



Community Infrastructure Levy (CIL)

Preliminary Draft Charging Schedule (PDCS)

January 2013

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Not Protected

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1 Background

- 1.1 The Community Infrastructure Levy (CIL) is a new Government approach to funding the infrastructure that Councils need to support the well-planned growth of their areas and the needs of their residents. It is a development tax, adopted and collected locally, which is imposed on the grant of planning permission and becomes due for payment on the commencement of building works. Central Bedfordshire Council is a charging authority under the CIL legislation and it is investigating the potential for adopting a CIL charge by commencing the adoption process.
- 1.2 CIL can be used to fund a wide range of infrastructure including:
- Transport, such as highway improvements; bus / rail interchange and cycling facilities
 - Local schools; further education facilities and community buildings
 - Parks; play areas; leisure and cultural centres
 - Community safety; health and social care provision
- 1.3 At present much of this infrastructure is funded through s106 of the 1990 Town & Country Planning Act, which allows Councils to seek contributions to infrastructure which they consider to be necessary to mitigate the effects of development before granting planning permission. The Government is promoting a scaling back in the future use of such Planning Obligations in favour of CIL.

2 Why CIL?

- 2.1 CIL is a discretionary, tariff-based development land tax, which the Council can choose to adopt to help fund local infrastructure. CIL charges are fixed, non-negotiable and enforceable. They are based on simple formulae which relate the size of the charge imposed to the size of the proposed development, expressed as a charge per square metre (psm) of net additional floorspace created. Minor development below a net additional 100m² is exempt but all new residential units are CIL chargeable.
- 2.2 CIL was originally introduced in the 2008 Planning Act. The process for setting and implementing the Charge is set out in the CIL Regulations 2010 (SI No 948), together with subsequent Amendment Regulations in 2011 and 2012. The Government produced new Statutory CIL Guidance in December 2012 and further regulation will be forthcoming. Under the CIL Regulations changes to the use of s106 Planning Obligations will become law from 6th April 2014. This will significantly restrict current infrastructure funding practices whether or not a local CIL charge has been adopted.

2.3 The Government believes CIL will:

- be more predictable and the cost more certain for developers once established, speeding up planning permissions
- increase fairness by broadening the range of developments contributing to infrastructure costs
- allow the cumulative impact of small developments to be better addressed and appropriate mitigation measures taken
- provide a potential means of funding important sub-regional infrastructure projects
- prove a flexible measure, with relatively few restrictions on its application, enabling Councils to identify and fund the infrastructure they need
- be transparent, charging authorities must report on CIL revenues received and expenditure undertaken for each financial year

2.4 How much could CIL raise?

CIL has the potential to raise significant sums to assist in infrastructure funding once adopted. Revenues will depend on the volume; rate of build and type of new development undertaken, all of which is in itself a reflection of national economic conditions. By far the majority of CIL revenue generated in Central Bedfordshire is expected to derive from residential development. CIL will not meet all the infrastructure needs of an area but the Government expects it to make a “significant contribution”. It is intended to complement, rather than replace, existing funding streams for infrastructure, although the Government’s scaling back of S106 payments to the Council will result in a substantial loss of current revenue. The proposed CIL charges are therefore intended and expected to be set at a level that will result in additional net revenues. These will, over the period of the Local Plan, address a significant proportion of the Council’s infrastructure funding needs.

2.5 What will the Council spend CIL revenue on?

The Council is required to apply CIL revenue received “to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area” (*CIL Guidance 2012*). In practice this will mean:

- The focus must be on supporting new infrastructure requirements, rather than rectifying existing deficits
- Existing facilities may be expanded and improved to meet increased demands
- Failing infrastructure may be repaired and maintained if necessary to support growth
- A capped 15% proportion of CIL revenue will be available to parish and town councils from development in their areas, which will rise to an uncapped 25% for those areas with an adopted neighbourhood plan in place

- The Council may utilise up to 5% of revenue received to meet its costs in administering the tax
 - CIL revenues may be used to meet the borrowing costs of financing infrastructure the delivery of which is brought forward in support of growth
- 2.6 The Council will continue to assess and monitor its infrastructure needs as described below and, should it adopt a CIL, will determine which projects and types of infrastructure are most appropriate for the allocation of local CIL funds. These projects will represent its “CIL infrastructure funding target” which, when prioritised, will be published as its “Reg. 123” List required by the 2010 CIL Regulations.

3 The CIL Adoption Process

3.1 To introduce a CIL the Council must:

- Identify a gap in local infrastructure funding needs and quantify its extent
- Have in place an up to date, adopted Local Plan for its area
- Demonstrate that its proposed CIL Charge Rates will not unduly affect the viability of development across this area
- Produce a draft list of the projects or types of infrastructure it intends to fund in whole or in part through CIL at the Examination in Public
- State its future policy in regard to ongoing developer s106 planning obligations prior to adoption
- Consider and allow for the impact of the statutory exemptions relating to social housing and charitable relief on its potential revenues
- Decide whether to set discretionary relief for exceptional circumstances and make this exceptions policy publicly available
- Declare and publish any adopted policy towards flexible CIL payments by instalment
- Consult with the public; adjoining local authorities; other statutory bodies; its delivery partners and the development industry on its Draft Charging Schedule

- 3.2 CIL Charge Setting involves two specific public consultation periods as the Council moves from its preliminary proposals to the formal Examination process. These periods give every opportunity for the local community and interested parties to comment on and be involved in the development of a CIL charge.


3.3 The Preliminary Draft Charging Schedule

The Preliminary Draft Charging Schedule is the Council’s first stage consultation on its proposed CIL charge. It is an opportunity to consider whether the Council should proceed to formally adopt a Charge and at what level or levels the Charge(s) should be set. Comments, responses and representations will be taken into account prior to

the second Draft Charging Schedule stage later this year. The process is detailed in the table below, although the Council can vary this, suspend it or choose not to pursue it at any time. Anyone who so wishes, following the second stage Draft Charging Schedule consultation, can request to be personally heard by the Examiner when an Examination in Public is held into the Council's proposed CIL Charge Schedule. If there are no outstanding objections or representations or those remaining can be dealt with by a written process, the Examination in Public may be dispensed with.

3.4 Charge Setting Process

The Council's current timetable for consideration is:

| | | |
|---------------------------------------|---|-----------------------|
| Preliminary Draft Charge Consultation |  | Winter 2012/13 |
| Review of Consultation responses | | Spring 2013 |
| Draft Charge Schedule Consultation | | Summer 2013 |
| Draft Charge Schedule Submission | | Autumn 2013 |
| Examination in Public | | Winter 2013 |
| Examiner's Report | | Early 2014 |
| CIL Charge Schedule adoption | | April 2014 |

The adoption process is however dependent on the Council's Development Strategy being adopted to timetable, as described below.

4 Evidence Base

- 4.1 The CIL Regulations require a charging authority to set and adopt a Charge Schedule that is underpinned by clear and robust "appropriate available evidence". Charge Rates must strike "an appropriate balance" between generating funds for local infrastructure and ensuring the economic viability of development across its area. The National Planning Policy Framework (NPPF) stresses that Councils must assess the cumulative impact of their development standards and policies on viability. The latest Government CIL guidance requires authorities to demonstrate how their CIL charge will "contribute to the implementation of their relevant Plan and support the development of their area".

The Development Strategy

- 4.2 The Development Strategy is the emerging "relevant Plan" for Central Bedfordshire following the formation of the Council as a Unitary Authority in April 2009. It is the name for the new Local Plan, the latest iteration of which, the Pre-Submission Development Strategy, was approved by the Council in November 2012 and is the subject of a public consultation commencing in January 2013, running in parallel with this Preliminary Draft Charging Schedule consultation. The Development Strategy is on timetable to be adopted in March 2014, allowing the Council to adopt a CIL the following month.

- 4.3 The Development Strategy is a “Strategy for Growth”, underscored by a commitment to the delivery of sustainable and complementary development. Central Bedfordshire Council is one of the largest unitary authorities in the country and it expects to create a further 28,750 homes and 27,000 new jobs by 2031. The delivery of this growth through sustainable, quality development is dependent on the timely provision of supporting infrastructure and the Council has produced a schedule identifying the additional infrastructure which will be required to support the implementation of this up-to-date Local Plan.

The Infrastructure Schedule

- 4.4 The latest version of the Infrastructure Schedule and accompanying Technical Note is being published as part of the Pre-Submission Development Strategy consultation and provides supporting evidence to both consultations. It brings together the results of extensive collaborative work with internal Council departments; external service providers and private utilities, providing an overview of the interventions required. Where possible, the Schedule identifies where the need for the infrastructure arises; the known likely delivery costs at current prices and the potential funding sources that may be utilised to meet this cost. These sources include Government funding; private sector finance and the Council’s own capital programme. Funding gaps impeding delivery have been identified where known or anticipated. This information is summarized in the Infrastructure Funding Gap Table below.

Infrastructure Funding Gap Table

January 2013

| Infrastructure | Critical | Critical Secured Funding | Essential | Essential Secured Funding | Desirable | Desirable Secured Funding | Total Cost | Total Secured Funding | Funding Gap |
|-----------------------|-------------------------------|--------------------------|--------------------------------|---------------------------|--------------------------------|---------------------------|-----------------------|-----------------------|---------------------|
| Broadband | | | £6,130,000 | £3,640,000 | | | £6,130,000 | £3,640,000 | £2,490,000 |
| Community and Culture | | | £12,000 | £4,000 | £7,990,985 | £423,985 | £8,002,985 | £427,985 | £7,575,000 |
| Economic Development | | | £79,748,000 | £13,748,000 | | | £79,748,000 | £13,748,000 | £66,000,000 |
| Education | | | £350,859,900 | £219,471,879 | | | £350,859,900 | £219,471,879 | £131,388,021 |
| Green Infrastructure | | | £74,800,965 | £242,326 | | | £74,800,965 | £242,326 | £74,558,639 |
| Health & Social Care | | | £7,848,600 | £288,600 | | | £7,848,600 | £288,600 | £7,560,000 |
| Leisure | | | £25,583,440 | £245,620 | £121,137,384 | £1,259,379 | £146,720,824 | £1,504,999 | £145,215,825 |
| Transport | £903,300,000 | £903,300,000 | £599,479,964 | £562,389,092 | £8,960,000 | £520,000 | £1,511,739,964 | £1,466,209,092 | £45,530,872 |
| Utilities | £83,120,000 | £83,120,000 | | | | | £83,120,000 | £83,120,000 | £0 |
| Waste | | | £39,758,000 | £35,000,000 | £463,182 | £7,360 | £40,221,182 | £35,007,360 | £5,213,822 |
| Total | £986,420,000 | £986,420,000 | £1,184,220,869 | £835,029,517 | £138,551,551 | £2,210,724 | £2,309,192,420 | £1,823,660,241 | £485,532,179 |
| | Funding Gap - Critical | £0 | Funding Gap - Essential | £349,191,352 | Funding Gap - Desirable | £136,340,827 | | | |

Notes

Secured funding for Critical utilities infrastructure assumes developers covering all costs. Some infrastructure is also un-costed

Health & Social Care does not currently include the provision for Care Homes and Extra Care provision. Once included, the funding gap will likely increase.

Education is currently showing as un-funded but is likely to be met by future s106 negotiations

- 4.5 The Infrastructure Schedule is available on the Council's website address at the end of this document, which shows how the current total funding gap of £485,532,179 is identified. This gap will be subject to constant change as ongoing work, described below, continues to explore, refine and develop it. It is apparent from the Schedule that this gap includes a number of 'big ticket' items of identified infrastructure, which have significant associated costs. Infrastructure projects in the Schedule have been categorised as critical, essential or desirable with all funding for critical projects identified at this time.
- 4.6 The Schedule will be continually updated as and when new information is made available, such as when studies are completed and updated or as planning applications are received and the infrastructure required and associated costs are identified. Future work will also continue to prioritise critical and essential projects. Infrastructure needs and the funding mechanisms to secure them will inevitably change over time and therefore the infrastructure funding gap will also be subject to continual change. The Schedule should therefore be considered as a 'snap-shot', based upon the most up to date information available to the Council at the current time. Updated versions will be made available annually as part of the CIL monitoring and reporting requirements.
- 4.7 The Infrastructure Schedule is a comprehensive list of all the identified projects / infrastructure that it is estimated will be required over the Plan period to 2031. In the Council's opinion, this detailed work and the funding gap table derived from it constitutes the demonstrable need for the introduction of CIL required by the December 2012 Government CIL Guidance. The Council will use the Schedule and the Funding Gap to develop its CIL infrastructure funding target as recommended by the Guidance and will produce this in support of the Draft Charging Schedule at the next consultation stage.

Economic Viability Appraisal

- 4.8 An Economic Viability Appraisal (EVA) has been undertaken with specialist consultants Three Dragons to examine the potential effect on development viability of the new Local Plan's policies. The Appraisal has looked at the cumulative impact of three main aspects of the emerging Development Strategy, namely:
- a) Higher quality design standards, in particular in relation to the Code for Sustainable Homes (CSH)
 - b) Affordable Housing (AH) requirements
 - c) The introduction of a CIL Charge
- 4.9 The work has entailed examining the viability of a number of scenarios for both residential and non-residential developments, using a residual land value approach. The EVA complies with the requirements of Government Guidance by exploring the potential effects of a range of proposed CIL Charges on the economic viability of development across Central Bedfordshire. As a result of this analysis, changes have already been made to policies in the Pre-Submission Development Strategy with

regard to both the Code for Sustainable Homes and Affordable Housing, in order that the CIL Charges can be accommodated without any undue impact on development viability.

- 4.10 CIL Regulations allow a charging authority to differentiate across its area both geographically and by reference to different intended uses of development. Central Bedfordshire is a large, extensive and varied area which, whilst predominately rural in character, includes several small to medium-sized towns including Dunstable to the south adjoining the Luton conurbation. The Three Dragons work with regard to the residential market identifies that the area demonstrates distinct value differences which should accordingly be addressed by separate residential charge rates. A further charge zone is proposed demarcating the areas identified in the Development Strategy as Strategic Urban Extensions, in accordance with paragraph 34 of the December 2012 Guidance. This differentiation is shown on the Proposed Charging Area Map.
- 4.11 With regard to non-residential development, the EVA concluded that in the current depressed market conditions many commercial uses would not be viable if a CIL charge was applied to them at this time. The exception is retail uses which are again best differentiated in order to better understand and identify viability issues. The Council's proposed charges for a limited number of retail use types reflect paragraph 35 of the latest Guidance which confirms that differentiation by use need not be restricted purely to definitions derived from the 1987 Use Classes Order.

5 Planning Obligations

- 5.1 Central Bedfordshire has a well-developed, recently implemented and effective system of both s106 Planning Obligations secured through negotiation and needs-based Unilateral Undertakings for smaller developments, identified via an online calculator. Whilst both these developer contributions will be scaled back, as intended by Government, on the introduction of CIL the Council considers there will still be an important on-going, site-specific role for s106 Planning Obligations, particularly in the form of on-site mitigation works. In addition, S278 works under the Highway Acts remain unaffected by the introduction of CIL and will continue to be required in specific circumstances.
- 5.2 A number of developers have indicated that, in many cases and particularly in relation to the strategic urban extensions, they would prefer to continue to use freely-entered into and negotiated Planning Obligations in order to retain direct control over the timely provision of on-site and near-site works which are critical / essential to the effective completion and occupation of their developments. Such developers however, not unreasonably, are seeking to ensure that they will not be asked to contribute twice, through both CIL and s106, to fund the same items of essential infrastructure.
- 5.3 The Council has examined the size and range of s106 contributions that have been secured in support of planning permissions in the last three years since the current Planning Obligations Strategies were developed. As part of the Three Dragons EVA,

the Council's recent experience in securing s106 contributions has been compared to a predicted reduced use of s106 anticipated from 6th April 2014, in order to assess the overall impact on viability.

- 5.4 Current s106 revenues for new residential units received equate to a CIL charge of some £75 psm, which for a large 3 bedroom house of 100 square metres represents a cost of £7,500. Developers are therefore already paying a CIL charge equivalent to this amount in s106 contributions. It is estimated that such contributions may be reduced by some 46% following the introduction of CIL, meaning that the first £35 of any new CIL Charge for such a development is needed to maintain existing revenues for infrastructure provision in the future. It should be emphasised that this can be no more than a guide figure at this stage, as it is difficult to directly compare the two regimes. In particular Affordable Housing requirements are exempt from CIL Charges and the Government has announced that this will remain the case for the foreseeable future. The Council will therefore continue to seek to provide social housing through the use of s106 in line with its Development Strategy policy on adoption.
- 5.5 As described above, the latest guidance obliges the Council to “set out at Examination a draft list of the projects and types of infrastructure that are to be funded in whole or part by the levy”. Following CIL adoption, this draft list will then form the basis for the Authority's ‘Reg.123 list’ of CIL funded projects for which s106 cannot also be sought. This list has to be publicised and any revisions to it are subject to public consultation. These and other requirements now established in the CIL Regulations and statutory guidance have all been specifically designed to prevent such “double-charging” of developers.
- 5.6 During the CIL consultations and adoption process, the Council will consider further its ongoing use of s106 contributions, in particular which categories of infrastructure provision are best funded through CIL and which, being site specific measures, should remain for negotiation through s106. In so doing it will particularly consider the views of local and national developers active in Central Bedfordshire. Should the Council decide to formally submit a CIL Draft Charge Schedule for adoption, it will consider revising and updating its Planning Obligations Strategies and preparing a new unified protocol based on the arrangements that will operate with an adopted CIL in place.

6 Proposed CIL Charging Schedule

| Development Type | Definition (Use Class Order 1987 as applicable) | Area A £ / square metre | Area B £ / square metre | Area C £ / square metre |
|------------------|--|----------------------------|----------------------------|----------------------------|
| | The boundaries to these areas are identified on the Proposed Charging Area Map | | | |
| Residential | (C3, excluding sheltered / specialist housing) | 225 | 150 | 45 |
| Residential | Housing with Support | 0 | 0 | 0 |
| | Housing with Care | 0 | 0 | 0 |
| | As defined below | | | |
| Retail | Town Centre Comparison (A1 non-food and A2-A5) | 0 | 0 | 0 |
| Retail | Large superstores of 2,500 m2 & above (A1 food, see below) | 200 | 200 | 200 |
| Retail | All other retail uses (A1- A5) | 100 | 100 | 100 |
| All other uses | (includes B1, C1-C2, D & sui generis) | 0 | 0 | 0 |

Residential Charge for Area C: The proposed lower charge rate reflects the increased costs of s106 provisions expected to be necessary in opening up the urban extensions for development. The advanced stage of development of some of these proposals means that planning applications may have been determined prior to any introduction of CIL.

Housing with support: Includes schemes with some form of regular on-site 'warden' or scheme manager service, however limited. Schemes without an on-site scheme manager service are excluded, including those with only an on-call / emergency visiting service.

Housing with care: Includes schemes described by their landlord / manager as extra-care, assisted living, very sheltered, close care or continuing care.

Large superstores: foodstores with at least 50% of sales floorspace selling convenience goods

Sui Generis: individual non-classified uses. The Council is not proposing a charge on any sui generis uses at this time but may wish to do so at a later stage following more detailed analysis of such uses.

7 Exemptions

7.1 The CIL Regulations 2010 Part 6 set out in detail the statutory exemptions to paying a CIL Charge. These include:

- Minor developments – gross internal area of less than 100 m2 unless it is a new dwelling (Reg.42)
- Chargeable developments for charitable purposes at 100% relief (Reg. 43) including investment activity by charitable institutions etc (Reg. 44 - 48)
- Social Housing Relief at 100%, including affordable housing (Regs. 49 - 55)

- 7.2 CIL charges are levied on the net additional gross internal floor area created by a development. If the net additional floor area following the demolition of previously used buildings is less than 100m² there is no CIL liability provided that these buildings were previously in lawful use prior to the development gaining planning permission. Affected and / or interested parties are advised to consult the primary legislation or take specialist advice on the scope of these exemptions.

8 Exceptional Circumstances

- 8.1 Regulations 55 – 57 give charging authorities the discretion to grant “relief for exceptional circumstances” from liability to pay CIL charges in their area where a specific scheme would become unviable if the CIL charge were to be levied. The regulations stress that such circumstances would only occur where a s106 agreement was in place which incurred a cost to the developer greater than the CIL charge itself. In addition there are European state aid implications which Councils are required to consider before an applicant could receive such a benefit. De minimis benefit in excess of the ceiling of 200,000 euros across the whole of a recipient individual or firm’s business in a three year trading period currently constitutes notifiable state aid.
- 8.2 A charging authority wishing to offer this potential relief in its area must issue a statement publicly, including on its website, drawing notice to the availability of this relief from a specific date. It can then consider such applications on a case by case basis. The Council is yet to take a definitive view on how it will respond to this opportunity but intends to do so at the Draft Charging Schedule stage in the light of representations received following consultation of its proposed rates.

9 Payment of CIL & Instalments Policy

- 9.1 The CIL charge related to any chargeable development and the responsibility for its payment is dealt with through a liability notice issued by the Authority (Reg. 65) which informs the applicant of the amount they will be required to pay. An interested party assuming responsibility for this liability will the need to inform the Council as charging / collecting authority accordingly.
- 9.2 The CIL Regulations issued in 2010 set a default for full payment of the CIL charge to within 60 days of the commencement of the chargeable development, unless the planning permission was for a phased development will allows the CIL liability to be met at the commencement of each phase. Following representations from the development industry, the 2011 Amendment Regulations introduced the option for the charging authority to offer developers more flexible payment deadlines within the terms of a declared Instalments Policy.
- 9.3 Should the Council choose to adopt a flexible approach it must publish its policy; notify interested parties of it and subsequently any changes to it. The intention is to

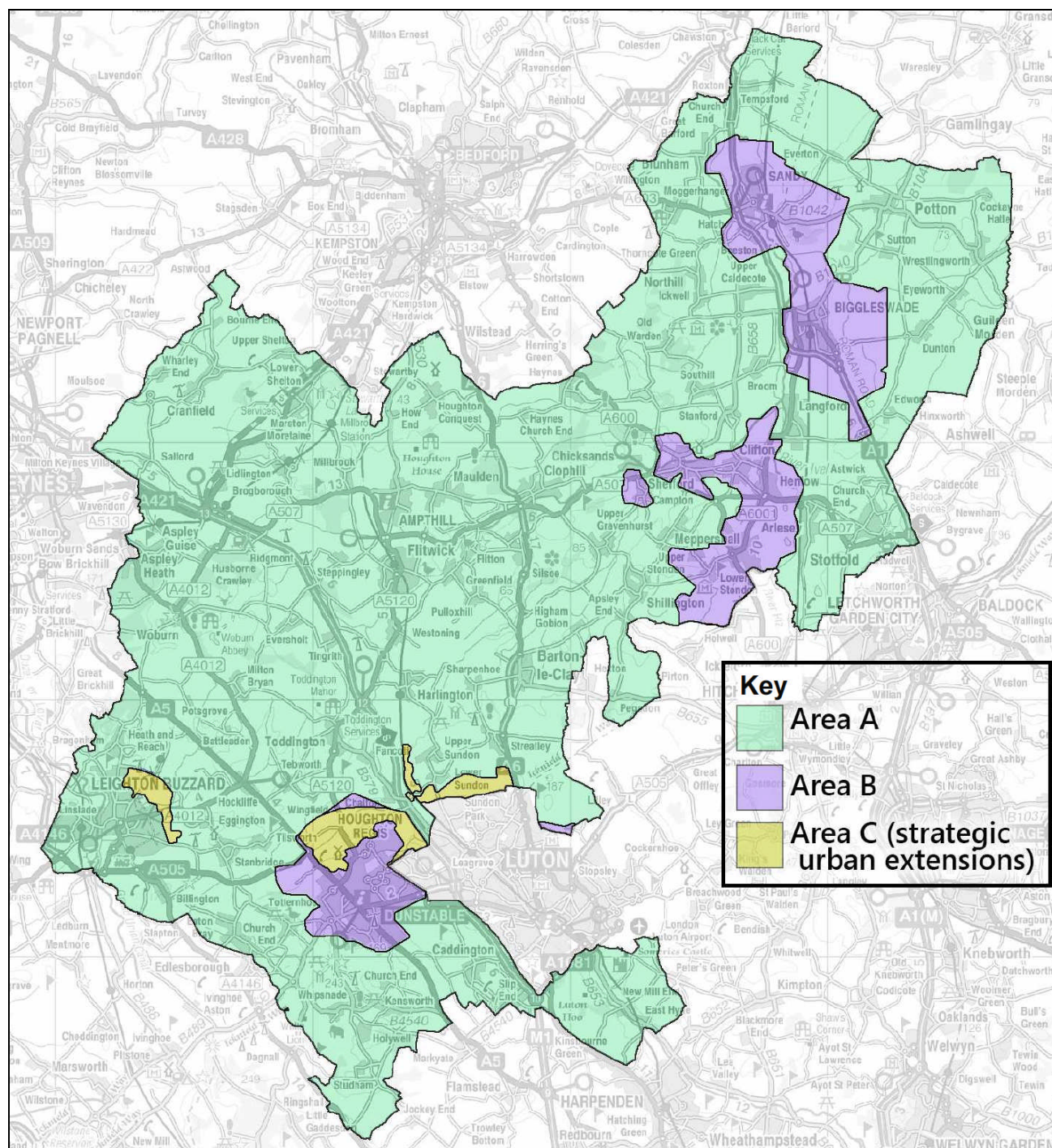
ensure that such a policy, which may benefit developers in terms of spreading costs and easing cash flow, is applied transparently; openly and fairly.

- 9.4 The Three Dragons EVA has advised that “the timing of development costs including planning obligations has an impact on viability, as any monies paid out before the scheme produces values will have to be sourced from elsewhere (with finance charges)” (para 8.1). It therefore represents both a development risk and additional cost. The Council is therefore minded to offer an instalments policy which will provide a potential improvement, however marginal, to development viability. If the CIL consultation confirms that such a policy would be welcomed by the development industry locally, it will prepare the details for inclusion at the Draft Consultation Stage.

10 What happens next?

- 10.1 The PDCS consultation runs for 6 weeks from Monday 14th January until 5 pm on Monday 25th February 2013. At the end of this period the Council will consider the response to its proposed CIL Charges, including any technical / legal issues raised and any further changes to Government CIL Regulation and/or Statutory Guidance, before deciding whether to proceed with the formal Draft Charging Schedule procedure. If it decides to proceed, it will further consider whether the proposed Charges should remain as currently proposed or should be adjusted, reduced or extended as a result. Officer reports will be taken through a series of member meetings before any final Council decision to continue with the second stage consultation is made.

Proposed Charging Area Map



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11 Further information

<https://www.gov.uk/government/publications/community-infrastructure-levy-relief-guidance>

<https://www.gov.uk/state-aid#de-minimis-aid-regulations>

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

<http://www.pas.gov.uk/pas/core/page.do?pageId=122677>

The Three Dragons Economic Viability Appraisal and Infrastructure Schedule are available via the Council's website at:

<http://www.centralbedfordshire.gov.uk/planning/strategic-planning/consultation-and-news.aspx>

Copies of this Charge Schedule and the Three Dragons report are available for inspection at Council offices and local libraries.

Feedback

The Council is keen to receive feedback on its Preliminary Draft Charge Schedule. In particular respondents are asked to address the following issues:

1. Are the proposed residential areas appropriate?
2. Are the proposed residential charge rates reasonable?
3. Do you agree with the approach to the non-residential charge rates?
4. Do you think the Council's proposed charge rates strike an "appropriate balance" between revenue generation and economic viability?
5. Any other comments on the PDCS or evidence base provided?

Contacts

Contact us...

If you have any questions about CIL; the adoption process and / or this PDCS please contact:

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