



# **The Community Infrastructure Levy**

## **Statement of Statutory Compliance**

- **Daventry District Council**
- **Northampton Borough Council**
- **South Northamptonshire Council**

## **1.0 Introduction**

1.1 The three Councils of Daventry District, Northampton Borough and South Northamptonshire have worked together through the West Northamptonshire Joint Planning Unit on the preparation of Community Infrastructure Levy (CIL) Draft Charging Schedules to be submitted for independent examination. The independent examination will consider whether the Councils have complied with the requirements set out in the Planning Act 2008 and the CIL Regulations.

## **2.0 Purpose of this Statement**

2.1 This statement has been produced to demonstrate the Councils' compliance with legislative requirements. It shows how the Councils have complied with the drafting and process requirements contained in primary legislation, secondary legislation, and statutory CIL guidance, including the requirements for public consultation.

2.2 In preparing the Draft Charging Schedules the Councils have had regard to Part 11 of the Planning Act 2008 (as amended), together with the following CIL Regulations and statutory guidance:

- Community Infrastructure Levy Regulations 2010 (as amended)
- Community Infrastructure Levy (Amendment) Regulations 2011
- Community Infrastructure Levy (Amendment) Regulations 2012
- Community Infrastructure Levy (Amendment) Regulations 2013
- Community Infrastructure Levy (Amendment) Regulations 2014
- Community Infrastructure Levy Guidance 2014

## **3.0 Compliance**

3.1 The table attached provides a 'Statement of Compliance' demonstrating how the Councils have met the statutory requirements during the production of the Charging Schedules.

## **4.0 Conclusion**

4.1 Having regard to the evidence the Councils consider that they have complied with the requirements of the Planning Act 2008 and the CIL Regulations to this stage in the process.

## Statement of Compliance

The Table below is based on the Planning Advisory Service CIL preparation checklist<sup>1</sup> and where 'para' is used below it refers to the February 2014 CIL Guidance document<sup>2</sup>

	Question	Local authority response
1	Has the charging authority complied with the requirements set out in Part 11 of the Planning Act 2008 (as amended by the Localism Act) and the CIL Regulations? (para 2.2)	Yes, the development of the charging schedules complies with the overall purpose of CIL, helping to ensure that the costs of providing infrastructure to support the development of an area can be funded (wholly or partially) by owners or developers of land.
2	Is the charging authority's draft charging schedule supported by background documents containing appropriate available evidence? (para 2.2 & 2.2.5.5)	The Draft Charging Schedules are supported by background documents, containing appropriate, available evidence. These include an economic viability study, the CIL Background Paper and the Infrastructure Delivery Plan.
3	Has the charging authority provided evidence of an infrastructure aggregate funding gap that demonstrates the need to levy CIL? (para 2.2 and para. 2.2.2.1)	In setting the proposed rates for the Draft Charging Schedules, the partner Councils have had regard to the actual and expected costs of infrastructure and other actual and expected sources of funding for infrastructure including S106 agreements. The Draft Charging Schedules are supported by an appropriate available evidence base covering these issues. An aggregate funding gap is identified which demonstrates a need for a CIL based on the economic viability across the charging authority's area. In addition the funding target is also set out in the supporting CIL Background Paper. The draft R123 infrastructure lists are provided as separate documents alongside the consultations on the Draft Charging Schedules.
4	Is the proposed rate or rates informed by, and consistent with, the evidence on economic viability across the charging authority's area? (para 2.2, para 2.2.2.4)	An economic viability study has been undertaken for the partner Councils by consultants and this has informed and is consistent with the proposed rates in the charging schedule.  The Councils' Draft Charging Schedules are consistent with and support the Joint Core Strategy as submitted.
5	Are the rates so complex, or based on strategic sites, where in addition to the area based broad test of viability some further site sampling of viability is required? (para 2.2.2.4), and has this sampling been undertaken?	The partner Councils have resolved to keep the rates as simple as possible. Economic viability evidence supports this approach and provides evidence to support a nominal rate for the strategic urban extensions.
6	Has the charging authority provided evidence that	In setting the proposed levy rates the partner Councils have struck an appropriate balance

<sup>1</sup> [http://www.pas.gov.uk/web/pas-test-site/3-community-infrastructure-levy-cil/-/journal\\_content/56/332612/4070792/ARTICLE](http://www.pas.gov.uk/web/pas-test-site/3-community-infrastructure-levy-cil/-/journal_content/56/332612/4070792/ARTICLE)

<sup>2</sup> [http://www.planningportal.gov.uk/uploads/cil/cil\\_guidance\\_main.pdf](http://www.planningportal.gov.uk/uploads/cil/cil_guidance_main.pdf)

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	Question	Local authority response
	shows, and explains, that the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole (para 2.2 & para 2.2.5.5.) and have they explained how their proposed levy rate/s will contribute to the implementation of their plan and support development across their area? (para 2.2.2.3)	<p>between the desirability of funding infrastructure from the levy and the potential effects taken as a whole of the imposition of CIL on the economic viability of development across the borough.</p> <p>There has been no evidence to show that the proposed rates will put the overall development of the area at risk. For some of the area the CIL rate has been set at a nominal rate, which is a rate that is a very small percentage of the overall costs of development. This will ensure that development will still take place.</p>
7	Has the charging authority provided evidence that shows that they have struck the appropriate balance between desirability of funding infrastructure through a CIL and the potential effects of imposing a CIL on their area? (Summary of Reg. 14 (1), para 2.2)	As evidenced in the supporting CIL Background Paper, there is a need to fund infrastructure through a pooled approach to ensure that development in the area is sustainable and has the services and facilities required to support the area as a whole. Securing additional investment for infrastructure to support growth will have a positive economic effect on development.
8	Does the authority have an up to date relevant (development) plan? And is the CIL consistent with it and the supporting infrastructure evidence? (para 2.2.1)?	Yes. The West Northamptonshire Joint Core Strategy covers the three local authority areas and is expected to be adopted prior to the adoption of any CIL. The JCS is supported by a comprehensive Infrastructure Delivery Plan (IDP), which identifies the strategic infrastructure required to deliver the spatial strategy for West Northamptonshire. The draft Charging Schedules have had full regard to the IDP and the proposed rates will contribute towards the implementation of the IDP.
9	Has the charging authority provided a draft Regulation 123 list, set out known site specific matters where s106 contributions will be sought, and provided evidence to show how much they have raised through S106 agreements in recent years?	<p>The partner Councils have each prepared a draft R123 List alongside the Draft Charging Schedule consultations. The CIL Background Paper shows how specific infrastructure projects, in support of the delivery of the JCS, will be funded in terms of CIL or s106.</p> <p>The Councils have provided evidence of historic s106 contributions as part of the economic viability evidence and continue to develop evidence in support of the potential submission for examination in October 2014.</p>
10	Has the charging authority complied with the consultation and administration requirements set out in the Regulations?	<p>The partner Councils have had regard to the actual or expected administrative expenses in connection with CIL and is aware that it can use up to 5% of the CIL towards administrative costs.</p> <p>The Preliminary Draft Charging Schedules were consulted on for a period of six weeks in April/May 2013. Details of this consultation were sent to consultation bodies as outlined in the CIL Regulations, statutory consultees and relevant local stakeholders.</p> <p>The Draft Charging Schedules will be consulted on for a 6 week period starting in June 2014.</p>

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11	<p>Are you a two-tier authority? (guidance 2.2.1.2) If yes, have you:</p> <ul style="list-style-type: none"> <li>• consulted with the county council?</li> <li>• collaborated with the county on setting the rate?</li> </ul>	<p>The partner Councils have had ongoing discussions with Northamptonshire County Council about their requirements. They have provided information, discussed priorities and stated other sources of funding, as far as possible. Northamptonshire County Council is included in officer and manager level working groups for the development of the CILs.</p> <p>The County Council have been involved in the drafting of the R123 lists and continuing dialogue will take place with all stakeholders in the delivery of infrastructure and the spending of the CIL receipts.</p>
12	<p>Have you engaged (at an early stage) with local developers and others in the property industry? (paras2.2.1.3) Have you documented your engagement and any amendments you have made following engagement?</p>	<p>Two viability events were held, one in July 2012 and one in January 2013, to outline the work being prepared for the economic viability report. Invitations were sent to representatives of the development sector and the events provided an opportunity for comment on the emerging viability work.</p> <p>A further infrastructure delivery event was held in May 2014. Invitations were sent to representatives of the development sector and infrastructure providers. The event provided an opportunity for comment on emerging work to develop the draft R123 Lists and alternative funding mechanisms.</p> <p>All stakeholders have been afforded the opportunity to comment on the Preliminary Draft Charging Schedules. The Draft Charging Schedules will now also be available for a six week consultation period from June 2014.</p>
13	<p>Is your charging schedule consistent with, and does it support the implementation of, up-to-date relevant plans? Can you explain how it will achieve that? Can you tell the story of your charging schedule and delivery of your plan? (para 2.2.1)</p>	<p>The CIL Background Paper has been developed to tell the story of how the partner Councils have each arrived at their approach to adopting a CIL. It is intended that this paper will be further updated following the Draft Charging Schedule consultations.</p>
14	<p>In identifying your CIL target, have you considered what additional infrastructure is needed in your area to support development and what other funding sources are available? (para.2.2.2.1) Is your target 'informed' by a selection of infrastructure projects or types (drawn from the Infrastructure planning for the area) which are</p>	<p>The CIL Background Paper provides further support to the Infrastructure Delivery Plan (IDP) which was prepared in support of the Joint Core Strategy. The paper outlines the projects contained within the IDP and illustrates all of those projects which are candidates for CIL funding.</p>

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	'candidates' for CIL funding?	
15	Is your information on infrastructure need directly related to the infrastructure assessment that underpins your plan? (para 2.2.2.1)	The IDP is the basis for all infrastructure work in support of the CILs across West Northamptonshire. The infrastructure identified in the IDP is needed to deliver the scale of growth put forward in the West Northamptonshire Joint Core Strategy.
16	Is your infrastructure evidence, to prove your aggregate funding gap, directly linked to the delivery of your plan? (para 2.2.2.1)	
17	Is your infrastructure evidence, to demonstrate your aggregate gap, directly related to your draft 123 list? (para 2.2.2.2 & 2.6.2.1)	The IDP is the basis for all infrastructure work in support of the CILs across West Northamptonshire. The CIL Background Paper illustrates how the IDP has influenced the R123 Lists.
18	Is your Infrastructure evidence (if not tested as part of another examination) sufficient in order to demonstrate an aggregate funding gap? (para.2.2.2.2)	<p>Yes. The IDP has been tested alongside the Joint Core Strategy. The resumed examination hearings were completed in March 2014.</p> <p>The IDP is the basis for all infrastructure work in support of the CILs across West Northamptonshire. The CIL Background Paper illustrates how the IDP has informed the aggregate funding gap.</p>
19	Does your evidence show that your rate/s would not threaten delivery of the relevant plan as a whole (NPPF 173, Guidance para 2.2, 2.2.5.5. & 2.6)	There has been no evidence to show that the proposed rates will put the overall development of the area at risk. For some of the area the CIL rate has been set at a nominal rate, which is a rate that is a very small percentage of the overall costs of development. This will ensure that development will still take place.
20	Have you summarised your economic viability evidence in a document that shows the potential effects of the proposed levy rate/s on the economic viability of development across your area? (para 2.2.2.3 & 2.2.5.5)	The partner Councils have developed the CIL Background Paper to illustrate the link between economic viability, the provision of infrastructure and delivery of the plan as a whole. This work will be developed further and presented for an Inspector to examine alongside the proposed Charging Schedules.
21	In developing your rate/s and schedule have you worked proactively with developers? (para. 2.2 & 2.6)	<p>Two viability events were held, one in July 2012 and one in January 2013, to outline the work being prepared for the economic viability report. Invitations were sent to representatives of the development sector and the events provided an opportunity for comment on the emerging viability work.</p> <p>A further infrastructure delivery event was held in May 2014. Invitations were sent to representatives of the development sector and infrastructure providers. The event provided an opportunity for comment on emerging work to develop the draft R123 Lists and alternative funding mechanisms.</p>

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		All stakeholders have been afforded the opportunity to comment on the Preliminary Draft Charging Schedules. The Draft Charging Schedules will now also be available for a six week consultation period from June 2014.
22	<p>What have you previously achieved through s106? (para 2.2.2.3 &amp; 2.6.2.2)</p> <ul style="list-style-type: none"> <li>• Overall per annum – financial and others</li> <li>• Examples of s106 achieved per unit – financial</li> <li>• In relation to your affordable housing and other targets ( 2.2.2.3)</li> </ul>	The Councils have provided evidence of historic s106 contributions as part of the economic viability evidence and will provide up to date supporting evidence at submission for examination in October 2014.
23	<p>Have you sampled an appropriate range of types of site that reflect the different types of site in your development plan? (para 2.2.2.4) Have you received assistance from local developers to do this? Remember your rate should be based on appropriate available evidence. (para 2.2.5.5)</p>	<p>The partner Councils derived the typologies tested from an analysis of their Strategic Housing Land Availability Assessment and developments that have previously come forward in their area i.e. planning applications received over the last few years. These typologies are therefore reflective of developments that have been consented/delivered as well as those expected to come forward across West Northamptonshire in the future.</p> <p>Regard was also had for the density of development indicated by the Joint Core Strategy, which identifies that the Joint Planning Unit support development at a range of densities with an overall net density of at least 35 dwellings per hectare. The eight example schemes that were included in the viability study were agreed with the partner Councils and the consultants as the sort of sites that would come forward through the life of the development plan.</p> <p>These typologies were then tested throughout the authority area within specific value areas, as determined by the average house price per square metre. With respect to values, GVA considered comparable evidence of both transacted properties in the area and properties currently on the market to establish appropriate values for testing purposes.</p>
24	<p>If you are setting differential rates, has your fine grained sampling reflected the different sites in your plan and is it consistent with your plan making viability? (para 2.2.2.4)</p>	<p>In line with the guidance and previous CIL examinations, the partner Councils have sought to simplify the administration of their charging schedules whilst still adhering to the viability evidence.</p> <p>Viability evidence prepared by GVA indicated that sites below the affordable housing threshold were able to support higher CIL rates due to the limited ‘burden’ on the financial viability of the site. This has resulted in a setting of differential rates within the rural residential sector.</p>

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25	Have you got strategic sites in your area? Have you viability tested this strategic site type? (para.2.2.2.4 & 2.2.2.6)	There are numerous strategic sites which support the delivery of the development plan. GVA have provided a whole chapter on strategic urban extensions in the economic viability work.
26	If you have set a differential rate by use, which does not need to be tied to the use classes order, or size have you justified this by a comparative assessment of viability? (para.2.2.2.6)	Viability evidence prepared by GVA indicated that sites below the affordable housing threshold were able to support higher CIL rates due to the limited 'burden' on the financial viability of the site. This has resulted in a setting of differential rates within the rural residential sector.
27	If you have set a zero rate is this supported by viability evidence? (para.2.2.2.6)	All rates are fully supported by the viability evidence prepared by GVA.
28	If you have differential rates are you satisfied with regard to State aid? (paras 2.2.2.6 & 2.7.7)	The partner Councils have considered State aid in relation to the proposed differential rates and are satisfied that the approach is State aid compliant.
29	Have you set out what you intend to fund through section 106 and CIL, and how these will operate together? Have you considered the impact of these in conjunction with other costs (e.g. s278 Highways Act and planning conditions) and demonstrated that they will not threaten viability and the scale of development identified in the development plan?( NPPF 173, guidance 2.6, & 2.6.2.2)	Through a combination of the CIL Background Paper and the draft R123 Lists, the partner Councils have set out the first stages of what they intend to fund via CIL and s106. This addresses the infrastructure required to support the Joint Core Strategy. This work will be supplemented by statements for preparation of the s106 Supplementary Planning Documents which are scheduled for revision. All required final statements will be made available for submission, expected October 2014.
30	Have you, and your consultant, used the methodology recommended in Viability testing for local plans (Harman Guidance): Advice for planning practitioners?	The viability work has been prepared in accordance with the Harman guidance.
31	Have you consulted on your PDCS (Regulation 15) for at least six weeks and, as good practice, have you published your draft infrastructure list and proposed policies for the scaling back of s106 agreements?	The PDCS were consulted on for six weeks in April/May 2013. The charging authorities intend to scale back the approach to s106 contributions towards strategic infrastructure. For transparency, the charging authorities will set out at examination how their s106 policies will be varied and the extent to which they have met their s106 targets, in line with the CIL Guidance.
32	Have you taken into account the responses you received from your PDCS and consulted on your DCS and appropriate available evidence for at least four weeks (preferably six weeks as good practice)? (reg 16 and 17 & para2.2.4.1)	The Statement of Consultation summarises the responses to the PDCS consultation and this will be updated with commentary from the DCS consultation prior to submission. The DCS will be made available for a six week consultation period.

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33	If you have produced a statement of modifications have you published and distributed it, and given a period of four weeks from date of submission? (para.2.2.4.2 & Reg. 21)	This is not applicable at this stage.
34	<p>Will your charging rate contribute positively towards, and not threaten delivery of the relevant (development) plan as a whole now and through the economic cycle? (para.2.2 &amp; 2.2.2.4)</p> <ul style="list-style-type: none"> <li>• Have you undertaken sensitivity analysis to demonstrate that your rate/s are viable in a variety of different circumstances?</li> <li>• If not, do you have another way of demonstrating that your rates will not threaten the delivery of your plan now and throughout the economic cycle?</li> </ul>	<p>For some of the area the CIL rate has been set at a nominal rate, which is a rate that is a very small percentage of the overall costs of development. This will ensure that development will still take place.</p> <p>The charging authorities have taken a balanced approach to ensure that the necessary infrastructure can be delivered, whilst still ensuring that development can happen within a viable framework. The application of a nominal rate will ensure that the levy will raise some of the money required to deliver the infrastructure whilst not rendering the majority of development unviable. The nominal rate has been set at a low level, in accordance with section 2:2:2:6 of the CIL Guidance; this is in line with the viability evidence.</p> <p>Sensitivity testing was undertaken by GVA in the CIL Economic Viability Assessment to assist the partner Councils in understanding the levels of CIL that are viable in today's terms but also the impact of changing markets on viability, alongside different levels of affordable housing.</p>
35	<p>Is there consistency between:</p> <ul style="list-style-type: none"> <li>• the infrastructure required to deliver your plan.</li> <li>• the infrastructure evidence to show your aggregate funding gap to demonstrate your need to develop a CIL (paras 2.2.2.1) and</li> <li>• the content of your 123 list (para 2.2.2.2)</li> </ul>	<p>The Infrastructure Delivery Plan (IDP) and CIL Background Paper (CBP) provide the required evidence. Bespoke infrastructure planning was undertaken using best available evidence and working with stakeholders to demonstrate the infrastructure required to support the Joint Core Strategy. A realistic approach to housing delivery and therefore the infrastructure required was taken.</p> <p>The overall funding gap is detailed in the IDP and the CBP illustrates the aggregate funding gap in terms of CIL.</p> <p>The infrastructure work has informed the draft R123 lists by identifying specific projects and infrastructure that will be funded through the CIL receipts.</p>
36	Have you shown and explained how your rates are consistent with and contribute towards the implementation of your relevant plan and support delivery across your area (paras.2.2,1, 2.2.2.3 and Reg.14)? i.e. provide evidence to	In setting the proposed levy rates the partner Councils have struck an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects taken as a whole of the imposition of CIL on the economic viability of development across the area of West Northamptonshire. There has been no evidence to show that the proposed rates will put the overall development of the area at risk.

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	demonstrate that your rate will not deter development and illustrate through your spending plans (draft 123 list) the positive contribution to growth in your area that can be achieved by your anticipated CIL monies/infrastructure provision.	The CIL funding target demonstrates that the levy will contribute some of the necessary funds to deliver the required infrastructure to support the development of the area as a whole, as shown on the draft R123 list.
37	<p>In assessing the impact of your rate/s on the delivery of your plan as a whole have you taken into account,</p> <ul style="list-style-type: none"> <li>the costs associated with Regulatory requirements on viability</li> <li>the costs associated with policies on planning obligations, including affordable housing and strategic sites, on viability</li> <li>potential impact of exemptions or reductions relating to reliefs on the amount of CIL you can collect and therefore spend on infrastructure (paras 2.7 )( &amp; Neighbourhood proportion 2.4.1)</li> <li>the amount of income and affordable housing that you are currently receiving from development- if this is not consistent with your rate can you explain why?</li> </ul>	<p>The CIL Economic Viability Report takes into account other development costs and policy requirements. The estimates for CIL take into account affordable housing policies. Sensitivity testing on affordable housing has also been undertaken. An assumption on S106 contributions has also been included in the viability testing.</p> <p>The site types and the requirements for these types of sites are set out in Chapter 3 of the CIL Economic Viability Report.</p> <p>The CIL Background Paper outlines the potential for the partner Councils to consider exemptions and recognises the impact of the neighbourhood proportion. The partner Councils will work closely with local neighbourhoods to assist in the alignment of infrastructure priorities across West Northamptonshire.</p> <p>The partner Councils intend to outline the amount of income and affordable housing they are currently receiving from development as work towards the submission of documents for examination is progressed.</p>
38	Have you avoided setting your rate/s at the margins of viability across the majority of your area? Do you have evidence to demonstrate this? (para 2.2.2.4)	<p>For some of the West Northamptonshire area the CIL rate has been set at a nominal rate, which is a rate that is a very small percentage of the overall costs of development. This will ensure that development will still take place.</p> <p>CIL Guidance states that the charging authorities should be able to explain their approach clearly. The Viability evidence is the basis for rate setting and is available for consultation for a six week period from June 2014. It is anticipated that this evidence will be further supported by up to date work on s106 contributions and improved economic conditions for submission.</p>
39	As part of your evidence for examination have you clearly set out your approach to the future use of	The partner Councils intend to prepare, as a minimum, the following as part of the evidence for examination, in line with CIL Guidance:

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	Question	Local authority response
	<p>CIL, S106 ( para. 2.5.2) and s 278 ( para. 2.6.5)?</p> <ul style="list-style-type: none"> <li>• Do you need to amend your local plan or supplementary policy to reflect the changes to the authorities' use of s106, the highway authorities use of s278 and introduction of CIL? (para2.6.2.2.)</li> <li>• Have you made sure that your highway authority understand the relationship between CIL and s278? ( para 2.6.5)</li> <li>• Are you proactively working with your developers to make sure they understand the infrastructure you need to support growth and what they may be asked to contribute to and through which route?</li> <li>• Have you produced a draft Regulation 123 list? (para.2.6.2.1.&amp; 2.6.2.2)</li> <li>• Have you stated how your approach and/or policies to s106 will be scaled back or varied by your CIL? (para.2.6.2,2)</li> <li>• Have you set out future use of pooled s106? (para.2.6.3.1)</li> </ul>	<ul style="list-style-type: none"> <li>• Statements for the proposed development of the S106 Supplementary Planning Documents (SPD);</li> <li>• A developed outline of the overall approach via an amended version of the CIL Background Paper;</li> <li>• A detailed outline of consultation undertaken by the partner Councils through the developing Statement of Consultation; and</li> <li>• Draft R123 Lists, which will take account of responses to the DCS consultation.</li> </ul> <p>The partner Councils have worked proactively with Northamptonshire County Council (NCC). Representatives from NCC are part of the two internal working groups at officer and senior management level.</p>