



# **Community Infrastructure Levy (CIL)**

## **Preliminary Draft Charging Schedule**

**Hart District Council**

Consultation document

November 2021

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## Introduction

- 1 The Community Infrastructure Levy (CIL) was introduced by the Planning Act 2008, and is a levy that local authorities can choose to charge on new development, which is used to fund infrastructure needed to support growth. It can replace in part the process of planning obligations commonly known as section 106 agreements.
- 2 CIL is a tariff in the form of a standard charge per square metre on new development, which the District Council as the CIL Charging Authority, sets to help the funding of infrastructure. The principle behind CIL is for those who benefit financially from a planning permission to pay towards the cost of funding the infrastructure needed to support growth in the district. Since most development has some impact on infrastructure, it follows that it should contribute to the cost of providing or improving infrastructure.
- 3 The requirements for setting and implementing a CIL are set out in the CIL Regulations 2010 (as amended). Further guidance in setting up and implementing CIL is set out in the National Planning Practice Guidance: [www.gov.uk/guidance/community-infrastructure-levy](http://www.gov.uk/guidance/community-infrastructure-levy)
- 4 Hart District Council adopted the Hart Local Plan (Strategy & Sites) 2032 in April 2020. It is therefore prudent to produce the Charging Schedule at the current time so that it can be demonstrated how the Charging Schedule will support delivery of the Local Plan 2032.
- 5 Hart District Council is the Charging Authority under the Planning Act 2008 and the CIL Regulations 2010 (as amended) and is undertaking consultation on this Preliminary Draft Charging Schedule with a view to adopting CIL in 2022. The purpose of this consultation is to seek views on the proposed rates of CIL as set out in the Preliminary Draft Charging Schedule.
- 6 The consultation period runs for 6 weeks from **Friday 5<sup>th</sup> November 2021** to **Friday 17<sup>th</sup> December 2021**.
- 7 The Preliminary Draft Charging Schedule is supported by the following evidence documents:
  - A draft Infrastructure Delivery Plan which sets out infrastructure requirements to support the delivery of the Local Plan 2032.
  - A Community Infrastructure Levy Viability Assessment which has been undertaken by consultants and is a critical piece of evidence to assist in determining the appropriate level for the CIL tariff in terms of the development likely to take place in Hart district in the period to 2032; and
  - An Infrastructure Funding Gap statement which identifies that the likely CIL receipts from anticipated new developments will be exceeded by the costs

of the infrastructure requirements identified in the draft Infrastructure Delivery Plan. It confirms that CIL will not generate sufficient funds to pay for all of the major infrastructure needs identified in the Infrastructure Delivery Plan.

- 8 The Council will consider the responses to this consultation and will prepare a Draft Charging Schedule for further consultation in 2022.

## **The Community Infrastructure Levy**

- 9 Hart District Council is the charging authorities for the purpose of Part 11 of the Planning Act 2008 and the CIL Regulations 2010 as amended.
- 10 The Community Infrastructure Levy is a tariff in the form of a standard charge per square metre on new building development, which is set by the Council to help the funding of infrastructure. It is intended to supplement, or top up, other sources of funding to widen infrastructure delivery.
- 11 Most development has some impact on infrastructure and should contribute to the cost of providing or improving infrastructure. The principle behind CIL is for those who benefit financially from a planning permission to pay towards the cost of funding the infrastructure needed to support development.
- 12 CIL will improve the Council's ability to mitigate the cumulative impacts on infrastructure from most developments; unlike the former system of planning obligations which tended to affect mainly larger developments. Being charged on a per square metre basis, CIL charges will be proportional to the scale of the development.
- 13 In investing in the infrastructure of the area, CIL is expected to have a positive economic effect on development in the medium to long term.
- 14 The Council must set CIL rates in a Charging Schedule and can implement these, having undertaken consultation and an examination of the draft followed by adoption.
- 15 When setting CIL rates, the Council must strike an appropriate balance between the desirability to fund infrastructure through CIL and the potential effect (taken as a whole) of the levy on the viability of development in the area where CIL charges apply. When considering infrastructure costs, the Council needs to estimate the cost of infrastructure to support development and take into account other sources of funding.

16 Regulation 14 of the CIL Regulations 2010 (as amended) provides:

*'14. (1) In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between:*

*(a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and*

*(b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.*

*(2) In setting rates in a charging schedule, a charging authority may also have regard to actual and expected administrative expenses in connection with CIL to the extent that those expenses can be funded from CIL in accordance with regulation 61...'*

17 Regulation 13 of the CIL Regulations 2010 (as amended) makes provision for the setting of differential rates for different geographical zones, different development uses, and internal development size, intended number of homes or a combination of them. Any differential rate should be justified by viability evidence.

18 The term 'taken as a whole' requires the Council to look at the effect of CIL on the viability of development as a whole across their areas. The CIL regime recognises that the effect of CIL may be to render some individual developments unviable but provided that the charging of CIL at the proposed rates will not threaten the delivery of the development as a whole which the Council is planning for, then an appropriate balance will have been struck. The Council has used evidence in the CIL Viability Assessment to inform appropriate CIL rates which do not threaten the delivery of the Local Plan's proposals.

## **Proposed CIL Charges**

19 The CIL Viability Assessment considers the viability of development in Hart District and shows that the ability of development to support a CIL charge varied by type of development.

20 The proposed CIL rates are shown in the table below which also lists large sites subject to nil CIL charges. These strategic sites are expected to contribute towards infrastructure through S106 agreements.

21 CIL will be charged in pounds sterling (£) per square metre at differential rates according to the type of development set out in the schedule below:

<b>The CIL rates</b>	
<b>Development type (Use Class)</b>	<b>CIL Rate/m<sup>2</sup></b>
<b>Class B</b>	
B2 General industrial	£50.00
B8 Storage or distribution	£50.00
<b>Class C</b>	
C1 Hotels	£50.00
C2 Residential institutions	£50.00
C2A Secure Residential Institution	£50.00
C3 Dwellinghouse*	£270.00
C4 Houses in multiple occupation	£270.00
Housing for older people: this includes what was referred to in the SHMA as 'sheltered' and 'enhanced sheltered'	£80.00
Specialist housing for older people with care	£80.00
Residential care for older people: provides live-in accommodation, typically in en-suite rooms, with 24 hour-a-day supervised staffing for residents, who may need extra help and support with their personal care	£50.00
Nursing care for older people: provide 24-hour care and support, as with residential care, but with added nursing care and assistance for residents who require input from and supervision by a registered nurse, who is in situ to devise and monitor care plans and provide and administer treatment	£50.00
<b>Class E - Commercial, Business and Service</b>	
E(a) Display or retail sale of goods, other than hot food	£80.00
E(b) Sale of food and drink for consumption	£80.00
E(c) Services	£50.00
E(d) Indoor sport, recreation or fitness	£50.00
E(e) Provision of medical or health services	£50.00
E(f) Creche, day nursery or day centre	£50.00
E(g) Uses which can be carried out in a residential area without detriment to its amenity	£50.00
<b>Class F - Local Community and Learning</b>	
F1 Learning and non-residential institutions	£50.00
F2 Local community	£50.00
<b>Other uses</b>	
Sui Generis	£50.00
All development types unless stated otherwise in this table	£50.00
Large sites of 400 homes or more (gross) or a site area of 10 hectares or more (gross) irrespective of land use***	£0.00
Hartland Village****	£0.00

### **Notes**

\*C3 includes all self-contained accommodation, but excludes elderly and sheltered accommodation which have a different CIL rate

\*\*Age restricted general market housing is considered as C3 and is not included as a type of specialised housing and accommodation for older people

\*\*\*Large Sites are defined as any site 400 homes or more (gross) or a site area of 10 hectares or more (gross), irrespective of land use

\*\*\*\*Hartland Village is zero rated for CIL as it has already mitigated all the impacts on infrastructure through a completed S106 planning obligation

See Annex 2 for reference to the Use Classes guide

The CIL rates are index linked from the year when CIL is introduced to the year when planning permission is granted. The Council will apply the RICS CIL Index published by the Royal Institution of Chartered Surveyor. The CIL rates will be updated on 1<sup>st</sup> January each year.

## **CIL liability**

22 Development liable for CIL payment comprises:

- Development that creates 100m<sup>2</sup> or more of new build floor space measured as Gross Internal Floor Area (GIA).
- Development of less than 100m<sup>2</sup> new build GIA that results in the creation of one or more dwellings.
- The conversion of a building that is no longer in lawful use

23 Liability to pay CIL on qualifying developments applies whether development requires planning permission or is enabled through permitted development orders (General Permitted Development Order, Local Development Orders, Neighbourhood Development Orders, Enterprise Zones).

## **CIL exemptions**

24 Once CIL is implemented, it is fixed and non-negotiable. The CIL Regulations 2010 do however exempt some development from CIL liability. CIL charges will not be levied on:

- Development that creates less than 100m<sup>2</sup> of new build floor space measured as GIA and does not result in the creation of one or more dwellings;
- Buildings for which planning permission was granted for a limited period;
- Affordable housing, subject to an application by a landowner for CIL relief (CIL regulation 49);

- Development by charities for charitable purposes subject to an application by a charity landowner for CIL relief (CIL regulation 43) (mandatory charitable relief);
  - Houses, flats, residential annexes and residential extensions which are built by self-builders (CIL regulation 42A, 42B, 54A and 54B).
- 25 There are also other projects which are not considered development (s.208 of the Planning Act 2008) for the purposes of CIL, for example:
- buildings into which people do not normally go, or a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery; and
  - the change of use of any building previously used as a single home to use as two or more homes.
- 26 A charging authority can choose to offer discretionary relief to a charity landowner where the greater part of the chargeable development will be held as an investment, from which the profits are applied for charitable purposes (CIL regulation 44).
- 27 It can also choose to offer exceptional circumstances relief (CIL regulation 55) where the charging of CIL would have an unacceptable impact on the economic viability.
- 28 In Hart district discretionary charity relief or exceptional circumstances relief is not available (CIL regulations 44 and 55).

## **Calculating the chargeable amount**

- 29 The Council will calculate the amount of CIL chargeable in accordance with regulation 40 and Schedule 1 of the Community Infrastructure Levy Regulations 2010 (as amended). The formal calculation methodology is set out in Annex 3.
- 30 The relevant rate (R) for each development type is shown in the Charging Schedule above and the Gross Internal Area (GIA) is measured and calculated in accordance with the Royal Institute of Chartered Surveyors (RICS) Code of Measuring Practice. Annex 4 sets out an extract of RICS code.
- 31 The chargeable amount will reflect inflation, the Council will apply the RICS CIL Index published by the Royal Institution of Chartered Surveyor. The CIL rates will be updated on 1<sup>st</sup> January each year.
- 32 The provisions of the CIL Regulations 2010 (as amended) mean that for Section 73 applications to vary an existing planning condition, CIL will only be payable

upon any increase in chargeable floorspace from the section 73 application/permission.

## **Netting off existing floor space**

- 33 In certain circumstances, where a development includes the demolition of an existing building, the existing Gross Internal Area (GIA) can be deducted from the proposed floorspace. These deductions in respect of demolition or change of use will only apply where the existing building has been in continuous lawful use for at least six months in the 3 years prior to the development being permitted and is still in situ on the day planning permission is granted.
- 34 The Council may deem the Gross Internal Area (GIA) of a building to be zero where there is not sufficient information, or no information of sufficient quality, regarding the GIA of an existing building or whether it is in lawful use.

## **Liability for CIL**

- 35 Once planning permission is granted, CIL regulations encourage any party, (such as a developer submitting a planning application, or a landowner), to assume liability to pay the CIL charge. CIL liability runs with the land. If no party assumes liability to pay before development commences, land-owners will be liable to pay the levy.

## **Payment of CIL and Instalments Policy**

- 36 The default position is that CIL payment is due within 60 days of the commencement of development; however in some cases CIL is due immediately. For some developments, instalments may be permitted in accordance with the Council Instalments policy. Annex 5 of this document sets out an Instalments Policy.

## **Payments in kind**

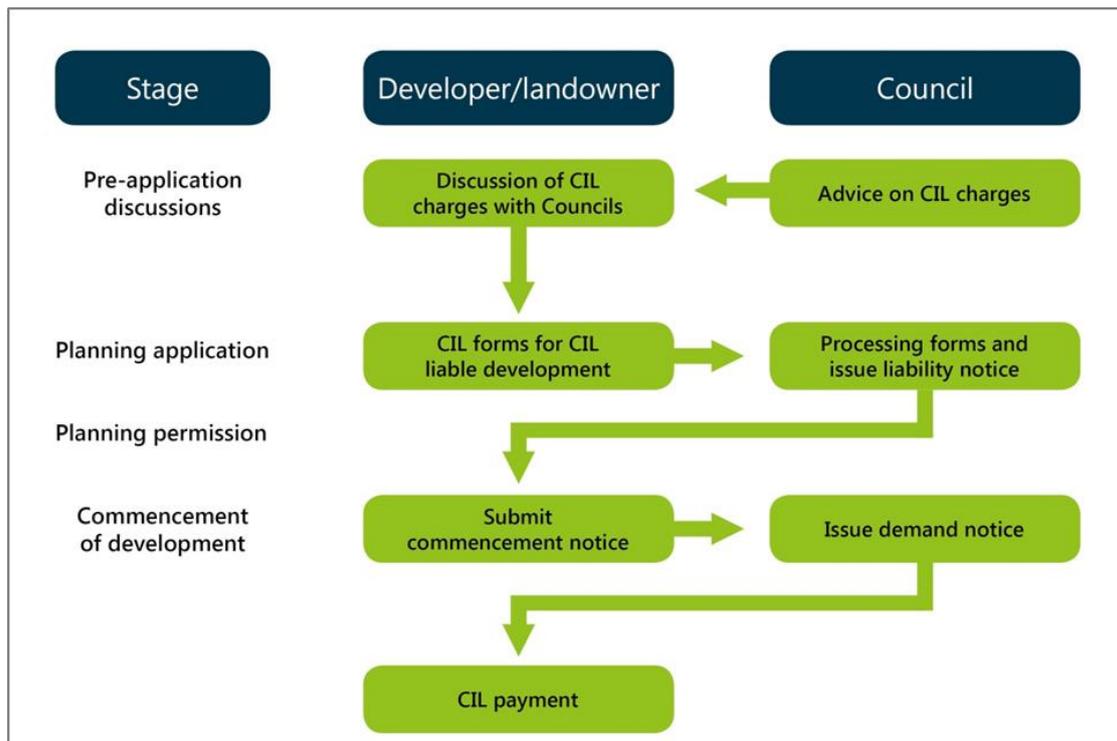
- 37 In circumstances where the liable party and the Council agree, payment of the levy may be made by transferring land and to accept payment in kind by receiving infrastructure under Regulation 73A. The agreement cannot form part of a planning obligation, must be entered into before the chargeable development is commenced and is subject to fulfilling the following:

- the acquired land is used to provide or facilitate the provision of infrastructure
- the land is acquired by the Council or a person nominated by the Council;
- the transfer of the land must be from a person who has assumed liability to pay CIL;
- the land has to be valued by an independent person, with appropriate qualifications, agreed by the Council and the person liable to pay CIL;
- 'Land' includes existing buildings and other structures, land covered with water,
- and any estate, interest, easement, servitude or right in or over the land.

## **Collection of CIL**

- 38 Hart District Council is the Charging Authority for the purpose of Part 11 of the Planning Act 2008 and CIL Regulations 2010 (as amended) and is also the collecting authority for the purposes of the CIL Regulations 2010 (as amended).
- 39 When planning permission is granted, the Council will issue a liability notice setting out the amount payable, and the payment procedure.
- 40 In the case of development enabled or authorised under permitted development orders, the person(s) liable to pay will need to consider whether their proposed development is chargeable, and to issue the Council with a notice of chargeable development. All new homes and all developments of 100 m<sup>2</sup> (GIA) or more are liable for CIL, however in some cases the existing floorspace can be discounted against the CIL liability.

41 The diagram below illustrates a summarised version of the collection process.



## Appeals

42 A liable person can request a review of the chargeable amount by the charging authority within 28 days from the issue of the liability notice. CIL Regulations allow for appeals on:

- the calculation of the chargeable amount following a review of the calculation by the Council;
- disagreement with the Council apportioned liability to pay the charge;
- any surcharges incurred on the basis that they were calculated incorrectly that a liability notice was not served or the breach did not occur;
- a deemed commencement date if considered that the date has been determined incorrectly;
- against a stop notice if a warning notice was not issued or the development has not yet commenced;
- charitable relief (Reg 116)
- exemptions for residential annexes (Reg116A); and
- exemption for self-build housing (Reg 116B)

## Spending CIL revenue

- 43 CIL receipts are split into 3 portions. Between 70% and 80% of the CIL receipts must be used for “*funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of the area*”. 5% of the CIL receipts are spent on administration of the process. The remaining 15% is known as the Neighbourhood Portion. Where the CIL receipt derives from a development within the area covered by a ‘made’ Neighbourhood Plan that proportion increases up to 25%.

## Administration fee

- 44 The Council will use 5% of total CIL receipts to refund and meet the costs associated with the establishment and on-going administration of the Levy.

## Parish & Town Councils’ Neighbourhood Portion

- 45 At least 15% of CIL receipts are allocated to Parish and Town Councils where CIL liable developments have taken place. This is known as the Neighbourhood Portion. If a Parish or Town Council area is covered by a ‘made’ Neighbourhood Plan, then the amount increases to 25% of CIL receipts from the area covered by the Neighbourhood Plan.
- 46 There is a cap of £100 (indexed) per council taxed home within a Parish or Town Council area per financial year, in areas without a made Neighbourhood Plan, but no cap if one is in place.
- 47 All Councils must pass over the Neighbourhood Portion of levy receipts from development to Parish or Town Councils if they are the accountable body. As Hart district is fully covered by Parish or Town Councils, the money (subject to any cap) will be passed to the relevant Parish or Town Council. CIL guidance recommends however that Charging Authorities and receiving Parish or Town Councils should engage and work closely to agree how best to spend these funds.
- 48 The CIL Regulations allow for the Neighbourhood Portion of levy receipts to be used for:
- The provision, improvement, replacement, operation or maintenance of infrastructure; or
  - Anything else that is concerned with addressing the demands that development places on an area.

- 49 Provisions for the recovery of CIL monies by a Charging Authority are available, if Parish or Town Councils do not spend the Neighbourhood Portion of CIL receipts within five years of receiving it, or apply it otherwise in accordance with the Regulations.

## **Council's CIL Fund**

- 50 The remaining funds, after administration and neighbourhood portion deductions will be allocated by the Council to infrastructure projects. The Council is required to publish on their website an Infrastructure Funding Statement (IFS) no later than the 31 December each calendar year which includes:
- a statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL (other than CIL to which regulation 59E or 59F applies) (“the infrastructure list”);
  - a report about CIL, in relation to the previous financial year (“the reported year”), which includes the matters specified in paragraph 1 of Schedule 2 (“CIL report”);
  - a report about planning obligations, in relation to the reported year, which includes the matters specified in paragraph 3 of Schedule 2 and may include the matters specified in paragraph 4 of that Schedule (“section 106 report”).
- 51 In addition to the IFS, the Council is also required, each calendar year, between 2 and 31 December to publish an ‘annual CIL rate summary’ in accordance with Regulation 121C.

## **CIL and Section 106 agreements**

- 52 Unlike Section 106 planning obligations, the levy is to provide infrastructure to support the development of an area, not to make individual planning applications acceptable in planning terms. It breaks the link between a specific development site and the provision of infrastructure and thus provides greater flexibility for delivery of infrastructure when and where it is needed.
- 53 Section 106 agreements and Section 278 Highways Agreements will continue to be used to secure site-specific mitigation and affordable housing. In some instances, S106 agreements may be used in large sites needing the provision of their own specific infrastructure for which delivery may be more suitably dealt with through S106s.
- 54 The Council will not seek Section 106 contributions for infrastructure that they propose to fund through CIL. This is to avoid double charging and provide

confidence on infrastructure funding to the community, developers, investors and infrastructure providers.

- 55 The Council is setting a threshold whereby developments of 400 homes or more or on sites of 10 hectares or more will be CIL zero rated. On these developments, financial contributions will be negotiated and legally bound through S106 and S278 agreements. Below these thresholds CIL will apply to all relevant development and the financial contributions will be based on the Charging Schedule. An exception to this is affordable housing which is legally required to be secured through S106 agreements.
- 56 Appendix 1 sets out how S106 planning obligations will operate alongside CIL. It makes it clear what types of infrastructure will be covered by CIL and what will still be required through S106 planning obligations.

## **Annex 1 - Relationship between CIL and S106 contributions**

### **How will planning obligations operate alongside the Community Infrastructure Levy?**

Regulation 122(2) of the CIL Regulations 2010 (as amended) and Para 57 of the NPPF (2021) state that a planning obligation must only be sought where they meet all of the following tests [and may only constitute a reason for granting planning permission for the development if the obligation]:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

In Hart district, CIL will replace planning obligations as the means of funding off-site infrastructure on sites below the threshold of 400 homes or more or on sites of 10 hectares. This includes infrastructure such as additional school places, transport improvements or improved leisure facilities, which are required in connection with new development and consequent population or economic growth.

On developments of 400 homes (gross) or more or on sites of 10 hectares (gross) the Council will require bespoke planning obligations covering both on site infrastructure and financial contributions through S106 and S278 agreements. As a result, these sites will be zero rated for CIL.

The Council will publish a list to set out what projects or types of infrastructure it intends to fund wholly or partly through CIL, and to avoid 'double charging' it will not seek contributions from Section 106 planning obligations for those items. The list will be kept under regular review and will be updated whenever necessary to take account of changes in circumstances.

### **Maintenance Contributions**

Where a development results in a need for new infrastructure or a new facility, that item of infrastructure or facility may in some cases be transferred into the Council's ownership. Examples of items that may be passed to the Council's ownership are public open space and children's play areas. In such cases, the Council will require a maintenance contribution, generally as a one-off payment. The maintenance contribution to cover the physical upkeep of the facility. The level of the contribution required will be calculated on a case-by-case basis. This would be secured by a S106 planning obligation.

Where developers choose to retain responsibility for the facility, they will need to be bound by a planning condition or S106 planning obligation to ensure proper maintenance.

## Types of infrastructure

The table below summarises types of infrastructure and their mechanism for delivery when required as part of a planning permission.

<b>The mechanisms for delivery of various types of infrastructure</b>			
<b>Type</b>	<b>Infrastructure and other items to be delivered through S106 Agreements; S278 of the Highways Act; or through Planning Conditions</b>	<b>Infrastructure to be funded or part funded through CIL</b>	<b>Relevant planning policies: HLP32</b>
<b>Affordable Homes</b>	On-site provision and financial contributions towards affordable homes	CIL will not be used to pay for affordable homes	H2 H3
<b>Biodiversity</b>	On-site habitat creation or enhancement; relocation of protected species to a suitable alternative site; off-site mitigation, for instance where measures are required to mitigate identified impacts upon a nearby area of high biodiversity interest	Significant off-site measures e. large areas of compensation land resulting from loss of habitat to development	NBE4
<b>Community Facilities</b>	Only where there is a specific requirement for the facility to be located on that site. In exceptional circumstances, where granting planning permission leads to the loss of community facilities, the Council will secure alternative provision of equivalent or improved benefit to the community in terms of size, utility and access. This may be through contributions towards	Most community buildings/facilities	INF5

	replacement/improvement of facilities or direct provision on an alternative site.		
<b>Day-care provision for adults</b>	Not provided under S106	All day-care provision	INF1
<b>Education</b>	Only where there is a specific requirement for the facility to be located on that site	Most provision of new schools or expansion of existing schools including early years, primary and secondary (covering ages 3 – 19)	INF1 INF8
<b>Environmental Improvements</b>	Only where there is a specific requirement for environmental improvements to be undertaken on that site	Off-site provision or enhancement, including public realm improvements	INF8
<b>Flood Defence</b>	On-site measures which an FRA identifies as a requirement	Flood defence works	INF1 INF8
<b>Indoor sports facilities</b>	Only where there is a specific requirement for facilities to be provided on that site. In exceptional circumstances, where granting planning permission leads to the loss of indoor sports facilities, the Council will secure alternative provision of equivalent or improved benefit to the community in terms of size, utility and access. This may be through contributions towards replacement/improvement of facilities or direct provision on an alternative site.	Most indoor sports provision including swimming pools, gyms and indoor sports halls	INF4
<b>Libraries</b>	Not provided under S106	Any library provision	INF1
<b>Maintenance</b>	Infrastructure provided under S106 agreements and transferred to the Council local authority will require a contribution		INF2

	towards future maintenance		
<b>Outdoor sports facilities, public open space/children's play areas, allotments</b>	Only where there is a specific requirement for facilities to be provided on that site. In exceptional circumstances, where granting planning permission leads to the loss of outdoor sports facilities, public open space, play areas or allotments in active use, the Council will secure alternative provision of equivalent or improved benefit to the community in terms of size, utility and access. This may be through contributions towards replacement/improvement of facilities or direct provision on an alternative site	Most outdoor sport and play provision, including outdoor sports pitches, courts and greens, recreational open space, allotments	INF2 INF4
<b>SUDS</b>	SUDS provision will normally be onsite and may require a maintenance payment		NBE5
<b>Transfer of land</b>	This may be included in a S106 for example where land is being transferred to the Council as public open space, or land upon which public art is located etc	In-kind payments under CIL regulations	INF1
<b>Transport</b>	Provision of works required to secure safe access and egress from the development site to the adjoining highway network, provision of internal roads, on-site pedestrian/cycle facilities and on-site public transport facilities.  Travel Plans are likely to be secured through planning conditions on	Off-site transport improvements are expected to be funded under CIL.	INF1

	most sites, but may require a planning obligation on some larger or more complex development proposals.		
<b>Youth services</b>	Not provided under S106	All aspects of the Youth Service	INF1

The table below sets out planning obligations for purposes other than delivering infrastructure.

<b>Planning obligations for purposes other than delivering infrastructure</b>		
<b>Type</b>	<b>Purpose of planning obligation</b>	<b>Relevant planning policies</b>
Joint User Agreement	The Council will seek public access to private and institutional facilities through sharing schemes and joint user agreements schemes which would be secured through S106 planning obligation. The details of these agreements will be negotiated on a case by case basis.	

## **Suitable Alternative Natural Greenspace (SANG)**

The Thames Basin Heaths Special Protection Area (TBH SPA) is an area of lowland heath covering over 8,000 hectares of land across Surrey, Berkshire and Hampshire. The TBH SPA was designated under the European Birds Directive in March 2005 because it represents a mixture of heathland, scrub and woodland habitat that support important breeding populations of nightjar, woodlark and Dartford warbler.

Policy NBE3 in the Hart Local Plan (Strategy & Sites) 2032 sets out the approach to the protection of the SPA. These set out the principles of avoidance and mitigation to avoid harm to the TBHSPA arising from new homes. These measures include:

- Directing development to those areas where potential adverse effects can be avoided without the need for mitigation measures;
- The establishment of a 400 metre exclusion zone around the TBHSPA within which no net new housing development will be supported;
- The provision of mitigation through Suitable Alternative Natural Greenspace (SANG);
- Contributions towards Strategic Access Management and Monitoring (SAMM) measures.

The provision of Suitable Alternative Natural Greenspace (SANG) to mitigate any impact upon the Thames Basin Heaths Special Protection Area and contributions towards Strategic Access Management and Monitoring (SAMM) will not be paid for using the CIL levy.

## Annex 2 - Guide to Use Class Order definitions

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as 'Use Classes'. This Order is periodically amended. The current Use Classes were last updated on 1<sup>st</sup> September 2020.

The following list is based on the Government's guide to Use Classes as shown in their planning and building regulations online resource 'The Planning Portal'. It is not a definitive source of legal information. The list gives an indication of the types of use which may fall within each use class. Please note that this is a guide only and it is for local planning authority to determine, in the first instance, depending on the individual circumstances of each case, which use class a particular use falls into.

### Class B

- **B2 General industrial** - Use for industrial process other than one falling within class E(g) (*previously class B1*) (excluding incineration purposes, chemical treatment or landfill or hazardous waste)
- **B8 Storage or distribution** - This class includes open air storage.

### Class C

- **C1 Hotels** - Hotels, boarding and guest houses where no significant element of care is provided (excludes hostels)
- **C2 Residential institutions** - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres
- **C2A Secure Residential Institution** - Use for a provision of secure residential accommodation, including use as a prison, young offenders' institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as a military barracks
- **C3 Dwellinghouse** - This class is formed of three parts
  - C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child
  - C3(b) covers up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems
  - C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be

provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger

- **C4 Houses in multiple occupation** - Small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

### **Class E - Commercial, Business and Service**

In 11 parts, Class E more broadly covers uses previously defined in the revoked Classes A1/2/3, B1, D1(a-b) and 'indoor sport' from D2(e):

- **E(a)** Display or retail sale of goods, other than hot food
- **E(b)** Sale of food and drink for consumption (mostly) on the premises
- **E(c)** Provision of:
  - **E(c)(i)** Financial services,
  - **E(c)(ii)** Professional services (other than health or medical services), or
  - **E(c)(iii)** Other appropriate services in a commercial, business or service locality
- **E(d)** Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,)
- **E(e)** Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
- **E(f)** Creche, day nursery or day centre (not including a residential use)
- **E(g)** Uses which can be carried out in a residential area without detriment to its amenity:
  - **E(g)(i)** Offices to carry out any operational or administrative functions,
  - **E(g)(ii)** Research and development of products or processes
  - **E(g)(iii)** Industrial processes

### **Class F - Local Community and Learning**

In two main parts, Class F covers uses previously defined in the revoked classes D1, 'outdoor sport', 'swimming pools' and 'skating rinks' from D2(e), as well as newly defined local community uses.

- **F1 Learning and non-residential institutions** – Use (not including residential use) defined in 7 parts:
  - **F1(a)** Provision of education
  - **F1(b)** Display of works of art (otherwise than for sale or hire)
  - **F1(c)** Museums
  - **F1(d)** Public libraries or public reading rooms
  - **F1(e)** Public halls or exhibition halls
  - **F1(f)** Public worship or religious instruction (or in connection with such use)
  - **F1(g)** Law courts

- **F2 Local community** – Use as defined in 4 parts:
  - **F2(a)** Shops (mostly) selling essential goods, including food, where the shop's premises do not exceed 280 m<sup>2</sup> and there is no other such facility within 1,000 metres
  - **F2(b)** Halls or meeting places for the principal use of the local community
  - **F2(c)** Areas or places for outdoor sport or recreation (not involving motorised vehicles or firearms)
  - **F2(d)** Indoor or outdoor swimming pools or skating rinks

### **Sui Generis**

'Sui generis' is a Latin term that, in this context, means 'in a class of its own'. Certain uses are specifically defined and excluded from classification by legislation, and therefore become 'sui generis'. These are:

- theatres
- amusement arcades/centres or funfairs
- laundrettes
- fuel stations
- hiring, selling and/or displaying motor vehicles
- taxi businesses
- scrap yards, or a yard for the storage/distribution of minerals and/or the breaking of motor vehicles
- 'Alkali work' (any work registerable under the Alkali, etc. Works Regulation Act 1906 (as amended))
- hostels (providing no significant element of care)
- waste disposal installations for the incineration, chemical treatment or landfill of hazardous waste
- retail warehouse clubs
- nightclubs
- casinos
- betting offices/shops
- pay day loan shops
- public houses, wine bars, or drinking establishments – *from 1 September 2020, previously Class A4*
- drinking establishments with expanded food provision – *from 1 September 2020, previously Class A4*
- hot food takeaways (for the sale of hot food where consumption of that food is mostly undertaken off the premises) – *from 1 September 2020, previously Class A5*
- venues for live music performance – *newly defined as 'Sui Generis' use from 1 September 2020*
- cinemas – *from 1 September 2020, previously Class D2(a)*
- concert halls – *from 1 September 2020, previously Class D2(b)*
- bingo halls – *from 1 September 2020, previously Class D2(c)*
- dance halls – *from 1 September 2020, previously Class D2(d)*

Other uses become 'sui generis' where they fall outside the defined limits of any other use class. For example, C4 (Houses in multiple occupation) is limited to houses with no more than six residents. Therefore, houses in multiple occupation with more than six residents become a 'sui generis' use.

### **Notes:**

In relation to specialised housing and accommodation for older people the Housing LIN uses an amended 'typology' compared to what was used in the SHMA (2016), covering:

**Housing for older people:** this includes what was referred to in the SHMA as 'sheltered' and 'enhanced sheltered'. These terms included but did not distinguish between for rent and for sale tenure distinctions. In addition, the term 'enhanced sheltered' is now used by very few social landlords. Housing for older people includes:

- Older people's housing for social/affordable rent, e.g. contemporary 'sheltered' housing.
- Older people's housing for sale, (typically referred to as retirement housing).

**Housing for older people with care:** this mirrors the term 'extra care housing' used in the SHMA, but it does not distinguish between for rent and for sale tenure distinctions. In the private market, the term 'extra care housing' is almost never used, this term being used primarily by social landlords. Housing with care includes:

- Extra care housing for rent.
- Housing with care for sale/shared ownership. These are sometimes referred to as retirement villages (where it may or may not have an onsite care home).

**Residential care for older people:** provides live-in accommodation, typically in en suite rooms, with 24 hour-a-day supervised staffing for residents, who may need extra help and support with their personal care. For example, help with things such as washing, dressing, personal hygiene, medication, toileting, communication, feeding and mobility.

**Nursing care for older people:** these provide 24-hour care and support, as with residential care, but with added nursing care and assistance for residents who require input from and supervision by a registered nurse, who is in situ to devise and monitor care plans and provide and administer treatment.

The National Planning Practice Guidance refers to an additional category of **Age restricted general market housing**. This is not covered by the SHMA and is not included within this typology as a type of specialised housing and accommodation for older people.

## **Annex 3 – How to calculate the amount of CIL payable**

Regulation 40 of the Community Infrastructure Levy (Amendment) Regulations 2014 confirms that the collecting authority must calculate the amount of CIL payable (“chargeable amount”) in respect of a chargeable development in accordance with the provisions of Schedule 1”

The Community Infrastructure Levy (Amendment) (England) (No.2) Regulations 2019 provided further details. The details as to how to calculate the amount of CIL payable are contained in Schedule 1 to the CIL Regulations. Schedule 1 is in 5 parts, and deals with:

- Standard Cases (Part 1);
- ‘Amended’ Planning Permissions (Part 2);
- Calculation of social housing relief (Part 3);
- Pre-CIL permissions ‘amended’ when CIL is in effect (Part 4); and
- Pre-CIL permissions ‘amended’ when CIL is in effect: appeal.

## Annex 4 – How to measure Gross Internal Area

The Council will use the Royal Institution of Chartered Surveyors (RICS)'s Code of Measuring Practice to measure or check the Gross Internal Area (GIA) of a development and calculate or confirm its relevant CIL rate. The guide below is based on RICS' Code of Measuring Practice (6th edition, with amendments), the full Code of Measuring Practice is available in RICS website at [www.rics.org](http://www.rics.org)

GIA is the area of a building measured to the internal face of the perimeter walls at each floor level.

Including:

- Areas occupied by internal walls and partitions
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like
- Atria and entrance halls, with clear height above, measured at base level only
- Internal open-sided balconies, walkways, and the like
- Structural, raked or stepped floors are property to be treated as a level floor measured horizontally
- Horizontal floors, with permanent access, below structural, raked or stepped floors
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)
- Mezzanine floor areas with permanent access
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners' rooms, and the like
- Projection rooms
- Voids over stairwells and lift shafts on upper floors
- Loading bays
- Areas with a headroom of less than 1.5m\*
- Pavement vaults
- Garages
- Conservatories

Excluding:

- Perimeter wall thicknesses and external projections
- External open-sided balconies, covered ways and fire escapes
- Canopies
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores, and the like in residential

\* GIA is the basis of measurement in England and Wales for the rating of industrial buildings, warehouses, retail warehouses, department stores, variety stores, food superstores and many specialist classes valued by reference to building cost (areas with a headroom of less than 1.5m being excluded except under stairs)

## Annex 5 – Instalments policy

### Community Infrastructure Levy Instalments policy

This policy is made in line with regulation 69B of the Community Infrastructure Levy Regulations 2010 (as amended). The Council will allow the payment of CIL as outlined in points 1, 2 and 3 below:

1. Where the chargeable amount is less than £200,000 the chargeable amount will be required within 60 days of commencement.

2. Where the chargeable amount is between £200,000 and £2 million, the chargeable amount will be required as per the following four instalments:

1 <sup>st</sup> instalment	2 <sup>nd</sup> instalment	3 <sup>rd</sup> instalment	4 <sup>th</sup> instalment
25% within 60 days	25% within 160 days	25% within 260 days	25% within 360 days

3. Where the chargeable amount is over £2 million, the chargeable amount will be required as per the following four instalments:

1 <sup>st</sup> instalment	2 <sup>nd</sup> instalment	3 <sup>rd</sup> instalment	4 <sup>th</sup> instalment
25% within 60 days	25% By end of year 1	25% By end of year 2	25% By end of year 3

Commencement will be taken to be the date advised by the developer in the commencement notice under CIL regulation 67. In both 2 and 3 above the dates run from the date of commencement.

Further guidance on the definition of commencement is provided in Section 56(4) of the Town and Country Planning Act 1990 says that “*development is taken to be begun on the earliest date on which a material operation is carried out*”. A material operation is defined in the Act and can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change in the use of the land.

#### Notes:

N1: When the Council grant an outline planning permission which permits development to be implemented in phases, each phase of development is a separate chargeable development and the instalment policy will apply to each separate phase.

N2: This policy will not apply if:

- A commencement notice is not submitted prior to commencement of the chargeable development
- Nobody has assumed liability to pay CIL in respect of the chargeable development prior to the intended day of commencement

- c) Failure to notify the Council of a disqualifying event before the end of 14 days beginning with the day the disqualifying event occurs
- d) An instalment payment has not been made in full after the end of the period of 30 days beginning with the day on which the instalment payment was due.