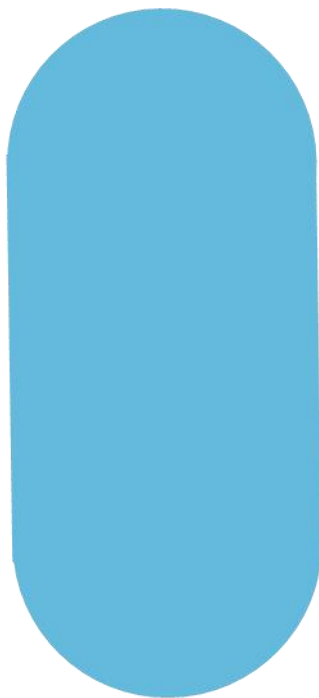
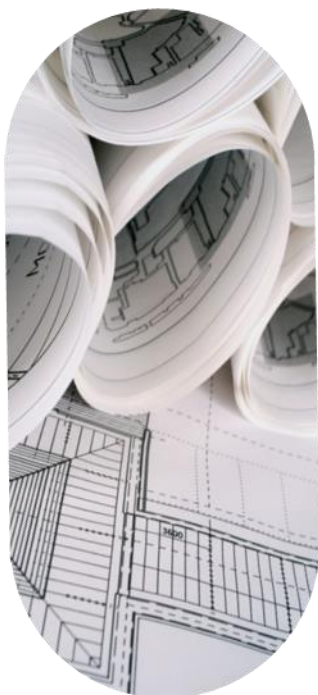


Representations

**Rugby Borough Council Community Infrastructure Levy
Revised Draft Charging Schedule**

Richborough

September 2023





1. The following representations are made in response to the Rugby Borough Council Community Infrastructure Levy (CIL) Revised Draft Charging Schedule (July 2023) on behalf of Richborough (formerly known as Richborough Estates). These representations should be read in conjunction with the representations made by Richborough to the Draft Charging Schedule in June 2023.
2. Richborough wish to be kept informed when the Council submits the Revised Draft Charging Schedule for Examination, when the Examiner publishes their recommendations, and when the Charging Schedule has been approved. Further, Richborough request the right to be heard by the Examiner to discuss the content of their representations as set out below.

The Proposed Introduction of a CIL Charge for Industrial, Light Industrial, Storage and Distribution Development Types

3. The CIL Revised Draft Charging Schedule proposes the introduction of a £5 per m² Charging Rate to Industrial, Light Industrial, Storage and Distribution Development Type, as listed in Table 1. This is a marked change in approach from the CIL Draft Charging Schedule consulted on by the Council in Spring 2023 which proposed this Development Type to be zero rated.
4. The Viability Assessment which accompanied the Spring 2023 CIL Draft Charging Schedule consultation, dated February 2023, concluded that this Development Type “could, in theory, absorb a modest CIL rate of up to £7 per square metre” but “given the modest potential rate of CIL, we suggest that industrial developments are nil rated” (Paragraph 1.8).
5. The updated Viability Assessment (July 2023) draws differing conclusions on the maximum absorbable CIL rate for this Development Type, ranging from £7 per m² (Paragraph 1.8) to £11 per m² (Paragraph 6.21), which needs to be clarified, but ultimately concludes that “given that this type of use can viably contribute towards infrastructure through CIL, we suggest that a rate of £5 per square metre is applied”.
6. It is noted that the Viability Assessment refers to the proposed £5 per m² CIL rate as being ‘nominal’ (Paragraph 6.24), however when considering strategic scale



employment development proposals with significant employment floorspace being created, any additional cost can only be considered as substantial.

7. Richborough object to the proposed introduction of a £5 per m² Charging Rate for the Industrial, Light Industrial, Storage and Distribution Development Type on the grounds of its impact on the commercial viability of employment development.
8. National planning policy requires planning policies to create the conditions in which businesses can invest, expand and adapt (Paragraph 81 of the National Planning Policy Framework (NPPF), July 2021). Further, planning policies should set out a clear vision and strategy which positively and proactively encourages sustainable economic growth (Paragraph 82 of the NPPF). The proposed CIL charge will be a significant cost on major developments which may deter inward investment, the creation of jobs, and a strong local economy.

The Relationship between CIL and Section 106 / Section 278 Planning Obligations

9. As set out in Paragraph 8 of the CIL Draft Charging Schedule, the Council propose to continue to utilise Section 106 and Section 278 agreements to secure funding for appropriate development mitigation measures. Richborough are concerned that the introduction of a £5 per m² CIL rate for the Industrial, Light Industrial, Storage and Distribution Development Type, in combination with continued Section 106 and Section 278 planning obligation requests, will have a significant impact on the viability of development proposals, in particular the development of strategic scale employment sites which have more significant infrastructure requirements.
10. Whilst a notional £20 per m² allowance for non-residential development in Section 106 contributions has been made in the Viability Assessment, it is Richborough's experience that this far underestimates the typical Section 106 requirements of strategic scale employment development proposals.
11. The disconnect and consequential conflict between CIL, Section 106 and Section 278 agreements is a national issue where CIL has been implemented. The CIL rates are set and collected by the Borough or District Council, but the most significant infrastructure requests, which are usually transport related, are made by the County Council. This often creates uncertainty around the contribution of CIL towards those



infrastructure requirements, and thus Section 106 planning obligations requests being maintained at the same level.

Employment Typologies Tested

12. Richborough note that the Viability Assessment tests only two standalone Industrial, Light Industrial, Storage and Distribution Development Typologies, as set out below:
 - Typology 21 – B2 and B8 Urban – 3,000m² B2 GIA and 3,000m² B8 GIA
 - Typology 22 – B2 and B8 Edge of Urban – 2,500m² B2 GIA and 2,500m² B8 GIA
13. This is too small a sample size and omits anything of strategic scale, including at Edge of Urban or Rural locations. Given only these two typologies have been utilised as the basis for justifying the ability for this entire Development Type to accommodate the provision of CIL, and Richborough’s experience of larger employment sites having to contribute more towards development mitigation measures via Section 106 and Section 278 agreements, it is considered that the Viability Assessment is inadequate and cannot be deemed sufficient evidence.
14. Rugby Borough is an optimal location within the nation to support strategic scale Industrial, Light Industrial, Storage and Distribution uses, and so it would be remiss of the Viability Assessment to not consider the impacts of the proposed CIL charge upon this type of development.
15. As is provided in Paragraph 81 of the NPPF, the approach to building a strong, competitive economy “should allow each area to build on its own strengths, counter any weaknesses and address the challenges of the future”. As such it is imperative that the Viability Assessment consider strategic proposals, in order to better understand and confront any potential constraints that may arise from the proposed CIL charge, which could have a negative impact upon Rugby Borough being able to capitalise upon its locational strengths.

Speculative Employment Development Proposals

16. The CIL Charging Schedule and supporting Viability Assessment simply considers the impact of CIL against the growth set out in the adopted Local Plan. However, there are circumstances where speculative development proposals could come forward in



the Borough, particularly in the case of employment proposals whereby there are permissive policies in the adopted Local Plan. The imposition of CIL could result in speculative development proposals responding to a change in economic circumstances being deemed entirely unviable on the basis of a disproportionate level of CIL liability. Paragraph 82 of the NPPF requires planning policies to be flexible enough to accommodate needs not anticipated in the Plan and to enable a rapid response to changes in economic circumstances.

The Impact of Implementing CIL in line with the Draft Charging Schedule in Rugby Borough

17. As set out in the accompanying Infrastructure Funding Gap report (July 2023), the implementation of CIL is expected to generate around £8.3million in the remaining Local Plan period to 2031. This equates to less than 5% of the total estimated infrastructure costs, with some additional infrastructure still to be costed. When considered with the estimated contribution from other funding sources of circa £142million, a residual funding gap of more than £25.3million remains.
18. Whilst additional windfall development including that within the Industrial, Light Industrial, Storage and Distribution Development Type (for which it is assumed there will be £0 CIL revenue generated) could come forward and increase the CIL income projection, the residual funding gap is likely to remain significant, and indeed increase as the outstanding infrastructure costings are established.
19. Given the limited impact CIL will have on delivering infrastructure in Rugby Borough and the likely related impacts on development viability, Richborough consider that the evident limited benefits of implementing CIL should be further considered.

Introduction of the Infrastructure Levy

20. The Government are proposing to reform the existing system of developer contributions made up of Section 106 planning obligations and the Community Infrastructure Levy through the introduction of the Infrastructure Levy. A technical consultation on the Infrastructure Levy concluded in June 2023, and it is anticipated that the Infrastructure Levy will be introduced on a national basis later this decade following test and learn piloting which will commence in 2025.



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21. The Infrastructure Levy is proposed to capture land value uplift rather than seek to obtain developer contributions on the granting of planning permission, meaning the costs of delivering infrastructure will be more appropriately factored into the value of land when purchased by developers and will lead to increased funding for infrastructure overall.
22. Whilst the Council are still able to adopt and implement CIL in advance of the Infrastructure Levy coming into force, given this clear change in direction the Government are proposing it is considered that the Council should more carefully consider the merits of the implementation of CIL, including taking into account the above.

Conclusion

23. Given the above, Richborough consider that £0 CIL rate should be applied to all development proposals in the Industrial, Light Industrial, Storage and Distribution Development Type.
24. Alternatively, should the Council continue to seek to apply the £5 per m² CIL rate to development proposals in the Industrial, Light Industrial, Storage and Distribution Development Type, a £0 CIL rate should be applied to any development proposals of strategic scale. Given the Viability Assessment does not test any Industrial, Light Industrial, Storage and Distribution Development Type above a combined 6,000m² GIA, it is advised that this should be the ceiling of any £5 per m² CIL rate if imposed.
25. As written, the Draft Charging Schedule threatens the economy of the Borough and the successful delivery of the Local Plan and its forthcoming review. It is recommended that the CIL Draft Charging Schedule be kept under review as the Local Plan Review emerges.