

Walsall Draft Charging Schedule – Community Infrastructure Levy (CIL)

Consultation 7th March-3rd May 2016

Schedule of Representations Received and Responses by the Council

This schedule provides a summary of the points made in representations received on the Draft Charging Schedule – Community Infrastructure Levy (CIL), together with the Council’s responses to the points made.

Where the Council is proposing to make changes to the CIL Charging Schedule – in response to representations received or for other reasons – these are set out in a Schedule of Proposed Pre-Submission Modifications, which is the subject of consultation for a period of 6 weeks between 7th November and 16th December.

See the Council’s consultation web pages at www.walsall.gov.uk/planning_2026.

Respondent	Contact Type	Summary of Comments	Council Final Response
Charging Zones			
Norton and Proffitt	Developer/ investor	Town Centre site (TC03, TC25, TC26) owned by single developer is divided between two separate charging zones. Entire site should be included within Zone 5.	No change proposed. The charging zones are based on postcode sector data. This is a standard way of grouping areas of similar value together. Whatever the approach used it is likely to be difficult to avoid some sites falling within multiple charging zones because not all development site boundaries will be known to the Local Planning Authority. It would be inappropriate to alter the boundary for an individual site.
Nominal CIL Charge			
Norton and Proffitt	Developer/ investor	Nominal £5/ sq m nominal charge for residential development should be removed throughout the schedule as it may put delivery at risk and make development unviable. DTZ study published in September 2015 did not include this nominal charge.	No change proposed. A £5 nominal charge has been accepted by an Inspector and adopted by Leeds City Council on the basis that it would represent a very small proportion of development costs and unlikely to put delivery of development at risk. The proposed £5 nominal charge, if not introduced at Walsall would result in around £1 million less funding towards necessary infrastructure to support development. It is considered that this issue will best be explored through the Examination process.
Housing Association Registered Providers (HARP) Consortium	Housing Association	The statement in the Schedule about the £5 per sq m nominal charge that this would not render the overall development to be unviable and undeliverable is a misrepresentation of the advice at paragraph 10.4 of the viability study. The latter states that "we believe there is a case that it would be unlikely to put delivery at risk. However, it is not possible to substantiate this in economic viability terms." Whilst this fee may seem nominal, as CIL is non negotiable, this threatens the future delivery of affordable housing across the region due to the fact that should this nominal CIL charge render a scheme unviable, it is more than likely that in order to ensure schemes are viable the affordable housing element of the S106 will be renegotiated. This nominal charge should be removed and replaced with a £0 charge.	No change proposed. A £5 nominal charge has been accepted by an Inspector and adopted by Leeds City Council on the basis that it would represent a very small proportion of development costs and unlikely to put delivery of development at risk. The proposed £5 nominal charge, if not introduced at Walsall would result in around £1 million less funding towards necessary infrastructure to support development. It is considered that this issue will best be explored through the Examination process. The CIL Regulations exempt housing that is rented by registered social landlords (this includes shared ownership properties). RSLs therefore would not have to pay even the nominal charge.

Use of CIL Funds			
Network Rail	Statutory Consultee	Need to consider if financial contributions from developers through CIL, S106 or unilateral undertakings could be put towards enhancements at railway stations within the LPA area where required due to increase in footfall caused by new development/ redevelopment. Suggested enhancements include: Heated waiting shelters, CCTV, Customer Information Systems, Help Points, Car Parking facilities, Access for all. Developer Contributions towards enhancements at railway stations should be viewed the same way as those for highways or local infrastructure improvements.	<p>No change proposed.</p> <p>The forecast CIL receipts of around £5 million fall significantly short of the identified funding gap of over £180 million and it is unlikely that the Council will be able to fund all infrastructure projects put forward. The Local Planning Authority will however prepare, and review the Regulation 123 List from time to time. A process to prioritise CIL expenditure is also likely to be necessary to ensure some of the infrastructure necessary to support development, which has limited, or no other sources of funding such as Open Spaces benefit from CIL.</p> <p>A funding gap has not been identified or provided in respect of the services referred to and specific details cannot therefore be included within the IDP at this time.</p>
Lichfield DC	Local Authority	<p>The instalment policy fails to take account of the need for mitigation to be in place prior to the occupation of the dwelling in order to prevent harm arising to the Cannock Chase SAC and will thus have an adverse impact upon the integrity of the Cannock Chase Special Area of Conservation.</p> <p>Continued use of S106: This section does not refer to any Strategic Access Management and Monitoring Measures which will need to be secured from developments such as self-build housing, affordable housing and gypsy and traveller sites and will lead to an adverse effect upon the integrity of the Cannock Chase SAC</p>	<p>No change proposed.</p> <p>The-viability evidence produced in support of the SAD and AAP indicates that it will potentially not be possible to impose a CIL rate on residential developments in central / northern areas of Walsall (affecting an area containing the majority of Walsall's housing allocations / capacity).</p> <p>Notwithstanding the complications that arise from this matter, Walsall Council's understanding is that the available evidence in respect of the impacts to the SAC is currently being used to require developer contributions from within 8km of the SAC to fund a strategic mitigation package for the site. As the SAD proposes no housing allocations within 8km of the SAC, and dependent on the outcome of discussions with the Cannock Chase SAC Partnership with regards to windfall residential development windfall sites. Should it be agreed that windfall residential developments within 8km of the SAC in Walsall are required to contribute to the strategic mitigation package it is envisaged they would do so via section 106 agreements, not CIL.</p> <p>The forecast CIL receipts of around £5 million fall significantly short of the identified funding gap of over £180 million and it is unlikely that the Council will be able to fund all infrastructure projects put forward. The Local Planning Authority will however prepare, and review the Regulation 123 List from time to time. A process to prioritise CIL expenditure is also likely to be necessary to ensure some of the infrastructure necessary to support development, which has limited, or no other sources of funding.</p>
West Midlands Integrated Transport Authority	Public Body	Support schedule and request additional schemes to include in Regulation 123 list	<p>No change proposed.</p> <p>The forecast CIL receipts of around £5 million fall significantly short of the identified funding gap of over £180 million and it is unlikely that the Council will be able to fund all infrastructure projects put forward. The Local Planning Authority will however prepare, and review the Regulation 123 List from time to time. A process to prioritise CIL expenditure is also likely to be necessary to ensure some of the infrastructure necessary to support development, which has limited, or no other sources of funding.</p>
Highways England	Public Body	<p>Where applicable, agreements made in response to comments on the draft consultation documents at a meeting between representatives of Walsall Council and Highways England meeting on 14 January 2016, have been incorporated in to the Main Modifications.</p> <p>We continue to support an improvement scheme at M6 Junction 10 but recognise the current funding gap, which is considered within the CIL Charging Schedule. We believe this scheme is imperative in facilitating the future delivery of development within Walsall. Whilst we understand an improvement scheme at Junction 9 is currently an aspiration, and understand why it is not included within these documents, we believe that it may be required to facilitate future development which may, or may not, include the overspill of housing from Birmingham.</p>	<p>No change proposed.</p> <p>Welcome recognition of funding gap.</p>

CIL Draft Charges Schedule Consultation Responses

Historic England	Public Body	Historic England welcomes the new references which have been made to the historic environment and heritage assets within both the charging schedule and the Regulation 123 list, and has no further comment to make on the documents at this publication stage of the process	No change proposed. Welcome support
Woodland Trust	Voluntary Body	<p>Although we are pleased to see a 'Borough wide replacement tree programme' in the 'Urban Open Space/Recreation' section, we would like to see the Regulation 123 List include specific provision to plant more trees and increase tree cover as part of developer obligation delivery of natural green space and green infrastructure, rather than simply replacement.</p> <p>We would therefore like to see an amendment to the Draft Regulation 123 List in the Urban Open Space/Recreation section to read – "Borough wide replacement tree AND WOODLAND CREATION programme". The funding gap sum should be increased to £50,000.</p> <p>We would also like to see a row added into the Flood Management section to read – "Natural Flood Risk Management Measures including tree planting" with a £20,000 funding gap sum proposed.</p>	<p>No change proposed.</p> <p>The forecast CIL receipts of around £5 million fall significantly short of the identified funding gap of over £180 million and it is unlikely that the Council will be able to fund all infrastructure projects put forward. The Local Planning Authority will however prepare, and review the Regulation 123 List from time to time. A process to prioritise CIL expenditure is also likely to be necessary to ensure some of the infrastructure necessary to support development, which has limited, or no other sources of funding</p>
Canal & River Trust	Voluntary Body	The Trust has previously identified strategic canal improvement / maintenance projects and these have been included within the 123 list. The Trust therefore has no further comments to make.	<p>No change proposed.</p> <p>The forecast CIL receipts of around £5 million fall significantly short of the identified funding gap of over £180 million and it is unlikely that the Council will be able to fund all infrastructure projects put forward. The Local Planning Authority will however prepare, and review the Regulation 123 List from time to time. A process to prioritise CIL expenditure is also likely to be necessary to ensure some of the infrastructure necessary to support development, which has limited, or no other sources of funding</p>
West Midlands Police	Public Body	<p>Object to the omission of the Police and emergency services from the Infrastructure Delivery Plan. National and local planning policy, regulations and legal precedence recognise that the Police service is an infrastructure capable of receiving CIL. Emergency services represent a key form of social infrastructure, and it needs to be ensured that such provision is sufficient to support the population growth.</p> <p>Due to ongoing financial and manpower constraints within West Midlands Police, as well as an internal review of the Police Estate, it has not been possible for detailed funding gap information to be provided. We recognise that it will not therefore be possible to include detailed information on the scale of financial contributions required from developers towards additional police infrastructure within the current CIL viability calculations.</p>	<p>No change proposed.</p> <p>The forecast CIL receipts of around £5 million fall significantly short of the identified funding gap of over £180 million and it is unlikely that the Council will be able to fund all infrastructure projects put forward. The Local Planning Authority will however prepare, and review the Regulation 123 List from time to time. A process to prioritise CIL expenditure is also likely to be necessary to ensure some of the infrastructure necessary to support development, which has limited, or no other sources of funding such as Open Spaces benefit from CIL</p> <p>A funding gap has not been identified or provided in respect of the services referred to and specific details cannot therefore be included within the IDP at this time. The draft IDP refers to use of CIL towards other social / community infrastructure and enables this type of infrastructure to be considered further in the future as and when evidence can be provided.</p>

Other Representations			
Housing Association Registered Providers (HARP) Consortium	Housing Association	<p>We are disappointed that whilst the viability study correctly identifies the affordable housing target of 25%, it still assesses viability against an assumption that 100% of the offer will be affordable rent. As stated previously, Policy HOU3 of the Black Country Core Strategy states that the tenure will be worked out on a site by site basis. The CIL viability study should assess the impact a range of affordable housing tenures would have on the Charging Schedule, not just that of affordable rent.</p> <p>The Housing and Planning Minister has also asked local planning authorities to respond to Registered Provider reviews of financial commitments following the Budget 2015 announcement of reductions in social rents in the four years from 2016-17. It is very likely that a mix of tenures will be sought and required on future schemes to find ways of addressing the reduced funding.</p> <p>We support the Council's introduction of an instalments policy. We would suggest however, that rather than setting a number of days from commencement, payment of the final instalment should be linked to the occupation of development.</p> <p>We note that the Council have stated that it is not considering any discretionary relief at this time. However, we believe that it would be appropriate for the Council to offer such relief in light of the severe need for affordable housing which has been identified in the region.</p>	<p>No change proposed.</p> <p>The Local Planning Authority has been advised by Strategic Housing that the tenure for affordable housing required in Walsall is currently affordable rent. Should this position, or the market change the charging schedule would be reviewed at that time. It is intended that CIL will be monitored through the Council's annual monitoring regime and CIL payments are index linked to reflect any change in build costs.</p> <p>No change proposed.</p> <p>The proposed instalment policy takes account of build costs, build-out timeframes and overall development viability.</p> <p>No change proposed.</p> <p>The Council's policy requirement for provision of 25% affordable housing has already been considered in assessing development viability and it is not considered that a discretionary relief is necessary at this time. Should this position, or the market change the charging schedule would be reviewed at that time. It is intended that CIL will be monitored through the Council's annual monitoring regime.</p> <p>The CIL Regulations exempt housing that is rented by registered social landlords (this includes shared ownership properties), so there would not appear to be a need for separate discretionary relief for social rented housing.</p>
St Modwen	Developer/investor	Further work and consultation on the Charging Schedule should wait until the issues surrounding the fundamentals of the housing supply and demand are resolved within the Site Allocations Document (SAD)	<p>No change proposed.</p> <p>CIL is intended as a way of providing funding for infrastructure across the area in general beyond that required for specific sites. The latter is expected to continue to be funded via S106. The forecast CIL receipts of around £5 million fall significantly short of the identified funding gap of over £180 million. The purpose of the SAD is to address the housing need identified in the BCCS. However, even if a significant increase in housing supply was proposed beyond that in the SAD, this difference means that it is highly unlikely it would be sufficient to address this funding gap.</p>
Sport England	Public Body	Sport England has no comments to make	No change proposed.
	Developer/investor	No Comments	No change proposed.
Natural England	Public Body	No specific comments to make on documents	No change proposed.