



PRCC.36 11/12

Prosperous Communities
Committee

28 March 2012

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Subject: Community Infrastructure Levy

Report by:

Director of Regeneration and Planning

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Purpose / Summary:

To introduce the Community Infrastructure Levy to members and to recommend the most efficient way of producing a CIL charging schedule.

RECOMMENDATION(S):

That members agree to option 1 to implement CIL and pursue an aligned charging schedule with the Central Lincolnshire Authorities.

IMPLICATIONS

Legal:

Before it can be implemented CIL must be examined by an inspector. Once it has been through this process the charging schedule may be brought into effect. It is expected that this process would be managed by the Lincolnshire Joint Planning Unit (JPU).

Financial :

The introduction of CIL would allow the Council to capture funding for infrastructure which could not be funded through Section 106. These funds would be used by the Council or partner organisations alongside other funding streams such as the New Homes Bonus or Central Government Funding.

The CIL could provide the Council with funds to fund various infrastructure which other funds are not currently available for.

There will be direct administrative costs relating to the introduction of CIL as the authority will be required to report on the collection and expenditure of CIL funds. Monitoring and collection of monies will take place in the same way as the current Section 106 procedure but on a wider scale. As the use of Section 106 agreements would be scaled back the Developer Contributions Officer would take over monitoring and collection duties. The full impact on the Councils accountants at this time is not yet known.

The Community Infrastructure Levy regulations 2010 contain clauses relating to administrative expenses for the CIL. In years one to three of CIL up to 5% of the funds collected over those three years may be used for any expenses incurred during or before those three years.

In year four and for each subsequent year after an amount not exceeding 5% of the CIL collected in that year may be used for administrative expenses.

Staffing :

Monitoring and collection of monies will take place in the same way as the current Section 106 procedure but on a more formalised scale with annual reports published on the Councils website. As the use of Section 106 agreements would be partially scaled back the Developer Contributions Officer would take over monitoring and collection duties as well as implementing the processes necessary for dealing with the funds at an operational and reporting level.

The council will also be responsible for reporting the annual CIL income and expenditure in a fully transparent manner.

Equality and Diversity including Human Rights :

*NB: A full impact assessment **HAS TO BE** attached if the report relates to any new or revised policy or revision to service delivery/introduction of new services.*

Risk Assessment :

Contained within the body of the report at Section 4.

Climate Related Risks and Opportunities :

None arising from this report.

Title and Location of any Background Papers used in the preparation of this report:

Call in and Urgency:

Is the decision one which Rule 14 of the Scrutiny Procedure Rules apply?

Yes

No

Key Decision:

Yes

No

1 Introduction

- 1.1 The Community Infrastructure Levy (CIL) is designed to secure funding for infrastructure through the planning process. Its aim is to remove some of the problems associated with obtaining infrastructure funding through the existing planning regime. As the introduction of CIL is discretionary, an authority has to publish a charging schedule which is supported by an infrastructure plan and a viability assessment. An Infrastructure Delivery Plan and viability assessment which can underpin a West Lindsey charging schedule are currently being developed by the Lincolnshire Joint Planning Unit. From this process a list of which infrastructure is to be funded by CIL will need to be published by the Council.

2 Background Information

- 2.1 West Lindsey District Council is the charging authority for CIL within the District meaning that the Council is responsible for collection and monitoring of CIL monies. The Council should work with partner organisations to agree how the expenditure of these monies is prioritised although there is nothing within the CIL regulations that compels the Council to have to pass any monies on to another organisation apart from Parish or Town Councils.
- 2.2 It is expected that the Council will have to pass on a 'meaningful proportion' of CIL funds to the parish or town Council where a development is taking place which they can then use for local infrastructure. As this is currently at a consultation stage the exact level of the meaningful proportion is not known. Parish or Town Councils will be able to spend the money on infrastructure as they see fit.

3 The Community Infrastructure Levy

- 3.1 CIL has several key differences to Section 106 which are listed below:-
- It is not negotiable and is paid by all qualifying developments e.g. those that it has been shown can viably pay the levy.
 - It does not have to meet the Section 106 tests and can be used for any infrastructure on the Councils list of infrastructure to be funded by CIL.
 - It is paid on a "per square metre" basis.
 - The Council will publish a list of infrastructure that CIL will be used to fund. Any infrastructure on this list cannot then be requested as part of a Section 106 agreement. Infrastructure not on the list will still fall under Section 106.
 - Under the current regulations it is not possible to use CIL to fund affordable housing which will still be dealt with through Section 106 (A consultation over whether CIL could be used to fund affordable housing finished in December 2011. The government has not yet commented on the consultation).

- 3.2 Under the existing processes funding infrastructure relating to development has been dealt with via Section 278 (Highway Works) and 106 agreements (Developer Contributions). These agreements have been negotiated on a site by site basis and were required to meet the tests set out in Circular 05/2005 which required any payment made to be related in scale and kind to a development and necessary to make it acceptable.
- 3.3 This has meant that it has been hard to relate wider infrastructure needs to specific developments especially where a large amount of development takes place in a piecemeal manner through a number of planning permissions. As Section 106 Agreements are an agreement a developer is able to negotiate with planning authorities on what should be included in that agreement. This has led to varying levels of contributions from different sites.
- 3.4 In order to implement a CIL charge an authority has to show that it is viable for a charge to be introduced and that it will not deter development.
- 3.5 Authorities that are currently implementing CIL have created 'charging zones' which have varying charges for different types of development depending on what is shown to be viable. It is likely that not all types of development within the District will be able to pay CIL. Work in other parts of the country shows that A1 retail and residential dwellings are the most viable. An example of the charging schedule and charging zones for Newark and Sherwood District is attached as an Appendix.
- 3.6 CIL does not have to be set at a level which makes **all** development viable within the District but must not be at a level which would affect the overall development aims of the district. It is therefore likely that some development sites will be unviable once CIL is introduced. **As CIL is non-negotiable any negotiations will fall upon those items covered under Section 106 which will also include affordable housing.**
- 3.7 The CIL regulations do not allow authorities to develop joint charging schedules and it is not considered likely at this time that changes will be put forward which will alter this position. As such the most charging authorities can do is agree to produce aligned charging schedules.
- 3.8 Figure 1 sets out an indicative level of CIL funding that could be achieved depending on the number of dwellings that are constructed across the district during the plan period. Figure 2 gives an example of the level of CIL that would be payable for individual developments. These figures are only an example to show how the level of CIL income will be affected by the number of properties built. The levels of charge are broadly in line with other authorities across the country who are further forward in implementing CIL.

- 3.9 There is also provision with the regulations for affordable housing to be exempt from the charge which could also reduce the amounts received further.

Figure 1: CIL that could be achieved during the plan period.

No of dwellings Constructed	Level of Charge			
	£40	£45	£50	£55
2000	8,000,000	9,000,000	10,000,000	11,000,000
5000	20,000,000	22,500,000	25,000,000	27,500,000
7000	28,000,000	31,500,000	35,000,000	38,500,000

Figure 2: CIL that would be due for individual developments.

No of dwellings Constructed	Level of Charge			
	£40	£45	£50	£55
5	20,000	22,500	25,000	27,500
15	60,000	67,500	75,000	82,500
25	100,000	112,500	125,000	137,500

*an average dwelling size of 100sqm has been assumed ** the table does not take into account the "meaningful proportion" that will be passed to the local community and will reduce the amount available.

It is important to remember that CIL should be seen as a 'top up' for infrastructure funding rather than a tool to replace mainstream funding e.g. Central government funding still available for schools and other facilities.

- 4 This report considers the options available in relation to the Councils relationship with Lincoln City Council and North Kesteven Council. Both councils have also indicated their willingness to pursue CIL. Discussions with other Councils bordering West Lindsey have not currently taken place over the implementation of aligned CIL charging schedules.

- 4.1 The options are:-

Option 1:- Agree to implement CIL and pursue an aligned charging schedule with North Kesteven and City of Lincoln councils as part of the Joint Planning Unit (JPU).

Opportunities

- CIL will provide a fund of money which can be used on any infrastructure identified in the infrastructure list (to be produced).
- The funding of infrastructure by CIL does not have to be linked to a development in the same way as Section 106.
- Although each authority will have its own CIL charging schedule they would be produced at the same time as the other authorities in Central

Lincolnshire which would allow financial savings to be made as the work would be carried out by the Joint Planning Unit.

- An aligned charging schedule will fully support the delivery of other plans which cover Central Lincolnshire such as the Infrastructure Delivery Plan.

Threats

- An aligned charging schedule will need to be agreed by all authorities within Central Lincolnshire through their respective constitutional mechanisms.
- CIL is non negotiable for the developer and only in exceptional circumstances where a Section 106 is of greater value than a CIL payment would have been can an authority allow a payment not to be made. In this instance some marginally viable developments may not take place.
- Should viability be identified as a problem on a development site then any items covered under Section 106 will be open to challenge on viability grounds. This could have most impact on affordable housing provision which is currently a priority for the Council.
- If set too high CIL may threaten the provision of other elements of a development such as design standards, energy efficiency measures and public open space provision.

Option 2:- Agree to implement CIL and not pursue an aligned charging schedule.

Opportunities

- CIL will provide a fund of money which can be used on any infrastructure identified in the infrastructure list.
- Although CIL must not be set at a level that threatens the overall development aims across the District it is possible to set CIL levels below the maximum that can be charged to allow all developments to take place. This approach could provide an incentive for developers to choose West Lindsey rather than other Districts which charge a higher level of CIL.
- Setting a lower level of CIL may make the district more attractive as a place to develop.
- The Council will receive CIL which can be used to fund any infrastructure included on its list of infrastructure to be funded by CIL.

Threats

- The documentation required for different charging schedules would increase both the length and cost of the CIL process i.e. the council would not be able to take advantage of joint working efficiencies.
- Other District may also choose to set their CIL at a level which encourages development and is lower than West Lindsey's.
- Should viability be identified as a problem on a development site then any items covered under Section 106 will be open to challenge on viability grounds. This could have most impact on affordable housing provision which is currently a priority for the Council.

- If set too high CIL may threaten the provision of other elements of a development such as design standards, energy efficiency measures and public open space provision.
- The council may not receive enough CIL to pay for the infrastructure necessary across the district.

Option 3:- Do nothing.

Opportunities

- It is not expected that this option would provide any opportunities.

Threats

- From 2014 onwards it will not be possible to pool more than 5 Section 106 agreements for funding projects. This will limit the use of using multiple small contributions for larger infrastructure projects.
- The tests for when Section 106 contributions can be requested are now law and therefore limit contributions to those which are:-
 - Necessary to make the development acceptable; and
 - Fairly related in scale and kind; and
 - Directly related to the development.
- It is unlikely that previous levels of funding for infrastructure projects will be available and that authorities will have a larger funding deficit to meet.

5 Recommendation

5.1 That members agree to Option 1 to implement CIL and pursue an aligned charging schedule.

6 Next Steps for Implementation

6.1 It should be noted that the process of implementing CIL involves a number of steps, several of which will require a decision by members. The work currently being undertaken as part of the Local development Framework process including the infrastructure delivery plan will help to underpin the development of a draft charging schedule. Further viability work will be necessary and has been commissioned by the Lincolnshire Joint Planning Unit.

6.2 During the process of producing a draft charging Schedule the charging authority (WLDC) will be required to decide on the appropriate balance of CIL (what level the charge should be set at) and how much development they are willing to put at risk through the implementation of CIL.

6.3 Once a draft charging schedule has been produced the Council must consult on the document. No prescribed time is set out for consultation but a period of six weeks is suggested in the accompanying CIL guidance.

6.4 After a period allowing representations on the draft schedule an examination can take place. It is possible under the regulations for a joint examination for all three Central Lincolnshire Charging Authorities to take place.

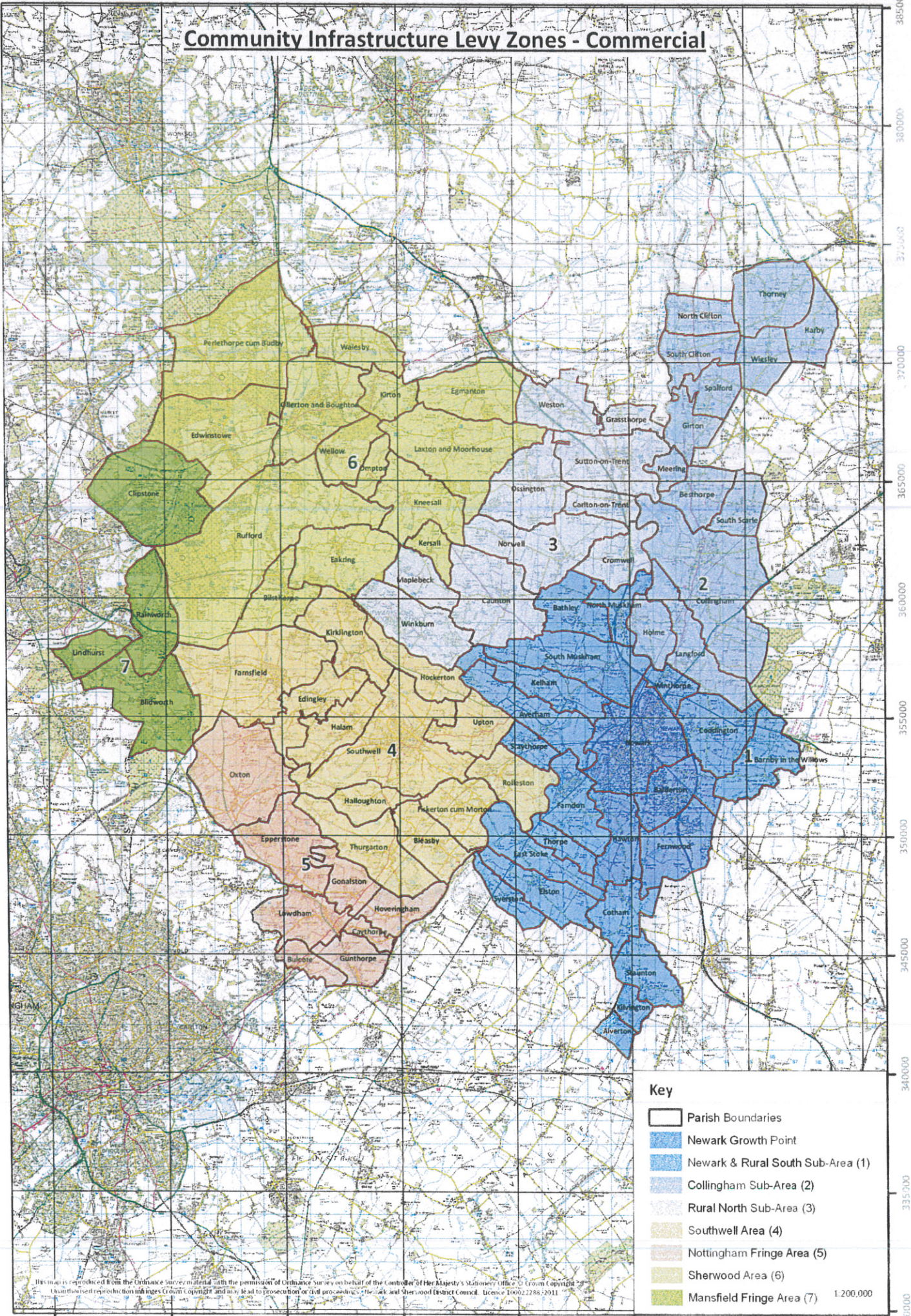
6.5 Once the examination has been completed the charging schedule will need to be formally approved by a resolution of the full council of the charging authority. The charging authority will also be required to insert a commencement date from which CIL will become payable.

6.6 Until CIL is adopted the council will continue under the current adopted Section 106 regulations and prioritise contributions in line with the adopted Section 106 priorities document.

7 **Timescales**

7.1 CIL cannot be introduced until the Core Strategy is in place which is expected circa May 2013. Much of the work detailed above can be carried out before this date meaning the CIL could potentially be adopted by August 2013.

Community Infrastructure Levy Zones - Commercial

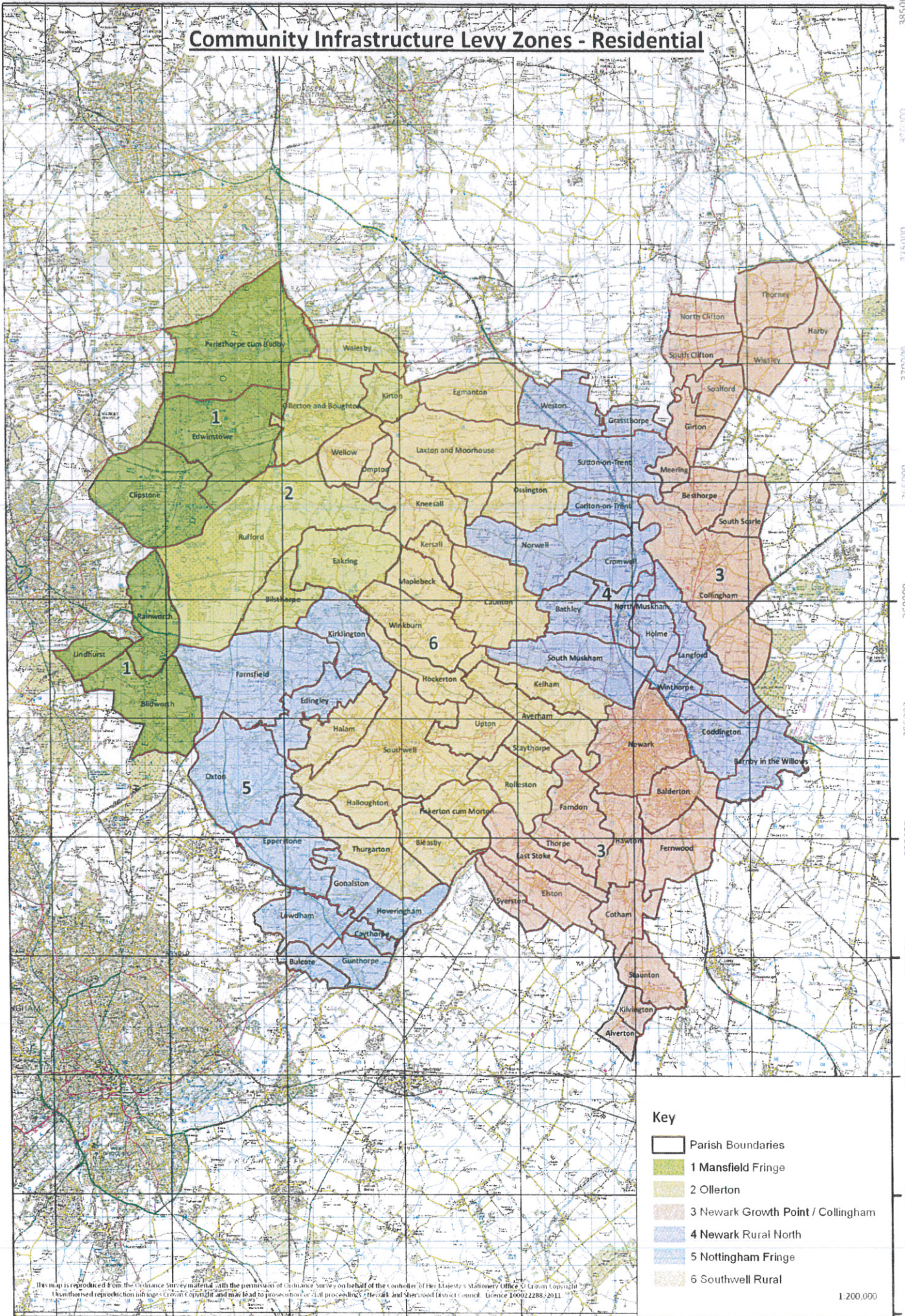


- Key**
- Parish Boundaries
 - Newark Growth Point
 - Newark & Rural South Sub-Area (1)
 - Collingham Sub-Area (2)
 - Rural North Sub-Area (3)
 - Southwell Area (4)
 - Nottingham Fringe Area (5)
 - Sherwood Area (6)
 - Mansfield Fringe Area (7)

Commercial Community Infrastructure Levy Rates

Zones	Hotel C1	Residential Institution C2	Industrial B1b/B1c/B2/B8	Offices B1a	Retail A1, A2, A3, A4, A5	Community/ Institutional D1	Leisure D2	Agricultural	Sui Generis
Newark Growth Point	£0	£0	£20	£0	£125	£0	£0	£0	£0
1 Newark & Rural South	£0	£0	£0	£0	£100	£0	£0	£0	£0
2 Collingham	£0	£0	£0	£0	£100	£0	£0	£0	£0
3 Newark & Rural North	£0	£0	£15	£0	£100	£0	£0	£0	£0
4 Southwell	£0	£0	£5	£0	£100	£0	£0	£0	£0
5 Nottingham Fringe	£0	£0	£0	£0	£100	£0	£0	£0	£0
6 Sherwood	£0	£0	£0	£0	£100	£0	£0	£0	£0
7 Mansfield Fringe	£0	£0	£0	£0	£100	£0	£0	£0	£0

Community Infrastructure Levy Zones - Residential



Key	
	Parish Boundaries
	1 Mansfield Fringe
	2 Ollerton
	3 Newark Growth Point / Collingham
	4 Newark Rural North
	5 Nottingham Fringe
	6 Southwell Rural

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Residential Community Infrastructure Levy Rates

Zones	Residential C3
1 Mansfield Fringe	£0
2 Ollerton	£0
3 Newark	£45
3 Collingham	£45
4 Newark Rural North	£55
5 Nottingham Fringe	£65
6 Southwell Rural	£75