

**APPENDICES TO REPORT**

**Appendix 1**



**Community Infrastructure Levy (CIL)  
Charging Schedule**

**March 2017**

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# 1. Introduction

## **What is the Community Infrastructure Levy?**

- 1.1 The Community Infrastructure Levy (CIL) is a charge placed on new development. The funds raised help to pay for a wide range of infrastructure to support development across Horsham District. CIL is intended to supplement rather than replace other infrastructure funding streams and to help ensure that new development is supported by the infrastructure it requires, which in turn helps to ensure that the Horsham District Planning Framework (HDPF) can be implemented effectively. CIL funds are meant to help fund new, or upgrade existing infrastructure to support growth, rather than being used simply in order to cover the cost of existing deficiencies.
- 1.2 The powers for Councils to introduce CIL were provided by Part 11 of the Planning Act 2008 and by the CIL Regulations 2010, which came into force in May 2010 and have since been amended by the CIL Amendment Regulations 2011, 2012, 2013 and 2014.

## **What is the purpose of this document?**

- 1.3 This Draft Charging Schedule is the second stage in the preparation of Horsham's CIL and is produced for the purposes of consultation under Regulation 16 of the CIL Regulations 2010 (as amended). The document, including the proposed charge rates set out below, has been amended in order to take account of the consultation responses received on the 'Preliminary Draft Charging Schedule' in addition to the new and updated evidence base that has been prepared since the previous consultation in early summer 2014.
- 1.4 Following the consultation on this Draft Charging Schedule, the document will be submitted, together with copies of any representation received, for examination by a planning inspector.

## **What area is covered by this document?**

- 1.5 The CIL Charging Area covered by this document comprises the area of Horsham District, except those parts in the south of the District that fall within the boundaries of the South Downs National Park.
- 1.6 The South Downs National Park Authority (SDNPA) is a CIL Charging Authority in its own right and intends to introduce its own CIL within its area. Until the National Park CIL is in place, Horsham District Council will continue to collect Section 106 contributions from relevant development within the National Park areas at the south of the District under the current delegation planning agreement between the two authorities.
- 1.7 The Charging Area relevant to this document is shown on **Map 1** (see below).

## **Which types of new development need to pay CIL?**

- 1.8 The charge is levied on new building developments that create net additional floorspace, where the gross internal area of the new build will be more than 100 sq.m. The charge is also levied on those developments creating one or more new dwellings, even where the gross internal floorspace of the new build is less than 100 sq.m (but see exemptions below).

- 1.9 Where CIL is chargeable there will be a legal obligation to pay it and it will not be negotiable. Anybody involved in a new development can take on the liability to pay the CIL charge but ultimately, if nobody else takes on this liability, it will fall to the landowner to pay the CIL. In order to benefit from the Council's proposed payment instalments policy, somebody must let the Council know that they will be liable for the CIL charges.

### **Which types of development are exempt or gain relief from paying CIL?**

- 1.10 The levy will not be charged on redevelopment or changes of use that do not involve a net increase in floorspace. Sub-divisions of existing dwellings to form other dwellings will also not be charged. Structures which are not buildings, or which people do not normally go into will not be liable, in accordance with the CIL regulations. The CIL Regulations make a range of exemptions, in addition to providing relief from CIL in some circumstances. These are set out in the National Planning Guidance and, at the time of preparing this document, include:

- Development of less than 100 square metres (see Regulation 42 on Minor Development Exemptions) – unless this is a whole house, in which case the levy is payable;
- Houses, flats, residential annexes and residential extensions which are built by 'self builders' (see Regulations 42A, 42B, 54A and 54B, inserted by the 2014 Regulations);
- Social housing that meets the relief criteria set out in Regulation 49 or 49A (as amended by the 2014 Regulations);
- Charitable development that meets the relief criteria set out in Regulations 43 to 48;
- Buildings into which people do not normally go (see Regulation 6(2));
- Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery (see Regulation 6(2));
- Structures which are not buildings, such as pylons and wind turbines;
- Vacant buildings brought back into the same use (see Regulation 40 as amended by the 2014 Regulations);
- Mezzanine floors of less than 200 square metres, inserted into an existing building, unless they form part of a wider planning permission that seeks to provide other works as well; and
- Any total levy liability calculated to be less than £50 is deemed to be zero, so no levy is due.

### **What will CIL be spent on?**

- 1.11 There is a wide range of infrastructure that CIL can be used to fund, as long as everything funded helps to support the development of the area. The intention is that the infrastructure funded through the levy will help to deliver the development proposed within the Horsham District Planning Framework (HDPF), which was adopted in November 2015. The focus of infrastructure spending from the levy should be on the provision of new infrastructure required to support growth and it should only be used to improve existing deficiencies where these will be made worse by proposed new development.
- 1.12 The Council's immediate priorities for spending CIL receipts are set out in a document known as a 'Regulation 123 List'. The draft Regulation 123 List is included as Annex 1 of this document and its contents will be subject to independent examination alongside the Charging Schedule. In addition to providing some clarity about what the Council intends to spend CIL receipts on, the Regulation 123 List provides payers of CIL with the information they need to ensure that the Council is not seeking to 'double charge' for infrastructure items through both CIL and through the residual Section 106 contributions that may still be required in certain circumstances, once CIL is introduced. Therefore, the

Council generally will not require S106 contributions for infrastructure projects or types included on it R123 list, apart from the identified exclusions and other Planning Obligations allowed under Regulation 122.

- 1.13 In accordance with the Localism Act 2011 and the CIL Regulations, a portion equalling 15% of CIL receipts (known as the 'neighbourhood share') will be passed directly to those Parish Councils where development has taken place (see Regulation 59A for details). Where chargeable development takes place, within the Parish up to £100 per existing council tax dwelling can be passed to the Parish, each year, to be spent on local priorities (see Regulation 59C for details). The spending priorities for the 'neighbourhood share' are determined locally and are not included within Horsham District Council's Regulation 123 List. Local areas could choose to use some of the 'neighbourhood share' to develop a neighbourhood plan where it would support development by addressing the demands that development places on the area.
- 1.14 Normally the 'neighbourhood share' will amount to 15% of the relevant CIL receipts (subject to the annual limit referred to above). However, parishes that draw up a neighbourhood plan or neighbourhood development order (including a community right to build order), and secure the consent of local people in a referendum, will benefit from 25% of the levy revenues arising from the development that takes place in their area. This amount will not be subject to an annual limit. For this to apply, the neighbourhood plan must have been 'made' before a relevant planning permission first permits development. It should be noted that whilst Horsham's Neighbourhood Councils may still benefit from the 15% or 25% 'neighbourhood share', as appropriate, they will not receive the funding directly but it will be spent on their behalf by Horsham District Council, in consultation with the local community.
- 1.15 The CIL Regulations provide for Charging Authorities to apply up to 5% of CIL receipts to the fund the administrative costs incurred in the introduction and operation of CIL. The Council proposes to make use of these powers, although the amount that will be spent on CIL administration will reflect the costs incurred, the extent of which are not yet known.

#### **How does CIL relate to Section 106?**

- 1.16 Horsham District Council currently collect financial contributions from new development through legal agreements signed under Section 106 of the Town and Country Planning Act 1990 (as amended). These contributions are also known as 'planning obligations'.
- 1.17 Through the introduction of the CIL legislation, the Government has 'scaled back' the use of planning obligations as CIL is viewed as a replacement for the use of planning obligations in many, but not all, circumstances. With the introduction of CIL the use of planning obligations is restricted to site-specific impacts of new development, necessary on-site infrastructure and the provision of affordable housing.
- 1.18 Since April 2015, Regulation 123 of the CIL Regulations has placed a national restriction on the traditional approach of 'pooling' Section 106 contributions from numerous developments towards the provision of infrastructure, such as schools or roads. Such pooling is now only permissible for up to five separate planning obligations, for any given infrastructure project or type, that have been secured since April 2010.
- 1.19 Once CIL is introduced across Horsham District, the Council intends that the levy receipts will be used to fund much of the necessary infrastructure that was previously funded through the pooling of Section 106 contributions. However, the use of Section 106 contributions will continue in certain circumstances as is permitted under the new legislation. Therefore, both CIL and a scaled-back use of planning obligations will operate side by side in Horsham, as is the case in many parts of the country. The Council

proposes to continue the use of planning obligations for the following main purposes:

- The provision of affordable housing (which falls outside of the CIL regime);
- Securing delivery of key on-site infrastructure that is required to mitigate the impact of larger developments;
- The provision of other site-specific measures, either on or off-site, which are necessary to make any given development acceptable in planning terms; and
- For other purposes which do not require developer contributions, such as regulating the use of land (which falls outside of the CIL regime).

1.20 Further detail on the purposes for which the Council will continue to seek planning obligations can be found on the Draft Regulation 123 List attached as Annex 1 of this document. In addition, a revised Planning Obligations and Affordable Housing Supplementary Planning Document has been prepared as background information for the CIL Examination.

### **How will CIL be calculated and collected?**

1.21 The CIL liability for any development is calculated at the point at which it is first permitted, usually by the granting of planning permission. The 'chargeable amount' will be calculated in accordance with Regulation 40 of the CIL Regulations 2010 (as amended) and this will involve multiplying the net additional 'gross internal area'<sup>1</sup> of the development by the relevant charge rate (or rates) in £ per square metre, taking any relevant demolitions into account.

1.22 For the majority of chargeable development, Horsham District Council will be the 'Collecting Authority' and once a development has been first permitted, the Council will issue a 'liability notice' setting out the amount of CIL due for payment once the development commences. The liability notice will also provide details of the procedure for paying CIL and indicate the likely consequences of any non-payment of CIL liability. The CIL Regulations provide powers for Collecting Authorities to take enforcement action, which may include financial penalties or the stopping of development.

1.23 Although CIL charges will become liable on commencement of that development, the Council is proposing to provide an 'instalments policy' which will set out the circumstances in which CIL liability may be paid in instalments over a period of time, following commencement of the development (see Section 4 below). It should be noted that CIL payers would need to undertake certain steps in order to benefit from the instalments policy, such as assuming liability to pay CIL and issuing a 'commencement notice' to the Council, prior to the commencement of development.

1.24 The CIL Regulations provide the Council with the discretion to accept CIL payments 'in kind', such as through the transfer of land or the completion of infrastructure works on or off the development site. The Council is proposing to allow payments in kind in line with the CIL Regulations.<sup>2</sup> It will remain in the Council's discretion whether to accept payments in kind.

### **When will the charge rates change or be reviewed?**

1.25 The 'indexation' of levy charge rates is provided for to ensure that rates continue to reflect the costs of infrastructure provision that the levy will be used to fund. An annual index-

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<sup>1</sup> The Council will use the definition of 'gross internal area' set out by the Valuation Office Agency which can be found on their website: <https://www.gov.uk/government/publications/measuring-practice-for-voa-property-valuations#a2>

<sup>2</sup> See Regulations 73 and 74 (as amended) and 73A and 73B, which were inserted by the CIL (Amendment) Regulations 2014.

linked adjustment to rates is set out in CIL Regulation 40 (as amended). This will involve the use of the 'All-in Tender Price Index', published by the Building Cost Information Service (BCIS). The adjustment to charge rates will be applied from 1<sup>st</sup> January each year, using the index figure published by the BCIS for the previous 1<sup>st</sup> November.

- 1.26 In addition to annual indexation, the Council will have a duty to keep its adopted levy rates under review to ensure that they remain appropriate over time. The Council will need to consider both the planning policy context within which the levy operates as well as wider economic and market-related changes over time, which may indicate the need to adjust rates to ensure that they do not adversely impact on the overall viability of development across the District.
- 1.27 If evidence emerges to indicate that the adopted charge rates are no longer appropriate, the Council will commence the process of a formal review of the Charging Schedule. This will involve the same evidence requirements, consultation opportunities and examination that were required to introduce the initial Charging Schedule.

## 2. EVIDENCE BASE

- 2.1 The CIL legislation requires charge rates set out within a charging schedule to be informed by the 'appropriate available evidence'. In summary, this will include:
- Evidence of the need to introduce CIL, in terms of the need for infrastructure to support the growth of the area and the anticipated costs of providing the necessary infrastructure;
  - Evidence of the anticipated revenue CIL could generate for funding infrastructure, relating to the amount of new development that is planned; and
  - Evidence of the potential impact of the proposed CIL charge rates on the economic viability of development across the area.
- 2.2 Having prepared an evidence base, the CIL Regulations then require the Charging Authority to strike an appropriate balance between the desirability of funding infrastructure from CIL, taking account of other anticipated funding sources, and the potential effects that the introduction of CIL could have on the economic viability of development across the Charging Authority's area.

### The Horsham District Planning Framework

- 2.3 The Horsham District Planning Framework (HDPF) is the District's 'Local Plan' and was adopted by the Council in November 2015. This document sets out how much development will take place in the period to 2031 and indicates, for strategic development, where that development will be located. The HDPF also identifies the level of development that is anticipated to come forward through Neighbourhood Development Plans and through 'windfalls'.
- 2.4 Policy 15 of the HDPF indicates that a total of 16,000 dwellings are planned for, although some have already been permitted or completed, or are likely to have been permitted when CIL is introduced. These new homes will not be liable to pay CIL. This means that it is likely that only one third of the planned homes have the potential to contribute to CIL over the remainder of the plan period.
- 2.5 In terms of non-residential development, Policy SD2 anticipates a new business park will be developed as part of the strategic development at North Horsham, with an indicative employment floorspace of 46,450 sq.m. Policy SD3 includes the potential for the development of up to 6,000 sq.m in retail floorspace at the new North Horsham local centre. Further retail and leisure development is anticipated to come forward as part of the redevelopment within the Broadbridge Heath Quadrant Opportunity Area, although no floorspace targets are set out within the policy.

### Anticipated CIL Revenue

- 2.6 Based on the anticipated level of development within the HDPF, summarised above, the proposed CIL rates (see Table 1) have been used to produce an indicative projection of CIL revenue. The total below is for the remaining plan period to 2031 and takes account of the likely impact of CIL relief for social housing and for self-build dwellings, but disregards the effect of annual indexation and any future review of CIL rates, which cannot be known at this stage. Using the above assumptions, the projected revenue from CIL would be **£24,122,875**.

## **Infrastructure Funding Gap**

- 2.7 In order to establish the need to charge CIL, the Council must draw on its infrastructure planning work undertaken to support the HDPF. In essence, this needs to demonstrate that the gap in funding, between the total cost of infrastructure required to deliver development proposed in the HDPF and the known sources of funding, is sufficient to justify the need for CIL and the rates proposed.
- 2.8 The Horsham District Infrastructure Delivery Plan (IDP) was prepared in 2014 to support the Examination of the HDPF, and was published for consultation alongside the Preliminary Draft Charging Schedule. The IDP identified infrastructure schemes proposed to be funded, in whole or in part, through CIL and these amounted to £37,333,174.
- 2.9 Since the publication of the IDP in May 2014 the HDPF has successfully passed through its Examination and has been adopted. Consequently, there have been a number of changes in the nature and level of infrastructure requirements needed to support the development now set out within the adopted HDPF. Reflecting this, the Council has undertaken a thorough review of the infrastructure schedule, which was set out in Appendix A of the IDP, in order to bring it up-to-date for the purposes of the CIL evidence base.
- 2.10 The review did not include a comprehensive revision of the whole IDP, but focussed on the main infrastructure schedule, which lists the individual requirements, the likely costs, funding sources and the bodies responsible for delivery. The review included extensive engagement during the second half of 2015, with infrastructure and service providers. This included: West Sussex County Council; neighbouring local authorities; all of Horsham's parish and neighbourhood councils; statutory agencies; utility companies; the emergency services and other service providers.
- 2.11 The outcome of the review and engagement process is that the infrastructure, which is required to support the implementation of the HDPF, and which is identified for funding through CIL, now amounts to an anticipated cost of £38,181,985<sup>3</sup>. Therefore, the overall 'funding gap' is **£14,059,110**. In reality the gap is anticipated to be somewhat larger as, under the CIL Regulations, a portion of the total CIL revenue must be passed to local communities to spend on their own local priorities, which may not be the same as those in the Regulation 123 list. Whilst the updated infrastructure schedule takes account of these priorities, where they have been identified to the Council, these are not included within the updated total infrastructure cost figure set out above.
- 2.12 Given the substantial overall funding gap, evidenced through the revised infrastructure schedule and referred to above, the Council considers that there is clear justification for the need to introduce CIL across Horsham District.

## **Assessing the potential viability impacts of CIL**

- 2.13 The CIL guidance states that charging authorities should use an area-based approach, involving a broad test of viability across their area. The emphasis, drawing on recent changes to the CIL legislation, is for the authority to demonstrate how the proposed CIL charge rates set an appropriate balance between securing additional investment to support new development and the impact this may have on the economic viability of development across the area.
- 2.14 As part of seeking to show that this balance has been achieved, the Council needed to

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<sup>3</sup> The revised Infrastructure Schedule shows the projected costs as a range and the figure indicated here is the mean point in that range.

undertake viability assessments on a sample of sites across the area covering a range of development types drawn from those proposed within the HDPF. In addition, where it is proposed to set differential rates of CIL, a more fine-grained sampling, on a higher proportion of total sites is required in order to set the boundaries between the different geographical zones or categories of use or scale of development that will be subject to differential rates.

2.15 The Council previously undertook full viability assessment work to inform the public consultation on the Preliminary Draft Charging Schedule (PDCS). That consultation took place in May and June 2014, with the viability and other evidence pre-dating that. Given the finalisation of the HDPF, the passing of time and associated market movements since the PDCS stage, the Council sought to fully update its viability evidence work, which has been undertaken by consultants at Dixon Searle Partnership (DSP) who are highly experienced in CIL viability evidence work. Further updating of the viability evidence was undertaken to consider Strategic Sites in the district.

2.16 *Approach taken within the viability evidence*

The DSP viability update assessment employed 'residual valuation principles' as a well-established and robust approach, consistent with most other CIL and Local Plan viability assessments. This approach involves deducting the all development costs (including build costs, finance, professional fees, sales costs and HDPF policy costs) from the estimated completed development (sales) value. This provides the ability to explore whether there is a viability scope to support a CIL charge. This is considered by reviewing whether a surplus exists from which CIL may be paid, and if so how much, after realistic land value and developer's profit expectations have been taken into account.

2.17 A large number of viability appraisals (several thousand all together) were run, so that the potential surplus to support CIL payments could be considered across an appropriate range of development scenario types and new-build property sales values – all representative of the variety of development expected to come forward through the HDPF. For this strategic overview, suitable for informing CIL rate setting, it was not necessary or appropriate to appraise and review all conceivable development types and variations.

2.18 *Viability evidence outcomes: Residential development*

The evidence in the viability update assessment related to a range of residential development scenarios, which included retirement residential homes, throughout the District. The outcomes pointed to generally high residential property values and a high level of consistency between the residential land values across the area, when looking at the overview level appropriate to setting CIL rates. This was particularly the case when new-build housing, of the type most relevant to the HDPF delivery, was considered. Based on this evidence, and additional evidence work undertaken since the previous consultation on the Draft Charging Schedule, DSP recommended a simple approach to CIL rates for residential development. This would involve a single residential charge rate being applied across the District, but with the exception of the two key strategic sites, where particular circumstances indicated the need for a separate rate (see below).

2.19 In terms of the level of the District-wide residential rate, it will be noted that £125 per sq.m rate was previously proposed in the PDCS. However, DSP tested a wide range of potential CIL rates in the residential appraisals, both lower and higher than the previously proposed rate. This involved a fresh look at the values and development costs and, whilst increases were noted in both values and costs, the evidence points clearly to the improvement in values more than compensating for the observed build costs increases. This means that, in general, the underlying viability positions have consolidated and viability has improved to some degree. This can be seen, for example, by the strong rate of housing delivery in recent years, including a positive track record on securing affordable housing as part of that.

- 2.20 The viability evidence concludes that a residential CIL rate of up to £200 per sq.m would be realistic, without significantly harming viability when considered across the District as whole. However, such a rate could be considered to be at the margins of what residential development in some parts of the District could withstand. The National Planning Guidance on CIL is clear that charging authorities should avoid setting rates to the margins of viability. For this reason, and to ensure sufficient viability for continued delivery of affordable housing across the District at the appropriate HDPF policy target rates, the Council considers that such a level of rates would be too high.
- 2.21 Overall, when the updated viability evidence is considered alongside the most recent evidence of infrastructure needs to support the delivery of the level of residential development set out in the HDPF, it is clear that a modest increase, over the charge rate originally proposed within the Preliminary Draft Charging Schedule, can be justified. Based on the recommended range set out in the updated viability evidence, the Council is therefore proposing a District-wide residential rate of £135 per sq.m.
- 2.22 Viability evidence outcomes: Key Strategic Sites (North of Horsham and Kilnwood Vale)  
As referred to above, land values were found to be broadly consistent across the District, when considered at the strategic level, which is appropriate for CIL purposes. However, it is important to keep in mind that other factors also influence the outcomes of viability appraisals. Large strategic-scale development involves considerable additional costs relating to site-specific infrastructure and other requirements necessary to make large-scale development acceptable in planning terms. Consistent with findings on similar strategic development elsewhere across the country, the evidence suggests that Section 106 (planning obligations) would prove a more adaptable and appropriate mechanism than CIL for addressing such site-specific costs with the certainty and flexibility required to ensure the strategic development remained deliverable.
- 2.23 Based on the viability evidence, as well as on the representations made by promoters of strategic sites within the District, The Council considers that two strategic sites could be 'caught' by CIL, once introduced across Horsham District: The North of Horsham Strategic Development Area and Kilnwood Vale.
- 2.24 In the case of the North of Horsham, there is currently no clear or detailed picture of the overall infrastructure and development requirements for that particular scheme, so DSP applied typical cost assumptions for similar strategic sites. The resulting appraisal outcomes indicate clearly that such schemes have no viability headroom for the application of a fixed CIL charge in addition to the typical Section 106 costs assumed.
- 2.25 The latest viability evidence indicates that Kilnwood Vale shares many of the attributes of the North of Horsham site. Planning obligations have already been agreed for this development to fund the delivery of key infrastructure and there is clear evidence that, taking these existing commitments into account, the development would also be made undeliverable if it were subject to CIL at the standard residential rate. Although the main Kilnwood Vale development has already been granted planning permission, there may need to be some revision to the development that would require additional planning applications that would attract CIL liability following the introduction of CIL across Horsham District.
- 2.26 Reflecting the outcomes of the viability evidence, DSP have recommended that a differential charge zone be created to include both the North of Horsham Strategic Development Area and Kilnwood Vale. It has been recommended that a £0 per sq.m CIL rate be applied within this 'strategic sites' charge zone for residential development.
- 2.27 Viability evidence outcomes: Retail Development  
Following a similar approach to that used for residential development, the viability update

assessment tested a range of retail development scenarios that could typically be expected to come forward within Horsham District. Each of these included the application of CIL rates both above and below the £100 per sq.m that was previously proposed for all retail development (Use Classes A1 – A5) in the PDCS.

2.28 The outcomes of the updated viability evidence indicate that 'larger format' retail development, such as supermarkets and retail warehouses, could be demonstrated to be generally viable with a levy rate set at £100 per sq.m. For smaller retail development however, the evidence indicated that even at lower levy rates, viability was seen to be more marginal. Therefore, the evidence suggests that a differential rate for retail development would be appropriate with 'large format' retail charged at £100 per sq.m and other types of retail development included within a £0 per sq.m rate to reduce the risk of contributing to the viability pressure on smaller retail development across the District.

2.29 Viability evidence outcomes: Other forms of development

The update viability assessment also considered other types of development, which fall outside of the categories referred to above. This would include business and employment development (within the 'B' Use Class) in addition to care homes/nursing homes (in Use Class C2, which are not regarded as retirement homes), leisure development, community facilities and the sorts of development for which the public sector is typically responsible, such as schools and health clinics. A number of such uses were tested by DSP and they were each found to have insufficient viability to support any level of CIL other than a 'zero rate'.

2.30 It is also important to note that, with the exception of 'employment floorspace', such uses are not forms of development proposed within the HDPF and very little additional floorspace in these sorts of uses is anticipated over the plan period. Therefore, the Council is proposing to set a 'standard CIL charge rate' of £0 per sq.m for these types of development.

### 3. DRAFT CHARGING SCHEDULE

- 3.1 The Draft Charging Schedule is set out in Table 1 below and has been prepared in accordance with the Part 11 of the Planning Act 2008 and the CIL Regulations 2010 (as amended).
- 3.2 Horsham District Council is a Charging Authority according to Part 11 of the Planning Act 2008. Horsham District Council is proposing to charge the Community Infrastructure Levy at the following rates, relative to the proposed use of development (expressed as pounds per square metre). The Charging Area is the District of Horsham, excluding those areas within the boundaries of the South Downs National Park.

**Table 1: Proposed CIL Rates (£ per square metre)**

<b>Residential Development <sup>(1)</sup></b>	<b>CIL charge per m<sup>2</sup></b>
District-wide ( <b>Zone 1</b> – See Map 1)	£135
Strategic Sites ( <b>Zone 2</b> – See Map 1)	£0
<b>Other Development (Across the Charging Area)</b>	<b>CIL charge per m<sup>2</sup></b>
‘Large format’ Retail Development (A1 to A5) including supermarkets <sup>(2)</sup> and retail warehousing <sup>(3)</sup>	£100
‘Standard Charge’ applies to all development not separately defined above, including, smaller retail development (A1 to A5) <sup>(4)</sup> , offices, warehouses, leisure, education and health facilities (including B, C1, C2 excluding purpose built student accommodation, & D)	£0

**Notes:**

All class references are to the Use Classes as set out in the Town and Country Planning (Use Classes) Order 1987 (as amended).

<sup>(1)</sup> This includes dwelling houses (C3), retirement homes falling within C3, houses in multiple occupation (C4), and purpose-built student accommodation (C2), but excludes all other forms of ‘residential institution’ in C2. For Zone 2 Strategic sites a £0 per sq. m CIL charge will also apply to all ‘A, B, C & D’ uses.

<sup>(2)</sup> Supermarkets (or superstores) are shopping destinations in their own right where weekly convenience shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.

<sup>(3)</sup> Retail warehouses are large stores specialising in the sale of: household goods (such as carpets, furniture and electrical goods); DIY items; and other ranges of goods, catering mainly for car-borne customers.

<sup>(4)</sup> ‘Smaller retail development’ will exclude developments falling within the definitions of supermarkets and retail warehouses (see above). For the avoidance of doubt, ‘smaller retail development’ will have a floor area for serving customers measuring up to and including 280 sq. m. (Sunday Trading Act 1994).

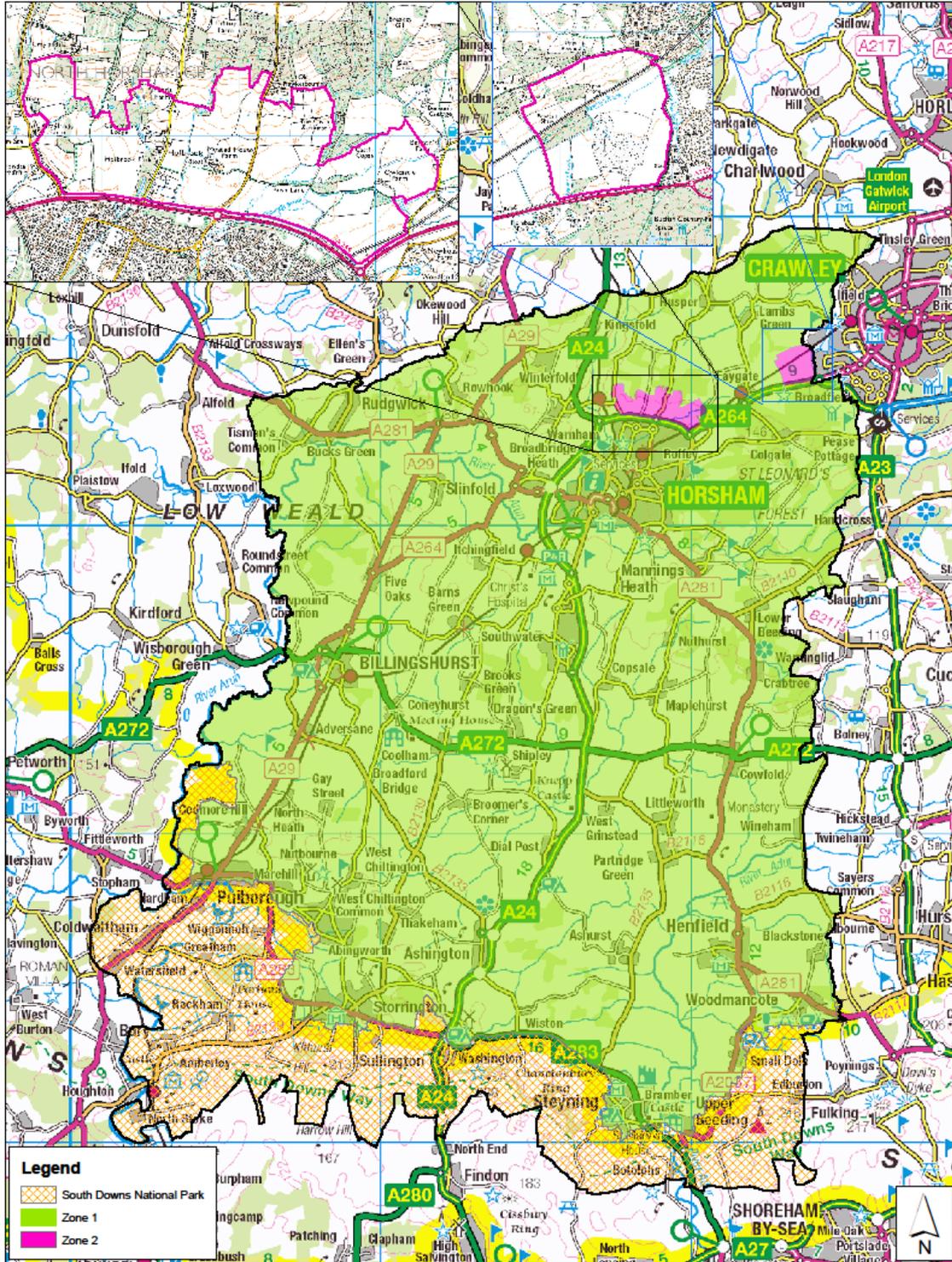
### **Calculating the Chargeable Amount of CIL**

- 3.3 The Council will calculate the amount of CIL payable (the 'chargeable amount') in respect of a chargeable development in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended).

### **Statement of Conformity**

- 3.4 This Charging Schedule has been prepared in accordance with the requirements of Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 as amended by the Community Infrastructure Levy (Amendment) Regulations 2011, 2012, 2013 and 2014. The charging schedule has also been prepared having regard to the CIL Guidance, published within the National Planning Guidance.

**Map 1: The Charging Area and the Differential Rate Charge Zones for the purposes of residential development**



<p><b>Horsham District Council</b>                  Parkside, Chart Way, Horsham                  West Sussex RH12 1RL                  Chris Lyons : Director of Planning, Economic Development &amp; Property</p>		<p><b>CIL Charging Zones</b></p>	
<p>Reproduced by permission of Ordnance Survey map on behalf of HMSO. © Crown copyright and database rights (2016). Ordnance Survey Licence. 100023865</p>		<p>Scale : 1:110000 and 1:30000 insets (at A3)</p>	<p>Date : 08/02/2016</p>
<p>Drawing No :</p>	<p>Drawn :</p>	<p>Checked :</p>	<p>Reference No : Revisions : 14/08/2016</p>

## 4. OTHER MATTERS BEING CONSULTED ON

- 4.1 The following matters are related to the introduction of CIL across Horsham District, but are not part of the Draft Charging Schedule. The Council has included these in the current consultation to ensure transparency in its approach and compliance with the National Planning Guidance. Comments on these matters are invited from all interested parties and the local community.

### CIL Instalments Policy

- 4.2 In accordance with Regulation 69B of the CIL Regulations 2010 (as amended), The Council proposes to apply an Instalment Policy to all development liable to pay CIL. The discretionary payment of CIL by instalments will help to provide greater flexibility in dealing with certain larger development. The CIL legislation limits the payment of CIL by instalments to given proportions of the total CIL liability that may be paid at 'x' number of days following the commencement of development.
- 4.3 It should be noted that where an outline planning permission permits the development to be implemented in phases, each phase of the development will be a separate chargeable devolvement for CIL purposes and so the Instalment Policy will apply to each separate phase. The Council's proposed Instalment Policy is set out below:

Total CIL Liability	Proportion of CIL liability to be paid within the given period
Up to £20,000	100% within 60 days of commencement
£20,001 to £50,000	50% within 60 days of commencement
	50% within 90 days of commencement
£50,001 to £250,000	50% within 90 days of commencement
	50% within 180 days of commencement
£250,001 to £500,000	25% within 90 days of commencement
	25% within 180 days of commencement
	25% within 360 days of commencement
	25% within 540 days of commencement
£500,001 or more	25% within 180 days of commencement
	25% within 360 days of commencement
	25% within 540 days of commencement
	25% within 720 days of commencement

### Regulation 123 List

- 4.4 The Council has prepared a draft list in accordance with CIL Regulation 123 (as amended) and this can be found in Annex 1 below. The intention is that the Regulation 123 List would become effective on the same day as the Horsham District CIL Charging Schedule.
- 4.5 Where items are excluded from the list in **Annex 1**, the intention is that Section 106 (planning obligations) would continue to be used for those purposes. Further details about these 'exclusions' and the uses for which the Council will continue to rely on Section 106 will be published within a Draft Planning Obligations and Affordable Housing Supplementary Planning Document (SPD), prior to the CIL Examination.

### Payments in Kind

- 4.6 The CIL Regulations provide the Council with the discretion to accept CIL payments 'in

kind', such as through the transfer of land or the completion of infrastructure works on or off the development site. The Council is proposing to allow payments in kind in line with the CIL Regulations.<sup>4</sup> It will remain in the Council's discretion whether to accept payments in kind.

### **Discretionary Relief from CIL**

4.7 The CIL Regulations allow charging authorities to permit discretionary relief from CIL in certain circumstances, which would result in a reduced, or nil CIL payment being accepted. The discretionary forms of relief available to charging authorities include:

- Development by charities for their own investment activities (as defined by Regulation 44);
- Development by charities where the mandatory charitable relief would normally constitute State Aid (as defined in Regulation 45); and,
- Where the District Council considers that there are exceptional circumstances to justify relief (as defined in Regulations 55 to 57).

#### 4.8 Discretionary Charitable Relief

In accordance with Regulations 44 to 48 of the CIL Regulations 2010 (as amended) the Council proposes to offer discretionary charitable relief from CIL. There is already a mandatory relief from CIL for charitable development, which will be used mainly for charitable purposes. The additional discretionary relief the Council proposes to offer would come into effect for development where a charity has a material interest and where the purposes of the development are to generate profits that will be applied to charitable purposes.

4.9 The other form of discretionary charitable relief applies only in the circumstances in which the mandatory relief from CIL, for development to be used for charitable purposes, would constitute 'State aid' under EU law. In such cases, the charitable development may still benefit from the relief from CIL if the Council has satisfied itself that the offering of relief in that case would not need to be notified to and approved by the European Commission.

#### 4.10 Exceptional Circumstances Relief

Regulation 55 of the CIL Regulations 2010 (as amended) permits a charging authority to grant relief from liability to pay CIL in 'exceptional circumstances'. This may only happen if a planning obligation (Section 106 agreement) has been entered into in respect of the planning permission that permits the chargeable development and the Council considers that payment of the levy would have an unacceptable impact on the economic viability of development. In such cases, a developer would be expected to demonstrate this (as set out in Regulation 57) via an 'open book' approach with an agreed independent valuer (paid for by the developer). Relief in exceptional circumstances can also only be granted if it does not constitute 'notifiable State aid' (as defined in European Law).

4.11 It is not the intention of the Council to offer this type of relief at present. The circumstances in which a policy of this nature would be likely to be used would be rare, given that the proposed CIL rates are based on up-to-date viability evidence. Moreover, it would impose an additional layer of complexity in the administration and management of the CIL charge and increase overall costs of CIL administration. A policy to offer 'exceptional circumstances relief' could be introduced at any stage however, and so the Council will keep this under review.

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<sup>4</sup> See Regulations 73 and 74 (as amended) and 73A and 73B, which were inserted by the CIL (Amendment) Regulations 2014.

## **ANNEX 1:**

### **Draft Regulation 123 List**

The draft Regulation 123 List below sets out those infrastructure projects or types of infrastructure that Horsham District Council, as CIL charging authority, may wholly or partly fund by the levy.

Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended) provides that planning obligations for infrastructure that will otherwise be funded by CIL cannot be taken into account as a reason for granting planning permission. Infrastructure types or projects that are listed below (in the left-hand column) will not be secured through planning obligations. This is to ensure there is no duplication between the funding of infrastructure through CIL and planning obligations secured through s106 agreements.

This list should be read in conjunction with the Draft Planning Obligations and Affordable Housing Supplementary Planning Document (SPD), which will set out the borough council's approach towards seeking planning obligations. The Draft Planning Obligations and Affordable Housing SPD will be published prior to the CIL Examination.

In accordance with CIL Regulation 59 (as amended) Horsham District Council will spend CIL funds on "the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area." The inclusion of a project or type of infrastructure on the list below does not signify a commitment from the District Council to fund (either in whole or in part) the listed project or type of infrastructure through CIL. Nor does the order of infrastructure items within the list imply or signify any order of preference or priority for CIL funding. The Council will review this list annually, as part of its monitoring of CIL collection and spending.

## Draft Regulation 123 List

Infrastructure Projects or Types to be funded at least in part by the CIL (provision, improvement, replacement, operation or maintenance)	Exclusions – To be funded by Planning Obligations, Section 278 Agreements or other sources of funding
<p>Transport infrastructure</p>	<ul style="list-style-type: none"> <li>• Specific on or off-site improvements or infrastructure required to make a development acceptable in planning terms.</li> <li>• All transport infrastructure required due to the strategic development at Zone 2 including: on-site infrastructure; all pedestrian and cycle linkages and crossings; off-site improvements and alterations to the highway network (including to the Strategic Road Network); and public transport infrastructure.</li> </ul>
<ul style="list-style-type: none"> <li>• Education</li> </ul>	<ul style="list-style-type: none"> <li>• On or off-site education infrastructure required specifically meet the needs of the strategic development at Zone 2, including: Early years provision; SEN - provision; two primary schools; one secondary school; and Post 16 provision.</li> </ul>
<p>Leisure, sport and open space infrastructure relating to 'green links' and Public Rights of Way</p>	<ul style="list-style-type: none"> <li>• Specific on or off-site improvements or infrastructure required to make a development acceptable in planning terms.</li> <li>• All sport, recreation and open space infrastructure and facilities required due to the strategic development at Zone 2 including: on-site formal and informal open space, sport and leisure facilities; all facilities required within the 'Landscape Buffer'; and off-site facilities necessary to mitigate the impact of the development on neighbouring communities.</li> </ul>
<p>Community facilities infrastructure, including:</p> <ul style="list-style-type: none"> <li>• Libraries</li> <li>• Health care facilities</li> <li>• Community buildings</li> </ul>	<ul style="list-style-type: none"> <li>• All community facilities provision required to meet the needs of the strategic development at the Zone 2, including; community buildings; healthcare facilities; and library provision.</li> </ul>

<p>Public Services infrastructure, including:</p> <ul style="list-style-type: none"> <li>• Strategic recycling and waste facilities</li> <li>• Emergency services infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• Specific on or off-site improvements or infrastructure required to make a development acceptable in planning terms, including: CCTV; fire hydrants; and small-scale communal recycling facilities.</li> </ul>
<p>Flood Management Infrastructure, including:</p> <ul style="list-style-type: none"> <li>• Strategic flood management infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• Specific on or off-site Sustainable Drainage Systems (SuDS) or flood management infrastructure that is required to make a specific development acceptable in planning terms.</li> </ul>
<p>Strategic nature conservation Infrastructure, including:</p> <ul style="list-style-type: none"> <li>• New nature reserves or improvements to existing nature reserves.</li> </ul>	<ul style="list-style-type: none"> <li>• Specific on or off-site improvements and mitigation measures required to make a development acceptable in planning terms, including.</li> <li>• All mitigation or avoidance measures (including financial contributions) required specifically to address the impact of a development on protected 'European sites' in accordance with the Habitat Regulations Assessment.</li> </ul>

## Appendix 2



AN EXAMINATION UNDER SECTION 212  
OF THE PLANNING ACT 2008 (AS AMENDED)

**REPORT ON THE DRAFT HORSHAM DISTRICT  
COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE**

Independent Examiner (appointed by the Council): **Geoff Salter BA MRTPI**

Charging Schedule Submitted for Examination: 18 November 2016

Date of Report: 01 March 2017

## **Main Findings** - Executive Summary

In this report, I have concluded that the draft Horsham District Community Infrastructure Levy Charging Schedule, incorporating the Statement of Modifications, provides an appropriate basis for the collection of the levy in the area.

The Council has provided sufficient evidence that shows the proposed rates would not threaten delivery of the Local Plan as a whole.

### **Introduction**

1. I have been appointed by Horsham District Council, the charging authority, to examine the draft Horsham District Community Infrastructure Levy (CIL) Charging Schedule. I am a chartered town planner with more than 20 years experience as a Government Planning Inspector, which included inspecting and examining several development plans and CIL Charging Schedules.
2. This report contains my assessment of the Charging Schedule in terms of compliance with the requirements in Part 11 of the Planning Act 2008 as amended ('the Act') and the Community Infrastructure Regulations 2010 as amended ('the Regulations'). Section 212(4) of the Act terms these collectively as the "drafting requirements". I have also had regard to the National Planning Policy Framework (NPPF), notably paragraphs 173-177, and the CIL section of the Planning Practice Guidance (PPG), which replaced the stand alone CIL Statutory Guidance last published in February 2014.
3. To comply with the relevant legislation, the submitted Charging Schedule must strike, what appears to the charging authority, to be an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district. The PPG states that the examiner should establish that:
  - the charging authority has complied with the legislative requirements set out in the Act and the Regulations;
  - the draft charging schedule is supported by background documents containing appropriate available evidence;
  - the proposed rate or rates are informed by and consistent with the evidence on economic viability across the charging authority's area; and
  - evidence has been provided that shows the proposed rate or rates would not threaten delivery of the relevant Plan as a whole.
4. The basis for the examination, which took place through written representations, is the submitted schedule of November 2016, which is effectively the same as the Draft Schedule published for public consultation in May 2016, together with the Statement of Modifications which were published for public consultation on 18 November 2016.

5. In summary, the Council proposes an initial rate of £135 per sq m for residential development, other than that within two strategic sites identified in the Horsham District Planning Framework (HDPF) and a rate of £100 per sq m for 'large format' retail development, including supermarkets and retail warehousing.

### **Has the charging authority complied with the legislative requirements set out in the Act and the Regulations?**

6. I am satisfied the Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Local Plan and the Infrastructure Delivery Plan, and is supported by an adequate financial appraisal. I also consider it compliant with the national policy and guidance contained in the NPPF and PPG respectively.

### **Is the draft charging schedule supported by background documents containing appropriate available evidence?**

#### *Infrastructure planning evidence*

7. The HDPF was adopted in November 2015. This sets out the elements of housing and employment growth that will need to be supported by further infrastructure, the main items of which are new education and healthcare facilities, transport infrastructure, social and community infrastructure and greenspace. A comprehensive analysis of all infrastructure needs was set out in the May 2014 Infrastructure Development Plan (IDP) to inform the HDPF examination. This has been updated in a new IDP published in April 2016, which indicates that the costs of necessary infrastructure which need to be funded through CIL are likely to be in the order of £38m. A very substantial proportion of the new infrastructure needed to support major new housing growth at North Horsham and the continuation of development at Kilnwood Vale would be, or is already, funded through site specific Section 106 planning obligations.
8. The Council acknowledges that infrastructure planning is an iterative process during which requirements and costs may change over time, but the IDP is a well-researched document that includes considerable detail about projected needs. The costs compare with a projected revenue from CIL of about £24m, leaving a funding gap of some £14m. Some of the CIL revenue will be passed on to local communities, so in practice this gap may be somewhat larger. However, other sources of funding, such as public sector capital investment or private sector investment by utilities through their public service obligations, may also come forward. In any event, the infrastructure planning evidence clearly justifies the need to introduce CIL in the District.
9. At this stage the Council is not required to publish a full and definitive list of all infrastructure schemes intended to be funded through CIL. However, a draft Section 123 list has been included as Appendix 2 to the Charging Schedule and is a component of the appropriate available evidence that has been used to inform the preparation of the Schedule by the Council. The Council has made some amendments to this indicative list published in Appendix 2 to reflect the comments of statutory providers of services and others but this appendix is not strictly part of this examination or subject to any modification by me. The distribution of the receipts from CIL, including the proportion to be passed on to Town and Parish

Councils for their own projects, is set out in the Regulations and in similar fashion is not part of this examination.

### *Economic viability evidence*

10. The Council commissioned viability work to inform the consultation stage of the earlier Preliminary Draft Charging Schedule (PDCS), dated March 2014. However, a new Viability Update Assessment (VUA), by different consultants, was published in February 2016 to provide evidence to support the Draft Charging Schedule (DCS). Further updating of the viability evidence was undertaken to assess the viability of strategic sites in the District.
11. In common with most other studies of this type, the VUA used a residual valuation approach, incorporating reasonable assumptions for a range of factors. Standard Building Cost Information Service (BCIS) data are used for building costs, with cost allowances to take into account current government policy regarding environmental standards for new homes. A further allowance of 5% was added for general contingencies, broadly in line with standard practice. Normal industry assumptions regarding fees, developers' profit levels at 20% and a realistic approach to interest rates indicate that the predicted outcomes are sufficiently robust. The assessment included a small allowance of £3,000 per unit for Section 106 costs on small developments and £15,000 per unit on large scale greenfield strategic sites, which I consider reasonable in the circumstances. Gross development values (GDV) for the different development types, including range of housing mix on differently-sized sites, were assessed taking into account the most up to date sales and rental values at the time.
12. The model used various increasing rates of CIL charge to assess what residual land values would remain from the GDV, after deducting development costs and an allowance for reasonable developers' profit. A large number of appraisals for sites of different sizes were tested, representing the variety of new build scenarios likely to come forward following approval of the HDPF. The resulting land values for the range of scenarios were then compared with benchmark land values based on existing use value, plus the premium necessary to bring the land forward for development. This value takes into account the need to accord with development plan policies and recognises it should not be based on unrealistic expectations of future development possibilities. I deal with comments about the validity of some of the benchmark land values below.
13. The assessments of commercial development also appear robust, taking into account different types of retail units and updated values. A broad-brush approach towards the testing of a range of other development types that are much less likely to be able to support CIL was also realistic.
14. The Draft Charging Schedule is supported by detailed evidence of community infrastructure needs. The updated viability assessment, the VUA, provides a detailed range of development scenarios which have been used to support the approach taken. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

## **Are the proposed rates informed by and consistent with the evidence on economic viability across the district?**

### *Residential*

15. The VUA indicated that a CIL rate of up to £200 per sq m could be applied across the whole district, although this level of charge would be at the very margins of what developments in parts of the district could withstand. I therefore agree that it would be prudent and would accord with government guidance to avoid setting the charge at such a high marginal rate. The updated viability evidence indicates that an increase on the original Preliminary Draft Charging Schedule rate to £135 per sq m is fully justified and would not harm the overall viability of residential development throughout the area.
16. In order to provide an analysis which is robust, the appraisals incorporate threshold land values which are not at the upper reaches of the range noted from recent examples of transactions. However, the evidence of such values, particularly for the very few large sites, is limited. There is an element of judgement on this topic based on professional experience but I think it reasonable to take a cautious approach when assessing valuations at a district-wide level. I agree with the Council that it would be inappropriate to use assumptions that would result in marginal viability for many residential development types. The VUA acknowledges that land values may vary but it would not be appropriate to cater for overbids or site specific circumstances, since the charging rate is intended to be applied district-wide in normal circumstances.

### Strategic sites - North Horsham and Kilnwood Vale

17. The Council has put forward a major mixed use scheme, including 2,500 dwellings for a strategic site at North Horsham. This site will inevitably, in accordance with normal practice, require a very considerable amount of new infrastructure, including new schools and medical facilities. Although there are some risks associated with the decision to require a substantial part of this infrastructure through Section 106 obligations, on balance I agree with the Council that this poses less risk than the potential shortfall that may occur if provision were to be dependent on CIL alone. The VUA shows that with much higher known Section 106 costs to meet HDPF requirements, the strategic site at North Horsham would not be viable if CIL were charged as well. I understand discussions about the level of Section 106 obligations continue to take place as the detailed proposals are finalised, which gives the Council the opportunity to ensure that all necessary contributions are made.
18. CIL viability testing is a broad-brush approach, but the VUA does include an appraisal for a 2,500 dwelling residential site. The finding that a large site with considerable Section 106 obligations would not have the ability to support CIL is consistent with the Council's consultants extensive experience (and my own) in other areas. The zero rating for Strategic Sites identified in the HDPF is justified by the detailed evidence set out in the VUA. In essence, the considerable amount of infrastructure for each site identified in the HDPF has a clear adverse effect on the residual valuation.
19. One of the comments on the Draft Schedule from the developers of Kilnwood Vale, a large site in Horsham district but closer to Crawley, was the need for comparability with the North Horsham site with regard to CIL liability. Although

Kilwood Vale has been granted planning permission, it is subject to extensive infrastructure provision through Section 106 obligations, as is North Horsham. The Council has indicated CIL would not be applied retrospectively, any changes to the scheme requiring further planning permission would be liable to CIL. This anomaly has been rectified by the modified schedule which excludes Kilwood Vale from the charging schedule.

20. The same effect need not apply for any other large site that might come forward as a windfall. In such a case, infrastructure requirements might not be known, or might not be extensive. Whilst the CIL would take the first slice out of development value, an individual viability assessment would be able to take into account the expected CIL contribution and normal affordable housing requirement costs before identifying the impact of Section 106 requirements on the overall viability of the development. The Council's draft Planning Obligations Supplementary Planning Document clarifies that Section 106 contributions would be sought for site specific infrastructure only.
21. The viability studies, including the latest VUA, take full account of the cost implications of the affordable housing requirements as set out in the adopted HDPF, in accordance with government advice. The mix of affordable housing on the strategic sites has been modelled in the same way as that for the market housing. This is a standard approach and I consider it is not unreasonable to expect a site of the size of North Horsham to be able to support, over time, a higher proportion of larger three and four bedroom homes than normal affordable housing requirements. This would comply with the adopted planning policy for affordable housing regarding mix and would represent a reasonable trade-off between the key variables of overall value and the costs of development, including building costs, infrastructure and affordable housing.
22. If Kilwood Vale were to be developed out in accordance with the current planning permission no retrospective charge could be made. However, it is possible that changes/ additional permission(s) may be required. In such an instance Kilwood Vale would be liable for a double dipping charge, as CIL would apply as well as significant costs previously agreed through the Section 106 process. This would be inequitable and I support the proposed modification to exclude this major site from the CIL regime.

#### *Retail development*

23. The results for commercial development are consistent with experience in many other areas; large format retail schemes will be able to be viable with CIL, while other office or industrial development will not. The VUA confirmed that smaller shops, which are most likely to be developed on brownfield land, are not likely to be able to support CIL.

#### **Has evidence been provided that shows the proposed rates would not threaten delivery of the Local Plan as a whole?**

24. In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Horsham District. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable

across most of the area covered by the HDPF. The housing sites that might not be viable as a result of CIL, represent a very small proportion of the development proposed in the HDPF and the charge rate would not put the overall implementation of the Plan at risk.

25. The Council's decision to apply residential and retail rates at the levels set out in the Draft Charging Schedule is based on reasonable assumptions about development values and likely costs. The evidence suggests that residential and retail development will remain viable across most of the area, except the two strategic allocations at North Horsham and Kilnwood Vale, if the charge is applied as proposed. I consider the viability assessment to be robust and conclude that the residential and retail rates proposed would not threaten delivery of the Local Plan. The proposed rates are justified therefore.

### **Overall Conclusion**

26. I conclude that the draft Horsham District Community Infrastructure Levy Charging Schedule, incorporating the modifications set out in the Statement of Modifications published on 18 November 2016, satisfies the drafting requirements and I therefore recommend that the draft Charging Schedule be approved as modified.

*Geoff Salter*  
Examiner