

MID DEVON DISTRICT COUNCIL

**Regulation 19(1)(b)
Consultation Statement**

Community Infrastructure Levy

Draft Charging Schedule

March 2017

Background

Unimplemented Charging Schedule

On 28th May 2014 the Council's Cabinet decided not to implement the adopted Community Infrastructure Levy. A draft charging schedule had been subject to Examination during November 2012 with the Council subsequently agreeing to adopt the levy, as modified by the Inspector, in February 2014. The decision not to implement that levy reflected the fact that the restriction on the pooling of Section 106 contributions had been deferred by the Government until April 2015, and additionally the reduced level of funding which CIL was likely to raise to pay for the necessary infrastructure on strategic-sized sites.

Consultation .

Consultation on a new preliminary draft charging schedule along with supporting evidence took place between 13th June and 11th July 2014. Twenty two representations were received. Details are provided at Appendix One.

Having considered those representations consultation on the Draft Charging Schedule took place between 9th February and 27th April 2015. Eighteen representations were received. Following consideration of the responses, and a significant delay in submitting the proposals for Examination an updated viability assessment a further consultation took place between the 3rd January 2017 and 14th February 2017. Eleven Representations were received. The next step towards adoption of the Council's CIL proposals is to submit the proposals for Examination by an independent planning inspector appointed by the Secretary of State.

Regulation 19 in the Community Infrastructure Levy Regulations 2010 (as amended) requires a local planning authority submit a statement to the examiner setting out the number of representations made in response to the consultation on the CIL Draft Charging Schedule and a summary of the main issues raised by those representations. A summary of the representations is attached at Appendix Two. Two additions to the definitions in the charging schedule are set out as minor modifications. A viability update and review dated August 2016 is also attached which has considered changes in construction costs, market conditions and planning policy impacts since the previous viability reports in 2014. This updated viability evidence has not indicated a need to modify the charging schedule.

This document complies with the requirements of Regulation 19, it provides the draft charging schedule, a statement setting out the number of representations made, a summary of the main issues raised and the councils response. Copies of the representations will be made available to the independent inspector and for public inspection. The Council have also provided a statement of proposed minor modifications since the schedule was published and the reasons for those modifications.

Copies of the evidence considered by the council is also made available.

APPENDIX ONE

Community Infrastructure Levy (CIL) “Preliminary Draft Charging Schedule” consultation - Summary of Representations 2014

Mid Devon District Council undertook a consultation on the Community Infrastructure Levy Preliminary Draft Charging Schedule from Friday 13th June – Friday 11th July 2014. Twenty two responses were received, of which two offered no comment. This document summarises the responses.

Representations made by

Rep 1 Mr P Pugsley	Rep 2 Mary Seaton
Rep 3 Mr W Thomas	Rep 4 ASDA Stores Ltd
Rep 5 Cullompton Town Council	Rep 6 Gladman Developments
Rep 7 Willand Parish Council	Rep 8 Highways Agency
Rep 9 Morchard Bishop Parish Council	Rep 10 Network Rail
Rep 11 The Theatres Trust	Rep 12 Waddeton Park Ltd
Rep 13 Tiverton Town Council	Rep 14 PM Asset Management
Rep 15 Thorverton Parish Council	Rep 16 Mr G Wheeler
Rep 17 South West HARP Planning Consortium	Rep 18 Devon County Council
Rep 19 McCarthy & Stone and Churchill Retirement Ltd	Rep 20 Halberton Parish Council
Rep 21 Devon & Cornwall Police	Rep 22 Mr D Randell

Summary.

Residential CIL charge

- There was both support and opposition to the proposed reduction in affordable housing and the removal of the renewable energy policy. The reduction in affordable housing was questioned on the basis that it would not accord with the NPPF’s requirement to objectively assess housing need. Removal of the renewable energy policy was supported on the basis that such requirements were being incorporated into building regulations.
- The proposal to set CIL at such a low level will be damaging to the level of infrastructure that can be delivered. The logic of setting CIL so low is difficult to understand given that the Council state the use of Section 106 agreements can provide a higher level of income.
- A charge of £80-£100 per square metre will make smaller developments less viable, as it is double the rate previously adopted
- The inclusion of Extra Care schemes within the C3 use class was queried stating the comparative differences between general market housing and this

specialist type in terms of their structure and funding are substantial. The significant floorspace given to care and communal facilities reduces the saleable area, thereby differentiating them from general market housing. Further testing of the viability of such schemes within the C3 class was requested in order to ensure they were not rendered unviable.

- Single dwellings constructed by a private individual on a 'self-build' basis (not by a building/developer for sale on the open market) should be exempt given the substantial mortgage required to construct the property. Current lending rules make the securing of self-build finance difficult, and CIL would be seen as an additional cost, reducing the available finance for the build. Single dwellings with existing detailed planning permission, or those with a 'deemed start' should also be exempt
- It should be made clear that the exemptions for extensions, conversions and self-builds should extend to rebuilding

Retail CIL charge

- If the retail charges proposed are adopted, then all other forms of development will receive a significant subsidy at the expense of retail schemes. There will be a corresponding disincentive (and market distortion) to investment in this sector of the local economy. This could undermine the retail function of local and town centres, detracting from their viability and vitality as large scale retail developers would be discouraged by the imposition of CIL.
- The proposals to differentiate between comparison and convenience retail fall outside of the scope of the rate differentials permitted in the CIL regulations. The Use Classes Order should form the starting point for the definition of 'use'.
- There are practical difficulties in assessing the difference between comparison and convenience retailing, as most supermarkets and superstores contain a mix of both. The proposed charging rates will potentially result in two different CIL rates being charged for floorspaces within the same building or development.
- The differential rates for retail breaches EU state aid rules, giving economic advantage to certain retailers dependent on the size of their shop or type of business. If a flat rate is not adopted, an explanation of why should be provided to the Inspector at the Inquiry

Strategic Sites CIL Exemption

- Several respondents offered support for the zero CIL rate proposed for strategic sites. It was noted that this will require close monitoring of s106 agreements to prevent pooling limitations becoming an issue.
- Objections were raised to the proposed CIL exemptions as it would not result in parish/town councils receiving 15%/25%. This approach deprives

communities the opportunity to set priorities in terms of local infrastructure. Some form of payment should still be supplied to towns/parishes if the Section 106 approach is retained. Town/parish councils should be involved in any Section 106 negotiations if this approach is pursued. The zero rate was also considered to be over-generous, instead a small charge should be levied to raise much-needed funds

- With significant development planned off the M5 junction 27 and 28, and CIL being unlikely to adequately fund the necessary transport improvements, the Highways Agency support the approach to continue to negotiate infrastructure requirements through Section 106 agreements.
- The boundary of the NW Cullompton site, proposed for CIL exemption as a strategic allocation, should be expanded to include the Growen Farm site if it is allocated
- Strategic scale windfall sites should also be CIL exempt, with an appropriate threshold to be identified by the Viability Assessment.

Other CIL charge comments

- Support expressed for nil charge for 'all other development' which would include theatres, as they often do not generate sufficient income streams to cover their costs
- Smaller scale use types which are not proposed to be charged CIL, will place a burden on local infrastructure. However, the Local Authority has a duty to ensure that development is not taking place without the necessary infrastructure. Consideration should be given to charging CIL on these schemes subject to viability assessment
- The use of negative or 'Grampian' planning conditions to deliver improvements to the Strategic Road Network is compatible with CIL. However, there must be a reasonable chance of the condition being met within the timescale of the planning consent, placing further emphasis on the need to ensure the sufficiency of any CIL contribution
- Differential rates must not be set in a way that constitutes notifiable state aid under EU regulations. The Council must proceed with caution to ensure they do not fall foul of the strict rules regarding differential rates. Differential rates should only be based on economic viability considerations alone, rather than planning or public policy related choices. Such proposals should not impact disproportionately on a particular sector or small group of developers. Up to date housing market intelligence should form part of the evidence base when proposing differential rates.
- The Council should consider introducing relief from CIL, which is permitted by regulation 55, to avoid rendering sites with specific and exceptional costs burdens unviable. Such an approach would ensure that there was the flexibility to allow strategic or desirable, but unprofitable, development to come forward.

- A flat levy rate should be adopted across all development. This should be achieved by dividing the total cost of deliverable infrastructure by the total expected development floorspace. Development not currently identified as viable could make use of Exceptional Circumstances Relief.
- Consideration should be given to the provision of infrastructure as payment in kind in lieu of CIL.
- Concern that with the ending of Public Open Space and Air Quality contributions, Cullompton will receive a significant reduction in infrastructure investment.

Viability Evidence

- CIL should be based on robust evidence that demonstrates that the CIL rates will not put at risk overall development of the area. The assumptions used to underlie the standard residual valuation model should be realistic and accurate
- Clarification and justification of some viability assumptions used in the Council's Viability Assessment in relation to sheltered / retirement housing schemes. Specifically raised queries in relation to unit sizes, size of development, non-saleable floorspace and sales rate.
- The retail assumptions in the Viability Assessment make inadequate allowance for the true cost of residual planning for a commercial development. A wide variety of site specific infrastructure costs would need to be funded in addition to CIL. The evidence only gives an allowance of £126k for site preparation and S106 costs combined, which is a low for a 2,500m² retail supermarket. Examples were cited of £870k and £1.3m as a comparison with the £126k.
- Further viability evidence was requested to support the differential retail rates proposed and the 280 metre size threshold
- More explanation required regarding the data and assumptions used to calculate the residential s106, setting out what planning obligations this is likely to fund.
- The assessment should make an allowance for greater economic recovery in terms of development value, being appropriate over time
- The study does not acknowledge that the economics of conversion schemes are very different to those of new build scheme. It is difficult to see how the Council can assess whether the imposition of CIL will put conversion schemes (particularly those buildings which have been vacant for a long period) at risk without having considered their viability
- A number of comments were also made on the format/labouring used throughout the viability evidence

Instalments Policy

- Support was expressed by a number of respondents on the inclusion of an instalments policy to aid the cash flow of a development.
- Some stated that the instalments policy as proposed will have a negative impact on cash flow. In particular, the payment timetable for schemes of more than 200 dwellings was considered harsh. A number of suggestions were put forward spreading the instalments repayments over a period up to approximately 2 years.
- The instalments policy should take account of major developments being delivered in phases, and should ensure that developers are not disadvantaged by submitting an application in full, rather than in outline.

Infrastructure Plan/Reg 123 list

- Support expressed for the inclusion of the draft Infrastructure Plan and draft Regulation 123 list.
- The Council should demonstrate the infrastructure need, setting out how much CIL is likely to be received dependent on the various charging scenarios, and identifying the funding gap. Request that all site specific physical and social infrastructure associated with the £0 CIL rate be listed as being funded by Section 106 contributions and not CIL.
- More clarity requested regarding the pooling of Section 106 payments, given the restriction on pooling being introduced in 2015. Queried whether five or more Section 106 contributions have been made towards critical infrastructure items not listed on the Regulation 123 list since 6th April 2010
- In calculating infrastructure requirements a distinction should be made between new and existing demands, as less infrastructure provision is required for existing compared with new residents in the district
- Cumulative planning consents on various sites can have a large impact on the Strategic Road Network. Contributions should be pooled to enable the funding of future infrastructure improvements, such as junction improvements, to mitigate impact.
- The improvements to M5 junctions 27 and 28 should also state that funding will be secured by developer contributions, in addition funding already secured
- Infrastructure for 100% affordable housing rural exception sites may need to be excluded from the Regulation 123 list given that such schemes will be CIL exempt and therefore not contribute to the delivery of local infrastructure
- Strategic infrastructure may require the financial support of local parishes – this should be stated in the Infrastructure Plan
- Education in the Reg 123 list should be amended to include 'early years' (2-4 provision).
- School transport should be added to the Reg 123 list. 'Transport improvements' should be amended to exclude site specific transport improvements.

- Community care provision should be amended to exclude those provided as affordable housing
- Aspiration to reopen Cullompton Railway Station noted by Network Rail and guidance document provided to aid local parties develop proposals
- Devon & Cornwall Police provided cost details of a new Criminal Justice Centre, an infrastructure item which should be added to the Infrastructure Plan in order to continue to meet local policing demands as a result in the growth associated with new development
- The upgrade to the Waste Water Treatment works should be brought forward from 2020-25 to 2014 or 2015 as Collipriest Lane in Tiverton is already overloaded with traffic. The upgrades to the main sewer should be carried out sooner and before any further development is proposed in the town.

**Community Infrastructure Levy (CIL) “Draft Charging Schedule” - consultation
Summary of Representations 2015**

1050	Devonshire Homes Ltd
1581	South West HARP (Housing Association Registered Providers) Planning Consortium
3579	Ashley Wilce
3775	Gleeson Strategic Land c/o Bell Cornwell LLP
46	Newton St Cyres Parish Council
3649	CLA - Country Land & Business Association
1534	Devon Countryside Access Forum
3700	R Gould
3588	Cllr Mrs N Woollatt
5762	Devon and Cornwall Police c/o WYG
3943	Mrs Hammond
3678	Pegasus Planning
3594	Collipriest Lane Action Group
5236	Mr S Ashworth
5312	Gladman Developments
1170	Historic England
2075	Ms Hicks
169	Sport England (South West)

Summary

Community Infrastructure Levy (CIL) Consultation – Summary of Representations

Policy/para	Summary of main issues raised	Comments made by (customer ID in brackets)	Response
Residential CIL charge			
CIL	The infrastructure costs associated with strategic sites is significant and the scale of onsite delivery renders the use of a Section 106 Legal Agreement more appropriate to secure the associated infrastructure. We consider appropriate phasing and infrastructure delivery will overcome short-term viability issues to ensure that the site (East Cullompton) is deliverable over the longer term. The sites delivery should be managed through a Section 106 Agreement rather than CIL and support the zero rate for strategic sites.	Pegasus Planning (3678)	This comment is noted and supports the provisions for the Strategic Sites as proposed.
CIL	The evidence contained with the Viability Assessment (2014) supports the Council's Draft Charging Schedule and that the CIL rate for strategic sites should be set at a nil-rate.	Pegasus Planning (3678)	The support for the charging schedule as published is noted.
CIL	<p>There is concern that there is an insufficient provision of affordable housing being delivered over the proposed plan period. It is suggested that the Local Plan should be adapted to reflect this and that either a higher affordable housing target or an increased housing target is required in the Local Plan.</p> <p>As it stands we support for the CIL Charging Schedule particularly through the use of affordable housing thresholds as a way of differentiating between CIL rates and recognising that extra care can fall within the C2 Use Class.</p>	South West HARP Planning Consortium (1581)	Representation has some contradictions. Supports CIL charge as things stand but suggest a higher housing or affordable housing target ought to be promoted. The overall housing target is proposed to be increased to 7,860, which would yield 110 affordable dwellings per year at 28%. The SHMA forecasts a need of 124 affordable dwellings per year; the local plan has been changed to reflect this. It is highly likely that the Council and its housing association partners will be able to provide at least 20 additional affordable dwellings per year through non-planning actions such as investment from the HCA, exceptions sites and delivery on council owned land. Analysis by the Joseph Rowntree Foundation indicates that s106 did not provide 100% of the affordable housing completions in any of the last 10 years The local plan sets targets of 28% in the urban areas on sites of 11 houses or more and 30% in the rural areas on sites of 6 or more. The affordable housing targets are based on viability

			<p>evidence. Increasing the Affordable Housing target would make some sites unviable and so reduce the delivery of affordable homes overall.</p> <p>As things stand the representation expresses support for the CIL charging Schedule while promoting an increased housing target overall.</p>
CIL	<p>The £100 per sq. m rate is counter intuitive with respect to NPPG guidance in that planning obligations are changed to facilitate and encourage greater delivery of housing from small scale developers.</p>	<p>Devonshire Homes Ltd (1050)</p>	<p>All new developments are required to contribute to the provision of necessary infrastructure in the locality. Without the provision of such infrastructure new development would not be able to take place. Contributions to infrastructure are normally made via Section 106 Obligations or by a Community Infrastructure Levy. Objector refers to Paragraph 12 of NPPG section on planning obligations in their rep - this no longer exists. Paragraph 031 Reference ID: 23b-031-20160519 now states, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development.</p>
CIL	<p>Differential rates should not be used as a means to deliver policy objectives. The proposed CIL rate in Mid Devon seeks to recover under different means; a zero sum game that actively acts against what the NPPG and the Government seek.</p>	<p>Devonshire Homes Ltd (1050)</p>	<p>The differential rates are based on the variation in residential land values identified by Dixon Searle in their viability report. While land values can vary on a site to site basis, Figure 10, page 67 of the Dixon Searle report clearly shows the general range of residential land values and patterns. Generally residential land values are likely to be higher in the areas outside Tiverton, Crediton and Cullompton. The differential rates are therefore justified between urban and rural areas based on the viability evidence provided. The Dixon Searle report states at Paragraph 3.2.6 “</p> <p><i>The higher values and typical scheme types coming forward away from Tiverton, Cullompton and Crediton are likely to drive improved viability in the rural areas / smaller settlements and our view is that this could support some - - - - - newly introduced CIL differentiation for all areas outside these 3 main settlements;”</i></p> <p>The differential in land values between urban and rural areas</p>

			has been largely maintained in the latest viability assessment (August 16)
CIL	The rate of £40 per sq. m for dwellings incorporated in Zone 2 (Dwellings in Tiverton, Cullompton and Crediton) is supported; however it was felt that the extent of this rate required further clarification.	Bell Cornwell LLP (3775)	<p>CHANGE</p> <p>It is recognised that Zone 2 (iii) Tiverton, Cullompton and Crediton could be more clearly defined. Adding some additional text to the charging schedule, to identify the areas of Crediton, Tiverton and Cullompton as identified for Zone 2 (iii) should resolve the issue.</p> <p>SUGGESTED CHANGE – under Definitions of Charging Zones in the charging schedule, add, “Zone 2 (iii) is land within the defined settlement limits of Cullompton, Tiverton and Crediton but excludes land in Zone 1.”</p>
CIL	The rate for some forms of rural housing is inappropriate which could potentially have the long term effect of constraining land based development and farm based diversification development opportunities with consequential impacts on the long term sustainability of the rural economy and jobs, rural communities and ultimately on the goods and services, both environmental and food related. CIL charging should not apply to these dwellings, which will have been justified as a requirement for the specific business. MDDC has failed to provide evidence to support this charge.	CLA – County Land & Business Association (3649)	Those developing agricultural workers dwellings will generally already own the land, which significantly aids viability. Any reduced sales price when they are determined no longer required on the particular holding reflects the reduced demand because of the occupancy restriction (because only a reduced pool of people are eligible to buy them) rather than being due to issues of affordability.
CIL	Whilst there is support for the reconsideration of the appropriate charge associated with CIL Several representations state that the CIL charge is set too low at a time when infrastructure improvement is needed more than new homes. It was felt that transport infrastructure needs significant improvement before any attempt to increase the number of homes in the town of Cullompton and that poor and inadequate infrastructure is a key issue for the local population.	Pegasus Planning (3678); Individual 3579; 3588	<p>The CIL levy set is based on viability evidence taking account of the financial contribution development schemes can afford to contribute towards the levy and remain viable.</p> <p>The viability of schemes across the district varies whether they are urban or rural based. Town schemes show lower levels of viability and hence contribute lower levels of CIL.</p> <p>While the overall need for infrastructure is recognised and identified in the Infrastructure Plan, the NPPF requires us to consider viability and because development has to fund infrastructure that’s why it’s provided in step with development and it is not always possible to provide the infrastructure in advance of development proposals. It may be necessary to</p>

			<p>provide the infrastructure in step with or from a consortium of developments.</p> <p>The Strategic Sites seek to provide the necessary infrastructure in step with the developments proposed as set out in the local plan policies and where adopted masterplans.</p>
Strategic Sites CIL Exemption			
CIL	<p>i - It was felt that the use of a disaggregated approach towards the Charging Schedule is inappropriate and that it should be abandoned and replaced with a single, District-wide charge.</p> <p>ii - Clarity is required with regard to whether and what the requirements for the strategic allocations will be ensuring land assembly and delivery in a comprehensive way.</p> <p>iii - The zero rates in the urban extensions is not justified in the absence of any certainty that the necessary site and strategic infrastructure will be provided.</p>	<p>Bell Cornwell LLP (3775) Individual (5236)</p>	<p>i - The differential rates are based on the variation in residential land values identified by Dixon Searle in their viability report. While land values can vary on a site to site basis, Figure 10, page 67 of the Dixon Searle report clearly shows the general range of residential land values and patterns. Generally residential land values are likely to be higher in the areas outside Tiverton, Crediton and Cullompton. The differential rates are therefore justified between urban and rural areas based on the viability evidence provided. The Dixon Searle report states at Paragraph 3.2.6 “</p> <p><i>The higher values and typical scheme types coming forward away from Tiverton, Cullompton and Crediton are likely to drive improved viability in the rural areas / smaller settlements and our view is that this could support some - - - - - newly introduced CIL differentiation for all areas outside these 3 main settlements;”</i></p> <p>The differential in land values between urban and rural areas has been largely maintained in the latest viability assessment (August 16)</p> <p>ii - Each of the three Strategic areas are subject to prior application Masterplanning, involving all statutory consultees and the local community. Those Masterplans (will or have) clearly set out the infrastructure requirements and the delivery timetable of the strategic sites.</p> <p>Policies in the Local Plan Review set out the principle infrastructure and policy requirements including a public</p>

			<p>masterplanning exercise for all three strategic sites which set out the principle infrastructure and policy requirements. Two of the Masterplans have already been prepared. Tiverton Eastern Area Extension Masterplan is approved and adopted.</p> <p>Cullompton North West Extension Masterplan approved and adopted.</p> <p>On the third strategic site Cullompton East, Masterplanning has not commenced. However policies CU7, CU8, CU9, CU10, CU1, and CU12 set out the principle infrastructure and policy requirements.</p> <p>The rate for the Strategic Sites is set at zero as infrastructure provision and/or financial contributions will be provided/collected by Section 106 Planning Obligations. The Tiverton Eastern Extension Masterplan and Cullompton North West Masterplan, show infrastructure provision on these strategic sites is best provided by 106 Obligations.</p>
Other CIL charge comments			
CIL	<p>Whilst the CIL document is a 'living document' that should be kept under review, it was felt that there is a need for a more formal mechanism for review to be put into place.</p>	Bell Cornwell LLP (3775)	<p>An annual index-linked adjustment to rates is set out in CIL Regulation 40 (as amended). This will involve the use of the 'All-in Tender Price Index', published by the Building Cost Information Service (BCIS). The adjustment to charge rates will be applied from 1st January each year, using the index figure published by the BCIS for the previous 1st November. The Council will have a duty to keep its adopted levy rates under review to ensure that they remain appropriate over time. The Council will need to consider both the planning policy context within which the levy operates as well as wider economic and market-related changes over time, which may indicate the need to adjust rates to ensure that they do not adversely impact on the overall viability of development across the District. If evidence emerges to indicate that the adopted charge rates are no longer appropriate, the Council will commence the process of</p>

			a formal review of the Charging Schedule. This will involve the same evidence requirements, consultation opportunities and examination that were required to introduce the initial Charging Schedule.
CIL	To follow the detailed logic of the Local Plan Review it was felt that the new CIL Charging formula is not likely to very quickly fulfil the desirable aims in expanding community aspirations in infrastructure, leisure and sport.	Individual (3700)	It is recognised that the modest CIL rates imposed on development in Mid Devon will take time to make any significant contribution to the infrastructure requirements outside of the provisions identified in the strategic sites.
CIL	The finances secured through CIL should benefit the site from which it originally came from.	Individual (3943)	CIL can be spent District Wide and is not site specific this accords with the provisions set out in National Policy and CIL Guidance. Some or more than was collected from the site may be spent in the locality. 15% or CIL funds collected (or 25% where there is an adopted Neighbourhood Plan, Neighbourhood Development Order or Right to Build Order) is paid directly to the Parish or Town Council. Explanatory Notes about CIL will be provided to accompany the charging schedule.
CIL	The Local Plan should be in place prior to the CIL being adopted. The Council need to have a clear understanding of the level of residential development to be brought forward in the plan period when preparing the charging schedule as this will directly influence the scale of CIL that will be generated.	Gladman Developments (5312)	Infrastructure needs are drawn from the infrastructure assessment that was undertaken as part of preparing the Local Plan. This is because the plan identifies the scale and type of infrastructure needed to deliver the area's local development and growth needs (paragraphs 162 and 177 of NPPF). In determining the size of its infrastructure funding gap, the charging authority considers known and expected infrastructure costs and the other possible sources of funding to meet those costs. This process helps the charging authority to identify a levy funding target. The Government recognises that there will be uncertainty in pinpointing other infrastructure funding sources, particularly beyond the short-term. Charging authorities should focus on providing evidence of an aggregate funding gap that demonstrates the need to put in place the levy. The Community Infrastructure Levy examination should not re-open infrastructure planning issues that have already been

			considered in putting in place a sound relevant Plan however in practice joint Local Plan and CIL examinations is common practice.
CIL	The Council should consider how the CIL might fund measures relating to the historic environment in support of infrastructure to deliver sustainable development and sustainable communities.	Historic England (1170)	The Council has a number of Conservation areas at risk. The Council has therefore amended the Regulation 123 list to include “Public realm improvements and enhancements”.
CIL	The Council should consider raising the CIL threshold for small developments, it was felt that the basic rate of 15% is not enough when the levy is used to produce Neighbourhood Plans, new infrastructure in play areas, parks and green spaces, cultural and sports facilities, some schools, police stations, district heating schemes and other community safety facilities.	Individual (2075)	The provision of 15% (25% where there is a Neighbourhood Plan) of CIL being provided to Town and Parish Councils is set in National Legislation. The 15% is the statutory provision which must be given to Town or Parishes Councils it does not prevent local communities for applying for additional CIL funding for specific projects that fall with the provisions of the 123 list. The CIL levy itself is based on viability evidence of development sites. Raising the CIL levy is not supported by the viability evidence.
CIL	In general, there is support for the use of planning obligations (s106)/community infrastructure levy (CIL) as a way of securing the provision for sporting facilities and their maintenance. It may be more effective if the contributions are sought through planning obligations as opposed to CIL unless there is a specific project identified. If such a project is deliverable, then it may be more appropriate to fund through CIL and consequently should be on the Reg 123 list.	Sport England (169)	The policy provisions for the strategic sites requires provision of Children’s play areas and sports pitches. Amenity open space, parks, sports and recreation grounds. A suitable site for relocating Crediton Rugby Club is also required by the plan. All these are required to be provided by the developments. In addition the CIL 123 list makes provision for Leisure Facilities (sports facilities defined as publicly owned leisure centres, gyms and swimming pools.
CIL	The Council has produced a CIL Charging Schedule that is urban focused and the high rural levy will put at risk new developments in rural areas Viability assessments must be underpinned by robust evidence that takes account of the differences in economic viability between urban and rural developments. The Council should consider the use of different rates for rural areas if the charging schedule is not to prevent critically needed rural developments from coming forward.	CLA – County Land & Business Association (3649)	The differential rates are based on the variation in residential land values identified by Dixon Searle in their viability report. While land value can vary on a site to site basis, Figure 10, page 67 of the Dixon Searle report clearly shows the general range of residential land values and patterns. It is clear that generally residential land values are likely to be higher in the areas outside Tiverton, Crediton and Cullompton. The differential rates are therefore justified between urban and rural areas based on the viability evidence provided when considered overall. The Dixon Searle report states at Paragraph 3.2.6 “ <i>The higher values and typical scheme types coming forward</i>

			<i>away from Tiverton, Cullompton and Crediton are likely to drive improved viability in the rural areas / smaller settlements and our view is that this could support some - - - - - differentiation for all areas outside these 3 main settlements; “</i>
Instalments Policy			
CIL	Several representations stated The Council have not produced an Instalments or Exemptions Policy or a policy on the introduction of relief from CIL to comment on despite stating that they will ‘consider the introduction of relief when it considers the adoption of CIL after examination’ and that they will prepare an instalments policy before adoption.	South West HARP Planning Consortium (1581); Bell Cornwell LLP (3775); Gladman Developments (5312)	The Council will provide an Instalment. There is no requirement to have a policy on Exceptional Circumstances Relief. The power to offer relief can be activated/deactivated at any point AFTER a charging schedule is approved. The Council will keep under review the basis for having a policy, but do not intend to produce one at this stage.
CIL	There is a need to review CIL tariffs once they have been set. The economic climate will inevitably change over the course of the plan period and as such the levy rates should be set to maintain development viability.	Gladman Developments (5312)	CIL rates will be adjusted annually to take account of inflationary changes. In addition to annual indexation, the Council have a duty to keep its adopted levy rates appropriate over time. The planning policy context within which the levy operates as well as wider economic and market-related changes over time may indicate the need to adjust rates. If evidence emerges to indicate that the adopted charge rates are no longer appropriate, the Council will commence the process of a formal review of the Charging Schedule. This will involve the same evidence requirements, consultation opportunities and examination that are required to introduce the initial Charging Schedule.
CIL	There is as yet no instalment policy. Larger developments with significant upfront costs can be significantly affected by the front loading payment of CIL. Levy requirements can be critical to viability and an Instalments Policy should be prepared by the Council.	Bell Cornwell LLP (3775)	An instalment policy will be provided by the Council at submission.
Infrastructure Plan/Reg 123 list			
CIL	Greater clarity is needed over what is meant by ‘other infrastructure’ so that uncertainty does not stunt economic growth as encouraged by the NPPF.	Bell Cornwell LLP (3775)	Examples of “other Infrastructure” are listed in the policy document relating to 106 obligations. It is not a comprehensive list and it is not possible to compile such a list. Such additional infrastructure requirements will be site specific.
CIL	It is inappropriate to set the levy based on a partial understanding of the infrastructure costs and particularly	Gladman Developments (5312)	Infrastructure needs are drawn from the infrastructure assessment that was undertaken as part of preparing the Local

	where the total money needed for infrastructure is unknown.		Plan. This is because the plan identifies the scale and type of infrastructure needed to deliver the area's local development and growth needs (paragraphs 162 and 177 of NPPF). In determining the size of its infrastructure funding gap, the charging authority consider known and expected infrastructure costs and the other possible sources of funding to meet those costs. This process will help the charging authority to identify a levy funding target. The Government recognises that there will be uncertainty in pinpointing other infrastructure funding sources, particularly beyond the short-term. Charging authorities should focus on providing evidence of an aggregate funding gap that demonstrates the need to put in place the levy. The Community Infrastructure Levy examination should not re-open infrastructure planning issues that have already been considered in putting in place a sound relevant Plan.
CIL	The Council should consider using some of the CIL finances derived from developments north of Newton St Cyres towards improving the road infrastructure south of Crediton as new developments in this area impact on road usage throughout the parish. In addition, the Council should consider a cycle/footpath between Crediton and Exeter to be included within the Local Plan with financial contributions provided through CIL.	Newton St Cyres Parish Council (46)	There are no proposals for the improvement of the A377 south of Crediton or Newton St Cyres and DCC Cycle Strategy set out their ambitions for the Devon cycle network. But due to limited funding it did not seek to extend the cycle network and an Exeter-Crediton cycle link was not prioritised. The strategy is now adopted. The route is heavily constrained and deliverability would be very unlikely with the plan period.
CIL	The strategic provision of public open space/green infrastructure should include improvements and/or extensions to public rights of way and recreational trails.	Devon Countryside Access Forum (1534)	The strategic provision of open space/green infrastructure could include extensions and improvements to public rights of ways within those areas.
CIL	One respondent refers to upgrades to the waste water treatment facilities and states that maintenance to the access roads should be completed as a prerequisite, that these roads are made safe, secure and fit for purpose, before any facilities upgrades.	Collipriest Lane Action Group (3594)	The road leading to the Sewage Treatment Works in Tiverton known as "Collipriest Road/CollipriestLane" is a principally a private road shared by a number of householders, land owners and South West Water. Its maintenance and improvement is a matter for those having rights over the roadway. It is not a highway for motor vehicles maintainable at public expense.
CIL	The Council may wish to clarify how development specific planning obligations and S106 will continue to offer	Historic England (1170)	The Council has a number of Conservation areas at risk. The Council has therefore amended the Regulation 123 list to

	opportunities for funding improvements to and the mitigation of adverse impacts on the historic environment such as archaeological investigations, access and interpretation, and the repair and reuse of buildings or other heritage assets.		include "Public realm improvements and enhancements".
CIL	The Regulations 123 list should refer to the conservation and enhancement of Mid Devon's historic townscape, heritage assets and/or their settings to support the funding of appropriate initiatives.	Historic England (1170)	The Council has a number of Conservation areas at risk. The Council has therefore amended the Regulation 123 list to include "Public realm improvements and enhancements".
CIL	No payment in kind policy has been produced by the Council. There is a danger of development paying twice particularly with open space provision.	Bell Cornwell LLP (3775)	The CIL Regulations provide the Council with the discretion to accept CIL payments 'in kind', such as through the transfer of land or the completion of infrastructure works on or off the development site. The Council is proposing to allow payments in kind in line with the CIL Regulations. It will remain in the Council's discretion whether to accept payments in kind.
CIL	Demand for Criminal Justice Centre (CJC), Exeter. Devon & Cornwall Police consider it appropriate that a proportion of the funding gap for the CJC is met by CIL and financial contributions via planning obligations from the strategic sites as part of the development proposals in Mid Devon. CJC should be identified as critical infrastructure in Plan rather than desirable.	Devon and Cornwall Police (5762)	The CJC is identified in the Mid Devon Infrastructure Plan as desirable Strategic Infrastructure and an allocation of £1.05 million from CIL and developer contributions is identified. The IP defines critical infrastructure as that 'required to deliver the strategic objectives of the Local Plan. Critical requirements contribute to delivering the wider strategic aims of the Plan, and may also mitigate the impacts of development schemes. The plan may fail without the delivery of this infrastructure'. Whilst 'Desirable' is infrastructure required to 'enhance the effectiveness, efficiency and quality of infrastructure or services, creating a better place to live and work.' Failure to fund the CJC is not likely to result in the failure of the plan, and hence is not critical.

An explanatory document has now been provided which sets out explanations on the purpose of CIL, how CIL will be calculated and collected, how 106 Agreements will function alongside CIL, CIL exemptions and relief, the provisions of the Council's instalments policy and how the Council will deal with payments in kind.

Modifications made to CIL Charging Schedule.

No modifications were proposed to the levy charge.

Additions were added to definitions in the charging schedule for clarity as set out below in italics. The additions are shown in bold italics.

Added to definitions

Definitions *of development types*

An additional area was added to Zone 1 to reflect a modification that was made to the Local Plan in December 2016, that is set out below.

Zone 1, consisting of the strategic urban extensions at Tiverton East, Cullompton North West, **and** Cullompton East, **and the Tourism, Leisure and Retail site at J27(M5)** allocated in the adopted Local Plan.

An additional map identifying the additional zone 1 area was also added.

The following additional definition was added to Zone 2 for clarity

Zone 2 (iii) is land within the defined settlement limits of Crediton, Cullompton and Tiverton but excludes any land within Zone1.

Minor changes were also made to the Regulation123 list and the infrastructure plan was updated.

Eleven representations were received to the revised charging schedule during the consultation period. They are set out below together with the Council's response.

Sport England
DCC
Tiverton High School and Tiverton Community Arts Theatre c/o NPS
Woodland Trust
Natural England
South West HARP Planning Consortium c/o Tetlow King

Gallagher Estates Ltd c/o Turley Economics
Haarer Goss
Gleeson Developments Ltd c/o Vail Williams
Blundell's School c/o GVA
Persimmon Homes South West

Policy/para	Summary of main comments	Comments made by (customer ID in brackets)	Response
General	Supports use of CIL to secure provision of community/sporting facilities.	Sport England (169)	Support noted
Evidence base	Does not appear to be robust and up to date evidence base for sport and recreation in Mid Devon.	Sport England (169)	The Council have completed an Open Space and Play Area Strategy in 2014 which includes area profiles for all the principal settlement areas. Policy S5 of the Local Plan is based around that Strategy Document.
Reg 123 list	Proposed Reg 123 list excludes sports pitches and associated facilities. Highly recommend MDDC develop Playing Pitch Strategy (PPS) and assess needs and opportunity for sporting provision.	Sport England (169)	Policy S5 of the Local Plan sets out the Council requirements for Open Space and Playing Space provision. The policy seeks both on site provision and offsite financial contributions depending on the location and level of development proposed.
Reg 123 list	Draft Reg 123 mentions 'sport' as generic term including playing fields. Could preclude use of S106 to secure mitigation when sports facility or playing field is affected by a planning application. Potential work arounds for MDDC to consider are provided.	Sport England (169)	Policy DM 24 of the Local Plan provides protection of local green space and recreational land and buildings which may arise from planning applications.
Charging Schedule	Support strategic allocations being zero rated to allow associated infrastructure to be funded through S106.	DCC (139)	Support noted

Policy/para	Summary of main comments	Comments made by (customer ID in brackets)	Response
Reg 123 list	Support inclusion on J27 in zone 1; public realm improvements at J27 should be excluded from 123 list for consistency.	DCC (139)	The suggested modification is noted and accepted add "Excluding any provision required due to the development of the Tourism, Leisure and Retail site at J27(M5)" in the "Public realm improvements and enhancements" section of the Regulation 123 list.
Reg 123 list	Need for clarification on zone status for Culm Garden Village. Infrastructure required as result of GV should be excluded from 123 list for consistency.	DCC (139)	Garden Village is not part of the current local plan allocation. East Cullompton will be phase of the Garden Village. East Cullompton allocation is a zero rated strategic site and infrastructure required in connection with east Cullompton is excluded from CIL on the 123 list.
Reg 123 list	123 list definition of community care facilities to exclude extra care housing.	DCC (139)	Modification accepted. Amend 123 list to exclude extra care housing. Reg 123 list entry Community Care facilities (social care institutions providing for older people and people with mental health or learning disabilities <i>but excluding extra care housing</i>);
Infrastructure Plan	Request amendment to wording in Draft Infrastructure Plan. Entry for 'Delivery Partners and possible sources of funding' relating to secondary school expansion in Tiverton to read: ...'TCAT, Arts Council, other arts trusts and charitable donors are potential partners if community theatre delivered to serve both the community of Mid Devon and the School'.	Tiverton High School and Tiverton Community Arts Theatre c/o NPS (6795)	No need to amend the infrastructure plan entry. Additional contributions by other art trusts and charitable donors do not need to be specifically mentioned in the plan.

Policy/para	Summary of main comments	Comments made by (customer ID in brackets)	Response
Infrastructure Plan	Pleased that community theatre included in CIL schedule. Propose bid for £1m of CIL funding.	Tiverton High School and Tiverton Community Arts Theatre c/o NPS (6795)	Support noted.
Reg 123 list	Request works to increase Exe flood plain volume within THS site included in CIL schedule.	Tiverton High School and Tiverton Community Arts Theatre c/o NPS (6795)	Before this can be included in the Regulation 123 list and Draft Infrastructure Plan more detail on the extent and cost and timetable of the proposed works would be required.
General	Commitment to use CIL funds for tree planting	Woodland Trust (6207)	It is not proposed to use limited CIL funding for tree planting.
General	Would like to see reference to role of tree planting for improving air quality and carbon offsetting	Woodland Trust (6207)	This is a planning policy amendment request which should be considered as a Local Plan representation. It is not proposed to use limited CIL funding for tree planting.
Reg 123 list	Advise against specific exclusion of wildlife protection, enhancement and mitigation and SUDS from CIL list.	Natural England (6242)	There are no proposals to amend the 123 list to include provision for wildlife protection, enhancement and mitigation. These provisions would normally be negotiated as part of a planning permission for development where mitigation and protection were required.
Charging Schedule definition	Recommend amendment to affordable housing definition: <i>'...are dwellings which would <u>comply with the definition as set out at Annex 2 of the NPPF, as well as those which qualify for Social housing relief under the Community Infrastructure Levy Regulations 2010 (as amended)</u>'. Or remove row in table completely</i>	South West HARP Planning Consortium c/o Tetlow King (6715)	MDDC do not consider it necessary to broaden the definition of affordable housing to that set out in Annex 2.
Instalments Policy	Support inclusion of Instalments Policy within the CIL Charging Schedule.	South West HARP Planning Consortium c/o Tetlow King (6715)	Support noted

Policy/para	Summary of main comments	Comments made by (customer ID in brackets)	Response
Exceptional Relief Policy	Strongly argue in favour of an Exceptional Circumstances Relief policy. Would allow Council to apply its discretion to specific limited cases, supporting RPs to deliver affordable housing and local regeneration benefits.	South West HARP Planning Consortium c/o Tetlow King (6715)	The Council are not intending to have an Exceptional Circumstances Relief policy at this time. The Council have indicated the matter will be kept under review.
Viability Evidence	Request full updated viability testing of strategic sites to ensure viability and deliverability within plan period.	Gallagher Estates Ltd c/o Turley Economics (5763)	The viability evidence was completed in 2014 and updated in 2016. The authority is satisfied the viability update sufficiently addressed the changes in policy and costs that had occurred over the intervening time period and it was not necessary to examine every. The fact that on balance the policy changes, rise in values broadly balance against increased costs confirmed CIL rates should remain unchanged. The strategic site CIL rate remains at zero.
Viability Evidence	The adoption of appropriate infrastructure costs is especially pertinent in respect of strategic sites which will be expected to bear the majority of proposed infrastructure costs.	Gallagher Estates Ltd c/o Turley Economics (5763)	The infrastructure Delivery Plan has been updated with the most recent cost estimates. The viability evidence suggested no change take place to the CIL rates. The strategic sites are zero rated for CIL to reflect the significant infrastructure costs required to bring them forward.
Viability Evidence	Question/request further evidence for assumptions used in VUR (historic cost data, construction costs, S106 costs etc.)	Gallagher Estates Ltd c/o Turley Economics (5763)	The CIL update (VUR) report carried out in August 2016 was sufficiently robust to examine the changes that had taken place, since 2014. CIL rates remain the same as those proposed in 2014
Charging Schedule	Setting CIL at an appropriate level would encourage developers to look more favourably at investing in centre of Cullompton.	Haarer Goss (6794)	The Council consider the CIL levy is set at an appropriate rate. There is no CIL levy on the vast majority of commercial development, with the exception of large convenience based supermarkets and superstores and retail warehouses, therefore CIL is no barrier to Town Centre investment.

Policy/para	Summary of main comments	Comments made by (customer ID in brackets)	Response
Charging Schedule	CIL rate for site identified in Policy CRE5 should be zero. CIL charge alongside site specific S106 requirements would not provide sufficient incentive for land to be released for development	Gleeson Developments Ltd c/o Vail Williams (6685)	CIL payments can be provided by payments in kind. The provision of land for the primary school and site for the rugby club will need to be taken into account when determining the CIL levy due from the site.
Charging Schedule	Zone 1 (zero charge) should be extended to include Blundell's School site allocation (TIV16)	Blundell's School c/o GVA (0776)	Zone 1(zero charge) relates only to large strategic sites. Bundell's School site is not a large strategic site and there is no justification to zero rate the site
Charging Schedule	Object to inclusion of garages in GIA calculation for Draft Charging Schedule.	Persimmon Homes South West (6121)	The Council consider it reasonable to include enclosed garages as part of the GIA calculation of the building.
Infrastructure Plan	Object to inclusion of J28 improvements in IDP.	Persimmon Homes South West (6121)	Infrastructure Plan identifies areas of required infrastructure provision. Improvements to J28 are required infrastructure to service development in Cullompton.

