



**NORTH SOMERSET COUNCIL
COMMUNITY INFRASTRUCTURE LEVY (CIL)
Charging Schedule Examination**

MF5: further submission on approach to strategic sites

17th March 2017

North Somerset Council Community Infrastructure Levy (CIL) Charging Schedule examination

MF5: FURTHER SUBMISSION ON APPROACH TO STRATEGIC SITES 17th March 2017

1. Background

North Somerset Council (NSC) has to date argued that a differential CIL rate is not necessary for strategic sites in North Somerset. This is on the basis that our residual Core Strategy requirement does not identify any further sites that would become liable. It is in line with NPPG guidance that CIL rates should be based on an up-to-date Local Plan.

We note in this light paragraph 20 of the recent report of the Examiner of Horsham District's CIL Charging Schedule, dated 1st March 2017:

“The same effect need not apply for any other large site that might come forward as a windfall. In such a case, infrastructure requirements might not be known, or might not be extensive. Whilst the CIL would take the first slice out of development value, an individual viability assessment would be able to take into account the expected CIL contribution and normal affordable housing requirement costs before identifying the impact of Section 106 requirements on the overall viability of the development. The Council's draft Planning Obligations Supplementary Planning Document clarifies that Section 106 contributions would be sought for site specific infrastructure only.”

This is consistent with the approach taken in NSC's Draft Regulation 123 List, which has identified in some detail the division of S106 and CIL contributions, with a clear emphasis on CIL for non-site infrastructure.

We have proposed that rates and the approach to strategic sites would be reviewed alongside the review of our Local Plan in 2018/19, when there is greater certainty about sites and infrastructure requirements. However, a concern has been raised that a reliance on a review may be insufficient and that a reduced or nil rate should be considered now.

NSC has sought to re-consider with an open mind the range of interlinked and fairly complex issues around this, bearing in mind there is no perfect simple answer. Our views are set out below under the following headings:

- Defining strategic sites.
- Viability of strategic sites.
- Infrastructure delivery at strategic sites.
- Striking a balance of infrastructure delivery and viability.
- Proposed modifications to Charging Schedule.

2. Defining strategic sites

NSC's Development Contributions SPD (examination document [C3](#)) defines Strategic Development Areas as:

“A development or series of developments in close proximity to each other where the total number of new dwellings will exceed 500 or where otherwise the Council feels that the development has an exceptional impact on the local area.”

To ensure clarity for the purposes of CIL, we suggest that this definition be refined so that Strategic Development Areas (SDAs) are identified as follows:

- The Weston Villages, as defined in the Weston Villages Supplementary Planning Document (SPD) or as amended through subsequent planning policies; and/or
- Individual development sites of 500 or more dwellings; and/or
- Any other strategic sites or Strategic Development Areas identified in an appropriate planning policy by North Somerset Council.

The guideline threshold of 500 dwellings was agreed in the Development Contributions SPD for the reason that this was the point at which more substantial S106 planning obligations might start to be required. The SPD states that:

“Strategic Development Areas, given their size, should be largely self-contained and provide the full range of services for all residents including affordable housing residents.”

In particular, 500 dwellings was identified as the smallest probable size at which a new primary school (or substantial contribution to such) might be required, given that schools of fewer than 210 pupils are not generally financially viable in revenue terms. It is consistent with the emerging West of England Joint Spatial Plan (JSP), which sets a 500 dwelling threshold for SDAs.

NSC strongly opposes any suggestion that sites of 25 – 499 dwellings should be treated as strategic or made subject to differential rates. As we understand it, a key reason for lower rates to be applied to strategic sites is that the S106 and S278 agreements may be a more appropriate delivery mechanism. This would not be the case for sites of 25 – 499 dwellings, where there are unlikely to be substantial S106 requirements such as new primary schools. A reliance on S106 for such sites would be unworkable in the light of pooling restrictions.

3. Viability of Strategic Development Areas

As above, NSC proposes that the term ‘Strategic Development Area’ is focused on sites of 500 or more dwellings.

A viability test of a 500 dwelling development was included in the DSP viability study 2012 (examination documents A7 – A10, available at www.n-somerset.gov.uk/cil).

This was informed by expectations of developments at the Weston Villages which have since come forward.

Further to discussion at the examination, the 500 dwelling scenario test has been updated and extended. The assumptions used in testing include:

- Housing mix and assumed density of development unchanged at 40dph, i.e. 12.5ha developable area. This density is in line with North Somerset's Core Strategy and with rates achieved at the Weston Villages.
- An assumed developable area of 12.5ha against a gross site area of 17ha. The gross area represents a 36% increase to the net developable area (or, viewed alternatively, the 12.5ha net represents 73.5% of the gross area).
- Land has been assumed to be bought in upfront at £250,000/ha applied to the overall gross area. This assumed cost, totalling £4.25m for the 500 dwellings, is used as a fixed appraisal input in each of the scenario tests, along with associated finance and acquisition costs at % factors as assumed previously.
- The dwelling size assumptions, market sales values, affordable housing revenue, BCIS build costs and other assumptions (including added sustainability cost, marketing costs, build costs contingency, professional fees etc.) have all been set as per the assumptions used for the 2016 update appraisals.
- As per the 2012 assessment, an allowance of £25,000 per dwelling (all dwellings) for site works and infrastructure has been included. This is in excess of the Harman report guide range of £17 – 23k/dwelling.
- Testing has been carried out for outer Weston (Zone B) at Value Level 2 and for Rest of District (Zone C) at Value Level 3. We have not tested the inner Weston Value Level 1 zone, as this is already proposed to be subject to a nil rate of CIL. Equally, we have not considered it necessary to test the higher Value Level sensitivities (VLs 4 – 6) for Zone C, as the Value Level 3 results provide a 'worst-case scenario' and any higher sales values achieved will simply increase the surplus available.

The table below summarises the appraisal outputs showing the 'surplus' available, that is, the sum that is potentially available to support S106 and any other matters (abnormals/unknowns) after allowing for land value, development costs including site works and infrastructure at £25k/unit, developer profits and CIL. The impact of CIL charges is tested in £10/sqm increments starting from a base of £0/sqm:

CIL (£/sqm)	Outer Weston		Nailsea/Portishead/Clevedon	
	VL2 - S106 surplus (£)	VL2 - S106 surplus per dwelling (£)	VL3 - S106 surplus (£)	VL3 - S106 surplus per dwelling (£)
£0	£6,714,413	£13,429	£18,909,452	£37,819
£10	£6,275,311	£12,551	£18,470,350	£36,941
£20	£5,836,210	£11,672	£18,031,249	£36,062
£30	£5,397,108	£10,794	£17,592,147	£35,184
£40	£4,958,006	£9,916	£17,153,045	£34,306
£50	Not tested, as higher than proposed rates.		£16,713,943	£33,428
£60			£16,274,842	£32,550
£70			£15,835,740	£31,671
£80			£15,396,638	£30,793

Looking first at outer Weston, the proposed CIL rate of £40/sqm would generate an income of around £4,000 per market dwelling, based on an average house size of 100sqm, which is relatively typical for this area. This equates to an average of approximately £2,800/dwelling if the figure is adjusted to allow for non-payment of CIL by 30% affordable housing (i.e. viewed as an “all dwellings” overall figure). Added to the projected surplus of £9,916/dwelling (all dwellings) against the £40 CIL rate, this would total £12,176 per dwelling total development contributions.

£12k/dwelling is close to the S106 per dwelling figures achieved in recent S106 negotiations for developments at the Weston Villages, including obligations provided as works-in-kind (see for example application 13/P/0997/OT2 detailed in submission MF9B). However these sites have achieved significantly less than 30% affordable housing. This can be attributed to a high level of site abnormalities, in particular reflecting the low-lying locations of the sites in Flood Zone 3a, which have required significant mitigation and site treatment (including piling and surcharging), as well as in some cases the requirement for demolition of brownfield development.

It is acknowledged therefore that the £40/sqm rate for strategic sites in the Outer Weston area could be re-considered to potential positive effect, albeit that the applications/sites in this area are already advanced and unlikely to become liable for CIL (and there are physically few additional opportunities for new strategic sites beyond the Weston Villages in this location). Against this, we note that the difference between a nil rate of CIL and the full rate proposed equates to £2,800 per dwelling, or 1.68% of GDV at the assumed 2016 viability assessment level (VL2). It seems highly unlikely that a cost at such a small proportion of the value would prove the tipping point between viability and non-viability of a large site, with many other variables at play – positively as well as negatively.

In Zone C (‘Rest of District’), a very different picture emerges, showing strong viability and significantly higher surplus likely across the board (in excess of £30k/dwelling surplus, even at the maximum £80/sqm CIL rate). The differential in surplus from a CIL rate of £0/sqm to a CIL rate of £80/sqm in this case is just over £7k/dwelling, again a relatively insignificant amount in the scale of overall scheme

values and costs and again indicating the proportionately marginal impact of different CIL rates. CIL is far from the most significantly impacting factor on viability.

We emphasise again that this testing includes an allowance of £25k per dwelling for 'site opening'/infrastructure costs – above the amount cited by Savills from the Harman Report.

Unlike at the Weston Villages, emerging SDAs in Zone C ('Rest of District') are not expected to be subject to high abnormal costs. Whilst the West of England Joint Spatial Plan remains at a relatively early stage, the two Strategic Development Areas provisionally identified for North Somerset are at Nailsea/Backwell and the M5 to A38 Transport Corridor. Sustainability appraisals for the early stages of the JSP indicate that most potential sites within these areas sit within Flood Zone 1 and are subject to a relatively normal range of ecological/heritage/landscape constraints. Similarly, discussions with utilities companies and service providers have identified only 'normal' infrastructure requirements rather than 'showstopper' issues. The key mitigations identified to be required are transport improvements (strategic level schemes, rather than site access), which would be appropriate for delivery via CIL.

In conclusion, whilst the viability of strategic sites at outer Weston is undoubtedly more finely balanced, our evidence indicates that Strategic Development Areas in Zone C would be able to bear significant S106/CIL contributions *in addition to* any abnormal or other costs, if they were found to be relevant once much more work is done on working up particular sites and proposals.

4. Delivery of infrastructure and balance of S106 and CIL

In the light of the above, and particularly in the context of SDAs in Zone C, a central issue is not the total level of development contributions that can be borne, but the appropriateness of the form of development contribution, i.e. via S106 or CIL or the most appropriate balance between those.

As discussed briefly at examination, a switch to a nil-CIL rate for strategic sites would in practice be at best of only marginal benefit to developers in reducing the per dwelling cost burden to improve viability, and in some cases would increase the overall contributions sought. This is because in lowering rates, NSC would see an unsustainable drop in income which would render us unable to deliver key infrastructure. We would be forced to make changes to our Regulation 123 List to increase the infrastructure to be delivered through S106 obligations.

As a rough guideline, the emerging West of England Joint Spatial Plan proposes 5,400 dwellings in the M5 to A38 transport corridor. Subject to the level of existing capacity this would be likely to create a need for four – five new primary schools at a cost of approximately £6m per 420-place school. The projected CIL income from such sites at the proposed rate of £80/sqm would be around £30m. This would still present some difficulties in delivering the schools alongside other infrastructure, but would give a reasonable financial basis from which to start. If CIL rates are reduced or set at nil, then the delivery of primary schools at those sites using CIL would be impossible, given the projected income from other (non-strategic) developments of only £1 – 2m/year.

An unintended consequence of setting nil rates for Strategic Development Areas across all areas of North Somerset would be that the overall package of contributions for Zone B and Zone C would be levelled. That is, because both areas would have similar S106 requirements and no CIL, the per dwelling rate would become roughly the same regardless of location and regardless of the very substantially higher better development value: cost relationships and 'surplus' viability demonstrated to be available in Zone C. This does not seem to fit with the notion that differential rates should be set according to viability evidence. Whilst CIL considerations should not include policy preferences, we would also have a concern that such rates would act as a relative incentive to develop outside of Weston in preference to elsewhere in the District, which would be contrary to the strong spatial focus on Weston identified in planning and regeneration policies.

Notwithstanding the above, delivery through S106 has a number of significant benefits, not least the ability to secure land and works-in-kind and to set specific triggers by which point infrastructure items must be delivered. We also note the potential benefits to developers in terms of cashflow. Offset against this are the 'double-dipping' and 'pooling' restrictions of the CIL Regulations 2010, which render it difficult to use S106 for necessary items such as off-site highways works and secondary school places, even at very large SDAs and with cooperative developers.

5. Striking a balance of infrastructure delivery and viability: options for modifying CIL proposals

NSC in setting its CIL rates is required to strike a balance between infrastructure delivery *and* development viability. We have set out our concerns previously about a sole reliance on S106 at a point when not only sites, but infrastructure requirements (and therefore delivery plans) coming forward through the JSP and future Core Strategy review remain uncertain. Equally, we acknowledge that a sole reliance on CIL could be problematic.

The assessment in section 3 suggests that the viability of strategic sites is not a significant issue, even accounting for land-take issues and high infrastructure costs, other than potentially in the outer Weston area. The CIL rates proposed are compliant with the NPPG requirements that they should not "*threaten the ability to develop viably the sites and scale of development identified in the relevant Plan*" or have "*a disproportionate impact on particular sectors or specialist forms of development*", certainly in Zone C, which look to be more relevant to plan delivery going forward.

Based on the above considerations, we suggest the following as a potential revised approach:

Outer Weston (Zone B)

The strategic sites in this zone at the Weston Villages are well advanced and unlikely to become liable for CIL. This is already reflected in our submission draft Regulation 123 List, which identifies a number of items specific to these sites that are to be delivered through S106 but which for other sites are funded through the CIL,

including schools, strategic flood mitigation and community parks. These reflect the contents of existing S106 agreements secured with developers. We would be wary of any changes to proposals that led developers to want to 'unpick' existing agreements on the basis they feel that a CIL regime may be more favourable.

Items at the Weston Villages previously funded through S106 that would switch to CIL if the sites somehow became liable include off-site highways schemes, which have been the subject of extensive modelling and options work and which total around £17m.

The Weston Villages arguably represent an "extreme" of strategic sites, in that the total number of dwellings will approach 7,000. Smaller strategic sites – particularly those smaller than 4,000 dwellings – would normally be unlikely to be expected to provide secondary schools, health practices etc on site. Even so, we are already experiencing difficulties with pooling regulations, as the original five intended planning applications have increased to at least nine, with the result that we may be pushed into moving some of the S106-delivered infrastructure back into CIL requirements and/or removing some of the smaller individual sites from the designated SDA.

It is thought unlikely that other strategic sites will be identified within the Outer Weston charging zone, but it is possible that one or two sites of around 500 dwellings could perhaps come forward over time.

On this basis and particularly with regard to viability issues, we propose that a 'nominal' CIL charge of £20/sqm be applied to strategic sites in the Outer Weston area (CIL Charging Zone B), representing 50% of the standard residential charge. As a minimal cost to development, such a rate would be unlikely to impact either positively or negatively on development delivery, and would protect NSC's ability to deliver off-site infrastructure including transport requirements.

We would not at the current time propose any changes to the Regulation 123 List specific to this zone, other than those resulting from wider changes in relation to SDAs more generally.

Rest of District (Zone C)

Similarly to the approach suggested for any further relevant development at the Weston Villages, we suggest that the CIL rate for strategic sites across the Rest of District be set at 50% of standard rates, i.e. £40/sqm. This would ensure some consistency to our approach and facilitate a balance between developer-delivered and strategic infrastructure. It also protects the interests of local communities, who would continue to see a share of development contribution income through the 15/25% allocated to Town and Parish Councils, something that would be lost if a nil rate was applied.

In addition to the potential change to the rates, we propose amendments to our draft Regulation 123 List. These could be consulted on alongside the main modifications. The following summarises our proposals and a fully revised draft Regulation 123 List

is attached as Appendix A. We reserve the right to amend this further as part of our 'rebuttal' once the further submissions from other parties have been reviewed.

Regulation 123 List category heading	Items to be added to exclusions from CIL for SDAs
Community and leisure	On-site community halls and leisure facilities.
Education	<ul style="list-style-type: none"> • Early years' provision and children's centre services. • Primary school provision.
Green infrastructure and public realm	On-site community parks.
Flood and drainage	Strategic flood and drainage schemes identified as required in relation to a SDA and suitable for funding/delivery through S106.
Transport & travel	No changes.
Other	No changes.

6. Proposed modifications

NSC proposes additions to the Draft Charging Schedule as marked in red in the amended table of charges below. We do not propose changes to the explanatory texts or zone maps.

Location(s)	Use class	Proposed rate / m ²
Zone A: Weston Town Centre	Residential (C3/C4)	£0
Zone B: Outer Weston: sites	Residential (C3/C4) development on sites not designated as Strategic Development Areas	£40
	Residential (C3/C4) development on sites designated as Strategic Development Areas	£20
Zone C: Rest of District	Residential (C3/C4) development on sites not designated as Strategic Development Areas	£80
	Residential (C3/C4) development on sites designated as Strategic Development Areas	£40
All (zones A, B, C)	Purpose-built student accommodation / halls of residence	£40
	Care homes (C2) (residential accommodation and care to people in need of care)	£40
	Large-scale retail (A1/A2/A3/A4/A5): more than 280m ² net sales area	£120
	Small-scale retail (A1/A2/A3/A4/A5): less than 280m ² net sales area	£60
	Commercial (B1/B2/B8)	£0
	All other qualifying development	£0

Appendix A sets out proposed changes to the draft Regulation 123 List.

NORTH SOMERSET COUNCIL: COMMUNITY INFRASTRUCTURE LEVY (CIL) DRAFT REGULATION 123 LIST – PROPOSED AMENDMENTS

Note: inclusion in this list does not entail that a given project will receive funding, only that it may do so if sufficient resources are available, it is compliant with regulations and the project is prioritised to receive funds.

Regulation 123 List: Community Infrastructure Levy	Exceptions (to be delivered through planning obligations)
<p><u>Community and leisure</u></p> <ul style="list-style-type: none"> Community capacity funding, community development and youth services. Leisure Centres, swimming pools and fitness gyms. Libraries and information services. Off-site play areas, MUGAs and skate parks. 	<p><u>Community and leisure</u></p> <ul style="list-style-type: none"> On-site play areas, MUGAs and skate parks. On-site community halls and leisure facilities at Strategic Development Areas.
<p><u>Education</u></p> <ul style="list-style-type: none"> Early years' provision and children's centre services except at the Weston Villages Strategic Development Areas. Primary school provision, except at the Weston Villages Strategic Development Areas. Secondary school provision, except at the Weston Villages. Special Educational Needs and Disabilities (SEND) provision. 	<p><u>Education</u></p> <ul style="list-style-type: none"> Early years' provision at the Weston Villages Strategic Development Areas. Primary school provision at the Weston Villages Strategic Development Areas. Secondary school provision at the Weston Villages.
<p><u>Green Infrastructure & Public Realm</u></p> <ul style="list-style-type: none"> Formal parks and public gardens. Community parks, except at the Weston Villages for on-site community parks at Strategic Development Areas. Off-site woodlands and woodland areas. Off-site conservation sites and biodiversity improvements. Public realm improvements, including heritage-related schemes and parking schemes, except where part of a development site. Off-site allotments. 	<p><u>Green Infrastructure & Public Realm</u></p> <ul style="list-style-type: none"> On-site general green infrastructure and landscaping. On-site Community parks at the Weston Villages Strategic Development Areas. Neighbourhood Open Spaces. Green corridors at the Weston Villages. On-site conservation sites and biodiversity improvements. On-site allotments. Public realm works that are part of a development site, including heritage-related schemes and parking schemes.
<p><u>Flood & drainage</u></p> <ul style="list-style-type: none"> Strategic flood and drainage schemes; and except at the Weston Villages. Coastal and seafront defences; and 	<p><u>Flood & drainage</u></p> <ul style="list-style-type: none"> Strategic flood and drainage schemes identified as required in relation to a

Regulation 123 List: Community Infrastructure Levy	Exceptions (to be delivered through planning obligations)
<ul style="list-style-type: none"> Moors and lowland flood defence schemes; <p>except where such schemes are identified as required in relation to a Strategic Development Area and suitable for funding/delivery through S106.</p>	<p>Strategic Development Area and suitable for funding/delivery through S106.</p> <ul style="list-style-type: none"> On-site/near-site Sustainable Drainage Systems (SuDS) and scheme-specific flood mitigation.
<p><u>Transport & travel</u></p> <p>Strategic transport schemes, including:</p> <ul style="list-style-type: none"> Improvements to junctions 19, 20 and 21 of the M5 and associated projects. Rail improvements. Showcase bus routes/Metrobus. Improvements to routes to Bristol Airport. Herluin Way/Locking Road Link. Strategic Public Rights of Way and cycle, foot and bridleway routes, including the Strawberry Line, Festival Way, coastal routes and Pill to the Mendips route. 	<p><u>Transport</u></p> <ul style="list-style-type: none"> On-site access and highways provision. Near-site highways mitigations identified through Transport Assessments or Statements. Measures identified in Travel Plans/Travel Statements, including: <ul style="list-style-type: none"> Bus stops and services and other public transport provision (excluding rail). Measures to promote the use of sustainable transport by residents of the site. Road safety improvements required as a result of development. Public Rights of Way, cycle, foot and bridleway routes that are provided on-site and/or to connect the site to local facilities.
<p><u>Other</u></p> <ul style="list-style-type: none"> Strategic broadband schemes. Economic development and employment-led financial contributions *. Emergency services provision, other than fire hydrants. Health services. Strategic waste management schemes. 	<p><u>Other</u></p> <ul style="list-style-type: none"> Affordable housing. On-site employment-led provision *. Site-based broadband provision. Fire hydrants. Fees associated with planning obligations. Commuted sums for infrastructure maintenance.

Notes:

1) Strategic Development Areas are defined as follows:

- The Weston Villages, as defined in the Weston Villages Supplementary Planning Document (SPD), available at <http://www.n-somerset.gov.uk/wp-content/uploads/2015/11/Weston-villages-supplementary-planning-document.pdf> or as amended through subsequent planning policies; and/or
- Individual development sites of 500 or more dwellings; and/or
- Any other strategic sites or Strategic Development Areas identified in an appropriate planning policy by North Somerset Council.

1) The “Weston Villages” are as defined in the Weston Villages SPD available at: <http://www.n-somerset.gov.uk/wp-content/uploads/2015/11/Weston-villages-supplementary-planning-document.pdf>.

2) Guidance ~~ef~~about on-site and off-site employment-led requirements and when they would apply is available at: <http://www.n-somerset.gov.uk/wp-content/uploads/2015/11/employment-led-delivery-supplementary-planning-document.pdf>