

LEEDS CITY COUNCIL

COMMUNITY INFRASTRUCTURE LEVY

PRELIMINARY DRAFT CHARGING SCHEDULE

Date xxx 2013

**Planning Act 2008 and the
Community Infrastructure Levy Regulations 2010
(as amended by Amendment Regulations 2011 and 2012)**

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 floor space 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 and 2012)

CONTENTS

i. Statement of Statutory Compliance

1. Introduction and the CIL in Leeds

- a. What is the CIL?
- b. Collection of the Levy

2. Evidence for Preliminary Draft Charging Schedule:

- a. Infrastructure Delivery Plan and identifying the cost gap
- b. Economic Viability Study
- c. Section 106 data
- d. Wider Planning and Economic Considerations

3. The Preliminary Draft Charging Schedule, including charging zones

4. How to comment on the CIL Preliminary Draft Charging Schedule

5. Next steps and indicative timetable

Annex 1 – How to calculate the chargeable amount

Annex 2 – The relationship between the CIL and Section 106 planning obligations

Annex 3 – Instalments Policy

Annex 4 – Exceptional Circumstances Policy

Statement of Statutory Compliance

The Preliminary Draft Charging Schedule has been approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended 2011 and 2012) and Part 11 of the Planning Act 2008 as amended. 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 its area.*

A full and updated Statement of Statutory Compliance will be included within the Draft Charging Schedule submitted for Examination.

1.0 Introduction

- 1.1 This document is the consultation paper on the Preliminary Draft Charging Schedule for the Leeds Community Infrastructure Levy (CIL). As well as the proposed Charging Schedule itself, it provides the background to the Charging Schedule, 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 schools, leisure centres, aged care accommodation, roads, and other facilities to ensure sustainable growth. It can only be spent on infrastructure needs as a result of new growth. The CIL should not be set at such a level that it risks the delivery of the development plan, and should be based on viability evidence. Once approved, it becomes a mandatory charge. From April 2014 CIL will replace the Section 106 'tariff' approaches which had previously been used for this purpose. S106s will continue to be used for affordable housing and anything required just for the specific development site to make it acceptable in planning terms.
- 1.4 The purpose of this document is to set out the Preliminary Draft Charging Schedule for the CIL 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 and 2012. The document will be used as the basis for formal consultation between **xxx date and xxx date**.

Why is the CIL better for Leeds?

- Without a CIL, income for infrastructure will be greatly reduced as the current system for collecting contributions via S106 agreements will be scaled back in April.
- CIL is certain, predictable, transparent and developers can factor it into schemes from an early stage. The Government's intention is that it will eventually be factored into land values (and reduce them accordingly).
- It has been subject to viability testing which shows it to be a relatively modest charge and not to impact on the overall viability of development across the District.
- It should not slow down the development approval process as much as negotiations on S106s can.
- CIL will deliver more infrastructure funding than S106 because it requires contributions from a broader range of developments, including small scale schemes which currently do not pay any contributions.
- A meaningful proportion will be under direct local control over spending.
- Flexibility of spending compared to S106s.

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

- 1.5 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.
- 1.6 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.

What will the CIL be spent on and where?

- 1.7 '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.
- 1.8 The Preliminary Draft Charging Schedule is primarily concerned with the rates the CIL is to be set at, rather than the Council's mechanisms for apportioning the CIL revenue and the specific infrastructure items which it will contribute towards.
- 1.9 The 'CIL Guidance: Charge Setting and Procedures' (2010) document set out the need to consider the relationship of the CIL alongside the ongoing use of S106 agreements. Up until December 2012 it was not required for this relationship to be considered in detail in the lead up to examination, other than in using its broad parameters in relation to the collection of viability evidence. The Council was to publish on its website a list called the Regulation 123 List of those projects or types of infrastructure that it may fund through the levy. This list could be updated at any

time (albeit it would be good practice for this to be linked to e.g. the Annual Monitoring Report or updates to the Infrastructure Delivery Plan). On adoption of the CIL, S106 requirements should be scaled back to those matters that are directly related to a specific site, and are not set out in the Reg123 List.

- 1.10 However, the latest statutory guidance 'CIL Guidance' (December 2012) document (which replaces the 2010 guidance) now requires consideration of these matters to be more closely linked to the Charging Schedule and its progress through Examination. The Reg123 List should now be a stronger statement of intent, will be tested at Examination as part of the viability evidence, and any subsequent changes will require public consultation. The Council fully intends to undertake the further work necessary in order to consult on the Reg123 List at the Charging Schedule and Examination stage. However, the need to maintain the tight timescale in developing the CIL in Leeds and the unexpected publication of the new guidance very late in the Preliminary Draft preparation stage means that it is not appropriate to delay the planned progress and therefore this full information is not available at this time.
- 1.11 The associated paper the 'Leeds Infrastructure Funding Gap: Justification for the Leeds CIL' does set out the infrastructure planning work, discussed further below. A draft Reg123 List has also been prepared but this is a broad example of the types of projects which may be funded by the CIL and should not be considered as definitive at this stage. Further discussion of the links between S106s and the CIL is contained in Annex 2.
- 1.12 In terms of apportioning spending of the CIL, the Council will need to work closely with communities through neighbourhood planning, the Site Allocations Development Plan Document, and other mechanisms to determine local infrastructure priorities, and balance neighbourhood funding with funding of strategic infrastructure. It is important that the infrastructure needed by local communities is delivered when the need arises. Therefore, the Regulations allow authorities to use the levy to support the timely provision of infrastructure, for example, by using the levy to backfill early funding provided by another funding body. The CIL regime also allows charging authorities to collaborate and pool their revenue from their respective levies to support the delivery of 'sub-regional infrastructure', for example, a larger transport project where they are satisfied that this would support the development of their own area.
- 1.13 The Regulations propose 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 and the meaningful proportion is not restricted or tied to the Regulation 123 List. Where there is no town or parish council the City Council has to spend it in the local area in consultation with the community. 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. 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.
- 1.14 The Government has not yet set the level of the meaningful proportion (anticipated early 2013), but it is expected to be modest, given that the purpose of CIL is to help fund strategic infrastructure. However, there would also be scope to help deliver

significant infrastructure projects in the area where growth takes place. No decisions have yet been made on the spending or governance mechanisms of the CIL. These mechanisms have not yet been determined as it has not been appropriate to do so until there is a greater clarity on the amount of CIL which can be charged, which locations this will generally be in, and the amounts which will be collected overall.

- 1.15 There is a clear link to the forthcoming Site Allocations Development Plan Document, 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 also links neighbourhood plans (and other community led and locally identified plans and proposals) which can set out the community's priorities for infrastructure needs and spending. Spending by the City Council will require identification of infrastructure priorities which will be informed by the Council's Infrastructure Delivery Plan, which in turn is informed by the delivery and spending plans of many other agencies and infrastructure providers. This is discussed further below. To a certain extent spending has to be a result of where development occurs, which other than phasing in the Site Allocations DPD is outside of the Council's control.

2.0 Evidence for the Preliminary Draft Charging Schedule

- 2.1 The development of the Preliminary Draft Charging Schedule has been informed by a range of evidence which is discussed in more detail in the following sections:
- Leeds Community Infrastructure Levy Economic Viability Study, undertaken by consultants GVA (January 2012).
 - Core Strategy: Publication draft (March 2012) and Publication Draft Pre-Submission Changes (December 2012), including the supporting evidence base.
 - Infrastructure Delivery Plan draft March 2012.
 - Justification for the Leeds CIL – Funding Gap. Evidence of infrastructure requirements to support the growth set out in the Core Strategy, which demonstrates there is a funding gap and that implementation of a CIL is justified.
 - Justification for the Leeds CIL – Section 106 Data. Evidence of the rates of S106s collected and signed in the past few years as an indication of the minimum target amount to be collected from the CIL which demonstrates the reality as well as the EVS.

a) The Infrastructure Delivery Plan (IDP) and identifying the funding gap

- 2.2 The Council published its draft Infrastructure Delivery Plan (IDP) in March 2012, a document identifying the City's social, physical and green infrastructure needs. It was put together in partnership with external infrastructure providers, and has a particular focus 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 and particularly to support the key stages of the draft Core Strategy, and the progression of the CIL.
- 2.3 For the purposes of this current stage of the CIL, the IDP was updated with amendments and refinements to each item of infrastructure to determine whether 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 paper 'Leeds Infrastructure Funding Gap: Justification for the Leeds CIL.' That paper provides the best available

information at this 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 £1.3 billion has been identified for the Leeds District up to 2028.
- 2.5 It is possible to divide the total CIL funding gap by the projected amount of floorspace across the District required in the Core Strategy, to identify a starting point for considering the potential CIL rates. However, as the CIL rates need to be set primarily based on viability evidence, rather than infrastructure needs, further work has not been done in this regard. But as outlined above, the CIL is not to be the only source of infrastructure funding. Assuming a rate for the CIL which would meet this whole gap would be far greater than that which would be viable.
- 2.6 A broad projection of possible future CIL revenue has been undertaken (using the maximum rates in the Economic Viability Study) [This projection is to be updated once final figures have been agreed] which shows that this could be approximately £3.8m in 2014 going up to £8.5m in 2019 (due to the level of extant permissions which exist prior to the CIL being adopted). This is higher than that from current S106s (both actual receipts and S106s signed) and this projection does not take into account additional CIL from non-residential uses and additional S106 payments relating on site specific matters. However, it also does not take into account where schemes would not be liable for CIL due to conversion or demolition, which would reduce the total accordingly.

b) Economic Viability Study

- 2.7 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 current and potential future policy requirements, such as for affordable housing, greenspace, Code for Sustainable Homes, and other relevant assumptions. This included the policy requirements for new development in the emerging Core Strategy. The methodology was in line with Government CIL and viability of local plans guidance, and Royal Institute of Chartered Surveyors guidance on viability appraisals.
- 2.8 A development industry workshop was held in September, with 60 attendees. They were invited to submit any comments regarding the methodology and the detailed assumptions in it. Whilst a number of useful comments were received, these did not require any major changes to the Study's approach. This frontloading aimed to understand developers' concerns at an early stage and attempt to reduce subsequent objections. Useful comments were also received in relation to other related information to be released at the Preliminary Draft Charging Schedule stage, which officers are taking into account.

- 2.9 Planning application data was also used in the EVS to identify trends and to determine whether it would be useful to model particular types of development. The one year period June 2011 to May 2012 was analysed in further detail to help identify retail thresholds, location and type of leisure applications. During this period 122 permissions for C3 dwelling houses were also granted, across 28 wards.
- 2.10 The key recommendations of the EVS are the maximum CIL rates which could be set across a range of development types. The Study also recommends that there is an early review of potential charges in around 2016/2017 when there will be evidence as to how the local market, landowners and developers have responded to the charges.
- 2.11 The overall market context is that for both residential and commercial development the market remains fragile as a result of the economic recession affecting demand. There have been some periods of short lived stability, but little evidence that represents a solid signal of sustained market recovery. Land values have been subject to a marked decline since mid-2007 as landowner expectations of value have been affected by the recession and implications of the slow down in demand. Values for potential residential land have also been somewhat artificially supported by the availability of grant funding which will be less easily available in the future. Market demand for business and employment floor space remains sensitive to the national and regional economic situation. It is a fragile position that shows only slow signs of recovery in terms of demand and the values achievable.
- 2.12 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. Where land value is affected to a greater extent it is considered that landowners will reasonably seek alternative uses for their land or will withhold it from development.

EVS Residential CIL Rates

- 2.13 Four zones were used for the modelling; City Centre, Inner Areas, Outer Southern Area, and the Outer Northern / Golden Triangle Area. For consistency these are the same as used in the previous Economic Viability Assessment for affordable housing and the Strategic Housing Market Assessment update 2010, as these 4 broad areas are considered to be broadly representative of different housing characteristics, land values and house prices within Leeds.
- 2.14 The EVS suggests that the CIL is not feasible within the City Centre or Inner Areas, both for greenfield and brownfield sites. Within the Outer Area greenfield sites are feasible at rates between £25psm and £50psm although some sites, particularly large sites, may not come forward for development at the highest rate. Brownfield sites could be charged £25psm although site values are very low/marginal at best. Because the outer area has a very diverse value geography, it is recommended that consideration is given to splitting this zone further into two, and setting two rates to reflect the differences in values. Initial proposals are shown on the attached map.
- 2.15 Within the Golden Triangle Area the CIL is considered feasible at rates between £75psm and £100psm on greenfield sites and £50psm on brownfield sites. As

development will primarily come forwards on greenfield sites in this area then it is considered appropriate to set the CIL rate at the greenfield level.

Type of development in Leeds	Viability Study Recommended Maximum CIL Charge per sqm
Residential – Golden Triangle	£100 /sqm
Residential – Outer Central	£25 /sqm
Residential – Outer South	£50 /sqm
Residential – City Centre, Inner Area	£0 /sqm

EVS Commercial Rates

- 2.16 For commercial uses the EVS advised that the markets and values are broadly the same across the District, other than for offices and retailing in the City Centre. Greenfield sites allow a higher CIL charge than brownfield sites across all the development types, but due to new commercial development likely to be primarily only on brownfield land, brownfield rates have been recommended. Retail development often acts as enabling development, which is an additional reasons for the rates to be set with reference to brownfield land.
- 2.17 For retail, a range of sizes and types of units were modelled, including within and outside the City Centre. and the evidence showed that they can be differentiated in terms of viability. As a result it is proposed that a distinction is made as to the size of unit to which a charge would apply, and also a different rate within and outside the City Centre. The size distinction arises from the type of occupier likely to take a larger unit, bringing a stronger covenant and better rents and yields. A 500sqm threshold is proposed as this allows flexibility for both slightly larger convenience stores and smaller supermarkets to be developed providing an appropriate margin between different types of store able to support a CIL charge. 500sqm has also been recognised as an appropriate threshold in other authorities.
- 2.18 Smaller stores perform a day to day ‘top up’ shopping function and range from ‘express’ type stores of the multinationals, to independent corner shops, newsagents, and grocers. Larger convenience shopping provided by supermarkets and superstores attract those undertaking a different type of shopping trip, typically those who are undertaking a weekly food shop. They do generally include non-food floor space as part of the overall mix of the unit. Supermarkets above 500 sqm are more likely to be the destination of a trip, more likely to involve a car trip, provide a dedicated car park and are characterised by higher spend transactions. This is supported by various reports by the Competition Commission and the Office for Fair Trading (OFT) in their descriptions of such stores as one-stop shopping, i.e. where the bulk of a household’s weekly grocery needs are met, carried out in a single trip and under one roof. Large format retail warehousing is also a different use than the other smaller retail formats as it also serves different markets, i.e. those purchasing larger format household goods such as carpets, furniture, electrical, and DIY. Again, they generally involve stores that mainly serve car-borne customers in dedicated retail park or destination locations. It is also considered relevant that they could be competing with the supermarket / superstores for similar types of sites, whereas the smaller format convenience retailing is a very different scenario.
- 2.19 For the other commercial uses, the summary table below shows the maximum rates the EVS proposed across the District.

Type of development in Leeds	Viability Study Recommended Maximum CIL Charge per sqm
Retail: < 500 sqm	£0 /sqm
Retail: City Centre ≥ 500 sqm	£175 /sqm
Retail: Outside of City Centre ≥ 500 sqm	£275 /sqm
Offices: City Centre	£100 /sqm
All other uses	£0 /sqm

2.20 Hotels, residential care homes, student accommodation, and employment were specifically modelled but show that a CIL rate would not be viable. 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 GVA study suggests they should be subject to a zero CIL charge.

c) Section 106 data

2.21 The 'Justification for the Leeds CIL – Section 106 Data' paper provides further detail on recently signed S106s and S106 receipts, broken down by type of S106 (i.e. education, public transport improvements etc). This information fed into the EVS assumptions and also includes further data to help inform the judgement that needs to be made when setting the CIL rates.

2.22 The CIL Regulations set out that the CIL should be set high enough to ensure that (when combined with other sources of funding) sufficient money is available to pay for the community infrastructure needed to support growth. However, it should not be set so high that the growth ambitions of the development plan are rendered commercially unviable.

2.23 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. The average per year from the last two years of received S106s is £3.28m, and £3.5m from the last five years. The three current tariff style S106s (for greenspace, education, and public transport improvements) would be directly superseded by the CIL and therefore the minimum CIL income should be £2.23m per year, with an additional £1.05m to continue each year from site specific S106s.

2.24 Alternatively, looking at S106 contributions which were signed per year, on an average of 88 sqm for a 3 bed house shows that the average total was £5,096 per dwelling or £58 per sqm. The three tariff style S106s equate to an average of £4,535 per dwelling, or £52 per sqm. Although not a direct approximation of the amount which the CIL could be set at, as the CIL rates need to take into account geographic differences in viability plus the CIL will be charged on all residential units compared to the historic S106s only signed for schemes above 10 units, it is a very useful benchmark.

2.25 For commercial schemes with signed S106s it is more difficult to identify averages due to the small numbers of some uses in the time period used and especially because many schemes are mixed use and it has not been possible to break down

the payments against the different floorspace and uses within them. The full schedule of the commercial S106s are set out in the S106 Data paper.

d) Wider Planning and Economic Considerations

- 2.26 The CIL Regulations state that the CIL should be set high enough to ensure that when combined with other sources of funding it makes a good contribution towards the infrastructure needed to support growth. However, it shouldn't be set so high that the growth set out in the Core Strategy is made unviable with a serious risk to the overall development of the area. There needs to be 'an appropriate balance'. The Economic Viability Study results outlined above do therefore have to be balanced alongside other information.
- 2.27 The key intention is to achieve a balance in gaining a reasonable contribution for infrastructure from new development, against the need to continue to encourage the overall growth of the District. The rates have been set at a level which is not expected to harm the overall viability of development in the City in this current difficult economic period based on the evidence presented.
- 2.28 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. Reducing the CIL rate from the potential viable maximum will help to alleviate this pressure.
- 2.29 It is therefore proposed that to create an appropriate balance a rate of 10% per square meter below the maximum rates in the Viability Study should be used. 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. This 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).
- 2.30 Other authorities' CIL rates can be referred to as a broad comparison, but caution must be used as they all have different cost assumptions and different policy requirements which must be factored in. Within this context, neighbouring authorities have been given an opportunity to contribute in order to share information and ideas. Where possible the EVS for Leeds has taken into account the same assumptions as for neighbouring authorities and is confident in the assumptions used where they vary.
- 2.31 Investigation of historic S106 information as outlined above shows that even in areas for types of development where the Viability Study shows schemes are generally unviable, some schemes have come forward with signed S106s. Therefore there is a strong argument to state that in balancing this information against the Viability Study results, a nominal charge of £5 should be set for the locations the Study shows as zero charge. This would not only bring in more revenue overall, but would mean that local development would bring local benefits through providing a meaningful proportion to all local communities. As all developments create some impact on local infrastructure it is important that all developments contribute, even if the amount is modest. However, the Charging Schedule needs to be as simple as

possible, and it is not appropriate to set this nominal charge against all other development types such as those which are not for profit due to viability.

- 2.32 The CIL needs to be presented on an OS map base. The broad residential zone boundaries used in the Economic Viability Study 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. It is intended that the affordable housing zones would be realigned to match the CIL zone boundaries on adoption of the CIL.
- 2.33 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 3. Without such a policy, the whole of the CIL charge is liable on the commencement of development. Generally, authorities have adopted an Instalments Policy for larger developments to reflect that phased payments can help developments to be more viable, which is especially important in the current market.
- 2.34 Regulations 55 to 58 allow charging authorities to set discretionary relief for exceptional circumstances. The Council can therefore also choose to adopt an Exceptional Circumstances Policy consistent with government guidance, whereby developers can request through a viability appraisal for some or all of the CIL charge to be waived. This is intended to be for exceptional circumstances only, and has very narrow criteria. These criteria are that the development would pay a higher S106 charge than the total CIL charge, and that the relief would not constitute State Aid. The policy cannot be used to appeal against a CIL charge if for instance a S106 has not been signed. The Council's Exceptional Circumstances Policy is set out in Annex 4.

3.0 THE PRELIMINARY DRAFT CHARGING SCHEDULE

- 3.1 To charge CIL Leeds City Council must produce and adopt a Charging Schedule setting out the levy rates. This document is the Leeds Preliminary Draft Charging Schedule issued for consultation. There is another formal stage of consultation on the Draft Charging Schedule, followed by Submission to Inspector, and an Examination. The final CIL rates must be approved by Full Council.
- 3.2 The Economic Viability Study provided evidence to support the CIL rates, and Officers and Members have considered these against the other competing factors outlined above. The Preliminary Draft CIL rates have been set as a result, and are outlined below.

Proposed CIL Rate

- 3.3 The CIL Regulations enable differential rates to be set for different types of development and in different parts of the District, however, the Council proposes to use a simple approach to avoid over-complexity as advised by government guidance. The figures used have been demonstrated to be economically viable on the majority of sites based on the Economic Viability Study (January 2012).

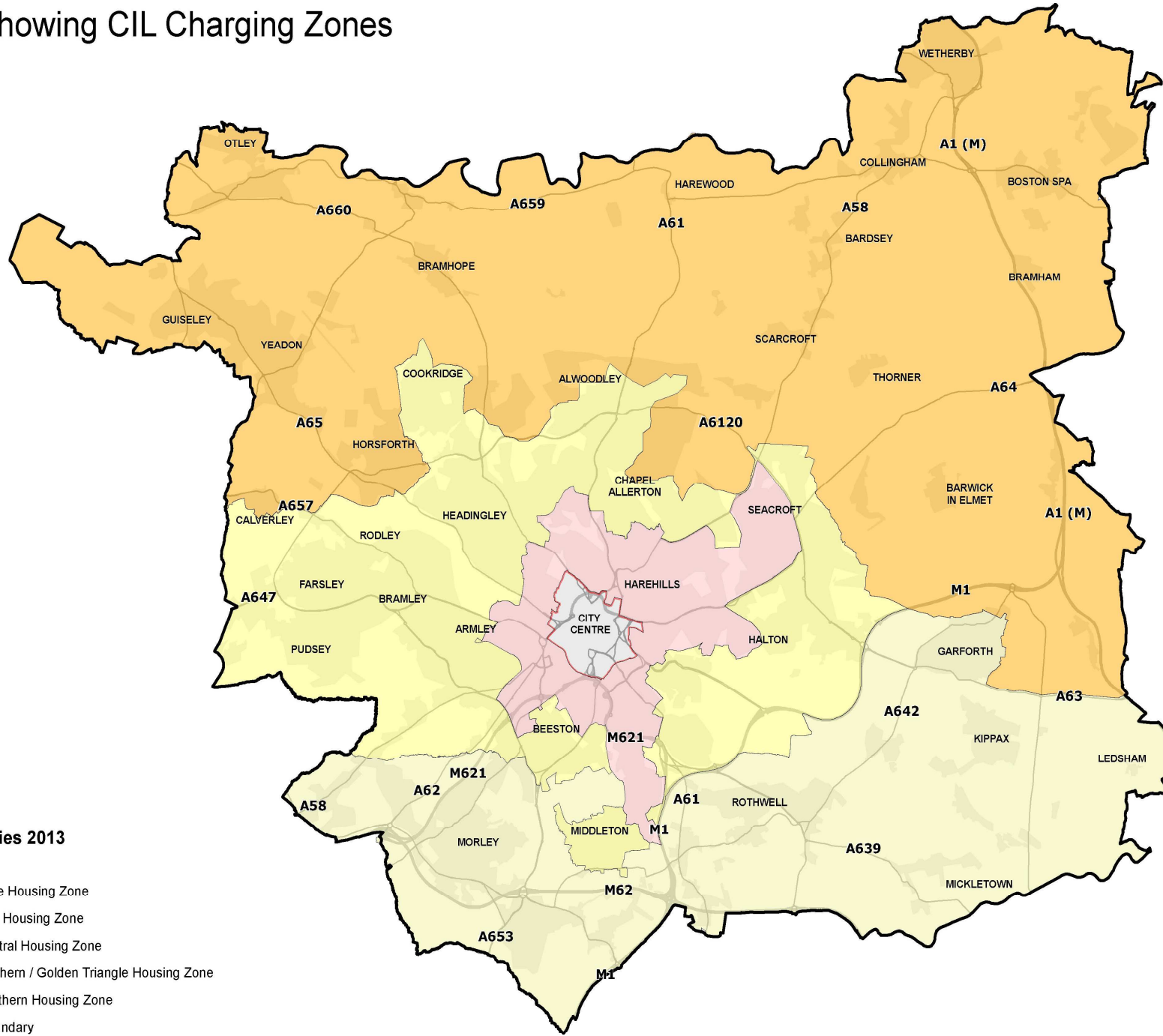
- 3.4 The CIL will be charged on the net additional floor area, i.e. after the area of any demolished buildings has been deducted. It will be levied in pounds per square metre.
- 3.5 CIL will be applied on the chargeable floor space of all new development apart from that exempt under the Community Infrastructure Levy Regulations 2010 (as amended 2011 and 2012) and specifically Part 2 and Part 6. These exemptions from the CIL rates are:
- 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);
 - A building into which people do not normally go;
 - A building into which people go only intermittently for the purpose of maintaining or inspecting machinery;
 - A building for which planning permission was granted for a limited period;
 - Development by charities of their own land to be used wholly or mainly for their charitable purposes;
 - Social Housing;
 - 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;
 - Retail mezzanine floors.

Preliminary Draft Charging Schedule

Type of development in Leeds	CIL Charge per square meter
Residential – Outer Northern	£90 /sqm
Residential – Outer Southern	£48 /sqm
Residential – Outer Central	£24 /sqm
Residential – Inner Area	£5 /sqm
Residential – City Centre	£5 /sqm
Retail: < 500 sqm	£5 /sqm
Retail: City Centre ≥ 500 sqm	£158 /sqm
Retail: Outside of City Centre ≥ 500 sqm	£248 /sqm
Offices: City Centre	£90 /sqm
All other uses, except for development by a predominantly publicly funded or not for profit organisation, including sports and leisure centres, medical or health services, community facilities, and education.	£5 /sqm

- 3.6 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). See Annex 1 for the detailed calculations to be used. For the purposes of the formulae in paragraph 5 of Regulation 40 (set out in Annex 1 of this document), the relevant rate (R) is the Rate for each charging zone shown in Table 1 above. The CIL payments are index linked. The map on the following page shows the different charging zones, paper copies at a more detailed scale are available on request and on the Council's website.

Map Showing CIL Charging Zones



Key

CIL Boundaries 2013

ZONE

- City Centre Housing Zone
- Inner Area Housing Zone
- Outer Central Housing Zone
- Outer Northern / Golden Triangle Housing Zone
- Outer Southern Housing Zone
- Leeds Boundary

4.0 How to comment on the CIL Preliminary Draft Charging Schedule

4.1 If you have any comments on the Leeds Preliminary Draft Charging Schedule, including the associated evidence base and other documents, please write to the following address by **XXX DATE** *[to be updated after confirmation of Preliminary Draft by Executive Board]*

Leeds Community Infrastructure Levy
Forward Planning and Implementation
Leeds City Council
Leonardo Building, 2 Rossington Street
Leeds, LS2 8HD

Email: LDF@Leeds.gov.uk
Phone: Lora Hughes - 0113 39 50714

4.2 Please note that if you disagree in particular with any aspects of the Schedule, your response needs to be supported with actual **evidence and examples**, otherwise it may be difficult to give your comments much weight.

4.3 When commenting on the proposed rates set out in this PDCS, questions you may wish to consider include:

- Do you agree with the assumptions and approach of the Economic Viability Study? If not what alternatives do you suggest?
- Do you agree that the Council has presented an appropriate evidence basis for determining the level of CIL that would be viable across the District and if not why not?
- Do you agree that the rates proposed represent an appropriate balance between the desirability of funding infrastructure and the need to maintain the overall viability of growth across the District?
- Do you agree with the different rates and charging zones for the development types proposed? If not which do you not agree with and why?
- Do you think the boundaries between the different zones are appropriate? If not please say what amendments should be made.
- Do you support the draft instalments policy?
- Do you support the Council adopting an exceptional circumstances policy?

5.0 Next Steps and Indicative Timetable

Stage	Date	Notes
Preparation of CIL evidence base	Throughout 2012	
Leeds Economic Viability Study	January 2012	Undertaken by consultancy GVA as part of the evidence base
Consultation on CIL Preliminary Draft Charging Schedule	Spring 2013 - 6 weeks	<u>This is the current stage of consultation</u>
Consultation on Draft Charging Schedule	Mid 2013 - 6 weeks	
Draft Charging Schedule submitted for Examination	Sept 2013 (subject to progress of Core Strategy)	
Independent Examination	Late 2013	
Adoption of the CIL – charging to commence	By April 2014	To be approved by Full Council

- 5.1 Please note that as much advance notice as possible will be given as to the date on which the Council intends to adopt the final CIL. This is to ensure that applicants with pending planning applications including those with S106s still to be concluded, have sufficient time to determine their approach. If applications are not determined (and S106s signed) by the date that the CIL is adopted then they will become CIL liable.

DRAFT

ANNEX 1 – CALCULATION OF CHARGEABLE AMOUNT

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

(NB: this Annex is formally part of the Preliminary Draft Community Infrastructure Levy Charging Schedule)

Calculation of chargeable amount

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.

ANNEX 2 – RELATIONSHIP BETWEEN THE CIL AND SECTION 106 AGREEMENTS

After adoption of the Leeds CIL or from April 2014 (whichever is sooner) national Regulations will 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, the Council will publish the Reg123 List on its website. A S106 contribution cannot then be made towards an infrastructure item already on the List. The Council is currently in the process of preparing the List to meet the requirements of the new CIL Guidance (CLG, December 2012). 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 its Reg123 list, however any changes must be clearly explained and subject to appropriate local consultation. Items also can not be removed from the List just so the item can be funded through a site specific S106. Where a change to the List would have a significant impact on the viability evidence that supported examination of the charging schedule a review of the charging schedule may be required. Items on the List are also not guaranteed to receive CIL funding (depending on the amount collected) as the list does not identify spending priorities.

Example infrastructure types that could be delivered through the CIL and S106s:

Type of infrastructure funded by the CIL	Type of infrastructure funded by S106s
Transport infrastructure e.g. roads, railway improvements	Local site-related transport improvements e.g. new bus stops, junction improvements, travel plans and Metro cards
Flood defences	Local site related flood risk solutions
Green infrastructure and open spaces	Provision of on-site greenspace in relation to larger sites

Larger scale developments typically have larger and more concentrated impacts on the local community and infrastructure network. 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 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, education infrastructure is an integral component of balanced sustainable communities. Where new housing schemes create a need for more school places, these will generally be accommodated across the existing school network through payments from the CIL for e.g. school 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 may 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 off-site 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 DPD, development briefs, and other policy guidance relating to these sites will provide more detail as they become applicable. They will also need to 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 4). 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.

Where viability issues still remain after investigating opportunities to defer the timing of obligations it may be possible to reach an agreement with the Council whereby it will use a portion of the CIL funds payable to deliver elements of the site specific infrastructure that would normally be secured through a s106 agreement. Reductions would be the minimum necessary to make the scheme viable.

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 land transfer will be at no cost to the Council and will not be accepted as a CIL payment in kind.

ANNEX 3 – DRAFT 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**.
- 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 60 days of commencement
> £10,000 - £59,999	Due in 3 equal instalments within: 60 days of commencement 120 days of commencement 180 days of commencement
> £60,000 - £99,000	Due in 4 equal instalments within: 60 days of commencement 120 days of commencement 180 days of commencement 240 days of commencement
> £100,000	Due in 4 equal instalments within: 90 days of commencement 180 days of commencement 360 days of commencement 720 days 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 offset. 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 4 – 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. 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.