Community Infrastructure Levy (CIL)
*Improving access to services and facilities for all*

Preliminary Draft Charging Schedule Consultation

July 2012

Building a world-class city for everyone
i) This is an early stage in our consultation on the CIL charging schedule, comments received on this document will be used to prepare the Draft Charging Schedule to be published in autumn 2012.

Scope of this consultation

ii) The City Council will need to comply with requirements under Part 11 of the Planning Act 2008, and CIL Regulations 2010 (as amended) when setting the CIL rate. The proposed rate should ‘appear to be reasonable’ given the available evidence, and this evidence is limited to the identification of an infrastructure funding gap and the economic viability of development across Oxford.

iii) The principles behind CIL as well as the governance and operational processes needed to underpin the collection and spending of funds are extremely important, and are currently being considered by Oxford City Council, but they are outside the scope of setting a CIL charging Schedule. They are not a matter for the examination into the CIL Charging Schedule.

iv) At the time of writing, further CIL Regulations were under review to allow for a proportion of CIL to be passed to local bodies under what is known as the ‘meaningful proportion’ and considering whether making affordable housing a matter that can be funded through CIL. The City Council will amend the emerging CIL charging schedule in line with any such changes that may occur through new CIL Regulations once announced by the Government.

How to comment on this document

We are seeking comments on this document for 6 weeks between Fri 13th July 2012 and Fri 24th August 2012.

You may comment on this document using one of the following methods:

- Fill in the online response form at [www.oxford.gov.uk/consultation](http://www.oxford.gov.uk/consultation); or
- Send us a completed form via email or post to the address below, copies are available to download from the website, from the Customer Centre at St Aldate’s Chambers or phone us and we will be happy to post one to you.

Please ensure your comments reach us by the end of Friday 24th August 2012

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Introduction
1  In 2010 the Government introduced the Community Infrastructure Levy (CIL) as the preferred mechanism for securing developers contributions towards infrastructure to support growth in an area. The regulations which introduced CIL also require planning obligations to be scaled back to cover only site-specific obligations and affordable housing (currently under review).

2  This document is a consultation paper issued as the first step in setting the Oxford Community Infrastructure Levy (CIL).

What is CIL?
3  The Community Infrastructure Levy is a tariff in the form of a standard charge on new development, which in Oxford will be set by the City Council to help the funding of infrastructure. It is intended to supplement, or top up, other sources of funding to widen infrastructure delivery.

4  Most development has some impact on infrastructure and should contribute to the cost of providing or improving infrastructure. The principle behind CIL is for those who benefit financially from a planning permission to pay towards the cost of funding the infrastructure needed to support development.

5  Unlike S106, the levy is to provide infrastructure to support the development of an area, not to make individual planning applications acceptable in planning terms.

6  CIL will improve Oxford City Council’s ability to mitigate the cumulative impacts on infrastructure from most developments; unlike the current system of planning obligations which tends to affect mainly larger developments. Being charged on a per square metre basis, CIL charges will be proportional to the scale of the development.

7  In investing on the Infrastructure of the area, CIL is expected to have a positive economic effect on development in the medium to long term.

8  Oxford City Council has complied with the requirements under Part 11 of the Planning Act 2008, and CIL Regulations 2010, when deciding on a CIL rate. We have done this by demonstrating the use of ‘appropriate available evidence to inform the draft charging schedule’ (Section 211 (7A)). It also ‘must aim to strike what it appears to be an appropriate balance between’:

-  the desirability of funding infrastructure from CIL, and

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1 Regulations 2010 on legislation.gov.uk website
Amended Regulations 2011 on legislation.gov.uk website
• ‘the potential effect (taken as a whole) of the imposition of CIL on the economic viability of development across its area’ (Regulation 14)

9 The term ‘Taken as a whole’ indicates that economic viability evidence is used to show that CIL rates can be borne by most development across Oxford.

The charging authority
10 Once CIL is adopted, Oxford City Council will be the charging authority for the purpose of Part 11 of the Planning Act 2008 and CIL Regulations 2010 (as amended by Regulations 2011).

Preliminary Draft Charging Schedule
11 CIL will be charged in pounds sterling (£) at differential rates according to the type of development set out in the schedule below:

The CIL rates

<table>
<thead>
<tr>
<th>Development type</th>
<th>CIL Rate/m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1 Shops</td>
<td>£100</td>
</tr>
<tr>
<td>A1 out of centre shops</td>
<td>£100</td>
</tr>
<tr>
<td>A2 Financial and professional services</td>
<td>£100</td>
</tr>
<tr>
<td>A3 Restaurants and cafés</td>
<td>£100</td>
</tr>
<tr>
<td>A4 Drinking establishments</td>
<td>£100</td>
</tr>
<tr>
<td>A5 Hot food takeaways</td>
<td>£100</td>
</tr>
<tr>
<td>B1 Business</td>
<td>£20</td>
</tr>
<tr>
<td>B2 General industrial</td>
<td>£20</td>
</tr>
<tr>
<td>B8 Storage or distribution</td>
<td>£20</td>
</tr>
<tr>
<td>C1 Hotels</td>
<td>£20</td>
</tr>
<tr>
<td>C2 and C2A Residential institutions and Secure Residential Institution</td>
<td>£20</td>
</tr>
<tr>
<td>C3 Dwellinghouses*</td>
<td>£100</td>
</tr>
<tr>
<td>C4 Houses in multiple occupation</td>
<td>£100</td>
</tr>
<tr>
<td>Student accommodation</td>
<td>£100</td>
</tr>
<tr>
<td>D1 Non-residential institutions</td>
<td>£20</td>
</tr>
<tr>
<td>D2 Assembly and leisure</td>
<td>£20</td>
</tr>
<tr>
<td>All development types unless stated otherwise in this table</td>
<td>£20 standard charge</td>
</tr>
</tbody>
</table>

C3 includes self contained sheltered accommodation
See Annex1 for reference to Use Classes guide

CIL liability
12 Development liable for CIL payment comprises:

• Development that creates 100m² or more of new build floor space measured as Gross Internal Floor Area (GIA).
• Development of less than 100m² new build GIA that results in the creation of one or more dwellings.
• The conversion of a building that is no longer in lawful use.
13 Liability to pay CIL on qualifying developments applies whether development requires planning permission or is enabled through permitted development orders (General Permitted Development Order, Local Development Orders, Enterprise Zones)²

**CIL exemptions**

14 CIL charges will not be levied on:

- Development that creates less than 100m² of new build floor space measured as GIA and does not result in the creation of one or more dwellings.
- Buildings into which people do not normally go, or only go to perform maintenance³.
- Buildings for which planning permission was granted for a limited period.
- Affordable housing, subject to an application by a landowner for CIL relief (CIL regulation 49).
- Development by charities for charitable purposes subject to an application by a charity landowner for CIL relief (CIL regulation 43).

15 A charging authority can choose 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 for charitable purposes (CIL regulation 44).

16 It can also choose to offer exceptional circumstances relief (CIL regulation 55) on the basis of an unacceptable impact on the economic viability of a development, and where the exemption of a charitable institution from liability to pay CIL would constitute State aid (CIL regulation 45) and would otherwise be exempt from liability under regulation 43.

17 In Oxford City discretionary relief is not available under any of Regulations 44, 45 or 55.

**Calculating the chargeable amount**

18 The City Council will calculate the amount of CIL chargeable in accordance with regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended by Regulations 2011). Refer to Annex 2 for an extract of this regulation.

19 The relevant rate (R) for each development type is shown in the Charging Schedule above and the Gross Internal Area (GIA) is measured and calculated in accordance with the Royal Institute of Chartered Surveyors (RICS) Code of Measuring Practice.

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² Regulations 5 and 9 of the Community Infrastructure Levy Regulations 2010
³ Regulation 6 (2) of the Community Infrastructure Levy Regulations 2010
20 The chargeable amount will reflect inflation by being index linked to RICS’ Building Cost Information Service ‘All-in Tender Price Index’.

Netting off existing floor space
21 In certain circumstances, where a development includes the demolition of an existing building, the existing Gross Internal Area (GIA) can be deducted from the proposed floorspace. These deductions in respect of demolition or change of use will only apply where the existing building has been in continuous lawful use\(^4\) for at least six months in the 12 months prior to the development being permitted.

22 Oxford City Council may deem the Gross Internal Area (GIA) of a building to be zero where there is not sufficient information, or no information of sufficient quality, regarding the GIA of a building, or whether it is in lawful use.

Who assumes the CIL liability?
23 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. If no party assumes liability to pay before development commences, land owners will be liable to pay the levy.

When is CIL payment due?
24 The trigger for a CIL payment is the commencement of development.

25 Oxford City Council is not proposing to offer payments in instalments, and the full CIL payment will be due within 60 days from the date development commences. This has been taken into account when testing the economic viability of development across Oxford to inform the Preliminary Draft CIL charge.

Payments in kind
26 In circumstances where the liable party and Oxford City Council agree, payment of the levy may be made by transferring land to Oxford City Council. The agreement cannot form part of a planning obligation and must be entered into before the chargeable development is commenced\(^5\).

How will CIL be collected?
27 Oxford City Council is the collecting authority for the purpose of Part 11 of the Planning Act 2008 and CIL Regulations 2010 (as amended by Regulations 2011).

28 When planning permission is granted, Oxford City Council will issue a liability notice setting out the amount payable, and the payment procedure.

\(^4\) ‘For the purposes of this regulation a building is in use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development’ (Regulation 40(10) of the Community Infrastructure Levy Regulations 2010)

\(^5\) Regulation 73 of the Community Infrastructure Levy Regulations 2010
In the case of development enabled through permitted development orders, the person(s) liable to pay will need to consider whether their proposed development is chargeable, and to issue Oxford City Council a notice of chargeable development.

**How will CIL be spent?**

30 CIL revenue will be spent on the infrastructure needed to support development in Oxford. Once CIL is adopted, Oxford City Council will publish on its website a list of infrastructure projects or types of infrastructure to be wholly or partially funded by CIL. This list will be known as the Regulation 123 list.

31 Oxford City Council will publish annual reports showing, for each financial year:

- How much has been collected in CIL;
- How much has been spent;
- The infrastructure on which it has been spent;
- Any amount used to repay borrowed money;
- Amount of CIL retained at the end of the reported year.

32 CIL Regulations currently under review will allow for a proportion of CIL to be passed to Parish Councils and Neighbourhoods and considering whether making affordable housing a matter that can be funded through CIL. The City Council will amend the emerging CIL charging schedule in line with any such changes that may occur through new CIL Regulations once announced by the Government.

**Administration fee**

33 Oxford City Council will use 5% of the CIL revenue to fund the administration costs of the Levy.

**Next steps**

34 The Community Infrastructure Levy Charging Schedule will be prepared in line with the following broad timetable:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultation on Preliminary Draft Charging Schedule</td>
<td>13th July 2012 - 24th August 2012</td>
</tr>
<tr>
<td>Preparation of Draft Charging Schedule</td>
<td>Aug-October 2012</td>
</tr>
<tr>
<td>Consultation on Draft Charging Schedule</td>
<td>October 2012</td>
</tr>
<tr>
<td>Submission to Secretary of State</td>
<td>November – December 2012</td>
</tr>
<tr>
<td>Examination Hearing sessions</td>
<td>February – March 2013</td>
</tr>
<tr>
<td>Inspector’s report</td>
<td>April-May 2013</td>
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<tr>
<td>Adoption</td>
<td>May 2013</td>
</tr>
</tbody>
</table>
Annex 1- Guide to Use class Order definitions

The following list is based on the Government’s guide to Use Classes as shown in their planning and building regulations online resource ‘The Planning Portal’. It is not a definitive source of legal information.

- **A1 Shops** - Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices (but not sorting offices), pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafes.

- **A2 Financial and professional services** - Financial services such as banks and building societies, professional services (other than health and medical services) including estate and employment agencies and betting offices.

- **A3 Restaurants and cafés** - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafes.

- **A4 Drinking establishments** - Public houses, wine bars or other drinking establishments (but not night clubs).

- **A5 Hot food takeaways** - For the sale of hot food for consumption off the premises.

- **B1 Business** - Offices (other than those that fall within A2), research and development of products and processes, light industry appropriate in a residential area.

- **B2 General industrial** - Use for industrial process other than one falling within class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste).

- **B8 Storage or distribution** - This class includes open air storage.

- **C1 Hotels** - Hotels, boarding and guest houses where no significant element of care is provided (excludes hostels).

- **C2 Residential institutions** - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.

- **C2A Secure Residential Institution** - Use for a provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks.

- **C3 Dwellinghouses** - this class is formed of 3 parts:
  
  - C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
  
  - C3(b): up to six people living together as a single household and
receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.

- C3(c) allows for groups of people, (up to six), living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.

- **C4 Houses in multiple occupation** - small shared dwelling houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

- **D1 Non-residential institutions** - Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law court. Non residential education and training centres.

- **D2 Assembly and leisure** - Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used).

- **Sui Generis** - Certain uses do not fall within any use class and are considered 'sui generis'. Such uses include: theatres, houses in multiple occupation, hostels providing no significant element of care, scrap yards. Petrol filling stations and shops selling and/or displaying motor vehicles. Retail warehouse clubs, nightclubs, launderettes, taxi businesses, amusement centres and casinos.

PART 5
CHARGEABLE AMOUNT

Calculation of chargeable amount

40.—(1) The collecting authority must calculate the amount of CIL payable (“chargeable amount”) in accordance with this regulation.
(2) The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.
(3) But where that amount is less than £50 the chargeable amount is deemed to be zero.
(4) The relevant rates are the rates at which CIL is chargeable in respect of the chargeable development taken from the charging schedules which are in effect—
(a) at the time planning permission first permits the chargeable development; and
(b) in the area in which the chargeable development will be situated.
(5) The amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula—

$$\frac{R \times A \times I_P}{I_C}$$

where—
A = the deemed net area chargeable at rate R;
I_P = the index figure for the year in which planning permission was granted; and
I_C = the index figure for the year in which the charging schedule containing rate R took effect.

(6) The value of A in paragraph (5) must be calculated by applying the following formula—

$$\frac{C_R \times (C - E)}{C}$$

where—
C_R = the gross internal area of the part of the chargeable development chargeable at rate R;
C = the gross internal area of the chargeable development; and
E = an amount equal to the aggregate of the gross internal areas of all buildings which—
(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
(b) are to be demolished before completion of the chargeable development.
(7) The index referred to in paragraph (5) is the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors(a); and the figure for a given year is the figure for 1st November of the preceding year.

(8) But in the event that the All-in Tender Price Index ceases to be published, the index referred to in paragraph (5) is the retail prices index; and the figure for a given year is the figure for November of the preceding year.
(9) Where the collecting authority does not have sufficient information, or information of
sufficient quality, to enable it to establish—
(a) the gross internal area of a building situated on the relevant land; or
(b) whether a building situated on the relevant land is in lawful use,
the collecting authority may deem the gross internal area of the building to be zero.
(10) For the purposes of this regulation a building is in use if a part of that building has been in
use for a continuous period of at least six months within the period of 12 months ending on the
day planning permission first permits the chargeable development.
(11) In this regulation “building” does not include—
(a) a building into which people do not normally go;
(b) a building into which people go only intermittently for the purpose of maintaining or
inspecting machinery; or
(c) a building for which planning permission was granted for a limited period.
Annex 3- How to measure Gross Internal Area
Oxford City Council will use the Royal Institution of Chartered Surveyors (RICS)’s Code of Measuring Practice to measure or check the Gross Internal Area (GIA) of a development and calculate or confirm its relevant CIL rate. The guide below is based on RICS’ Code of Measuring Practice (6th edition, with amendments), the full Code of Measuring Practice is available in RICS website at [http://www.rics.org](http://www.rics.org)

GIA is the area of a building measured to the internal face of the perimeter walls at each floor level.

Including:
- Areas occupied by internal walls and partitions
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like
- Atria and entrance halls, with clear height above, measured at base level only
- Internal open-sided balconies, walkways, and the like
- Structural, raked or stepped floors are property to be treated as a level floor measured horizontally
- Horizontal floors, with permanent access, below structural, raked or stepped floors
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)
- Mezzanine floor areas with permanent access
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners’ rooms, and the like
- Projection rooms
- Voids over stairwells and lift shafts on upper floors
- Loading bays
- Areas with a headroom of less than 1.5m*
- Pavement vaults
- Garages
- Conservatories

Excluding:
- Perimeter wall thicknesses and external projections
- External open-sided balconies, covered ways and fire escapes
- Canopies
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores, and the like in residential

* GIA is the basis of measurement in England and Wales for the rating of industrial buildings, warehouses, retail warehouses, department stores, variety stores, food superstores and many specialist classes valued by reference to building cost (areas with a headroom of less than 1.5m being excluded except under stairs) areas with a headroom of less than 1.5m being excluded except under stairs