

PLANNING & ENVIRONMENTAL PROTECTION COMMITTEE	AGENDA ITEM No. 9
8 APRIL 2014	PUBLIC REPORT

Cabinet Member(s) responsible:	Lead Members: Cllr Cereste (Leader of the Council and Cabinet Member for Growth, Strategic Planning, Economic Development, Business Engagement and Environment Capital)
Contact Officer(s):	Richard Kay (Group Manager Strategic Planning, Housing & Environment) Steve Winstanley, Strategic Planning, Housing & Env.
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PETERBOROUGH COMMUNITY INFRASTRUCTURE LEVY (CIL) – DRAFT CHARGING SCHEDULE (DCS) AND DRAFT PLANNING CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD) UPDATE

R E C O M M E N D A T I O N S	
FROM : Director of Growth & Regeneration	Deadline date : 8 th April 2014
1. The Committee is invited to <ul style="list-style-type: none"> comment in relation to the proposals set out in this report, most notably the proposed Draft Charging Schedule and charge rates, prior to consideration by Cabinet and Council in June and July respectively. 	

1. ORIGIN OF REPORT

1.1 Responsibility for this report, and for overseeing CIL generally, falls within the Strategic Planning function of the city council.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to obtain the committee's views on the attached report going to Cabinet on 30th June 2014.

2.2 This report is for the Committee to consider under its terms of reference 2.5.1.5 'to be consulted by, and comment on, the Executive's draft proposals for Local Development Documents within the Local Development Framework at each formal stage in preparation'.

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	YES	If Yes, date for relevant Cabinet Meeting	30 th June 2014
Date for relevant Council meeting	16 July 2014	Date for submission to Government Dept (please specify which Government Dept)	N/A

4. BACKGROUND

4.1 A number of changes to the way local authorities can collect and distribute developer contributions have and are being implemented. These changes are being driven by legislative and statutory changes at the national level. In order to continue to secure 'developer contributions' for investment in infrastructure considered critical to accommodate our growth targets and maintain sustainable communities, we need to make changes to our existing systems and processes. The main thrust of these changes is through the adoption of a Community Infrastructure Levy which, once consulted upon, approved through independent examination and adopted by Council, will replace the current Peterborough Planning Obligations Implementation Scheme (POIS). This report reminds the committee about what CIL is about, how it will work, and timetable for adopting a CIL around April 2015.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

4.2 Changes to the way local authorities can collect and distribute developer contributions are being driven by legislative and statutory changes at the national level. The main thrust of these changes is through the adoption of a Community Infrastructure Levy.

CIL Charging Schedule

4.3 Before a CIL Charging Schedule is adopted it must go through two formal rounds of consultation, followed by an independent examination. The first round, known as the Preliminary Draft Charging Schedule stage occurred in Nov/Dec 2012. It took note of SG&EC SC's explicit request to *'ensure that an element of the CIL receipts are ring-fenced for spend by Neighbourhood Committees and that they are distributed to each Neighbourhood Committee on an equal basis'*.

4.4 The second round known as the Draft Charging Schedule stage is proposed for August/September 2014 and precedes an independent examination later in 2014. A successful examination would allow adoption of the Peterborough CIL Charging Schedule by April 2015, given Full Council support.

4.5 April 2015 is a key date. From April 2015 it will be unlawful for Local Authorities to pool contributions from more than 5 planning obligations secured via Section 106 agreements for funding any single infrastructure project. In effect, this makes our current S106/POIS¹ tariff-based system unlawful from April 2015 and a CIL will become the only available mechanism to pool funds. At the same time as the CIL is adopted in Peterborough, it will be necessary to revoke the existing POIS SPD.

4.6 The CIL Proposed Draft Charging Schedule (Appendix A) sets out '£ rates per m²' for different development types that are liable to pay the charge (usually all new dwellings and most new floorspace over 100m² for buildings which are normally occupied by persons).

4.7 The setting of a CIL charge for development must be based on viability grounds and backed up by the demonstration of an infrastructure funding gap. A supporting viability study has been commissioned which forms the basis of the proposed CIL Charging Schedule rates. CIL cannot be used as a policy mechanism i.e. you cannot: set artificially low rates in order to attract development, or too high rates if this would make the majority or specific types of development unviable.

4.8 The regulations now allow for differential rates to be set by geographical zone, by land use, by scale of development or a combination of those approaches (this has not always been the case). Zero rates can also be set where viability evidence shows that development across the area would be unviable because of the imposition of a charge. The proposed Draft Charging Schedule utilises these options. (See Appendix A)

¹ POIS – Peterborough Planning Obligations Implementation Scheme SPD (Feb 2010)

- 4.9 Officers recommend that Discretionary Charitable Relief and Discretionary Relief for Discount Market Sale developments is not included in our policy, because of the complexity and infrequent likely use of such relief.
- 4.10 Officers do recommend that the council includes the use of Discretionary Relief for Exceptional Circumstances and a local Instalments Policy to spread the cost of CIL liability payment.
- 4.11 These recommendations on various optional 'Reliefs' are not unusual or controversial, and are in line with other councils.
- 4.12 The 2014 CIL Regulations exempt self-build homes, and residential extensions and / or annexes from the levy.
- 4.13 A number of points raised in the first consultation have been considered, leading to recommended changes to the proposed Draft Charging Schedule (Appendix A). The significant recommended changes are :-
- A likely charge rate of £NIL/m² for all business development (B1 to B8 uses). The PDCS rate (previously) was £10/m².
The £10/m² charge was a cause of concern by a number of representors during the first round of consultation. It also tended to contradict the published viability evidence. This matter has now been addressed and the rate is comparable with neighbouring authorities (see Appendix C).
 - Introduction of three geographical charge zones across Peterborough for residential development. The zones will reflect the broadly different residential values across Peterborough, and the significant S106 obligations that will remain for development of strategic sites. It is recommended in total that there should be three different charge rate zones. These are mapped in Appendix B.
The lack of property value distinction across Peterborough, notably from east to west, was raised and queried by a number of people at the previous round of consultation. The proposed charging zones are more sensitive and reflective of the differences. This is considered to be fair and evidenced based.
 - The CIL charge for a typical single 3 bed house in a small-scale development scheme is likely to range from £12,600 in the higher charge area to £9,000 in the lower charge area. Recognising the increased S106 obligations for developments involving 15 or more dwellings (e.g. affordable homes provision), the rate for a 3 bed house on a site of 15 or more dwellings is likely to range from £6,300 to £1,350 dependent on location.
This compares with the current city-wide POIS charge of £6,000 for a 3 bed house.
 - The proposed retail charge rates are generally lower than those set out at the earlier stage of consultation (PDCS stage), reflecting latest evidence and best practice nationally.
The rates proposed in the earlier version were amongst the highest nationally, provoking many related comments. The new rates and types are considered to be more reasonable and appropriate in all respects.
 - The spending of CIL funds
This topic engaged many persons, even though it is not a matter for the CIL examination process nor adoption. The matter is addressed below.
- 4.14 Over the past year, work to fully understand the cost implications of planning policy developer contributions and the likely interaction between S106 planning obligations and CIL has been undertaken. This work has been passed to consultants Peter Brett Associates who have re-run the CIL Development Viability Study to determine proposed CIL charge rates for the Draft Charging Schedule. The refreshed CIL Development Viability Study will be available for public viewing in late May 2014, prior to the Cabinet meeting in June 2014.

DEVELOPER CONTRIBUTIONS

- 4.15 The council expects new development to contribute to site related and other infrastructure needs through a combination of the following mechanisms :-
- Planning **conditions** (Site/development related)
 - Planning **obligations** to secure developer contributions or works in kind e.g. s106 Agreements or Unilateral Undertakings (site/development related)
 - Peterborough Community Infrastructure Levy (**CIL**) (Strategic, local and city wide requirements)
- 4.16 Although CIL will replace some elements of S106 planning obligations, S106 obligations will still play an important on-going site specific role. They will be used for site-specific infrastructure or mitigation required to make a development acceptable in planning terms. The principle is that all eligible developments must pay a CIL as well as, any site specific requirement to be secured through S106 obligations.
- 4.17 For clarity and transparency, it is important to identify the relationship between S106 obligations and CIL; and to make clear the circumstances when each will or won't be used. This inevitably involves making choices about which infrastructure types or projects will be funded from S106 obligations or CIL.
- 4.18 The relationship between S106 and CIL will be set out clearly in a Planning Contributions Supplementary Planning Document (SPD) which is currently under preparation. The SPD will be made available in draft for consultation alongside the CIL Draft Charging Schedule, though it will not be required to pass through an examination. A summary of this relationship is set out in Appendix D.
- 4.19 The Scrutiny Committee will have an opportunity to review the emerging SPD prior to its adoption.

DRAFT CIL REGULATION 123 LIST

- 4.20 The Reg 123 List lists all known infrastructure projects or types that could be funded in whole or in part by CIL funds. The relationship between S106 and CIL is also influential in shaping the CIL Regulation 123 List (Reg.123 List), a list that needs to be made available alongside the Draft Charging Schedule at the time of examination. (See Appendix E).
- 4.21 In turn, in order for Charging Authorities (Peterborough City Council in this instance) to justify setting a CIL, they need to demonstrate that CIL rates will not make overall development of the area unviable (which is the purpose of the CIL Development Viability Study); but also demonstrate that they have an '*infrastructure funding gap*'.
- 4.22 The '*infrastructure funding gap*' is calculated by taking into account what infrastructure will be funded by S106 obligations, other available internal and external funding sources and forecast CIL revenue. In simple terms, forecast CIL revenue mustn't be greater than the costed items in the CIL Reg. 123 List.

Forecast CIL Revenue 2015-2031

- 4.23 Forecast CIL revenue is approximately **£29 million** over the sixteen year period to 2031 (i.e. £1.8 million per annum on average, but this will vary considerably year to year). This figure assumes that the Great Haddon proposal has permission before the CIL Charging Schedule is adopted.
- 4.24 This forecast income is notably less than the £67 million forecast at the previous stage ie Preliminary Draft Charging Schedule stage. This is due to the combined effect of a) generally lower charge rates, b) reducing the charge rate to NIL for commercial development (each on viability study evidence) and c) significant new planning applications have progressed since the PDCS stage, such as the Great Haddon employment area and the Great Haddon urban extension, for which S106 contributions of £3.3million and £75million have been secured and negotiated respectively (and hence will not pay CIL).

SPENDING CIL RECEIPTS

- 4.25 The CIL Reg's 2013 were helpful in this respect, in that they specified the 'minimum meaningful proportion' to be passed to Parish Councils. This is highlighted below.

CIL Revenue split	Proportion of total where development has taken place
'Meaningful Proportion' for neighbourhoods	15% capped at £100 per existing council tax dwelling
Neighbourhoods with an adopted Neighbourhood Plan	25% uncapped

- 4.26 For communities without a Parish Council the 15% incentive still remains. In such areas (probably wards in urban areas, and parishes in rural areas without a parish council) the charging authority will retain the Levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. The governance of how this will be achieved has yet to be determined, but is not a matter subject to CIL examination.

Proposed CIL funding split.

- 4.27 For the remaining CIL revenue it is proposed that the funds will be managed by the charging authority, along the same lines as POIS contributions are currently managed, with the broad funding split as indicated below.

Remaining CIL Revenue will be provisionally split across the themes as indicated below Precise governance arrangements yet to be agreed.	
Transport	30%
Education & Skills	40%
Community Infrastructure	10%
Utilities Services	5%
Emergency Services / Health & Well Being	5%
Environmental Sustainability	10%
Total	100%

- 4.28 A user-friendly guide titled: 'How CIL may work in Peterborough: A Simple Guide' will also be published on the city council website.

5. CONSULTATION

- 5.1 The Regulations require a minimum of 6 weeks public consultation on the proposed Draft Charging Schedule. Subject to approval at Full Council (in July 2014), the CIL Draft Charging Schedule will be available for public consultation in August/September 2014. Normally, only developers / agents respond to such consultation, rather than the general public.
- 5.2 The CIL DCS and supporting documentation (particularly the Infrastructure Delivery Schedule) have been prepared by working closely with infrastructure providers across the board. This documentation has been considered by a wide range of consultees.

6. ANTICIPATED OUTCOMES

- 6.1 We anticipate that there will be a significant level of public interest in the proposals being set out in the Peterborough CIL DCS, particularly from landowners, businesses and developers. Comments (or representations as they are known) received during the consultation period (July-August 2014) will be collated and reported in a Consultation Statement. All representations will be considered alongside the other CIL documentation required to be submitted in late September for independent examination.
- 6.2 Whilst we anticipate possible debate, particularly around the technical details relating to our viability calculations / assumptions and hence the level at which we set charges for different types

of development; we are confident that we have robust evidence to underpin our proposals. The important message to get across is that the sum total of the costs being placed on developers and landowners through this mechanism is not dissimilar to the current operational procedures in place in Peterborough with the combination of POIS and S106 obligations being used in tandem. In short, CIL will simply replace POIS.

7. REASONS FOR RECOMMENDATIONS

7.1 Government is introducing changes to the way developer contributions can be collected and spent. Charging Authorities have the option of adopting a CIL. From April 2015, the use of our existing methodology for collecting and pooling developer contributions (POIS) will become unlawful and so unless a CIL is adopted, the collection and use of developer contributions will be severely limited from that date. Adopting a CIL will introduce a recognised system that is used by many other authorities; provide a fairer system for ensuring developer contributions are made by small and large developments alike in a proportionate manner; and a simpler more direct way of directly passing back contributions to the communities within which the development has taken place.

8. ALTERNATIVE OPTIONS CONSIDERED

8.1 The option to not adopt a CIL has been considered and rejected. This option may have been acceptable if, for example, Peterborough was only expecting very minimal growth over the plan period and the majority of that growth could be dealt with through the limited pooling of contributions for strategic infrastructure. This would have made the adoption of a CIL superfluous. Since Peterborough will continue to deliver a significant number of homes and jobs over the plan period this option was rejected.

9. IMPLICATIONS

9.1 **Legal Implications** – The proposed changes have been prepared and will be consulted on in accordance with the regulations and statutory guidance issued by national government. There are legal implications arising from the changes relating to the implementation, monitoring and enforcement of the CIL once adopted and implemented.

9.2 **Financial Implications** – There are financial implications in terms of the way we collect, administer and spend CIL receipts.

9.3 **Human Resources** – Can be delivered within existing resources but will potentially require additional training and changes to existing work practises.

9.4 **Equality & Diversity** – The changes will have a positive impact on our customers and help to ensure continued investment in infrastructure considered critical to maintaining sustainable communities.

10. NEXT STEPS

- **30 June 2014** - Cabinet asked to approve CIL DCS for the purpose of public consultation and examination.
- **16 July 2014** - Full Council asked to approve CIL DCS for the purpose of public consultation and examination.
- **August / Sept 2014** – 6 weeks public consultation.
- **December 2014** – Independent Examination
- **March/April 2015** - Full Council Meeting for formal Adoption once any amendments proposed by the examiner have been addressed.



11. BACKGROUND DOCUMENTS

- Peterborough City Council Community Infrastructure Levy Study, Roger Tym and Partners (2012)
- Peterborough Planning Obligations Implementation Scheme SPD (2010)

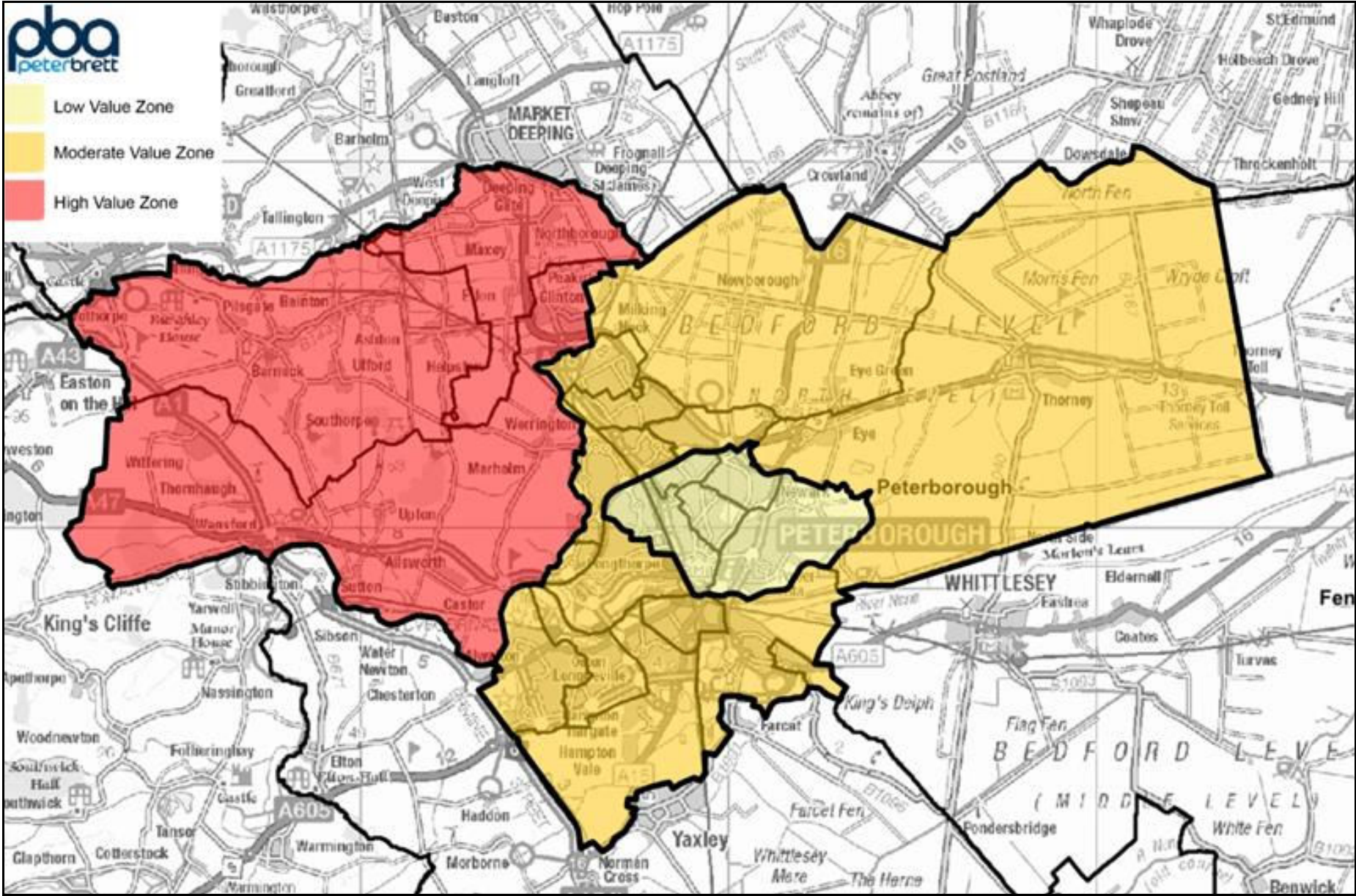
12. APPENDICES

- Appendix A: Proposed Draft Charging Schedule
- Appendix B: Map showing Proposed Residential Development Charging Zones.
- Appendix C: Neighbouring Authorities – CIL Charges.
- Appendix D: The Proposed Relationship between S106 and CIL in Peterborough
- Appendix E: Draft Peterborough CIL Regulation 123 List.

**APPENDIX A
PETERBOROUGH CIL - PROPOSED DRAFT CHARGING SCHEDULE**

 			
<h2 style="color: #0070C0;">CIL Proposed Draft Charging Schedule</h2>			
Development Type	Charging Zone		
	High	Medium	Low
Market Housing on sites of less than 15 units	£140	£120	£100
Market Housing on sites of 15 or more units	£70	£45	£15
Apartments on sites of less than 15 units	£70	£45	£15
Strategic Sites 500+ dwellings	£15	£15	£15
Supermarket	£150		
Retail Warehouse	£70		
Neighbourhood Convenience	£15		
All other development	£0		
All charges are £ per msq.			

APPENDIX B
PETERBOROUGH CIL - PROPOSED DRAFT RESIDENTIAL CHARGING ZONES



APPENDIX C - NEIGHBOURING AUTHORITIES - CIL CHARGES

As at 25.02.14

AUTHORITY	CURRENT STATUS	CHARGES
Cambridge City	DCS – Going through Committee cycle. Adopt early 2015	£125/m2 Residential & Student Accommodation. £75/m2 Retail £0/m2 All other development
East Cambridgeshire	CIL came into force on 1 st Feb 2013	£40/m2 Residential Zone A (Littleport & Soham) £70/m2 Residential Zone B (Ely) £90/m2 Residential Zone C (Rest of District) £120/m2 Retail £0/m2 All other
South Cambridgeshire	PDCS 19 th July 2013 DCS – Due April 2014	£100/m2 Residential £0/m2 Residential Strategic Sites £125/m2 Residential land north Teversham Drift £50/m2 Retail (up to 280m2) £125/m2 Retail (>280m2) £0/m2 All other uses
Huntingdonshire	CIL approved 25 th April 2012	£85/m2 All development types, except:- £40/m2 Retail (up to 500m2) £100/m2 Retail (>500m2) £60/m2 C1 Hotels £45/m2 C2 Nursing Homes £65/m2 D1 Health £0/m2 B1, B2, B8, Community Uses (within D1 except Health & D2) & Agriculture
Fenland District Council	Commencing Viability Study work (Feb 2014)	

Rutland County Council	PDCS May 2013	<p>£100/m2 Residential</p> <p>£10/m2 Distribution B8</p> <p>£150/m2 Food Retail (Supermarkets)</p> <p>£150/m2 Retail Warehouses</p> <p>£150/m2 Hotel C1</p>
East Northamptonshire Council	PDCS Nov 2012	<p>£150/m2 Residential (High Value – Pink on Map)</p> <p>£100/m2 Residential (Med Value – Yellow on Map)</p> <p>£50/m2 Residential (All other areas – Blue on Map)</p> <p>£125/m2 Retail (>280m2)</p> <p>£0/m2 All other</p>
South Kesteven District Council	“The Council has not yet made a decision on the introduction of CIL.” (Feb 2014)	
South Holland District Council	Still considering whether to have CIL – Viability assessment to be done. (Feb 2014)	

Appendix D
Likely relationship between S106 and CIL

	Residential development on non-strategic sites (1- 499 dwellings)		Residential development on strategic sites (500+ dwellings)	
	CIL £15 - £140/m²	S106 Obligation	CIL £15/m²	S106 Obligation
Infrastructure Type	Contribution can be used for	Contribution can be used for	Contribution can be used for	Contribution can be used for
Transport	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Education	✓ (Off-site provision)	✗ (No Site Specific Prov'n if <500 dwellings)	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Affordable Housing	✗	✓ (Site Specific Prov'n if >14 dwellings)	✗	✓ (Site Specific Prov'n)
Lifetime Homes	✗	✓ (Site Specific Prov'n if >14 dwellings)	✗	✓ (Site Specific Prov'n)
Wheelchair Homes	✗	✓ (Site Specific Prov'n if >50 dwellings)	✗	✓ (Site Specific Prov'n)
Emergency Services	✓	✗	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Primary Health Care	✓	✗	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Crematorium/Burial grounds	✓	✗	✓	✗
Non-Strategic Outdoor Open Space	✓ (Off-site provision)	✓ (Site Specific Prov'n if >14 dwellings)	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Strategic Outdoor Open Space	✓	✗	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Strategic Green Infrastructure	✓	✗	✓ (City-wide. Projects Only)	✗
Indoor Sports Facilities	✓	✗	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Community Buildings	✓ (Off-site provision)	✗ (No Site Specific Prov'n if <500 dwellings)	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Libraries, Museum and Life Long Learning	✓	✗	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Public Realm	✓	✗	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Environment Capital	✗	Condition	✗	Condition / ✓ (Site Specific Prov'n)
Site Drainage	✗	Condition	✗	Condition
Flood Risk Management & Protection	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Waste Management	✓ (City-wide. Projects Only)	Condition	✓ (City-wide. Projects Only)	✓ (Site Specific Prov'n)
Other Infrastructure	Refer to CIL R.123 List	Case by Case	Refer to CIL R.123 List	Case by Case
Key				

✓	Only CIL may be used for this infrastructure type/project
✘	CIL or S106 planning obligation will not be sought for this infrastructure type/project (as appropriate column)
Condition	Site specific matters relating to this infrastructure type most likely to be covered by condition i.e. use of planning obligation unlikely.
✓ (City-wide. Projects Only)	CIL will be charged, but may only be used on city-wide projects or strategic projects.
✓ (Off-site provision)	CIL will be charged, but may only be spent for off-site provision where on-site provision is not feasible. This may include off-site local or neighbourhood level projects (as opposed to solely city-wide or strategic projects).
✓ (Site Specific Prov'n)	Infrastructure secured through a S106 planning obligation that is required to be delivered on-site, but can include off-site works within the immediate vicinity, that are required to mitigate unacceptable consequences of the proposal, such a new road junction/improvement.
✓ (Site Specific Prov'n if >X dwellings)	S106 planning obligation will only be sought on developments involving more than the specified numbers dwellings for site specific provision infrastructure of the type listed.

Draft CIL Regulation 123 List

Peterborough City Council Community Infrastructure Levy Draft Regulation 123 List

(To accompany the Community Infrastructure Levy Draft Charging Schedule consultation)
The infrastructure listed below will be eligible to be funded through the Community Infrastructure Levy.

The Draft Regulation 123 list, as set out below, defines which projects and/or types/sections of infrastructure that the Council will fund through CIL revenues. It will take effect upon the implementation of the Council’s CIL Charging Schedule. The list is not definitive, and in no order of priorities, as no formal decisions have yet been taken to confirm how CIL funds will be allocated amongst the listed infrastructure projects. It is a list of infrastructure that CIL could be used to fund, subject to council priorities and the levels of available CIL funding.

CIL Draft Regulation 123 List -

Infrastructure types and/or projects that will, or may, be funded in whole or in part by CIL:

Development Specific (Non-CIL funded) infrastructure	Remaining Infrastructure (CIL funded)
Local site-related road / transport requirements	Remaining Roads and other Transport facilities
Site specific education provision contributions on strategic sites.	Remaining Educational facilities
Site specific health provision contributions on strategic sites.	Remaining Health facilities
Site specific indoor sports and recreational facilities contributions for developments on strategic sites.	Remaining Indoor Sports and Recreational facilities
Site specific community buildings contributions on strategic sites.	Remaining Community buildings
Site specific library, museum, and life-long learning provision contributions on strategic sites.	Remaining library, museum, and life-long learning facilities
Site-specific waste management provision contributions	Remaining Waste Management infrastructure
Site specific emergency services contributions on strategic sites.	Remaining Emergency services
Local site-related utility requirements	Remaining Utilities
Local site-related flood risk management solutions/ requirements	Remaining Flood defences
Site specific public realm contributions on strategic sites.	Remaining Public Realm infrastructure
Site specific strategic outdoor open space contributions for developments on strategic sites.	Remaining strategic outdoor open space infrastructure
Site specific non-strategic open space provision contributions for sites over 14 dwellings	Remaining non- strategic outdoor open space infrastructure Crematorium and Burial Grounds infrastructure Strategic Green infrastructure