



**Prosperous Communities**

**24<sup>th</sup> October 2017**

**Subject:** Adoption of the West Lindsey Community Infrastructure Levy Charging Schedule

Report by:	Chief Operating Officer
Contact Officer:	Rachael Hughes 01427 676 548 <a href="mailto:rachael.hughes@west-lindsey.gov.uk">rachael.hughes@west-lindsey.gov.uk</a>
Purpose / Summary:	To seek adoption of the Community Infrastructure Levy Charging Schedule for West Lindsey.

**RECOMMENDATIONS:**

That Members recommend to Full Council that:

1. The modifications set out in the West Lindsey Community Infrastructure Levy (CIL) Examination Report (Appendix A) to the Draft Charging Schedule be approved and incorporated into the West Lindsey CIL Charging Schedule.
2. The West Lindsey CIL Charging Schedule, (Appendix B), which has been amended to reflect the Examiner's modifications, be adopted.
3. The position statement provided by Lincolnshire County Council, as requested by the Prosperous Communities Committee, be accepted.
4. The supporting policies Instalments and In-Kind and Regulation 123 List (Appendix C, D & E), that were consulted upon alongside the Draft CIL Charging Schedule consultation, also be approved
5. The CIL Charging Schedule be implemented on a date as soon as is practicable on or after 1 January 2018 and in alignment with the other Central Lincolnshire authorities
6. The Chief Operating Officer be authorised to:
  - set the implementation date as per recommendation 5 above
  - make minor changes to improve the presentation of the CIL Charging Schedule
  - improve the presentation, and where necessary, clarification of supporting policy documents
7. A maximum 5% administration charge be agreed when CIL is adopted

## IMPLICATIONS

**Legal:** Subject to adoption and the implementation date, CIL becomes a mandatory charge on all eligible development.

The Council has; and will need to, comply with the 2008 Planning Act and 2010 CIL Regulations (as amended), in the implementation, collection, monitoring and distribution of CIL.

**Financial:** FIN/82/18

The introduction of CIL requires WLDC to act as agent for the collection of these fees which will contribute to the the Lincoln Eastern Bypass and Secondary and 6th Form Education as detailed on the Reg.123. Local Communities, where development is approved and carried will also receive a percentage of this charge, further details of this are provided in the body fo the report.

As part of this process the Local Authority is able to charge a fee of upto 5% of the total charge to offset administration costs. Assuming no additional costs, this will benefit the revenue position.

**Staffing:** This function will be administered using existing planning resource

**Equality and Diversity including Human Rights:** n/a

**Risk Assessment:** See report

**Climate Related Risks and Opportunities:** none

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

- Prosperous Communities Committee, 26 April 2016, Final Draft CIL (report)
- Prosperous Communities Committee, 15 September 2015, Community Infrastructure Levy (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)

All documents available on request or via [Prosperous Communities Committee | West Lindsey District Council](#)

- Challenge an Improvement Committee, 10 October 2017, Pre-scrutiny of Adoption of Community Infrastructure Levy (report)

Document available on request or via <https://www.west-lindsey.gov.uk/my-council/decision-making-and-council-meetings/meetings-agendas-minutes-and-reports/prosperous-communities-committee/>

- Central Lincolnshire Local Plan Whole Plan Viability Assessment (Draft)

Available via [www.lincolnshire.gov.uk](http://www.lincolnshire.gov.uk)

**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

## 1.0 Introduction

1.1 Community Infrastructure Levy (CIL) is a planning charge, introduced by the Planning Act 2008 as a tool for Local Authorities in England and Wales to help deliver infrastructure to support development in their area. CIL differs from S106 agreements, usually used to secure planning obligations, in that the rate per square metre is fixed and based on the Gross Internal Area of the development. The charge is also non-negotiable, with a strict exemption criteria. CIL does not replace the use of S106 agreements, however infrastructure items that are covered by CIL cannot also be required as part of a S106 agreement.

1.2 Members will recall that they gave approval for progression of an aligned CIL examination jointly with North Kesteven and the City of Lincoln Councils, subject to the approval of the Secretary of State at Prosperous Communities Committee on 26<sup>th</sup> April 2016.

Following that examination the purpose of this report is to request adoption of the Community Infrastructure Levy Charging Schedule (Appendix B), together with Instalment and In-Kind Policies and Regulation 123 list, which were consulted upon alongside the CIL Charging Schedule (Appendix C, D & E). Specific guidance notes will also be provided to support applicants, these will be available on the website alongside the standards forms and aforementioned policies.

1.3 The West Lindsey CIL Examination Report is attached in full (Appendix A).

1.4 In accordance with section 212 of the Planning Act (2008), the Examiner has concluded that;

- the West Lindsey CIL Charging Schedule provides an appropriate basis for the collection of the levy in the charging area,
- that the Council has sufficient evidence to support the schedule; and
- the Charging Schedule can show that the levy is set at a level that will not put the overall development of the area at risk.

## 2.0 The CIL Examination

2.1 The Examination hearing into the West Lindsey CIL Draft Charging Schedule took place on 2<sup>nd</sup> March 2017.

2.2 At the hearing session, the CIL Examiner explored a list of mandatory questions to satisfy himself that the CIL rates proposed meet legislative requirements and are set at a viable rate. His findings, which he presents in a non-technical summary at the start of the West Lindsey CIL Examination report are;

*'This report concludes that subject to recommended modifications the West Lindsey District Council draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.*

*In summary 4 modifications are recommended to the Draft Charging Schedule as follows:*

- Amend the rate for new residential development in Zone 1 to £25 per square metre;
- Amend the rate for new residential development in Zone 2 to £15 per square metre;
- Amend the rate for new residential development in Zone 3 to £20 per square metre; and
- Amend the description of Zone 3 to read “North East Quadrant Sustainable Urban Extension”.

*Subject to these modifications the Council is able to demonstrate that it has sufficient, appropriate evidence to support the Schedule. **The Schedule will strike an appropriate balance between the desirability of funding necessary infrastructure whilst ensuring that it does not put at risk the viability of development in the area as set out in the Central Lincolnshire Local Plan**.*

### 3.0 Implications of Rate Reduction

- 3.1 The modifications to the proposed CIL rates are not unexpected or unusual and have only been paired back in line with those that were recommended by our Viability Study Consultants.
- 3.2 Members made the decision to increase the rates in the draft charging schedule above the level recommended by the Viability Study Consultants due to the extensive infrastructure needs for growth across Central Lincolnshire and the opinion of officers that the viability consultants had been too cautious.
- 3.3 It was determined that any increase would go some way to funding the ‘gap’ as described in the Prosperous Communities Committee report of 15<sup>th</sup> September 2015. Here it is acknowledged that whilst CIL will contribute to key infrastructure provision other forms of funding will also need to be investigated and used to support Central Lincolnshire’s infrastructure requirements.
- 3.4 It is for this reason that whilst a reduction in the charging schedule rates is disappointing it does not fundamentally undermine the need for the implementation of CIL in West Lindsey, subject to consideration of how that increased funding gap impacts on infrastructure delivery.
- 3.5 Within this context it is however acknowledged that the impact of the reduction in income should be explored and a funding strategy developed to ensure that both the Lincoln Eastern Bypass and Secondary Education is appropriately funded.
- 3.6 West Lindsey District Council and the other Central Lincolnshire Authorities have worked together closely on this matter to develop a funding strategy solution. Lincolnshire County Council have provided a statement as follows *‘The County Council recognises continued support for the Lincoln Eastern By-pass through CIL, and secondary education infrastructure will continue to be provided by the County Council in line with its statutory responsibilities’* Simon Challis, Strategic Development Officer, Corporate Property. This has been prepared by Lincolnshire County Council to seek to provide the assurances members have requested to demonstrate how any increased funding gap will be addressed, see recommendation 3.

- 3.7 Subject to considering the above it is therefore recommended that the modifications advised by the examiner are incorporated into the CIL Charging Schedule in order to meet the legislative requirements of section 212 of the Planning Act (2008) and thus allowing the Charging Schedule to be adopted.
- 3.8 Members should note that the Examiner's report is not binding. However, the CIL Charging Schedule will not be legally compliant without the recommended modifications being incorporated. In effect this would mean either further work on the existing evidence base and a new examination or not proceeding with CIL at all at this time.

#### **4.0 Implementation of CIL**

- 4.1 Subject to Council adopting CIL, it is required to;
- set a formal implementation date,
  - publish the charging schedule and Examiner's report on its website and in Council Offices and Local Access points; and
  - give notice to the public, including press advertisement, other authorities and CIL consultation respondents of its intention to commence charging CIL and where the Charging Schedule information can be inspected.
- 4.2 The Charging Schedule can be implemented as soon as practicable following adoption. However, there are a number of issues for Members to consider.
- 4.3 Firstly, administrative and procedural processes will need to be implemented before CIL can be accurately and legally collected. Much of this is around the accurate notification, calculation, collection, distribution and monitoring but Members should note there will be a need to review the Constitution and a CIL Enforcement Policy will need to be produced.
- 4.4 Secondly there will be a number of submitted planning applications with S106 agreements in draft stage that will become liable to pay a CIL charge at implementation, even though the application was submitted before the CIL regime was in place. This could be considered unreasonable by applicants, if sufficient time is not given between adoption and implementation. Also there is a risk that it could lead to a flurry of rushed applications being submitted 'last minute' to beat the CIL implementation deadline.
- 4.5 Thirdly, whilst West Lindsey is a charging authority in its own right, our CIL has been developed collaboratively with the other Central Lincolnshire Charging Authorities (City of Lincoln and North Kesteven District Councils). It would therefore seem appropriate to work to an aligned implementation date across the three Central Lincolnshire Charging Authorities if possible as per recommendation 5.
- 4.6 It is therefore suggested that a period of at least 7 weeks between adoption at Full Council and implementation is considered, which would mean implementation is likely to be around 01<sup>st</sup> January 2018. This will allow sufficient time for advertising and notification of developers about to submit a planning application. The 7 week lead in time will also allow major planning applications, particularly for those where the process of S106 negotiations have commenced, to be determined. However, the final implementation date will be influenced by the desire to be aligned with the other Central Lincolnshire Charging Authorities and the implementation of the processes and procedures related to CIL.

## **5.0 Collection and distribution of CIL monies**

- 5.1 The payment of CIL occurs on the commencement of development, either in full or in pre-agreed instalments at set points in time as per the instalments policy (appendix C). This payment is made to the West Lindsey District Council, who is responsible for the distribution of the monies in line with the Regulation 123 list. It must be noted that the Regulation 123 list does not identify priorities for spending or apportionment of CIL, only the projects that have been agreed by members to feature on the list. Nor does the list signify commitment from the Council fund the projects listed through CIL exclusively.
- 5.2 Payments in relation to the items on the current Regulation 123 list will be made through existing payment processes to Lincolnshire County Council at frequency to be agreed between the two Authorities.
- 5.3 Under the requirements of the Community Infrastructure Levy Regulations 2010 (as amended) 15% of the CIL collected as a result of development in a given parish area will be passed to the relevant Town/Parish Council. Payments will be capped to £100 per council tax dwelling per year, for example a Town/Parish with 50 dwellings cannot receive more than £5,000 in CIL receipts per year. In areas with no Parish Council, West Lindsey District Council, as the local charging authority, will determine how to distribute the funding but must use the 15% to support the development of the relevant area.
- 5.4 Areas with an adopted Neighbourhood Plan will receive 25% of the CIL receipts, with no cap on the amount of monies they may receive each year. The monies may be used to support the development of the local area by funding; provision, improvement, replacement, operation or maintenance of infrastructure or anything else that is concerned with addressing the demands that development places on an area.
- 5.5 The District Council is required to make payments to Town/Parish Councils twice a year. Therefore it is anticipated that payments in respect of CIL received between 1<sup>st</sup> April to 30<sup>th</sup> September will be paid to the specific Parish Council by the end of October of that financial year and pay CIL monies received from 1<sup>st</sup> October to 31<sup>st</sup> March by the end of April.
- 5.6 Town/Parish Councils will be required to report on CIL receipts and publish the following;
- total CIL receipts
  - total expenditure
  - summary of what the CIL was spent on
  - total amount of receipts carried forward from the previous year

This information may be presented as part of another report and must be place on their website and a copy sent to the District Council.

- 5.7 As the charging authority West Lindsey District Council may take account of their related administrative expenses up to a maximum of 5% of the total levy. During the first three financial years of implementation the regulations allow for a 'rolling cap' with a fixed cap of up to 5% thereafter. It is recommended to members that 5% administration fee be agreed (see recommendation 7). Where an authority spends less than 5% on administration, the remainder must be used towards infrastructure projects identified on the Reg. 123 list.
- 5.8 Administrative costs will be considered as part of the wider CIL implementation project in conjunction with the finance team.

## **6.0 Monitoring, Reviewing and Reporting of CIL**

- 6.1 CIL and the Reg. 123 list will be reviewed on an ongoing basis during the day to day administration of the charge, however to ensure that the levy is open and transparent, charging authorities are also required to produce an annual monitoring report setting out how much CIL has been collected and how it has been used to fund infrastructure. These must be published on the website by 31<sup>st</sup> December each year for the previous financial year. Where the authority holds and spends the neighbourhood portion on behalf of the local community, this should be recorded as a separate item. CIL funding may also be pooled and combined with other sources of funding and any report must make this clear.
- 6.2 Where issues are identified during the day to day operation or as part of the annual monitoring report, a formal review will be triggered and subject to appropriate governance arrangements established at West Lindsey District Council.

## **7.0 Minor Amendments**

- 7.1 The Charging Schedule at Appendix B has been amended to reflect the findings the CIL Examination Report, however further changes may still be needed to the presentation. So that these refinements can be made, it is recommended that the Planning and Development Manager is authorised to make minor changes.
- 7.2 The supporting policies may also need some minor changes to presentation or clarification and the same delegated authority for these document is requested. The West Lindsey District Council CIL Charging Schedules have been developed and consulted upon, in accordance with regulations. The proposals have been examined and subject to the modifications set out at 2.1, have been approved by the CIL Examiner as suitable for adoption. Challenge and Improvement Committee is therefore requested to formally recommend to Prosperous Communities Committee to agree the adoption and implementation of CIL.
- 7.3 The recommendations set out in this report will ensure that CIL is legally compliant and that it is implemented as soon as practicable.

## **8.0 Next Steps**

- 8.1 Subject to support from Challenge and Improvement Committee, work will continue developing and implementing an appropriate process for CIL in conjunction with other Central Lincolnshire Partners. This work will include establishing appropriate recording and monitoring mechanisms, as well as developing a comprehensive website and guidance notes.
- 8.2 Training will also be provided for all members and Parish Councils in the New Year once CIL has been implemented. It is generally acknowledged that there is a delay between implementation of CIL and CIL receipts being collected by a charging authority, which gives a good opportunity for a training programme to be rolled out, once the majority of implementation work has been undertaken and good practice established.

8.3 In the meantime members will find at appendix F of this report a list of ‘frequently asked questions and answers’ to assist with any immediate queries.

## **9.0 Pre-Scrutiny - Challenge and Improvement Committee**

9.1 This report was considered by the Challenge and Improvement Committee at their meeting on 10 October 2017. The arising minute is set out below.

*“Members gave consideration to a report regarding proposals for West Lindsey District Council (WLDC) to formally adopt the Community Infrastructure Levy (CIL). The Committee was asked to pre-scrutinise the proposed report in advance of submission to the Prosperous Communities Committee.*

*The Developer Contributions Officer explained the concept of the CIL and Members were provided with a list of frequently asked questions and corresponding answers to assist with their understanding of the scheme. Discussion ensued about the level of charges and how they had been capped. The Developer Contributions Officer explained that the charges and capping had been set by the Inspector and could not be changed by the Council. It was requested that Members be provided with guidance notes to assist them in dealing with queries from constituents and that those who sit on the Planning Committee be given additional information for consideration of planning applications. The Monitoring Officer confirmed that, should the CIL be formally adopted, guidance notes and training sessions would be provided, to include parish councils, once the scheme was implemented.*

*Councillor T. Smith wished to put on record his disappointment with the decision of the CIL Inspector to reduce the charges that had been proposed by West Lindsey District Council. It was felt the decision demonstrated a lack of understanding of the district.*

*A Member of Committee enquired about the Regulation 123 list and it was explained that this was to demonstrate where the funds generated by CIL would be spent. The Developer Contributions Officer noted that the list had been agreed through Committee and allocated areas were considered to be of significant strategic importance. Discussion centred around whether the allocated areas had been chosen by WLDC or Lincoln County Council and it was confirmed that although WLDC were working in partnership with other areas, the Regulation 123 list had been chosen and supported by WLDC through Committee. There was further discussion about the fees and charges incorporated in CIL and how funds would be distributed. It was also confirmed that Officers had undertaken fact checking on receipt of the Inspector’s draft report.*

*Committee voted to endorse the recommendations as laid out in the report to be presented to the Prosperous Communities Committee.*

**RESOLVED** *that the recommendations as set out in the report to the Prosperous Communities Committee be supported.*

*Note: Councillor L Rollings requested that her abstention from the above vote be recorded.”*

9.2 The Challenge and Improvement Committee fully supported the proposals.

---

# Report to West Lindsey District Council

**by Matthew Birkinshaw BA(Hons) MSc MRTPI**

**an Examiner appointed by the Council**

**Date: 24 May 2017**

---

PLANNING ACT 2008 (AS AMENDED)

Section 212(2)

## **REPORT ON THE EXAMINATION OF THE DRAFT WEST LINDSEY DISTRICT COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE**

Draft Charging Schedule submitted for Examination on 15 July 2016

Examination Hearing held on 2 March 2017

File Ref: PINS/M2515/429/3

## **Non-Technical Summary**

This report concludes that subject to recommended modifications the West Lindsey District Council draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

In summary 4 modifications are recommended to the Draft Charging Schedule as follows:

- Amend the rate for new residential development in Zone 1 to £25 per square metre;
- Amend the rate for new residential development in Zone 2 to £15 per square metre;
- Amend the rate for new residential development in Zone 3 to £20 per square metre; and
- Amend the description of Zone 3 to read "*North East Quadrant Sustainable Urban Extension*".

Subject to these modifications the Council is able to demonstrate that it has sufficient, appropriate evidence to support the Schedule. The Schedule will strike an appropriate balance between the desirability of funding necessary infrastructure whilst ensuring that it does not put at risk the viability of development in the area as set out in the Central Lincolnshire Local Plan.

## Introduction

1. This report contains my assessment of West Lindsey District Council's draft Community Infrastructure Levy ('CIL') Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). It considers whether or not the Schedule is compliant in legal terms, and then whether it is economically viable, as well as reasonable, realistic and consistent with national planning policy and guidance.<sup>1</sup>
2. To comply with the relevant legislation the local charging authority has to submit a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development in the area.
3. The starting point for the examination is the draft Charging Schedule ('DCS') submitted on 15 July 2016. A hearing was held on 2 March 2017 to examine the Council's evidence and the rates proposed.
4. As submitted the DCS proposes four Zones with four different rates for new residential development. Zone 1 covers the Lincoln Strategy Area ('LSA') as defined in the *Central Lincolnshire Local Plan* ('CLLP') and proposes a rate of £30 per square metre. Zone 2 covers parts of the District that fall outside the LSA where a rate of £20 per square metre is proposed. Zone 3 includes part of the North East Quadrant ('NEQ') Sustainable Urban Extension ('SUE') falling within West Lindsey where a rate of £25 per square metre would be payable. Finally, Zone 4 covers 'Gainsborough West' which has a nil rate for new dwellings.
5. Across all zones the DCS proposes a rate of £40 per square metre for convenience retail, whilst all other uses, including apartments are nil rated.
6. The West Lindsey DCS has been prepared alongside the schedules for the City of Lincoln Council and North Kesteven District Council. Although each one has been examined individually, the three local authorities have worked collaboratively and share the same evidence base<sup>2</sup>.

## Assessment of Compliance with the Act and Regulations

7. The Council consulted on the initial DCS for a period of four weeks from 19 May 2016 to 16 June 2016 as required by the Regulations. The draft Regulation 123 List, draft Instalments Policy and draft Payments In-Kind Policy were also published as part of this consultation, in addition to the relevant evidence-based documents<sup>3</sup>. Following this consultation the Council has provided a Statement of Representations as required by regulation 19(1)(b) of the Community Infrastructure Levy Regulations (2010) (as amended).
8. Regulation 12(2)(c) also requires that where a charging authority sets differential rates a map must be produced which meets certain

---

<sup>1</sup> As set out in the National Planning Policy Framework and the National Planning Practice Guidance

<sup>2</sup> Document GEN101

<sup>3</sup> Documents WL001 – WL007 and GEN101 – GEN103

criteria. This includes identifying the location and boundaries of the different zones.

9. The clarity of each zone is discussed below. However, for the purpose of the Regulations the Council has produced a map which distinguishes between the different zones. This is based on an ordnance survey base, contains grid lines and meets the requirements of Regulation 12(2)(c).

### **Is the DCS supported by background documents containing appropriate available evidence?**

#### *Infrastructure Planning Evidence*

10. Examination of the CLLP has recently been completed and the Plan was adopted on 24 April 2017. It is a joint Local Plan which covers the local planning authority areas of the City of Lincoln Council, West Lindsey District Council and North Kesteven District Council. It has been prepared by the Central Lincolnshire Joint Strategic Planning Committee in a formal partnership between the three authorities and Lincolnshire County Council. The plan sets out the main areas of growth that will need to be supported by new infrastructure across Central Lincolnshire and provides an appropriate basis for CIL in the three local planning authority areas.
11. The Infrastructure Delivery Plan<sup>4</sup> ('IDP') sets out the relevant infrastructure required to support the amount and location of development identified in the CLLP. In summary, it states that the greatest need for investment relates to the provision of the Lincoln Eastern Bypass ('LEB') and secondary/6<sup>th</sup> form education.
12. The LEB has been identified by the Council as a key piece of infrastructure that will help facilitate the delivery of growth in Central Lincolnshire. In particular, it will allow sites such as the NEQ to come forward and deliver significant new housing close to Lincoln City Centre. The socio-economic advantages of the by-pass will also be wider, as it will provide benefits to existing residents and businesses throughout Lincoln, North Kesteven and West Lindsey. Assessing the funding gap and the contribution that CIL will make to the shortfall as a whole (rather than a requirement for each charging authority) is therefore reasonable in this particular instance.
13. It is estimated that the LEB will cost around £96m. Of this total roughly £50m will be provided by the Department for Transport, with an additional £12m from a Lincolnshire County Council grant. A further £2.8m is likely to come from developer contributions through existing Section 106 Agreements. This leaves a funding gap of approximately £31.2m.
14. It has been suggested that because the project is already underway the LEB must have funding in place for its completion, and therefore no gap exists. However, during the examination the County Council confirmed that because the LEB is a priority the funding shortfall will be met by borrowed capital in the short-term to ensure that the

---

<sup>4</sup> Document GEN102

scheme can go ahead. By relying on finance that the County Council does not currently have, a funding gap therefore still exists which CIL receipts will help contribute towards.

15. In terms of secondary education and 6<sup>th</sup> form provision the IDP identifies a shortfall of £86.1m for Lincoln, £17.2m for Sleaford, £16.2m for Gainsborough and £9.4m for the rural areas. The total funding gap across Central Lincolnshire therefore amounts to approximately £128.9m.
16. As with the LEB, the estimated cost of secondary and 6<sup>th</sup> form education provision has not been broken down by each local authority. Although it is possible to compare individual school capacity with proposed developments, the geography of Central Lincolnshire is such that students often live in one area and attend school in another. When also taking into account that development has been planned on a joint basis through the CLLP, this approach is reasonable.

#### Conclusion on Infrastructure Planning Evidence

17. When combined, the estimated cost of funding the Regulation 123 list items amounts to around £160.1m. In comparison, the IDP suggests that the housing growth in the CLLP is likely to yield around £35m from CIL based on assumptions regarding unit sizes. An alternative amount of approximately £39m across the plan area is identified in the Projected CIL Income paper<sup>5</sup>. But even using the higher value, the contribution that *this* CIL is expected to make, alongside similar levies in the City of Lincoln and North Kesteven would only be very modest.
18. In conclusion therefore, the information provided clearly points to a need to introduce the levy.

#### *Economic Viability Evidence*

19. The Council's viability evidence is set out in the *Central Lincolnshire Local Plan and Community Infrastructure Levy Viability Study 2016*<sup>6</sup> ('VS'). The approach taken to the viability assessments is based on a residual value methodology. This attributes a value to a range of different developments and deducts any associated costs such as land acquisition, construction, external works, fees, contingencies, finance, planning policy costs and planning obligations. An allowance for developer profit is included and the difference between the development value and the total cost is the maximum amount that could be charged for CIL whilst ensuring that development remains viable. Alongside the IDP and information provided by representors this is the main source of evidence relating to viability.

#### Site size and density

20. The starting point for the VS is to consider a suitable range of sites that reflect the type of development likely to come forward in the area. This has been done by reviewing sites which informed the CLLP in the *Strategic Housing and Economic Land Availability Assessment*

---

<sup>5</sup> Document GEN103

<sup>6</sup> Document GEN101

('SHELAA'), past delivery and discussions with developers at workshops. In summary, the VS tested greenfield sites with capacity for 3, 4, 5, 10, 35, 100 and 300 dwellings, in addition to SUEs with a standardised size of 2,000 units. An addendum was also produced in May 2016 which looked at greenfield sites of 1,000 houses.

21. Across all the greenfield sites a density of 35dph was used. Evidence provided by a representor for the hearing session confirms that the density assumptions are broadly correct when applying the same net site area. The brownfield scenarios considered sites with a capacity for 20 and 50 units at a higher density of 40dph, in addition to a scheme for 50 flats at 65dph.
22. Although variations will no doubt occur on individual sites, overall the typologies used in the VS and assumptions regarding net developable areas and densities are reasonable. For the purposes of this assessment they adequately reflect the size and scale of development likely to come forward in the area through the CLLP.

#### Dwelling size

23. Average sizes for detached and semi-detached houses throughout Lincoln, Gainsborough, Sleaford and the rural areas of North Kesteven and West Lindsey are included in the VS. The data is based on properties for sale in March 2015 and shows considerable variations throughout Central Lincolnshire. For example, the average size of a dwelling in Gainsborough was 85 square metres, whereas in Sleaford it was 110 square metres. Because the VS seeks to assess viability on a plan-wide level a generic house size of 95 square metres was used. This represents the mid-point size across a range of house types throughout Central Lincolnshire, excluding Lincoln City Centre apartments.
24. Evidence submitted by a representor suggests that local developers are not achieving such sizes, with market housing typically around 87 square metres per unit. But this is only based on an assessment of 5 sites. Whilst I appreciate that not every house built over the plan period will measure 95 square metres, it is a reasonable starting point upon which to base the VS. It is also based on proportionate available evidence.

#### Sales values

25. Different values have been provided for Lincoln, Gainsborough, Sleaford and rural North Kesteven/West Lindsey. Separate values for apartments in Lincoln, the LSA and West Gainsborough have also been included. In summary, this demonstrates that the highest sales values<sup>7</sup> are typically found in Lincoln and the LSA (which includes the surrounding villages), with the lowest values in West Gainsborough.
26. The values have been derived from analysing around 2,000 new properties included on the Land Registry database between 2012 and 2015. Asking prices from the website 'Rightmove' have also been used. Although the latter does not give a true reflection of the final sales price, Land Registry data does not provide the full picture either

---

<sup>7</sup> Examiner's Note: Expressed as £ per m<sup>2</sup>

as it does not include information such as the size or condition of a property. Using both sources of data, combined with input from the developer forums represents a sound yet proportionate methodology. Based on discussions with developers a cautious approach to the higher sales values in the LSA was also taken by applying a discount of up to 10%.

27. A further level of analysis has been carried out in respect of sales values in the urban area of West Gainsborough. This area, which is bounded to the east by the railway line and to the west by the River Trent, contains a large number of brownfield sites identified as part of the Greater Gainsborough Housing Zone. The purpose of identifying the area as a housing zone is to speed-up and simplify the process of new housebuilding on predominantly vacant sites which form a key part of Gainsborough's planned growth and regeneration.
28. The "Zoopla heatmap" of sales values in February 2016 demonstrates that West Gainsborough has significantly lower average house prices than the outskirts of the town. Based on this information, and using data from completed sales, the VS states that values are typically £1,500 per square metre for houses and £1,600 per square metre for flats. This compares to values of £1,990 per square metre elsewhere in Gainsborough, and £2,400 per square metre flats in the LSA. This evidence is largely undisputed and justifies having a separate zone for West Gainsborough where the margins of viability are likely to be much lower.

#### Land Values

29. Paragraph 173 of the Framework states that to ensure viability, the costs of development should provide competitive returns to a willing landowner and willing developer to enable development to be deliverable. A critical part of this process is ensuring that land can come forward for new development.
30. The VS compares the residual value of each development scenario against a threshold land value ('TLV'), or the value that a willing landowner is likely to release a site for development. For generic (non-strategic) scenarios other sites have been assessed to help reach an informed judgement on the value of a typical, fully serviced plot. Due to the lack of publically available data concerning land transactions the VS has used asking prices for a range of sites and 'sense-checked' values through the developer workshops. Values are expressed as £ per net developable hectare and range from £500,000 for a fully serviced plot in Gainsborough, Sleaford and the rural areas to £680,000 for a greenfield site in the LSA. Given the limited amount of transparent evidence available, and considering that no alternative assessment has been provided on the same scale, the TLVs for the non-strategic sites are reasonable. They also reflect the fact that sales values are typically higher within the LSA than elsewhere in Central Lincolnshire.
31. For the SUEs a different approach has been used. It is based on the existing agricultural value of the land multiplied by 10. This is intended to reflect a premium above the existing use value that would provide a competitive return to a willing landowner to enable a

site to come forward for development. Paragraph C.1.12 of the VS states that:

*"As a 'rule of thumb' it is generally accepted in the development industry that landowners can anticipate a return of between 10 and 20 times the agricultural value of the land. This is supported by the HCA Viability toolkit assumptions (2010 Annex 1 'Transparent Viability Assumptions)'".*

32. Using this methodology a review of sales values in the wider area suggests that typical low grade agricultural land is expected to cost between £20,600 and £25,700 per gross hectare (or roughly £8,300 - £10,400 per gross acre). These values are intended to reflect the existing use of the SUEs and have been multiplied by 10 to provide the landowner with an incentive to sell. This is regarded as the minimum value that would be expected, and the VS has used a figure of £210,000 per gross hectare (or approximately £85,000 per gross acre).<sup>8</sup> Converted into a net figure (consistent with non-strategic sites) results in an un-serviced TLV of £300,000 per hectare for the SUEs.
33. Trying to determine how much above an existing use value would be sufficient to bring forward strategic sites for development is inherently difficult. Sites vary in terms of their location and market attractiveness, as do landowners' expectations. In this particular case no alternative methodology has been provided either, and there is no comparable data available in the public domain relevant to Central Lincolnshire.
34. However, different representors throughout the process, from the developer workshops to consultation on the DCS, have all expressed concerns that the TLV of £85,000 per gross acre is too low. I am also mindful that the SUEs around Lincoln represent large areas of predominantly open land, allocated for residential-led mixed-use development in the CLLP, on the edge of the City where house prices and demand is strong. The SUEs have also been progressing through the planning system for a significant period of time and site promotion costs will have been incurred which need to be factored in.
35. As a consequence, although £85,000 per gross acre is a reasonable minimum TLV, it is possible that this figure could be higher. Furthermore, paragraph 6.3.26 of the VS confirms that *"It is important to appreciate that assumptions on threshold land values can only be broad approximations subject to a wide margin of uncertainty."* In the absence of any transactional evidence relating to strategic sites it is therefore important to incorporate a suitably sized buffer in setting the CIL rates for the SUEs.

#### Section 106 and Site Opening up Costs

36. The VS includes an allowance for Section 106 costs of £2,000 per dwelling on non-strategic sites, and £4,300 per dwelling for the SUEs. The generic site cost is based on an assessment of completed Section

---

<sup>8</sup> Examiner's Note – The figures in the residual appraisal summaries in Appendix F of Document GEN101 are based on a net site area, and are therefore different to the TLVs in Table 6.3

- 106 agreements with an average of infrastructure contributions excluding the LEB and secondary/6<sup>th</sup> form education.
37. It is possible that some sites may have contributed more in the past through Section 106 Agreements. Others may have contributed less. But no assessment on a comparable scale has been provided to indicate that the figure used for non-strategic sites in the VS is fundamentally wrong. The Hearing Statement provided by Chestnut Homes indicates that assuming CIL is in place, the average Section 106 cost across 5 of their sites would be £2,177. This aspect of the VS is therefore broadly accurate.
38. Section 106 costs associated with each of the SUEs are set out in the IDP.<sup>9</sup> It lists items of infrastructure likely to be required which are not covered by CIL. For the NEQ the Section 106 costs are estimated to be around £6.9m in total, which includes a contribution of £900,000 towards the LEB already secured as part of Phase 1.<sup>10</sup> The total anticipated Section 106 cost would therefore be £4,929 per dwelling, or £4,286 per dwelling without the LEB contribution (as the scheme would not be expected to contribute twice). The figure of £4,300 per dwelling used in the VS is therefore reasonable. No site specific evidence has been submitted to indicate that a different value should have been used.
39. At the Gainsborough Northern Neighbourhood the IDP estimates that the total Section 106 costs excluding Regulation 123 items would be around £3.2m. This equates to around £4,267 per dwelling. As a result, it is also broadly consistent with the values the VS.
40. During the Hearing the Council confirmed that trying to establish a cost per plot for the Gainsborough Southern Neighbourhood is difficult due to the complex nature of the Section 106 Agreement. Although, paragraph 3.6.13 of the VS states that it would be subject to a "...package of S106 contributions consisting of £6,000 to £10,000 per dwellings", it is not clear what this relates to. It is also unclear if this includes site opening-up works, which have been attributed a separate value of £10,000 per plot in the VS. In the absence of any further evidence, the figures used for the Gainsborough Southern Neighbourhood in the VS are therefore reasonable.
41. The value attributed to site opening-up costs is based on consultation with site promoters and agents who suggested that a range of £6,000 - £10,000 per plot would be reasonable. A review of viability assessments associated with approved SUEs in the area endorsed this view. Given the varying degree of works likely to be required across the SUEs in respect of utilities, drainage and highways connections, adopting the higher figure of £10,000 per plot is appropriate.

#### Developer Profit

42. The VS refers to developer profit as a percentage of GDV for both market and affordable housing. This represents common practice

---

<sup>9</sup> Document GEN102 Appendix 1C

<sup>10</sup> Examiner's Note: Outline planning permission has been granted for Phase 1 with a contribution towards the LEB secured by a Section 106 Agreement.

and was used by the majority of representors at the hearings for all three charging authorities.

43. During the workshop in February 2015 participants discussed using 20% for market housing and 6% for affordable housing. In contrast, the final VS adopts a figure of 17.5%. This is based on the average figure that housebuilders have been prepared to accept in the region as cited at an RICS 'Case Study Analysis' event.
44. Although it relates to data from August 2013, no alternative sources of information have been provided to substantiate comments that a significantly higher percentage is more representative of market conditions. Subject to incorporating a healthy buffer it is a reasonable figure to use in this instance.

#### Planning Policy Costs

45. The VS includes a breakdown of costs associated with each of the policies in the CLLP. One exception is the requirement to meet the higher water consumption standard of 110 litres per occupier per day. Nonetheless, at the hearing it was agreed that the figure of roughly £9 per dwelling in the Council's Statement broadly reflects the cost associated with meeting this standard. In the context of the overall costs of constructing a new house this is highly unlikely to make schemes unviable.
46. At the time the VS was prepared in April 2016 draft Policy LP11 of the CLLP required affordable housing to be provided on all qualifying housing sites of 4 or more dwellings. MMs advanced during the examination of the plan amended Policy LP11 which now requires affordable housing on sites of 11 or more units in accordance with the PPG<sup>11</sup>. However, this will have the effect of making developments of between 5 and 10 dwellings *more* viable. This is evidenced by the appraisals in the VS which tested a 0% affordable housing requirement on sites of 5 and 10 dwellings on greenfield sites.

#### Other Costs

47. Build costs are based on the Building Cost Information Service (BCIS) median figures. Median costs have been used rather than a mean figure to discount any abnormalities. Although the data is from February 2015, it was agreed at the hearing that increases in material costs are likely to have been offset by increases in sales value, as evidenced in the Council's Matter 2 Statement. The data is therefore robust.
48. Applied to the BCIS build costs is a contingency rate of 5% and allowance for external works equivalent to 10% on all residential development. No evidence has been provided to suggest that this is not representative of development schemes in the area. Similarly, I am satisfied that an 8% allowance on build costs for professional fees is reasonable in this instance, and that the BCIS figures clearly demonstrate that build costs for flats are higher than for houses (£1,061 compared to £898 per square metre).

#### Non-Residential Development

---

<sup>11</sup> Paragraph: 031 Reference ID: 23b-031-20161116

49. In addition to residential schemes the VS has also tested different types of commercial developments, including light industrial schemes, in and out-of-centre comparison retail, convenience retail and student accommodation. As with the residential scenarios, the VS has established the GDV and deducted development costs including developer profit.
50. Based on the evidence provided the values and costs cited for non-residential schemes represent reasonable assumptions. The range of scenarios used also adequately reflects the type of development likely to come forward in the area as set out in the CLLP.

#### Conclusion on Economic Viability Evidence

51. Viability testing is not a precise science and the VS has been informed by robust, appropriate and proportionate evidence wherever possible. However, the accuracy of some assumptions in the VS are limited due to the amount of transparent, comparable data available, especially concerning the TLV for the SUEs. Given that the SUEs are expected to contribute a significant amount of new housing across Central Lincolnshire, it is important that the buffer is large enough to allow for any additional costs that may be incurred in bringing forward the sites for development.

#### *Charging Zones*

52. The evidence contained in the VS demonstrates that typically, sales values are higher in the LSA. This is because the City of Lincoln serves as the main employment area for residents in West Lindsey and North Kesteven, with a relatively high level of self-contained labour supply<sup>12</sup>. The higher demand and higher sales values in this area justify having a separate charging zone for the LSA (Zone 1) and the non-LSA (Zone 2).
53. It is also largely uncontested that the SUEs have different viability considerations. Although developers can benefit from economies of scale the infrastructure and site opening up costs are often significantly greater. Due to their size SUEs also typically take longer to come forward before new houses can be built and sold. As a result, this justifies identifying the easternmost part of the NEQ (which falls within West Lindsey) separately, within Zone 3.
54. A similar approach has not been taken with the two SUEs in Gainsborough. The summary of recommended rates in the VS demonstrates that at 15% affordable housing the Gainsborough SUEs could viably contribute £15 per square metre. The same rate is recommended for development elsewhere in Gainsborough<sup>13</sup> and the surrounding rural areas where a 20% affordable housing contribution would apply.<sup>14</sup> As such, there is no need to create a different zone for the other SUEs in West Lindsey.
55. Finally, the VS demonstrates that West Gainsborough has significantly lower sales values than anywhere else and is

---

<sup>12</sup> Paragraph 9.2.3 Document GEN101

<sup>13</sup> Examiner's Note: Excluding West Gainsborough

<sup>14</sup> Examiner's Note: As set out in CLLP Policy LP11

characterised by a number of large, vacant brownfield sites. It therefore warrants having a separate zone. The boundaries of Zone 4 are based on an assessment of the town to establish where lower values occur, and by using physical features such as the railway line. This is a reasonable approach to take.

### **Are the rates informed by, and consistent with, the evidence available?**

#### *Residential Rates*

##### Zone 1

56. Within the LSA the VS concludes that some non-strategic sites will only be able to viably contribute up to £34 per square metre. It therefore recommends adopting a CIL rate of £25 per square metre to allow an appropriate 'buffer'. The buffer ensures that new residential development will be able to fund CIL should economic circumstances in the area change. This is highly likely given the cyclical nature of the housing market.
57. In contrast, the DCS proposes a rate of £30 per square metre. Document WL005 seeks to justify this approach. It states that historic Section 106 Agreements have contributed £4,000 - £6,000 per dwelling towards infrastructure and remained viable. A scheme is also cited as providing £9,800 per dwelling with a 35% contribution towards affordable housing. In addition, the Council's hearing statement confirms that the proposed rates fall under the recommended maximum amount, and would be less than 2% of GDV.
58. However, adopting a rate of £30 per square metre would only provide a buffer of around 12%. This leaves very little scope for changing economic circumstances. It is also important to consider that assumptions regarding land prices in the VS were based on relatively limited data. The appraisal therefore advised, with caution, that:
- "It is not appropriate to assume that because a development appears to be viable, that the land will change hands and the development proceed...There can be no definite viability cut off point owing to variation in site specific circumstances, including the land ownership expectations. To compensate for the risk of limited transactional evidence, it will be important to allow a buffer away from the theoretical maximum charge."*
59. By seeking to adopt a CIL rate that only leaves a buffer of around 12% for non-strategic sites in Zone 1 the DCS is not informed by, or consistent with the evidence available. Given the uncertainties regarding land values, and taking into account the need to allow for changing economic circumstances, the proposed DCS could put at risk the delivery of development in the area. It is therefore recommended that a rate of £25 per square metre is adopted in Zone 1 as set out in the VS. **(RM/1)**

##### Zone 2

60. A similar approach has been taken in Zone 2. The VS recommends a rate of £15 per square metre, whereas the DCS proposes a rate of £20 per square metre.

61. Outside the LSA the maximum charge that non-strategic sites could viably contribute towards is £24 per square metre. As proposed the Council's rate would therefore only provide a buffer of approximately 17%. Although this is greater than in Zone 1, it still leaves very little headroom for the least viable sites, and is contrary to the available evidence.
62. Furthermore, Zone 2 includes the SUEs at Gainsborough. Taking into account the requirement to provide 15% affordable housing in the CLLP the SUEs would only be able to contribute up to £30 per square metre. By adopting the recommended rate of £15 the DCS would provide a healthy buffer to ensure that their viability is not prejudiced. This is vital given the importance of the SUEs to housing growth in Gainsborough, bearing in mind the uncertainty regarding the accuracy of the TLVs. In accordance with the VS I therefore recommend a rate of £15 per square metre in Zone 2. **(RM/2)**

### Zone 3

63. In Zone 3 the rate proposed in the DCS is also £5 per square metre higher than the rate recommended in the VS.
64. I appreciate that even at £25 per square metre the size of the buffer in Zone 3 is significantly greater than for developments in Zones 1 and 2. For example, the maximum viable CIL rate for new residential development at the NEQ is £59 per square metre. Adopting the Council's proposed rate therefore includes a healthy buffer of around 58%.
65. However, for the reasons set out above there remains some uncertainty regarding the accuracy of the TLV used to calculate the viability of the SUEs. Paragraph 6.3.26 of the VS confirms that "*This uncertainty has been factored into the assessment when drawing conclusions and recommendations.*" In the absence of any robust information having been provided to reduce this margin of uncertainty, adopting a higher rate therefore goes above and beyond the scope of the available evidence.
66. When taking this into account, and considering the importance of the SUEs to the delivery of the plan as a whole, it is critical that their viability is not undermined by CIL. I therefore recommend that a rate of £20 per square metre is applied in Zone 3 as set out in the VS. Adopting this rate will ensure that the schedule is consistent with the available evidence. **(RM/3)**
67. In reaching this conclusion I note that house prices have increased throughout West Lindsey by approximately 12.8% since 2015<sup>15</sup>. Nevertheless, the same evidence confirms that build costs have also risen by roughly 7.8%. This does not justify departing from the evidence available. Similarly, no robust analysis has been provided to substantiate comments that higher sales values in the LSA would allow developers to pay more for the SUEs and ensure that projects remained viable.

---

<sup>15</sup> West Lindsey District Council Matter 2 Hearing Statement

68. A further change is also required to the DCS. As submitted it refers to Zone 3 as "*developments of 1000 [units] or more in the LSA, and the North East Quadrant Sustainable Urban Extension*". However, the accompanying maps only relate to the NEQ SUE. For clarity the charging schedule should therefore simply refer to Zone 3 – 'North East Quadrant Sustainable Urban Extension' (**RM/4**). No other LSA sites of over 1,000 units are allocated in West Lindsey and no windfall proposals of such a scale have been identified. Thus, although the option of an additional column for 'other' sites over 1,000 units was discussed at the hearing, this is unnecessary.

#### Zone 4

69. Table 7.1 of the VS has assessed a range of development types throughout West Gainsborough including both houses and flats on brownfield and greenfield sites. This confirms that even using a 0% affordable housing contribution, negative values are derived for all of the case studies assessed. At this moment in time the evidence provided therefore indicates that new residential development in West Gainsborough is unable to viably support a CIL charge. The rate of £0 per square metre in Zone 4 is justified.

#### Apartments

70. The VS demonstrates that apartments and flats are unable to support CIL even at 0% affordable housing. This is partly down to the higher build costs, with apartments containing communal areas and circulation spaces which contribute towards construction costs but are not translated into sales revenue. A block of apartments also need to be substantially completed before sales can begin, unlike a phased scheme of houses. A rate of £0 per square metre is therefore justified across all zones.

#### Retail Rates

71. Student accommodation, comparison retail, office and light industrial developments have all been demonstrated as unable to contribute towards CIL and remain viable. A nil rate is therefore justified across all zones.

72. However, the VS has tested different sized convenience retail stores and concludes that the least viable development (a larger format store) would be able to support a charge of up to £73 per square metre. The proposed rate of £40 per square metre is therefore informed by, and consistent with the evidence available. It also provides a generous buffer of approximately 45% to account for changing economic circumstances affecting retail development.

#### **Would the charging rates put at risk the delivery of development?**

73. Both the NEQ and the SUEs outside Lincoln form an important part of the CLLPs housing strategy and safeguarding their viability is critical to ensure that housing needs are met locally. Adopting a CIL rate which exceeds the evidence provided, without sufficient justification, risks undermining the delivery of these strategic sites. Similarly, the rates proposed for non-strategic sites leaves very little room for manoeuvre, and should economic circumstances change, it would put

at risk the delivery of development in the area.

74. It is therefore recommend that the rates in the charging schedule are reduced by £5 per square metre in each zone to reflect the recommendations of the VS. Subject to adopting the rates set out in the VS the available evidence demonstrates that CIL would not prejudice the delivery of new residential and convenience retail development. It would strike an appropriate balance between the desirability of funding necessary infrastructure and the potential impact on the viability of development in the area as required by national guidance<sup>16</sup>.
75. In reaching this view it is appreciated that CLLP Policy LP11 allows the percentage of affordable housing to be negotiated if viability testing demonstrates that relevant targets cannot be met in full. But this is intended to offer flexibility in specific circumstances on a site-by-site basis. It is not appropriate to set a CIL levy rate that would rely on applicants having to negotiate other planning policy requirements such as affordable housing. This would place an unreasonable and disproportionate burden on applicants and local planning authorities. It would also be contrary to paragraph 174 of the National Planning Policy Framework which states that the cumulative impact of standards and policies should not put at risk implementation of the plan.

### **Other Matters**

76. It has been suggested that other types of residential development such as service family accommodation and houses for agricultural and forestry workers should be subject to a lower rate. However, the PPG advises that charging authorities should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the relevant Plan. No specific proposals for service personnel have been included in the CLLP. In the event that dwellings for agricultural workers come forward and are liable for CIL, I have seen no evidence that this is likely to be on a scale that would undermine the delivery of development identified in the plan.
77. Representations also state that there are other infrastructure needs that the Council should fund through CIL. But this is not a matter for me. Instead, I am required to consider whether or not, in general terms, the projects in the Regulation 123 would assist the delivery of the CLLP. As identified above, the LEB and secondary/6<sup>th</sup> form education will assist with the delivery of the plan, and there is clearly a need for additional funding for both projects through CIL.

### **Overall Conclusion**

78. Subject to modifications the West Lindsey District Council Community Infrastructure Levy Charging Schedule will satisfy the requirements of Section 212 of the 2008 Act and will meet the criteria for viability in the 2010 Regulations (as amended).

---

<sup>16</sup> Paragraph: 008 Reference ID: 25-008-20140612

79. I therefore conclude that the Charging Schedule be approved based on the modifications set out in Appendix 1.

*Matthew Birkinshaw*

EXAMINER

## APPENDIX 1 – RECOMMENDED MODIFICATIONS

Reference	Modification
RM/1	Amend the rate for Zone 1 to £25 per m <sup>2</sup>
RM/2	Amend the rate for Zone 2 to £15 per m <sup>2</sup>
RM/3	Amend the rate for Zone 3 to £20 per m <sup>2</sup>
RM/4	Amend description of Zone 3 to read " <i>North East Quadrant Sustainable Urban Extension</i> "

The effect of these recommendations would be to create a charging schedule that reads as follows:

<b>WEST LINDSEY DISTRICT COUNCIL CIL CHARGING SCHEDULE RESIDENTIAL CHARGING ZONES</b>			
		Charge Per Square Metre (houses)	Charge Per Square Metre (apartments)
Zone 1	Lincoln Strategy Area (LSA)	£25	£0
Zone 2	Non Lincoln Strategy Area	£15	£0
Zone 3	North East Quadrant Sustainable Urban Extension	£20	£0
Zone 4	Gainsborough West (as shown shaded green on the draft charging schedule map of Gainsborough)	£0	£0

<b>WEST LINDSEY DISTRICT COUNCIL CIL CHARGING SCHEDULE COMMERCIAL CHARGING ZONES (APPLICABLE TO WHOLE DISTRICT)</b>	
Convenience Retail	£40
All other uses*	£0

\*'All other uses' and the £0 rate include comparison retail and retail warehousing.

**Document WL 001**

**West Lindsey Community Infrastructure Levy  
Charging Schedule**

**Implementation**

**WEST LINDSEY DISTRICT COUNCIL**  
**Charging Schedule**

<b>Name of Charging Authority</b>	<b>West Lindsey District Council</b>
<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 tables and maps as set out within this Schedule.
<b>How the Chargeable amount will be Calculated</b>	<p>The 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: CIL Rate x Chargeable Floor Area x BCIS Tender Price Index (at Date of Planning Permission) / 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><b>This summary does not take account of every aspect of the Regulations.</b></p>
<b>Further Information</b>	Further information, for example, on exemptions from paying CIL will be available on the charging authority's webpages in due course. In many cases, this will be via links to national guidance.

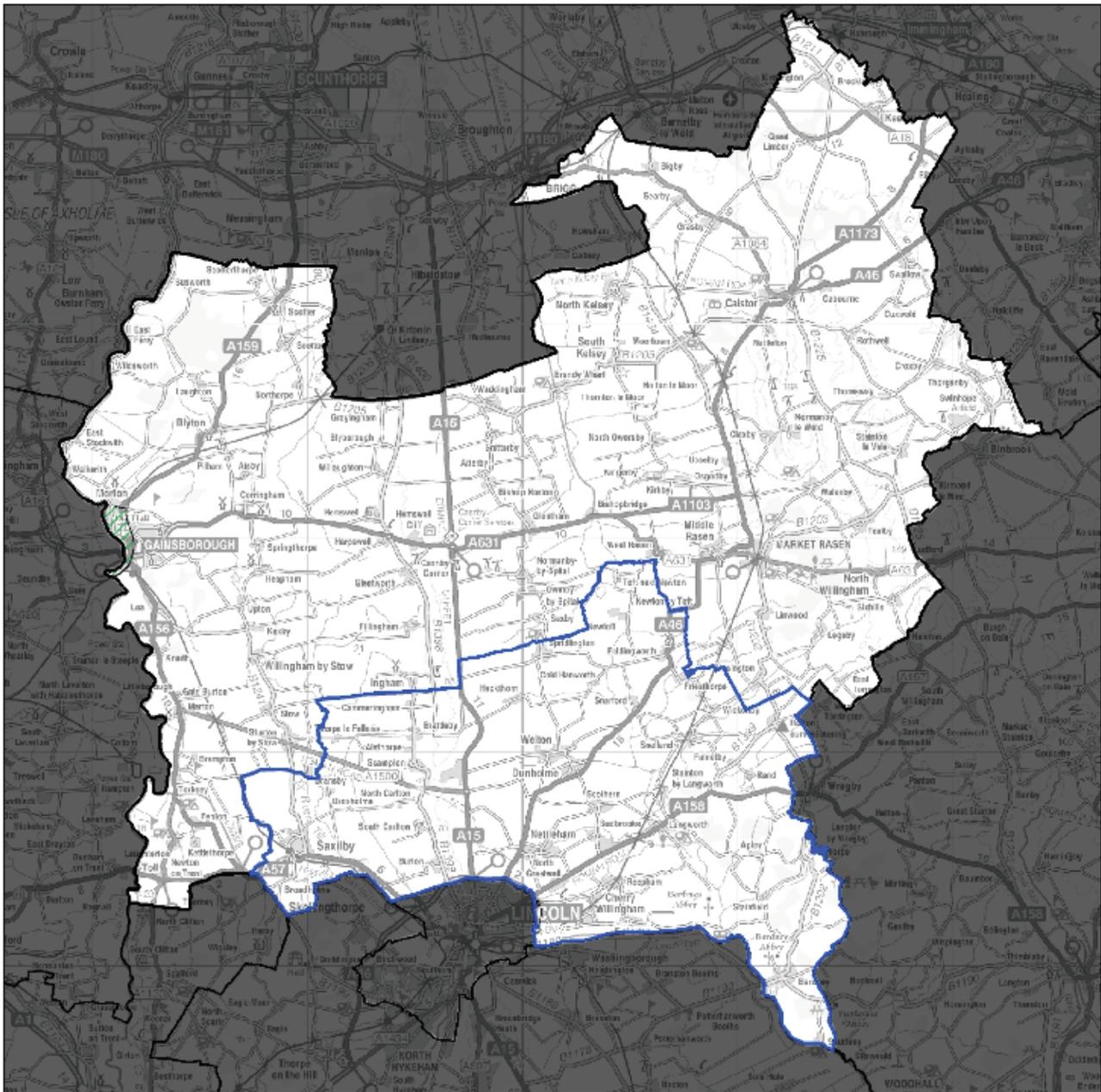
## WEST LINDSEY DISTRICT COUNCIL CIL CHARGING RATES (£ per Sqm)

<b>WEST LINDSEY DISTRICT COUNCIL CIL CHARGING SCHEDULE RESIDENTIAL CHARGING ZONES</b>			
		Charge Per Square Metre (houses)	Charge Per Square Metre (apartments)
Zone 1	Lincoln Strategy Area (LSA)	£25	£0
Zone 2	Non Lincoln Strategy Area	£15	£0
Zone 3	North East Quadrant Sustainable Urban Extension.	£20	£0
Zone 4	Gainsborough West (as shown shaded green on the charging schedule map of Gainsborough)	£0	£0

<b>WEST LINDSEY DISTRICT COUNCIL CIL CHARGING SCHEDULE COMMERCIAL CHARGING ZONES (APPLICABLE TO WHOLE DISTRICT)</b>	
Convenience Retail	£40
All other uses*	£0

\*'All other uses' and the £0 rate include comparison retail and retail warehousing.

West Lindsey District Council Community Infrastructure Levy Charging Schedule  
Zone 1, 2, 3 and 4



-  Zone 1 The Lincoln Strategy Area
-  Zone 2 The Non-Lincoln Strategy Area
-  ZONE 3 NE Quadrant Sustainable Urban Extension
-  Zone 4 West Gainsborough









**Document WL 002**

**West Lindsey Community Infrastructure Levy  
CIL Regulation 123 List**

**Implementation**

**The “Regulation 123 list”**

It is intended that the Council will spend and distribute CIL revenue on the following items:

Lincoln Eastern Bypass
Secondary Education and School-based post-16 Education

**Working in Partnership**

West Lindsey District Council, City of Lincoln Council and North Kesteven District Council have been working together to implement separate CIL schedules. This has been aligned in some cases, for example, with a single point of contact for phone and email. Lincolnshire County Council and the Central Lincolnshire Local Plan Team have also supported this approach. Telephone 01427 676 676 with queries only.

**Once CIL has been adopted, all contact should be directly with the District Council.**

**Document WL 003**

**West Lindsey Community Infrastructure Levy  
CIL Instalments Policy**

**Implementation**

**WEST LINDSEY DISTRICT COUNCIL  
COMMUNITY INFRASTRUCTURE LEVY  
INSTALMENTS 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. 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, **WEST LINDSEY DISTRICT COUNCIL** 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.

### **Instalment Policy Guidance notes**

Regulation 70 of the Community Infrastructure Levy Regulations 2010 (as amended) sets out the requirements that must be complied with in order to benefit from the CIL Instalment Policy.

The CIL instalment policy will apply in the following circumstances.

1. Where the Council has received the CIL form – **Assumption of Liability** form prior to commencement of the development (Regulation 70(1) (a)).
2. Where the Council has received the CIL form – **Commencement Notice** prior to commencement of the development (Regulation 70(1) (b)).

If either of the above requirements are not complied with, the total CIL liable will become payable within 60 days of commencement of the development.

In addition surcharges may apply, guidance note on this to be drafted. If either the CIL form – **Assumption of Liability** form and or the CIL form – **Commencement Notice** have not been submitted prior to the commencement date of the development.

Once the development has commenced the CIL payments must be made in accordance with the CIL instalment policy. Where there is a breach in payments, the total CIL liability will become payable in full immediately (Regulation (8) (a)).

**Document WL 004**

**West Lindsey Community Infrastructure Levy  
CIL Payment In-Kind Policy**

**Implementation**

**West Lindsey District Council**  
**COMMUNITY INFRASTRUCTURE LEVY POLICY**  
**PAYING CIL IN THE FORM OF LAND**

In certain circumstances **West Lindsey District Council** 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. **West Lindsey District Council** must agree to the transfer and has the right to withhold such agreement;
3. Either:
  - a) **West Lindsey District Council** must have the intention of using the land to help provide infrastructure to support the development of its area; or,
  - b) **West Lindsey District Council** 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 **West Lindsey District Council** 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 **West Lindsey District Council**. 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 **West Lindsey District Council** to pay some or the entire CIL amount in land has been made. This agreement must state the value of the land being transferred.

**West Lindsey District Council** 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 **West Lindsey District Council**.

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. .

## **West Lindsey Community Infrastructure Levy**

### **Frequently Asked Questions**

## **What is the Community Infrastructure Levy (CIL)?**

The Community Infrastructure Levy is a new planning charge, introduced by the Government through the Planning Act 2008 to provide a fair and transparent means for ensuring that development contributes to the cost of the infrastructure it will rely upon, such as schools and roads. The levy applies to most new buildings and charges are based on the size and type of new floor-space created.

## **What are the benefits of the Community Infrastructure Levy?**

The Government has decided that a tariff-based approach provides the best framework to fund new infrastructure. CIL is considered to be fairer, faster and more certain than the current system of planning obligations which are generally negotiated on a 'case-by case' basis. Levy rates are set in consultation with local communities and developers and provide much more certainty and are 'up front' about how much money developers will be expected to contribute.

Statistics show that under the system of planning obligations only a small number of all planning permissions nationally (usually the largest schemes) brought any significant contribution to the cost of supporting infrastructure. Through CIL, all but the smallest building projects will make a contribution towards additional infrastructure that is needed as a result of development.

## **Why should development pay for infrastructure?**

Almost all development has some impact on the need for infrastructure, services and amenities so it is only fair that such development pays a share of the cost.

## **What is infrastructure?**

Infrastructure which can be funded by the levy includes schools, transport, flood defences, hospitals, community facilities and other health and social care facilities. This definition allows the levy to be used to fund a very broad range of facilities and gives flexibility on what infrastructure may be funded.

The Levy can be spent on 'the provision, improvement, replacement, operation or maintenance of infrastructure'.

## **Do Councils have to implement CIL?**

Local authorities in England and Wales will be empowered, but not required, to levy on most types of development in their areas. It should be noted that in 2015 limitations to Section 106 planning obligations came into force. Which has meant that planning obligations may only be requested when they meet the three key tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

## **How does a charging authority set a rate for their levy?**

Charging authorities must produce a document called a charging schedule which sets out the rate for their levy. This is a new type of document within

the folder of documents making up the Council's Local Plan but will not be part of the statutory development plan.

The levy is intended to encourage development by creating a balance between collecting revenue to fund infrastructure and ensuring that the rates are not so high that they put development at serious risk. The Council draws on the infrastructure planning that underpins the development strategy for the area to help identify the total infrastructure funding gap.

Rates set should be supported by evidence, in West Lindsey's case a whole plan viability assessment, and the area's infrastructure needs. One standard rate can be set for an area or, if justified, specific rates for different areas and types of development can be established. The ability to set differential rates gives charging authorities more flexibility to deal with the varying circumstances of each area they work in.

Consultation must be undertaken on the draft schedule and the proposed levy rates. A public examination by an independent person, usually an Inspector from The Planning Inspectorate, is then required before the charging authority can formally approve it.

The Local Authority can either adopt CIL at the rates advised by the Examiner or choose not to impose CIL. A new evidence base, consultation process and Examination must be undertaken to set different rates from those recommended by the Examiner.

### **What is the relationship between CIL and planning obligations (commonly known as s106 agreements)?**

Planning obligations (funding agreements between the local planning authority and the developer) will continue to play an important role in helping to make individual developments acceptable. However, reforms have been introduced to restrict the use of planning obligations.

The CIL levy is intended to provide infrastructure to support the development of an area rather than to make individual planning applications acceptable in planning terms. As a result, there may still be some site specific impact mitigation requirements without which a development should not be granted planning permission (e.g. affordable housing, local highway and junction improvements, primary schools, health and landscaping). Therefore, there is still a legitimate and necessary role for development planning obligations to enable a local planning authority to be confident that the specific consequences of development can be mitigated. However items that are identified as being funded by CIL (those items detailed on the Reg. 123 list) cannot then also be required as part of a s106 agreement.

### **What development is liable for CIL?**

#### **Development will be liable for CIL if it:**

- Involves new build of at least 100m<sup>2</sup> gross internal area (GIA) floor-space; or
- Involves the creation of one or more dwellings.

This includes development permitted by a 'general consent' (including permitted development).

#### **Development will not be liable for CIL if it:**

- Involves only change of use, conversion or subdivision of, or creation of mezzanine floors within a building which has been in lawful use for at least six months in the 3 years prior to the development being permitted and does not create any new build floor-space; or
- Is for a building into which people do not normally go, or go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery; or
- Is for a structure which is not a building, such as pylons or wind turbines; or
- Is permitted by a 'general consent' (including permitted development) commenced before 6th April 2013; or
- Is for a use which benefits from a zero or nil charge (£0/m<sup>2</sup>) as set out in a CIL Charging Schedule

#### **Who is liable to pay the levy?**

The responsibility to pay the levy rests with the ownership of land on which the liable development will be situated. Although liability rests with the landowner, the regulations recognise that others involved in a development may wish to pay. To allow this, anyone can come forward and assume liability for the development.

#### **How is the levy paid?**

The charge is levied in £ / m<sup>2</sup> on the net additional increase in floor-space. It will normally be collected as a monetary payment, although there is also provision for it to be paid by transfer of land to the local authority if certain criteria are met. An In Kind Policy will be available on the website.

#### **Is VAT applied to CIL charges?**

The charge levied in £ / m<sup>2</sup> on the net additional increase in floor-space for the CIL is exempt from VAT.

#### **How will proposed levy rates respond to factors such as inflation?**

In calculating individual charges for the levy, charging authorities will be required to apply an annually updated index of inflation to keep the levy responsive to market conditions.

#### **How is the levy collected?**

The levy's charges become due from the date of commencement of a chargeable development. When planning permission is granted, the Council will issue a liability notice setting out the amount of the levy and the payment procedure.

Unlike contributions collected through S106 agreements the triggers for payment are not negotiated and there is no time constraint for the spending of monies collected through CIL.

#### **Can CIL be paid in instalments?**

Yes, an instalment policy will be available on the website.

## **How will payment of the levy be enforced?**

The levy's charges are intended to be easily understood and easy to comply with. Most of those liable to pay the levy are expected to pay their liabilities without problem or delay. However, where there are problems in collecting the levy charging authorities will have the means to penalise late payment, through surcharges. In cases of persistent noncompliance the regulations also enable collecting authorities to consider more direct action such as the issuing of a CIL Stop Notice or applying to the courts for seizure of assets to pay the outstanding monies or for custodial sentences.

## **Will a development be liable to pay CIL if planning permission is granted before a CIL Implementation date is adopted?**

No. There is no CIL liability for a planning permission if that planning permission was granted before the CIL implementation date. The relevant date is the date of the issuing of the planning permission decision notice. Therefore any application where the principle of development has already been approved, prior to the adoption of CIL will not be eligible to pay CIL.

## **I will be submitting a planning application. How can I find out more about CIL and what I need to do for my planning application submission?**

The District Council will be preparing some detailed guidance notes for applicants to help guide them through submission of planning applications and the related CIL documentation and these are available on the website. The process relating to CIL is strictly prescribed by the CIL regulations, with penalties if the process is not correctly followed. Applicants are strongly advised to read this guidance and seek further advice from the District Council or other sources if they are unclear on any aspect.

## **Is there any relief from CIL?**

In accordance with the Regulations the following development may receive relief from CIL:

- Charitable development
- Social housing development
- Self-build development
- Self-build residential annex or extension

Guidance notes will be available on the website to explain the process for claiming relief.

## **How will the levy be spent?**

Charging authorities are required to spend the levy's revenue on what they see as the infrastructure needed to support the development of their area. The assessment of 'need' will largely be informed by the Infrastructure Delivery Plans (IDPs) published by each authority alongside their Local Plans. The levy is intended to focus on the provision of new or improved infrastructure and should not be used to remedy pre-existing deficiencies unless those deficiencies will be made more severe by new development. The projects that CIL will be used for are identified on the Reg.123 list for

each Authority and in the case of West Lindsey, these items are the Lincoln Eastern Bypass and Secondary Education.

### **How will local neighbourhoods benefit from CIL?**

Under the requirements of the Community Infrastructure Levy Regulations 2010 (as amended) 15% of the CIL collected as a result of development in a given parish area will be passed to the relevant Town/Parish Council. Payments will be capped to £100 per council tax dwelling per year, for example a Town/Parish with 50 dwellings cannot receive more than £5,000 in CIL receipts per year. In areas with no Parish Council, West Lindsey District Council, as the local charging authority, will determine how to distribute the funding but must use the 15% to support the development of the relevant area.

Areas with an adopted Neighbourhood Plan will receive 25% of the CIL receipts, with no cap on the amount of monies they may receive each year. The monies may be used to support the development of the local area by funding; provision, improvement, replacement, operation or maintenance of infrastructure or anything else that is concerned with addressing the demands that development places on an area.

The District Council is required to make payments to Town/Parish Councils twice a year. Therefore it is anticipated that payments in respect of CIL received between 1<sup>st</sup> April to 30<sup>th</sup> September will be paid to the specific Parish Council by the end of October of that financial year and pay CIL monies received from 1<sup>st</sup> October to 31<sup>st</sup> March by the end of April.

### **Is there a mechanism for the CIL to be spent outside of the charging authority?**

Charging authorities may pass money to bodies outside their area to deliver infrastructure which will benefit the development of their area, such as the the county council, for education and transport infrastructure. Charging authorities will also be able to collaborate and pool their revenue from their respective levies to support the delivery of 'sub-regional infrastructure'.

### **How will CIL be monitored?**

To ensure that the levy is open and transparent, charging authorities must prepare short reports on the levy for the previous financial year which must be placed on their websites by 31<sup>st</sup> December each year. These reports will set out how much revenue from the levy has been received, what it has been spent on and how much is left.

### **Will there be training provided to Councillors and Parish Councils on CIL?**

Yes, there will be a number of training events provided for Councillors and Parish Councils in the New Year. There will also be an information leaflet developed specifically for communities to help with the implementation of CIL across West Lindsey. Whilst, subject to Committee approval, CIL is scheduled for implementation in early January, there will be inevitably a time lag between implementation and when monies will be payable, which is why the training is scheduled for the New Year.