

South Somerset

Community Infrastructure Levy

**Consultation on Draft Charging
Schedule**

Summary of Main Issues

May 2016

Contents

1. Introduction	1
2. Consultation on Draft Charging Schedule	1
3. Summary of Main Issues	2
4. Conclusion and Next Steps	12

1. Introduction

- 1.1. South Somerset District Council carried out public consultation on its Draft Charging Schedule for the Community Infrastructure Levy between 10th February and 24th March 2016. This consultation was carried out in accordance with Regulation 16 and 17 of the Community Infrastructure Levy Regulations 2010 (as amended).
- 1.2. In accordance with Regulation 19(b) of the Community Infrastructure Levy Regulations 2010 (as amended) this document sets out a summary of the main issues and the Council's response to those issues. This report will be submitted to the Examiner alongside the Council's evidence base and other documentation.

2. Consultation on Draft Charging Schedule

Overview

- 2.1. The Council received a total of 34 consultation responses. These were from a mixture of landowners, housing developers, parish/town councils, and private individuals.
- 2.2. All of the consultation responses received will be forwarded to the independent Examiner who will conduct the Examination into the Council's Draft Charging Schedule.
- 2.3. Six consultees have indicated that they wish to be present at the Examination into the Draft Charging Schedule. Given this level of response it is likely that a hearing/inquiry will be held to discuss the Draft Charging Schedule. The details of when, and where, the Examination will take place are yet to be determined. The Council will publicise these details once they are known.
- 2.4. A summary of the main issues raised by the consultation responses is set out in Section 3. A full list of those persons and organisations who responded, along with their full consultation response, can be found on the Council's consultation website: <http://consult.southsomerset.gov.uk/consult.ti/system/listConsultations>

3. Summary of Main Issues

Main Issue	South Somerset District Council's Response	Recommendation
<p>A greater proportion than 15% of the CIL receipt should be direct to Parish/Town Councils.</p>	<p>The Council is not currently proposing to raise the percentage that is re-directed back to Parish/Town Councils. This is to ensure the overall CIL fund generated can be used to deliver strategic and critical infrastructure across the district. Parish/Town Councils are able to pursue Neighbourhood Plans where once 'made' would result in 25% of the CIL receipt being re-directed back to the Parish/Town Council.</p>	<p>No change</p>
<p>What is the review mechanism for the CIL charging rates and Regulation 123 List?</p>	<p>The Council has not yet assigned a review period. There are a number of reasons why and when a review may be triggered. These include:</p> <ul style="list-style-type: none"> • Substantial changes in the amount of infrastructure that is required to be delivered in South Somerset to secure growth; and/or • Significant changes in the housing market, linked to sales prices, constructions costs, and overall viability. <p>Whilst no fixed period has been set; it is likely that the Council will review its position on CIL after a two or three year period. This is in accordance with the NPPF/PPG.</p>	<p>No change</p>
<p>The Instalments Policy should be revised to provide greater flexibility to the development industry and avoid large costs early in the build-out of development sites.</p>	<p>The Council does not have to put in place an instalments policy. But, given the circumstances in South Somerset, it has carefully considered the need to balance the overall intention of CIL, which is to bring more certainty to the realisation of payments, and to do so earlier in the development cycle; versus the potential imposition of large costs to developers and the effects on cash-flow and viability. At present, the Council believes the instalments policy strikes the right balance.</p>	<p>The Council is mindful that the Instalments Policy can have an effect on the cashflow associated with a development. The Council is also conscious that South Somerset's development profile has a mixture of very small-scale developments, and large-scale developments. In order to meet the possible cashflow challenges at both ends of the spectrum, the Instalments Policy has been amended</p>

Main Issue	South Somerset District Council's Response	Recommendation
		slightly to ensure payment and timescales are better suited to the development typologies.
<p>The 720 day period for the final instalment payment over £300k is too long.</p>	<p>The Council does not have to put in place an instalments policy. But, given the circumstances in South Somerset, it has carefully considered the need to balance the overall intention of CIL, which is to bring more certainty to the realisation of payments, and to do so earlier in the development cycle; versus the potential imposition of large costs to developers and the effects on cash-flow and viability. At present, the Council believes the instalments policy strikes the right balance.</p>	<p>The Council is mindful that the Instalments Policy can have an effect on the cashflow associated with a development. The Council is also conscious that South Somerset's development profile has a mixture of very small-scale developments, and large-scale developments. In order to meet the possible cashflow challenges at both ends of the spectrum, the Instalments Policy has been amended slightly to ensure payment and timescales are better suited to the development typologies.</p>
<p>What is the definition of "self-build"</p>	<p>The exemption will apply to anybody who is building their own home or has commissioned a home from a contractor, house builder or sub-contractor. Individuals claiming the exemption must own the property and occupy it as their principal residence for a minimum of three years after the work is completed.</p> <p>Community group self-build projects also qualify for the exemption where they meet the required criteria.</p> <p>There is also an exemption for people who extend their homes or build residential annexes.</p> <p>Applicants can apply for a self-build exemption at any time, as long as their development has not commenced (see Regulation 7 and Section 56(4) of the Town and Country Planning Act 1990, for the definition of 'commencement of development'). If the development commences before the collecting authority has notified the claimant</p>	<p>No change</p>

Main Issue	South Somerset District Council's Response	Recommendation
	<p>of its decision on the claim, the levy charge must be paid in full within the time period specified by the charging authority.</p> <p>The self-build exemption does not apply retrospectively: if a levy payment has already been made before the 2014 regulations come into force, no refund will be given.</p> <p>If personal circumstances change and the applicant wants to dispose of the property before the three year occupancy limit expires, they can do so, but they must notify the charging authority and the levy then becomes payable in full. Failure to notify the charging authority will result in enforcement action against the applicant and surcharges will become payable.</p> <p>Applicants wishing to claim must take two steps before commencing their development:</p> <ul style="list-style-type: none"> • Firstly, the applicant must assume the liability to pay levy in relation to the development. This is done by completing an Assumption of Liability form. If the original levy liability was in the name of a developer, the self-build applicant must complete a Transfer of Assumed Liability form • and submit this to the collecting authority. • Secondly, the applicant must certify that the scheme will meet the criteria to qualify as a 'self-build' development. He or she must submit a Self-Build Exemption Claim Form – Part 1 to the collecting authority (available on the Planning Portal website •). At this stage, the applicant must self-certify: <ul style="list-style-type: none"> ○ the name and address of the person(s) claiming liability ○ that the project is a "self-build project" for purposes of the exemption set out within the regulation; 	

Main Issue	South Somerset District Council's Response	Recommendation
	<ul style="list-style-type: none"> ○ that the applicant will occupy the premises as their principal residence for a period of 3 years from completion; ○ that the applicant will provide the required supporting documentation on project completion to confirm their development qualifies for relief; and ○ the amount of de minimis State Aid received by the applicant in the last three years prior to the submission of the application for relief (View more information on state aid). <p>On receipt of the form, the charging authority must notify the applicant in writing as soon as practicable, confirming the amount of exemption granted.</p>	
<p>Object to C2 uses being included in the draft charging schedule and therefore subject to the £40 per square metre levy. There is no evidence to support this position.</p>	<p>The Council believes that residential institutions and care homes are a viable use that is capable of accommodating a levy rate. This is borne out by the increase in the number of proposals coming forward within the district, and within larger mixed-use schemes. However, the appraisals do not provide sufficient evidence to support this position, at this time, and therefore the Council accepts that this is not a justified position to take.</p>	<p>Modify the Draft Charging Schedule to remove reference to C2 uses within the Charging Schedule.</p> <p>See “<i>Statement of Modifications</i>” document.</p>
<p>There appears to be some confusion over the use of “affordable rent” and “social rent” in the Addendum report. And in any event, the costs associated with delivering affordable housing have changed since the viability work was carried out. This affects the overall conclusion</p>	<p>The use of “affordable rent” in Section 2.1.2 of the Addendum Report (July 2015) is an error, and should read “social rent”.</p> <p>The appraisals have taken into account the Council’s policy requirements for 35% affordable housing. This has then been broken down into the Council’s requirements for 33% “intermediate” affordable products, and 67% “social rented” products.</p> <p>The Council is in regular dialogue with Register Providers and latest capital values attributed to the social rent units are still line</p>	<p>No change</p>

Main Issue	South Somerset District Council's Response	Recommendation
<p>that residential development can accommodate a £40 per square metre levy.</p>	<p>with those in the typologies.</p> <p>The Council accepts that the likely value paid by Registered Providers on the “social rented” proportion will reduce in the future, but it does not accept that this reduction is going to be 25% lower than previous levels. This appears to be on the extreme end of the spectrum of the reduction and the Council believes the reduction is closer to 15%, or at worst, 20%.</p> <p>In any event, the reduction only affects the “social rented” component, and does not affect the “intermediate” affordable housing component. Therefore the level of reduction in values is unlikely to be stark, as it represents a 20% reduction of 67%, which means the new value is 54% of the market value.</p> <p>Over the course of the total appraisal, accounting for contingencies and other buffers within the values and costings it is not felt that this has a material effect on the ability for sites to tolerate CIL. Particularly when, as stated at in Section 3 and Section 3.1 of the Addendum Report (July 2015), it is important to distinguish between scenarios where a scheme is unviable regardless of the level of CIL and those that are viable prior to the imposition of CIL. The Council makes the case that where the level of return based upon the balance of “intermediate” affordable housing products and “social rented” products indicates that a scheme is not viable, then it would not be viable with or without the imposition of CIL.</p> <p>The fact that an unviable scheme will only become viable following a degree of real house price inflation, or in the event that the Council agrees to a lower level of affordable housing for particular sites, or benchmark land values change – is readily accepted in Section 3 and Section 3.1 of the Addendum Report (July 2015).</p>	
<p>BCIS costs have increased by 6% since the viability work</p>	<p>Section 2.13 of the Addendum Report (July 2015) report takes account of the upward revisions to building costs, using the latest</p>	<p>No change</p>

Main Issue	South Somerset District Council's Response	Recommendation
<p>was carried out in 2013 and 2015. This affects the overall conclusion that residential development can accommodate a £40 per square metre levy.</p>	<p>BCIS data at that time. These show a significant uplift in building costs and it is felt that the average cost of £1,097.10 per square metre still equates to an average level of costs per typology. Higher building costs have been set out for the smaller development typologies, and the Council has also chosen to maintain the cost implications of the Code for Sustainable Homes (at 4%) in order to provide a buffer within the viability appraisals to account for fluctuations and expected general increases in build costs over time. These factors together mean the Council is confident that the analysis remains robust and caters to the changing nature of build costs.</p>	
<p>Costs of education obligations (within a Section 106 Agreement) mean overall burden on development is much greater than set out in viability appraisals. This affects the overall conclusion that residential development can accommodate a £40 per square metre levy.</p>	<p>The average level of Section 106 contribution for a site in South Somerset has been analysed and shown to be £4,841 per unit. This includes accounting for contributions to education (and other external / off-site contributions, e.g. highways, open space etc). It is important to state that the Council's figures reflect the values of payments made, rather than contributions sought. This ensures that the viability assessments reflect true values paid rather than relying on values "sought", which in most instances can be considerably higher than what is ultimately paid.</p> <p>For larger sites, the Section 106 obligation has been increased to £10,000 per unit, accounting for the additional burdens (including education) that are usually due on larger sites.</p> <p>Where circumstances arise that legitimate Section 106 costs are greater than what is set out in the appraisal "typologies" the likely outcomes is that the affordable housing component of the scheme would be negotiated in order to ensure viability. To overcome this dilemma for the larger, strategic sites within the district, the Council has proposed a £0(zero) levy rate. The Council is currently brokering Section 106 Agreements for the majority of these larger sites, and the education costs, determined in conjunction with the developer/landowner and Education Authority have been factored</p>	<p>No change</p>

Main Issue	South Somerset District Council's Response	Recommendation
	<p>into the overall viability of the sites.</p> <p>For smaller sites within the district the Section 106 requirements (for education or any other infrastructure) will be proportionately lower and within the value ranges set out in the average scenarios documented in the viability appraisals and therefore it is not expected that there will be any additional burden.</p>	
<p>£100 per square metre charge could affect District Centres and Local Centres in larger settlements.</p>	<p>The £100 per square metre levy charge is clearly linked to uses as defined in the accompanying footnotes. Therefore, the Council does not expect the levy rate to have the effect described.</p> <p>However, the Council is mindful that there is the potential for some confusion relating to the interaction between the proposed zero rate for retail (A1-A5) in Town Centres and Primary Shopping Areas; retail (A1 – A5) that might sit outside of the Town Centres and Primary Shopping Areas; and the uses described as being subject to the £100 per square metre charge.</p> <p>As such, the Council proposes to modify the Draft Charging Schedule to remove the row of the charging schedule that references the zero rate that will be charged for Retail (A1 – A5) uses in Town Centres and Primary Shopping Areas. This will mean that retail uses fall in to the “All Other Uses” category and remain subject to a zero levy rate, but the distinction and possible confusion caused by being within, or outside Town Centres or Primary Shopping Areas is removed.</p>	<p>Modify the Draft Charging Schedule to remove the row that makes reference to Retail (A1- A5) uses.</p> <p>See “<i>Statement of Modifications</i>” document.</p>
<p>The Council should establish an Exceptional Circumstances Relief Policy.</p>	<p>At present, the Council does not believe that there is a need to prepare and give notice that relief for exceptional circumstances is available in South Somerset. The Council's viability work demonstrates that a CIL is viable for certain uses in certain locations. Should the viability of development be seen to be consistently compromised, then the Council is at liberty to produce an exceptional circumstances relief mechanism at any moment after the adoption on the Charging Schedule.</p>	<p>No change</p>

Main Issue	South Somerset District Council's Response	Recommendation
Trees and woodland infrastructure should be added to the Regulation 123 List.	Noted. The Infrastructure Delivery Plan sets out how the provision of green infrastructure is being delivered in South Somerset. There is currently no justification for these specific items to be included in the CIL Regulation 123 List based upon existing provision and shortfall.	No change
How will the CIL receipts be spent?	<p>The governance arrangements for how the CIL receipts will be spent are yet to be determined. As is appropriate at this stage of the process, the Council will need to deliberate and decide what model of apportioning the CIL fund is appropriate to South Somerset.</p> <p>Any decision-making and spending of the CIL fund will be in accordance with the rules and requirements set out in the legislation and regulations.</p>	No change
The Council should produce a guide to the relationship between CIL, Section 106 Agreements and the policies in the Local Plan.	Noted. A guide will be produced as the Council moves closer to the adoption and implementation of a CIL. The Council already has a series of Frequently Asked Questions documents relating to CIL on its website.	No change
RentPlus model qualifies for social housing relief.	Noted.	No change
The Council should be mindful of the changing definition to affordable housing.	Noted. The changes set out in the various Government policy changes and emerging	No change
Why has the viability appraisal work not looked at an 800 dwelling scheme now proposed for the Yeovil Sustainable Urban Extensions in the Local Plan? The viability appraisals cannot be accurate if they are looking at a different scale of	<p>The existing viability work has been progressed on the basis of defining a series of "typologies" to test the likely viability of a levy charge. This follows best practice, and responds to the fact that it is not necessary to appraise every time of possible development that is likely to come forward in the district.</p> <p>The Council has followed an area-based approach, involving a broad test of viability across the district. The Council feels that it has used appropriate available evidence (as defined in the</p>	<p>No change.</p> <p>The Council has prepared additional evidence which looks at the viability of charging a levy on an "800 dwelling scheme in Yeovil" development typology.</p> <p>This evidence shows that such a scale</p>

Main Issue	South Somerset District Council's Response	Recommendation
<p>development.</p>	<p>Planning Act 2008 section 211(7A)) to inform the draft charging schedule.</p> <p>The Council feels that it has directly sampled an appropriate range of different types of sites across its area, with a focus on strategic sites set out in the Local Plan. In doing so, the Council believes that it has provided a robust evidence base about the potential effects of the rates proposed, balanced against the need to avoid excessive detail.</p> <p>That being said, for ease of reference and to overcome any perceived lack of information, the Council will prepare an additional typology for an “800 dwelling urban extension in Yeovil” to directly address concerns.</p>	<p>of development is still unable to support a levy charge. This evidence has been added to the overall CIL evidence base, and will be submitted to the Examiner.</p> <p>This evidence will be subject to further discussion during the Examination into the Draft Charging Schedule.</p> <p>The evidence on development viability can be found here: http://www.southsomerset.gov.uk/planning-and-building-control/planning-policy/</p>
<p>Why do the viability appraisals make reference to the Code for Sustainable Homes when this policy approach has been abandoned by Government? The viability appraisals cannot be accurate if they are including elements which no longer affect development.</p>	<p>The Council recognises that the Code for Sustainable Homes is no longer a standard by which development must comply. However, the costs associated with achieving the code are akin to the additional construction costs that are associated with developments that need to be meet Building Regulation standards.</p> <p>Furthermore, the Council believes that the additional costs factored in to the appraisals balance out those additional costs which have generally been experience by the construction sector even since the appraisals were carried out in July 2015. As has been indicated by respondents and addressed above, the BCIS costs have increased. Therefore, the Council believes the CFSH figures balance out any uplift in general construction costs. Therefore conclusions as to whether the levy rate is viable or not, is not affected by the inclusion of this figure.</p>	<p>No change</p>
<p>How and when will the 15% / 25% of CIL receipts be transferred to Parish / Town Councils?</p>	<p>South Somerset District Council both the “charging authority” and the “collecting authority” for CIL receipts. Therefore, in the first instance, all monies will come in to South Somerset District Council. The amended CIL Regulations set out that 15% of the receipt generated in an area should be passed directly back to the</p>	<p>No change</p>

Main Issue	South Somerset District Council's Response	Recommendation
	<p>parish/town council in which the development took place.</p> <p>The exact arrangements for when the receipts will be passed to parish/town councils are not yet defined, and the Regulations do not prescribe a timescale. It is likely, that the funds will be allocated annually, at the same time that precepts are determined and finalised. This would allow relevant parish/town councils to full take account of their financial position.</p> <p>The Regulations do however set a cap on the total annual amount of payments that can be made to a parish/town council area that does not have 'made' Neighbourhood Plan. The cap is set at £100 per council tax dwelling, per year. This means that a parish with 500 dwellings cannot receive more than £50,000 of CIL receipts per year. This is to prevent excessive amounts being passed on to areas without the means or ability to manage and spend the payments.</p>	
<p>Yeovil Cemetery should be added to the Regulation 123 List</p>	<p>The Council welcomes the supporting evidence and justification which demonstrates the need for a new cemetery in Yeovil. More importantly, the evidence indicates there is a deliverable project that funds accrued from a Community Infrastructure Levy could be used to realise the new cemetery.</p>	<p>Yeovil Cemetery to be added to the Regulation 123 List.</p> <p>Evidence provided has been added to the overall evidence base used to justify adopting a CIL. The specific evidence relating to the cemetery will be added as a supplementary paper to sit alongside the Council's Infrastructure Delivery Plan (2015/2016).</p> <p>Further evidence on the need for new cemetery space can be found here: http://www.southsomerset.gov.uk/planning-and-building-control/planning-policy/</p>

4. Conclusions and Next Steps

Conclusions

- 4.1. Having considered the representations and summarised the main issues, the Council believes that there is justification to modify the Draft Charging Schedule.
- 4.2. In accordance with Regulation 11 and Regulation 19 of the Community Infrastructure Levy Regulations 2010 (as amended) the Council therefore proposes two modifications, they are:
 - i. To delete reference to C2 Use Class in the “*All Other Residential Development*” row of the Draft Charging Schedule. This includes deleting footnote 8; and
 - ii. To delete the row of the Draft Charging Schedule relating to Retail (A1 – A5 Use Class) in town centres and/or primary shopping areas. This includes deleting footnote 11, and the removal of references in the key to the accompanying maps.
- 4.3. A full explanation of the two modifications proposed is set out in the accompanying “*Statement of Modifications*” document¹. A detailed explanation of how comments can be made on the proposed modifications is also set out in that document.
- 4.4. As well as these formal modifications to the Draft Charging Schedule, the Council has also provided supplementary information to sit alongside the existing Community Infrastructure Levy evidence base. This includes:
 - minor alterations to the Instalments Policy to take account of South Somerset’s range of small-scale and large-scale developments;
 - a viability appraisal of an “800 dwelling Yeovil Urban Extension” typology to add to the existing viability work; and
 - analysis of the need for additional cemetery infrastructure in Yeovil to support this item being added to the Regulation 123 List.
- 4.5. This evidence will feature as part of the overall package of information and documentation that will form the Council’s “submission” to Examiner and then considered at the Examination.

Next Steps

- 4.6. Given that six respondents have indicated that they wish to be present at an Examination in to the Draft Charging Schedule, it is expected that a hearing/inquiry will be required. Formal confirmation of the exact approach will be given by the Examiner in due course. The holding of a hearing/inquiry comes with additional time and cost pressures for the Council, these costs will have to be factored into the overall resource planning of the Spatial Policy team.
- 4.7. The Council will shortly be appointing a Programme Officer who will provide the administrative support to help manage the Examination process. The Programme Officer will also be the point of contact between consultees, those due to attend the

¹ South Somerset Community Infrastructure Levy – Draft Charging Schedule: Statement of Modifications

Examination, the Council and the Examiner. The Programme Officer will provide support to the process, but is an objective and impartial person who does not act on half of the Council.

- 4.8. Based upon the current timetable, the Council will be seeking approval from its District Executive Committee to submit the Draft Charging Schedule to the Examiner in May/June 2016. The Examination itself is likely to take place in Summer 2016.
- 4.9. If the examination concludes that the Charging Schedule can be adopted, the Council then has to table the final version of the Charging Schedule before a meeting of Full Council. This is expected to be in Autumn 2016.