

SWINDON BOROUGH COUNCIL

Community Infrastructure Levy

**Preliminary Draft Charging Schedule
Public Consultation**

In accordance with

Regulation 15

Community Infrastructure Levy Regulations 2010

(as amended)

Issued for consultation on 30th July 2012

Preliminary Draft Charging Schedule

Public Consultation

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1. INTRODUCTION

Purpose

1.1 The purpose of this document is to undertake the first stage of public consultation to adopt a Community Infrastructure Levy ("CIL") for Swindon. The consultation is on the Council's CIL Preliminary Draft Charging Schedule or "PDCS".

1.2 The consultation provides an opportunity for representatives from the development sector, industry and commerce, Parish and Town Councils, community groups and organisations, and any member of the public that may have an interest in CIL to make representations in respect of the approach that the Council as 'Charging Authority' ("CA") is proposing to take in setting CIL rates for Swindon, and consider the content of the economic viability evidence that the Council has used to inform the proposed rate(s) to be set, and the types of development that it proposes would be chargeable as a consequence of that evidence.

Background

The Infrastructure Needs of Swindon

1.3 It is a time of challenge and opportunity for Swindon Borough as against the background of economic recession and diminishing public sector funding the need to plan responsibly and realistically is of greater importance. The Council has a responsibility to not only deliver the much-needed regeneration of the town centre but also plan for economic growth in a sustainable way that benefits both existing and future residents of the Borough. Sustainable development is not just about providing homes, local jobs and a vibrant and successful town centre; it is also about creating inclusive, cohesive, safe and healthy communities. Fundamental to this is the timely delivery of infrastructure.

1.4 In order meet the growing needs of Swindon for regeneration and sustainable economic growth proposed under the emerging Local Development Framework Plans (the emerging Core Strategy), significant investment is required to ensure that the infrastructure needed to support that development at both a strategic and local level can accommodate the increased demand placed upon it. This will include for example providing for new schools, community and other local needs, improvements to the transport networks, additional healthcare facilities, the upgrade of current emergency services sites, investment in borough wide leisure and recreational facilities, as well as for other infrastructure such as improvements to drainage networks. This infrastructure will need to be funded from a variety of sources a proportion of which would be funded from development itself.

What is CIL?

1.5 The Community Infrastructure Levy or CIL is a local charge that a Local Planning Authority (known as a Charging Authority or “CA” in the language of CIL) can decide to apply in their area. The use of CIL by the Council is discretionary. A CA can only seek to adopt a CIL for its area if it can demonstrate that a funding gap exists between the expected cost of the infrastructure that is required and the anticipated funding sources available to implement it.

1.6 Swindon Borough Council has decided to adopt a CIL to support economic growth in the Borough as an additional source of funding to assist in reducing the funding gap shortfall. This decision has been taken in the context of national changes that have been made to the way in which the current mechanism of securing contributions from development through Section 106 “S106” planning obligations can be used. S106 planning legal agreements and obligation will not disappear completely. Their use is to be scaled back by legislation that imposes a limit on the number of contributions that a Council can seek through S106 agreements, for “pooled” use for a specific individual/stand-alone infrastructure project. This will be restricted to 5 obligations from April 2014, or the date, on which CIL is adopted, whichever is the sooner.

1.7 Most new development has an impact on existing infrastructure and therefore it is important that new development contributes towards improving existing and investing in new infrastructure required to support sustainable growth. The introduction of the Community Infrastructure Levy (CIL) is a key tool in the delivery of sustainable growth, as it provides a means by which new development can contribute a share to the costs of providing the necessary infrastructure and facilities required to support it.

1.8 The introduction of CIL has a number of advantages when compared to the current Developer Contribution tariff or standard charge approach as it is known that is currently adopted in Swindon operating under the current S106 arrangements. The benefits of CIL include;

- CIL will be a faster more efficient process that will help to speed up the planning system;
- CIL is a modest non- negotiable charge which is transparent and predictable: Applicants will be aware of their CIL liability at an early stage before submitting a planning application;
- The costs of providing infrastructure will not solely be met by financial contributions from large scale development; rather all chargeable development will make a modest contribution.
- An element of CIL, called the “meaningful proportion” will be directed to local communities for the local delivery of community or neighbourhood proposals and will enable communities to benefit from development taking place in their area;

- From 6 April 2014, CIL will be the only available mechanism for a Charging Authority to manage the cumulative impact of development on infrastructure

CIL – a tool for supporting development

1.9 Primarily the CIL will help to deliver development in Swindon through securing a contribution to the costs of providing infrastructure needed to support new development. This includes development that does not require planning permission. The CIL is not proposed to be used to remedy or make up a shortfall in pre-existing infrastructure unless the new development proposed will make the deficiency more severe. The Council will decide on which specific infrastructure projects the CIL will fund or partially fund and will publish on its website these specific infrastructure proposals. This is called the Regulation 123 list. This list of infrastructure may change over time, as it can be modified and revised as circumstances and specific infrastructure needs change and evolve.

1.10 The Council has carefully assessed an appropriate balance between the requirement to fund infrastructure through CIL and the potential effect of the implementation of the CIL on the economic viability of the development across the Borough. The CIL will encourage greater confidence and encourage inward investment to Swindon.

How will CIL operate?

1.11 On adoption, CIL will become a mandatory charge on development that is liable to pay CIL as set out in the adopted Charging Schedule for an area.

1.12 The CIL levy is charged at a rate based on net gain in floorspace and expressed as a rate per square metre. Minor development is exempt from the payment of CIL, and as such CIL will be chargeable on all new buildings and extensions to buildings which are over 100 square metres gross internal floor space, and all new build dwellings regardless of their floorspace (except for social housing that is subject to CIL relief providing it complies with the legislative restrictions).

1.13 The status of occupation of existing buildings will affect whether CIL is liable on changes of use of buildings, or whether the CIL liability can be reduced as a consequence of the floorspace of existing buildings that require demolition. In both instances CIL will become liable for payment unless that floorspace has been in continuous lawful use for at least 6 months prior to the development being permitted. Charities are also exempt providing they comply with the legislative restrictions. CIL cannot be charged retrospectively on development that has already been granted planning permission, unless changes are proposed that would create a replacement planning permission subsequent to the adoption of CIL

1.14 CIL is not restricted to residential uses, it is chargeable in principle on any new floorspace irrespective of its use e.g. retail, business commercial, leisure,

educational and community uses, unless the local viability evidence demonstrates that a specific use is not capable in economic viability terms of sustaining a CIL payment.

1.15 Unlike s106 planning obligations there is no direct connection between CIL levied from development in an area the location in which it can be spent.

1.16 The Borough Council as Charging Authority "CA" will review and monitor the Charging Schedule on a regular basis to ensure that the CIL charges remain appropriate over time. A review may be initiated for example as market conditions change or if there are changes to the funding gap for the infrastructure needed to deliver growth.

The statutory basis of CIL

1.17 The statutory basis of CIL is set out within the provisions of the Planning Act (2008). Further amendments including details to show how CIL would work in practice, are set out in the Community Infrastructure Regulations 2010 which came into force in April 2010.

1.18 The Coalition Government confirmed on 18th November 2010 that a CIL would be introduced with limited changes and published revised Regulations that came into force on 6th April 2011. Further limited changes to the Regulations are proposed and will be enacted in due course through the Localism Bill.

1.19 Part 11 of the Planning Act 2008 provides the statutory primary Regulation 15 of the Community Infrastructure Levy Regulations 2010 (as amended) provides the Council as Charging Authority (CA) to consult upon the PDCS before a Draft Charging Schedule is produced for further public consultation and Examination.

Who will pay CIL?

1.20 All chargeable development as listed in the Charging Schedule will be required to pay the CIL. Planning applications for a change of use of an existing premises are exempt from the CIL only provided that the building has been in continuous lawful use for at least six months in the twelve months prior to the development being permitted. Retail mezzanine floors are also exempt from the charge. Where buildings are proposed to be demolished to make way for new buildings, the CIL will be based on the new floorspace of the new buildings less the floorspace of the demolished buildings, provided that they were in lawful use prior to demolition.

Relief from CIL

1.21 The CIL Regulations make provisions for Charging Authorities to give relief from the levy. Relief falls into two categories Mandatory Relief and Discretionary Relief. Detailed information on CIL Relief is set out in the DCLG guidance Document 'Community Infrastructure Levy Relief: Information Document (2011).

Mandatory Relief

1.22 Social Housing i.e. affordable housing as it is commonly known is subject to mandatory relief, and as such the floorspace that it delivers will be 'exempt' from paying CIL. The Council will continue to secure the delivery of affordable housing through S106 agreements, and these can also continue to be used to secure the infrastructure necessary to grant planning permission for the development in the case of 100% affordable schemes as appropriate.

Discretionary Relief

1.23 Discretionary relief operates in clear and specific circumstances. Exemptions will only apply to proposals by Charitable Bodies for developments for Charitable Purposes. Under Regulation 43 of the Community Infrastructure Levy Regulations 2010 (as amended) charities are exempt from liability to pay the Levy where a development will be used wholly or mainly for charitable purposes; be fully owned by the charity or jointly with other charities; and occupied by it or under its control. Evidence will need to be supplied to demonstrate this.

1.24 Discretionary relief is also available, in specific circumstances, for development which can demonstrate 'exceptional circumstances'. Regulation 55 of the Regulations allow a CA to grant relief only where a planning obligation has been entered into for a sum that is greater than the chargeable amount, and that payment of the Levy would have an unacceptable impact on the economic viability of the development. Exceptional circumstances relief can only be given where eligibility criteria are fulfilled and the CA has switched the relief on it its area. No decision has been made in respect of this for Swindon; however the eligibility criteria are set out in the Regulations as follows:

Eligibility Criteria for Exceptional Circumstances Relief:

- a. The charging authority has made exceptional circumstances available in its area;
- b. The claimant owns a material interest in the land;
- c. A Section 106 Planning Obligation has been entered into in respect of the planning permission which permits the chargeable development; and
- d. The charging authority considers that:
 - The cost of complying with the Section 106 agreement is greater than the charge from the levy payable on the chargeable development;
 - Requiring payment of the charge would have an unacceptable impact on the economic viability of the chargeable development; and
 - Granting relief would not constitute a notifiable state aid.

1.25 The Council may decide to offer discretionary relief to a charity or a charitable landowner where the greater part of the chargeable development will be held as an investment, from which the profits are used for charitable purposes. The Council can publish a policy for Discretionary Relief for Charities in such circumstances.

1.26 In exceptional circumstances the Council as Charging Authority may decide to grant relief from the CIL in other cases. Applications for claims for relief from the CIL will be considered on a case by case basis. However such a claim should only be made exceptionally and this exemption is not to be used to negotiate away the CIL or part of it. The Council anticipates that exceptional relief will only be granted by the Charging Authority very rarely and occasionally and only in very specific and particular circumstances.

1.27 The Council will publish its policy for considering claims for relief in exceptional circumstances in accordance with the Community Infrastructure Levy (Amendment) Regulations 2011. In each case, an independent person with suitable qualifications and experience will be appointed by the claimant with the agreement of the Council as charging authority to assess whether:

- the cost of complying with the signed section 106 agreement is greater than the levy's charge on the development and
- paying the full CIL charge would have an unacceptable impact on the development's economic viability.

1.28 If the independent person appointed to review viability finds that the proposed development cannot carry costs of the s106 agreement and the CIL charge it can make a recommendation for a level of relief to be applied to will bring the scheme into viability. The Council as Charging Authority will carefully consider any such recommendations and determine whether or not that relief from the CIL should be applied in a particular case.

1.29 Exceptional circumstances relief can only be considered by a CA where a Section 106 Planning Obligation has been entered into which, combined with CIL, detrimentally affects the viability of a development. For this reason, most development will not be eligible for exceptional circumstances relief.

Future use of Section 106 of the Town & Country Planning Act and the adoption of CIL

1.30 The Council currently seeks pooled contributions towards infrastructure secured through s106 agreements and planning obligations using locally adopted guidance:

- Adopted Supplementary Planning Guidance "SPGs" and Supplementary Planning Documents "SPDs" e.g. Open Space and New Housing Development (2004)
- The Developer Contributions Development Control Guidance Note (Nov 2010 Update) "DCDCGN" and its suite of Guidance Notes on specific infrastructure

items such as Education; Central Area Public Realm; Leisure; Libraries; Community Safety; Community Forest; Healthcare; Wiltshire Fire & Rescue Service; Public Art; Adult & Child Social Care; Waste Management.

1.31 When CIL is adopted, or no later than April 2014, whichever is the sooner, the scope for pooling section 106 contributions under the framework of s106 is significantly reduced, limiting the Council to a maximum of 5 obligations towards a specific item or type of infrastructure. The Council will be required to review its locally adopted Guidance to ensure that it remains fit for purpose alongside the changes imposed by the CIL Regulations on developer contributions to infrastructure.

1.32 Section 106 agreements and other legal agreements (for example S278 of the Highways Act) will therefore continue to be used by the Council in some circumstances. S106 agreements and planning obligations can continue to be used to secure the delivery of site-specific infrastructure requirements, those that are necessary to enable the grant of planning permission e.g. the design and construction of open space on site, a development sites access junction improvements on the existing highway, the delivery of affordable housing.

1.33 On the adoption of the CIL the Council will ensure that there is no double counting or double charging for infrastructure contributions and development proposals will not be asked to pay twice. In such cases where a S106 planning obligation is proposed, to deliver specific infrastructure it must meet the 3 statutory tests set out in the CIL Regulations (Reg. 122). On the adoption of CIL the Council will need to publish a list of the infrastructure that will benefit from CIL finance.

1.34 As only a maximum of five individual S106 contributions may be pooled for a particular infrastructure project, the decision to implement the CIL locally in Swindon reflects the national strategy to use the CIL as the preferred mechanism for collecting pooled financial contributions for funding infrastructure. The Council as local planning authority will be required to monitor all agreements that have been entered into since 6 April 2010 to ensure that no more than five separate planning obligations have already been entered into (for a specific infrastructure project or a type of infrastructure).

Payment of CIL

1.35 CIL is due for payment upon commencement of the development, and is to be paid in full within 60 days of the commencement date. The 2011 amendments to the CIL Regulations 2010 make provisions for Charging Authorities to adopt an instalment policy for payment. This would allow CIL payments to be phased over a period of time following the commencement of the development. Such an approach will assist with a developer's cash flow and will avoid front loading CIL liabilities to the start of the development process before any sales receipts are received. Therefore the Council will consider introducing an instalment policy. To date no decision has been made as to how this would operate.

1.36 Whilst no clear decision has been made in respect of an instalment policy for Swindon, an example of how an instalment policy could operate is set out below, for information only.

Payment in full on commencement of development up to a value of £40,000.

CIL liability exceeding £40,000. Payment be made in the following instalments:

- 25% no later than 60 days after the commencement date
- 25% no later than six calendar months after the commencement date
- 25% no later than 12 calendar months after the commencement date
- 25% no later than 18 calendar months after the commencement date.

1.37 In cases where payments are to be made by instalment, a failure to comply with the requirements of the CIL Regulations will result in the total unpaid balance becoming payable immediately.

2. Evidence base for the Preliminary Draft Charging Schedule

2.1 To be able to adopt a CIL the Charging Authority is required demonstrate that a funding gap exists between the cost of infrastructure and the available funding sources available to deliver it. The first step has therefore been to identify the infrastructure requirements for the Borough.

Infrastructure Delivery Plan

2.2 The infrastructure needs of the Borough are to be set out in an Infrastructure Delivery Plan (IDP) which is a living evidence base document produced to support the emerging Development Plan for the Borough, the purpose of which is to list the infrastructure it is anticipated will be necessary to support future sustainable growth.

2.3 In producing the IDP the Council has worked collaboratively with its partner organisations and key stakeholders that will need to be involved in delivering strategic infrastructure necessary to implement the policy aims and objectives of the Development Plan. This approach has taken account of the current difficult economic circumstances nationally and locally and has considered smarter methods of service delivery, for example the co-location of services to ensure that the limited resources that are available are used as efficiently as possible to deliver more.

2.4 Swindon's infrastructure is to be funded from a range of sources. To introduce a CIL charge, the Council has to demonstrate that there is a funding gap between the total cost of the infrastructure required to support the delivery of development in its area, and the total funding currently available to the Council and its partners for delivery. CIL receipts are expected to meet a proportion of this funding gap.

Types of infrastructure for CIL

2.5 The IDP lists and assesses the specific types of infrastructure required to deliver or facilitate the proposed growth, regeneration and housing, proposed in the emerging Development Plan. These include utilities, transport, education, community, drainage and other items of strategic infrastructure. The IDP also sets out the specific infrastructure required to deliver the strategic sites, namely the Eastern Villages, Commonhead, Tadpole Farm and the Southern Development Area (Wichelstowe) in the interests of clarity.

2.6 The Development Plan is a strategic plan, and therefore it is inevitable that over time the infrastructure requirements set out in the IDP will be subject to change, for example as a result of local, regional or national influences or changes to planning policies or strategies. As a result the IDP will remain a live document that will be subject to periodic review so that it can respond to changing circumstances, be flexible and be updated as and when required.

The assumptions underpinning the IDP

2.7 The IDP has been produced using the most up to date evidence and costings that are available. Data has been provided by service areas from within the Council and from partner organisations, for example the Wiltshire Fire and Rescue Service.

2.8 Some infrastructure items within the IDP are based on fully costed proposals or rely on comparative proposals recently delivered in Swindon. There is greater certainly for proposals likely and intended to be delivered within the first 5 years of the longer Core Strategy timeframe. The costs are based on the best information available now and may change as projects and proposals reach maturity and progress to the detailed planning and design stage.

2.9 In due course the Council will publish what is known as the Reg 123 list. This list will set out those specific infrastructure projects or types of infrastructure that the Council intends to be, wholly or partly funded by CIL. It will be published on the Council's website once the CIL is adopted and implemented and it may differ from the items in the IDP table. This is because the Council as Charging Authority must retain appropriate flexibility to be able to respond to changing local circumstances, for example changes in infrastructure needs, development priorities, the timing of funding delivery or other significant projects coming forward some of which are outside Council's control.

The Funding Gap

2.10 The table of infrastructure projects within the IDP details the overall known funding gap to which CIL receipts will be directed. This data has been used to assess the total revenues likely to be delivered by CIL to shrink the funding gap (identified in the table) and used to assess the actual level of the Swindon CIL charge (as a cost per square metre) that will be required to support the publication of the preliminary draft charging schedule.

2.11 The IDP table of infrastructure projects identifies known and existing funding sources and seeks to identify other potential funding sources. Some projects have specific and identified funding sources or potential funding source or a combination of the two. However given the current uncertainties over both national and local funding streams there are no guarantees that external identified funding streams will be available to contribute to the cost of specific infrastructure.

2.12 The actual CIL spending levels may be altered and increased/modified need to be higher or revised or adapted if circumstances change. Going forward the Council as Charging Authority will continue to identify other sources of funding to ensure that projects continue to be brought forward.

2.13 The infrastructure projects listed in the table show (on the basis of the best available information at this point in time) the funding gap for the infrastructure needed to support growth and regeneration in Swindon to which the CIL will be directed to contribute to narrowing that gap.

2.14 The IDP includes specific infrastructure needs, for example to provide new primary and secondary places as set out in the School Place Planning study, and other evidence based documents. It is projects from the IDP that have been extracted to demonstrate a funding gap for Swindon as set out in the table below and provides the evidence necessary to demonstrate that a CIL charge can be levied in Swindon.

2.15 It should be noted that the projects listed in the table below are examples of project that could be supported, and it is only on the adoption of a CIL that the Council, as Charging Authority, is required to publish a list, in accordance with Regulation 123 of the CIL Regulations (2010 as amended), of those infrastructure projects that could be funded by CIL. There is no requirement for the list to be published at this early stage of preparing a CIL Charge. The Regulation 123 List will be subject to future Council approval.

Demonstrating the Infrastructure Funding Gap in Swindon

Project Title	Estimated Capital Cost	Total Other Funding Streams	Shortfall
Additional Household Waste Recycling Centre	£1,500,000.00		£1,500,000.00
Cemetery	£2,000,000.00		£2,000,000.00
Central Secondary School	£21,500,000.00	£10,750,000.00	£10,750,000.00
Special Educational Needs School (East Swindon)	£10,000,000.00		£10,000,000.00
New Fire Station in North Swindon	£3,000,000.00		£3,000,000.00
Sports and Leisure - Link Centre redevelopment	£20,000,000.00		£20,000,000.00
Public Realm Improvements: The Parade	£2,000,000.00	£900,000.00	£1,100,000.00
Railway Crossing linking Town Centre and North Star	£5,200,000.00		£5,200,000.00
Public Realm Improvements: Wellington Street	£750,000.00	£250,000.00	£500,000.00
Central & South 6FE secondary school places	£21,500,000.00	£7,070,000.00	£14,430,000.00
8FE Secondary Central Secondary School	£21,500,000.00		£10,750,000.00
TOTALS	£108,950,000.00	£18,970,000.00	£79,230,000.00

Final Funding Gap
£67,230,000.00

Projected CIL Income £	Example anticipated Funding Gap £	% of Funding Gap funded by CIL Receipts
12,178,375.00	67,230,000.00	18%

3. The Viability Evidence

3.1 The Community Infrastructure Levy Regulations (2010) state that in publishing and adopting a Charging Schedule, the Council as Charging Authority must strike what appears to the charging authority as 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 introduction of the CIL on the economic viability of development across its area.

3.2 The Council commissioned GVA to undertake viability testing of development in its area, to inform the land uses, and rates that would be appropriate for Swindon. The viability evidence, including the assumptions that were inputted is set out in the two following documents that support this Preliminary Draft Charging Schedule Consultation:

- CIL Development Viability Study for Swindon Borough Council (June 2012) and
- CIL Charging Zones Schedule: Potential for additional CIL Charging Zones (June 2012)

3.3 It is the outputs of these documents that have informed the Councils approach to rate setting under the Preliminary Draft Charging Schedule.

Viability Testing

3.4 The purpose of the viability study is to assess the construction costs of development taken as a whole, including a viable profit margin, and set that against the value of the development constructed (Gross Development Value) or total amount that the development is worth in sales or rental terms. The outputs would identify either a positive or negative residual value. If a positive residual value exists, there is scope to charge CIL, if it is negative the development is not considered to be viable and imposition of a CIL would compromise that position further.

3.5 When undertaking viability testing a Charging Authority is required to take into consideration the costs imposed on development through local policy such the costs of providing affordable housing, sustainable and low carbon policy objectives, and design standards.

3.6 In rate setting the CA is also required to consider the potential costs of that may be imposed through s106 obligations, and/or highways agreements.

3.7 The GVA study has assessed different value areas and different development typologies informed by the Council. It has assumed that affordable housing will be delivered on sites of 15 dwellings or more and on sites of more than 0.5 hectare.

Viability findings and results

Residential

3.8 The findings of the study have identified that there is potential for a CIL charge to be levied on residential development, having tested a range of residential development typologies across the Borough.

3.9 It is proposed to set a flat rate of £55 per sqm for residential development proposed outside the framework of the strategic sites. Whilst there are some variations in values across different areas of the Borough, the recommendation is that there is scope or financial “headroom” in the different residential typologies for a single CIL rate to be set, that will not put at risk development from coming forward in Swindon

3.10 The Zoning Report has concluded that it is not appropriate to set differential rates for residential, based on geographical area, other than in the consideration of the context of the delivery of strategic sites. For the purposes of CIL strategic sites have been defined as sites delivering 850 residential units or more. On strategic sites, the scale of on-site infrastructure costs that would need to be secured for site specific mitigation under the terms of a s106 legal agreement, under the framework of a s106 package, combined with the delivery of on-site affordable housing would not allow scope for CIL to be charged on top.

3.11 For the reasons explained above, the Charging Schedule proposes two residential rates. £55per sqm for residential development on non-strategic sites and £0 per sqm on strategic development sites comprising 850 dwellings or more.

3.12 The Council is seeking representations on whether its approach to setting the threshold is appropriate.

Industrial (B1, B2 and B8) and Office (B1a)

3.13 The Viability outputs have concluded that Industrial development, irrespective of location within the Borough is not economically viable under current market conditions, and as such is not capable of sustaining a CIL levy. As such the CIL levy will be set at £0 for this type of development. Thus, office development, business parks, and large scale warehousing and distribution sites would not be liable to pay CIL.

3.14 The Council seeks representations on the proposed rate and approach taken to establishing such.

Retail

3.15 The study of the retail sector has identified that retail land uses falls into varying categories that can be disaggregated into identifiable sectors including:

- Traditional retail,
- Convenience retail,
- Supermarkets and superstores and
- Retail warehousing

3.16 These can be identified using the Institute of Grocery Distributors definitions in most cases, differentiating using floor space. The Study has concluded that types of retail differ in their economic viability and as such scope exists to set differential rates based on floor area.

3.17 The Council is proposing setting variable rates for Retail as set out below:

<i>Development type</i>	<i>Proposed CIL rate per Sq. m.</i>
Traditional Retail (A1) <280sqm	£20
Retail Warehousing (A1)	£50
Retail (A1): Convenience <280sqm	£200
Supermarkets and Superstores >280sqm	£200

Hotel Uses

- a. It is anticipated that additional hotel development is likely to come forward in Swindon, and thus a decision was taken to test hotel uses. This established that whilst the viability of this type of development is marginal, some scope may exist to set a CIL for this use. It is therefore proposed that the rate be set as follows:

<i>Development type</i>	<i>Proposed CIL rate per Sq. m.</i>
Hotels (C1)	£5

Leisure Uses

3.19 Leisure services in an area can be provided by a mixture of the public and private sector. There is no ability to be able to differentiate between providers. The viability study has concluded that the viability of leisure uses is economically viable and thus some scope exists to set a CIL for Leisure uses. The charge proposed is set out below.

Development type	Proposed CIL rate per Sq. m.
Leisure (D2)	£20

3.20 The Council seeks representations on the appropriateness of this rate.

Health, Education, Community and other uses

3.21 CIL is to be charged against all net gain in floorspace, and thus the liability to pay CIL can fall on development that benefits from permitted development rights, and thus in its own right does not require planning permission. In the circumstances of Agricultural development this has the potential to capture buildings such as Hay Barns, Livestock sheds, the development of which has no viability. For this reason it is proposed to set agricultural at £0.

3.22 Furthermore the outputs of the testing established that facilities such as Schools, community centre and healthcare facilities are not economically viable, and therefore not capable of sustaining a CIL charge.

3.23 The Council seeks representations in respect of its approach to setting these rates at £0.

Conclusions

3.24 The Council is of the opinion that the rates proposed in the Preliminary Draft Charging Schedule would not put at overall risk the viability of development across its area, and the approach to rate setting is in accordance with the provisions of the Regulations.

4. The Preliminary Draft Charging Schedule

4.1 The following CIL rates will be levied in £s per sqm on net additional increase in floorspace for qualifying development in accordance with the provisions of the Community Infrastructure Levy Regulations 2010 (as amended)

<i>Development type</i>	<i>Proposed CIL rate per Sq. m.</i>
Residential strategic expansion areas comprising 850 dwellings or more	£0
Residential – non strategic expansion areas under 850 dwellings	£55
Agricultural, Industrial (B1, B2 & B8), Office (B1a), Health, Education and Community	£0
Hotels (C1)	£5
Leisure (D2)	£20
Retail Warehousing (A1)	£50
Retail Traditional Retail (A1) <280sqm	£20
Retail: Convenience Retail stores <280sqm	£200
Retail: Supermarkets/Superstores (A1) >280sqm	£200
All other uses	£0

Note: The Retail sqm floorspace is defined using the Institute of Grocery Distributors categorisation of retail.

Anticipated level of CIL income

4.2 Following the first implementation of CIL the level of CIL receipts will gradually increase over the first three years and then level out. This is due to the fact that for the first 18-24 months following the adoption of CIL the majority of housing completions will have already been granted planning permission, prior to the implementation of CIL in Swindon. By approximately 36 months after the adoption of CIL the majority of new residential developments will be liable for CIL as they will have been granted planning permission post-CIL adoption.

Potential CIL receipts from residential development

Year	Housing completions on other sites (subject to CIL)	Projected CIL income (at £55 per m2)
2013/14	325	£1,519,375
2014/15	275	£1,285,625
2015/16	275	£1,285,625
2016/17	180	£841,500
2017/18	180	£841,500
2018/19	180	£841,500
2019/20	170	£794,750
2020/21	170	£794,750
2021/22	170	£794,750
2022/23	170	£794,750
2023/24	170	£794,750
2024/25	170	£794,750
2025/26	170	£794,750

(Assumes an average dwelling size of 85m2 and takes no account of variations in the timing of housing delivery; based on housing projections from the emerging Core Strategy (March 2011). The anticipated income makes no allowance for affordable housing which is not liable for CIL.)

4.3 The table below provides an example of the CIL levy rates that would be applied to residential development based on average dwelling sizes.

Residential CIL at £55 sq. m. applied to dwelling types

Dwelling type	Average size (sq. m.)	Proposed CIL charge (per average dwelling)
1 bed flat	50	£2,750
2 bed flat	70	£3,850
2 bed house	75	£4,125
3 bed house	85	£4,675
4+ bed house	105	£5,775

4.4 Whilst the majority of CIL income will be received from residential developments some CIL income will come forward from other development. However it is not possible to calculate the level of CIL income likely to be received from other uses as these developments come forward in an ad hoc manner. However, such other uses can involve significant levels of new floor space, for example recent retail convenience developments in Swindon. The CIL raised from non-residential uses would add to overall income.

4.5 Finally it should be noted that in the current economic climate and taking account of current economic uncertainties, it is not possible to predict with a high degree of certainty the level of future housing delivery. Therefore the level of CIL receipts anticipated could increase or decrease depending on whether confidence returns to

the Swindon housing market or whether there is a further period of uncertainty. However on the basis of current trends and evidence available to the Council it is considered that the above projections are reasonable.

Calculating the chargeable amount

4.6 The formulae for calculating a CIL chargeable amount is set out within Regulation 40 of the CIL Regulations 2010 (as amended). The Council will therefore calculate CIL using the provisions of Regulation 40 of the CIL Regulations 2010.

CIL Calculation

4.7 CIL calculation formula (from Regulation 40 Part 5 of CIL Regulations 2010)

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

Where:

A=the deemed net area chargeable at rate R

I_p= the index figure for the year in which planning permission was granted; and

I_c = the index figure for the year in which the charging schedule containing rate R took effect.

4.8 The value of A in paragraph (5) of part 40 of the Regulations must be calculated by applying the following formula

$$\frac{CR \times (C - E)}{C}$$

Where:

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

C = the gross internal area of the chargeable development, and

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

(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful; and

(b) are to be demolished before completion of the chargeable development.

4.9 The chargeable rate will be index linked. The index referred to in the calculation formula is the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors; and the figure for a given year is the figure for 1st November of the preceding year. In the event that the All-in Tender Price Index ceases to be published, the index referred to is the Retail Prices Index; and the figure for a given year is the figure for November of the preceding year

How will the levy be collected?

4.10 The CIL Regulations (2010 as amended) set the regulatory framework under which a Charging Authority collects CIL from the chargeable development in its area. The Council as Charging Authority (CA) will be required to implement the procedures for assumption of liability to pay CIL, collection and enforcement in line with that regulatory framework 2010.

4.11 Responsibility to pay the CIL charge falls to the owner of land for which planning permission has been granted and for which the CIL is payable, or the liable party should liability to pay be accepted by an individual or organisation that is not the landowner, and payable in accordance with Regulations and any locally adopted Instalment Policy.

How and where will CIL Receipts be spent?

4.12 As set out above, revenue from the CIL will be used to fund the delivery of essential infrastructure and will be directed to address the identified funding gap informed by the IDP to deliver the infrastructure needed to support Swindon's growth, regeneration and development. It is not intended to be used for other projects or to remedy pre-existing deficiencies in infrastructure provision unless such deficiencies will be made more severe by new development.

4.13 CIL can be used to develop or improve the capacity of existing infrastructure or to repair failing existing infrastructure, if it is necessary to support growth/regeneration/development.

4.15 Infrastructure may include (definition from Planning Act (2008);

- a) roads and other transport facilities,
- b) flood defences,
- c) schools and other educational facilities,
- d) medical facilities,
- e) sporting and recreational facilities,
- f) open spaces, and
- g) affordable housing.

However this is not an exclusive list, as further types of infrastructure may be added if circumstances change or other infrastructure priorities emerge.

The 'Meaningful proportion'

4.16 The Regulations require the Council to allocate a "meaningful proportion" of the revenues from CIL receipts to the neighbourhood within which the CIL chargeable development took place. Government has recently consulted on proposed amendments to the Regulations that will amplify and provide more certainty in respect of the scale of CIL receipts which the meaningful proportion should reflect. The amendments may also address to what body or organisation the meaningful

proportion can be passed for localised investment. Under the current Regulations, they can only be passed to a Parish Council.

4.17 To date no decision has been made with respect of how Swindon proposes to manage the meaningful proportion as the Council wishes to consider its approach in the context of the amendments to the Regulations that is anticipated may be published in the Autumn 2012. In the meantime the Council will continue to liaise with Town and Parish Councils, Community Groups and others to identify particular infrastructure that is needed and considered necessary and appropriate for inclusion in the IDP.

Location of Infrastructure Delivery

4.18 It is important that the infrastructure needed by local communities is delivered when the need arises. Therefore, the regulations allow authorities to use the levy to support the timely provision of infrastructure, for example, by using the levy to backfill early funding provided by another funding body. Under CIL there is no direct relationship between the location from which CIL receipts are raised, and where the receipts must be invested. For this reason it is 'meaningful proportion' of CIL receipts that will become the primary tool for localised improvements, unless that community makes a decision to direct to a larger project of direct benefit to them e.g. a by-pass. For these reasons, other than the meaningful proportion which is afforded an element of protection, CIL receipts raised in an area will be invested in infrastructure where the priority of need is greatest. The site specific mitigation managed under s106 remains unaffected by this in principle.

4.19 In addition, the CIL regime allows charging authorities to collaborate and pool their revenue from their respective levies to support the delivery of 'sub-regional infrastructure', for example, a larger transport project where they are satisfied that this would support the development of their own area. Any sub-regional application of Swindon CIL is not anticipated but if such a proposal comes forward the Council will publish the implications of this work, and if necessary, review its Regulation 123 list and/or its CIL Charging Schedule.

5. How to Comment on the Consultation

5.1 The consultation period for the CIL Preliminary Draft Charging Schedule runs for an 8-week period from Monday 30th July 2012 to Friday 21st September 2012 closing at 4.30pm on this date.

5.2 In addition to this formal consultation process the Council has previously held Stakeholder Workshops with representatives from the local development industry to assist with setting the assumptions relating to development costs that have fed into the viability testing.

5.3 Representations should be made in writing, and a representations form has been created to ensure that the correct information about the persons wishing to make representations is received. It also contains a number of questions that act as a guide to information that the Council is seeking specific representations on.

5.4 Representations can be submitted in writing using either of the following methods:

Email: cil@swindon.gov.uk with 'CIL Preliminary Draft Charging Schedule' inserted into the subject box.

By post: Representations can be submitted in writing by sending to:

For attention of CIL Project Team (Sarah Screen)
Planning Service Delivery,
Swindon Borough Council
Wat Tyler West House
Beckhampton Street
Swindon
SN1 2JH

Viewing the consultation documents

The CIL Documents for consultation are available on the Council's website:
www.swindon.gov.uk/CIL

A paper copy of the consultation documents can be viewed at Swindon libraries during their normal opening hours and also at the Swindon Borough Council offices at Wat Tyler House Reception, Beckhampton Street, Swindon SN1 2JH, located on the main Civic Campus.

To find out more details on the Swindon CIL, please contact the CIL Project Team through Sarah Screen on (01793) 466397 or Tomasz Wysocki on 01793 466396 or email: cil@swindon.gov.uk

Context

The information contained within the CIL PDCS and supporting documentation should be read in the context of the requirements of Government Legislation and advice in respect of CIL. Further information on Community Infrastructure Levy legislation and Government guidance on CIL can be viewed as follows:

CIL Regulations:

CIL Regulations 2010: <http://www.legislation.gov.uk/ukxi/2010/948/contents/made>

CIL Amendment Regulations 2011:
<http://www.legislation.gov.uk/ukxi/2011/987/made>

Government Guidance on CIL

<http://www.communities.gov.uk/planningandbuilding/planningsystem/communityinfrastructurelevy/>

6. Next Steps

6.1 The CIL Regulations 2010 (as amended) supported by the Community Infrastructure Levy Guidance: Charge Setting and charging schedule procedures provide the statutory framework under which a Charging Authority can adopt a CIL for its area.

Next steps and implementation

6.2 Following the closure of the PDCS Consultation period, the Council will consider the representations received, and decide whether to make further changes with a view to informing the preparation of the Draft Charging Schedule ("DCS"). The Council will then move forward to the next round of Public Consultation on the Draft Charging Schedule prior to the submission of the CIL DCS to independent Examination.

6.3 The Council anticipate that the CIL Examination will take place during the Spring of 2013. The Examiner will issue a report, which will either recommend that the Charging Schedule be approved, rejected, or approved with modifications. If the Examiner considers that the CIL Charging Schedule is acceptable, the Council must proceed to formally adopt the Charging Schedule in order for it to come into effect. This is anticipated to be during the Autumn / Winter of 2013.

6.4 Following receipt of the Examiner's report and the Council's formal adoption of CIL the Council will publish and adopt a revised Validation Checklist for planning applications and publish and adopt an Infrastructure SPD.

6.5 Alongside this process the Council will be required to review the status of the currently adopted Developer Contributions Development Control Guidance Note (November 2010) with a view to its replacement by a Supplementary Planning Document that is fit for purpose to operate alongside CIL, and the continued operation of s106 planning obligations for securing site specific infrastructure.

6.6 The Council will monitor the level of CIL receipts received and spent, and is required to publish annually such monitoring information.

