

PLYMOUTH CITY COUNCIL

Subject: Community Infrastructure Levy (CIL) – Revised
Draft Charging Schedule

Committee: Cabinet

Date: 12 June 2012

Cabinet Member: Councillor Vincent

CMT Member: Anthony Payne (Director for Place)

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Ref: PH/CIL/3

Key Decision: Yes

Part: I

Executive Summary:

At its meeting of 17 January 2012, Cabinet approved the publication of the Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) for the purposes of consultation and subsequent submission for independent examination. This matter is now brought back to the Cabinet to seek approval for a further round of consultation on amendments to the DCS, prior to its submission for examination.

CIL is a new levy that local authorities in England and Wales can choose to charge on developments in their area to help fund infrastructure improvements. It was first introduced in April 2010 and is now a major plank of the localism agenda, with provisions identified in the Localism Act, and with detailed Regulations having been put in place to provide for its implementation. It is the Government's intention that CIL regimes replace 'tariff-approaches' to Section 106 agreements, such as that currently operated by the Council. Indeed, once Plymouth's CIL becomes operational, the Council's current tariff approach will be defunct. The money raised through CIL can be used to support new development by funding infrastructure that the city, local communities and neighbourhoods need – for example, new road schemes, park improvements or improvements to local school capacity.

The CIL Regulations prescribe the process by which a CIL is introduced. A Preliminary Draft Charging Schedule (PDCS) must be published for consultation, followed by a Draft Charging Schedule, which sets out for consideration at an independent public examination the CIL charge/s that a charging authority is intending to apply to development in its area (expressed in £s per square metre). The Draft Charging Schedule can also be used to set out charging authorities' CIL payments Instalments policies.

Plymouth City Council's DCS was subject to consultation for a six-week period between 7th February and 20th March 2012. A total of 19 representations were received (two of which

were after the close of consultation). Of these, seven of these were from organisations / groups involved in housing / residential development; five from other private sector landowning or development interests. The full list together with a summary schedule of representations and the response of officers to these is set out in a separate background paper. The main issues raised were in relation to:

- The effects of CIL on housing delivery (in particular, the need to ensure that CIL rates do not undermine the viability of development).
- The effects of CIL on Affordable Housing delivery (in particular, in relation to whether the Core Strategy Affordable Housing target can be delivered alongside CIL).
- The relationship between CIL and planning obligations (Section 106 agreements).
- The implications of some of the viability assumptions for the CIL rates proposed.
- The interpretation of CIL Regulation 13, relating to the legal framework for setting differential rates.
- The proposed rates for supermarkets / superstores, and State Aid compliance.
- The implications of CIL Regulation 40(10), which addresses the issue of CIL liabilities relating to redevelopment of vacant properties.
- The proposed rates for purpose built student accommodation.
- The scope for discretionary relief in exceptional circumstances.
- The scope for different rates to apply in different geographical areas of the city.

In response, although the overall CIL rates proposed and evidence base behind the rates are considered to remain sound and appropriate, some amendments to the DCS are now considered necessary in order to address issues arising out of the emerging legal interpretation of the CIL Regulations, and these changes will go some way to addressing some of the representations made.

In particular:

- It is proposed that a city centre zone is established for residential developments (including student accommodation) in acknowledgement of the specific viability constraints associated with high rise development, and the fact that new homes in this area could be in the form of developments above five storeys in height. Such developments will have a zero (£0m²) CIL charge. This zone is based upon the zone for tall buildings, identified in the Adopted Design Supplementary Planning Document. (It is important to note that there will remain scope to seek planning obligations through the Section 106 mechanism in the city centre zone, to contribute, for example, to Affordable Housing provision, transport or public realm improvements).
- Outside of this zone, no differentiation is made between high and low rise development, and between housing developments of more than and less than 15 homes. The main implication of this change is to reduce the charge that would have been levied on smaller housing schemes from £50m² to £30m².

Corporate Plan 2012-2015:

The report directly supports the Council's vision for the city as well as its priority for delivering growth. The Community Infrastructure Levy will deliver resources towards the infrastructure required to unlock the City's growth potential. CIL receipts can be used to:

- Help create the conditions for growth and therefore the achievement of sustainable growth in jobs and GVA (Level 1 indicators).
- Support the achievement of a good range of houses (Level 1 & 2 indicators).
- Secure provision for strategic and local infrastructure (Level 2 indicator).
- Address the environmental impacts of development (Level 2 indicator).

In addition, CIL receipts will support the Council's other three priorities in the following ways:

- 'Value for communities' - by ensuring that development contributes to and does not harm local communities, and by securing resources to help deliver improvements in communities.
- 'Raising aspirations' – particularly through securing additional resources that can support the wider learning infrastructure of the city.
- 'Reducing inequalities' – particularly through securing additional resources for infrastructure investments that improve community well-being.

Implications for Medium Term Financial Plan and Resource Implications:

Including finance, human, IT and land

The introduction of CIL will ensure that the Council is able to continue to secure developer contributions to address the community infrastructure implications of development and the growth of the city. This could amount to a significant increase on what has historically been delivered through the Section 106 process.

The Council is able to charge an administration fee of up to 5% in levying CIL, which will substantially meet the costs of operating CIL. The Department for Communities and Local Government may in future relax the 5% administration fee limit in certain circumstances.

Prior to the introduction of CIL cost pressures arising will in the first instance need to be met from Planning budget. These cost pressures include the cost of the examination of the Draft Charging Schedule. If the set up costs include an option to acquire a new CIL database, a proposal for this will be subject to the capital approvals process, which will address any on-going revenue maintenance costs. Existing systems are being reviewed to develop the most cost-effective administration and monitoring system.

CIL is subject to new enforcement procedures, and there will therefore be a requirement for new legal procedures to be put in place and acted upon.

Potential income realisation from CIL as a consequence of the revisions proposed in this report is reduced, however the nature of the revisions will increase the viability for City Centre developments, which should in turn benefit the wider Plymouth economy.

Other implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:

The Community Infrastructure Levy may support community cohesion, community safety, addressing child poverty or health and safety by, for example, assisting with the implementation of infrastructure that improves road safety, improves defences against flooding, improves healthcare provision, improves open space through better lighting, etc.

An Equalities Impact Assessment has been carried out and this confirms that, by having the effect of helping to mitigate the adverse impacts of development, the impacts of CIL are entirely positive in equalities terms.

The introduction of CIL offers the best prospect of optimising income generated from developer contributions whilst at the same time safeguarding the overall viability of development in the city. The current tariff-based approach to securing developer contributions through Section 106 Agreements is very constrained by the CIL Regulations, which in any case provide for the demise of such approaches by April 2014. CIL will therefore significantly reduce risks associated with Risk No. 80 identified on the Council's Strategic Risk Register (*Planning obligations – implications of new legal framework and current economic circumstances*).

Recommendations & Reasons for recommended action:

It is recommended that the Cabinet:

1. Approve the publication of the Revised Draft CIL Charging Schedule attached as Appendix I for public consultation.

Reason: To ensure that the Revised Draft Charging Schedule is published with appropriate authority, to ensure that Plymouth is well placed to continue to secure developer contributions towards meeting the infrastructure needs of the city.

2. Delegate authority to the Assistant Director for Planning, in consultation with the Portfolio Holder for Environment, to agree minor amendments to the Revised Draft Charging Schedule in response to the consultation process, and to submit the Revised Draft Charging Schedule and any requisite Statement of Modifications for Independent Public Examination.

Reason: To provide for Public Examination procedures to be expedited following public consultation.

3. Instruct officers to report the Final CIL Charging Schedule to Cabinet and Full Council for adoption following Public Examination.

Reason: To ensure that the final CIL Charging Schedule is adopted with appropriate authority, in accordance with the requirements of the CIL Regulations.

Alternative options considered and reasons for recommended action:

The alternative would be to not introduce a Community Infrastructure Levy. This would leave the existing tariff approach in place until it was effectively made redundant after April 2014 by Regulation 123 of the Community Infrastructure Levy Regulations. This Regulation will remove the Council's ability to secure any significant level of pooled developer contributions to meeting the infrastructure costs arising from the growth of the city. It is therefore not recommended.

Background papers:

- 12 July 2011 Cabinet Report on CIL and the Plymouth Infrastructure Needs Assessment - <http://www.plymouth.gov.uk/mgInternet/documents/s29834/Community%20Infrastructure%20Levy%20and%20Plymouth%20Infrastructure%20Needs%20Assessment.pdf>
- 17 January 2012 Cabinet Report on the Community Infrastructure Levy – Draft Charging Schedule - http://www.plymouth.gov.uk/mgInternet/documents/s34749/Community%20Infrastructure%20Levy-%20draft_charging_schedule.pdf
- February 2012 Plymouth Draft CIL Charging Schedule and supporting evidence base documentation – see <http://www.plymouth.gov.uk/homepage/environmentandplanning/planning/makingaplanningapp/communityinfrastructurelevy.htm>
- Statement of Representations: Summary of Main Issues on the February 2012 Plymouth Draft CIL Charging Schedule – see <http://www.plymouth.gov.uk/homepage/environmentandplanning/planning/makingaplanningapp/communityinfrastructurelevy.htm>
- November 2011 Plymouth Preliminary Draft CIL Charging Schedule and supporting evidence base documentation – see <http://www.plymouth.gov.uk/homepage/environmentandplanning/planning/makingaplanningapp/communityinfrastructurelevy.htm>
- Schedule of Consultation Responses to the November 2011 Plymouth Preliminary Draft CIL Charging Schedule – see <http://www.plymouth.gov.uk/homepage/environmentandplanning/planning/makingaplanningapp/communityinfrastructurelevy.htm>
- CLG Community Infrastructure Levy: An Overview – May 2011- see <http://www.communities.gov.uk/publications/planningandbuilding/communityinfrastructurelevymay11>
- Community Infrastructure Regulations, April 2010 – see http://www.legislation.gov.uk/ukdsi/2010/9780111492390/pdfs/ukdsi_9780111492390_en.pdf
- Community Infrastructure Levy Amendment Regulations, February 2011 – see http://www.legislation.gov.uk/uksi/2011/987/pdfs/uksi_20110987_en.pdf
- CLG Community Infrastructure Levy Guidance: Charge Setting and Charging Schedule Procedures, March 2010 – see <http://www.communities.gov.uk/publications/planningandbuilding/cilguidance>
- Community Infrastructure Levy: Detailed Proposals and Draft Regulations for Reform – Consultation - see <http://www.communities.gov.uk/archived/publications/planningandbuilding/communitylevyreference>

Sign off:

Fin	SG/PlaceFPC12 13002.080512	Leg	JAR/13256A	HR	n/a	Corp Prop	n/a	IT	n/a	Strat Proc	n/a
Originating SMT Member: Paul Barnard, Assistant Director for Planning, Directorate of Place											

1.0 THE COMMUNITY INFRASTRUCTURE LEVY

- 1.1 The Community Infrastructure Levy (CIL) is a new charge that local authorities in England and Wales can choose to levy on development to help pay for the infrastructure that is required to mitigate the adverse impacts of, and thereby support the delivery of growth. The vision for Plymouth is to grow the city by around 50,000 people, and to deliver around 40,000 new jobs and 30,000 new homes. Significant investment in infrastructure will be required to accommodate this growth. CIL will provide one important source of funding to help provide this infrastructure.
- 1.2 Provision was made for the introduction of CIL by the Planning Act 2008, and it is now a major plank of the localism agenda, with further provisions identified in the Localism Act 2011.
- 1.3 Detailed Regulations have been put in place to provide for the implementation of CIL. These Regulations provide for an end to tariff-based approaches to Section 106 Agreements, such as that currently operated by the City Council. Once Plymouth's CIL becomes operational, the Council's current tariff approach will be defunct.
- 1.4 This report is concerned purely with the consideration of a Revised Draft Charging Schedule (DCS). The original DCS was subject to a consultation process in February and March 2012 and there is now a need to make amendments prior to submitting the DCS for independent examination. The report does not consider other aspects of CIL at this time. However, in the lead up to the implementation of CIL, Cabinet will receive further reports in relation to its formal adoption and how CIL receipts will be used to meet city and local needs.

2.0 CHANGES PROPOSED TO DRAFT CHARGING SCHEDULE

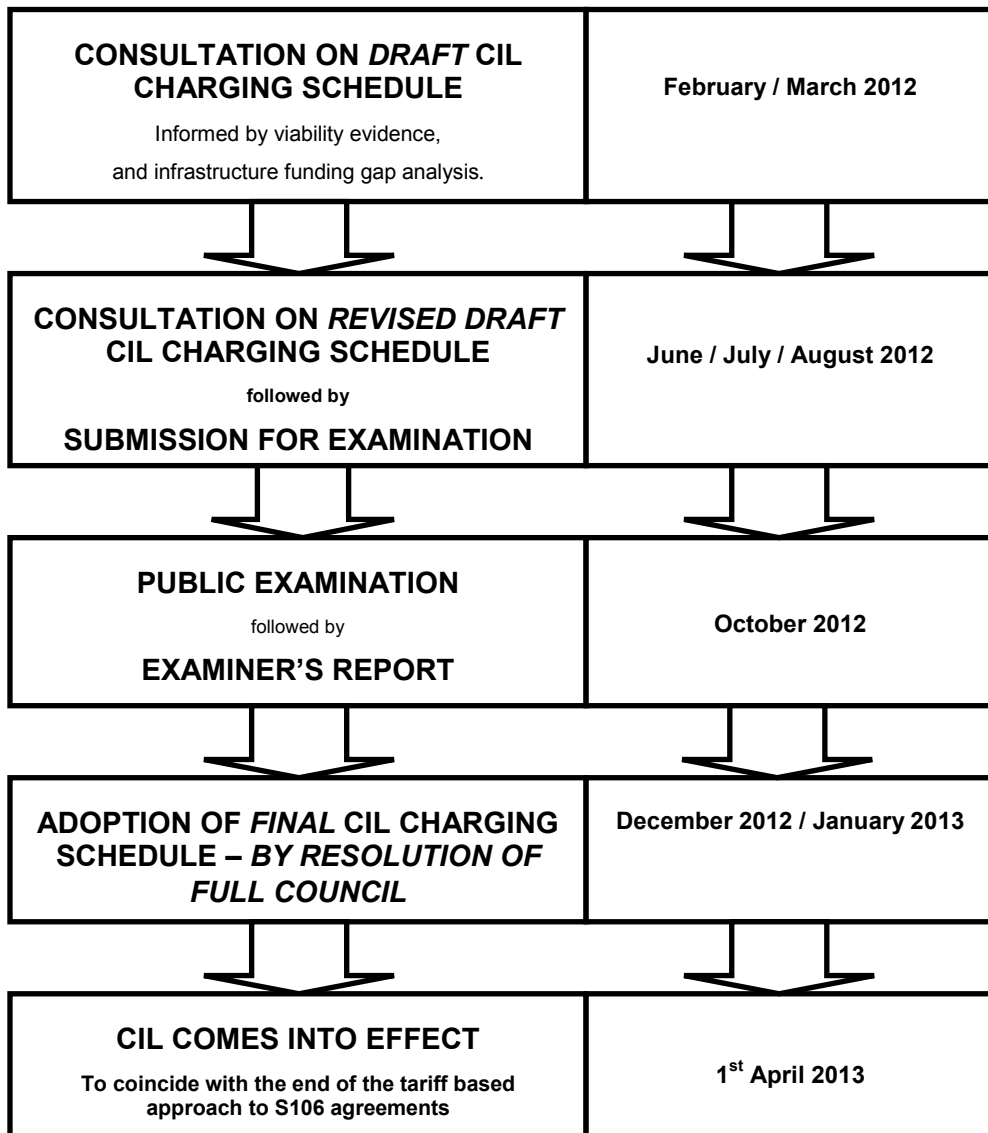
- 2.1 The key issues raised by those making representations on the Draft Charging Schedule were in relation to:
- The effects of CIL on housing delivery (in particular, the need to ensure that CIL rates do not undermine the viability of development).
 - The effects of CIL on Affordable Housing delivery (in particular, in relation to whether the Core Strategy Affordable Housing target can be delivered alongside CIL).
 - The relationship between CIL and planning obligations (Section 106 agreements).
 - The implications of some of the viability assumptions for the CIL rates proposed.
 - The interpretation of CIL Regulation 13, relating to the legal framework for setting differential rates.
 - The proposed rates for supermarkets / superstores, and State Aid compliance.
 - The implications of CIL Regulation 40(10), which addresses the issue of CIL liabilities relating to redevelopment of vacant properties.
 - The proposed rates for purpose built student accommodation.
 - The scope for discretionary relief in exceptional circumstances.
 - The scope for different rates to apply in different geographical areas of the city.

- 2.2 A Statement of Representations: Summary of Main Issues is available as a separate background document. This summarises all the representations made, and includes Officer responses.
- 2.3 The proposed Revised Draft Charging Schedule is set out in Appendix I. It differs from the Draft Charging Schedule which was consulted on in February / March in the following respects:
- A City Centre zone is proposed, within which the CIL rate for residential development (including purposes-built student accommodation) will be £0m². This acknowledges and reflects the specific viability constraints associated with high-rise development, and the fact that a significant proportion of new homes within the zone could take the form of developments above five storeys in height. (It is important to note that there remains scope to seek planning obligations through the Section 106 mechanism once the Council's CIL Charging Schedule is in place. The Council will still be able to negotiate Section 106 agreements to secure Affordable Housing provision, and transport or public realm improvements for example. In this sense, irrespective of whether they are required to pay CIL or not, developments in the City Centre zone may still be required to make contributions to infrastructure which is considered necessary to accommodate growth).
 - No distinction is proposed between high and low-rise residential developments in terms of CIL rates, with a £30m² rate applying across the city outside of the identified City Centre zone. This acknowledges and reflects the available viability evidence and the fact that there are unlikely to be homes taking the form of developments above five storeys outside the City Centre zone. It also reflects the removal of the differential rates proposed in the Draft Charging Schedule for residential developments providing affordable homes and for those not providing affordable homes.
 - A rate of £60m² is proposed for purpose built student accommodation outside the identified City Centre zone. This reflects the evidence that low-rise purpose-built student accommodation is currently one of the most viable forms of development in the city and the fact that there are unlikely to be high-rise purpose built student accommodation developments outside the identified City Centre zone.
- 2.4 In every other respect, the charges proposed in the Revised Draft Charging Schedule remain the same as those proposed in the Draft Charging Schedule.

3.0 NEXT STEPS

- 3.1 The flowchart on the following page identifies the very broad process that needs to be followed in adopting Plymouth's CIL Charging Schedule, along with indicative timeframes. Consultation with stakeholders on the Revised Draft Charging Schedule will be the immediate focus, followed by Examination of the Revised Draft Charging Schedule, and then by the Charging Schedule's adoption by resolution of the Full Council. It is proposed that there is a reasonable gap between the adoption of the Charging Schedule and it coming into effect, to give developers time to adjust to new arrangements and requirements.

IMPLEMENTING THE COMMUNITY INFRASTRUCTURE LEVY



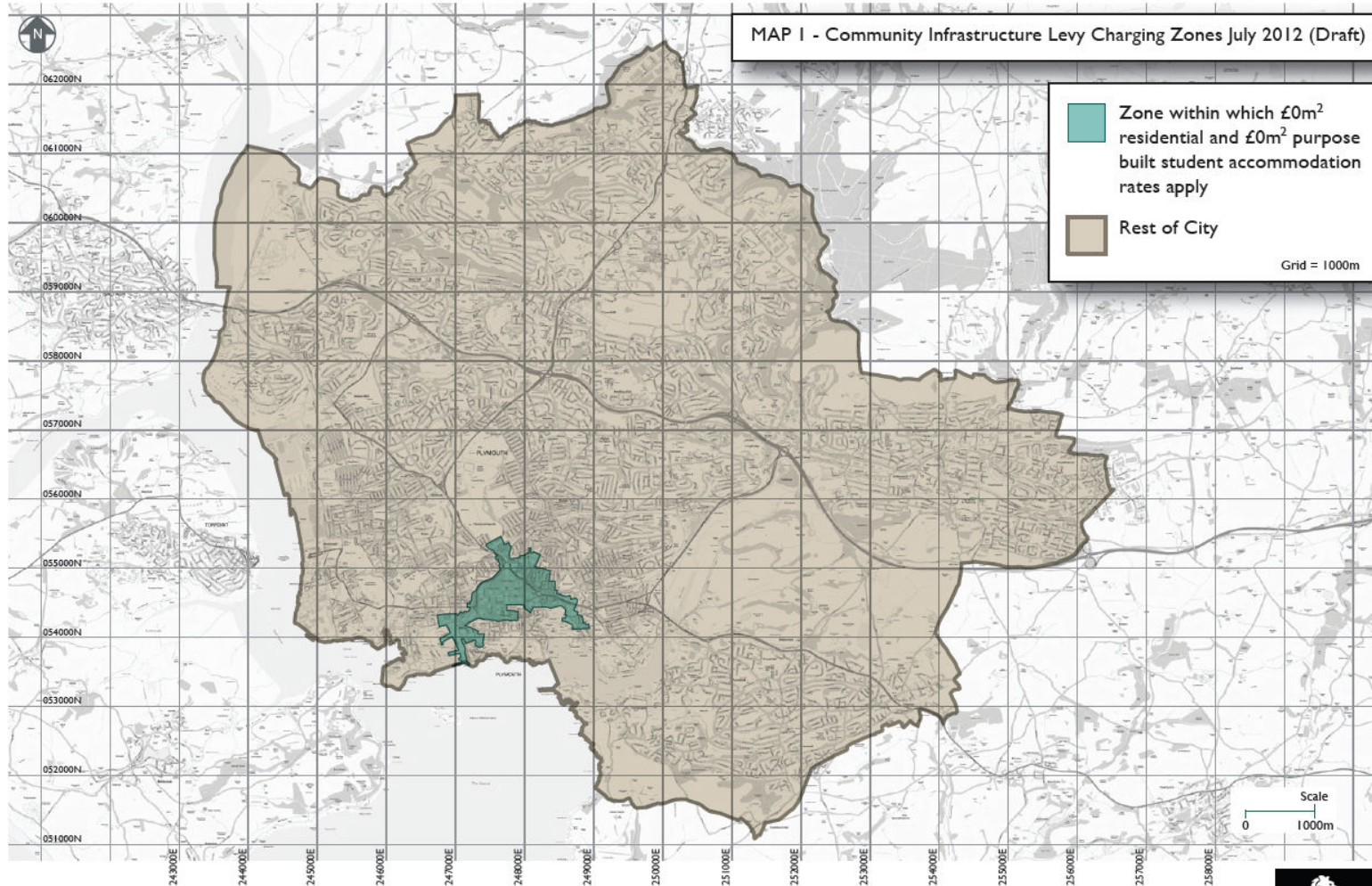
APPENDIX I: REVISED DRAFT CIL CHARGING SCHEDULE

This Revised Draft Charging Schedule sets out Plymouth City Council's Community Infrastructure Levy charging rates. It also incorporates a draft Instalments Policy relating to the payment of the levy.

Proposed CIL Rates

Plymouth's proposed CIL rates are as follows.


CIL RATES IN PLYMOUTH – in £s per square metre				
Development Type	Rate	Development Type	Rate	Notes
Residential	£30	Cinemas and Commercial Leisure	£0	*For the purposes of this Charging Schedule, superstores / supermarkets are shopping destinations in their own right, where weekly food shopping needs can be met and which can also include non-food floor space as part of the overall mix of the unit.
Residential – located within the zone identified on Map 1	£0	Offices, Industrial Units, Storage and Distribution	£0	
Residential Institutions (C2)	£0	Superstores / supermarkets* of 1000m2 gross internal floor area or more, including extensions to such stores.	£100	
Purpose Built Student Accommodation	£60	All other retail uses, and financial and professional services, restaurants and cafes, drinking institutions, takeaways.	£0	
Purpose Built Student Accommodation – located within the zone identified on Map 1	£0	All Other Uses	£0	
Hotels	£0			




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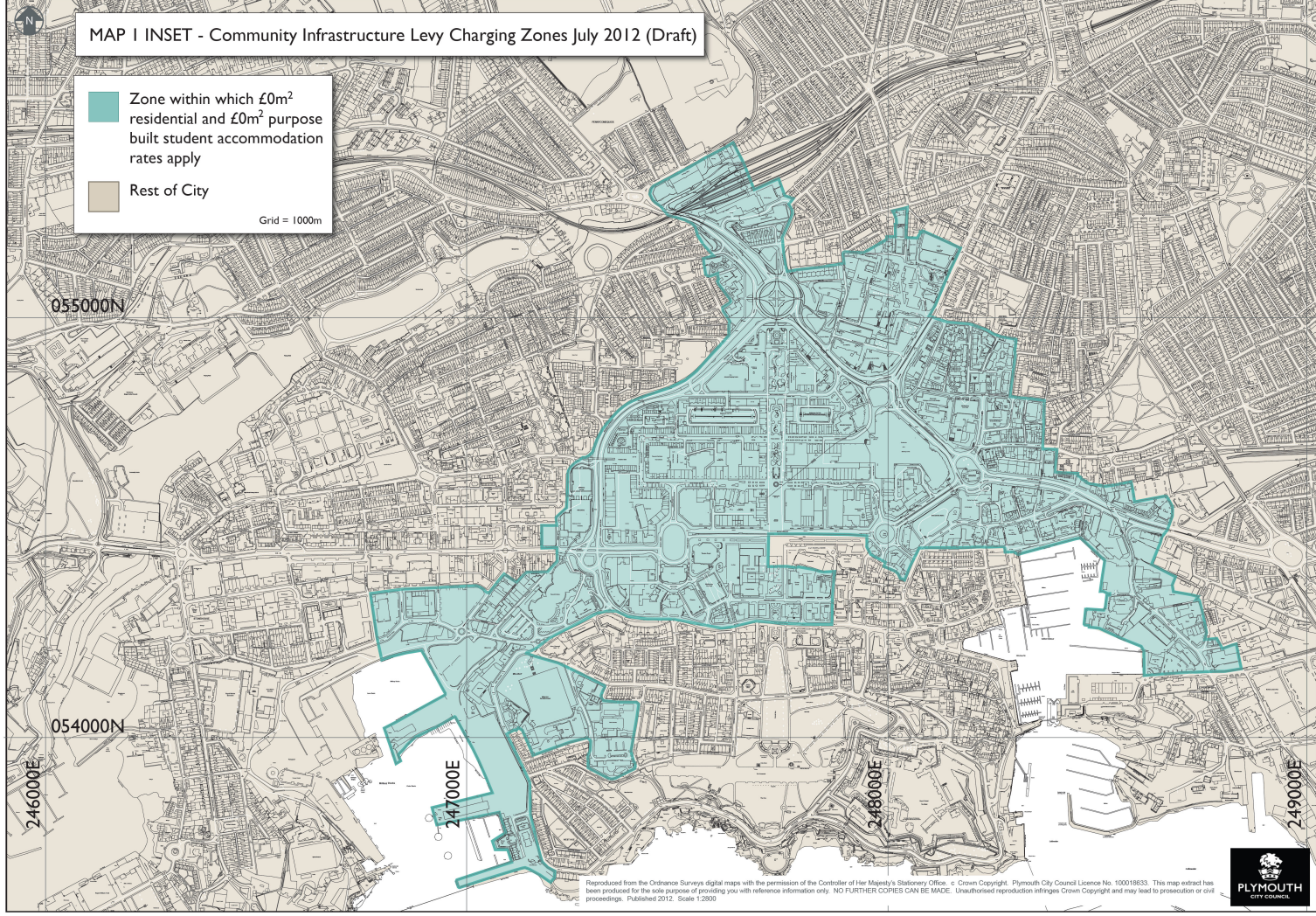


MAP I INSET - Community Infrastructure Levy Charging Zones July 2012 (Draft)

 Zone within which £0m² residential and £0m² purpose built student accommodation rates apply

 Rest of City

Grid = 1000m



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Calculating the Chargeable Amount

The amount of CIL payable (the 'Chargeable Amount') will be calculated by the Council in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010, as amended.

The chargeable rate is set having regard to viability information, to ensure that the levy does not put at risk the overall development of the area. The rates will be updated annually for inflation, and will therefore be index linked to the national All-in Tender Price Index published from time to time by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors. If the BCIS ceases to publish the All-in Tender Price Index, the Retail Prices Index will be used instead.

Draft CIL Instalment Policy

Overview

Regulation 70 (7) of the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy (Amendment) Regulations 2011) sets a default of full payment of the Levy within 60 days of the commencement of development. The Regulations also enable a Charging Authority to set an Instalment Policy that allows payments to be spread over longer periods.

The context for this proposed Instalments Policy is the Council's strong desire to support and enable development and economic growth in the city. The Council recognises the significant economic constraints upon development and investors at this time of economic downturn. It therefore proposes a policy that allows CIL payments to be phased, including payments over longer timescales for large scale projects. This provides for payments to be spread across the development process so that they are, where possible, synchronised with development progress and development cash flows.

The commencement date is the date given on the commencement notice as advised by the developer under CIL Regulation 67. A failure of the developer to notify the Council of a commencement date results in an automatic surcharge and removal of the privilege to utilise the Council's Instalment Policy.

Policy

The Community Infrastructure Levy is proposed to be payable by instalments as follows:-

Where the chargeable amount is less than £15,000	Full payment will be required within 90 days of the commencement date.
Where the chargeable amount is between £15,000 and £50,000	First instalment representing 25% of the chargeable amount will be required within 90 days of the commencement date. The second instalment representing 50% of the chargeable amount will be required within 270 days of the commencement date. The third instalment representing 25% of the chargeable amount will be required within 360 days of the commencement date.
Where the chargeable amount is over £50,000 but below £100,000	First instalment representing 25% of the chargeable amount will be required within 90 days of the commencement date. Second instalment representing 50% of the chargeable amount will be required within 360 days of the commencement date. Third instalment representing 25% of the chargeable amount will be required within 540 days of the commencement date.

Where the chargeable amount is **£100,000 or above**

First instalment representing **25%** of the chargeable amount will be required within **90** days of the commencement date.

Second instalment representing **25%** of the chargeable amount will be required within **270** days of the commencement date.

Third instalment representing **25%** of the chargeable amount will be required within **540** days of the commencement date.

The fourth instalment representing **25%** of the chargeable amount will be required within **720** days of the commencement date.