



**PRCC.19 15/16**

**Prosperous Communities  
Committee**

**15 September 2015**

**Subject: COMMUNITY INFRASTRUCTURE LEVY (CIL) AND  
REGULATION 123 LIST**

Report by:

Chief Operating Officer

Contact Officer:

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Purpose / Summary:

- To advise on the current programme in respect of progressing Community Infrastructure Levy adoption by the Authority;
- To formally withdraw the Draft Charging Schedule and associated documents previously reported and approved by this Committee 3<sup>rd</sup> of September 2013 (minute 68); and
- To, subject to agreement on the alignment of the rate with CLSG, seek approval of a Preliminary draft Schedule of Rates, Charging zones and associated Polices and draft Regulation 123 list for a 6 week public consultation during Autumn 2015.

**RECOMMENDATION(S):**

Committee Members are asked to:

- formally withdraw the Draft Charging Schedule of Rates and associated previously agreed at their meeting 3<sup>rd</sup> September 2013 (min 68);
- Approve for public consultation in October 2015 the Preliminary Draft Charging Schedule and Charging zones, with in Kind Policy, Stage Payments Policy and the draft 123 List (as appended to this report).

## IMPLICATIONS

**Legal: See section 10.1**

**Financial : See Section 10.2**

FINREF FIN/59/16

**Staffing :**

Existing Local Plan resources. Recruitment of a CIL/Section 106 monitoring officer. – See section 10.3

**Equality and Diversity including Human Rights :**

**Risk Assessment :**

As advised in the report. See section 11

**Climate Related Risks and Opportunities :**

None

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

- [Prosperous Communities Committee, 28 March 2012, Community Infrastructure Levy \(report\)](#)
- [Prosperous Communities Committee, 12 February 2013, Infrastructure Planning in Central Lincolnshire \(report\)](#)

[Prosperous Communities Committee, 3 September 2013, Community Infrastructure Levy Regulation 123 List \(report\).](#)

**Call in and Urgency:**

**Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?**

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

**Yes**

**No**

**Key Decision:**

A matter which affects two or more wards, or has significant financial implications

**Yes**

**No**

## 1. Purpose of Report

- To advise on the current programme in respect of progressing Community Infrastructure Levy adoption by the Authority;
- To formally withdraw the Draft Charging Schedule and associated documents previously reported and approved by this Committee 23<sup>rd</sup> of September 2013 (minute 68); and
- To, subject to agreement on the alignment of the rate with CLSG, seek approval of a Preliminary draft Schedule of Rates, Charging zones and associated Polices and draft Regulation 123 list for a 6 week public consultation during Autumn 2015.

## 2. Executive Summary

2.1 Further to previous reports to this Committee in 2013 and the cessation of the previous CIL programme due to the change in approach regarding the Local Plan, Members are requested to consider the requirements of the next stages in the CIL adoption process. This includes the need under Regulation 15 of the Community Infrastructure Levy Regulations 2010 (amended by the Community Infrastructure Levy (Amendment) Regulations 2011) to approve for consultation the Preliminary draft schedule of Rates and associated documents.

### 3.0 Introduction and background

- 3.1 The Authority has duties and responsibilities as Charging and Collecting Authority in the setting of a District Community Infrastructure Levy as set out in the Community Infrastructure Levy Regulations 2010 (as amended).
- 3.2 Following the imposition of CIL, a local authority can only continue to use section 106 (planning obligations) for infrastructure if it has published a list of what projects will be exempt from the charge and presumed to be CIL funded. This is set out in regulation 123 and the resulting list is referred to by that regulation number.
- 3.3 The CIL charge (and the Section 106 and affordable housing regime) have been derived from the extensive infrastructure and viability planning evidence. As agreed within Central Lincolnshire the CIL charge setting for the three districts are aligned.

### Programme

3.4 The approved CIL programme aims to have a CIL charge in place by winter **2016/17** and the stages towards adoption being as follows;

CIL stage	Targeted date
1 Preliminary Draft Charging Schedule (PDCS)	<i>Current consultation</i> Public Consultation 1 <sup>st</sup> October to the November
2 Draft Charging Schedule (DCS)	Public Consultation spring 2016
3 Examination	summer 2016

**The Preliminary Draft Charging schedule, plan of the proposed Charging zones, In Kind Policy and Stage payment policy**

- 3.5 The Preliminary Draft Charging schedule, plan of the proposed Charging zones, are enclosed in appendix A. Formal consultation on these documents is necessary under regulation at this stage. Also enclosed and put forward to be consulted upon are the In Kind and Stage payment policy and Draft 123 List of Projects. Also enclosed as information in support of justifying the charges is a copy of the Central Lincolnshire Infrastructure Delivery Plan, Draft Whole Plan Viability Report, and Draft Developer Contribution SPD.
- 4.0 Regulation 123 list**
- 4.1 The draft Regulation 123 includes the projects that have been identified through the Infrastructure Planning for Central Lincolnshire and are required to ensure a sustainable and deliverable Plan. The Central Lincolnshire Joint Strategic Planning Committee members will be approving the latter documents for approval at their next meeting on the 7<sup>th</sup> of September. Similar the respective District Councils of West Lindsey and North Kesteven will also be considering for consultation approval of the aligned schedule of rates at their respective committees in September.
- 4.2 The Regulation 123 list schedules what projects will be exempt from Section 106 contributions and are primarily the priorities Central Lincolnshire Authorities have identified and agree as being necessary to support the local Plan. The List will be regularly reviewed and amended as priorities and viability change over the life of the Plan. Projects are generally those of a strategic nature and/or of larger scale and cost than usual on site development infrastructure requires. Even allowing for an 'oversubscribed' list with an identifiable funding gap, it is advisable that projects are restricted to "core infrastructure" and items where contributions need to be pooled.
- 4.3 Strategic Central Lincolnshire Infrastructure Projects identified with delivery partners for initial funding from CIL are, the Lincoln Eastern By pass and Secondary Education facilities. By their nature Strategic Sport Provision and Strategic Open Space Infrastructure investment would also be more effectively secured through the Community Infrastructure Levy expenditure.
- 4.5 In order to be able to respond swiftly to any changes in viability, it is proposed that the Central Lincolnshire Authorities keep under review non regulation 123 list strategic and local projects on a "B" list as appended, and report proposed changes on both lists back to the relevant Committees on an annual basis through the annual monitoring reporting process.
- 4.6 Regulation 123 lists are simply lists and do not necessarily involve prioritisation or phasing of infrastructure funding. Lists can be changed without the need for a full examination, although the regulations require consultation. Because of the

relationship with Section 106, and the need for a flexible approach, it is advised that there is likely to be less of an issue with adding projects to the list than removal for consideration in Section 106 negotiated projects. As such it is recommended that at this early stage the draft list contains a minimum of projects, to be developed and added to as necessary. It is recommended that decisions on CIL spending priorities and phasing are continued in partnership through the Central Lincolnshire IDP/CIL groups.

- 4.7 Following adoption of CIL, it is still expected that most on site infrastructure requirements will still be negotiated through Section 106 agreements, such as affordable housing, site specific highway works and local open space. The IDP currently identifies some draft S106 site specific infrastructure requirements for the SUEs in this respect.
- 5.0 The CIL Charging Schedules, regulation 123 list and associated documents have been established in the context of requirements/issues outlined below;**
- 5.1 **Viability and expected income**  
The Central Lincolnshire Whole Plan Viability and Community Infrastructure Study evidences the justification for the draft charging rates set out in the current preliminary draft charging schedule. Expected future income is based on these rates and the housing supply identified in the Local Plan. The simple cash flow model appended to the IDP showing expected income and possible expenditure projections will be updated by the Central Lincolnshire authorities to be used in the management and monitoring of CIL projects.
- 5.2 **Funding “gap”**  
Additional to CIL other forms of funding will also need to be investigated and used to support the wider infrastructure needs of Growth as outlined in the Infrastructure Delivery Plan. In West Lindsey DC we are commencing this work to support Gainsborough Housing Zone and the regeneration of the town.
- 5.3 **Relationship between CIL and Section 106 agreements**  
Once a project is identified on the Regulation 123 list, and the list is adopted, Section 106 funding cannot be charged for that project.
- 5.4 Provision for Section 106 agreements will remain. However under the regulations, the ability to ‘pool’ contributions from developers via Section 106 to deliver larger items of infrastructure will be substantially curtailed, with limiting the pooling of five contributions to one infrastructure type. The authority’s intention is that CIL will be used to deliver larger strategic items, with S106 retained for direct mitigation of on site-specific impacts. The approach recommended seeks to maximise the level of Section 106 contribution relative to the CIL charge to maintain local direction and flexibility.
- 5.6 Meaningful proportion for community infrastructure**

The authority will be required to pass a 'meaningful' proportion of CIL receipts to suitable neighbourhood groups for use on infrastructure identified as important by the local community. Local (Parish and Neighbourhood) Councils can receive up to 25% of CIL collected in that parish or neighbourhood. Where there are no established Local Councils, District Councils are asked to spend this in consultation with local communities. A proposal for how the Community/ neighbourhood infrastructure element will be managed is being prepared and will be reported to a future Committee.

## **6.0 Management of collection and expenditure CIL funds in Central Lincolnshire**

6.2 The CIL Regulations provide for full relief from the CIL charge for any part of a development which is affordable housing (and includes social and affordable rent and shared ownership). Charity landowners will also benefit from relief provided that the development is to be used for charitable purposes. If a development is initially granted CIL relief and then circumstances change, there is a claw-back period of 7 years within which the development will become liable for CIL. It is not currently proposed to extend the regulated relief scope, although there are ways for authorities to do so and this can be done after CIL adoption.

## **7.0 Examination**

A joint examination is recommended and currently programmed for summer 2016 and the details of such will be reported further when agreed through Central Lincolnshire Officer Group.

## **8.0 Conclusions**

8.1 Where relevant to the WLDC administrative area, Members are requested to approve for public consultation in October 2015 the Preliminary Draft Charging Schedule and Charging zones, with in Kind Policy, Stage Payments Policy, draft 123 List (as appended to this report).

## **9. STRATEGIC PRIORITIES**

### **9.1 Reduce Poverty and Disadvantage**

Sustainable Growth is central to the future prosperity of the City. The Local Plan objectives support the reduction of poverty and disadvantage. In line with Regulation 14 (see above), the CIL charges have been set on the basis of providing an economically positive effect.

### **9.2 Seek to increase the supply of Affordable Housing to Rent or to buy.**

Growth and development of the general housing market is a positive step in increasing the supply of affordable housing.

### **9.3 Reduce the District's carbon footprint.**

Infrastructure provision could potentially include strategic infrastructure aimed at promoting low carbon living.

## 10.1 Finance

The agreement of projects within the Regulation 123 list will remove the ability to raise Section 106 funding for these projects. Section 106 agreements will continue to be used for direct mitigation of site-specific impacts while CIL income will be used to fund the delivery of larger strategic items identified on the Regulation 123 list.

Cost will be incurred by the Authority in respect of statutory examination process and aligned working however the sharing of costs for the Local Plan with Central Lincolnshire Partners will minimise these.

## 10.2 Legal Implications

Before it can be implemented, CIL is subject to independent examination. Once it has been through this process the charging schedule can be adopted by the respective districts. It is expected that this process would be managed jointly with Central Lincolnshire Partners.

## 10.3 Human Resources

The recommendations in this report, if approved, will require time commitment from each of the partner authorities.

## 11. Risk Implications

11.1 The risks associated with the development of the IDP and CIL, and prioritising certain items of infrastructure are set out in the report and appendices and will be considered by the Central Lincolnshire Joint Strategic Planning Committee, and the constituent authorities with advice and support from officers.

## 12 Recommendations

12.1 Committee Members are asked to:

- formally withdraw the Draft Charging Schedule of Rates and associated previously agreed at their meeting 3<sup>rd</sup> September 2013 (min 68);
- Approve for public consultation in October 2015 the Preliminary Draft Charging Schedule and Charging zones, with in Kind Policy, Stage Payments Policy and the draft 123 List (as appended to this report).

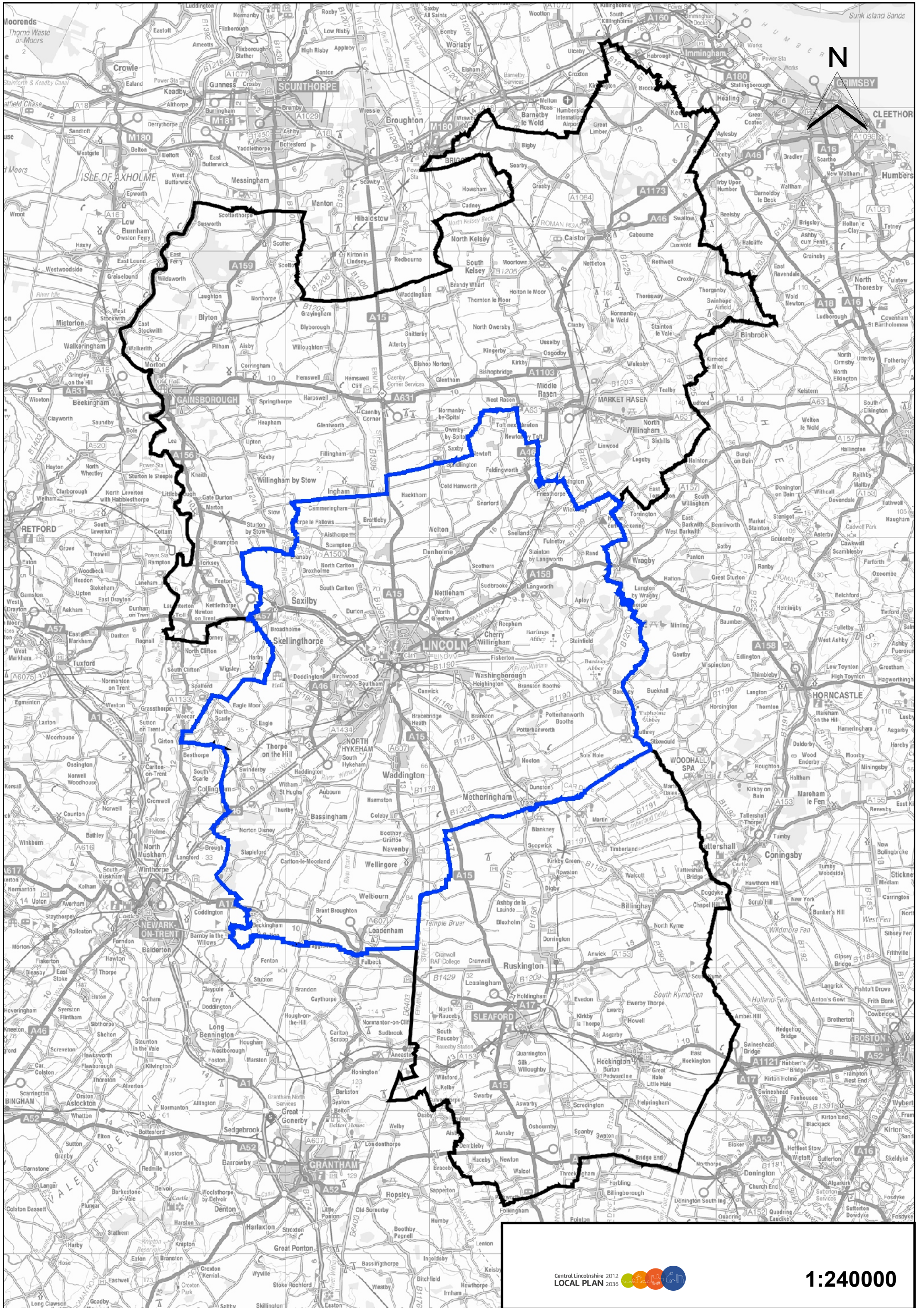


## CENTRAL LINCOLNSHIRE COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

<b>Name of Charging Authority</b>	City of Lincoln Council North Kesteven District Council West Lindsey District Council
<b>Rates (£m) at which CIL is to be chargeable</b>	CIL will be charged in Pounds Sterling (£) per square metre at differential rates according to the type of development and by location as set out in the Commercial and Residential Tables of this Schedule.
<b>Charging Zones</b>	The Charging Zones to which CIL will be applied are those as identified on the Convenience Retail and Residential Maps as set out within this Schedule.
<b>How the Chargeable amount will be Calculated</b>	<p>The individual charging authority will calculate the amount of CIL chargeable to a qualifying development utilising the formula set out in Part 5 of the CIL Regulations. In summary (and subject to any changes that have occurred or may occur as a result of future amendments to the Regulations) the amount of CIL chargeable will be calculated as follows:</p> <p>CIL Rate x Chargeable Floor Area x BCIS Tender Price Index (at Date of Planning Permission)</p> <p>BCIS Tender Price Index (at Date of Charging Schedule)</p> <p>The Chargeable Floor Area makes allowance for previous development on the site. The net chargeable floor area amounts to the gross internal area of the chargeable development less the gross internal area of any existing buildings that qualify for exemption on the site.</p> <p><i>This summary does not take account of every aspect of the Regulations.</i> The CIL Regulations are available to view on the Planning Policy pages of Central Lincolnshire's website <a href="http://www.central-lincs.org.uk">www.central-lincs.org.uk</a></p>
<b>Further Information</b>	<p>Further information concerning:</p> <ul style="list-style-type: none"> <li>• When CIL will be charged;</li> <li>• Who is liable to pay CIL;</li> <li>• How CIL will be paid;</li> <li>• Exemptions from paying the CIL; and</li> <li>• Monitoring</li> </ul> <p>is also available and can be viewed on Central Lincolnshire's webpages at <a href="http://www.central-lincs.org.uk">www.central-lincs.org.uk</a></p>

## CHARGING ZONE PLAN

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West Lindsey District Council Licence No. LA 100018701  
Date 28 March 2013



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 Date 02 September 2015

## CIL CHARGING RATES (£ per Sqm)

<b>CIL CHARGING SCHEDULE COMMERCIAL CHARGING ZONES</b>									
	Hotel C1	Residential Institution C2	Industrial B1b/c, B2, B8	Offices B1a	Convenience Retail A1	Retail Warehouse	Community Institutional D1	Leisure D2	Sui Generis
City of Lincoln	£0	£0	£0	£0	£40	£0	£0	£0	£0
North Kesteven	£0	£0	£0	£0	£40	£0	£0	£0	£0
West Lindsey	£0	£0	£0	£0	£40	£0	£0	£0	£0

<b>CIL CHARGING SCHEDULE RESIDENTIAL CHARGING ZONES</b>				
		Over 10 dwellings	Under 10 dwellings	Flatted schemes
Zone 1	Lincoln Strategy Area	£45	£75	£0
*Zone 2	Non Lincoln Strategy Area	£15	£55	£0
Zone 3	All Strategic Urban Extension (SUE) Sites/Developments over 1000 units	£25	-----	-----

<sup>1</sup>\*Gainsborough, Sleaford, Market Rasen, Caistor and surrounding rural areas (outside LSA)

# CENTRAL LINCOLNSHIRE COMMUNITY INFRASTRUCTURE LEVY

## DRAFT

### INSTALLMENTS POLICY

Regulation 70 of the Community Infrastructure Levy Regulations 2010 sets a default of full payment of the levy within 60 days of the commencement of development. The Regulations also enable a charging authority to set an Instalment Policy that allows payments to be spread over longer periods. City of Lincoln Council, North Kesteven District Council and West Lindsey District Council consider it reasonable that payment instalments are scheduled in proportion to the scale of CIL liability for proposed developments.

In accordance with regulation 69b of the CIL Amendment Regulations, the charging Authorities will apply the following Instalment Policy to all development on which CIL is liable.

The Instalments Policy will come into effect on [INSERT DATE], from which time the Community Infrastructure Levy will be payable by instalments as follows:

#### **Where the chargeable amount is less than £50,000**

- Full payment will be required within 60 days of the commencement date or further period as set out by Regulation 70.

#### **Where the chargeable amount is £50,000 - £300,000**

- First instalment representing 25% of the chargeable amount will be required within 60 days of the commencement date; and
- The second instalment representing 75% of the chargeable amount will be required within 365 days of the commencement date.

#### **Where the chargeable amount is above £300,000**

- First instalment representing 25% of the chargeable amount will be required within 60 days of the commencement date;
- Second instalment representing 25% of the chargeable amount will be required within 365 days of the commencement date;
- Third instalment representing 25% of the chargeable amount will be required within 730 days of the commencement date; and
- The fourth and final instalment representing 25% of the chargeable amount will be required within 1095 days of the commencement date.

## **CENTRAL LINCOLNSHIRE COMMUNITY INFRASTRUCTURE LEVY DRAFT POLICY**

### **PAYING CIL IN THE FORM OF LAND**

In certain circumstances the charging authority may support the payment of some or all of a CIL requirement in the form of land. This will depend upon six conditions:

1. The CIL liability is greater than required under the relevant regulations (currently £50,000);
2. The charging authority must agree to the transfer and has the right to withhold such agreement;
3. Either:
  - a) The charging authority must have the intention of using the land to help provide infrastructure to support the development of its area; or,
  - b) The charging authority must be satisfied that any third party that will receive a land transfer will use land for a specific purpose that will help provide infrastructure to support the development of its area.
4. The person transferring the land to the charging authority as payment must have assumed liability to pay CIL beforehand;
5. The land to be transferred must have been valued by a suitably qualified and experienced independent person to be agreed with the charging authority. The valuation must represent the fair market price for the land on the day it is valued;
6. Development on the site must not have commenced before a written agreement with the charging authority to pay some or the entire CIL amount in land has been made. This agreement must state the value of the land being transferred.

The charging authority will accept a land transfer at its discretion. The authority will consider agreements within the context of relevant development plan documents, supplementary planning documents and corporate strategies.

Prior to commencement of development on the site in question, a CIL liable party should discuss possible land transfer with the charging authority.

It should be noted that the agreement to pay in land may not form part of a planning obligation entered into under Section 106 of the Town and Country Planning Act 1990.

The land transfer agreement may allow the transfer of land in instalments, subject to the payment proportions and due dates set out in the relevant demand notice.

Any outstanding CIL amount (after a transfer of land) should be paid in line with the payment due dates contained in the relevant demand notice.

**Draft Central Lincolnshire "Regulation 123 list" for reporting to City of Lincoln Council for Approval Aug 2015**

<b>Confirmed Infrastructure Item for CIL</b>
<b>Central Lincolnshire Local Plan Strategic Infrastructure</b>
Lincoln Eastern Bypass
Lincoln Southern Bypass Phase 1
<b>District Infrastructure</b>
City of Lincoln
Secondary Education Improvements
North Kesteven
Secondary Education Improvements
West Lindsey
Secondary Education Improvements