



Northampton Borough Council Community Infrastructure Levy Preliminary Draft Charging Schedule



March 2013

1. Introduction

- 1.1 The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and came into force in April 2010. CIL is essentially a pre-set charge that can be applied to all new developments that create new floorspace over a minimum size. The CIL charge is then spent on infrastructure (such as roads, schools, green spaces and community facilities) that is required to support the delivery of new development.
- 1.2 CIL takes the form of a charge per square metre of additional floorspace (new build or extensions) and can be charged on most new developments. There are exemptions for charitable organisations and affordable housing. Developments under 100 sq m of net additional floorspace, unless it is a new dwelling, are not required to pay CIL.
- 1.3 From April 2014, the ability to pool planning obligations through legal agreements under Section 106 (of the Town and Country Planning Act 1990 (as amended)), will be restricted. This means that it will become difficult to deliver larger scale items of infrastructure such as schools and transport schemes where pooling of many individual planning contributions is often necessary. Section 106 will continue to be used to deliver some infrastructure, but this will largely be restricted to site-specific mitigation and for providing affordable housing.
- 1.4 All references to legislation in this document are to legislation as amended.

2. The West Northamptonshire Partnership

- 2.1 The three Councils of Northampton Borough, South Northamptonshire and Daventry District have worked together through the West Northamptonshire Joint Planning Unit to produce a strategic planning framework for the West Northamptonshire area. The West Northamptonshire Joint Core Strategy (JCS) provides strategic planning guidance for the areas of Northampton Borough, South Northamptonshire and Daventry District and for the period to 2026 and sets out the requirements for new development including housing and employment growth. The JCS is supported by the West Northamptonshire Infrastructure Delivery Plan Update 2012. This sets out the infrastructure required to support the new development to 2026 and its estimated costing.
- 2.2 The three Councils are also working together to provide a coordinated approach to the implementation of CIL. However, each of the district/borough councils' within West Northamptonshire will be an independent CIL Charging Authority for their area and each district/borough has its own charging schedule. This Preliminary Draft Charging Schedule covers the Northampton Borough Council area for which the council is the local planning authority and the charging authority. It shares the same evidence base as the Preliminary Draft Charging Schedules covering South Northamptonshire and Daventry District. The West Northamptonshire Joint Planning Unit is coordinating the Preliminary Draft Charging Schedules consultation on behalf of the partner authorities.

3. Evidence to Support CIL

3.1 There are three key pieces of evidence required to support a CIL;

- a. An up to date Core Strategy or other local plan,
- b. Evidence of a funding gap, and
- c. Evidence that a CIL can be viably charged on development

3.2 The West Northamptonshire Joint Core Strategy will meet the up to date local plan requirement. The West Northamptonshire Infrastructure Delivery Plan Update 2012 shows a significant funding gap across the West Northamptonshire area which has been disaggregated below to identify a funding gap for each separate charging authority. In addition to the table below there is a pan-West Northamptonshire transport infrastructure funding gap across all authorities of c£40m.

Table 1 – Infrastructure Funding across West Northamptonshire authorities in £m

Infrastructure type	Northampton			Daventry District			South Northants		
	cost est.	funding secure	funding gap	cost est.	funding secure	funding gap	cost est.	funding secure	funding gap
Transport	125.4	51.2	74.2	46	0.95	45	64.9	0	64.9
Primary health care	3.8	0	3.8	5.5	0	5.5	n/k	0	n/k
Education	128.7	10	118.7	76.7	8	58.7	28.8	0	28.8
Emergency services	0.67	0	0.67	1.6	0	1.6	1.6	0	1.6
Cultural development	11.2	0	11.2	n/k	n/k	n/k	0	0	0
Community halls	3	0	3	8.7	5	3.7	5.25	3	2.25
Indoor/outdoor sports	5.9	0	5.9	5.9	0	5.9	6.2	0	6.2
Public realm	20.67	0.5	20.2	n/k	n/k	n/k	n/k	n/k	n/k
Green infrastructure	6.2	0	6.2	15	0	15	3.5	0	3.5
Energy	68	64	4	2	0	2	5	0	5
Waste water	18	18	0	5	5	0	18	10	8
TOTAL (rounded)	391.5	143.7	247.9						

3.3 The viability evidence to support CIL has been prepared by GVA. This has considered viability testing of different development types and recommends rates of CIL that can be charged throughout West Northamptonshire. The charging authority must balance the need to provide additional investment for infrastructure with the potential economic effect of imposing CIL upon development across their

area. The rate at which CIL is charged must not render the majority of development envisaged through the development plan unviable. The Regulations recognise that the CIL charge may make some development unviable and that CIL should not be set at such a low rate as to ensure that every development remains viable.

- 3.4 The Preliminary Draft Charging Schedule has been prepared in accordance with Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended). South Northamptonshire Council has sought to strike a balance between ensuring appropriate development comes forward and the impact on development viability. It has also sought to balance costs between aspects of site specific infrastructure which will continue to be secured through Section 106 planning obligations and those that will be funded through CIL.
- 3.5 The viability evidence provided at GVA 'CIL Economic Viability Assessment' 2012 is available at westnorthamptonshirejpu.org/connect.ti/website/view?objectId=2737520
- 3.6 From April 2014 the ability to pool contributions from developers via S106 legal agreements to deliver larger items of infrastructure will be substantially curtailed. New legislation introduced will limit the pooling of only five contributions to one infrastructure type or infrastructure project. The Council's intention is that CIL will be used to deliver mainly strategic items with S106 retained only for direct mitigation of site-specific impacts. CIL cannot be used as well as Section 106 to deliver the same piece of infrastructure.
- 3.7 Under Regulation 123, the Council will also need to prepare a list setting out the types of infrastructure that it intends to fund through CIL. Before the Council adopts CIL it must make its infrastructure list available on its website. The Regulation 123 list can be reviewed at any time. It is not the intention that CIL receipts will fund all infrastructure provision other forms of funding will also need to be investigated.
- 3.8 In February 2013 the Government published draft regulations which propose that 25% of CIL receipts will be passed to parish councils where a Neighbourhood Plan is in place or where development is permitted through a Neighbourhood Development Order (including a Community Right to Build Order) and 15% elsewhere. It will be for the parish council to decide on what to spend this money, within the constraints set by law. Parish councils will not, in particular, be constrained by the Regulation 123 list.

4. The Scope of this Consultation

- 4.1 This is an early stage in the consultation on the CIL Charging Schedule and comments received will be used to prepare the Draft Charging Schedule anticipated to be published for consultation in Summer 2013. Once responses to consultation are taken in to account the Charging Authority then submits the Charging Schedule for independent examination. The charging authorities have collaborated on the production of evidence to support CIL charging and are jointly consulting on charging schedules and will in due course hold a joint examination
- 4.2 In setting the CIL rate Northampton Borough Council must strike what appears to the Charging Authority as an appropriate balance between funding infrastructure to support new development and the potential effects on the economic viability of development. In reaching this judgment of reasonableness the Charging Authority must take in to consideration 'appropriate available evidence'¹.
- 4.3 The governance and operational processes needed to underpin the collection and spending of CIL funds are extremely important and are currently under consideration across the West Northamptonshire partnership, however, these processes are outside the scope of this consultation and are not a matter for the examination that will take place in due course on the charging rates.
- 4.4 In December 2012 the Government issued new guidance on CIL. This advises that Charging Authorities should issue a draft regulation 123 list (the list of infrastructure projects and/or types that it intends to spend CIL on) ahead of the independent examination into the CIL charging rates proposed. The partner authorities are currently drafting their regulation 123 list for the next round of consultation.

¹ Planning Act 2008 section 212 (4) (b)

5. How to Comment on this Document

5.1 Northampton Borough Council is seeking comments on the Preliminary Draft Charging Schedule for 6 weeks from Thursday 14th March 2013 to Monday 29th April 2013 (5.00pm). You may comment on this document by-

- filling in the on-line response form by connecting to the Consultation Portal via the JPU website at www.westnorthamptonshirejpu.org and via the Northampton Borough Council website at www.northampton.gov.uk
- send a completed form (downloadable from the above websites) via email to westnorthantsjpu@northampton.gov.uk or post to

**West Northamptonshire Joint Planning Unit,
The Guildhall
St Giles Square
Northampton NN1 1DE**

5.2 Paper copies of the forms are also available from the Joint Planning Unit (tel: 01604 837837), Northampton Borough Council Offices at The Guildhall, St Giles Square, Northampton NN1 1DE, South Northamptonshire Council, at Springfields, Towcester, NN12 6AE and Daventry Council Offices at Lodge Road, Daventry, NN11 4FP and (normal offices opening times).

5.3 The supporting documents referred to above are also available to view and download from the CIL Consultation Portal or can be purchased in hard copy by contacting the JPU at 01604 838417.

5.4 Please note that comments cannot be treated as confidential. They will be made available as public documents.

6. Next Steps

- 6.1 After this consultation Northampton Borough Council will consider the consultation responses and working together with partner authorities will decide whether to make further changes. The next stage will be the publication of a Draft Charging Schedule for further consultation for four weeks which is anticipated will occur in late Summer 2013. Following this the Charging Schedule will be subject to independent examination jointly with the Charging Schedules of partner authorities, Daventry District Council and South Northamptonshire Council.
- 6.2 Following the consultation on the Draft Charging Schedule the Council will then submit the charging schedule (along with the other partner authorities of West Northamptonshire) for independent examination prior to adoption.
- 6.3 The process of setting and revising a charging schedule requires the local authority to monitor sales values, build costs and developer activity (i.e. planning applications, site purchases etc.), to indicate the health of the market, its reaction to CIL and whether a CIL charge needs changing.
- 6.4 The overall Charging Schedule will be reviewed to take account of changes in viability; this will be when changes to sales values, build costs and developer activity are sufficient to indicate that a review is required.

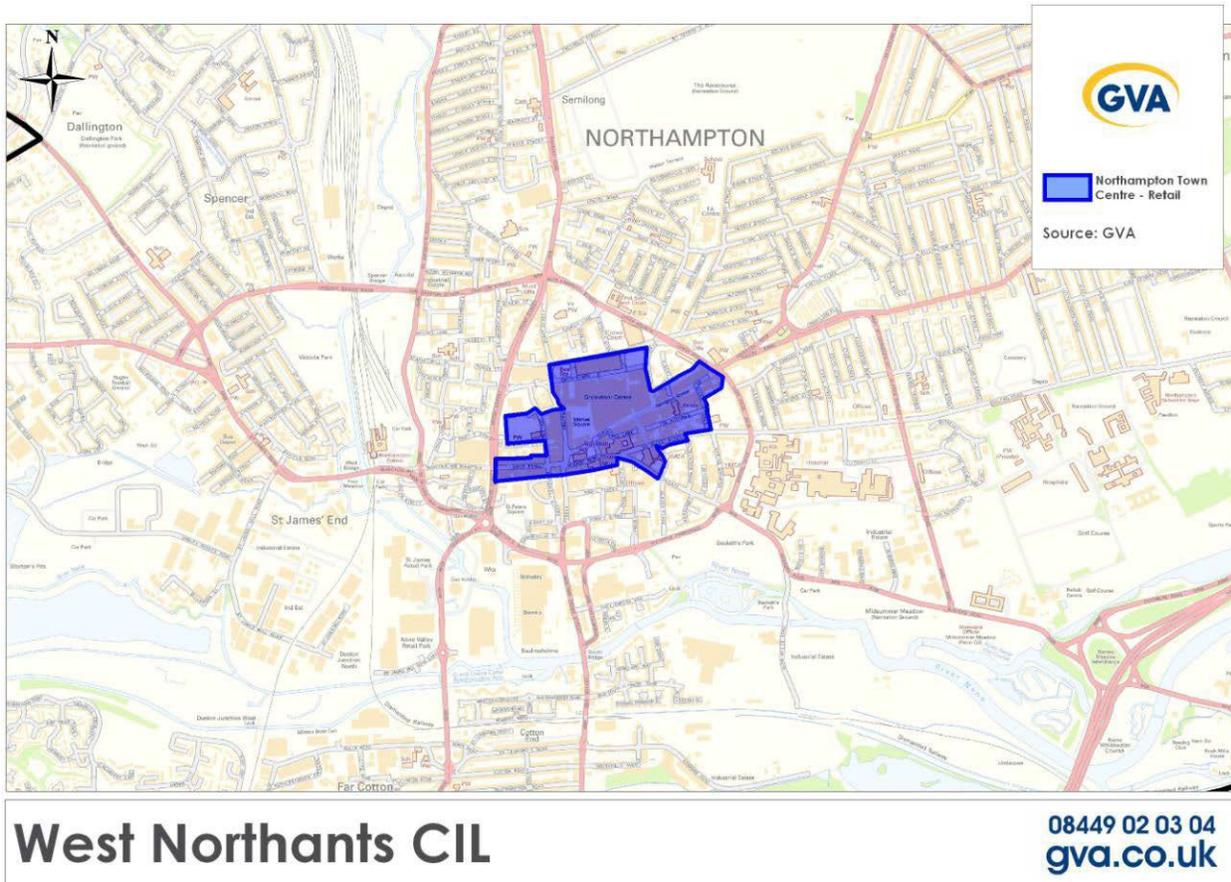
7. The Preliminary Draft Charging Schedule

7.1 Below are the Community Infrastructure Schedule charging rates proposed by Northampton Borough Council.

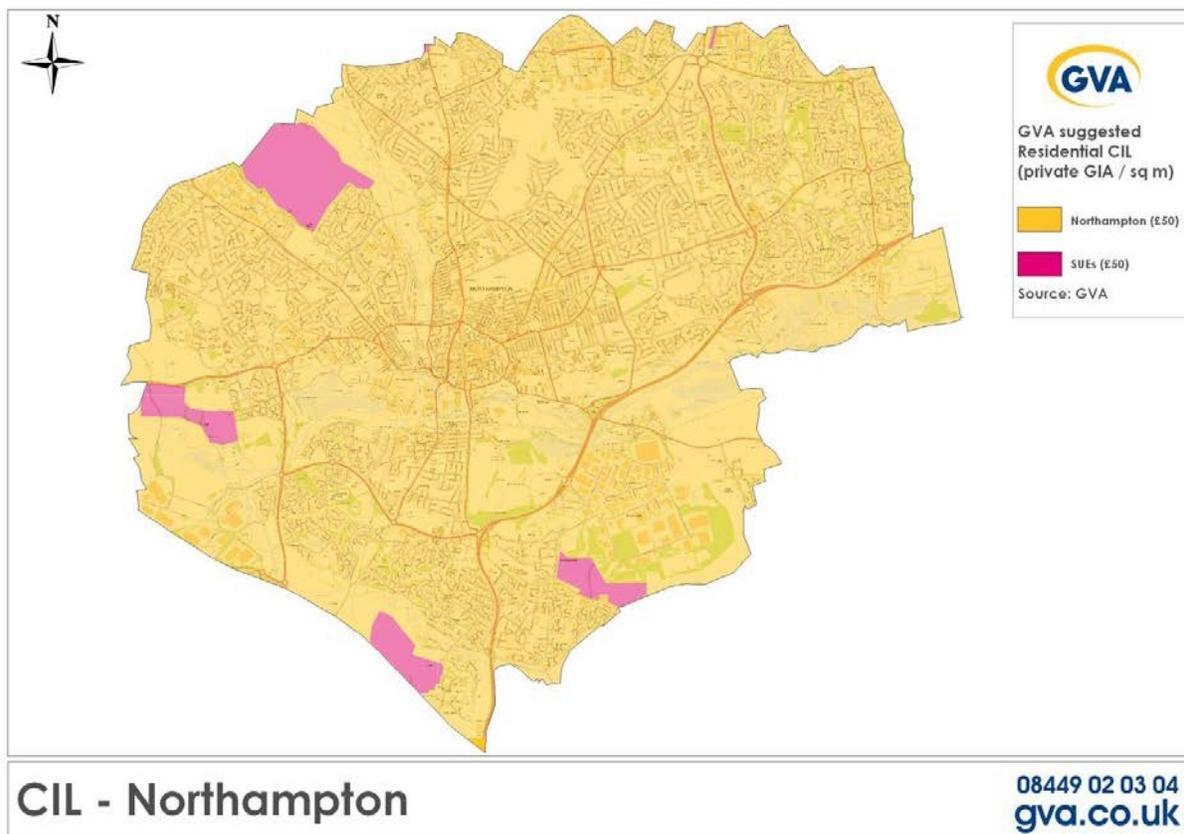
Northampton Borough Council Preliminary Draft Charging Schedule

Development type	Levy per sqm
Residential (including SUEs)	£50
Retail (excluding central zone)	£100
<i>All other uses</i>	£0

Central zone



Residential charging zone



- 7.2 The rates will be charged against the Gross Internal Floor (GIA) area of all new dwellings (within use class C3) and development exceeding 100 sqm.
- 7.3 In certain circumstances where a development includes the demolition of an existing building the GIA to be demolished can be deducted from the proposed floor space and CIL is then only charged on the overall increase in floor space. Deductions in respect of demolition will only apply where the building has been in continuous lawful use for at least six months in the 12 months prior to the development being permitted. Where there is insufficient information or information of insufficient quality on GIA on demolition Northampton Borough Council as the charging authority will deem the GIA to be zero.
- 7.4 For changes of use where there is no new floor space created CIL will not be chargeable provided the development has been in continuous lawful use for the previous six months.

- 7.5 Northampton Borough Council will calculate the amount of CIL payable (the chargeable amount) in respect of a chargeable development in accordance with the formulae set out at Regulation 40 of the Community Infrastructure Regulations 2010, (as amended). The charging rates proposed will be indexed to account for inflation using a nationally recognised index. Full details of the way in which CIL will be calculated, together with an overview of CIL and the full Regulations can be found on the Government website: www.gov.uk
- 7.5 Once planning permission is granted, CIL Regulations encourage any party (such as a developer submitting a planning application, or a landowner), to take liability to pay the CIL charge. CIL liability runs with the land, therefore if no party assumes liability to pay before development commences the landowner will be liable to pay the levy.
- 7.6 In accordance with the Regulations, where applicable the Council will issue a Liability Notice that states the chargeable amount on grant of planning permission or as soon as possible after the grant of planning permission.

8. When is CIL not payable?

8.1 The CIL regulations make a number of provisions for charging authorities to give relief from paying CIL. In some cases the CIL relief is compulsory as in social housing and in some cases it can be applied at the charging authority's discretion. CIL relief means CIL does not have to be paid against a development that would otherwise be liable (an exemption from paying the charge) or a reduction in the amount payable is made. There are three forms of relief possible:

- Social housing relief – the regulations give full relief from paying CIL on the proportion of the chargeable development intended for social housing. Social housing relief is calculated according to three formulae in regulation 50 of the CIL regulations (as amended).
- Charitable relief – available to charitable institutions and is mandatory and in part discretionary. CIL Regulation 44 allows a charging authority the opportunity to offer discretionary relief to a charity landowner where the greater part of the chargeable development will be held as an investment, from which the profits are applied to charitable purposes.
- Exceptional circumstances relief – a discretionary relief operated only in exceptional circumstances where a specific scheme cannot be brought into viability if it pays the full CIL charge and the charging authority consider it justifiable and expedient to do so.

8.2 Exceptional circumstances relief may only happen if a planning obligation of greater value than the chargeable amount has been entered into in respect of the planning permission which permits the chargeable development and the charging authority considers that payment of the levy would have an unacceptable impact on the economic viability of the development.

8.3 It is the intention of Northampton Borough Council to offer such relief. A statement confirming this will be issued once the Charging Schedule has been adopted, in compliance with Regulation 56. It should be noted that viability assessment to carefully consider the level at which the proposed CIL charges have been set, taking into account the provision of affordable housing and development specific S106 obligations have been undertaken. In view of this, the consideration for relief will be rare and any relief given must be done in accordance with the procedure identified in the regulations.

9. When is payment due?

- 9.1 CIL is payable on commencement of development but the Council are able to introduce payment by instalments. This would need to be agreed before any development commences and be in accordance with a published policy.
- 9.2 In line with 69B of the CIL Regulations 2011 (as amended) the instalment policy is not part of the charging schedule and will not form part of the examination. The instalment policy can be introduced, withdrawn or amended at any time with 28 days' notice.
- 9.3 There may be circumstances where it will be more desirable for a charging authority to receive land instead of money to satisfy a charge arising from the levy. The Regulations allow charging authorities to accept transfers of land as payment 'in kind' for the whole or part of the levy provided the land is used to facilitate the provision of infrastructure to support the development of the charging authority's area. Such an agreement must be entered into before the commencement of development and cannot form part of a planning obligation.

10. How will CIL be collected?

10.1 Northampton Borough Council will be the Collecting Authority for the purpose of Part 11 of the Planning Act 2008 and the CIL Regulations 2012 (as amended). When planning permission is granted Northampton Borough Council will issue a liability notice setting out the amount payable and the payment procedures. A simplified procedure is set out below.

