

Consultation Statement – Community Infrastructure Levy Draft Charging Schedule

January 2014

In connection with the preparation of the CIL Draft Charging Schedule, a Consultation Statement is required to demonstrate with whom Birmingham City Council consulted, and how they engaged with local people and other interested parties during the preparation of the Charging Schedule.

In accordance with Regulation 17 of the CIL Regulations 2010 (as amended), this Statement confirms that representations were made to Birmingham City Council in respect of the CIL Draft Charging Schedule.

This Statement contains the following information:

- A summary of the individuals and organisations with whom Birmingham City Council consulted
- How those organisations were consulted
- The Consultation Events held
- A summary of the issues raised, and how those issues have been addressed in the amended Draft Charging Schedule.

A six week consultation on the Draft Charging Schedule commenced on Monday 29th September 2014 and ended on Monday 10th November 2014. The consultees were notified by either email or letter. The consultation documents were published on Birmingham City Council's website, and a link to the online consultation portal, Be Heard, was also included. Comments on the Draft Charging Schedule were invited either directly to the Council, or through the consultation portal. Two public consultation "Drop In Sessions" were also held at the Council House on the morning of 16 October 2014 and the afternoon of 17 October 2014.

Statutory and other organisations/developers/individuals on Consultee Database (including additional individuals/developers/agents who requested to be notified)	Approximately 570
Birmingham Councillors and local MPs	Approximately 130

Copies of documents were also available to view at the main reception for Planning and Regeneration (Lancaster Circus, Queensway, Birmingham, B4 7DQ) and The Library of Birmingham (Centenary Square, Broad Street, Birmingham, B1 2ND). A press notice was published in the Birmingham Post on Thursday 25 September 2014.

Various meetings were also held with Birmingham City Council Scrutiny Committees, and internal Council staff inviting comments relating to their particular areas of expertise.

A total of 33 representations were made on the Draft Charging Schedule, and a summary of the key issues raised and the Council's response is provided below. All of the representations were made in accordance with Regulation 17 of the CIL Regulations (as amended).

The main issues arising from the representations are:

- Whether the size threshold identified for CIL charges for Retail Convenience use was correct.
- Whether all social housing providers should be exempt from CIL charges.
- Whether clarity is required for some of the nil charging categories in the Draft Charging Schedule.
- Whether the charging zone maps should be amended to provide clarity for buildings crossing the Residential charging zones.
- Whether clarity was needed regarding In Kind CIL payments.

Right to be Heard

CgMs Consulting requested to be notified at 140 London Wall, London, EC2Y 5DN of the following: i) That the Draft Charging Schedule has been submitted to the Examiner in accordance with Section 212 of the Planning Act 2008; ii) The right to be heard by the appointed Examiner at the Examination; iii) The publication of the recommendations of the Examiner and the reason for those recommendations; and iv) The approval of the Charging Schedule by the Council.

Tyler Parkes has requested that the representation submitted is presented to the Examiner conducting the Examination.

Jillings Hutton Planning have requested the right to appear at the eventual examination of the draft charging schedule, in accordance with Regulation 21. They would look to supplement their general concerns expressed within their representation with detailed worked examples setting out key real world examples.

Calthorpe Estates retains the right to appear at the CIL examination and standby their previous representations as necessary.

WYG have stated they intend to appear at the hearing.

Summary of comments made on the Community Infrastructure Levy Draft Charging Schedule January 2015 and the Council's responses.

Nature of Comment	Do you have any other comments to make regarding Birmingham's CIL proposals?	Initial Response to consultation comments
Affordable Housing Viability	I am concerned other the proposal to favour BMHT with a lighter CIL charge, as it sets a poor example to other developers and a potential challenge on an equality of opportunity basis. Given that BHMT already has the advantage of not having to purchase; and they already have the advantage of not providing the council with a capital receipt. In my opinion CIL discount should only been given to the most objectively sustainable development, not the most affordable.	Noted. An amendment is proposed to the Charging Schedule to introduce a zero charge for residential developments completed by the Birmingham Municipal Housing Trust (BMHT) and social housing providers registered with the Homes and Communities Agency (HCA).
General	BCC and Salhia Investments (Birmingham) Ltd are attempting to kickstart the economic regeneration of the Digbeth area south of the Bullring through the construction of the Beorma Quarter, and CIL payments would substantially impact on the viability of the project and the achievement of this objective. Under the draft introductory schedule, Beorma Quarter is, rightly, not liable for CIL and we wish to ensure this position does not change as modifications to the schedule are considered.	Noted.
Retail Viability	The threshold for CIL liability for retail developments should remain at 1,500 sqm.	Noted. However, as a result of comments received during the consultation, and a review of the evidence presented, it is proposed to amend the Draft Charging Schedule to increase the charging threshold for supermarkets from 1,500 sqm to

		2,000sqm.
Residential Viability	In particular, we would not wish to see Residential Group 6 and 7 postcode areas (as per GVA's report), where residential property values are low, brought within bands which are not zero-rated for CIL in the Council's introductory, or on-going, charging regime.	Noted.
Infrastructure Provision	<p>We are concerned that these zero rated developments will require vital school infrastructure and the position supporting this activity. We would welcome discussion and review in light of pressure on school places and sufficient provision. A view to establishing a presumption on the distribution of funds that enable sufficient schools. Therefore a priority for CIL funding distribution for schools in line with open spaces and affordable housing considerations which already appear to carry provision for consideration as priorities.</p> <p style="text-align: center;">CASE:</p> <p>Schools provide vital universal provision. Providing every family access to a local school place for their children which ensures regular attendance and supports the welfare of all our young people is advocated strongly.</p>	<p>The Community Infrastructure Levy Regulations 2010 (as amended 23 February 2014) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across it's area.". Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across their area.". The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed different types of development across the city, using this broad test</p>

		<p>of viability and have determined that many types of development in the city, taking into account a "Viability Cushion", are unable to support a CIL at this time. CIL charges will be reviewed on a regular basis to ensure they continue to reflect the viability of development in the city.</p> <p>The distribution of funds following the adoption of CIL will be prioritised by Cabinet and the Council, and education provision is included within the Regulation 123 list.</p>
Listed Building Viability	<p>Generally it would seem to make sense that exceptions could be made to the CIL charging regime where listed buildings particularly with conservation deficits are involved. It isn't logical to add an additional cost to a project where the land value cannot go down, and reducing a profit margin that is often effectively set by English Heritage will cause a restoration project not to happen.</p>	<p>Noted. At the present time, the Council have decided not to adopt an exceptional circumstances policy due to the low level of proposed CIL charges. This will be kept under review as part of the CIL process.</p>

Student
Housing
Viability

In principle I can see the point about city centre student accommodation schemes paying for infrastructure. However we are looking at a very specific case (7-12 Bartholomew Row) where a student accommodation scheme is being used as part of a project to restore and bring back to use a significant listed building. In a situation where there is a conservation deficit, the addition of CIL onto the costs of the scheme does not cause the land to be worth less, which would be fair enough in normal circumstances (as developers who pay too much for land should not be protected), it just causes the conservation deficit to be even greater.

In a situation such as this, s106 would usually be disregarded on the basis that it would either make restoration unviable or would unacceptably increase the amount of development needed to cross subsidise the restoration. Adding CIL to the costs of a project with a conservation deficit simply means that correspondingly more building is needed, or more historic building needs to be lost!

The Community Infrastructure Levy Regulations 2010 (as amended 23 February 2014) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.". Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across their area.". The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed student accommodation developments. This states that "should a need be identified for student housing, it is likely that demand will be strong and room and apartment rental values will support this - our evidence suggests that the average price for a room with washing facilities is circa £5,000 for 42 weeks. Therefore our appraisals show that new build student housing can afford to contribute a maximum

		of £115 per sqm towards a CIL charge." Following the Preliminary Draft Charging Schedule consultation, the proposed charges were amended to introduce a viability cushion, effectively reducing the charge to £69 per sqm.
General	Agreed with all proposals - no further comments to make.	Noted.
General	Generally support the principle of CIL	Noted
Regulation 123 List	<p>We would like to see specific inclusion of city wide walking and cycling infrastructure within the 123 list.</p> <p>Birmingham has very poor walking and cycling infrastructure, although the Birmingham Cycle Ambition Grant has helped inject £30m into improvements over three years. However, this level of funding needs to be maintained to extend and enhance provision, and a significant contribution from CIL should be put towards the comparatively modest figure of £10 per person per year being spent on walking and cycling infrastructure and support. More detailed information on this can be found in our report: 'How Birmingham City Council could fund annual investment in Active Travel of £10 per person', which is included with this response.</p>	<p>Noted. The CIL Regulation 123 list was created using the projects identified in the Infrastructure Development Plan to support the growth outlined in the Birmingham Development Plan (BDP). Although not explicitly included, walking and cycling improvements will be included in the following Regulation 123 projects: Parks Infrastructure Growth Schemes which are not required as a direct result of development, canalside improvements which are not required as a direct result of development, Natural Health Improvement Zones, and City Wide Sport and Leisure Provision (not including Active Parks programme) which is not required as a direct result of development. The</p>

		<p>Regulation 123 list will be reviewed on a regular basis, and projects will be added or removed as required. As stated in CIL NPPG (12.06.2014), any changes to the Regulation 123 list will be clearly explained and subject to appropriate local consultation.</p>
<p>SUE Viability</p>	<p>We would question why the Sustainable Urban Extension has been left out of the CIL, especially given the fact that this housing would be located in the 'high value' area and would be significantly cheaper for housing developers to build due to the land being greenbelt land with none of the issues and costs associated with brownfield development. Whilst there will obviously be significant S106 contributions gained from this development, we feel that such a significant number of new homes will undoubtedly have an impact on the rest of the city's infrastructure, and therefore a CIL contribution should be sought to address these impacts, even if this is a lower figure than asked for outside of the Sustainable Urban Extension areas.</p>	<p>The CIL Development Viability Study: Residential Urban Extension paper produced by GVA (11 December 2013) clearly sets out the rationale for not charging a CIL in the SUE. In summary, the enabling costs associated with such a large scale development, along with the on-site requirements for S106 agreements means that the scheme cannot support a CIL payment. Any CIL payment that is imposed will effectively reduce the amount of affordable housing that can be provided, and might also impact on the level of S106 contribution. It could also lead to problems delivering the required level of housing as required by the BDP. In addition, the Regulation 123 list clearly states "With regard to the SUE at Langley, all on site infrastructure requirements will not be funded by CIL and S106 contributions will be sought. In terms of highway infrastructure required to support Langley and the employment proposal at Peddimore, the following schemes will again be funded by S106 rather than CIL: Direct highway improvements including Minworth Roundabout and new access from A38."</p>

		<p>It is therefore our intention that all the necessary infrastructure for the SUE will be secured through S106 agreements while other infrastructure will be secured through CIL.</p>
<p>General Viability</p>	<p>Whilst we recognise that flexibility may be required with CIL payments to take account of costs outside of developers' control (such as high development costs associated with redeveloping Listed Buildings), this should not extend to developers who have clearly paid too much for the land or buildings, or have expectations of unreasonably large profits (i.e. in excess of 12-15%).</p> <p>The open and transparent nature of CIL should mean that developers are fully aware of the costs that they will incur, and they can therefore take these into account when they are preparing their development costings. Increased development costs resulting from CIL should affect land values as a first step, so that land values are reduced in response to these extra development costs.</p> <p>We feel that the protection of high land values and unreasonably large profits should not take preference over CIL, S106, energy efficiency targets, and other social and environmental obligations.</p>	<p>Noted. The CIL charges will be reviewed regularly to ensure they adequately reflect development viability in the city.</p>

General	<p>Local and other public authorities have obligations under the Public Sector Equality Duty (PSED) in the Equality Act 2010 to consider the effect of their policies and decisions on people sharing particular protected characteristics. We provide advice for public authorities on how to apply the PSED, which is an on-going legal obligation and must be complied with as part of the planning process. Thus, the PSED is the mechanism through which public authorities involved in the planning process should consider the potential for planning proposals to have an impact on equality for different groups of people</p>	Noted.
General	No comments	Noted
General	No specific comments at this stage	Noted
General	<p>We support the setting of a £0 rate for 'Leisure' uses. Cultural facilities, including theatres are generally unable to bear the cost of CIL for viability reasons, yet make a positive net contribution to that area's infrastructure and the health and well being of the local community.</p>	Noted

<p>General Viability</p>	<p>Impact of CIL Regulations 2014 (amendment) - the DCS does not include any analysis of the cost or types of infrastructure that are likely to require funding through S106 agreements, and does not include an allowance for offsite S106 costs. As a result, the "balancing exercise" is flawed as it does not include all of the likely costs of bringing forward development, and casts doubt on the level of "headroom" available out of which CIL can be paid.</p>	<p>The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed different types of development across the city, using a broad test of viability as required by the CIL Regulations 2010 (as amended). In all cases, the methodology took into account the City Council's relevant current and proposed policy requirements including affordable housing, Code for Sustainable Homes and Design and Quality Standards. In addition, the GVA report (October 2012) states in para 9.13.2 "In considering the impact on viability of the CIL charges set, the Council takes into account the cost of CIL as a percentage of Build Cost - for example a CIL of £115sqm equates to circa 4% of build cost taking into account the scenarios we have tested. At this level we are confident that CIL will not be the factor which makes development unviable - it will be other factors such as the market etc". Finally, the amended charges presented in the Draft Charging Schedule consultation contain a "viability cushion", meaning a reduction of 40% in charges from the Preliminary Draft Charging Schedule. The City Council believes that the results of the GVA viability analysis, coupled with the 40% viability cushion show that development is viable, even taking into account all of the likely costs of bringing forward development.</p>
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Retail Viability	<p>Impact on policies enhancing economic performance - BCC have identified prospective need for convenience retail in certain locations. An appropriate CIL charge will encourage new development, promote redevelopment, employment and enhance vitality and viability. The proposed CIL retail charges would discourage larger retail developments, putting the key policy objectives at risk. The supporting papers do not acknowledge the role of retail and employment or assess the role of retail within the national economy. The substantial CIL charges on supermarkets and a zero rate on other retail uses could effectively undermine the retail function of local and town centres.</p>	<p>The City Council are aware of the role convenience retail plays in encouraging new development, the promotion of redevelopment, employment creation and the enhancement of vitality and viability of centres. However, CIL should not be used to determine planning policy, or acknowledge the role of a particular type of development over another.</p> <p>The Community Infrastructure Levy Regulations 2010 (as amended 23 February 2014) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.".</p> <p>Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across their area.".</p> <p>As a result of comments received during the consultation, and a review of the evidence presented, it is proposed to amend the Draft Charging Schedule to increase the</p>
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		<p>charging threshold for supermarkets from 1,500 sqm to 2,000sqm.</p>
<p>General Viability</p>	<p>The financial assumptions and viability assessments contained in the Council's Viability Study - The Viability Study contains retail development assumptions that in our view may not make sufficient allowance for the costs involved in obtaining planning permission for a development scheme. The Viability Study does not make an allowance for residual s106 / s278 agreements for non-residential development. We urge you to look again at the allowances for such residual s.106/s.278 contributions for non-residential schemes. Although the Council will not be able to pool section 106 contributions once CIL is adopted, the types of commonly pooled contributions tend not to make up a large proportion of the contributions sought from commercial schemes – which are usually focussed on site specific highways and access works, employment and training contributions, environmental mitigation works and other, site specific, requirements. The draft Regulation 123 list makes it clear that any site specific</p>	<p>The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed different types of development across the city, using a broad test of viability as required by the CIL Regulations 2010 (as amended). In all cases, the methodology took into account the City Council's relevant current and proposed policy requirements including affordable housing, Code for Sustainable Homes and Design and Quality Standards. In addition, the GVA report (October 2012) states in para 9.13.2 "In considering the impact on viability of the CIL charges set, the Council takes into account the cost of CIL as a percentage of Build Cost - for example a CIL of £115sqm equates to circa 4% of build cost taking into account the scenarios we have tested. At this level we are confident that CIL will not be the factor which makes development unviable - it will be other factors such as the market etc". Finally, the amended charges presented in the Draft</p>

	<p>infrastructure or network improvements, that are needed to mitigate the impact of the development and to make it acceptable in planning terms, are likely to be funded through section 106 and section 278 agreements. We suggest that the Council has significantly underestimated the impact of CIL on the viability of such developments. We request that the underlying viability evidence be revised accordingly.</p>	<p>Charging Schedule consultation contain a "viability cushion", meaning a reduction of 40% in charges from the Preliminary Draft Charging Schedule. The City Council believes that the results of the GVA viability analysis, coupled with the 40% viability cushion show that development is viable, even taking into account all of the likely costs of bringing forward development.</p>
<p>State Aid</p>	<p>State Aid - We wish to bring it to your attention that there will be EU State Aid issues arising out of the setting of differential rates for different types of commercial entity within the same use class. Introducing such differential rates confers a selective economic advantage on certain retailers depending on the size of the shop they operate out of, or their type of business. We would be grateful if the Council adopted a flat levy rate for comparable sectors of the economy/use classes or, if it is not prepared to do so, providing an explanation as to why State Aid issues are not engaged by the setting of differential rates within use classes to the Inspector at the Inquiry.</p>	<p>The Community Infrastructure Levy Regulations 2010 (as amended 23 February 2014) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across it's area.". Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential</p>

		<p>implications for the economic viability of development across their area.". The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed different types of development including residential, employment, retail and leisure and clearly shows those developments which are able to bear a CIL charge. By following this approach, there is no breach of State Aid.</p>
Listed Building Viability	<p>Concerns relating to change of use and conversion projects - The Viability Study does not acknowledge that the economics of conversion schemes are very different to those of new build schemes. It is difficult to see how the Council can assess whether the imposition of CIL will put the majority of these schemes at risk without having considered its impact on their viability.</p>	<p>The CIL Regulations 2010 (as amended) contain a number of exemptions and exclusions, including an allowance for conversion of existing buildings and change of use (Regulation 40 (7) (as amended by the 2014 Regulations)).</p>
Instalment Policy	<p>Instalment Policy - We would recommend that any instalment policy should link the instalments to the pace of the actual development; and should not link the instalments to an arbitrary time frame following on from the date the development is commenced.</p>	<p>Regulation 69 (B) (CIL (Amendment) Regulation 2011) allows the City Council to publish an instalment policy. The Council's current instalment policy provides for payment up to two years from commencement of development. Without a policy, payment is due in full at the end of 60 days after development has commenced. We feel our approach to payment of instalments is reasonable.</p>
Exceptional Circumstances	<p>Exceptional Circumstances Relief - We note that the Council has indicated that at present it will provide discretionary relief from CIL.</p> <p>We would encourage the Council to adopt an Exceptional Circumstances Relief Policy. By doing so, the Council will have the flexibility to allow strategic or desirable, but unprofitable, development schemes to</p>	<p>Noted. At the present time, the Council have decided not to adopt an exceptional circumstances policy due to the low level of proposed CIL charges. This will be kept under review as part of the CIL process.</p>

	<p>come forward, by exempting them from the CIL charge or reducing it in certain circumstances.</p>	
<p>Infrastructure Provision</p>	<p>Flat Rate Levy - Accepting for the purpose of this argument the premise that CIL is necessary for the purpose of funding Borough-wide infrastructure, a much fairer solution would be to divide the Council's estimate of total infrastructure costs over the charging period (and in this connection, it is important to remember that the Government's guidance as recorded in the National Planning Policy Framework is that only deliverable infrastructure should be included) by the total expected development floor space and apply a flat rate levy across the Borough and across all forms of development. That will have the least possible adverse effect upon the market for land and for development, and yet the greatest possible opportunity for the economy to prosper and thrive and for jobs to be created.</p>	<p>The Community Infrastructure Levy Regulations 2010 (as amended 23 February 2014) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.". Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across their area.". The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed different types of development including residential, employment, retail and leisure. This analysis clearly shows not all</p>

		<p>development can afford a CIL and to charge a flat-rate across all development would contradict the CIL regulations, PPG CIL and NPPF para 205 "Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled."</p>
In Kind Policy	<p>Provision of Infrastructure as Payment in Kind - Given that the provision of infrastructure is often key to unlocking unimplemented planning permissions and enabling developments, we would urge the Council seriously to consider adopting a policy to allow payment in kind in this manner.</p>	<p>Noted. It may be possible to pay your CIL liability in kind, through either land or infrastructure, and we will assess each application and make a decision on a case by case basis.</p>
Retail Viability	<p>The proposed charge for foodstores over 1,500 sq m would make developing our client's stores unviable and prevent any new 'deep discounter' retail stores being developed in the Birmingham area. Not only is this contrary to the CIL Regulations, but this would limit choice as only the 'big 4' supermarkets would be able to proceed on the basis of the proposed CIL charge. Planning policy should not restrict market forces or consumer choice, and we believe that the proposed DCS will do this.</p>	<p>Noted. As a result of comments received during the consultation, and a review of the evidence presented, it is proposed to amend the Draft Charging Schedule to increase the charging threshold for supermarkets from 1,500 sqm to 2,000sqm.</p>

Retail Viability	<p>Lidl have a minimum store size to enable them to operate their standard business model efficiently. Previously this was approximately 1,600 sq m gross on a single level. This floorspace has been accepted by Planning Inspectors at Planning Appeals as the minimum size from which Lidl can trade. More recently, the average store size has increased and the new stores are now generally between 2,000 sq m to 2,300 sq m gross, leading to an average Gross Internal Area (GIA) of over 2,000 sq m.</p>	Noted
Retail Viability	<p>BDP Policy TP21 states there is limited capacity for additional convenience retail development in Bham in the period to 2026 after existing commitments are taken into account (BRNA Update 2013), but the 2013 update does identify a quantitative need for additional convenience floorspace - if you were to convert this requirement into additional deep discounter floorspace using the BRNA calculations, there would be a requirement between 2012 and 2026 of 39,864sqm and 55,294 sqm gross. The DCS could only result in the Big 4 supermarkets being able to meet this need.</p>	Noted.
General Viability	<p>The reduction in retail CIL rates is, in principle, welcomed, but the DCS in its current form has not been subject to robust viability testing.</p>	Noted.

Retail Viability	<p>The evidence tests a range of store sizes from 1,500sqm to 6,968 sqm, leading to a charge for convenience stores over 1,500sqm but the viability evidence shows that a 1,500sqm store IS NOT viable, but a 2,700 sqm store IS viable. This is contrary to GVA's advice, which states at Paragraph 4.4 that:- 'The analysis suggests that the results for Scenario A (1,500 sq. m convenience store) are the most sensitive and unable to bear a material CIL contribution. Whilst the appraisals show that large stores, above c2,000 sq. m can afford a significant CIL payment.' Thus, Paragraph 4.4 of GVA's report is clear in advising that a CIL is only viable for stores over circa 2,000 sq m. Second, GVA's assertion that only, convenience retail stores over 2,000 sq m would be viable (and hence able to contribute to CIL) has not been subject to viability test. GVA conclude that a much larger convenience retail store of 2,700 sq m store could support CIL, based upon the outcome of their development appraisal analysis.</p> <p>However, they have not viability tested thresholds between 1,500 sq m and 2,700 sq m (such as a 2,000 sq m store), to ascertain at what point the viability threshold for CIL is met. In this light, the threshold for CIL for convenience retail of 1,500 sq m as proposed by the DCS should be increased to at least 2,700 sq m, based upon GVA's own assumptions and viability analysis.</p>	<p>Noted. As a result of comments received during the consultation, and a review of the evidence presented, it is proposed to amend the Draft Charging Schedule to increase the charging threshold for supermarkets from 1,500 sqm to 2,000sqm.</p>
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Retail Viability	<p>GVA's 2012 assessment assumed a Base Land Value (BLV) of £500,000 per acre but this is reduced to £350,000 per acre in the 2013 review. No reason is given for this change. Concerned the BLV is too low and paints an overly optimistic picture of convenience retail's ability to meet CIL rates. Also does not reflect the BLV for retail development land (particularly convenience retail) which are typically developments on small sites with high land values. This BLV is unlikely to meet the existing use value of sites and hence generate an appropriate return for the land owner as required by NPPF. Also does not reflect the fact that the market has improved significantly since the 2012 study, with a corresponding increase in land values.</p>	<p>Noted. As a result of comments received during the consultation, and a review of the evidence presented, it is proposed to amend the Draft Charging Schedule to increase the charging threshold for supermarkets from 1,500 sqm to 2,000sqm.</p>
Retail Viability	<p>£350,000 per acre is in line with lowest BLV that GVA have adopted and is even low for industrial land through the charging area. There is evidence of much higher land values throughout the charging area e.g. plots B and C at Opus Aspect, Erdington, which comprise cleared sites of approx. 0.4 ha with a price equating to £600,000 per acre. GVA are joint marketing agents.</p>	<p>The Community Infrastructure Levy Regulations 2010 (as amended) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across it's area.". Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge". The proposed charges reflect the broad viability of development across the city, and as a</p>

		<p>result of comments received during the consultation, and a review of the evidence presented, it is proposed to amend the Draft Charging Schedule to increase the charging threshold for supermarkets from 1,500 sqm to 2,000sqm.</p>
Retail Viability	<p>Undertaken a desktop review of available sites of up to 1.2ha in the charging area using Co-Star/Focus. Analysis suggests average asking prices are over £1,000,000 per acre, and many of these are not prime sites. Therefore it could be assumed a prime pitch for retail food store would command significantly more. In addition, GVA's BLV of £350,000 does not factor in potential alternative uses and competition for sites.</p>	<p>The Community Infrastructure Levy Regulations 2010 (as amended) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across it's area.". Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge". The proposed charges reflect the broad viability of development across the city, and as a result of comments received during the consultation, and a review of the evidence presented, it is proposed to amend the Draft Charging Schedule to increase the charging threshold for supermarkets from 1,500 sqm to 2,000sqm.</p>

General Viability	<p>GVA have applied Purchasers' Costs of 5.8% in their Development Appraisals. However, the acquisition costs applied to the Site Value equate to only 5.75%. This should be amended to 5.80% to reflect Value Added Tax (VAT) at 20%, in line with market practice. This will also ensure that the assumption is consistent with other areas of GVA's development appraisal.</p>	<p>Noted. The proposed charges reflect the broad viability of development across the city, and as a result of comments received during the consultation, and a review of the evidence presented, it is proposed to amend the Draft Charging Schedule to increase the charging threshold for supermarkets from 1,500 sqm to 2,000sqm.</p>
General Viability	<p>The rent and yield assumptions GVA has applied in their assessment are too high, particularly for stores of 2,700 sq. m and below which are likely to be attractive to discount convenience retailers. This will paint an over-optimistic picture of development viability of convenience retail development throughout the Charging Area.</p>	<p>Noted. However we feel the proposed modifications to the draft charging schedule are reasonable and do not prohibit development activity</p>
Retail Viability	<p>JLL undertaken own viability assessment and sensitivity testing, including testing of a store comprising 2,258sqm to reflect minimum store format. This shows that a store of 1,500sqm or 2,258sqm is not viable for CIL using JLL or GVA BLVs. By way of context, the proposed CIL charge for a 2,258 sq m convenience retail store would equate to £587,000. This cost would equate to approximately 85% of the land value utilising GVA's BLV assumption of £350,000 per acre. This would be a significant additional project cost which would render the development of our client's convenience stores across the Charging Area unviable.</p>	<p>The Community Infrastructure Levy Regulations 2010 (as amended) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across it's area.". Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge". The proposed charges reflect the broad</p>

		<p>viability of development across the city, and as a result of comments received during the consultation, and a review of the evidence presented, it is proposed to amend the Draft Charging Schedule to increase the charging threshold for supermarkets from 1,500 sqm to 2,000sqm.</p>
General	No comments to make at this time, but be kept informed of future progress	Noted.
General	The CWLEP Planning Business Group have undertaken a review of the documentation and consider that the Draft Charging Schedule provides a well justified and reasonable response to the issue of charging for community infrastructure.	Noted.

Affordable
Housing
Viability

A major concern regards paragraph 5.5 related to the 'Birmingham Municipal Housing Trust'. Although we support the intention of the Council to promote further affordable housing delivery through the use of progressive policy, we do not feel a potential advantage should not be afforded to just one provider and believe that CIL is not a legitimate means to do this. Whilst the regulations do offer discretionary social housing relief to be applied, this should not be used to remove CIL obligations from market housing constructed by the Trust as the Council appears to be proposing in its Draft Charging Schedule and supplementary paper Appendix 2v. As well as contravening the CIL Regulations and NPPG guidance, if this were to happen it would also give rise to practical implications. The intention of the proposed measures is to ensure the Trust has a viable developable model but in so doing it we feel it would put the Trust at an unfair advantage over the other providers in the City, many of whom are the RSLs we represent and who, like the Trust, also provide market housing as a permissible and effective means of cross subsidising their own business models. As there is no proposal to offer these RSLs CIL relief on their market housing they would automatically be placed as a financial disadvantage when accessing and developing sites, as their margins would be greater. Part of the rationale behind RSLs is to achieve market competitiveness in the delivery of affordable housing; therefore allowing one provider (the Trust) to attain an advantage would be counter intuitive and could ultimately harm the delivery of affordable housing in the City.

Noted. An amendment is proposed to the Charging Schedule to introduce a zero charge for residential developments completed by the Birmingham Municipal Housing Trust (BMHT) and social housing providers registered with the Homes and Communities Agency (HCA).

<p>Affordable Housing Viability</p>	<p>We are also disappointed to note that no further viability testing has been undertaken regarding the testing of specialist housing in the C3 Use Class and take this opportunity to reiterate the points we made in our previous representation to the PDCS. Whilst extra care schemes within the C3 Use Class do often share some characteristics with general market housing, such as provision of each unit with its own front door, the comparative differences in terms of their structure and funding are far greater. Many extra care schemes provide a very significant degree of care, indeed frequently to a level that is comparable with that offered in a traditional care home. Unlike general market housing which benefits from being sold ‘off plan’, all of these forms of care and accommodation are funded entirely upfront and at risk by the provider, with sales only able to occur after completion. Moreover, by their very nature, schemes also require dedication of a significant element of their floor space to care and communal facilities. Some recent research for the Retirement Housing Group found that in general market apartment blocks 16% will be non-saleable floor space but that this rises to 21% in sheltered housing schemes and 34% in extra care developments.</p>	<p>Please see additional viability evidence produced by GVA regarding Retirement Homes, Sheltered Homes and Extra Care Homes. This paper shows that although the issue regarding C2 and C3 use class is difficult to deal with in high level testing, is also clearly demonstrates a case for exempting use class C2 from CIL charges.</p>
<p>General</p>	<p>Calthorpe Estates submitted representations to the PDCS, and the reduced CIL rates now proposed in the DCS for retail commercial and residential schemes is welcomed.</p>	<p>Noted.</p>

Charging Zone
Maps

However, in some areas of the city, the precise boundary of the high value residential rate areas (as drawn on the Residential Market Areas Vector Map) is unclear. The sections of the boundary unclear include the areas of the Calthorpe Estate fronting Hagley Rd and Bristol Rd, but the boundary line bisects buildings making it impossible to determine whether they are within or outside the high value residential rate area. To rectify this issue, the boundary should accurately be plotted on a lower scale map and in some areas (included in an enclosed plan) amended slightly to ensure that the high value areas are consistent with local viability.

Noted. A high resolution map will be produced to clearly show the boundaries of the high and low value areas. This will be available in advance of CIL adoption. However, please note the residential viability evidence produced by GVA (October 2012 and updated December 2013) tested a series of fourteen hypothetical development schemes including residential and residential led mixed use development. These were drawn up to reflect the envisaged scale, nature and characteristics of current and future residential development across the city. These development schemes were also tested both below and above the Affordable Housing policy threshold to illustrate the impact of affordable housing provision on the development to contribute towards a CIL charge. The updated CIL Development Viability Study: Additional Miscellaneous Testing and Analysis used Land Registry data for all residential sales within the administrative boundary for 2011 and 2012 to update the proposed CIL charges following consultation responses to the Preliminary Draft Charging Schedules. This was to determine a "viability cushion" to take into account on site issues. Throughout this process, the viability analysis was deliberately high level, as determined by Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge.". The resulting seven value areas (reduced to two charging zones in order to

		<p>keep a simple charging schedule) are based on postcodes.</p>
<p>General</p>	<p>The Environment Agency have no specific comments to make on the CIL Draft Charging Schedule (dated 15 Sept 2014), however can provide comment on the CIL Draft Regulation 123 List (Appendix 7) and Infrastructure Delivery Plan (June 2014). We welcome that 'city wide schemes to address flooding' is included on the Reg. 123 List, however feel that this should be broken down further to make reference to the specific flood risk management schemes outlined in the IDP. We hold detailed costing estimates within our recently consented 6-year programme, however this information is not yet in the public domain. We will be able to provide these additional details after it is released in the autumn statement, and recommend that that when available it is included in the IDP and 123 List future updates.</p>	<p>Noted. The Regulation 123 list will be reviewed on a regular basis, and projects will be added or removed as required. As stated in CIL NPPG (12.06.2014), any changes to the Regulation 123 list will be clearly explained and subject to appropriate local consultation.</p>

Residential Viability	<p>McCarthy & Stone and Churchill Retirement Living are concerned that many charging schedules published across the country to date could disproportionately affect the viability of their developments given that they fail to properly consider the impact of CIL on the retirement housing market, which in turn will mean that local older home-owners will be denied the opportunity to live in specialist housing that better meets their needs and aspirations in later life. The consequences of ignoring this evidence is the risk of putting the delivery of the development plan in jeopardy, a situation to be avoided, as Paragraph 29 of the 2012 CIL regulations published by DCLG makes it clear: ‘In proposing a levy rate(s) charging authorities should show that the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole’ (Paragraph 29).</p>	<p>Please see additional viability evidence produced by GVA regarding Retirement Homes, Sheltered Homes and Extra Care Homes. This paper shows that although the issue regarding C2 and C3 use class is difficult to deal with in high level testing, is also clearly demonstrates a case for exempting use class C2 from CIL charges.</p>
Residential Viability	<p>The need to address this [an ageing populations] is reflected in the NPPF at paragraphs 50 and 159. The thrust of these paragraphs is to ensure that Local Plans properly account for the need for older persons housing (amongst other housing types). Paragraph 50 states that the planning system should be; ‘supporting strong, vibrant and healthy communities’ and highlights the need to ‘deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. Local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community...such as...older people’.</p>	<p>Noted.</p>

Residential Viability	<p>The CIL Guidance then stresses the importance of this principle to individual market sectors that play an important role in meeting housing need, housing supply and the delivery of the Development Plan, such as specialist accommodation for the elderly. This is relevant in the context of Paragraph 37 of the Guidance: "... However, resulting charging schedules should not impact disproportionately on particular sectors or specialist forms of development and charging authorities should consider views of developers at an early stage". It is therefore imperative that the emerging CIL rate properly and accurately assesses the viability implications of the development of specialist accommodation for the elderly.</p>	Noted
Residential Viability	<p>Many forms of specialist accommodation for the elderly, such as retirement housing, provide communal areas for residents at an additional cost to developers. Specialist housing providers also have additional financial requirements as opposed to other forms of development that will only pay CIL based on 100% saleable floor space. This does not provide a level playing field for these types of specialist accommodation and a disproportionate charge in relation to saleable area and infrastructure need would be levied. This places providers of specialist accommodation for the elderly at a disadvantage in land acquisition as the ratio of CIL rate to net saleable area would be disproportionately high when compared to other forms of residential accommodation.</p>	Noted

Residential Viability	<p>In the case of retirement housing there is also a much longer sales period which reflects the specialist age restricted market and sales pattern of a typical retirement housing development. This has a significant knock on effect upon the financial return on investment. This is particularly important with Empty Property Costs, borrowing and finance costs, and with sales and marketing costs, all of which extend typically for a longer time period. Currently the typical sales rate for a development is approximately one unit per month, so a 40 unit retirement scheme (i.e. an average sized scheme) can take 3-4 years to sell out after the build phase is completed. As a result of this, sales and marketing fees for specialist accommodation for the elderly are typically in excess of 6% of GDV, not 3% as ordinarily applied to conventional residential development.</p>	Noted
Residential Viability	<p>To keep the service charge at an affordable level for residents, service charge monies that would be provided from empty properties are subsidised by the Company (these are typically known as Empty Property Costs). This is a considerable financial responsibility because, as previously mentioned, it usually takes a number of years to fully sell a development.</p>	Noted
Residential Viability	<p>While the BCIS figures are subject to fluctuation it is our experience that specialist accommodation for the elderly tends to remain in the region of 5% more expensive to construct than mainstream apartments, and generally between 15 to 20 % more expensive than estate housing.</p>	Noted.

Residential Viability	<p>Retirement housing product can only be built on a limited range of sites. If the CIL schedule sets the charging rate at a level that means retirement housing schemes cannot compete in land value terms with other uses for these sites (which by nature could be reasonably built elsewhere), then no retirement housing will come forward since no suitable sites will be secured – to the detriment of the housing needs and aspirations of local older people. It is worth noting that Paragraph 27 of the April 2013 Community Infrastructure Levy Guidance recognises that brownfield sites are those where the CIL charge is likely to have the most effect, stating; “The focus should be in particular on strategic sites on which the relevant Plan relies and those sites (such as brownfield sites) where the impact of the levy on economic viability is likely to be most significant”.</p>	Noted.
General	<p>To support the evidence base for the CIL, Birmingham City Council should therefore continue to work with the West Midlands Integrated Transport Authority (WMITA). This will help to ensure the supporting Infrastructure Development Plan (IDP) is up to date and in line with current proposals. In relation to CIL rates, WMITA considers that it would be beneficial for all development, particularly those that will have a significant impact to contribute to the ongoing development of the public transport network. This will help to ensure sustainable development which has good access to the public transport network. To support this, WMITA would welcome involvement in the prioritisation of CIL and schemes identified in the IDP. We would welcome a meeting with Birmingham City Council officers at the earliest opportunity to and</p>	Noted

	<p>discuss our comments in more detail and ensure synergy in particular between the proposed CIL, the IDP and the West Midlands Local Transport Plan.</p>	
General	<p>CgMs generally support the CIL rates proposed and in particular the recognition that many forms of development cannot support a CIL charge. However the list of uses provided is not exhaustive and for avoidance of doubt there should be a category indicating “all other forms of development” should be zero rated. In particular there are many forms of Sui Generis uses which could not support a CIL charge such as cash and carriers, membership warehouse clubs, petrol filling stations, car showrooms and multi-storey car parks.</p>	<p>Noted. The Draft Charging Schedule will be amended to clarify this point.</p>
General	<p>Undercroft and ancillary decked car parking should be zero rated, as evidenced by Inspector's Report for London Borough of Barnet Council.</p>	<p>Noted. The Draft Charging Schedule will be amended to clarify this point.</p>

Infrastructure Provision	To request inclusion in the Regulation 123 list of: The Birmingham Big Art Project 2018 and Birmingham Production Space.	Noted. The Regulation 123 list will be reviewed on a regular basis, and projects will be added or removed as required. As stated in CIL NPPG (12.06.2014), any changes to the Regulation 123 list will be clearly explained and subject to appropriate local consultation.
Student Housing Viability	Para 2.5 of the BDP notes the importance of the tertiary education sector to the city, with supporting text in 8.31 that the city wishes to ensure that there is sufficient supply of good quality accommodation which meets the needs of all members of the student community which is provided in a suitable and sustainable location, is well designed and provides a high quality living experience in attractive buildings which enhance the local area. This is supported by policy TP32 in the BDP.	Noted
Student Housing Viability	At present, there is a significant (at least 17,000) number of students without access to purpose built student accommodation. Even with future pipeline developments of 4,000 additional bed spaces, this would still leave 12,400 students without access to purpose built accommodation.	Noted
Student Housing Viability	Report states the benchmark land value to release land for student housing is £595,000/ha (£240,000/acre) which is wholly inadequate and will not ensure that land is made available for beneficial forms of development that emerging policy requires.	Noted

Student
Housing
Viability

The first 14 development typologies have detailed assessments with sensitivity analysis, but this detail is not included for 19 of the typologies, including student housing. This level of detail should be imposed uniformly across all uses. There is no justification for a greater level of detail relating to one use over another. The evidence on the CIL rate for student housing is insufficient and does not form a robust basis on which to justify the proposed rate.

The Community Infrastructure Levy Regulations 2010 (as amended 23 February 2014) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area." Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across their area." The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed student accommodation developments. This states that "should a need be identified for student housing, it is likely that demand will be strong and room and apartment rental values will support this - our evidence suggests that the average price for a room with washing facilities is circa £5,000 for 42 weeks. Therefore our appraisals show that new build student housing can afford to contribute a maximum

		<p>of £115 per sqm towards a CIL charge." Following the Preliminary Draft Charging Schedule consultation, the proposed charges were amended to introduce a viability cushion, effectively reducing the charge to £69 per sqm.</p>
<p>Student Housing Viability</p>	<p>Whilst we acknowledge this has been reduced from the 'maximum' figure of £115 (which we dispute), we still consider it will put too much student housing development at risk of not being delivered. This is a significant issue in the context of a clear policy recognition of the benefits of delivery of student housing in the city.</p>	<p>The Community Infrastructure Levy Regulations 2010 (as amended 23 February 2014) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.". Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to</p>

		<p>show why they consider that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across their area.". The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed student accommodation developments. This states that "should a need be identified for student housing, it is likely that demand will be strong and room and apartment rental values will support this - our evidence suggests that the average price for a room with washing facilities is circa £5,000 for 42 weeks. Therefore our appraisals show that new build student housing can afford to contribute a maximum of £115 per sqm towards a CIL charge." Following the Preliminary Draft Charging Schedule consultation, the proposed charges were amended to introduce a viability cushion, effectively reducing the charge to £69 per sqm.</p>
<p>Student Housing Viability</p>	<p>GIA – The Penworks building completed in Q32013 has a GIA of 8,108 sq m (87,276 sq ft) and provides 282 student bedrooms. The assumptions within Table 22 are unrealistic taking into account necessary in-site management accommodation, communal areas such as a student lounge, laundry facilities and necessary circulation space. The assumed floor area within Table 22 should more closely reflect reality and the recently built Penworks at 309 sq ft (28.7 sq m) per bedroom is a useful benchmark.</p>	<p>Noted.</p>

Student Housing Viability	Build cost – The build cost of £1,200 /sq m is too low, significantly so, and an unrealistic measure of the actual cost. Our client’s budget is currently is over £1,600/sq m on a site that they are purchasing at Legge Street, Birmingham over 510 cluster bedrooms. The Penworks scheme was built in Q3 of 2013 and, taking inflation into account equates to £1,560/sq m. These costs are borne out on other sites currently being taken through the planning/design process elsewhere in the UK, such as Cambridge and Plymouth for instance.	Noted. CIL PPG (12.06.2014) states the viability assessment should be an area-based approach, involving a broad test of viability across the area. It also states there should be a focus on strategic sites on which the Development Plan relies and those sites (such as brownfield sites) where the impact of the levy is likely to be most significant. It is not, in our opinion, appropriate to use specific sites as suggested on which to base the viability analysis for the whole student accommodation market.
Student Housing Viability	Rental value – Rental values achieved at Selly Oak due to its location for both residential and student use are historically and currently higher than other areas of the city particularly more marginal locations to the north of the city centre such as Aston and Nechells. There should be a range of CIL charges to more accurately reflect the location and price differentials associated with student use across the city and not one single charge focused on the specific area of Selly Oak which benefits from the highest rents achieved in Birmingham.	Noted. The GVA CIL Economic Viability Assessment (October 2012) states "We have spoken to our in house student accommodation team who, having recently completed a number of deals in Birmingham, consider that no premium would be attached to student accommodation development should it come forward in the city centre, rather than in, say, Edgbaston".
General Viability	Yield – We consider that 6.25% is too low a yield as an investor would not be able to support a financial offer on a net initial yield at this level in the Nechells area of Birmingham. Looking at recent investment transactions the market would be more likely to sustain a net initial yield return of no less than 7% resultant in a lower exit capital value of a student development.	Noted.
General Viability	In addition to the above, we question why professional fees have not been included within the viability assessment set out in Table 22. This should be at least 10%.	Noted. However, please note that following consultation responses to the Preliminary Draft Charging Schedule, the GVA viability analysis was updated in December 2013. Para 3.2 of the December report states "In line with the

		<p>recommendation of Examiners of other CILs, and following discussion with the Council, we have reduced the maximum CIL payable by 40% to provide a viability cushion in order to reflect the varying circumstances brought forward by any scheme.". Therefore, the viability cushion should allow development to remain viable, taking into account unforeseen costs.</p>
<p>Student Housing Viability</p>	<p>Paragraph 9.12 provides a conclusion that does not seem to stem from any evidence setting this out. There is no link between the proposed CIL rate of £115/sq m and any evidence justifying this rate within the evidence accompanying the draft charging schedule. It may well exist somewhere, but is not clearly set out. It is insufficient for the evidence to justify a lower rate of £69/sq m as being acceptable on the basis that it is lower than the £115/sq m figure, especially where the latter figure is not fully justified.</p>	<p>The GVA CIL Economic Viability Assessment (October 2012) clearly evidences the ability for student accommodation development to support a CIL charge. Following consultation responses to the Preliminary Draft Charging Schedule, the GVA viability analysis was updated in December 2013. Para 3.2 of the December report states "In line with the recommendation of Examiners of other CILs, and following discussion with the Council, we have reduced the maximum CIL payable by 40% to provide a viability cushion in order to reflect the varying circumstances brought forward by any scheme.". This is also in line with PPG CIL guidance (updated 12/06/2014) which advises that "A charging authority's proposed rate or rates should be reasonable, given the available evidence, but there is no requirement for a proposed rate to exactly mirror the evidence. For example, this might not be appropriate if the evidence pointed to setting a charge right at the margins of viability. There is room for some pragmatism. It would be appropriate to ensure that a 'buffer' or margin is included, so that the levy rate is able to support development when economic circumstances adjust. In all cases,</p>

		<p>the charging authority should be able to explain its approach clearly."</p>
<p>State Aid</p>	<p>We note guidance on differential rates and 'state aid' within the NPPG. The evidence base that accompanies the draft charging schedule proposes differential rates, but there is no clear link, which is required, between different levels of viability and different CIL rates. We question why the CIL rate for residential development and student housing is £69/sq m in the high value area, but there is a zero rate for residential in in the low value zone, but the same CIL rate of £69/sq m for student housing remains relevant in the low value market areas.</p> <p>If there is a recognition of the similar ability of residential development and student housing to pay CIL by reference to viability, then this assumption must be applied uniformly. In addition the rates must be set out by reference to viability and not to further policy ends. At present, residential development in the low market value areas is specifically proposed to be given state aid.</p>	<p>The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed student accommodation developments. This states that "should a need be identified for student housing, it is likely that demand will be strong and room and apartment rental values will support this - our evidence suggests that the average price for a room with washing facilities is circa £5,000 for 42 weeks. Therefore our appraisals show that new build student housing can afford to contribute a maximum of £115 per sqm towards a CIL charge". Following the Preliminary Draft Charging Schedule consultation, the proposed charges were amended to introduce a viability cushion, effectively reducing the charge to £69 per sqm. The GVA CIL Economic Viability Assessment (October 2012) also states "We have spoken to our in house student accommodation team who, having recently completed a number of deals in Birmingham, consider that no premium would be</p>

attached to student accommodation development should it come forward in the city centre, rather than in, say, Edgbaston". With regard to housing developments, GVA completed a viability analysis using a number of different typologies. This was updated in December 2013, and a decision was made to reduce the lower value residential charging zone to £zero. This is in line with PPG guidance (updated 12/06/2014) which states that "A charging authority should be able to explain how their proposed levy rate or rates will contribute towards the implementation of the relevant Plan (the Local Plan in England, Local Development Plan in Wales, and the London Plan in London), and support development across their area." By charging a CIL in the lower value areas, there is a risk that housing development will be negatively impacted and therefore compromise the delivery of the Development Plan. This risk is effectively removed by charging a £zero CIL. This is supported by the GVA evidence which states "We also understand from the Birmingham SHLAA that some of the anticipated residential development across the city is likely to be on previously residential sites, particularly in the lower value and regeneration areas." (para 3.20)

<p>Student Housing Viability</p>	<p>In summary, our clients consider that the following issues should be debated more fully at the examination in front of the appointed Inspector;</p> <p>1.24.1. Inadequate evidence (including sensitivity analysis) relating to nineteen of the development typologies set out in evidence.</p> <p>1.24.2. Assumptions set out in Table 22 in respect of typologies 24 and 25, which we consider are inaccurate.</p> <p>1.24.3. The lack of justification (relating to viability) of the proposed CIL rate of £69/sq m for student housing.</p> <p>1.24.4. The extent to which differential rates constitute state aid.</p>	<p>Noted</p>
<p>General</p>	<p>Concern that Birmingham will have an insufficient stream of funding for infrastructure projects given that CIL is only being charged on high value residential, large retail, student housing and city centre hotels.</p>	<p>The Community Infrastructure Levy Regulations 2010 (as amended 23 February 2014) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across it's area.". Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance between the</p>

		<p>need to fund infrastructure and the potential implications for the economic viability of development across their area.". The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed different types of development including residential, employment, retail and leisure. This analysis clearly shows not all development can afford a CIL and to charge a flat-rate across all development would contradict the CIL regulations, PPG CIL and NPPF para 205 "Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled."</p>
<p>General</p>	<p>Following earlier proposals for high charges, we feel that the proposals have gone too far in the other direction. We feel there should be a basic principle of developments over a certain size should make a contribution to the local infrastructure. A sliding scale of contribution can then be used to reflect local demand or need for regeneration.</p>	<p>The Community Infrastructure Levy Regulations 2010 (as amended 23 February 2014) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across it's area.". Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to</p>

		<p>show why they consider that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across their area.". The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed different types of development including residential, employment, retail and leisure. This analysis clearly shows not all development can afford a CIL and to charge a flat-rate across all development would contradict the CIL regulations, PPG CIL and NPPF para 205 "Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled."</p>
<p>General</p>	<p>We cannot find an explanation and therefore understand why the recommendations in the October 2012 GVA report change so dramatically to those in VA's draft 'CIL Development Viability Study: Additional Employment Testing 11th December'. We disagree with the recommendations of this later report.</p>	<p>The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed different types of development across the city, using a broad test of viability as required by the CIL Regulations 2010 (as amended). In all cases, the methodology took into account the City Council's relevant current and proposed policy requirements including affordable housing, Code for Sustainable Homes and Design and Quality Standards. In addition, the GVA report (October 2012) states in para 9.13.2 "In considering the impact on viability of the CIL charges set, the Council takes into account the cost of CIL as a percentage of Build Cost - for example a CIL of £115sqm equates to circa 4% of build cost taking into account the scenarios we have</p>

		<p>tested. At this level we are confident that CIL will not be the factor which makes development unviable - it will be other factors such as the market etc". Finally, the amended charges presented in the Draft Charging Schedule consultation contain a "viability cushion", meaning a reduction of 40% in charges from the Preliminary Draft Charging Schedule. The City Council believes that the results of the GVA viability analysis, coupled with the 40% viability cushion show that development is viable, even taking into account all of the likely costs of bringing forward development.</p>
<p>General</p>	<p>We would support a higher minimum threshold to trigger CIL payments. This may be, for example, 2000 sq m GEA for residential developments and 5000 sq m for office developments, zoned similar to hotels, in order to ensure their impact on the local infrastructure is mitigated. This could be banded with an upper tier of e.g. over 10000 sq m for both.</p>	<p>The Community Infrastructure Levy Regulations 2010 (as amended 23 February 2014) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.". Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential</p>

		<p>implications for the economic viability of development across their area.". The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed different types of development including residential, employment, retail and leisure. This analysis clearly shows not all development can afford a CIL and to charge a flat-rate across all development would contradict the CIL regulations, PPG CIL and NPPF para 205 "Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled."</p>
General	<p>Regular reviews of the CIL Charging Schedule should be written into the policy.</p>	<p>Section 17.0 of the CIL Draft Charging Schedule clearly states "we will keep our CIL charges under review to make sure they remain appropriate. If market conditions change significantly, or the infrastructure funding gap changes, we will review and alter the CIL charges as necessary. Any proposed changes to the CIL charge will be posted on the CIL pages on our website, and you will have the opportunity to comment before any changes are made."</p>
Retail Viability	<p>We query the definition of "retail convenience". We believe CIL should be payable on all large retail units with a higher charge for out-of-town units. Small retail units should be exempt and CIL should be used as a way of stimulating the High Street.</p>	<p>Noted. A definition of supermarkets will be included as a footnote to the Draft Charging Schedule to clarify this point.</p>

<p>Residential Viability</p>	<p>The 'high value' residential zones appear arbitrary and not based on either property values or a requirement to stimulate or constrain development. For example Weoley is high value and Hall Green is not. Equally only part of the Jewellery Quarter is high value whereas values across the Quarter are driven by quality of development and not location in the Quarter.</p>	<p>Noted. A high resolution map will be produced to clearly show the boundaries of the high and low value areas. This will be available in advance of CIL adoption. The residential viability evidence produced by GVA (October 2012 and updated December 2013) tested a series of fourteen hypothetical development schemes including residential and residential led mixed use development. These were drawn up to reflect the envisaged scale, nature and characteristics of current and future residential development across the city. These development schemes were also tested both below and above the Affordable Housing policy threshold to illustrate the impact of affordable housing provision on development to contribute towards a CIL charge. The updated CIL Development Viability Study: Additional Miscellaneous Testing and Analysis used Land Registry data for all residential sales within the administrative boundary for 2011 and 2012 to update the proposed CIL charges following consultation responses to the Preliminary Draft Charging Schedules. This was to determine a "viability cushion" to take into account on site issues. Throughout this process, the viability analysis was deliberately high level, as determined by Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge.". The resulting seven value areas (reduced to two charging zones in order to keep a simple charging schedule) are based on</p>
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		postcodes
Listed Building Viability	<p>We strongly support the proposal to charge £0 on vacant buildings brought back into the same use and we recommend extending this to cover all listed buildings (whether statutorily-listed or locally-listed) or buildings of interest in Conservation Areas whether brought back into the same use or a different use providing it is in accordance with the local planning guidance.</p>	<p>The City Council are aware of the role listed buildings play in encouraging new development, the promotion of redevelopment and employment creation. However, CIL should not be used to determine planning policy, or acknowledge the role of a particular type of development over another.</p> <p>The Community Infrastructure Levy Regulations 2010 (as amended 23 February 2014) Part 3, para 14(1) states "In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part), the actual and expected total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.".</p> <p>Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge. The authority will need to be able to show why they consider that the proposed levy rate</p>

		<p>or rates set an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across their area."</p>
<p>Regulation 123 List</p>	<p>Draft Regulation 123 List observations: • We request that the Great Charles St Queensway connection between the Jewellery Quarter and the Colmore Business District is included in this list. It is our desire to have an at-grade connection between Ludgate Hill and Church St, potentially achieved by connecting St Chads and Queensway tunnels. • We note that 'Open Access Ducting Infrastructure (digital connectivity)' is included on this schedule. We seek that clarification that this is the roll-out of high-speed fibre optic broadband to all homes and businesses in the city centre (inside the Middleway) and local 'town' centres across Birmingham. This is one of the most essential pieces of infrastructure. • We would like to see a commitment to Public Open space, in particular in dense urban areas such as the city centre and inner city residential areas. This may be in the form of a default allocation of the percentage to be spent in the local community, in the absence of any suggestions from said community.</p>	<p>Noted. The Regulation 123 list will be reviewed on a regular basis, and projects will be added or removed as required. As stated in CIL NPPG (12.06.2014), any changes to the Regulation 123 list will be clearly explained and subject to appropriate local consultation.</p>

<p>Residential Viability</p>	<p>The primary B30 postcode residential values vary considerably and it is not appropriate that the Lifford area of B30 should be included in the High Level area. Northern Lifford is primarily commercial/industrial or specialist.</p>	<p>Noted. A high resolution map will be produced to clearly show the boundaries of the high and low value areas. This will be available in advance of CIL adoption. The residential viability evidence produced by GVA (October 2012 and updated December 2013) tested a series of fourteen hypothetical development schemes including residential and residential led mixed use development. These were drawn up to reflect the envisaged scale, nature and characteristics of current and future residential development across the city. These development schemes were also tested both below and above the Affordable Housing policy threshold to illustrate the impact of affordable housing provision on development to contribute towards a CIL charge. The updated CIL Development Viability Study: Additional Miscellaneous Testing and Analysis used Land Registry data for all residential sales within the administrative boundary for 2011 and 2012 to update the proposed CIL charges following consultation responses to the Preliminary Draft Charging Schedules. This was to determine a "viability cushion" to take into account on site issues. Throughout this process, the viability analysis was deliberately high level, as determined by Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge.". The resulting seven value areas (reduced to two charging zones in order to keep a simple charging schedule) are based on</p>
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		<p>postcodes.</p>
<p>Residential Viability</p>	<p>Maintain that by not analysing areas/sub districts within prime postcodes, the CIL will be unfair and discriminatory. A more appropriate and accurate plan of the City should be prepared.</p>	<p>Noted. A high resolution map will be produced to clearly show the boundaries of the high and low value areas. This will available in advance of CIL adoption. The residential viability evidence produced by GVA (October 2012 and updated December 2013) tested a series of fourteen hypothetical development schemes including residential and residential led mixed use development. These were drawn up to reflect the envisaged scale, nature and characteristics of current and future residential development across the city. These development schemes were also tested both below and above the Affordable Housing policy threshold to illustrate the impact of affordable housing provision on development to contribute towards a CIL charge. The updated CIL Development Viability Study:</p>

		<p>Additional Miscellaneous Testing and Analysis used Land Registry data for all residential sales within the administrative boundary for 2011 and 2012 to update the proposed CIL charges following consultation responses to the Preliminary Draft Charging Schedules. This was to determine a "viability cushion" to take into account on site issues. Throughout this process, the viability analysis was deliberately high level, as determined by Planning Practice Guidance (updated 12/06/2014) states "A charging authority should use an area-based approach, involving a broad test of viability across their area, as the evidence base to underpin their charge.". The resulting seven value areas (reduced to two charging zones in order to keep a simple charging schedule) are based on postcodes.</p>
Residential Viability	<p>Individual house extensions above 100sqm will be caught by the CIL charging regime and houses wrongly included in high value areas will be unreasonably and unacceptably caught and penalised.</p>	<p>Noted. Minor development, with a gross internal area of less than 100 square metres, is generally exempt from the levy. However, where minor development will result in a whole new dwelling, it will be liable for the levy unless it is built by a 'self builder'.</p>
General Viability	<p>Where new major development schemes contain very significant on site infrastructure requirements, the CIL should properly allow for reasonable viability testing before imposition. There should be a special exemption for these major sites redevelopments.</p>	<p>Noted. At the present time, the Council have decided not to adopt an exceptional circumstances policy due to the low level of proposed CIL charges. This will be kept under review as part of the CIL process.</p>

General	<p>Thank you for giving Severn Trent Water the opportunity to comment on the CIL Draft Consultation, however on behalf of STW I have no comment to make at this stage. With regard to the costs required for the provision of water supply and waste water infrastructure, through current legislation there is an established funding mechanism to provide for future growth by a combination of developer contribution and funding via customer charges as agreed by Ofwat.</p> <p>On this basis the CIL is not needed to form part of the funding for water and waste water projects.</p>	Noted
Longbridge Infrastructure Tariff	<p>CIL has the very real potential to become an inflexible tax, discriminating against brownfield development and acting as a real block to delivery of regeneration projects with high intrinsic site specific costs. We have referenced land allocated within the Longbridge Area Action Plan as a very real example of a major brownfield development of regional significance, the delivery of which could be threatened by the introduction of CIL.</p>	Noted.
General	<p>The CIL Charging Schedule is generally supported and represents a greater “cushion” to viability than the previous draft proposals. This is important.</p>	Noted.

<p>Longbridge Infrastructure Tariff</p>	<p>In the case of Longbridge, the Longbridge Area Action Plan currently includes a Longbridge Infrastructure Tariff (LIT). The LIT is a pooled contribution in the same way as the new CIL although noteworthy is subject to viability policy provisions which would affect the way it is imposed. That said, as a tariff or levy contribution it would not be appropriate for the LIT to be in place at the same time as the new CIL. Such an approach would have the effect of double charging and place a significantly greater, unfair and unviable burden upon development at Longbridge. Statute does not allow for the future continuation of tariff or levy pooled contributions when CIL is in place. The CIL Charging Schedule should specifically highlight that upon adoption of the CIL Charging Schedule, the LIT at Longbridge would cease to have effect and would be withdrawn.</p>	<p>Noted. This will be clarified within the Regulation 123 list.</p>
<p>Regulation 123 List</p>	<p>The CIL Draft Regulation 123 list includes a varied range of infrastructure projects around the City. It is unclear as to the priorities within this list and this would provide a greater understanding of infrastructure delivery.</p>	<p>Noted. The methodology for prioritising CIL funds will be developed prior to adoption of CIL.</p>
<p>Emergency Services Viability</p>	<p>The PCCWM clearly has a statutory duty to secure the maintenance of an efficient and effective police force for its area and, of course, the Council is also statutorily required to consider crime and disorder and community safety in the exercise of its duties with the aim of achieving a reduction in crime. Crime and the fear of crime are material considerations throughout the development process and Section 17 of the Crime and Disorder Act 1998 should be paramount.</p>	<p>Noted.</p>

Emergency Services Viability	<p>The PCCWM again OBJECTS to the omission of the PCCWM from Nil CIL charges. The PCCWM is a non-profit making community service which cannot viably afford to contribute to CIL. Indeed, it is itself a community infrastructure provider which should be eligible for receipt of funds raised through CIL. This fact is accepted in the latest Infrastructure Delivery Plan (IDP), June 2014, which identifies the Emergency Services, including the Police, as an infrastructure type capable of receiving CIL.</p>	<p>The CIL Regulation 123 list was created using the projects identified in the Infrastructure Development Plan to support the growth outlined in the Birmingham Development Plan (BDP). As stated in the Infrastructure Delivery Plan, the City Council will continue to engage with the emergency services in seeking to ensure that future infrastructure is delivered in the most appropriate locations. The Regulation 123 list will be reviewed on a regular basis, and projects will be added or removed as required. As stated in CIL NPPG (12.06.2014), any changes to the Regulation 123 list will be clearly explained and subject to appropriate local consultation. The distribution of funds following the adoption of CIL will be prioritised by Cabinet and the Council.</p>
Emergency Services Viability	<p>The PCCWM supports the wording in the IDP which states, ‘..emergency services represent a key form of social infrastructure, and it needs to be ensured that such provision is sufficient to support the population growth. The City Council will continue to engage with the emergency services in seeking to ensure that future infrastructure is delivered in the most appropriate locations.’</p>	<p>Noted.</p>
Emergency Services Viability	<p>The PCCWM FORMALLY REQUEST that the PCCWM front and back of house services and facilities (eg. Police Stations and administrative offices) be included in the ‘CIL Charges’ Table at paragraph 6.0 on page 8 of the Draft document. It is requested that, just as for Health, ‘All areas’ should have a nil rate. It would be unsound for the CIL Charging Schedule not to</p>	<p>Noted. This will be clarified within the Draft Charging Schedule.</p>

	specifically identify the fact that the PCCWM have nil CIL charge for developments.	
Regulation 123 List	<p>The PCCWM also FORMALLY REQUEST that that they are engaged in the IDP reviews and prioritisation of the Regulation 123 List on an on-going basis. They wish to emphasise that it is important for the PCCWM to receive a proportion of CIL funds raised to contribute towards bridging the funding gap arising from the planned growth to ensure the standards of the Police Service are maintained to meet national and local strategic crime reduction objectives.</p>	<p>The CIL Regulation 123 list was created using the projects identified in the Infrastructure Development Plan to support the growth outlined in the Birmingham Development Plan (BDP). As stated in the Infrastructure Delivery Plan, the City Council will continue to engage with the emergency services in seeking to ensure that future infrastructure is delivered in the most appropriate locations. The Regulation 123 list will be reviewed on a regular basis, and projects will be added or removed as required. As stated in CIL NPPG (12.06.2014), any changes to the Regulation 123 list will be clearly explained and subject to appropriate local consultation. The distribution of funds following the adoption of CIL will be prioritised by Cabinet and the Council.</p>
General	There is a typo at bottom of page 12 of draft charging schedule 'bought' should be 'brought' back into use	Noted and amended.

<p>Residential Viability</p>	<p>The additional viability testing showed a CIL charge of £33 per sqm could be applied to residential in low value areas (areas 4,5,6,7) which would still allow a cushion of 40% to allow for variance in individual scheme viability but your draft charging schedule shows a nil rate for residential in the low value area. There doesn't appear to be an explanation as to why a nil rate has been applied for residential in the low value areas.</p>	<p>The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed residential developments. With regard to housing developments, GVA completed a viability analysis using a number of different typologies. This was updated in December 2013, and a decision was made to reduce the lower value residential charging zone to £zero. This is in line with PPG guidance (updated 12/06/2014) which states that "A charging authority should be able to explain how their proposed levy rate or rates will contribute towards the implementation of the relevant Plan (the Local Plan in England, Local Development Plan in Wales, and the London Plan in London), and support development across their area.". By charging a CIL in the lower value areas, there is a risk that housing development will be negatively impacted and therefore compromise the delivery of the Development Plan. This risk is effectively removed by charging a £zero CIL. This is supported by the GVA evidence which states "We also understand from the Birmingham SHLAA that some of the anticipated residential development across the city is likely to be on previously residential sites, particularly in the lower value and regeneration areas." (para 3.20)</p>
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Retail Viability	<p>Evidence does not justify the proposed CIL rates for retail development. The retail testing concludes that 1,500 sq m convenience developments would be unable to bear a material CIL contribution whilst large stores could afford a significant payment. It is noted that the assessment concludes that large stores comprise those above 2,000 sq m, yet the scenarios tested are for a 2,700 sq m and a 5,000 sq m convenience retail development. However, the proposed CIL charge of £260 relates to convenience developments of more than 1,500 sq m. This does not seem to accord within the findings of the retail testing which suggests that retail developments above at least 2,000 sq m could afford a CIL payment.</p>	<p>Following comments received during the draft charging schedule consultation, and a review of the evidence presented, it is proposed to amend the Draft Charging Schedule to increase the charging threshold for supermarkets from 1,500 sqm to 2,000sqm.</p>
Retail Viability	<p>Furthermore, the retail testing concludes that city centre retail development cannot afford a CIL payment. Yet the proposed CIL charge appears to relate to both in and out of centre retail convenience developments of more than 1,500 sqm, regardless of location (with the exception of within the Sustainable Urban Extension).</p>	<p>The CIL Development Viability Study: Additional Retail Testing (11 December 2014) conclusion clearly states "Within the city centre, we consider that retail development is already seriously challenged and cannot afford a CIL payment. In the case of the food sector, there is an ability to make a sizeable contribution to CIL for certain categories of store."</p>
Retail Viability	<p>Sainsbury's Supermarkets Ltd consider that a CIL charge at the high level of £260 per sq m for retail convenience of more than 1,500 sq m across the City is a significant deterrent to retail led development/regeneration in Birmingham and would lead to Sainsbury's investing in, and providing jobs in, lower charge areas.</p>	<p>Following comments received during the draft charging schedule consultation, and a review of the evidence presented, it is proposed to amend the Draft Charging Schedule to increase the charging threshold for supermarkets from 1,500 sqm to 2,000sqm.</p>

General	<p>English Heritage welcomes the proposed inclusion in the Draft Regulation 1,2, 3 of the following particular matters that you intend to fund, or part fund, through the Community Infrastructure Levy (CIL): Heritage Assets at Risk; Soho House Visitor Centre and Garden; Canal side Improvements which are not required as a direct result of a development; Public realm improvements</p>	Noted.
Infrastructure Provision	<p>We understand from the consultation that the Draft Regulation 123 List is to be reviewed a least once a year and we note that the following are on the list: Canalside Improvements which are not required as a direct result of a development; and Heritage Assets at Risk. We have list of potential projects which could benefit from CIL and would be happy to provide details of them if required. Section 106 agreements will continue to be used for “Site specific matters needed to make the development acceptable in planning terms, which could include: cycle/pedestrian routes and connections if directly required by the development.”</p> <p>Given that the canal towpaths provide cycle and pedestrian routes and enhancements and may be required as a direct result of development we anticipate that canal infrastructure enhancements will be funded by both CIL and s106.</p> <p>Walking and cycling improvements required for the Sustainable Urban Extension at Langley and employment proposals at Peddimore will be funded by s106 rather than CIL. Both of these will affect the Birmingham and Fazeley Canal. The canal infrastructure provides walking and cycling routes and would benefit from improvements.</p>	Noted

<p>Infrastructure Provision</p>	<p>As part of our response to the Development Plan for Birmingham we requested the following: -</p> <p>Langley SUE - The sustainable urban extension could contribute to enhancement of the Birmingham and Fazeley Canal towpath to provide a surface suitable for all weather cycling and walking and join up with the Cycle Ambition works to the west (Hansons Bridge) and the Growth Area to the east (Wiggins Hill Bridge). The Canal & River Trust consider where appropriate and in accordance with the tests, planning obligations secured from the development which will benefit from the canal towpath as an off road route for walking and cycling should be reinvested to the advantage of the canal infrastructure.</p> <p>Peddimore - The Growth Area could contribute to enhancement of the Birmingham and Fazeley Canal towpath to provide a surface suitable for all weather cycling and walking and join up with the Cycle Ambition works to the west (Hansons Bridge) and to the east (beyond Wiggins Hill Bridge). However, we would welcome further discussions with Officers to establish whether s106 monies will be a possibility from the Langley SUE and Peddimore developments. This is set within the context of the CIL regulations and issues relating to the pooling of contributions. We are concerned that it is likely that the walking and cycling improvements we have identified for the Langley SUE and Peddimore may not be secured due to historic contributions.</p>	<p>Noted</p>
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General

Amendment to Motion 10B - "comments made by members during the debate will be considered alongside those received from the public under the Cabinet delegation." Comments include:

Noted. The consultation on the Community Infrastructure Levy (CIL) Draft Charging Schedule ended on Monday 10th December 2014. The CIL regulations state the process which should be followed to develop and adopt a CIL, and the documents associated with the consultation cannot be altered during the consultation process. The current Cabinet decision states Cabinet

- Agrees and authorises the publication of the documents annexed hereto at appendices 1-8 for a period of six weeks public consultation and,
- Delegates to the Director of Planning and Regeneration in consultation with the Member for Development, Transport and the Economy and the Deputy Leader, the authority to make any further necessary change to the DCS arising from this public consultation and to submit the Charging Schedule to the Secretary of State.

We will consider the Motion as part of the consultation process, in conjunction with other responses received, and the Cabinet Member will refer the CIL charges to Full Council before adoption.

Residential Viability	Supports the theory of market value areas (MVAs), and the grouping of the MVAs, but a lack of local knowledge leads to MVA 4&5 being excluded from CIL charges when these could support a CIL, leading to a potential reduction in CIL income.	The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed residential developments. With regard to housing developments, GVA completed a viability analysis using a number of different typologies. This was updated in December 2013, and a decision was made to reduce the lower value residential charging zone to £zero. This is in line with PPG guidance (updated 12/06/2014) which states that "A charging authority should be able to explain how their proposed levy rate or rates will contribute towards the implementation of the relevant Plan (the Local Plan in England, Local Development Plan in Wales, and the London Plan in London), and support development across their area.". By charging a CIL in the lower value areas, there is a risk that housing development will be negatively impacted and therefore compromise the delivery of the Development Plan. This risk is effectively removed by charging a £zero CIL. This is supported by the GVA evidence which states "We also understand from the Birmingham SHLAA that some of the anticipated residential development across the city is likely to be on previously residential sites, particularly in the lower value and regeneration areas." (para 3.20)
SUE Viability	Development in the SUE will cost less to develop than brownfield land and will not contribute to wider infrastructure without a CIL	Regulations state the CIL charges must be based on a high level assessment of development viability. GVA were appointed to assess viability in December 2012, and this evidence base was updated in December 2013. The evidence base also takes into account planning policy requirements such as

		<p>affordable housing and additional education and transport provision. The evidence states that CIL is not viable in the Langley or Peddimore extension when added to the policy requirements, and a decision to charge CIL in the urban extension without appropriate evidence would therefore fail the Examination process.</p>
SUE Viability	<p>Only providing infrastructure [for the SUE] through S106 will lead to congestion outside the CIL area.</p>	<p>The SUE masterplan will ensure traffic and highway measures are considered as part of the development and also as part of the planning obligation package. The draft Regulation 123 list also states "With regard to the Sustainable Urban Extension (SUE) at Langley, all on site infrastructure requirements will not be funded by CIL, and S106 contributions will be sought. In terms of highway infrastructure required to support Langley and the employment proposal at Peddimore, the following schemes will again be funded by S106 rather than CIL - Direct highway improvements including Minworth Roundabout and new access from A38.".</p>
SUE Viability	<p>If the SUE does go ahead, we need investment for the Camp Hill Chords etc. The SUE should contribute to this wider infrastructure</p>	<p>The CIL Regulation 123 list was created using the projects identified in the Infrastructure Development Plan to support the growth outlined in the Birmingham Development Plan (BDP). As stated in the Infrastructure Delivery Plan, the City Council will continue to engage with the emergency services in seeking to ensure that future infrastructure is delivered in the most appropriate locations. The Regulation 123 list will be reviewed on a regular basis, and projects will be added or removed as required. As stated in CIL NPPG (12.06.2014), any changes to the Regulation 123 list will be clearly</p>

		explained and subject to appropriate local consultation. The distribution of funds following the adoption of CIL will be prioritised by Cabinet and the Council.
SUE Viability	Introduction of CIL will lead to a decrease in planning applications and therefore a reduction in planning obligation income in general. If the SUE contributes to CIL, this will ensure a sustainable development.	Noted
Residential Viability	Residential market value areas questioned. Based in district postcodes and are therefore a broad brush approach. Don't adequately reflect the lower value areas within these postcodes. Could the use of postcodes be the next level down (i.e. the third level of the postcode)? Is there also potential for a third charging zone between the two proposed zones?	The GVA CIL Economic Viability Assessment (October 2012 and updated December 2013) reviewed residential developments. With regard to housing developments, GVA completed a viability analysis using a number of different typologies. This was updated in December 2013, and a decision was made to reduce the lower value residential charging zone to £zero. This is in line with PPG guidance (updated 12/06/2014) which states that "A charging authority should be able to explain how their proposed levy rate or rates will contribute towards the implementation of the relevant Plan (the Local Plan in England, Local Development Plan in Wales, and the London Plan in London), and support development across their area.". By charging a CIL in the lower value areas, there is a risk that housing development will be negatively impacted and therefore compromise the delivery of the Development Plan. This risk is effectively removed by charging a £zero CIL. This is supported by the GVA evidence which states "We also understand

		<p>from the Birmingham SHLAA that some of the anticipated residential development across the city is likely to be on previously residential sites, particularly in the lower value and regeneration areas." (para 3.20)</p>
SUE Viability	<p>General unease in the proposal to exempt the SUE from CIL charges. House values will be higher while development costs will be lower than brownfield sites. It seems as though CIL should be applied to the SUE or a major source of planning gain is lost.</p>	<p>The CIL Development Viability Study: Residential Urban Extension paper (updated December 2013) states the viability assumptions for the SUE include £10,000 - £20,000 S106 costs per unit. This will ensure the necessary infrastructure for the SUE is provided through the S106 mechanism. It is noted that the SUE cannot support a CIL payment at either a £10,000 or £20,000 S106 contribution.</p>
General	<p>Concern over how often the valuations will be updated? Will these reflect the nature of the development economy?</p>	<p>Section 17.0 of the CIL Draft Charging Schedule clearly states "we will keep our CIL charges under review to make sure they remain appropriate. If market conditions change significantly, or the infrastructure funding gap changes, we will review and alter the CIL charges as necessary. Any proposed changes to the CIL charge will be posted on the CIL pages on our website, and you will have the opportunity to comment before any changes are made."</p>