

CIL EXPLAINER AND TEMPLATE LETTER

Prepared by Cllr Geoff Saul and Chipping Norton Town Council

DEADLINE FOR COMMENTS TO WODC: 21 AUGUST 2020

Community Infrastructure Levy (CIL) Consultation on Draft Charging Schedule Impact on Chipping Norton

What is CIL?

The Community Infrastructure Levy (CIL) is a charge that can be applied to new developments in order to help pay for supporting infrastructure such as transport, flood defences, schools, green space and community and cultural facilities.

Most new development which creates net additional floor space of 100 square metres or more, or creates a new dwelling, is potentially liable for the levy.

The rates are set by West Oxfordshire District Council (WODC). WODC are also the collecting authority. ***WODC have now published their Draft Charging Schedule for consultation between 10th July and 21st August 2020 which can be downloaded from their website.***

The chief implication for Chipping Norton is that WODC propose to charge CIL on the East Chipping Norton Strategic Development Area (and the other strategic sites in the District) at a zero rate.

Strategic sites all have a requirement for on-site affordable housing (40% in Chipping Norton) and generate a need for significant investment in infrastructure. WODC is also seeking to ensure that the strategic sites achieve suitably ambitious levels of climate change mitigation and adaptation which will have additional cost implications.

Accordingly, WODC have chosen to exempt or “zero-rate” their strategic sites from CIL on the grounds of viability.

This means that there would be *no CIL receipts* for Chipping Norton Town Council from the East Chipping Norton Strategic Development Area. There would, however, still be substantial Section 106 planning obligations for developers to comply with. Section 106 funds are levied primarily for “on-site” infrastructure provision where a CIL charging structure exists.

How much money could Chipping Norton Town Council be losing out on as a result of the “zero rating” decision?

This is tricky to quantify exactly but a thumbnail calculation suggests it could be around **£1.6 million**. The calculations are set out below:

The amount of levy that is payable is calculated by multiplying the additional gross internal area (GIA) by the proposed CIL rate for that particular development. Proposed CIL charges for residential development in the Chipping Norton area are as follows:

1-10 dwellings	11+ dwellings	Extra-care Housing	Strategic sites
£250	£125	£100	Nil

For these purposes we have applied the “**11+ dwellings**” band to the remaining 1,000 dwellings that remain to be built on the East Chipping Norton Strategic Development Area and made the following assumptions:

1. that 400 of the dwellings will not be chargeable to CIL because they will be *affordable housing*;
2. that a further 50 homes will be exempt from CIL because they are self-build dwellings;
3. that the remaining 600 homes will be built roughly in the proportions set out in the Local Plan for mix of properties, namely 5% 1 bed, 28% 2 bed, 43% 3 bed and 24% 4 bed.

Dwelling size	No. of dwellings	CIL payable per property	Total CIL payable per class of dwelling	Share of CIL due to Town Council per property (25%)	Share of Total CIL due to Town Council per class of dwelling (25%)
Apartment: 50sqm	26	£6,250	£162,500	£1,562.50	£40,625
2 Bed House: 75 sqm	153	£9,375	£1,434,375	£2,343.75	£358,594
3 Bed House:90 sqm	238	£11,250	£2,677,500	£2,812.50	£669,375
4 Bed House: 130 sqm	131	£16,250	£2,128,750	£4,062.50	£532,187
Total			£6,403,125		£1,600,781

Accordingly, if charged at the usual “**11+ dwellings**” band developers would have to be paying on this calculation just under £6.5 million in CIL charges, of which £1.6 million would come to the Town Council.

This is a substantial potential loss of revenue to the Town Council that it had expected to enjoy for the exclusive benefit of the town.

The District Council could of course charge a lower rate of CIL than this on the strategic sites but if so there would still be substantial income for the Town Council.

Challenging the “zero rating” provisions of the Draft Charging Schedule

There are three ways of approaching this:

1. To question the technical grounds of the viability criteria that underpin the “zero rating” proposal.
2. To question the policy basis for loading all infrastructure funding on to section 106 instead of CIL in the first place.
3. To make the point that if the strategic sites are eventually zero rated for CIL, then the local community ought to know how the section 106 contribution is calculated and should have input into the decisions as to what infrastructure it is used to pay for. This process should be more open and transparent than it has often seemed in the past.

How to deal with these issues:

1. Questioning the technical grounds of the Government’s practice guidance on viability criteria.

WODC and their consultants argue that if you charge CIL on the strategic sites, then they will not be viable for developers to build out and deliver. This would mean that key elements of the Local Plan would be undermined.

The viability calculation sets off the *Gross Development Value* (i.e. the aggregate market value of the proposed development) against *Development Cost*.

The *Development Cost* contains two elements:

- a. *fixed elements* such as the cost of construction, professional fees and finance, and developers profit; and
- b. *flexible elements* such as the cost of the land and the developers contribution (CIL and Section 106 Planning Obligations) sought by the Local Authority.

The Government’s practice guidance assumes that a return of 15-20% of the *Gross Development Value* is a suitable profit return for the developer in order to establish viability.

For East Chipping Norton, the *Gross Development Value* is calculated to be £247,758,665 and the development profit to make the scheme viable £38,849,131 (i.e. about 16%). We can argue about the priority given to developer’s profit but this profit level is hard-wired into the calculations.

In respect of the *fixed elements* we could investigate the estimated cost of £8 million for building the eastern Link Road (and the necessity of the Link Road as an essential element in

the first place). Otherwise we are looking at questioning the standard methodology on building costs etc.

In respect of the *flexible elements* we have:

- a. **the land costs.** In the viability calculations these *appear* to be based on generic land value calculations rather than actual costs. The County Council is the owner of much of the land and so one flexible element of the viability calculation is what it charges the developers for it. If OCC were to reduce its own profit then the scheme could become more viable and a CIL contribution for community benefit could become feasible.
- a. **Section 106 contributions.** These are estimated at £26.6 million divided up as follows:
 - a. *2 Form Entry Primary School:* £11.2 million
 - b. *Other (£15,000 per housing unit):* £15.4 million

There is no indication as to what the “Other” infrastructure spending might include. Moreover, looking at the calculations for the other strategic sites it is clear that this figure in the viability calculations is just a mathematical figure reached by multiplying the number of dwellings by £15,000.

If we retreat from the detail for a moment, it seems extraordinary that the development as it stands (even without any CIL contribution) is said to be unviable to the tune of £11 million. Note, however, that this is *not* the same as a projected £11 million loss. **What it would mean is that the developer’s profit would come down from £39 million to £28 million** - and the Government criteria state that this would not be a viable rate of return for a developer!

It is also worth noting that the February 2017 Report by the Department for Communities and Local Government reviewed the operation of CIL and concluded that on average a typical residential CIL charge approximated to 2% to 3% of the house price and that the impact on development viability of charging CIL was often negligible, certainly in a rising housing market.

2. Questioning the policy basis for loading all infrastructure funding on to section 106 instead of CIL

The viability criteria set out above still anticipate that the developers will have to contribute £15.4 million to the Local Authority for infrastructure spending.

It is a policy decision, however, that developers should make these payments entirely by section 106 contributions rather than through CIL. Developers and their agents tend to prefer to deal with infrastructure provision (both on-and off-site) entirely under section 106 agreements with the Local Authority then charging a “zero rate” for CIL.

However, there are alternative approaches and Local Authorities can, for example, take responsibility for all infrastructure bar the on-site provision and instead charge a high CIL

rate instead. This is an approach that Wokingham Borough Council have, for example, taken.

There could therefore be a different mix of Section 106 and CIL contributions adopted. From the Town Council's point of view this would have the benefit of routing some funding through the Town Council. This means that some spending decisions could be taken at the level of democratic decision making closest to the local community. The Town Council could decide what would best support town growth and could, for example, itself apply funds towards issues such as traffic calming, parking improvements and limiting HGV traffic through town, not to mention children's play equipment, new public seating areas and open space maintenance – all projects ideal for CIL Receipts.

3. Questioning the use and application of section 106 contributions

The calculation and use of section 106 funding often appears opaque. If we have to accept an infrastructure funding model based on section 106 funding then there should be a mechanism for the process to be community-led so that local choices take priority.

Summary

The total budget needed for infrastructure (whether it be S106 or CIL) will need to be very considerable indeed to pay for the new link road, a school, HGV relief, plus critical services (health, community, recreation), and the Town Council will be seeking reassurance that these costs will be met.

Given that we already have these considerable concerns about the costs of the infrastructure improvements, we don't believe that zero-rating CIL for the housing development is the correct approach. We are also mindful that in the many years that this development has been in discussion, CIL has always been part of that conversation. Indeed we have minutes from a meeting from WODC from 2017 which say: 'Mr C Hargraves stated that CIL money would go towards the infrastructure of the town'.

This is an explainer and CIL is a complex issue, but we hope this highlights some of the issues, raises questions and gives you information for your own letter to WODC.

We strongly urge you to send in your comments to WODC by 21 August 2020.

If you would like help with your letter see the TEMPLATE below:

– Please email your views to planning.policy@westoxon.gov.uk or post to

Mr Chris Hargraves,
Planning Policy Team
West Oxfordshire District Council
Elmfield
New Yatt Road
Witney, OX28 1PB

– Your subject line should be: CIL consultation response/ East Chipping Norton Development

– You may also like to copy your email to Cllr Jeff Haine, Cabinet Member for Strategic Planning: jeff.haine@westoxon.gov.uk

– It is important to include your name and postcode if you live locally to confirm a genuine attachment to this area.

Dear Mr Chris Hargraves

As a resident of Chipping Norton I am very concerned that the East Chipping Norton development could be exempt from the Community Infrastructure Levy (CIL) if this is set at a zero rate as proposed in your consultation paper.

The East Chipping Norton development will increase the size and population of our town considerably and will therefore put pressure on our already stretched infrastructure. It is important that improvements in infrastructure and community facilities are made to accommodate this growth in the town.

(You could insert examples of issues that particularly concern you, for example: pollution levels, increased road traffic, need for improved access to health services, to community services, access to open space and recreation facilities).

It is only right that those profiting from house building should be asked to invest properly in the infrastructure and services which will affect the quality of life in our town for many generations to come – indeed this is what those living in Chipping Norton were promised when this significant development was originally proposed.

Yours sincerely

Name

Address/postcode