



LEEDS CITY COUNCIL

COMMUNITY INFRASTRUCTURE LEVY

DRAFT CHARGING SCHEDULE

DATE (tbc October 2013)

Under the Planning Act 2008 and
Community Infrastructure Levy Regulations 2010 (as amended)

HAVE YOUR SAY

Leeds City Council is consulting on the Community Infrastructure Levy Preliminary Draft Charging Schedule from xxx 2013 to xxx 2013 (5.00pm). The Draft Charging Schedule and supporting documents are available for inspection at the following locations:

- § Development Enquiry Centre, Development Department, Leonardo Building, 2 Rossington Street, Leeds, LS2 8HD (Monday – Friday 8:30am – 5pm, Wednesday 9:30am – 5pm)
- § All libraries across the Leeds District
- § All One Stop Centres across the Leeds District

These documents are also published on the Council's website:

<http://www.leeds.gov.uk/council/Pages/Community-Infrastructure-Levy.aspx>

Paper copies can be requested from the address below:

Leeds Community Infrastructure Levy	Email: LDF@Leeds.gov.uk
Forward Planning and Implementation	Phone: CIL team – 0113 24 78076
Leeds City Council	
Leonardo Building, 2 Rossington Street	
Leeds, LS2 8HD	

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CONTENTS

Page Number

i. Statement of Statutory Compliance

1. Introduction and the CIL in Leeds	1
2. Evidence for Draft Charging Schedule	3
a. The Infrastructure Delivery Plan and Identifying the Funding Gap	4
b. Economic Viability Study	4
c. Finding the Appropriate Balance	5
3. The Draft Charging Schedule including Charging Zones Maps	8
4. How to comment on the CIL Draft Charging Schedule	14
Annex 1 – The relationship between the CIL and Section 106 planning obligations	15
Annex 2 – Instalments Policy	17
Annex 3 – Exceptional Circumstances Policy	18

Leeds City Council is a charging authority for the purposes of Part 11 Section 206 of the Planning Act 2008 and may therefore charge the Community Infrastructure Levy in respect of development in the Leeds District.

CIL will be applied to the chargeable floorspace of all new development apart from that exempt under Part 2 and Part 6 of the Community Infrastructure Levy Regulations 2010 (as amended by the CIL Regulations 2011, 2012, and 2013)

i. Statement of Statutory Compliance

The CIL Draft Charging Schedule has been approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012 and 2013) and Part 11 of the Planning Act 2008 (as amended by Part 6 of the Localism Act 2011). In setting the levy rates, Leeds City Council considers it has struck an appropriate balance between;

- a) the desirability of funding from CIL in whole or in part the actual and estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding, and*
- b) the potential effects, taken as a whole, of the imposition of CIL on the economic viability of development across the Leeds District.*

This Charging Schedule was approved by Leeds City Council on [date to be inserted following examination]

This Charging Schedule will come into effect on [date to be inserted following the examination and full Council approval]

1.0 Introduction

- 1.1 This is the Draft Charging Schedule for the Leeds Community Infrastructure Levy (CIL). As well as the proposed Charging Schedule itself, this document provides a brief background, and explains general principles of the CIL and its links to Section 106 planning obligations.
- 1.2 The Charging Schedule will sit within the Leeds Local Development Framework, but will not form part of the statutory development plan.

The CIL in Leeds

- 1.3 The CIL is a tariff system that local authorities can choose to charge on new developments in their area by setting a Charging Schedule. The CIL is a charge levied on new buildings and extensions to buildings according to their floor area. In this way money is raised from developments to help the Council pay for infrastructure such as schools, public transport improvements, greenspace, highways, and other facilities to ensure sustainable growth. It can only be spent on infrastructure needs as a result of new growth and will be a mandatory charge. From The CIL will replace the Leeds Section 106 'tariff' approaches which are currently used for this purpose. S106s will continue to be used for affordable housing and anything required for the specific development site to make it acceptable in planning terms. The CIL should not be set at such a level that it risks the delivery of the development plan, and has to be based on viability evidence.
- 1.4 The purpose of this document is to set out the CIL Draft Charging Schedule for Leeds City Council. It has been prepared in accordance with the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 as amended by the Community Infrastructure Levy (Amendment) Regulations 2011, 2012, and 2013.

- 1.5 The CIL will help to deliver the Leeds Core Strategy (and Site Allocations Plan once adopted) by bringing in funding for infrastructure to support new growth. It is set at rates which are considered will not deter the development and growth as set out in the Core Strategy, or impact on affordable housing provision. The rates have been set taking into account the cumulative effect of all the Leeds planning policies and other national regulatory requirements.

Who will pay the CIL and how will it be collected?

- 1.6 The levy's charges will become due from the date that a chargeable development is commenced. The definition of commencement of development for the levy's purposes is the same as that used in planning legislation, unless planning permission has been granted after commencement. When planning permission is granted, the Council will issue a liability notice setting out the amount of the levy that will be due for payment when the development is commenced, the payment procedure and the possible consequences of not following this procedure.
- 1.7 The owner of the land is liable to pay the CIL, unless another party claims liability, i.e. a prospective developer / purchaser. This is in keeping with the principle that those who benefit financially when planning permission is given should share some of that gain with the community. That benefit is transferred when the land is sold with planning permission, which also runs with the land. The CIL can also be paid to the Council 'in kind' through the transfer of land.

What will the CIL be spent on and where?

- 1.8 'Infrastructure' has a very wide definition and includes transport, flood defences, schools, health and social care facilities, parks and green spaces, cultural and sports facilities as well as maintenance and improvement of facilities affected by development. The Regulations specify that CIL cannot be spent on affordable housing, and must only be spent on infrastructure required as a result of new growth.
- 1.9 The Draft Charging Schedule is primarily concerned with the rates the CIL is to be set at, rather than the Council's mechanisms for allocating the CIL revenue and the specific infrastructure items which it will contribute towards. The Government's 'CIL Guidance' (April 2013) sets out the need to consider the relationship of the CIL alongside the ongoing use of S106 agreements. The Council has to publish on its website a list of those projects or types of infrastructure that it intends to fund through the levy, called the Regulation 123 List. On adoption of the CIL, S106 requirements will be scaled back to those matters that are directly related to a specific site, and are not set out in the Reg123 List. Annex 1 contains further discussion of the links between S106s and the CIL and the Reg123 List.
- 1.10 In prioritising the spending of the CIL, the Council will need to balance neighbourhood funding with funding of strategic infrastructure. There will need to be close working with communities through neighbourhood planning, the Site Allocations Plan, and other mechanisms to determine local infrastructure priorities. The Regulations specify that there is a duty to pass on (as a minimum) a 'meaningful proportion' of the funds raised through the levy to a parish or town council for the area where the development that gave rise to the payment takes place. This aims to

ensure that where a neighbourhood accepts new development, it receives money for infrastructure to help it manage those impacts, and the local community has control over identifying their infrastructure priorities.

- 1.11 The meaningful proportion for neighbourhoods that have an adopted neighbourhood plan is 25% of the CIL revenue from that area. Areas without a neighbourhood plan will receive 15% of the revenue, and this will be capped at £100 per existing dwelling in that area. The meaningful proportion is not tied to the Reg123 List but can be spent on:
- (a) “The provision, improvement, replacement, operation or maintenance of infrastructure; or,
 - (b) Anything else that is concerned with addressing the demands that development places on an area” (Regulation 59C).
- 1.12 Where development crosses more than one parish council’s boundary, each council will receive a proportionate amount of the levy payment based on how much development is located within their area. Where there is no town or parish council the City Council has to spend it in the local area in consultation with the community.
- 1.13 There is a clear link to the emerging Site Allocations Plan, which will set out the infrastructure requirements in relation to newly proposed sites, and will be subject to various stages of formal public consultation. It is also assumed that neighbourhood plans (and other community led and locally identified plans and proposals) will set out the community’s priorities for infrastructure needs and spending. Spending by the City Council will also require identification of infrastructure priorities which will be informed by the Council’s Infrastructure Delivery Plan and the capital spending programme, which in turn is informed by the delivery and spending plans of many other agencies and infrastructure providers.

2.0 Evidence for the Draft Charging Schedule

- 2.1 The development of the Draft Charging Schedule has been informed by a range of evidence. All the evidence base documents can be downloaded from www.leeds.gov.uk/ldf (follow the link to the CIL page). Published alongside the Preliminary Draft stage were the following:
- Justification for the Leeds CIL – Infrastructure Funding Gap (January 2013).
 - Leeds Community Infrastructure Levy Economic Viability Study (GVA, January 2013).
 - Justification for the Leeds CIL – Section 106 Data (January 2013).
 - Justification for the Leeds CIL – City Centre Office Evidence (January 2013).

New documents to support the Draft Charging Schedule are as follows:

- Infrastructure Delivery Plan (April 2013, supporting the Core Strategy Submission).
- Leeds City Council Responses to Representations on the Preliminary Draft Charging Schedule.
- Justification for the Leeds CIL – Evolution of Housing Charging Zones (August 2013).
- Justification for the Leeds CIL – Further Evidence on Retail Rates (August 2013).
- Justification for the Leeds CIL – Achievement of Affordable Housing Targets (August 2013).
- Justification for the Leeds CIL – Infrastructure Funding Gap (Update) (August 2013)

- Regulation 123 List.

a) The Infrastructure Delivery Plan and Identifying the Funding Gap

- 2.2 The Council published its Infrastructure Delivery Plan (IDP) in April 2013 to support the Submission of the Core Strategy for Examination. The IDP identifies the City's social, physical and green infrastructure needs. It was put together in partnership with external infrastructure providers, and focuses on the infrastructure needed to support the new development planned for through the Core Strategy. The IDP is intended to be a 'living' document which will be updated as necessary.
- 2.3 To demonstrate a CIL funding gap as required by the Regulations, the IDP has been reviewed to identify whether the CIL was an appropriate tool for plugging any gaps, with projects removed where full funding is already identified, or where the item is not within the Regulations' definition for CIL spending (i.e. to meet new growth). This review resulted in the much shorter list of infrastructure items, as set out in the separate justification paper 'Infrastructure Funding Gap (Update)' (August 2013). This provides the best available information at the present time on the funding gap for the infrastructure needed to support planned development in the City, and for which CIL is a suitable mechanism for contributing to filling that gap.
- 2.4 The CIL guidance recognises that it is inevitable that predicting future infrastructure funding sources for the longer term contains uncertainties, and the Funding Gap paper sets out these caveats and assumptions. Infrastructure requirements and costs may change over the plan period and will be updated accordingly in future revisions of the IDP or supporting CIL documentation. In summary, an overall 'funding gap' of £1.24 billion has been identified for the Leeds District up to 2028.
- 2.5 A broad projection of possible future CIL revenue has been undertaken which shows that for residential floorspace based on achieving the Core Strategy housing targets this could be approximately £3.14m in 2014 going up to £7.05m in 2019 (due to the level of extant permissions which exist prior to the CIL being adopted). This is higher than that from current S106 actual receipts and S106s signed. However, it does not take into account where schemes would not be liable for CIL due to conversion or demolition, which would reduce the total accordingly. For non-residential floorspace, (based on projecting forwards the completions as set out in the Authority Monitoring Report 2012), the annual CIL is approximately £1.75m although again this does not reduce revenue to take into account where CIL will not be liable due to conversion/ demolition.

b) Economic Viability Study

- 2.6 Consultants GVA were appointed to undertake the key piece of evidence to inform the CIL, an Economic Viability Study (EVS). GVA in discussion with the City Council agreed the various assumptions and inputs to be used in the Study. They tested a range of uses across the District using a residual appraisals methodology of hypothetical sites based on appropriate sample sizes and typologies. This took into account the Council's policy requirements (including those in the emerging Core Strategy), such as for affordable housing, greenspace, and Code for Sustainable Homes. The methodology was in line with Government CIL Guidance, the Harman

Report (Viability Testing Local Plans), and Royal Institute of Chartered Surveyors Guidance on Financial Viability in Planning.

- 2.7 Provided the effects of introducing design standards and policy requirements, including CIL, do not result in a reduction in land values of more than 25% it is the Study's view that landowners will not ultimately withhold their land from the development market beyond the immediate period when the CIL is introduced. To inform the EVS a development industry workshop was held to discuss the methodology and detailed assumptions. The EVS includes contingencies and 'viability cushions' within its assumptions, and recommends the maximum CIL rates which could be set across a range of development types, including five residential zones and a City Centre zone for retail and offices.
- 2.8 Residential care homes, student accommodation, and employment uses were specifically modelled but show that a CIL rate would not be viable. Hotels were also shown not to be viable but that was more because it is not appropriate to apply a residual appraisal methodology. It was not anticipated that there will be a significant provision in the market for new build of other uses not discussed previously. There are also no allocations made for these uses in the Core Strategy. Therefore these uses were not modelled in the viability assessment and the EVS suggests they should be subject to a zero CIL charge.

c) Finding the Appropriate Balance

- 2.9 The key findings of the Economic Viability Study are the suggested maximum CIL rates which could be set across a range of development types. Other evidence and wider considerations were then assessed alongside to justify the appropriate balance in where to set the rates. This is a matter of judgement for the Council, bearing in mind the aims to both gain sufficient funding to make a contribution towards the infrastructure needed to support growth and thereby contribute positively towards the delivery of the Core Strategy, but to not set the rates so high that they could threaten the viability of growth and development as a whole. "Charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area. Charging authorities should show, using appropriate available evidence, including existing published data, that their proposed charging rates will contribute positively towards and not threaten delivery of the relevant Plan as a whole" (Paragraph 30, CIL Guidance April 2013).
- 2.10 The impact on affordable housing also needs to be considered, as once adopted the CIL will not be negotiable, whereas affordable housing will remain negotiable and therefore there will be pressure to reduce provision where schemes are not viable. The assumptions in the EVS modelling included the full provision of the affordable housing targets across the District and the associated proportions of social rented/sub market. Therefore the CIL will help to deliver the Core Strategy by bringing in infrastructure funding without impacting on the affordable housing policy which is a key strand of the development plan and meeting housing needs in the District. The justification paper 'Achievement of Affordable Housing Targets' (August 2013) gives recent affordable housing completions as required by the CIL Guidance paragraph 22. There is also the relationship to consider between the CIL and the New Homes Bonus and business rates, as clearly if the CIL does deter new

development then the Council also loses out on those annual payments which would further reduce infrastructure funding.

- 2.11 The CIL rates have therefore been set at a level which is expected to continue to encourage the overall growth of the District and not harm the overall viability of development in Leeds in this current difficult economic period. An early review of the CIL rates is likely based on annual monitoring or any major economic changes. A range of evidence is discussed in the remainder of this section to briefly explain how the final rates have been determined.
- 2.12 The 'Justification for the Leeds CIL – Section 106 Data' paper provides further detail on historic signed S106s and S106 receipts, broken down by type of S106 (i.e. education, public transport improvements, greenspace etc.) and by floorspace. This information fed into the EVS assumptions, and was also a valuable input in considering the appropriate balance in setting the CIL rates. The impact of the current recession has to be borne in mind in making assumptions about the continuation of these trends but the data is the best available. It shows that even in areas or types of development where the EVS shows schemes are generally unviable, some schemes have come forward with signed S106s. This is borne out by recent planning applications and application enquiries. Therefore matching the demonstrated performance of S106 agreements is the very least that should be considered, on the basis that this is a level which is viable. The key conclusion is that a wide range of use types currently pay S106 contributions of more than £5 psm and therefore this is justified as a nominal rate. This is 'real life' evidence to balance against the EVS which is necessarily more hypothetical and strategic in approach and does not look at individual schemes. In addition, £5 psm is a very small % of the total development costs and is therefore very unlikely to be the deciding factor as to whether a development becomes viable or not.
- 2.13 Paragraph 39 of the CIL Guidance states "If the evidence shows that their area includes a zone or use of development of low, very low or zero viability, charging authorities should consider setting a low or zero levy rate in that area or for that use (consistent with the evidence)." If authorities were required to only set a zero rate where the EVS showed zero viability this would be set out explicitly, but paragraph 39 is clear that it is possible to also set a low levy rate in such situations. This £5 rate will also not only bring in more revenue overall, but will mean that local development would bring local benefits through providing a meaningful proportion to all local communities. It is not appropriate to set this nominal charge against community uses or not for profit.
- 2.14 The residential CIL rates are 10% below the maximum rates (where higher than zero) in the Viability Study. This is considered to be a reasonable reduction from the EVS maximum viability as required by the CIL guidance, but reflects the Council's confidence in the methodology and assumptions used in the EVS to determine accurate testing of the viability of the current market. In particular, the EVS already includes contingencies and viability cushions within its modelling including an overall 5% contingency rate, and includes that generally rates have been set to reflect brownfield rather than greenfield land, i.e. the lowest common denominator (other than residential in the Outer Northern and Outer Southern areas). Therefore the Council considers that adding a further reduction beyond the 10% would be 'double counting'.

- 2.15 The CIL has to be presented on an OS map base. The broad residential zone boundaries used in the EVS have been slightly refined based on local knowledge, the need to follow physical attributes, and the detail of specific sites and where larger sites may be split across two zones. This has been balanced against the viability considerations including affordable housing zones. The 'Evolution of Housing Charging Zones' justification paper (August 2013) provides a detailed explanation of the zone boundaries used including the links to previous studies, and how and why they have evolved in their current form.
- 2.16 In relation to offices, it is acknowledged that there has not been a major office completion in Leeds since 2007. The market conditions remain fragile and the CIL levy needs to reflect this and the aspiration set out in the Core Strategy to promote economic growth and direct offices to the City Centre. The background paper 'City Centre Offices (January 2013) assessed key Leeds City Centre office schemes against current S106 and potential CIL charges for comparison, including impact on land values. The office market was also compared against other city centres and compares the CIL as a percentage of overall development costs. The Guidance does recognise that not all developments will be viable under a CIL regime and that rates should not be set by reference to individual developments. However, in particular for town and City Centre brownfield sites unless the CIL is set at a reasonable rate, it may continue to be more profitable to maintain a site in an alternative use, in particular for surface parking. The conclusion of this evidence alongside the judgement of ongoing economic factors is that the City Centre office rate is set at £35 psm (compared to the £100 psm maximum suggested in the EVS).
- 2.17 In relation to retail, similar principles apply in relation to alternative uses and the 'Further Evidence on Retail Rates' justification paper (August 2013) also provides detailed evidence of a 'cross check' of values and potential CIL charges for specific developments and sites. There is a rapidly changing retail market including a move to online stores; a greater use of the internet for supermarket shops; a reduction in the weekly supermarket spend; the sector rationalising its store presence; and the continuation of chains going into administration. The enabling/regeneration qualities of retail developments was reflected in the Viability Study, but in also awaiting the impact of Trinity and Victoria Gate in the City Centre, it is appropriate to provide more of a viability cushion to this sector as a whole. The major food retailers have cut back on their requirements and land values in 2013 as a result of the recession, which postdates the Viability Study and the rates in the Preliminary Draft Charging Schedule. A consideration of all these factors has resulted in the judgement for the retail rates to have a larger reduction from the potential maximum than for the residential rates, to separate out convenience and comparison, and an increase in the minimum size charged for comparison retail from 500 sqm to 1,000 sqm.

3.0 THE DRAFT CHARGING SCHEDULE

- 3.1 The CIL will be charged on the net additional floor area (gross internal area), i.e. after the area of any demolished buildings has been deducted. It will be levied in pounds per square metre.
- 3.2 CIL will be applied on the chargeable floor space of all new development apart from that exempt under the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012 and 2013) and specifically Part 2 and Part 6. These exemptions from the CIL rates are:
- a) Where the gross internal area of a new buildings or extensions to buildings will be less than 100 square metres (other than where the development will comprise one or more dwellings);
 - b) A building into which people do not normally go;
 - c) A building into which people go only intermittently for the purpose of maintaining or inspecting machinery;
 - d) A building for which planning permission was granted for a limited period;
 - e) Development by charities of their own land to be used wholly or mainly for their charitable purposes;
 - f) Social Housing;
 - g) Floorspace resulting from change of use development where the building has been in continuous lawful use for at least six months in the twelve months prior to the development being permitted;
- 3.3 The Council has chosen to adopt an Instalments Policy, which allows developers to pay their CIL charges in phased stages. This is set out in Annex 2.
- 3.4 The Council has chosen to adopt an Exceptional Circumstances Policy, whereby developers can request through a viability appraisal for some or all of the CIL charge to be waived. It is set out in Annex 3 and has very narrow criteria; that the development would pay a higher S106 charge than the total CIL charge, and that the relief would not constitute State Aid.

Type of development in Leeds	CIL Charge per square meter
Residential – City Centre	£5
Residential – Inner	£5
Residential – Outer	£23
Residential – South	£45
Residential – North	£90
Convenience Retail ≥ 500 sqm in City Centre	£110
Convenience Retail ≥ 500 sqm outside of City Centre	£175
Comparison Retail ≥ 1,000 sqm in City Centre	£35
Comparison Retail ≥ 1,000 sqm outside of City Centre	£55
Offices in City Centre	£35
Development by a predominantly publicly funded or not for profit organisation, including sports and leisure centres, medical or health services, community facilities, and education	Zero
All other uses not cited above	£5

- 3.5 The maps on the following pages show the charging zones. They can also be downloaded separately, along with all the evidence base documents, from <http://www.leeds.gov.uk/council/Pages/Community-Infrastructure-Levy.aspx>
- 3.6 The CIL payments are index linked to the national all-in tender price index by the Building Cost Information Service of the Royal Institute of Chartered Surveyors.
- 3.7 The amount to be charged for each development will be calculated in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended 2011 and 2012) as set out after the maps.

Calculation of chargeable amount

Extract from the Community Infrastructure Levy Regulations 2010 (as amended by the Amendment Regulations 2011 and 2012).

Regulation 40.

- (1) *The collecting authority must calculate the amount of CIL payable (“chargeable amount”) in respect of a chargeable development 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:*

$$GR - KR - \left(\frac{GR \times E}{G} \right)$$

Where:

- § *G = the gross internal area of the chargeable development;*
- § *GR = the gross internal area of the part of the development chargeable at rate R;*
- § *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; and*
- § *KR = an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which -*
 (a) *on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and*
 (b) *will be part of the chargeable development upon completion; and*
 (c) *will be chargeable at rate R.*

(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; 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:

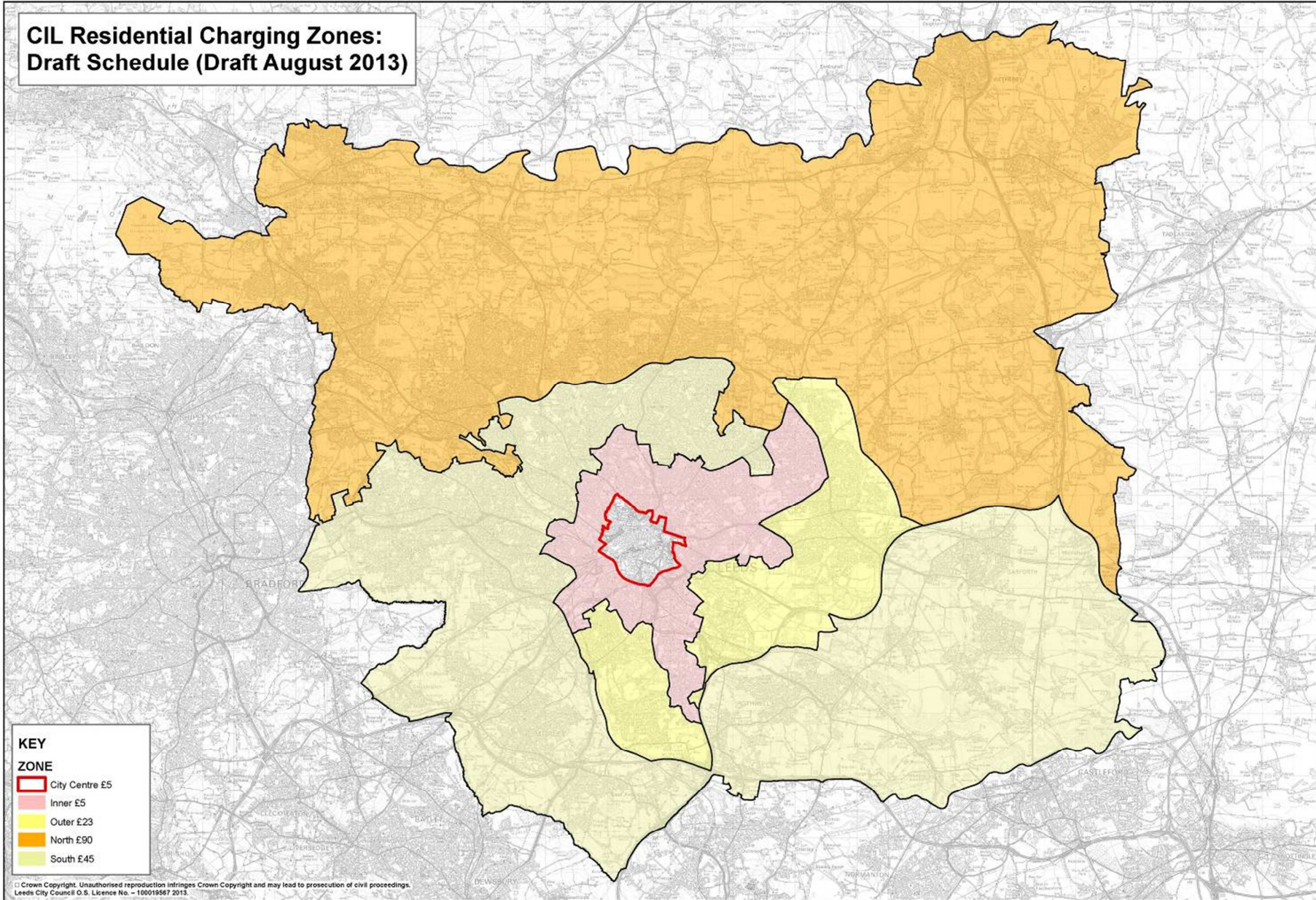
(a) a building into which people do not normally go;

(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.

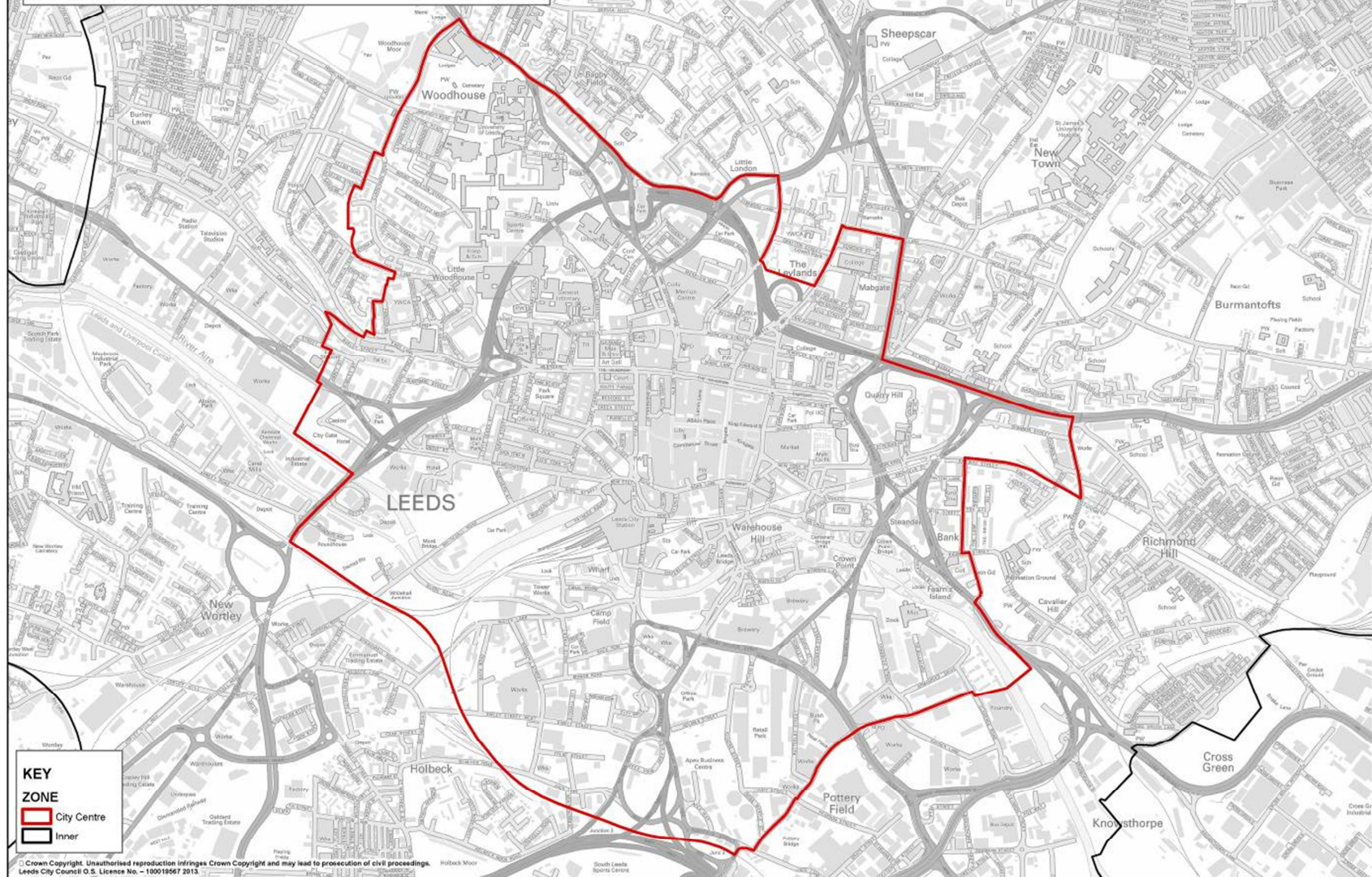
(12) In this regulation “new build” means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings.

**CIL Residential Charging Zones:
Draft Schedule (Draft August 2013)**



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last updated 14/08/2013

CIL City Centre Charging Zone (August 2013)



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last updated 14/08/2013

4.0 How to comment on the CIL Draft Charging Schedule

- 4.1 If you have any comments on the Leeds Draft Charging Schedule please write to the following address by **5.00pm on xxx 2013**.
- 4.2 You should also include in your representation whether you wish to be heard by the examiner at the inquiry. If you do not make this request within the time period then the Regulations do not permit you to speak at the inquiry.

Leeds Community Infrastructure Levy Email: LDF@Leeds.gov.uk
Forward Planning and Implementation Phone: CIL team – 0113 24
78076
Leeds City Council
Leonardo Building, 2 Rossington Street
Leeds, LS2 8HD

- 4.3 The relevant documents are published on the Council's website:
<http://www.leeds.gov.uk/council/Pages/Community-Infrastructure-Levy.aspx>
- 4.4 The Draft Charging Schedule is intended to be submitted for Examination in early 2014 with the independent examination taking place shortly afterwards. The Examiner can approve or reject the Schedule, or suggest modifications which the Council must make if it wishes to adopt the Schedule. The CIL Charging Schedule has to be approved for adoption by resolution of Full Council. It is intended to start charging the CIL on xxx date *[tbc once progressed through examination but currently April 2014]*.
- 4.5 Applicants with pending planning applications including those with S106s still to be concluded need to be aware of this timetable in determining their approach. If applications are not approved (including S106s signed) by the date that the CIL is adopted then they will become CIL liable and any associated draft S106 will need to be re-negotiated.

ANNEX 1 – RELATIONSHIP BETWEEN THE CIL AND SECTION 106 AGREEMENTS

After adoption of the Leeds CIL or from April 2014 (whichever is sooner) the Regulations scale back and limit the use of S106s. The Government's intention is to break the link between the development of a specific site and its contribution to infrastructure provision. This is because the levy is intended to provide strategic infrastructure to support the development of an area rather than to make individual planning applications acceptable.

Therefore any infrastructure which is directly required to make development acceptable in planning terms will continue to be sought through S106s. This means S106 obligations will remain alongside CIL but will be restricted to infrastructure required to directly mitigate the impact of the proposal. The Regulations therefore restrict the use of planning obligations to ensure that no development is charged twice for the same item of infrastructure through both CIL and S106s.

Regulation 123 provides for the Council to set out a list of those projects or types of infrastructure that it intends to fund through the levy. In order to ensure that individual developments are not charged for the same infrastructure items through both S106s and the CIL, a S106 contribution cannot then be made towards an infrastructure item already on the List. The Council will publish its Reg123 List on its website and the draft Reg123 List is provided as part of the consultation on the Draft Charging Schedule. S106s can still be used to fund a specific item of infrastructure, but there is a limit of five separate obligations which can be pooled for this purpose, as it is intended that the CIL becomes the main mechanism for pooled contributions.

The Council is able to update the Reg123 List, however any changes must be justified and subject to appropriate local consultation. It is proposed to make any changes annually as a result of monitoring in the Authority Monitoring Report. The Reg123 List does not identify priorities for spending within it, or any apportionment of the CIL funds across the District, and does not mean that the Council must pay the CIL towards all the items listed as this will also depend on the amount collected. There are various options available to the Council in deciding such matters, and this is a separate workstream to the adoption of the CIL Charging Schedule.

Larger scale developments typically have larger and more concentrated impacts on the local community and infrastructure network. Under the CIL regime, there will still therefore be a need for provision of infrastructure on-site as part of the determination of a planning application. For instance, major sites are one of the main opportunities to increase the quantity of open space and will be required to provide open space on site under Core Strategy policies. Similarly, education infrastructure is an integral component of balanced sustainable communities. New housing creates a need for more school places, and these may in some instances be accommodated across the existing school network through payments from the CIL for extensions. Where a

scheme in itself creates such a level of need for school places that it cannot be easily accommodated elsewhere, it follows that the site should provide the land for a school on site. On large scale major sites therefore it is likely to be necessary to provide schools directly on site to meet the needs of the development, or it may be appropriate to locate the school on a nearby site where the school will meet the needs of a number of medium to large scale developments. In such cases an appropriate S106 contribution will be secured. The Council will ensure that these schools will not be funded through CIL receipts, that the obligations meet the statutory tests and that no more than five separate planning obligations will be secured for the same school. The Site Allocations Plan will provide more detail and will consider which large sites may require significant on site facilities and be of sufficient scale to fund these through S106 obligations.

Where CIL and S106 payments are both required viability may be taken into account through the exceptional circumstances policy (as set out in Annex 3). As it is possible for the CIL to be paid through a payment 'in kind' of land, this may be an option where it is not viable for a site to provide both CIL and on-site infrastructure through S106.

Payments-in-kind

The CIL Regulations allow for payments-in-kind in the form of land to be offset against the CIL liability where agreed by the Council as more desirable instead of monies. However, this must only be done with the intention of using the land to provide, or facilitate the provision of, infrastructure to support the development of the area. This could be for example where the most suitable land for the infrastructure project is within the development site.

An agreement to make an in-kind payment must be entered into before commencement of development and provided to the same timescales as cash payments. Land paid in kind may contain existing buildings and structures, and must be valued by an independent valuer who will ascertain its open market value, which will determine how much liability it will off-set.

However, where land is required within a development to provide built infrastructure to support that specific development, it will be expected that any land transfer will be at no cost to the Council and will not be accepted as a CIL payment in kind.

ANNEX 2 – INSTALMENTS POLICY

The responsibility to pay the levy is with the landowner on which the proposed developed is to be situated. The regulations define the landowner as a person who owns a ‘material interest’ in the relevant land to be developed.

This draft Instalments Policy is made in line with Regulations 69B and 70 of the Community Infrastructure Levy Regulations 2010 (as amended by the Amendment Regulations 2011) and is as follows:

- a) This Instalments Policy takes effect on xxx date *[to be updated on adoption of the CIL]*.
- b) The CIL instalment policy calculates payment days from commencement of development on site. The Commencement date will be taken to be the date advised by the developer in the commencement notice under CIL Regulation 67.
- c) Payment of instalments are as follows:

≤ £9,999	Due in full within 2 calendar months of commencement
£10,000 to £59,999	Due in 2 equal instalments within: 3 months of commencement 6 months of commencement
£60,000 to £99,999	Due in 3 equal instalments within: 3 months of commencement 6 months of commencement 9 months of commencement
£100,000 to £499,999	Due in 4 equal instalments within: 3 months of commencement 6 months of commencement 12 months of commencement 18 months of commencement
≥ £500,000	Due in 4 equal instalments within: 3 months of commencement 6 months of commencement 12 months of commencement 24 months of commencement

- d) Where the amount of the levy payable is >£50,000 Leeds City Council may consider an in-kind payment of land. Land that is to be paid in kind may contain existing buildings and structures and must be valued by an independent valuer who will ascertain its 'open market value', which will determine how much liability the in-kind payment will off-set. Payments in kind must be entered into and agreed before commencement of development. Land provided in kind must be provided to the same timescales as cash payments dependant on their value.

ANNEX 3 – EXCEPTIONAL CIRCUMSTANCES POLICY

Regulations 55 to 58 allow charging authorities to set discretionary relief for exceptional circumstances. Use of an exceptional circumstances policy enables the charging authority to avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise. It is a mechanism to enable growth and deliver development where CIL and S106 conflict. Before granting relief, the Council will need to be satisfied that the costs relating to the section 106 agreement are greater than those related to the Community Infrastructure Levy, and that the relief would not constitute notifiable State Aid as set out further below.

Leeds City Council intends to have an Exceptions Policy for exceptional circumstances which will be set and agreed by development Plans Panel. The Council will have to comply with notification requirements and publish a statement confirming that relief for exceptional circumstances is available in Leeds from a specified date. The process would then be that a landowner would have to submit a claim in accordance with the Regulations. The Council may grant relief from liability to pay CIL if (a) it appears to the Council that there are exceptional circumstances which justify doing so; and (b) the Council considers it expedient to do so. The Regulations specify the requirements that must be met in making this assessment, and these are set out below:-

- Reg 55(3) A charging authority may grant relief for exceptional circumstances if –
- (a) It has made relief for exceptional circumstances available in its area;
 - (b) A planning obligation under S106 of TCPA 1990 has been entered into in respect of the planning permission which permits the chargeable development; and
 - (c) The charging authority-
 - (i) Considers that the cost of complying with the planning obligation is greater than the chargeable amount payable in respect of the chargeable development,
 - (ii) Considers that to require payment of the CIL charged by it in respect of the chargeable development would have an unacceptable impact on the economic viability of the chargeable development, and
 - (iii) Is satisfied that to grant relief would not constitute a State aid which is required to be notified to and approved by the European Commission.

The person claiming relief must be an owner of a material interest in the relevant land. A claim for relief must be submitted in writing and be received before commencement of the chargeable development. It must be accompanied by an assessment carried out by an independent person of the cost of complying with the planning obligation, the economic viability of the chargeable development, an explanation of why payment of the chargeable amount would have an unacceptable impact on the economic viability of that development, an apportionment assessment (if there is more than one material interest in the relevant land), and a declaration that the claimant has sent a copy of the completed claim form to the owners of the other material interests in the relevant land (if any).

For the purposes of the above paragraph an independent person is a person who is appointed by the claimant with the agreement of the charging authority and has appropriate qualifications and experience.

A chargeable development ceases to be eligible for relief for exceptional circumstances if before the chargeable development is commenced there is a disqualifying event. This is where the development is granted charitable or social housing relief, is disposed of, or has not been commenced within 12 months.