

WINCHESTER CITY COUNCIL

COMMUNITY INFRASTRUCTURE LEVY

CONSULTATION ON DRAFT CHARGING SCHEDULE

APRIL 2013



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Winchester City Council: Community Infrastructure Levy – Draft Charging Schedule

1.0 Introduction

- 1.1 The Community Infrastructure Levy (CIL) Regulations allows planning authorities in England and Wales to raise funds from developers to pay for the infrastructure that is needed as result of development. This consultation document sets out the background to the levy and seeks comments on Winchester City Council's CIL Draft Charging Schedule, attached as Appendix 1, prior to its submission to an independent examiner.
- 1.2 This is the second of two formal rounds of consultation on the City Council's charging schedule. A *Preliminary* Draft Charging Schedule was published for a seven week consultation period on 14 December 2012, and the representations received have been taken into account in the preparation of the Draft Charging Schedule (in accordance with the Community Infrastructure Levy Regulations 2010 (as amended) and Government guidance). In setting its CIL rates as directed by Regulation 14(1), Winchester City Council has aimed at striking what appears to be an appropriate balance between:
- the desirability of funding from CIL (in whole or part) the estimated total cost of infrastructure required to support the development of Winchester District; and;
 - the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across Winchester District.
- 1.3 It is important to note that the South Downs National Park Authority (SDPNA) is the CIL charging and collection authority for the approximately 40% of Winchester District which lies within the South Downs National Park and is not subject to the City Council's proposed charges. The Park boundary is shown on Plan 1 within the Draft Charging Schedule. The SDNPA intends to introduce its own CIL regime in due course

2.0 Consultation

- 2.1 Winchester City Council, as a 'charging authority', must consult on its proposed CIL rates through the Draft Charging Schedule. The Schedule is informed by a series of evidence base reports which have been published alongside this document; all background documents can be viewed on the CIL pages of the Council's website www.winchester.gov.uk
- 2.2 You are invited to submit a response on this consultation. Comments should be made in writing to :

Mr. Steve Opacic
Head of Strategic Planning
Winchester City Council
Colebrook Street
Winchester
SO23 9LJ

Or by email: ldf@winchester.gov.uk

- 2.3 The consultation period runs from **Friday 12 April 2013 to Friday 24 May 2013 (12 noon deadline)**.
- 2.4 Useful information on the consultation and examination process can be found within the Government's recently published *CIL Guidance* (December 2012). It is important to note that any representations made should be relevant to the examiner's task of considering whether the City Council has complied with the requirements of the *Planning Act (2008)* and the CIL Regulations, and had regard to the CIL Guidance, and that the proposed rates for the levy strikes an appropriate balance given the evidence.
- 2.5 The City Council will consider all representations, and assess the need to revise the proposed charging schedule. If any substantive changes were to be made, the Council would need to publish and distribute a 'statement of modifications' and allow requests to be heard on the modifications to be made within a period of four weeks from the date that the Draft Charging Schedule is submitted to the examiner.
- 2.6 The City Council hopes to be able to approve its Charging Schedule by the end of 2013.

3.0 The Community Infrastructure Levy

- 3.1 The Community Infrastructure Levy represents a significant change to the system of developer contributions that, through S106 of the *Town and Country Planning Act 1990* and its antecedents, has been in place for a number of decades. The charge came into force on 6 April 2010 through the *Community Infrastructure Levy Regulations 2010* (as amended in 2011 and 2012). As at early 2013, several planning authorities have introduced a CIL regime already, but the vast majority of potential charging authorities are still to progress a charging schedule through to examination and adoption. Further information on CIL can be found via the Department of Communities and Local Government www.gov.uk/government/organisations/departments-for-communities-and-local-government) and the Planning Advisory Service (www.pas.gov.uk) websites.
- 3.2 The City Council's proposed CIL regime is intended to provide a funding platform for the implementation of the Council's spatial planning strategy, as set out the *Winchester District Local Plan Part 1 - Joint Core Strategy*. This was adopted in early 2013, and will constitute the City Council's development plan along with the *South East Plan* (pending its proposed revocation) and any saved policies from the *Winchester District Local Plan Review 2006*.
- 3.3 The funds raised through CIL are intended to provide for, or contribute towards, infrastructure that is needed as a result of development, by filling the 'funding gap' that remains once other known sources have been taken into account. It is for the local authority to decide which infrastructure is needed, and Winchester City Council has identified the infrastructure that is deemed to be essential to the delivery of the development and growth set out in the Core Strategy. Evidence in respect of the infrastructure requirements over the Local Plan period, and the means of delivery, formed a key part of the Joint Core Strategy examination, and now support the Council's case for the introduction of CIL.

- 3.4 The Government requires local authorities to work closely with neighbourhoods to decide what infrastructure they identify as priorities, and (under the Localism Act 2011 and draft amended CIL Regulations laid before Parliament in February 2013) allocate a 'meaningful proportion' of CIL revenues raised in each neighbourhood back to that community. Winchester City Council engages extensively with its communities through its parish councils, some of which have been addressing infrastructure requirements through the preparation of parish plans, and other community planning projects.
- 3.5 It is anticipated that certain communities will wish to progress the Localism agenda further by contributing to the Council's Local Plan Part 2: Site Allocations and Development Management Policies or preparing their own Neighbourhood Plans. Neighbourhood Plans, once adopted, would form part of Winchester's development plan, alongside Local Plan Parts 1 and 2, and be likely to inform decisions on infrastructure priorities to be funded in part or whole by CIL.

4.0 Evidence Base

- 4.1 This consultation document is supported by a series of evidence base reports; these are technical documents which demonstrate that the City Council has assessed infrastructure needs across its area and has tested the effects of CIL on the economic viability of development, as required by Regulation 14(1) of the CIL Regulations (as amended).

Infrastructure

- 4.2 Local authorities wishing to introduce CIL are required to demonstrate that there is a funding gap in the provision of infrastructure required to support new development. Through the preparation of the City Council's Joint Core Strategy, a significant level of infrastructure planning has been undertaken.
- 4.3 The infrastructure planning evidence, in the form of an Infrastructure Delivery Plan, was scrutinised at the Core Strategy examination in October and November 2012, and is a robust and comprehensive assessment of need. To inform the CIL process, the [IDP Interim Update](#), with identified priority and (in most cases) estimated costs, is published alongside this document. Excluding the Strategic Allocations (North of Whiteley, North of Winchester and West of Waterlooville), where infrastructure will be funded through extant or emerging S106 agreements, the quantum of costed critical or priority infrastructure across the District currently totals in the region of £120 million.
- 4.4 Officers continue to explore other potential sources of funding (for example New Homes Bonus, and possible Growth Area and Local Economic Partnership funds), and currently the overall 'funding gap' for the District is in the region of £105 million; a figure that clearly justifies the Council's proposed introduction of CIL at the earliest opportunity.
- 4.5 In line with the requirements of the Government's *CIL Guidance* (December 2012), the City Council is preparing a draft list of the projects or types of infrastructure that are to be funded in whole or part by the levy. The Council will

also set out by the time of the examination those known site-specific matters where Section 106 contributions may continue to be sought.

Viability

- 4.6 The Regulations require that the proposed CIL has to have regard to the “potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.”
- 4.7 The CIL Regulations also allow for different CIL rates to apply, although differential rates must be solely based on economic viability evidence and not for planning policy objectives.
- 4.8 In order to fulfil these requirements, the City Council commissioned economic viability assessments to provide evidence to test and formulate suitable CIL rates. One of the guiding principles of this work was to ensure that CIL rates do not put the overall viability of development in the District at risk, and consultants Adams Integra assessed viability in respect of different land uses. Two reports were produced in late 2012; the first considers residential CIL viability alongside affordable housing viability, and the second deals with other commercial land uses. These have been complemented by an updated Supplementary Viability Report (2013), and these three documents can be viewed on the Council's website www.winchester.gov.uk
- 4.9 The studies considered a wide range of matters to assess development viability, including differing land values, variable development costs (for example, affordable housing costs, site costs) and locational variations in sales values. The studies also considered wider issues, such as the relationship with the CIL rate in neighbouring authorities, the potential impact on developers' investment decision making, and the implications of a zonal charging regime. The result is a comprehensive assessment which justifies the proposed approach.
- 4.10 These two detailed reports were published to inform the public consultation on the Preliminary Draft Charging Schedule, but the key findings can be summarised as follows:
 - A recommendation that a two tier charge should apply for residential development (dwelling houses, including where an element of residential care is provided within defined Use Class C3 development); a £120 per square metre charge for Winchester town, and a £80 charge for all other parishes, with one key exception;
 - As the substantial infrastructure costs required for the three Strategic Allocation Sites will be delivered through S106 contributions, the viability of development requires the CIL rate (for all uses) in these areas to be set at zero.
 - Evidence demonstrates that certain retail categories within the A1 Use Class are sufficiently viable to support a CIL charge and others are not. Convenience stores and food retailing as well as retail warehouses are proving viable whereas, outside of Winchester city centre, comparison shopping is not strong enough at this stage due to poor consumer

confidence, an increase in internet shopping, and superstores offering comparison goods that have traditionally been sold on the high street.

- Hotel development could potentially support CIL charges of up to £100 per m². However, a rate of £70 per m² allows for a sufficient 'viability buffer' for site-specific issues.
- The office and industrial/warehouse markets are currently offering the least ability to afford CIL charges. This is due to lower rents resulting from an adequate supply of stock, weak occupier demand and higher yields resulting from shorter leases and weaker covenants.

4.11 These recommendations are reflected in the Council's proposed CIL rates and zones, as set out in the attached Draft Charging Schedule.

5.0 Conclusion

5.1 Winchester City Council considers that its CIL Draft Charging Schedule (attached as Appendix 1) is ready for examination. The Schedule is being published for a period of six weeks (from **Friday 12 April 2013 to Friday 24 May 2013**). The City Council will consider all representations, and assess the need to revise the proposed charging schedule.

5.2 Representations made will also be considered by the examiner and, if requested, the person making the representation must be heard before the examiner at the CIL examination anticipated for later this year. The examiner's task is to consider whether the City Council has complied with the requirements of the *Planning Act (2008)* and the CIL Regulations, and had regard to the CIL Guidance, and whether the proposed rates for the levy strike an appropriate balance given the evidence.

5.3 This consultation document is supported by a series of evidence base reports that demonstrate that the City Council has assessed infrastructure needs across its area and has tested the effects of CIL on the economic viability of development, as required by the CIL Regulations (as amended). All background documents can be viewed on the CIL pages of the Council's website www.winchester.gov.uk

WINCHESTER CITY COUNCIL

COMMUNITY INFRASTRUCTURE LEVY

DRAFT CHARGING SCHEDULE

Consultation Version: April 2013



Winchester
City Council

Winchester City Council Community Infrastructure Levy (CIL)

Draft Charging Schedule

Note: Approved Charging Schedule to include:

- Confirmation of Winchester City Council as charging authority
- Date approved by Full Council
- Date Charging Schedule takes effect
- Explanation that CIL will be charged in pounds sterling (£) per square metre at differential rates according to the type of development and by location
- BCIS Tender Price Index
- How to access further information

Charging Rates

Type of Development	Charge per square metre		
	Zone 1	Zone 2	Zone 3
Residential	£0	£120	£80
Hotel	£0	£70	£70
Retail ➤ all categories within the town centre	n/a	£120	n/a
Retail ➤ convenience stores, supermarkets and retail warehouses	£0	£120	£120
Retail ➤ all other categories	£0	£0	£0
All Other Uses	£0	£0	£0

Definitions

The following definitions of terms used in the above table are for the purpose of interpreting the Charging Schedule and indicating where a CIL charge will apply.

Residential

Defined as all development within the each of the three categories of Use Class C3: Dwelling Houses (Use Classes Order 2010), including where residential care is provided within a development defined by the Local Planning Authority as within Class C3, subject to the statutory exemptions with regard to social housing and charitable purposes.

The definition does not include residential use in other categories of development (as defined by the Use Classes Order), including C1 (Hotels), C2 (Residential Institutions), C2A (Secure Residential Institutions), or C4 (Houses in Multiple Occupation).

Town Centre

Winchester Town Centre as defined by the town centre boundary shown on Inset Map 31 of the Winchester District Local Plan (2006) – Policy SF1.

Hotel

Defined as those developments within the uses set out in Class C1 of the Use Classes Order 2010; that is 'hotels, boarding and guest houses where no significant element of care is provided'.

Retail

Defined as those developments within the uses set out in Class A1 of the Use Classes Order 2010, that is 'shops, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, drycleaners, funeral directors, internet cafes' with the term 'shops' including *convenient stores, supermarkets and retail warehouses* as defined below:

Convenience Stores

Defined as stores that:

1. have a gross internal floorspace of 278 sq. m (3,000 sq. ft);
2. are not subject to restricted opening hours under the Sunday Trading Act; and
3. stock at least seven of the following categories of goods;

- | | |
|-------------------------------|--------------------------|
| • Alcohol | • Household |
| • Bakery | • National lottery |
| • Canned & packaged groceries | • Milk |
| • Chilled food | • Newspapers & Magazines |
| • Confectionery | • Non-food |
| • Frozen food | • Sandwiches |
| • Fruit & Vegetables | • Savoury snacks |
| • Health & beauty | • Soft drinks |
| • Hot food-to-go | • Tobacco |

Supermarket

Defined as a food based retail store greater than 278 sq. m.

Retail warehouse

Defined as a non-food retail store that displays and sells comparison goods, such as bulky household goods (including carpets, furniture, and electrical and DIY items), clothing, and recreational goods, within large format shed like buildings, often (but not necessarily) on one level, with associated adjacent car parking so as to cater mainly for car-borne customers.

Other Uses

Defined as all other categories of development not falling within the definitions set out above, and including all *sui generis* uses as defined by the Use Classes Order 2010.

Charging Zones

The proposed charging zones are shown They are defined geographically on the attached Plan 1 and are described as follows:

Zone 1: Strategic Allocations and South Hampshire Urban Areas

The boundaries are as shown on the Core Strategy Proposals Map (shown in more detail in Plan 2).

Zone 2: Winchester Town

The boundary reflects the settlement boundary of Winchester Town as shown on the Core Strategy Proposals Map (shown in more detail in Plan 3).

Zone 3: Market Towns and Rural Areas

The rest of the District, outside of Zones 1 and 2 and the South Downs National Park, lies within Zone 3.

Calculation of Charge

CIL is charged on the net additional gross internal floor area of a development. Where buildings are demolished, the total of the demolished floorspace will be off-set against the floorspace of the new buildings, providing the buildings were in lawful use prior to demolition.

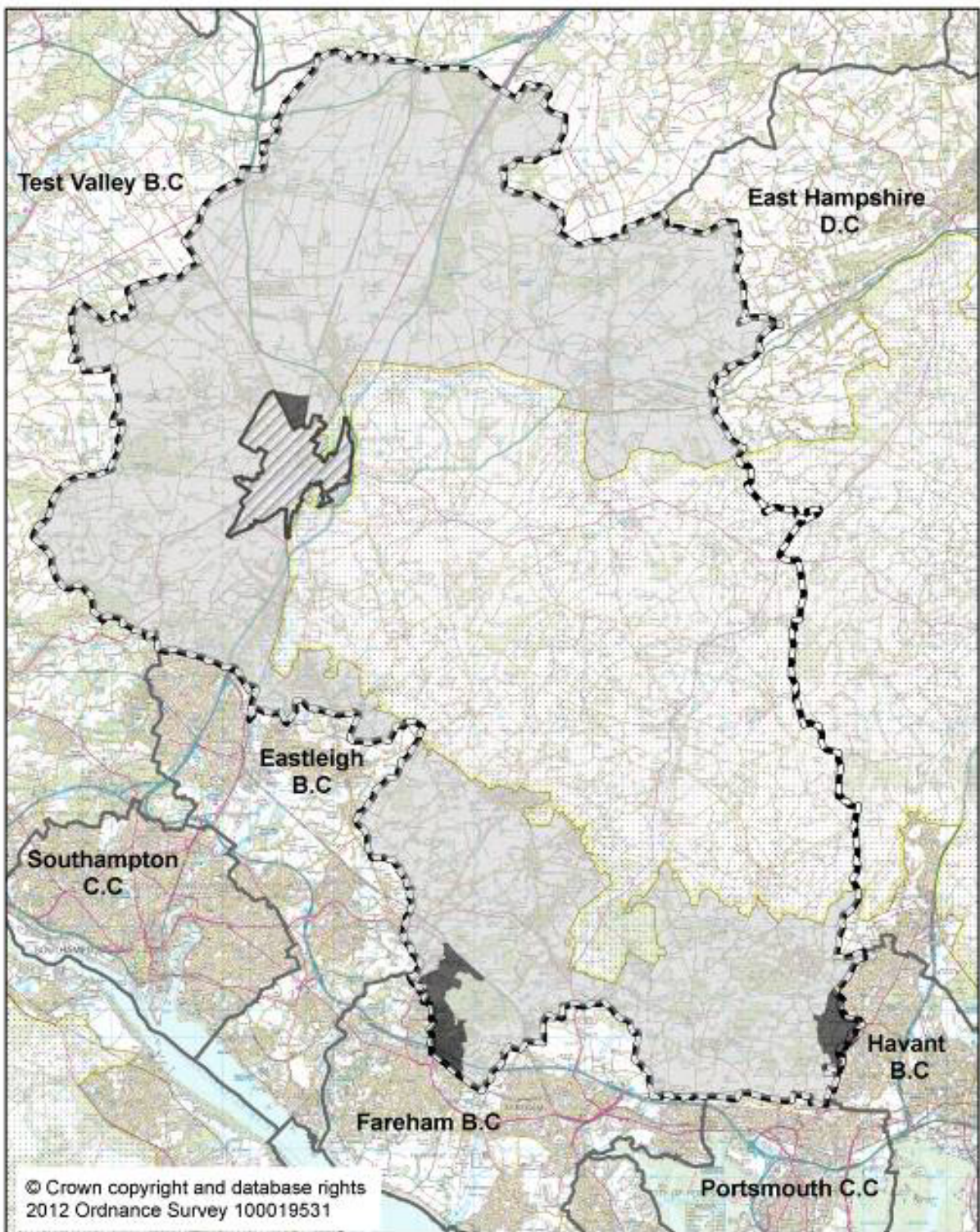
In this context, a building is considered to be in lawful use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development.

The calculation of the chargeable amount of CIL to be paid for a development proposal is set out in Regulation 40 of the CIL Regulations (as amended). This states that:

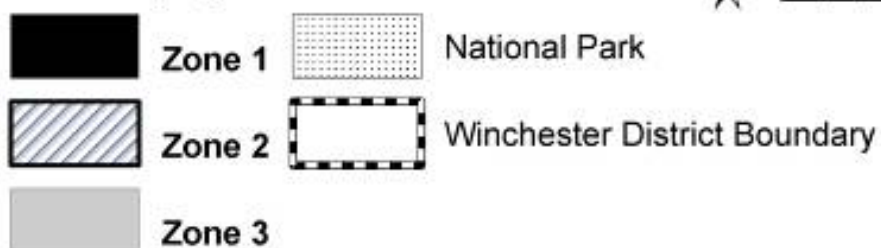
- The chargeable amount is the aggregate amounts of all chargeable developments at each of the relevant rates.
- Where the chargeable amount is less than £50 it is deemed to be zero.
- The relevant rates are those set out in the Charging Schedule which are in effect at the time planning permission is granted.
- The amount of CIL chargeable at a given rate and the means to determine the net chargeable area must be calculated using the formulae set out in Regulation 40. These provide the relevant indexing information and the mechanism to off-set existing floorspace proposed for demolition.

For details of the charge calculation, please refer to Regulation 40 of the CIL Regulations 2010 and the Amendment Regulations 2011 and 2012.

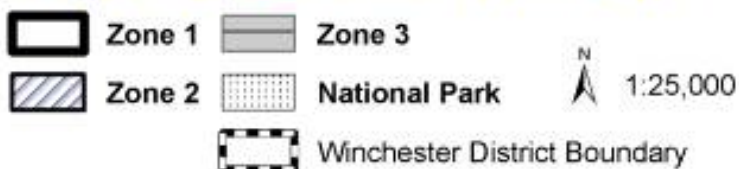
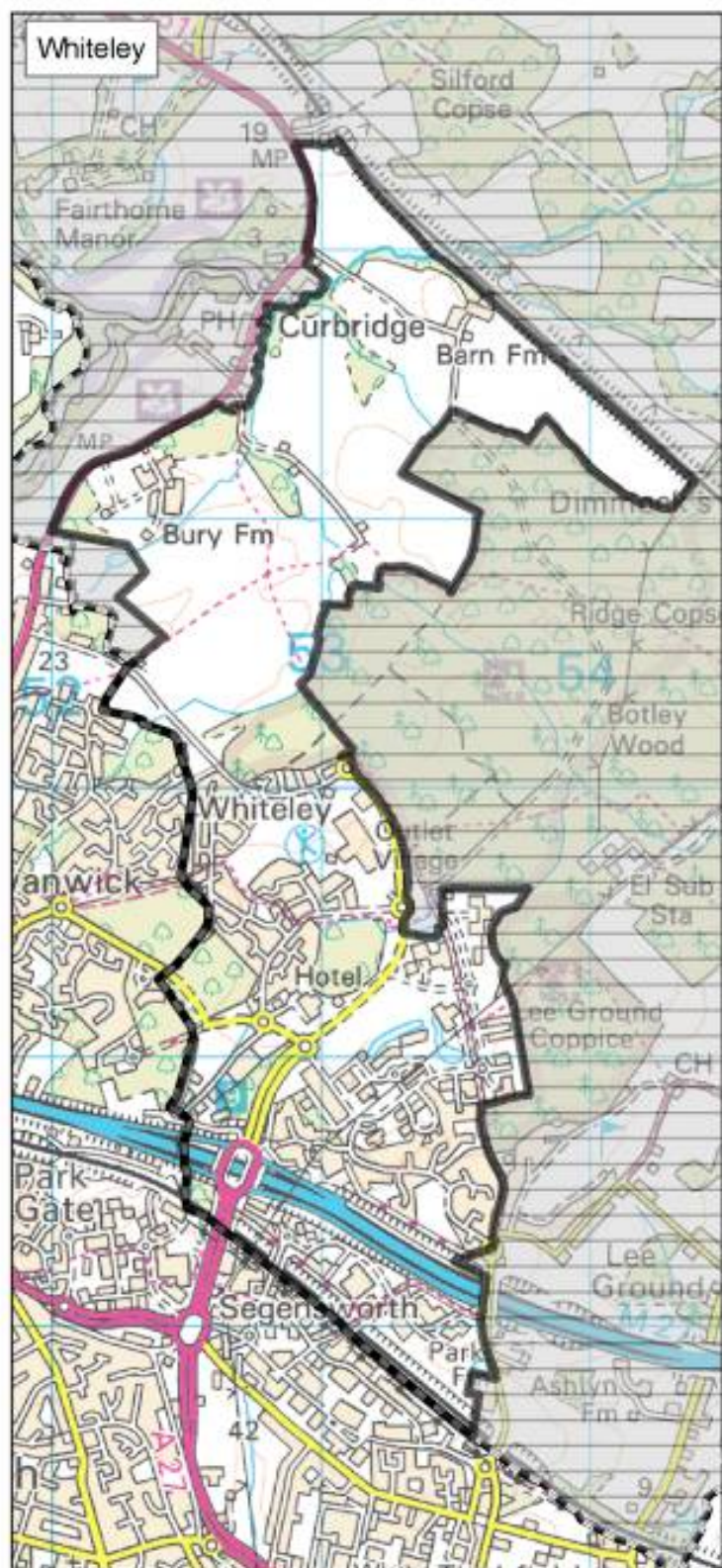
Plan 1: Winchester CIL Proposed Charging Zones



CIL Charging Zone

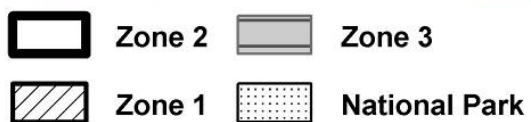
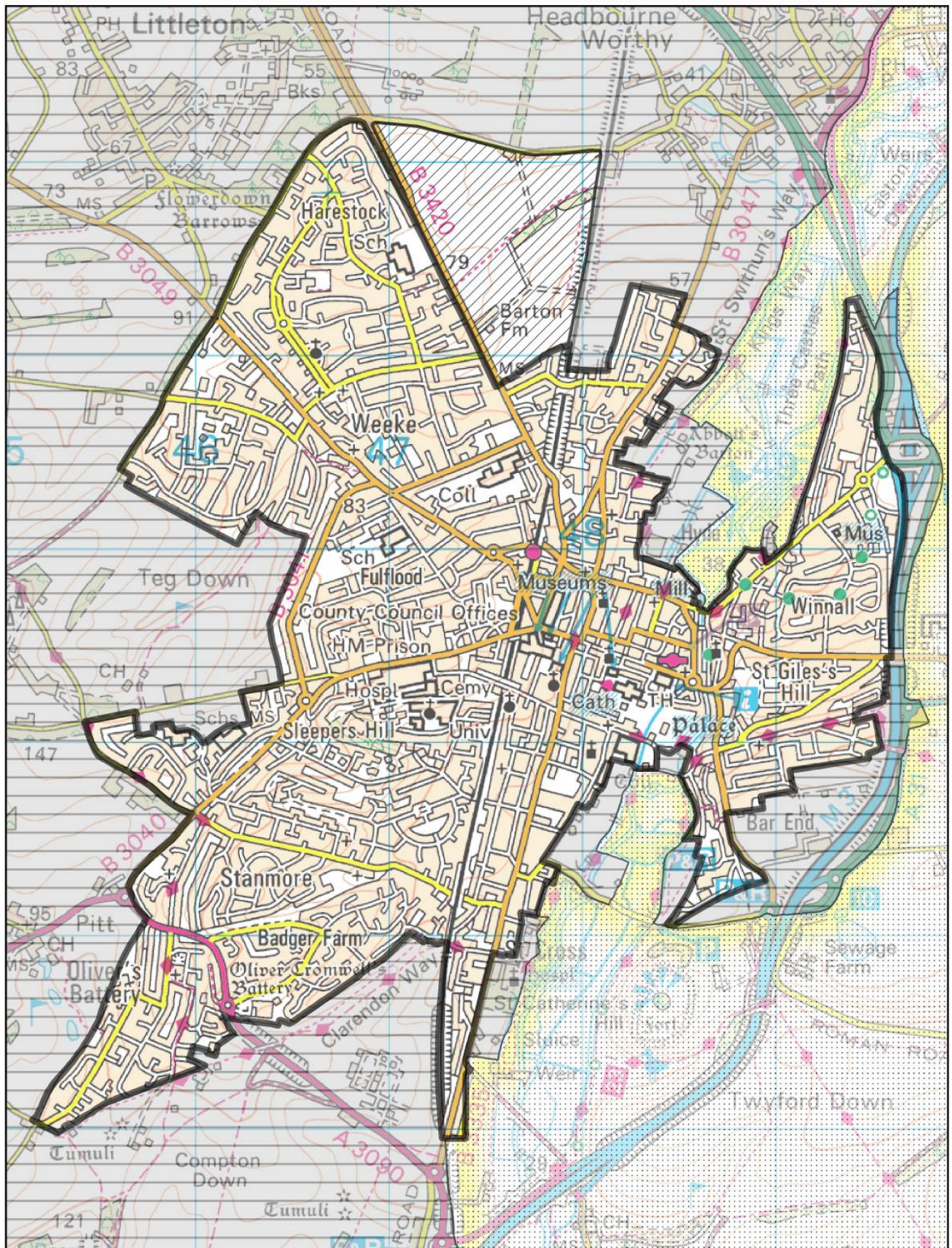


Plan 2: Zone 1



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Plan 3: Zone 2



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Statutory Exemptions

The CIL Regulations provide exemptions for paying CIL as follows:

- 100% relief from CIL on those parts of a chargeable development which are to be used as social housing.
- Charity landowners receive 100% relief from their portion of the liability where chargeable development will be used wholly, or mainly, for charitable purposes.

To ensure that relief from the levy is not used to avoid proper liability for the levy, the regulations require that any relief must be repaid, a process known as 'clawback', if the development no longer qualifies for the relief granted within a period of seven years from commencement of the chargeable development.

Discretionary Exemptions

The CIL Regulations provide that charging authorities have the option to offer a process for giving relief from the levy in specific exceptional circumstances where a developer of a specific scheme cannot afford to pay the levy. Winchester City Council does not wish to offer such relief.

Payment of CIL

The CIL Regulations (as amended) allow Charging Authorities to adopt an instalment policy, as an alternative to requiring a full payment of CIL within 60 days of the commencement of the chargeable development. The City Council is minded to adopt an instalments policy, and although this is not a matter for scrutiny at CIL independent examination, the Council will publish details of the proposed instalment policy on submission of the Draft Charging Schedule.

Additional Information

How does the levy relate to planning permission?

The levy will be charged on new builds permitted through some form of planning permission. Usually this will be planning permission granted by Winchester City Council as the local planning authority, and the levy will also apply to 'permitted development' new builds under the General Permitted Development Order 1995 (as amended).

The planning permission will identify the buildings that will be liable for a Community Infrastructure Levy charge: the 'chargeable development'. The planning permission also defines the land on which the chargeable buildings will stand, the 'relevant land'.

Who is liable to pay the levy?

The responsibility to pay the levy runs with the ownership of land on which the liable development will be situated. This is in keeping with the principle that those who benefit financially when planning permission is given should share some of that gain with the community. That benefit is transferred when the land is sold with planning permission, which also runs with the land. The regulations define landowner as a person who owns a 'material interest' in the relevant land. 'Material interests' are owners of freeholds and leaseholds that run for more than seven years after the day on which the planning permission first permits development.

Although ultimate liability rests with the landowner, the regulations recognise that others involved in a development may wish to pay. To allow this, anyone can come forward and assume liability for the development. In order to benefit from payment windows and instalments (see below), someone must assume liability in this way. Where no one has assumed liability to pay the levy, the liability will automatically default to the landowners of the relevant land and payment becomes due immediately upon commencement of development. Liability to pay the levy can also default to the landowners where the collecting authority, despite making all reasonable efforts, has been unable to recover the levy from the party that assumed liability for the levy.

How is the levy collected?

The levy's charges will become due from the date that a chargeable development is commenced in accordance with the terms of the relevant planning permission. The definition of commencement of development for the levy's purposes is the same as that used in planning legislation, unless planning permission has been granted after commencement.

When planning permission is granted, the collecting authority 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.

The levy's payment procedures encourage someone to assume liability to pay the levy before development commences. Where liability has been assumed, and the

collecting authority has been notified of commencement, parties liable to pay the levy will always benefit from a 60 day payment window on any instalments policy a local authority may have in place. However, payments are always due upon commencement if no party assumes liability and/or no commencement notice is submitted before commencement.

Is there an alternative to making financial payments?

The CIL Regulations provide for charging authorities to accept transfers of land as a payment 'in kind' for the whole or a part of a the levy, but only if this is done with the intention of using the land to provide, or facilitate the provision of, infrastructure to support the development of the charging authority's area.

An agreement to make an in-kind payment must be entered into before commencement of development. Land that is to be paid 'in kind' may contain existing buildings and structures and must be valued by an independent valuer who will ascertain its 'open market value', which will determine how much liability the 'in-kind' payment will off-set. Payments in kind must be provided to the same timescales as cash payments.

Will the Levy charging rates be updated on an annual basis?

Winchester City Council will be required to apply an annually updated index of inflation to keep the levy responsive to market conditions. The index will be the national All-In Tender Price Index of construction costs published by the Building Cost Information Service of The Royal Institution of Chartered Surveyors.