

AGENDA MANAGEMENT SHEET

Report Title: Approval of Community Infrastructure Levy Charging Schedule

Name of Committee: Cabinet

Date of Meeting: 5 February 2024

Report Director: Chief Officer – Growth and Investment

Portfolio: Growth and Investment

Ward Relevance: All wards

Prior Consultation: All Group Leaders

Contact Officer: Neil Holly, Development Strategy Manager
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Public or Private: Public

Report Subject to Call-In: Yes

Report En-Bloc: No

Forward Plan: Yes

Corporate Priorities: This report relates to the following priority(ies):
 Rugby is an environmentally sustainable place, where we work together to reduce and mitigate the effects of climate change. (C)
 Rugby has a diverse and resilient economy that benefits and enables opportunities for all residents. (E)
 Residents live healthy, independent lives, with the most vulnerable protected. (HC)
 Rugby Borough Council is a responsible, effective and efficient organisation. (O)
[Corporate Strategy 2021-2024](#)
 This report does not specifically relate to any Council priorities but

Summary: This report recommends to Council that it approves and publishes the Community Infrastructure Levy Charging Schedule and thereby the introduction of CIL charging in the borough with effect from 1 April 2024.

Financial Implications:	Evidence prepared for the examination of the CIL charging schedule estimates CIL receipts in the period to 2031 of £8,286,300. This does not include any receipts from convenience retail or industrial and warehousing developments, as there is not a clear basis for estimating the amount of this development that is likely to come forward.
Risk Management/Health and Safety Implications:	No health and safety implications are identified. Once CIL is introduced, it will be necessary for the council to effectively administer the levy. On 20 September 2023, Council approved the creation of a new CIL and Local Plan Monitoring Officer post. Recruitment to that post was delayed pending the outcome of the independent examination of the CIL charging schedule. Recruitment will now proceed. There is a risk that if the council is unsuccessful in recruiting to that post there would be considerable strain on resources within Growth and Investment.
Environmental Implications:	If the CIL is approved, it could raise revenue that may be used to implement environmental initiatives. A climate and environment impact assessment is attached as Appendix 3.
Legal Implications:	<p>Under Section 213 and 214 Planning Act 2008 and Regulations 25 and 28 of the Community Infrastructure Levy Regulations 2010, before CIL can take effect:</p> <ul style="list-style-type: none"> - the CIL charging schedule must be approved by council, - the charging schedule must be published on the council's website and made available for inspection at the deposit points - A press notice must be placed in a local newspaper, and - Notice must be sent to those who have asked to be notified of approval of the charging schedule. <p>The charging schedule cannot take effect earlier than the day after the day it is published (in accordance with the above). It is proposed that the charging schedule comes into effect on 1 April 2024 to align with the council's financial year.</p>
Equality and Diversity:	An Equality Impact Assessment of the CIL draft charging schedule was undertaken and appended to the 20 March 2023 cabinet report. An updated EQUiA has been appended to this report as Appendix 4.

Options:

Option 1 – Cabinet recommends to Council that it approves the CIL charging schedule for publication so that CIL charging will come into effect on 1 April 2024.

Option 2 – Cabinet does not approve the CIL charging schedule and does not commence CIL charging.

Recommendation:

IT BE RECOMMENDED TO COUNCIL THAT –

- (1) the Community Infrastructure Levy (CIL) charging schedule is approved;
- (2) delegated authority be given to the Chief Officer for Growth and Investment to publish the charging schedule in accordance with the Regulations to come into effect on 1 April 2024;
- (3) delegated authority be given to the Chief Officer for Growth and Investment in accordance with Regulation 26 of the Regulations to correct any minor errors in the charging schedule which come to light within 6 months of its approval; and
- (4) Commence charging CIL from 1st April 2024 in accordance with the CIL charging schedule.

Reasons for Recommendation:

To allow the council to begin charging CIL to chargeable developments.

Cabinet - 5 February 2024

Approval of Community Infrastructure Levy Charging Schedule

Public Report of the Chief Officer – Growth and Infrastructure

Recommendation:

IT BE RECOMMENDED TO COUNCIL THAT –

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- (2) delegated authority be given to the Chief Officer for Growth and Investment to publish the charging schedule in accordance with the Regulations to come into effect on 1 April 2024;
- (3) delegated authority be given to the Chief Officer for Growth and Investment in accordance with Regulation 26 of the Regulations to correct any minor errors in the charging schedule which come to light within 6 months of its approval; and
- (4) Commence charging CIL from 1 April 2024 in accordance with the CIL Charging Schedule.

1. EXECUTIVE SUMMARY

The Community Infrastructure Levy (CIL) is a charge on development in the area.

On 20 September 2023 Council approved the submission of the draft Rugby Borough CIL Charging Schedule for examination. The examination has now been completed and the independent examiner has concluded that the charging schedule meets the legal requirements and can proceed to be approved by the council.

This report seeks the approval of Cabinet and Council to the charging schedule. If approval is given, the charging schedule would be published, and charging would commence on 1 April 2024.

2. INTRODUCTION

- 1.1. Part 11 of the Planning Act 2008 enables local authorities to levy a charge on new development to fund infrastructure within their area. This known as the Community Infrastructure Levy (CIL).
- 1.2. There is a process set out in the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended) for adopting a CIL. The next stage in that process is for the CIL charging schedule to be approved by Council for publication.

2. EXAMINATION OF CIL CHARGING SCHEDULE

- 2.1. Beginning on 20 September 2023 Council approved the submission of the draft CIL Charging Schedule for examination.
- 2.2. The charging schedule and supporting documents were submitted for examination on 23 October 2023.
- 2.3. On 4 January 2024 the independent examiner's report on the charging schedule (Appendix 1) was received. The report concludes that the draft Rugby Borough Council Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The report further concludes that the Council has provided sufficient evidence that shows the proposed rates would not threaten delivery of the Local Plan.
- 2.4. The charging schedule has thereby been found to satisfy the drafting requirements and can proceed to be approved and brought into effect.

3. APPROVAL OF THE CHARGING SCHEDULE

- 3.1. It is recommended that the CIL Charging Schedule is approved, then published in accordance with the 2012 Regulations. The CIL Charging Schedule would be in effect from 1 April 2024 to align with the council's financial year.
- 3.2. Developments granted planning permission on or after 1 April 2024 would be CIL chargeable. As the trigger for payment of CIL receipts is the commencement of development, CIL receipts will start to be received in late 2024 or thereafter.
- 3.3. As noted in the risk management part of the agenda management sheet (above), the council is seeking to recruit a new CIL and Local Plan Monitoring Officer to administer CIL.
- 3.4. Prior to the commencement of CIL charging, the council's website will be updated to provide relevant guidance and forms.
- 3.5. Levy receipts must be spent on infrastructure to support the development of the area, although the definition of infrastructure is widely drawn. A further report will be brought to cabinet and council on the future approach to the spending of CIL receipts, following consideration of this issue by Planning Services Working Party. This will, in particular, consider the approach to the spending of the 15% neighbourhood share of CIL receipts from unparished areas of Rugby town.
- 3.6. It should be noted that 15% of CIL receipts from development in a parish council's area will be passed to that parish council (capped at £100 per dwelling in the parish). This rises to 25% (uncapped) in areas with a made neighbourhood plan. The parish council must use the CIL receipts passed to it to support the development of the parish council's area by funding the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on the area.

4. CONCLUSION

- 4.1. For the reasons set out in this report, Cabinet is asked to recommend to Council that the CIL charging schedule be approved so that CIL charging in the borough can commence on 1 April 2024.

Name of Meeting: Cabinet
Date of Meeting: 5 February 2024
Subject Matter: Approval of Community Infrastructure Levy Charging Schedule

Originating Department: Growth and Investment

DO ANY BACKGROUND PAPERS APPLY **YES** **NO**

LIST OF BACKGROUND PAPERS

Doc No	Title of Document and Hyperlink
1	Cabinet 18 September 2023 https://rugby.gov.uk/web/guest/l/6639808



AN EXAMINATION UNDER SECTION 212
OF THE PLANNING ACT 2008 (AS AMENDED)

**REPORT ON THE DRAFT RUGBY BOROUGH COUNCIL
COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE**

Independent Examiner (appointed by the Council):

Keith Holland BA (Hons) DipTP MRTPI ARICS

Charging Schedule Submitted for Examination: **23 October 2023**

Date of Report: **4 January 2024**

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Main Findings - Executive Summary

In this report I have concluded that the draft Rugby Borough Council Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

The Council has provided sufficient evidence that shows the proposed rates would not threaten delivery of the Local Plan.

Introduction

1. I have been appointed by Rugby Borough Council, the charging authority, to examine the draft Community Infrastructure Levy (CIL) Charging Schedule. I am a chartered town planner and surveyor with more than 50 years' experience including 25 years' experience inspecting and examining development plans and CIL charging schedules as a Government Planning Inspector.
2. This report contains my assessment of the Charging Schedule in terms of compliance with the requirements in Part 11 of the Planning Act 2008 as amended ('the Act') and the Community Infrastructure Regulations 2010 as amended ('the Regulations')¹. Section 212(4) of the Act terms these collectively as the "drafting requirements". I have also had regard to the National Planning Policy Framework (NPPF)² and the CIL section of the Planning Practice Guidance (PPG).³
3. To comply with the relevant legislation, the submitted Charging Schedule must strike what appears to the charging authority to be an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across their area. The PPG states⁴ that the examiner should establish that:
 - the charging authority has complied with the legislative requirements set out in the Act and the Regulations;
 - the draft charging schedule is supported by background documents containing appropriate available evidence;
 - the charging authority has undertaken an appropriate level of consultation;

¹ The Regulations have been updated through numerous statutory instruments since 2010, most notably through the Community Infrastructure Levy (Amendment) (England)(No. 2) Regulations 2019, which came into force on 1 September 2019.

² A revised NPPF was published during the examination on 19 December 2023, replacing the previous version published on 5 September 2023.

³ The CIL section of the PPG was substantially updated on 1 September 2019 and last updated on 4 January 2023.

⁴ See PPG Reference ID: 25-040-20190901.

- the proposed rate or rates are informed by, and consistent with, the evidence on viability across the charging authority's area; and
 - evidence has been provided that shows the proposed rate or rates would not undermine the deliverability of the plan (see NPPF, Paragraph 34).
4. The basis for the examination, which took place through written representations, is the submitted schedule of 23 October 2023 which is effectively the same as the draft Schedule published for public consultation in August/September 2023
 5. In summary, the Council propose variable charging rates per square metre (sq.m) for the urban and rural parts of the Borough as defined in the draft Charging Schedule document (figure 1). For the urban area, the rates are £60 for residential development involving 11 or more houses and £100 for up to 10 houses. For the rural area, the rates are £160 for 11 or more houses and £200 for up to 10 houses. The Charging Schedule explains that for charging purposes "residential" excludes student accommodation, houses in multiple occupation, care homes, extra care homes, nursing homes, retirement living and sheltered housing. For residential apartments with 10 or fewer units the proposed charge is nil in the urban area and £200 in the rural area. For 11 or more apartments, the charge would be nil in the urban area and £160 in the rural area. Strategic sites (Coton Park East, Rugby Radio Station (Houlton) and South West Rugby) are nil rated as infrastructure contributions for these sites will be secured through s106 agreements. For convenience retail the proposed charge is £100 in both areas. For industrial, light industrial, storage and distribution the charge would be £5 in both areas. All other uses involve a nil charge.

Has the charging authority complied with the legislative requirements set out in the Act and the Regulations, including undertaking an appropriate level of consultation?

6. There have been three main CIL consultation exercises carried out by the Council. The first ran from 7 October to 18 November 2022. Eleven responses were received. As a result of further viability work and the responses received, the Council introduced zero rating for apartments in the urban area of Rugby and zero rating for residential development within the Rugby Radio Station (Houlton) strategic site. The second consultation ran from 8 May to 16 June 2023 and prompted fourteen responses. Following further viability work the Council decided to propose a £5 charge for industrial, light industrial and storage/distribution uses. The third consultation that took place between 7 August and 4 September 2023 resulted in eighteen responses. Notification of the consultations involved using the Council's planning database and website, a notice in the Rugby Observer and placing the documents for inspection in the Borough Council offices and in libraries in Rugby, Dunchurch and Wolston.

7. As the viability evidence did not deal with the proposed rate for apartments in the rural area, clarification was sought from the Council regarding the justification for the proposed rate for this form of development. The relevant correspondence was placed on the examination website and those who had made representations were notified. A response period of two weeks from 30 November to 15 December 2023 was provided, reflecting the focused nature of the additional engagement. No representations were received.⁵
8. The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Local Plan and the Infrastructure Delivery Plan, and is supported by an adequate financial appraisal. I also consider it compliant with the national policy and guidance contained in the NPPF and PPG respectively.

Is the draft charging schedule supported by background documents containing appropriate available evidence?

Infrastructure planning evidence

9. The Rugby Local Plan 2011 – 2031 was adopted in 2019. This sets out the main elements of growth that will need to be supported by further infrastructure in Rugby Borough. In terms of housing, the Local Plan anticipates 12,400 new homes between 2011 and 2031. Completions between 2011 and 2023 amounted to 8,091 dwellings and there were outstanding planning permissions for 7,617 dwellings with a further 4,089 dwellings expected on allocated sites. Given these figures, it is clear that the Council has a good idea of how much development is expected and where it will be located. Accordingly, the Council is able to identify anticipated infrastructure costs with some accuracy although it is not possible to include all costs as some are presently uncertain and/or unknown. As at October 2023, the identified infrastructure costs are estimated at just under £176,500,000.
10. The Council has identified a number of funding sources for infrastructure including s106 agreements, National Highways, Warwickshire County Council Highways and Network Rail. The current identified funding gap is over £33,500,000 but this is a significant under-estimate as some items have not yet been costed and others are being updated with the result that the total infrastructure costs are expected to be much higher than £176,500,000. The estimated CIL revenue to March 2031 from residential development is just over £8,000,000. Given that much of the anticipated commercial development is likely to be on sites with permission, the Council has not included CIL revenue from commercial development. This is a sensible approach. The figures therefore demonstrate the need to levy CIL.

⁵ View at: <https://www.rugby.gov.uk/w/community-infrastructure-levy-examination#examination-library>

Economic viability evidence

11. The Council commissioned BNP Paribas Real Estate (hereafter referred to as BNP) to undertake a CIL Viability Assessment (VA). The VA is based on development typologies expected to come forward in the area over the plan period. BNP's initial study produced in January 2022 was amended in February 2023 to include five additional typologies and then updated in July 2023. The 33 typologies now tested are mostly residential developments of various sizes/locations and include two large strategic sites and sites for commercial development including supermarkets and hotels.
12. Benchmark land values are a critical consideration in assessing viability for CIL purposes. BNP point out that research by the then Ministry of Housing, Communities and Local Government (MHCLG)⁶ suggest that for residential development the benchmark values on green field sites are typically ten to fifteen times agricultural land value. This indicates a range of between £247,000 to £371,000 per gross hectare. BNP base their calculations on a green field benchmark land value of £250,000 per gross hectare. The Council anticipates that the majority of housing sites in the Borough will be green field sites.
13. For previously developed land, BNP assume a benchmark land value of £800,000 per gross hectare. This relies on MHCLG land value estimates of between £700,000 and £800,000 per gross hectare in 2017 for industrial sites in Coventry and Warwickshire. Given the wide range of existing use values for previously developed land, it is reasonable for BNP to make use of broadly based figures from the general locality.
14. The viability assessment undertaken by BNP involved 33 development typologies reflecting differing densities and types of development. Two specific strategic sites – South West Rugby extension and Cotton Park East were assessed. For each residential typology a range of sales values has been tested. The average sales value ranges from £3,708 per sq.m to £4,837, with the highest values achieved in the rural areas. Values per sq.m were calculated on the basis of data from Energy Performance Certificates. To take account of increases in values in new builds (20.8%) since the data was collected, the above figures reflect the upwards adjustment that was applied.
15. The VA evidence is based on all new build and second-hand sales transacted between January 2020 and October 2021. In total, over 2,000 transactions were recorded. All types of properties were taken into account and average prices for the various relevant post codes established. The updated BNP data shows that in July 2023 the average achieved sales value was just under £500,000 for new build properties and just over £280,000 for second hand dwellings.

⁶ Now known as the Department for Levelling Up, Housing and Communities.
 Intelligent Plans and Examinations (IPE) Ltd, 3 Princes Street, Bath BA1 1HL
 Registered in England and Wales. Company Reg. No. 10100118. VAT Reg. No. 237 7641 84

16. For build costs BNP has used the RICS Building Cost Information Service (BCIS) with the base costs adjusted for local circumstances. The base costs have been increased by 10% to cover external works, including parking spaces, and the residential costs have been increased by 3.6% to meet the cost of the current energy requirements in the Building Regulations. An additional 1.4% has been added to base build costs to achieve zero net carbon standards. For commercial developments, build costs have been increased by 2% to achieve the BREEAM excellent standard. Additional costs to meet accessibility standards have been taken into account. BNP include a range of standard costs such as professional fees, finance, marketing and sales legal fees. In relation to developers' profit, BNP use a figure of 17% of Gross Development Values (GDV) for private housing and 6% for affordable housing. For commercial development, the profit level assumption is 20% of development costs (15% of GDV). The assumptions used by BNP are broadly in line with industry standards and, in the case of residential profit levels, in accordance with the indicative figures in the PPG. Exceptional costs are site specific and unpredictable and BNP has logically not included them in their appraisals. As BNP point out, exceptional costs should be reflected in the land price and/or in site-specific viability work.
17. Residual s106 requirements are dealt with by an allowance of £20 per sq.m for non-residential development and £1,500 per unit for smaller residential schemes. To address some of the challenges to the evidence from representors, BNP has produced a supplementary note on CIL and s106. This shows the impact of s106 costs of £5,000, £10,000 and £15,000 per unit on residential development. For the strategic allocations, BNP has used the South West Rugby estimated infrastructure costs. The Council's South West Masterplan Supplementary Planning Document (June 2021) shows a required contribution of over £61million for housing development only and over £58 million for all development.
18. The work by BNP takes into account the cumulative policy requirements in the Local Plan including affordable housing policy H2 that, subject to a size qualification, seeks 30% affordable housing on green field sites and 20% on previously developed sites. In all cases, the assumption used is for 80% rent and 20% intermediate housing although it is noted that the current Local Plan does not require small schemes to make any contribution to affordable housing. As part of the sensitivity testing, each appraisal tests the provision of affordable housing from between 0% to 50%.
19. For commercial properties the market for industrial, offices and retail properties over the last two years was investigated by BNP on the basis of asking, achieved and effective prices. The highest identified rents were for retail development and the lowest for industrial and warehousing. Investment yields varied from 7.5% to 5% with the lowest being for industrial and warehouse development. The BNP appraisals assume a 12-month rent free period.
20. The draft Charging Schedule is supported by evidence of community infrastructure needs. In relation to residential and commercial property

values, research by BNP provides a comprehensive view of the market and values in Rugby Borough. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

Are the proposed rates informed by and consistent with the evidence on viability across the charging authority's area?

Residential development

21. The variation in residential values across the Borough justifies the use of two different rates for development in the rural area and the urban area. The recommendations by BNP, accepted by the Council, also reasonably take into account the implications for possible CIL rates of the Council's affordable housing policies. Hence there is a higher rate proposed for schemes that would not be required by Policy H2 to provide on-site affordable housing. The appraisals are based on a sufficient range of typologies to reflect the types of development anticipated in the area under the Local Plan policies. Moreover, the appraisals include sensitivity testing to take into account variable factors such as sales values, residual s106 costs and affordable housing requirements where relevant.
22. In addition to detailed assessments of possible maximum CIL rates, BNP helpfully provides a summary of maximum CIL rates for a number of the residential typologies taking into account location and variable sales values. This work shows that almost all the residential typologies have scope for a CIL charge. In some cases, for example small schemes in the rural area, the scope is substantial. By way of contrast, the evidence is that flatted town centre schemes have little or no headroom to accommodate a CIL charge.
23. Evidence for the proposed rates for residential apartments in the rural area is not provided in the VA and there is no explanation for the rates recommended by BNP. Clarification was sought and BNP explained that their recommendation was based on extrapolation of the evidence for flatted development in the urban area (typologies 29 – 31), but taking a benchmark value of £247,000 rather than the urban benchmark value of £800,000. BNP in their clarification also pointed out that large flatted schemes are not likely to be found in rural areas and that sales values in rural areas would in all probability be higher in the rural area than in the urban area. BNP consider that the recommended rates could easily be absorbed if flatted development does occur in the rural parts of the Borough.
24. The VA shows that developments within the urban area involving housing for elderly people are unlikely to remain viable with a CIL. This type of housing in the rural areas could accommodate a CIL but this form of housing is not likely to be built in an out-of-town location. Hence the BNP recommendation that housing for elderly people should not be subject to a CIL

Commercial rate

25. For offices, the tested typologies included town centre, urban and edge of urban schemes. None of the schemes provided evidence that would justify a CIL charge on office development. The same locations were tested in relation to hotel development with the same result. For comparison retail the evidence is that residual land values are unlikely to exceed existing use values and thus a CIL would not be possible within the context of a viable development. BNP consider that a CIL charge may be possible for convenience retail development. The evidence in the VA is that a maximum charge of just under £500 per sq. m would not undermine the viability of convenience retail development. BNP note that the convenience retail market is not buoyant in the area and BNP therefore recommended a cautious approach. BNP also note, in the light of changes in the way the major supermarkets are now operating, that it is unlikely that major new supermarkets will be developed in the area in the short to medium term. The cautious rate recommended by BNP and accepted by the Council is justified by the evidence.
26. In relation to industrial and warehousing, the BNP evidence is that these forms of development could accommodate a maximum CIL of £11 per sq. m. BNP note that there is a considerable amount of industrial and warehousing development taking place in Rugby and that other sites with planning permission could add a significant amount of further floorspace for these uses. BNP provide an equivocal recommendation – either a nil rate or a “nominal” rate of £5 per sq. m.

Has evidence been provided that shows the proposed rate or rates would not undermine the deliverability of the plan (see National Planning Policy Framework, paragraph 34).

27. The Council’s decision to use a matrix approach is based on reasonable assumptions about development values and likely costs.
28. In setting CIL rates, authorities are warned to provide an adequate viability buffer. CIL rates should not be set at the limits of viability as this would potentially threaten the delivery of the necessary development, particularly given the way property values and confidence in the market can change.
29. For the allocated strategic sites, the Council is proposing to meet all of the infrastructure costs through s106 and the zero CIL rate is therefore appropriate.
30. BNP has provided detailed residential appraisals showing the impact on possible CIL rates of variables such as the level of affordable housing required, sales values and benchmark land values. To assess what may be a reasonable viability buffer for residential schemes, BNP has calculated the maximum CIL rate that could be charged assuming 20% affordable housing in the urban area and 30% in the rural area. This approach is logical given

policy H2 of the Local Plan and the figures from 2020/21 showing that 28% of all net new dwellings provided in the area were affordable housing units.

31. The work by BNP shows a wide range of possible maximum CIL rates for standard housing schemes, ranging from £430 for a large scheme with a relatively low sales value in the urban area to £2,618 for a single unit scheme in a rural area with high sales values. On the basis of the appraisals, BNP recommended CIL rates for conventional housing of £100 (Rugby Town urban area) and £200 (rural area) for small schemes, and £60 (Rugby Town urban area) and £160 (rural area) for larger schemes. For flatted schemes in the town centre, the maximum CIL rate shown by BNP is £373 for a 10-unit scheme but the majority of the larger flatted town centre schemes tested do not show any scope of a CIL. Flatted development in the rural part of the Borough could accommodate a CIL because of the lower benchmark value and the higher prices likely to be achieved in the rural areas. Comparing the recommended rates, which have been accepted by the Council, with the possible maximum rates calculated by BNP shows clearly that a generous viability buffer has been provided for conventional residential development. For up to 10 units in the urban area, the actual proposed rate is only 10% of the maximum rate, the highest figure of 36% applies to 11 plus units in the rural area.
32. For specialised housing for elderly people, the BNP appraisals show that within the urban area schemes are unlikely to generate sufficient value to accommodate a CIL charge. Within the rural area elderly persons housing could pay a CIL. For obvious reasons, elderly persons housing is rarely provided in rural areas and BNP did not recommend a CIL charge for elderly persons housing. This understandable recommendation has been accepted by the Council.
33. There are few representations that challenge the proposed rates for housing. No substantive evidence has been produced showing that the proposed rates for residential development would be likely to undermine the delivery of housing of all types in Rugby Borough. Sensitivity testing by BNP has shown that even with residual s106 costs as high as £15,000, the proposed CIL rates would still allow for a viability buffer. As BNP points out, the proposed rates would typically represent less than 5% of overall development costs. In general terms it is considered that BNP are correct in saying that the impact of the proposed CIL on residential land values will be sufficiently modest for it to be absorbed by the land owners when sites are acquired for development.
34. As far as commercial development is concerned, BNP has shown that office development and comparison retail cannot support a CIL charge and hence no CIL is proposed for these types of development. No convincing evidence has been produced in the representations that would indicate that convenience retail cannot accommodate a CIL of £100.
35. The majority of the challenges to the proposed CIL relate to industrial and warehousing development. A number of the representations make the point

that the benefit of having a nominal charge for industrial and logistics developments is outweighed by the risk that the charge, albeit very small, will threaten the delivery of industrial and warehouse development. As regards the viability evidence, a number of points are raised in representations including the limited number of industrial/warehouse typologies, the danger of “double counting” CIL and s106/s278, and the assumptions regarding site coverage, yields, costs, sales values and developers’ profit.

36. In considering viability the requirement is for the evidence base to be proportionate. In this case the typologies include both small stand-alone industrial/warehouse developments and large employment parcels as part of urban extensions. Developments on both brown field and green field sites are assessed. It is considered that the number of typologies tested is proportionate, particularly in the situation in Rugby where it is not expected that new large scale strategic employment sites will come forward under the terms of the current Local Plan. Costs and values were updated in the July 2023 VA to reflect the most recent figures and the site coverage figures in typologies 21 and 22 are in line with normal expectations. In relation to developers’ profit, in a supplementary note BNP has tested the impact of reducing profit levels and extending rent free and void periods. It is considered that the challenges to the VA made in relation to industrial and warehouse development do not invalidate the BNP assumptions/evidence. The proposed rate would represent 0.36% of net development value or 0.41% of development costs and it cannot reasonably be argued that this level of charge would seriously threaten the delivery of industrial/warehouse development in Rugby.
37. Whether or not it is sensible to complicate the Charging Schedule by having the proposed small nominal charge is not an issue for this report – it is a matter for the Council. This report is concerned with whether the proposed charge would seriously threaten the delivery of industrial and warehouse development.
38. Some representations are concerned with matters such as the Council’s approach to instalments and exceptional circumstances relief. These are matters for the Council and are not relevant to this assessment of the proposed CIL rates. There are some representations that express concern regarding the possibility of “double counting” involving CIL and s106/s278 charges. The Council has made it clear that infrastructure costs for the defined strategic sites will be fully funded through s106. For other sites which pay a CIL, s106 and s278 will be used for site specific mitigation. This is an uncontentious standard approach used by many authorities.
39. There is a request that the exclusions from the definition of residential development include on-site worker and trainee accommodation not for permanent occupation. As the Council point out, worker/trainee accommodation may in some circumstances be a C4 or sui generis house in multiple occupation – uses that are excluded in the definition. If this is not the case and the property is a dwelling house occupied by trainees/

employees of a company, there is no good reason why it should be excluded. There is also a request that any retail development within the South West Rugby urban extension should be nil rated. The Council reasonably rejects this on the grounds that the retail development is likely to be brought forward separately from residential development and is no different from retail development generally.

40. In setting the CIL charging rate, the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Rugby. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the Borough area.
41. I consider the viability assessment to be robust and conclude that the rates proposed would not threaten delivery of the Local Plan. The proposed rates are therefore justified.

Overall Conclusion

42. I conclude that the draft Rugby Borough Community Infrastructure Levy Charging Schedule satisfies the drafting requirements and, accordingly, I recommend that the draft Charging Schedule be approved.

Keith Holland
Examiner

RUGBY BOROUGH COUNCIL COMMUNITY INFRASTRUCTURE CHARGING SCHEDULE

Date of Approval

This charging schedule will be approved by Rugby Borough Council at a meeting of its full Council on 21 February 2024.

Effective Date

This Charging Schedule shall take effect on 1 April 2024.

Charging Rates per sq.m.

Development Type	Rugby Urban Area	Rural Area
Residential houses – 11 units or more	£60	£160
Residential houses – 10 or fewer units	£100	£200
Residential development on strategic sites	Nil	Nil
Residential apartments – 10 or fewer units	Nil	£200
Residential apartments – 11 or more units	Nil	£160
Convenience retail	£100	£100
Industrial, light industrial, storage and distribution	£5	£5
All other uses	Nil	Nil

Notes:

- 1 Residential unit numbers refer to net figures.
- 2 Residential excludes student accommodation, HMOs, retirement living or sheltered housing; extra care housing or housing-with-care and residential care homes and nursing homes as defined by Paragraph: 010 Reference ID: 63-010-20190626 of the Planning Practice Guidance.
- 3 Strategic Sites are Coton Park East, Rugby Radio Station (Houlton) and South West Rugby as shown on the Residential charging zones map at Figure 1 below.
- 4 Apartments are separate and self-contained dwellings within the same building. They generally have shared access from the street and communal areas from which individual dwellings are accessed. Apartment buildings have dwellings on more than one floor and are subdivided horizontally by floor.
- 5 Other chargeable residential development (e.g. residential extensions over 100 sq m and annexes) will be charged at the relevant zone rate.
- 6 'Industrial' is use class B2, 'light industrial' is use class E(g)(i), and 'storage and distribution' is use class B8 in each case as defined in Schedules 1 and 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Calculating the Chargeable amount of CIL

CIL is charged on all new developments which create more than 100m² of floor space and on those developments which create 1 or more new dwellings, even where the floor space is less than 100m². The chargeable amount of CIL is calculated on the gross internal area of the net increase in floor area. The amount to be charged for individual developments will be calculated in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010, as amended.

Indexation

The CIL Regulations specify that the index to be used is the —National All-in Tender Price Index published from time to time by the Building Cost Information Service (BCIS) 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 to use will be The Retail Prices Index.

Figure 1 Residential CIL Charging Zones

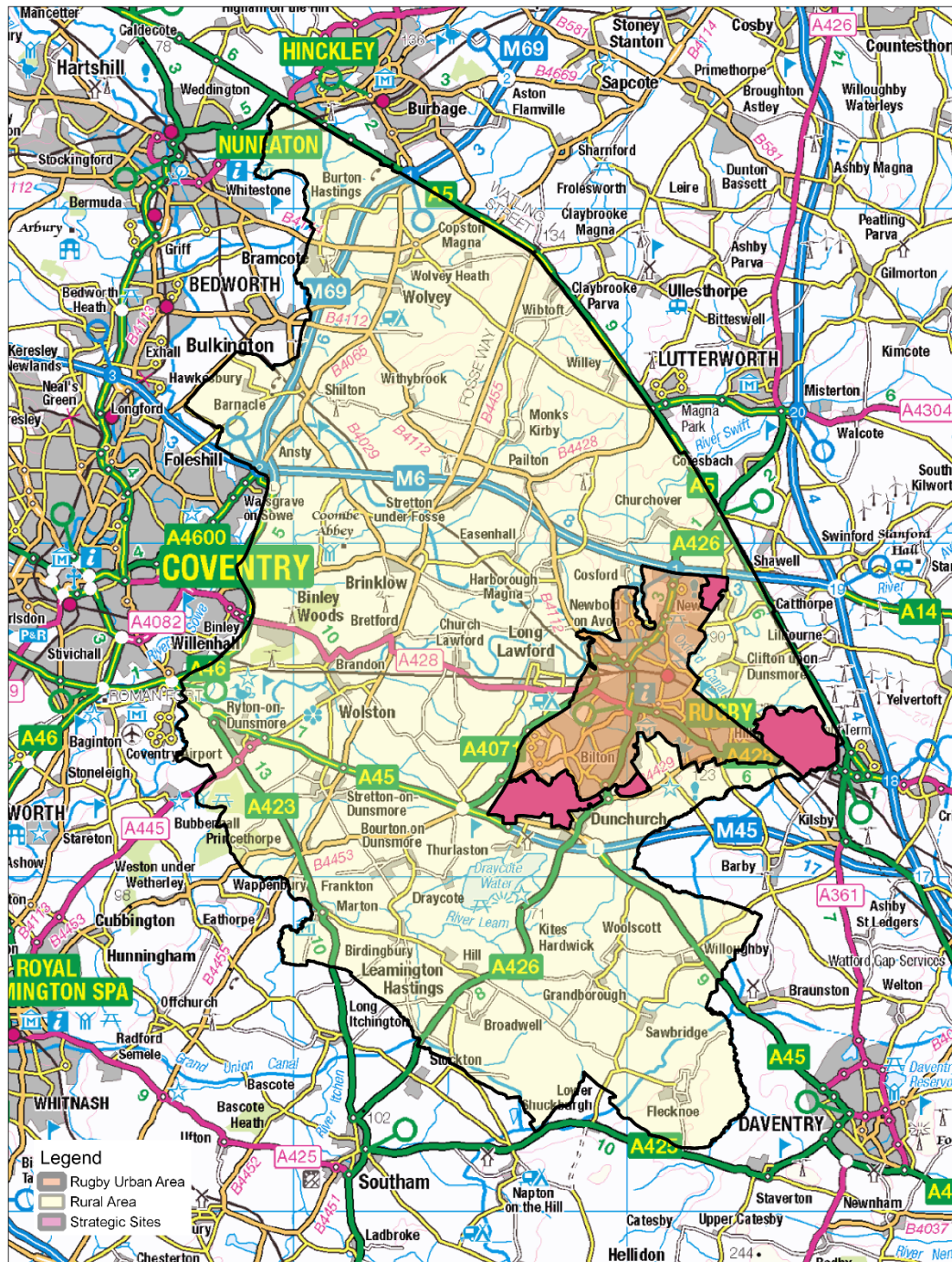
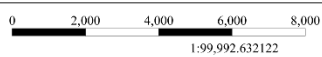


Figure 1: Residential CIL Charging Zones

Date
July 2023

Scale
1:99,992.632122



Development Strategy

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Ordnance Survey 100019417



Rugby Borough Council

Climate Change and Environmental Impact Assessment

Submission of Community Infrastructure Levy (CIL) Charging Schedule for Examination

CONTEXT

In 2019 the UK Parliament set a commitment in law to reach net zero carbon emissions by 2050. Achieving this target will require considerable effort with public bodies, private sector organisations, the third sector and individuals working together to take action. Rugby Borough Council declared a climate emergency in 2019, in doing so committed to:

- To move the Council's operations towards Carbon Neutrality by 2030.
- To establish action to tackle climate change as a key driver of all decision-making.
- To provide community leadership in reducing the impact of Climate Change.
- To take action to mitigate the impact of climate change on a Borough wide basis and beyond, through adaptation.

The Council's Corporate Strategy (2021-24) [link](#) sets ambitious outcomes in relation to Climate Change. These ambitions must now be progressed through the decisions which the Council makes.

It is therefore important that Rugby Borough Council gives due regard to climate change when making decisions. In the context of the Council's business, Climate Change includes carbon emissions, biodiversity, habitat loss and environmental destruction. When putting forward recommendations for decision, officers must assess how these recommendations are likely to influence our climate change commitments by completing the following Climate Change and Environmental Impact Assessment.

A copy of this Climate Change and Environmental Impact Assessment, including relevant data and information should be forwarded to the Deputy Chief Executive.

If you require help, advice and support to complete the forms, please contact Dan Green, Deputy Chief Executive.

SECTION 1: OVERVIEW

Portfolio and Service Area	Growth and Investment
Policy/Service/Change being assessed	The report recommends to Council that it approves Community Infrastructure Levy (CIL) charging schedule. CIL charging would be introduced from 1 April 2024.
Is this a new or existing Policy/Service/Change?	This would be a new charge.
If existing policy/service please state date of last assessment	Not applicable.
Ward Specific Impacts	Borough-wide.
Summary of assessment Briefly summarise the policy/service/change and potential impacts.	If cabinet and council approve introduces CIL it could use some of the revenue generated to fund environmental enhancements.
Completed By	Neil Holly, Development Strategy Manager
Authorised By	Nicola Smith, Chief Officer Growth & investment
Date of Assessment	8 January 2024

SECTION 2: IMPACT ASSESSMENT

Climate Change and Environmental Impacts	No Impact	Positive	Negative	Description of impact	Any actions or mitigation to reduce negative impacts	Action owner	Timescales
Energy usage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None expected			
Fleet usage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None			
Sustainable Transport/Travel (customers and staff)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None			
Sustainable procurement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None			
Community leadership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	It is possible that CIL receipts could be used for community CC projects, although this would be a future decision of the council			
Biodiversity and habitats	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None expected			
Adaptation/Mitigation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	It is possible that CIL receipts could be used for CC adaptation or mitigation, although this would be a future decision of the council			
Impact on other providers/partners	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None expected			

SECTION 3: REVIEW

Where a negative impact is identified, the proposal and/or implementation can be adapted or changed; meaning there is a need for regular review. This review may also be needed to reflect additional data and evidence for a fuller assessment (proportionate to the decision in question). Please state the agreed review timescale for the identified impacts of the policy implementation or service change.

Review date	One year after adoption of CIL.
Key points to be considered through review	No negative impacts have been identified. CIL revenue could be used to fund environmental enhancements, although this would be a matter for future decisions of council.
Person responsible for review	Neil Holly, Development Strategy Manager
Authorised by	Nicola Smith, Chief Officer Growth & investment

Appendix 4 - EQUALITY IMPACT ASSESSMENT (EqIA)

Context

1. The Public Sector Equality Duty as set out under section 149 of the Equality Act 2010 requires Rugby Borough Council when making decisions to have due regard to the following:
 - eliminating unlawful discrimination, harassment and victimisation, and other conduct prohibited by the Act,
 - advancing equality of opportunity between people who share a protected characteristic and those who do not,
 - fostering good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
2. The characteristics protected by the Equality Act are:
 - age
 - disability
 - gender reassignment
 - marriage/civil partnership
 - pregnancy/maternity
 - race
 - religion/belief
 - sex/gender
 - sexual orientation
3. In addition to the above-protected characteristics, you should consider the crosscutting elements of the proposed policy, such as impact on social inequalities and impact on carers who look after older people or people with disabilities as part of this assessment.
4. The Equality Impact Assessment (EqIA) document is a tool that enables RBC to test and analyse the nature and impact of what it is currently doing or is planning to do in the future. It can be used flexibly for reviewing existing arrangements but in particular should enable identification where further consultation, engagement and data is required.
5. The questions will enable you to record your findings.
6. Where the EqIA relates to a continuing project, it must be reviewed and updated at each stage of the decision.
7. Once completed and signed off the EqIA will be published online.
8. An EqIA must accompany all **Key Decisions** and **Cabinet Reports**.
9. For further information, refer to the EqIA guidance for staff.

Equality Impact Assessment

Service Area	Development Strategy
Policy/Service being assessed	Community Infrastructure Levy approval of charging schedule
Is this is a new or existing policy/service? If existing policy/service please state date of last assessment	This is a new document which will sit alongside the adopted Local Plan
EqlA Review team – List of members	Neil Holly - Development Strategy Manager
Date of this assessment	8 th January 2024
Signature of responsible officer (to be signed after the EqlA has been completed)	Neil Holly

A copy of this Equality Impact Assessment report, including relevant data and information to be forwarded to the Chief Officer – Legal and Governance.

If you require help, advice and support to complete the forms, please contact Aftab Razzaq, Chief Officer – Legal and Governance Aftab.razzaq@rugby.gov.uk

Details of Strategy/ Service/ Policy to be analysed

<u>Stage 1 – Scoping and Defining</u>	
(1) Describe the main aims, objectives and purpose of the Strategy/Service/Policy (or decision)?	When approved the Community Infrastructure Levy charging schedule will enable the council to levy a charge on chargeable development within the borough (residential, industrial and warehousing, and convenience retail) to support the funding of local infrastructure.
(2) How does it fit with Rugby Borough Council's Corporate priorities and your service area priorities?	It primarily fits in with priorities on: <ul style="list-style-type: none"> • Rugby Borough Council is a responsible, effective and efficient organisation. • Rugby has a diverse and resilient economy that benefits and enables opportunities for all residents.
(3) What are the expected outcomes you are hoping to achieve?	The introduction of CIL aims to increase funds available to fund infrastructure to support development in the borough.
(4) Does or will the policy or decision affect: <ul style="list-style-type: none"> • Customers • Employees • Wider community or groups 	<p>Yes, adoption of CIL would mean that customers bringing forward development would need to pay CIL. CIL is not payable on residential extensions.</p> <p>Council staff will need to administer CIL. It is proposed to recruit a new CIL and Local Plan Monitoring Officer to lead on this.</p> <p>Parish Councils would be entitled to receive the neighbourhood share of CIL receipts from development within their parish. This would be 15%, rising to 25% in areas with a made neighbourhood plan.</p>
<u>Stage 2 - Information Gathering</u>	
(1) What does the information tell you about those groups identified?	The CIL potentially affects all customers who bring forward chargeable development. There is an indirect impact on all borough residents as CIL will contribute to funding local infrastructure.

Appendix 4

<p>(2) Have you consulted or involved those groups that are likely to be affected by the strategy/ service/policy you want to implement? If yes, what were their views and how have their views influenced your decision?</p>	<p>The CIL charging schedule was subject to three public consultations held in October-November 2022, May to June 2023 and August 2023. The charging schedule was also subject to independent examination.</p>
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<p>(3) If you have not consulted or engaged with communities that are likely to be affected by the policy or decision, give details about when you intend to carry out consultation or provide reasons for why you feel this is not necessary.</p>	<p>N/A.</p>
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Stage 3 – Analysis of impact

<p><u>(1)Protected Characteristics</u> From your data and consultations is there any positive, adverse or negative impact identified for any particular group, which could amount to discrimination? If yes, identify the groups and how they are affected.</p>	RACE	DISABILITY	GENDER
	MARRIAGE/CIVIL PARTNERSHIP	AGE	GENDER REASSIGNMENT
	RELIGION/BELIEF	PREGNANCY MATERNITY	SEXUAL ORIENTATION



Appendix 4

<p><u>(2) Cross cutting themes</u> (a) Are your proposals likely to impact on social inequalities e.g. child poverty, geographically disadvantaged communities? If yes, please explain how?</p> <p>(b) Are your proposals likely to impact on a carer who looks after older people or people with disabilities? If yes, please explain how?</p>	<p>Impact on social inequalities is unlikely. CIL receipts may be spent on infrastructure that benefits social inequalities, though this is a matter for future council and parish council decisions.</p> <p>No impact on carers expected</p>
<p>(3) If there is an adverse impact, can this be justified?</p>	<p>N/A</p>
<p>(4) What actions are going to be taken to reduce or eliminate negative or adverse impact? (this should form part of your action plan under Stage 4.)</p>	<p>N/A</p>
<p>(5) How does the strategy/service/policy contribute to the promotion of equality? If not what can be done?</p>	<p>No impact expected</p>
<p>(6) How does the strategy/service/policy promote good relations between groups? If not what can be done?</p>	<p>No impact expected</p>
<p>(7) Are there any obvious barriers to accessing the service? If yes how can they be overcome?</p>	<p>No</p>

<p><u>Stage 4 – Action Planning, Review & Monitoring</u></p>																														
<p>If No Further Action is required then go to – Review & Monitoring</p> <p>(1) Action Planning – Specify any changes or improvements that can be made to the service or policy to mitigate or eradicate negative or adverse impact on specific groups, including resource implications.</p>	<p>No further action is required.</p> <p>EqlA Action Plan</p> <table border="1" data-bbox="875 464 2116 692"> <thead> <tr> <th data-bbox="875 464 1120 539">Action</th> <th data-bbox="1120 464 1364 539">Lead Officer</th> <th data-bbox="1364 464 1615 539">Date for completion</th> <th data-bbox="1615 464 1865 539">Resource requirements</th> <th data-bbox="1865 464 2116 539">Comments</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>					Action	Lead Officer	Date for completion	Resource requirements	Comments																				
Action	Lead Officer	Date for completion	Resource requirements	Comments																										
<p>(2) Review and Monitoring State how and when you will monitor policy and Action Plan</p>	<p>Review one year after the introduction of CIL.</p>																													

Please annotate your policy with the following statement:

‘An Equality Impact Assessment on this policy was undertaken on (date of assessment) and will be reviewed on (insert review date).’