



Statement of Representations received
following publication of the Newark and
Sherwood Community Infrastructure Levy
2017 Draft Charging Schedule

Summary of Main Issues

May 2017

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1.0 Introduction

- 1.1 On 14th February 2017 Newark and Sherwood District Council LDF Task Group gave authorisation to seek representation on the Newark and Sherwood Community Infrastructure Levy (CIL) 2017 Draft Charging Schedule for a period of 6 weeks that concluded on Thursday 13th April 2017.
- 1.2 In accordance with Regulation 19 (b) of the Community Infrastructure Levy Regulations 2010, this statement sets out how many representations were made on the Draft Charging Schedule and summarises the main issues the representations raised.

Representation Period

- 1.3 At the beginning of the representation period, and in accordance with Regulation 16 (1) (a) and (b), copies of the Draft Charging Schedule (that included guidance on the Newark and Sherwood District Council CIL), the evidence used to develop the Draft Charging Schedule, Representation Forms, Draft Regulation 123 List, Statement of Representations Procedure and Notice of Publication was made available for inspection by the Council at:
- District Council Offices at Kelham Hall;
 - On the Council's website www.newark-sherwooddc.gov.uk/cil
 - In addition copies of the Draft Charging Schedule (that included guidance on the Newark and Sherwood District Council CIL), Representation Forms, Draft Regulation 123 List, Statement of Representations Procedure, Notice of publication (that included link to evidence base documents) were available at all District libraries
- 1.4 Representations on the Draft Charging Schedule could be made electronically by filling in the electronic Representation Form on the Council's website, saving the document and attaching it to an email and sending it to planningpolicy@nsdc.info. Alternatively respondents could fill in a paper copy of the Representation Form and return it to the Council's Offices at Kelham Hall.
- 1.5 In accordance with Regulation 16 (1) (c), the District Council wrote to or emailed all of the Consultation Bodies providing electronic copies of the Draft Charging Schedule, the Appendix of which included the Draft Regulation 123 List, Regulation 16 Statement of Representation Procedures and the Draft Charging Schedule Representation Form. In addition those individuals and organisations who responded to the consultation on the Preliminary Draft Charging Schedule were contacted and informed of the consultation, the representation procedure and period and where the documentation could be viewed.

1.6 In accordance with Regulation 16 1 (d), the District Council placed a Public Notice in local newspapers, on its website, at Kelham Hall and in the District's libraries advertising the period of Representation. A copy of the notice can be found at Appendix 1.

2.0 Summary of Main Issues

2.1 The District Council received 15 responses from 11 consultees on the CIL Draft Charging Schedule and copies of these will be sent to the inspector in both paper and electronic format. Set out in Table 1 on pages 4 to 17 are summaries of the representations received as part of the 6 week period of representation. The table also sets out the Council's response to the representations that have been made, and whether any alteration to the Draft Charging Schedule to be submitted for Examination is required. Finally, the schedule lists any representor who has requested the right to be heard by the Examiner.

2.2 Those who in their representations objected to the Draft Charging Schedule raised a number of issues but principally they fell within the following areas:

- Prematurity of the CIL Review
- Objections to elements of the charge; namely those that are zero rated
- Objections to elements of the methodology
- Objections to some elements of the geography used for charging zones.

Table 1: CIL Draft Charging Schedule Consultation Summary

Consultee	Comments/Suggested Changes	Comments/Action
(1) Barton Wilmore on behalf of Urban and Civic	Due to the increased costings and future proofing the Southern Link Road (SLR) to ensure sufficient capacity of the proposed junctions to accommodate the other Strategic Urban Extensions in Newark, the Council should explore whether it is possible to include any of the SLR works on the Regulation 123 list	The District Council will explore the possibility of including SLR works (in part) within the Regulation 123 List and cannot rule out amending the list at a future time to include SLR works (in part). However at this time given the potential complex legal ramifications it is not possible to include the works on the list at this time.
(2) Collingham Parish Council	Request to be notified of further stages through to adoption of revised Charging Schedule	Comment Noted
(3) Farnsfield Parish Council	Support the changes proposed within the DCS, none of which appear to have a negative impact on the Parish Council	Comment Noted
(4) Fernwood Parish Council	Apartments should not be zero rated, but should be charged at the same rates as other residential development.	The proposed rates are based on the viability evidence which indicates that apartments (other than the Very High Zone) cannot stand a CIL charge and remain viable
(5) Highways England	H/E consider the removal of four highways schemes is appropriate given that the funding for a strategic improvement to the A46 at Newark is expected to be	Comment Noted

	provided by Government	
(6) Lincolnshire County Council	The infrastructure needs as set out in the Draft IDP and Regulation 123 list, are significant and help to justify the case for CIL	Comment Noted
(7) Newark Town Council	Concerns remain as submitted for consultation at the Preliminary Draft Charging Schedule stage. Main concerns raised were zero rating of apartments and whether ward boundaries is the most appropriate method to define charging zones	The proposed rates are based on the viability evidence which indicates that apartments (other than the Very High Zone) cannot stand a CIL charge and remain viable. The District Council has considered various charging zone options and in a diverse District such as Newark and Sherwood whatever methods are used to divide it up there will always be anomalies created by the nature of administrative boundaries. Wards are the building blocks for much of the statistical information used to determine CIL levels and therefore represent the most appropriate method to split charging areas.
(8) Nottinghamshire County Council	<p>Primary education should continue to be collected via Section 106 Agreement.</p> <p>The County Council would wish to be involved with any review of the Developer Contributions and Planning Obligations SPD which may take place post CIL and Local Plan Review. In addition the County Council are currently reviewing their own Planning Obligations Strategy that they will consult upon in due course.</p>	<p>It is the intention of the District Council to continue to collect funding for Primary Education attributed to new development through Section 106 as set out in the current SPD and Infrastructure Delivery Plan.</p> <p>The District Council will consult and work closely with the County Council when reviewing its Developer Contributions and Planning Obligations SPD</p>

(8) Nottinghamshire County Council	Comments re public transport capital improvements	Noted -The District Council sought clarification from the County Council with regards to the representation made in respect of public transport capital improvements. The intention of the representation was to raise awareness for future schemes rather than suggest amendments to the Draft Regulation 123 List at this stage.
(8) Nottinghamshire County Council	<p>Request to include a brief description within the Regulation 123 List of what the highway improvement would involve.</p> <p>Location and description for two highway projects on the Regulation 123 List should be amended</p> <p>Suggesting split of funding for Kelham Bypass should be amended, to remove NCC and include D2N2 LEP as part fund provider with the District Council</p> <p>The IDP at Section 6.7.9 suggests that the improvement of the A614/A617 Ollerton roundabout should be added to the Regulation 123 List. NCC request clarification and that the IDP is corrected as it is their understanding that the scheme will be funded through Section</p>	<p>Regulation 123 list amended to include brief description</p> <p>Regulation 123 list amended as suggested</p> <p>Regulation 123 list amended as suggested</p> <p>The County Council understanding is correct. The IDP informs the District Council decision making however in the particular circumstances of Ollerton roundabout it is felt that Section 106 and other funding is a more appropriate route to secure improvements. The Council explains this further in the Community Infrastructure Levy and Section 106 Statement.</p>

	106 and other funding which is acceptable to them	
(8) Nottinghamshire County Council	<p>Clarification is sought on the following elements of the CIL's implementation:</p> <p>Mechanisms for prioritising the spend of CIL monies</p> <p>In terms of recipients of funds for secondary education and highways projects transfer of funds needs to be clearly understood</p>	<p>Noted – It is agreed that the District Council should work closely with the County Council to agree how CIL monies should be spent. This is particularly important now that levels of development are increasing and CIL monies may need to be spent.</p>
(9) Savills (on behalf of land owner)	<p>Representation was made with regard to viability assumptions:</p> <p>High market value of affordable housing rent</p> <p>Social rent tenure not included in the viability scenarios</p> <p>Build cost assumptions should</p>	<p>In formulating the scenarios for considering viability the District Council considered current practice in the affordable housing sector. Affordable rent tenure is assumed to be purchased by an RSL at 50% of open market value, therefore this was considered to be the most appropriate tenure to test.</p> <p>In formulating the scenarios for considering viability the District Council considered current practice in the affordable housing sector. Where as in the past social rent was the preferred product for the rent element of affordable housing the HCA and the District Council are more likely now to secure affordable rent, therefore this was considered to be the most appropriate tenure to test.</p> <p>There are many different build cost data sources. BCIS tends to be restricted to data</p>

	<p>be reviewed to reflect likely incurred base construction costs</p> <p>External costs and servicing should be included within assumptions</p> <p>A 7 to 10% contingency should be applied to brownfield sites</p> <p>Abnormal costs should be applied to assumptions</p> <p>Section 106 assumptions are low compared to the market norm</p> <p>Developer profit should be assumed at 20% and not 17.5%</p>	<p>from smaller bespoke housebuilders (volume housebuilders do not generally contribute to BCIS data) and as such is rates are considered to be significantly higher than those experienced by regional and volume housebuilders who are likely to deliver the majority of new houses in the District. As such the Council instructed Gleeds Cost Consultants to provide construction rates that were more reflective of the type of developer envisaged to deliver the majority of housing in the Plan Period</p> <p>The Gleeds build cost rates include allowance for external costs</p> <p>A 5% contingency is considered to be reasonable in all Appraisals</p> <p>Section 4.23 makes the points that if abnormal costs are identified these are likely to be deducted from the site purchase price in line with the majority of land purchase and option agreements. As such no abnormal cost allowance is considered necessary and it would be wrong to assume abnormal costs will be encountered on every site, particularly in this study where most delivery is anticipated from greenfield sites</p> <p>The allowance is based on an average S106 sum of £1249 collected for developments over the 5 year period since the introduction of CIL in the District in 2011. It is accepted there will be examples of developments with higher and lower contribution per dwelling rates than this average figure</p> <p>The appropriate developer profit has been arrived at following detailed consideration of local market circumstances in Newark and Sherwood.</p>
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	<p>Bench mark land value thresholds should be increased to reflect the examples of land transactions submitted as part of this representation.</p> <p>Fees, finance and tax assumptions have been omitted</p>	<p>The land value threshold methodology is clearly explained in the Viability Report. The report does not use market transaction comparable as the primary indicator to establish a benchmark land values in the viability assessments. In order to establish a 'competitive return to the landowner' as required by the NPPF, the viability appraisals assess the gross residual value of the development being assessed with no policy impact (affordable housing/S106 contributions etc.). The existing use value is deducted from this gross value to determine the maximum uplift in value resulting from planning permission. This uplift is then split 50:50 between the landowner (as a competitive return) and the Local Authority (as a margin from which policy based contributions can be delivered).</p> <p>The 'Shinfield Approach' to establish the competitive return to the landowner has been accepted in every CIL and Local Plan Examination that NCS have been involved with, including</p> <ul style="list-style-type: none"> 2011 Newark and Sherwood DC CIL, 2012 Bassetlaw DC CIL Newark and Sherwood Site Allocations and Development Management DPD 2014 Chesterfield BC CIL Worthing DC CIL 2015 Eastbourne BC CIL Crawley BC Local Plan Horsham DC Local Plan Lewes DC CIL Gedling DC Local Plan & CIL 2016 Newport CIL <p>There is a significant viability buffer included in setting CIL rates against maximum potential charges that more than takes account over any minor differences of opinion on these assumptions</p>
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	Request that further information is provided regarding viability evidence that includes a thorough review of both the methodology and assumptions used in appraisals	A complete Viability report and detailed Viability Appraisals have been published which clearly set out the adopted assumptions and appraisal methodology in context with Statutory Guidance and no further explanatory information is considered to be necessary
(10) Southwell Town Council	Comments relating to road safety with regard to increase in traffic from two new developments enabling safe exit of traffic from Halloughton Road and requirement for parent and pedestrian/wheelchair access from Workhouse Lane to Riverside	Comment Noted
(11) Town Planning.Co.UK. (Anthony Northcote)	It is premature to seek the review of CIL ahead of the Local Plan review. The Local Plan review is looking to reconsider key aspects including what the objectively assessed housing figure should be and spatial distribution of growth. As such the elements of infrastructure required to deliver the growth in the Local Plan review is likely to be different to that contained on the Regulation 123 List. The CIL Regulation 123 list is seeking to prejudice the outcome of the	<p>The CIL Regulations permit the review of a CIL Charging Schedule at any time provided the Development Plan is up to date, the Local Plan is currently being reviewed as part of this review infrastructure specialists have reviewed the infrastructure requirements of the District and produced an Infrastructure Delivery Plan that form part of the CIL evidence base. It is acknowledged that there have been changes to infrastructure provision since the original Regulation 123 list was prepared and that a number of projects have commenced. This is why it is considered a review is needed under the terms of CIL Regulation 14(1) (a).</p> <p>As previously identified when the CIL was first adopted by the Council in 2011, there is a very substantial infrastructure funding gap and CIL will only partially contribute to meet this gap with residual S106 contributions being sought to support CIL for infrastructure projects that are not identified by the Reg 123 List. This gap is highly unlikely to be bridged by changes identified by a review of the Local Plan to the extent that CIL charges would exceed the level of funding required to meet</p>

	<p>Local Plan</p> <p>Since the last Regulation 123 List was developed planning permission has been granted for urban extensions, therefore CIL contributions are secured or known. The widening of the A1 overbridge that has been added to the Reg123 List may be funded from other sources. In addition the emerging Highways England plans for the Newark bypass will materially affect the priority</p> <p>Seeking to undertake a review at this stage fails to adhere to the statutory requirements of Regulation 14 (1) (a) of the Community Infrastructure Levy Regulations 2010. We consider that a revised Regulation 123 List is required alongside the emerging Local Plan Review in order to satisfy the evidence requirements of Regulation 14 (5) of the Community Infrastructure Levy Regulations 2010 (as amended) and s211</p>	<p>infrastructure needs.</p> <p>As set out in the Infrastructure Delivery Plan and Infrastructure Funding Gap Review Report that has been produced to inform the Local Plan and CIL review the infrastructure funding deficit exceeds the projected revenue from CIL by approximately £27.70m as such the Draft Charging Schedule accords with the CIL Regulations</p> <p>It is inconceivable that there would be such a shift in infrastructure funding requirements resulting from relatively minor changes in the Plan that would fundamentally change the Infrastructure Funding Deficit to the point that the CIL revenue resulting from the proposed would exceed the funding needed to meet a revised Regulation 123 List</p> <p>It is a matter for the Authority to determine the appropriate balance in accordance with CIL Reg (14) (1) (a) of raising funds to support the infrastructure required to support development and the effects of the imposition of CIL on the economic viability of development across its area. This is what the CIL review is seeking to achieve.</p> <p>CIL Reg 14(5) states that for the purposes of section 211 (7A) of PA 2008 (1), a charging authority's draft infrastructure list is appropriate evidence to inform the preparation of their charging schedule. As such it is considered that the updated schedule of infrastructure requirements and costs prepared represents appropriate evidence to inform the review of the CIL Charging Schedule.</p> <p>In addition The Business Manager –Planning Policy contacted PINS to discuss the possibility of reviewing CIL ahead of Plan Review, advise was given setting out criteria that would make it appropriate to carry out a CIL review ahead of plan review:-</p>
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	<p>(7A) of the Planning Act 2008. As such we are not convinced that a CIL review at this time is properly evidenced, whilst a draft Regulation 123 has been published it is unclear as to how the list of highway schemes and the amount of secondary school places directly relates to the emerging growth level and spatial distribution which is not yet determined.</p> <p>CIL proposals in terms of commercial rates are ill founded at this time, some types of commercial development such as B8 uses have a significant adverse impact on the local highway infrastructure and should make some element of contribution to that impact</p> <p>Do not support the use of a single districtwide CIL contribution rate for retail. Differential rates should be set between urban and rural areas</p> <p>Residential charging zones do</p>	<p>Matters should be fairly straight forward with CIL rates being reasonably simple and not dependant on any proposals in an emerging plan</p> <p>There shouldn't be any big infrastructure projects that might be questioned later in the Local Plan review</p> <p>CIL rates would need to be backed up by up to date evidence</p> <p>It has been concluded that on the tests set out by PINS, the Council is able to demonstrate that the CIL review can progress ahead of plan review</p> <p>The viability evidence indicates that charges on B8 development would not be economically viable</p> <p>There is no economic viability evidence submitted by the representor to support this proposal in the view of the Council new build retail facilities across the Authority will be capable of accommodating CIL charges based on the viability evidence</p> <p>It is considered that Differential Rate CIL Zones cannot be set in accordance with</p>
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	<p>not reflect the policy areas or the housing market areas utilised in the current LDF or the emerging Local Plan review which is considered confusing. Rates should be set based on spatial policy sub areas. Sub-parts of single settlements should not be differentiated from the remainder of the settlement. As such the identification of the Bridge, Dover and Balderton South Wards being prescribed as a low rate with the remainder of Newark Urban Area being rated medium is not supported.</p> <p>Differential rates can reflect varying economic circumstances based on potential sale prices of property, land prices in the higher sale priced areas are substantially greater such that no greater profit element can necessarily be secured.</p>	<p>political or planning policy based boundaries. The Differential Zones are based on areas of differential economic viability in accordance with the Regulations and Statutory Guidance</p> <p>The Zoning of these areas are based on valuation evidence from the Land Registry that indicates differential economic circumstances in these parts of Newark and the view of the Council warrants a differential approach to CIL Charging based on the differential economic viability of development</p> <p>The Representor has not submitted any economic viability evidence to support this proposal</p>
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<p>(11) Town Planning.Co.UK. (Anthony Northcote)</p>	<p>The viability assessment model is based on a number of assumptions which are ill founded and do not reflect actual project examples being undertaken within Newark and Sherwood. These assumptions include land only being 18.18% of the total project cost and construction only being 39.55% of the total project cost. The CIL and s106 element would then equate to 4.1% of total cost</p> <p>A site at Farnsfield (14/01576/OUTM) is for sale for in excess of £3million for 60 dwellings, on the same methodology which would mean that the land element would be at least 22.73%. On that example scheme with the additional s106 requirements of £358,576 and CIL on the 42 market units would equate to a total CIL and s106 element actually being 5.03% of the total cost. In addition the viability</p>	<p>The land value threshold methodology is clearly explained in the Viability Report. The report does not use market transaction comparable as the primary indicator to establish a benchmark land values in the viability assessments. In order to establish a 'competitive return to the landowner' as required by the NPPF, the viability appraisals assess the gross residual value of the development being assessed with no policy impact (affordable housing/S106 contributions etc.). The existing use value is deducted from this gross value to determine the maximum uplift in value resulting from planning permission. This uplift is then split 50:50 between the landowner (as a competitive return) and the Local Authority (as a margin from which policy based contributions can be delivered).</p> <p>There are many different build cost data sources. BCIS tends to be restricted to data from smaller bespoke housebuilders (volume housebuilders do not generally contribute to BCIS data) and as such is rates are considered to be significantly higher than those experienced by regional and volume housebuilders who are likely to deliver the majority of new houses in the District. As such the Council instructed Gleeds Cost Consultants to provide construction rates that were more reflective of the type of developer envisaged to deliver the majority of housing in the Plan Period</p>

	<p>model assumes that construction of a dwelling is only £870 per square metre. However BCIS is the Building Cost Information Service of the Royal Institution of Chartered Surveyors. In a report in August 2015 looking at small developments for the Federation of Small Builders it identified that average construction costs were £1,025 per square metre for a scheme over 10 units and up to £1,157 per square metre for small schemes of 1 to 5 units. A site of 60 units may not be developed by a national housebuilder but could realistically be developed by a regional building company who do not have access to the same buying power as the national companies.</p> <p>On these assumptions construction at the Farnsfield scheme construction costs would then be 46.6% of total cost. As such if all other costs were the same as in the viability</p>	<p>HEB are registered RICS Valuer and have extensive knowledge of the residential land market locally and regionally. HEB have sold substantial numbers of residential sites, as well as advising on the acquisition of others. HEB are in regular contact with the majority of house builders active in the region, many of whom contributed to the HEB report and verified the sales values suggested in the valuation report as a fair and appropriate tone. HEB's instructions from the council were to provide an honest and</p>
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	<p>assessment then profit would be reduced from 15.9% to only 3.37% taking account of the 12.53% higher construction, s106 and CIL and land costs. Thereby rendering the scheme completely unviable. The viability evidence has not taken into account the difference in the costs of a full range of size of proposals and the assumptions made do not appear to reflect local costs and prices. We note that Heb Property Consultants do not list residential land as being one of their specialisms; they are commercial agents as such we do not consider that they are suitably qualified to offer advice on residential valuations.</p> <p>Given that Heb and NSDC are in a formal commercial partnership regarding the Nationwide CIL Service the evidence produced cannot be said to be impartial independent valuation advice.</p> <p>We note that a recently</p>	<p>realistic appraisal of indicative sales values across the authority area, and not to attempt to follow any prescribed planning policy based initiative.</p> <p>The commercial partnership between NCS and Newark and Sherwood District Council to deliver CIL Consultancy services to other Local Authorities was dissolved in 2014. NCS now operates as a private commercial partnership between HEB Surveyors, Gleeds and WYG and the Council are no longer involved in the arrangement.</p> <p>The Council is uncertain why sales evidence from a village in another County is</p>
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	<p>approved appeal scheme at Saxilby for 133 units where no CIL exists has an s106 contribution of only £709,525, and has a land sale value of only £3.25million. That scheme will have a significantly different viability as the sale price of a new 3 bedroom dwelling in Saxilby is £280,000 whereas the sale price of a new 3 bedroom dwelling in Farnsfield is £274,995. With Saxilby having an almost the same sale price but an effective land price which is half that of Farnsfield pro-rata per dwelling means that the use of a standardised viability model is not taking into account the necessary real differences in the land marketplace.</p>	<p>relevant to the study or how the approach of another Authority (West Lindsey) is relevant to the approach proposed by Newark and Sherwood.</p>
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Representors requesting the right to be heard by the CIL Examiner

- Anthony Northcote -Town Planning.Co.Uk
- Chairman Barry Smith –Fernwood Parish Council

Appendix 1 – Notice of Publication

CIL Review

Consultation on the Draft Charging Schedule

The Council is currently reviewing its CIL and consulted on the Preliminary Draft Charging Schedule (PDCS) during October/December 2016. This was the first formal step required to adopt a revised Charging Schedule. Consultation Comments have been summarised and can be viewed on the Council's website under the heading Preliminary Draft Charging Schedule.

The second stage in preparing a revised Charging Schedule is the Draft Charging Schedule (DCS) that has been produced following the outcome of consultation on the PDCS. This document further sets out how the current Charging Schedule will be revised and how much levy will be charged.

The Council is now seeking representation on the DCS that includes a Statement of Representation Procedure and Draft Amended Regulation 123 List of projects to be funded by CIL. Copies of all documentation including relevant evidence are available for inspection at Kelham Hall Newark NG23 5QX.

In addition Copies of the DCS (that includes a Statement of Representation Procedure and Draft Amended Regulation 123 List of Projects to be Funded by CIL) Representation Form and information about where all the documentation relating to the Draft Charging Schedule can be viewed at all District libraries.

If you have any comments please complete the DCS Representation Form and send to Infrastructure/S106 Officer, Growth Directorate, Newark and Sherwood District Council, Kelham Hall, Newark, Notts, NG23 5QX. Alternatively you can email planningpolicy@nsdc.info If sending comments by email please include 'DCS CIL Representation' in the subject line. Please ensure that your comments reach us by **5.15pm on Thursday 13th April 2017.**

