



CABINET

Tuesday, 02 November 2021

Subject	East Suffolk Draft Community Infrastructure Levy Charging Schedule – Consultation Version
Report of	CLlr David Ritchie, Cabinet Member with responsibility for Planning and Coastal Management CLlr Maurice Cook, Cabinet Member with responsibility for Resources
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Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	Not applicable.
Wards Affected:	All Wards

Purpose and high-level overview

Purpose of Report:

The purpose of this report is to seek authorisation to consult on the draft East Suffolk Community Infrastructure Levy (CIL) Charging Schedule, alongside the draft CIL Instalment Policy, and then (after having considered representations) to submit the Charging Schedule for independent examination. (After the examination, assuming that the Examiner recommends that the CIL Charging Schedule can be approved (with or without modifications) the Council hopes to be able to approve (or 'adopt') the Charging Schedule.)

CIL is a mechanism for securing funds from development which must then be spent on infrastructure to support/mitigate the effects of new development in East Suffolk. The CIL Charging Schedule will (when approved) cover the whole of the East Suffolk area, and replace the two existing CIL Charging Schedules, for Waveney (adopted in 2013) and Suffolk Coastal (adopted in 2015), which are now becoming somewhat aged and will benefit from being updated and amalgamated.

The East Suffolk CIL Charging Schedule will therefore help to deliver infrastructure to deliver the growth set out in the Waveney Local Plan (adopted in March 2019) and the Suffolk Coastal Local Plan (adopted in September 2020), as well as any growth set out in 'made' (adopted) Neighbourhood Plans.

Options:

Agreeing consultation on the proposed draft East Suffolk CIL Charging Schedule (including the supporting draft Instalment Policy), and also to submit the CIL Charging Schedule for independent examination, is the recommendation. This would (should the Charging Schedule, post-examination, be agreed/adopted by Council) ensure that there is a single CIL Charging Schedule covering the whole of the district, eliminating current discrepancies and simplifying understanding for developers and landowners. It would also ensure that the CIL rates are up-to-date with recent market evidence and the anticipated growth set out in the two recently-adopted Local Plans – there have obviously been a lot of recent changes in the residential and commercial markets. In addition, it would simplify the administration of CIL for Council officers, having to deal with only one Charging Schedule instead of the current two. (The Instalment Policy is not subject to examination, but will be included in the bundle of supporting documents sent to the Examiner.)

An alternative option is not to progress with the consultation and halt work on the CIL Charging Schedule but for the reasons outlined above, this option is not considered appropriate and is therefore not recommended.

Recommendation/s:

- i) That the Draft Community Infrastructure Levy (CIL) Charging Schedule, including the Draft East Suffolk CIL Instalment Policy, be approved for 6 weeks' consultation

- ii) That the Head of Planning and Coastal Management, in consultation with the Cabinet Member for Planning and Coastal Management, is authorised to make any presentational, typographical and/or other minor (non-material) amendments prior to consultation
- iii) That the Head of Planning and Coastal Management, in consultation with the Cabinet Member for Planning and Coastal Management, is authorised to consider the representations made to the consultation, to make any relevant modifications, and then submit the draft CIL Charging Schedule (and supporting documents) for examination by an independent Examiner
- iv) That the Head of Planning and Coastal Management, in consultation with the Cabinet Member for Planning and Coastal Management, is authorised to agree any further work and/or appropriate changes to the draft CIL Charging Schedule (and Instalment Policy) during the examination as the need may arise

Corporate Impact Assessment

Governance:

No impacts

ESC policies and strategies that directly apply to the proposal:

There are various policies within the two adopted Local Plans (the [Waveney Local Plan](#) and the [Suffolk Coastal Local Plan](#)) to which CIL is relevant, including, in particular, Policies WLP1.3 (Infrastructure) and SCLP2.2 (Strategic Infrastructure Priorities). Other key strategies include the Council's [CIL Spending Strategy](#) (approved in January 2020) and the first (2019/20) [Infrastructure Funding Statement](#) (published on 1st December 2020).

Environmental:

No direct implications. The draft CIL Charging Schedule will help support growth set out in the adopted Waveney and Suffolk Coastal Local Plans (which themselves were subject to Sustainability Appraisal and Habitats Regulations Assessment) but the CIL Charging Schedule does not itself make any land allocations or set any planning policy or environmental requirements directly.

The CIL Charging Schedule has been subject to Strategic Environmental Assessment screening (under the Environmental Assessment of Plans and Programmes Regulations 2004, as amended) and has been screened to ascertain whether there would be potential significant effects on European Habitats sites (under the Conservation of Habitats and Species Regulations 2017, as amended). The screening assessments are available at **Appendix A** and **Appendix B** (respectively) and were consulted on during the consultation on the CIL 'basics' in March and April 2021. No effects were identified, and no consultation responses on the documents asserted otherwise. It is therefore considered that the draft CIL Charging Schedule will have a neutral environmental impact.

Equalities and Diversity:

No impacts.

An Equality Impact Assessment Screening Opinion was produced to accompany the consultation on the CIL 'basics' in March 2021, **Appendix C**). The assessment concluded that there would be no differential negative impacts on those with protected characteristics and no representations were made on the EQIA Screening Opinion. It is

also worth mentioning that the Council has two Discretionary Social Housing Relief policies (one for the former Waveney area, and one for the former Suffolk Coastal area), which allows for 100% CIL relief for the development of social housing.

Financial:

The production and 'adoption' of the CIL Charging Schedule is covered by the existing budget of the Planning Policy and Delivery Team. As the money raised through CIL charges must be ringfenced for infrastructure spending, either by East Suffolk Council or parish/town councils (as relevant) – with the exception of 5% which can be retained by the Council to spend on the administration of CIL (raising charging notices etc) – the new CIL Charging Schedule will not directly affect the Council's financial position.

Human Resources:

No impacts

ICT:

No impacts

Legal:

The production, examination and agreeing (adoption) of a CIL Charging Schedule are governed by the CIL Regulations 2010 (as amended) and the Planning Act 2008. Legal advice has been sought and received on the production of the draft CIL Charging Schedule and taken into account (as appropriate).

Risk:

The main risks are detailed in the body of the report but there are three key risks:

- i) **the Examiner finds that the draft CIL Charging Schedule has not been prepared in line with the regulatory "drafting requirements" and that any non-compliance cannot be remedied through the making of modifications.** However, officers have paid, and will continue to pay, careful attention to the regulatory and other requirements in the preparation of draft CIL Charging Schedule and so this risk is considered low;
- ii) **that the Examiner makes significant reductions to the proposed CIL charges the Council makes, thus reducing the amount of money that can be raised through CIL and spent on infrastructure.** However, the Council has been advised, and will continue to be advised, by its viability consultants (Aspinall Verdi) as to appropriate levels of CIL to charge. An appropriate 'buffer' needs to be allowed for in setting CIL levels, to allow for risks that costs will rise and/or downturns in the market happen, which could otherwise threaten the viability of many schemes. In this context, recent national shortages of some building materials, with consequent price increases, are acknowledged and although the current situation is fluid, it is expected that prices will moderate in time as supply increases to better match demand.

It is believed that appropriate buffers have been set in the draft CIL Charging Schedule and, whilst it can be expected that some representors will seek to claim that at least some of the rates are too high (even with the buffer), the risk of the Examiner making significant reductions are thought to be low (but cannot be ruled out). In addition, the Council can always adjust the balance

between infrastructure delivery through CIL and S106 agreements through the annual Infrastructure Funding Statement to ensure that key infrastructure to support growth is still secured;

- iii) **that the Government’s proposed abolition of the existing CIL and S106 legal agreement systems (which together deliver infrastructure and other matters to support growth), and their replacement with a new system called Infrastructure Levy, as set out in the Planning Bill announced in the Queen’s Speech in May 2021, moves forward swiftly. This could mean that the new CIL Charging Schedule is either overtaken by events before it is agreed (adopted) or becomes rapidly superseded.** Whilst the Government’s intention to bring in the Infrastructure Levy was clear, there are a very large number of uncertainties and complications associated with it. With the arrival in September 2021 of Michael Gove as the new Secretary of State, there will be a (further) delay in changes coming forward and there is perhaps an increased risk of the proposals being amended significantly. Even if it does come in, it is considered that it will take a long time to develop a system which works properly, and there would doubtless need to be a transition period even then. Officers therefore believe that the benefits of pressing on with the production of the East Suffolk CIL Charging Schedule outweigh this risk.

External Consultees:	<p>There has been a public consultation on the CIL viability ‘basics’ in spring 2021 (detailed in this report) and officers also presented the consultation material at a special meeting of the East Suffolk Developers’ Forum on 15th April 2021.</p> <p>Officers also gave a brief overview at two East Suffolk Parish Council Forum meetings, on 4th and 25th March 2021, and held a special meeting with parish councils on 13th April 2021.</p> <p>The Council also holds monthly infrastructure/CIL meetings with Suffolk County Council and so SCC has been kept apprised of the production of the CIL Charging Schedule.</p> <p>Should Cabinet agree the recommendations in this paper, there will be a full public consultation on the draft CIL Charging Schedule and draft CIL Instalment Policy.</p>
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Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary Priority	Secondary priorities
T01	Growing our Economy		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input checked="" type="checkbox"/>

P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input checked="" type="checkbox"/>	<input type="checkbox"/>
T02	Enabling our Communities		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
T03	Maintaining Financial Sustainability		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input checked="" type="checkbox"/>
T04	Delivering Digital Transformation		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T05	Caring for our Environment		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
XXX	Governance		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input type="checkbox"/>

How does this proposal support the priorities selected?

Preparing and (later bringing into effect) the CIL Charging Schedule will support the delivery of planned growth (set out in the two Local Plans) both through generating funding to be spent on infrastructure and, in so doing, to provide the appropriate financial 'environment' for development and investment decisions to be made (by, for example, developers, the Council and Suffolk County Council). Alongside the policies of the CIL Spending Strategy, this will help optimise the Council's own financial investments in development and infrastructure. In addition, it will assist parish/town councils by enabling them to receive their share of CIL income to spend on their locally-identified infrastructure priorities, as well as still enabling them to bid into the district CIL pot for infrastructure funds.

Background and Justification for Recommendation

1 Background facts	
	Community Infrastructure Levy Basics
1.1	Community Infrastructure Levy is a charge “which can be levied by local authorities on new development in their area. It is an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area”. It is not the only way of delivering infrastructure; planning obligations (also known as Section 106 Agreements) and various kinds of highways legal agreements (Section 38 and Section 278 Agreements) may also be available (as appropriate).
1.2	The legislative basis for CIL was introduced through the Planning Act 2008 and it came into force through the Community Infrastructure Levy Regulations 2010. Including coronavirus measures introduced in 2020, there have been 18 separate legislative alterations/amendments affecting CIL since the 2010 Regulations, so CIL remains a complicated area of planning and taxation.
1.3	The proposed rates of CIL – even if £0 (“zero-rated”) – for various development types must be set out in a Charging Schedule, which has to undergo an independent examination before being ‘adopted’. Amendments to an existing CIL Charging Schedule – effectively what is taking place now – must follow the same approach. For qualifying developments (there are various exemptions to CIL, such as self-build dwellings), CIL is charged on a £ per square metre (m ²) basis.
1.4	CIL was introduced in the former Waveney district in 2013 and in the former Suffolk Coastal district in 2015. In line with CIL regulations, CIL rates must be adjusted annually (on 1 st January), using the Royal Institution of Chartered Surveyors (RICS) CIL Index, “to keep the levy responsive to market conditions”. A comparison of the original CIL rates and the current CIL rates is available on the website (links above). As an example, the residential CIL rate for Inner Lowestoft has increased from the original £45 per m ² in 2013 to £66.90 per m ² in 2021 (a small reduction from the £67.10 it was in 2020).
1.5	In addition to the two separate CIL Charging Schedules, each former Council area has an Instalments Policy (Waveney and Suffolk Coastal). CIL must be paid in full within 60 days of the commencement date of each separate phase of development, and there is no possibility under the legislation to make a viability argument to try to reduce the CIL bill. This early bill (normally well before any houses or other development types have been sold) can have significant cashflow implications for developments. An Instalments Policy can therefore aid the cashflow of development by allowing the CIL bill for each development phase to be paid in separate instalments.
1.6	The two current Instalments Policies are identical, allowing three separate instalments, with the overall timescale varying depending on whether the CIL bill is above or below £80,000 (longer for those where the CIL chargeable amount is equal to or greater than £80,000).
1.7	The Council also has two separate (although essentially identical) Discretionary Social Housing Relief Policies (Waveney and Suffolk Coastal). These set out, in particular, the ‘local connections’ test for qualifying social housing dwellings to ensure that these dwellings go to people with appropriate local connections.

1.8	One of the main elements of CIL, as originally drafted in the legislation, was to prevent so-called ‘doubling-dipping’, whereby funding for the same piece of infrastructure could not be secured from both CIL and a Section 106 agreement for the same development. The division between what kinds of infrastructure was to be funded from CIL and which from S106 (or equivalent highways agreements) needed to be set out in the Regulation 123 list.
1.9	<p>The division between CIL and S106, and in particular the S106 ‘pooling’ restriction (which meant that no more than five separate contributions could be made to a single piece of infrastructure, such as a new junction or school) regularly caused practical difficulties and in 2019 Regulation 123 was replaced instead by the requirement for councils to publish annual Infrastructure Funding Statements (IFSs). The IFS must set out:</p> <ul style="list-style-type: none"> i) the how much money has been raised through developer contributions (CIL and S106); ii) how it has been spent; and iii) infrastructure projects or types of infrastructure that it is intended to be funded through CIL <p>The IFS therefore allows much greater flexibility in CIL funding – infrastructure types or projects can therefore be changed annually, as circumstances alter. The Council published its first (2019/20) IFS in December 2020. The 2020/21 IFS was agreed in principle by Cabinet on 7th September 2021 and will be published formally before the end of 2021.</p>
1.10	Related to the introduction of the IFS, the Council approved its CIL Spending Strategy in January 2020. The Spending Strategy sets out the principles of how the money in the CIL ‘pot’ will be spent/committed, with prioritisation for particular kinds of projects (“essential infrastructure”). It also has details of what bids to the Council for CIL money (to deliver infrastructure) should include by way of information.
Rationale for preparation of the East Suffolk draft CIL Charging Schedule	
1.11	Since CIL was introduced in the two districts of Waveney (2013) and Suffolk Coastal (2015), there have been two significant local changes. The first was the formal creation of East Suffolk Council, on 1 st April 2019, merging those two former district councils.
1.12	The second was the adoption of two new Local Plans, running to 2036, firstly for Waveney (adopted in March 2019) and then for Suffolk Coastal (adopted in September 2020) . The two Local Plans contain specific site allocations to help meet the identified needs for new housing and employment land (amongst other elements) as well as policies used in the determination of planning applications.
1.13	A key supporting document for the each Local Plan is the Whole Plan Viability Appraisal (Waveney VA and Suffolk Coastal VA), both prepared for the Council by viability and development consultancy Aspinall Verdi. The Whole Plan Viability Appraisals assessed the costs of the Local Plan policies, especially those requiring infrastructure to be provided (such as open space and new roads) and affordable housing requirements to ensure that the allocations and policies are viable and deliverable. The Viability Appraisals also took into account the CIL Charging Schedule levels (as they were at the time).
1.14	Given the two significant local changes, and the ages of the two existing CIL Charging Schedules, it is considered an appropriate time to (in effect) ‘merge’ and

	update these into a single CIL Charging Schedule, covering the whole of East Suffolk.
	Forthcoming national changes to the planning system and developer contributions
1.15	In August 2020, the Government published a White Paper called Planning for the Future , in which the Prime Minister said in the Foreword that the planning system is “ <i>outdated and ineffective</i> ”, that “ <i>radical reform</i> ” is necessary to “ <i>tear it down and start again</i> ”. Whilst short on detail, the White Paper sets out the intention to make significant changes to various parts of the planning system, including speeding up the production of Local Plans and making Local Plans much more digital in nature.
1.16	The fourth main proposal in the White Paper is to “ <i>reform [the] developer contributions [system]</i> ”, including reforming CIL and planning obligations (Section 106 legal agreements) as a “ <i>nationally-set value-based flat rate charge</i> ”, to be called the Infrastructure Levy. In other words, this change would – if implemented – see the end of the CIL system, as well as S106 agreements.
1.17	About 44,000 consultation responses to the Planning White Paper were submitted, an extremely high number. In relation to developer contributions, many in the planning and development sectors recognise that there are some flaws and weaknesses in the current approach. However, the proposed Infrastructure Levy and the proposed scrapping of the S106 system has drawn considerable criticism from right across the sectors, including councils, developers, agents, legal professionals and various representative bodies and groups.
1.18	The volume and depth of the criticism of the proposed changes to the planning system has led to the consideration of the responses taking much longer than originally planned. Further, it now appears that with the arrival of Michael Gove as the new Secretary of State in September 2021 and his announcement of a ‘pause’ to enable him to review the situation, some of the more radical changes originally floated are unlikely to be taken forward.
1.19	On the proposed reforms to developer contributions/CIL system, the situation is now less clear, as it too is likely to be affected by Mr Gove’s reconsideration. Officers consider it more likely than not that the Infrastructure Levy will still arrive in some form, replacing CIL, but if it does it may well be a less radical change than originally proposed, with locally-set levy rates rather than a single national rate.
1.20	Whilst it therefore appears that CIL and S106 may indeed be replaced by the Infrastructure Levy, i) the volume of the criticism of the proposed changes; ii) the considerable (inevitable) complexity of the current system; and iii) the need for extremely careful design of any new approach (to minimise the potential for unintended consequences and ‘gaming’ of the system) speaks to a very considerable amount of work being needed to design the details of the new system and test it with experts and users. Consultation on the details of proposed changes is considered inevitable and it is therefore likely that it will take several years at the very least before any new system of developer contributions is legislated for, in place and the ‘locally-set’ levy prepared, tested and introduced.
1.21	Doing nothing (in other words, continuing the status quo) is considered to be inappropriate. Bringing the CIL CS rates up-to-date is sensible and, in any case, if the Infrastructure Levy <i>is</i> introduced, the CIL viability work that has been undertaken would not be wasted. For this reason, it is considered that continuing the work to bring in an East Suffolk CIL Charging Schedule is the most appropriate course of action.

2 Current position	
	Infrastructure costs
2.1	The two adopted Local Plans (which run to 2036) set out the scale of the growth allocated and also include the estimated costs of infrastructure to support that growth (roads, schools, playing pitches, community facilities etc). These infrastructure costs are updated annually, in the IFS (as detailed in paragraph 1.9 above).
2.2	It is a requirement of the CIL Regulations that, in setting CIL rates, the Council must understand the estimated total infrastructure costs, taking into account actual and expected sources of funding – as well as CIL, this includes, principally planning obligations (S106 agreements) and various highways agreements (S38/S278 agreements). In setting CIL rates, the effect on economic viability of development in the administrative area must also be considered. In simple terms, there must be an infrastructure funding ‘gap’ that CIL will help to fill, but CIL rates cannot be set at rates that could threaten the economic viability of development proposals (considered as a whole).
2.3	The 202/21 IFS estimates that, taking into account other sources of infrastructure funding to support the growth set out in the two Local Plans (like S106 agreements), there is a likely funding gap of about £105m. It is impossible to predict precisely how much CIL will be generated over the period to 2036, as there are many variables and unknowns. However, applying some broad assumptions (on matters like dwelling sizes and mixes, development timescales and those developments which would be exempt from CIL), officers estimate that if CIL was applied at the proposed levels, it would raise about £55m. CIL would therefore contribute towards (but is unlikely to be anywhere close to) bridging the funding gap. Appendix D contains more information on this, alongside a broader review of the conformity with the legislative requirements and the Council’s Statement of Community Involvement .
	CIL Viability work
2.4	As noted in paragraph 1.13, consultancy Aspinall Verdi was commissioned to prepare the two Whole Plan Viability Studies to form key evidence base documents underpinning the viability of the two Local Plans. The consultancy was then further commissioned to, in effect, update and align those two pieces of work to help underpin the draft East Suffolk CIL Charging Schedule. This has been prepared in line with the National Planning Policy Framework (NPPF) with the Planning Practice Guidance (PPG) on CIL and Viability .
2.5	Work undertaken by Aspinall Verdi has included assessing, amongst other elements, sales prices, land values and building costs, as well as updating Local Plan and other policy costs, such as professional fees (e.g. for architects). The consultancy has also developed residential ‘typologies’ to test viability on; it is not necessary to test every single allocated site individually, and this approach is supported by the PPG on Viability.
2.6	Aspinall Verdi has also engaged individually with the promoters of eight “strategic” sites across the district (those of the most significant size and/or complexity) about their development costs and viability. Strategic sites often have significant on-site infrastructure requirements, which, in addition to normal elements like open space and play space and affordable housing, can include elements such as: new

	roads and junctions; enhanced drainage/sustainable drainage (SuDS) requirements; providing a site for a new primary school; and providing significant areas of Suitable Alternative Natural Greenspace (SANGs). Considering strategic sites' residential viability individually is a common approach across the country for CIL Charging Schedules and having lower rates than for standard residential development (even, in some cases, £0) is far from unknown.
2.7	The Council undertook a consultation on CIL viability 'basics' , including the proposed residential typologies, from March-April 2021 and a summary of the consultation comments and the Council's responses is available at Appendix E . These consultation responses have been taken into account, as appropriate, in the Aspinall Verdi CIL Review report (see Appendix F).
2.8	Aspinall Verdi has completed the CIL (Viability) Review Report (see Appendix F). In it are their recommendations for CIL rates and the different residential charging zones, alongside the background and supporting evidence. These are set out below and are recommended to be accepted and included in the draft CIL Charging Schedule (Appendix G).
2.9	It is common knowledge that there are significant variations in land and property values across the East Suffolk district, with the lowest values in parts of central Lowestoft (where viability is often challenging) and much higher values in areas like Southwold, Woodbridge and Aldeburgh. The considerable variation in land values – reflected in the two current CIL Charging Schedules and of greater magnitude than found in many other local authority areas – has been taken into account in the CIL Viability Report.
2.10	It is recognised, of course, that the costs of construction vary from site to site and developer to developer. The largest – 'volume' – housebuilders can use their size and bargaining power to achieve rates for labour and materials that are not available for smaller & medium (SME) developers and builders. That being said, some SME developers often build a higher specification product and so can regularly achieve higher selling prices (per m ²).
2.11	The Building Cost Information Service (BCIS) is run by the RICS. It produces (and updates regularly) construction cost estimates for every district, for various different development types. (For the time being, separate rates for Waveney and Suffolk Coastal are still produced.) These values are informed by information submitted on costs by builders and developers to RICS and are therefore only as comprehensive as the data submitted and accurate on the date they are produced – and as it is not mandatory, the dataset is therefore not all-encompassing.
2.12	BCIS Information is published in the form of mean (simple average); lowest amount; lower quartile; median (mid-point of all the values); upper quartile; and highest. Example BCIS reports are in Appendix 4 of the CIL Viability Report (Appendix E to this report). Almost by definition, therefore, an individual development's costs are unlikely to reflect exactly any of the BCIS cost points. BCIS values are clearly an imperfect measure, but in the absence of robust alternative information they are the best there is available, and their value is recognised in the PPG on CIL.
2.13	With the exception of strategic residential sites (see paragraph 2.22 below), median BCIS values have been used throughout the CIL Viability Report. Their use is considered to be appropriate, as it best reflects the range of different costs to different developers (and developments).
2.14	The decision as to the number of different CIL charging zones to be created is based on judgment. The PPG on CIL says that "undue complexity" should be

	avoided and so the key is to strike a balance between recognising the differences in values across a large district like East Suffolk but not having too large a number of different zones which would be add work to administer and add complexity for developers.
2.15	Another point to make is that there needs to be a “buffer” or “cushion” within CIL rates; the CIL PPG guards against setting a charge “ <i>right at the margins of viability</i> ”. In other words, whilst it is not a requirement of setting a CIL rate that every single development would be viable, it is important that a change in circumstances (an economic downturn, or a more significant increase in construction costs, for example) would not mean that more significant numbers of developments could become unviable. Again, the size of the buffer is a matter of judgement, and the Aspinall Verdi report (Appendix F) sets out the approach taken and their recommendations. The recommended CIL rates set out below include a relevant buffer.
	Residential sites (excluding Strategic Sites and Specialist Accommodation)
2.16	The Aspinall Verdi CIL Viability Report recommends five different residential zones to cover the district. With the exception of those parts of parishes which fall within the Broads Authority area (within which CIL is not in place), and in Lowestoft and Oulton Broad, the residential charging zones all follow parish boundaries (i.e. there are no parishes within two or more different zones).
2.17	Firstly, inner Lowestoft (excluding the Kirkley Waterfront strategic site) is classed as the Low Zone . This area – which covers part of Lowestoft parish and a small part of Oulton Broad parish and so is essentially all urban – has low land values and a residential CIL rate of £0 is recommended.
2.18	Land and property values are somewhat higher in the rest of Lowestoft and Oulton Broad but the recommendation is that this zone – the Mid Lower Zone – is also zero-rated for residential CIL, as viability is still typically low.
2.19	The next zone – the Mid Zone – covers (with the exception of Southwold and Reydon) the rest of the former Waveney area and it also includes the parishes of Leiston, Theberton and Knodishall (in the former Suffolk Coastal area). Values are higher here than in Lowestoft and there is concluded to be sufficient viability for a proposed CIL rate of £100 per m ² .
2.20	The fourth – Mid Higher – Zone covers most of the rest of the former Suffolk Coastal area, and viability here is higher than in the Mid Zone. The recommended rate is £200 per m ² .
2.21	The highest value areas are grouped together in the High Zone , with a proposed rate of £300 per m ² . There are three different parts of the district covered: i) the area of Southwold, Walberswick and the adjoining parishes; ii) an area based in and around Orford and Aldeburgh; and iii) a cluster of parishes broadly stretching north and west from Woodbridge to the district boundary with Mid Suffolk.
	‘Strategic’ Development Sites
2.22	Strategic residential-led sites tend to be built out by larger developers, who can (as highlighted in paragraph 2.10) benefit from lower costs from their economies of scale. It has therefore been concluded that the use of lower quartile BCIS values is appropriate in the case of the East Suffolk sites. A report by consultancy Lichfields in August 2021, which reviewed 93 recent Local Plan and/or CIL Viability Assessments, supports this, concluding (on page 17) that “ <i>use of the BCIS lower quartile [values] is a common approach for large schemes</i> ”.

2.23	<p>Much of the infrastructure associated with strategic sites will be secured through S106 agreements (or equivalent highways agreements), rather than CIL. The estimated/likely S106 costs are set out in the CIL Viability Report (in Appendix 6) and are all specific to each individual site, depending on constraints, size, location, Local Plan policy requirements etc. The S106 costs (alongside other costs, such as for zero-carbon housing) obviously play a very significant part in determining the overall viability of the sites for CIL – all other things being equal, sites with proportionately more S106 costs have a proportionately lower ‘surplus’, leading to a reduced (or even zero) level of CIL.</p>												
2.24	<p>Of the eight strategic sites, two are in the existing CIL Charging Schedules, with both zero-rated. Due to the significant contamination costs and low land values, the Kirkley Waterfront and Sustainable Urban Neighbourhood site (Policy WLP2.4 in the Waveney Local Plan) is recommended to stay zero-rated for residential CIL.</p>												
2.25	<p>The Brightwell Lakes/Adastral Park site (Policy SCLP12.19 in the Suffolk Coastal Local Plan) received outline planning permission in 2018 and was purchased in 2021 by developer Taylor Wimpey; the first reserved matters housing applications were submitted in August 2021. It is zero-rated for residential CIL in the Suffolk Coastal CIL Charging Schedule, due to the significant up-front infrastructure costs, and the outline planning permission was therefore granted with no residential CIL liability. For this reason, it is sensible to continue with the site being zero-rated for residential CIL.</p>												
2.26	<p>All the strategic sites have significant on-site infrastructure costs (S016) and the CIL Review Report recommends that their residential CIL rates are lower than the standard residential rates. In addition, a higher buffer is applied to the strategic sites than the standard residential zones to reflect the greater cost uncertainties.</p> <table border="1" data-bbox="300 1151 1386 2087"> <thead> <tr> <th data-bbox="300 1151 611 1229">Strategic Site</th> <th data-bbox="611 1151 916 1229">Proposed CIL rate (per m²)</th> <th data-bbox="916 1151 1386 1229">Key reason(s)</th> </tr> </thead> <tbody> <tr> <td data-bbox="300 1229 611 1503">Kirkley Waterfront and Strategic Urban Neighbourhood (WLP2.4)</td> <td data-bbox="611 1229 916 1503">£0 – not viable for CIL</td> <td data-bbox="916 1229 1386 1503">Significant contamination, low land values, flood risk and other major infrastructure requirements, such as a primary school, early years’ education facilities, marina facilities, playing field and a community centre</td> </tr> <tr> <td data-bbox="300 1503 611 1776">North of Lowestoft Garden Village (WLP2.13)</td> <td data-bbox="611 1503 916 1776">£60</td> <td data-bbox="916 1503 1386 1776">Significant infrastructure costs and other constraints, such as open/green space, primary school, cordon sanitaire to the sewage treatment works, community centre, new A47 junction etc</td> </tr> <tr> <td data-bbox="300 1776 611 2087">Land south of The Street, Carlton Colville/Gisleham (WLP2.16)</td> <td data-bbox="611 1776 916 2087">£70</td> <td data-bbox="916 1776 1386 2087">Infrastructure costs including flood mitigation, Bloodmoor Road roundabout improvements, a new primary school and a country park. There are also relatively low land values – but the lower affordable housing requirement (20% instead of</td> </tr> </tbody> </table>	Strategic Site	Proposed CIL rate (per m ²)	Key reason(s)	Kirkley Waterfront and Strategic Urban Neighbourhood (WLP2.4)	£0 – not viable for CIL	Significant contamination, low land values, flood risk and other major infrastructure requirements, such as a primary school, early years’ education facilities, marina facilities, playing field and a community centre	North of Lowestoft Garden Village (WLP2.13)	£60	Significant infrastructure costs and other constraints, such as open/green space, primary school, cordon sanitaire to the sewage treatment works, community centre, new A47 junction etc	Land south of The Street, Carlton Colville/Gisleham (WLP2.16)	£70	Infrastructure costs including flood mitigation, Bloodmoor Road roundabout improvements, a new primary school and a country park. There are also relatively low land values – but the lower affordable housing requirement (20% instead of
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			30%) means that the site can support a slightly higher CIL than Beccles & Worlingham and North of Lowestoft
	Beccles & Worlingham Garden Neighbourhood (WLP 3.1)	£40	Scale of infrastructure requirements, including a primary school, early years' education requirements, a country park and a community centre. Also allowing for a (relatively) lower density of development (compared to other strategic sites), the site is slightly less viable than other strategic sites (especially North of Lowestoft and Carlton Colville) and so the CIL rate is lower
	South Saxmundham Garden Neighbourhood (SCLP12.29) – 800 dwellings	£90	The scale of infrastructure requirements, including a primary school site, significant open space and green space requirements and a new A12 roundabout
	North Felixstowe Garden Neighbourhood (SCLP12.3) – 2,000 dwellings	£100	The scale of infrastructure requirements, including an on-site primary school, early years and new highways access points, and relatively lower net density than the Trimley site
	Land off Howlett Way, Trimley St Martin (SCLP12.64) – 360 dwellings	£160	The scale of infrastructure requirements is lower than the other strategic sites – no on-site primary school, for example – and the net density is higher as a result (in other words, more houses per net hectare) than other strategic sites
	Brightwell Lakes/ Adastral Park (SCLP12.9) – 2,000 dwellings	£0	The site already has outline planning permission with a £0 CIL rate
	Holiday accommodation		
2.27	Aspinall Verdi tested three different holiday accommodation scenarios: i) new build flats; ii) barn conversions; and iii) new build holiday lodges. The CIL Report concludes that new-build holiday flats and barn conversions are not viable at any level of CIL, but that holiday lodges in defined parts of the High residential zone – broadly much of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty) can sustain a CIL charge of £210 per m ² (lodges elsewhere in the district are not viable for CIL).		
	Specialist residential accommodation		

2.28	Three types of specialist (retirement) residential accommodation have been viability-tested by Aspinall Verdi, as all have different characteristics. These are: sheltered housing; extra-care housing; and nursing/residential care homes.
2.29	Sheltered housing is typically has facilities such as an on-site warden during the day, emergency pull-cords in rooms and communal rooms. The conclusion of the Viability Report is that this accommodation is not viable for CIL anywhere in the district when an appropriate buffer is taken into account.
2.30	Residents of extra care/enhanced sheltered housing still have their own independence (with their own front door) but with typically a higher level of support for personal care and support services (often a 24-hour on-site support presence) than in sheltered housing. The conclusion of the Viability Report is that this accommodation is not viable for CIL.
2.31	Those living in nursing care/residential homes normally need a high level of support for day-to-day living, including washing, dressing and eating. Some care homes cater for residents with dementia. The conclusion of the Viability Report is that, when an appropriate buffer is taken into account, this accommodation is not viable for CIL in any part of the district.
	Retail
2.32	Aspinall Verdi has tested both convenience and comparison retail for viability. 'Convenience' retailers sell everyday essential items, such as food and drink, whereas 'comparison' retailers sell goods not typically purchased every day, such as clothes, books and furniture.
2.33	Smaller ('express') convenience retail stores (tested at 350 m ² in size) are typically a 'corner' shop or small town/village centre store. 'Budget' stores (tested as a 2,000m ² typology) are the kind of size of a normal Aldi or Lidl, and obviously carry a wider range of goods (typically also including some non-food lines).
2.34	With the difficulties comparison retailing has had in recent years (including the further move to online shopping and the effects of the Covid pandemic), it is no surprise that Aspinall Verdi's conclusion is that this form of retail development is not able to support a CIL charge.
2.35	Convenience retailing has also had its challenges in recent years, with increasing competition to the traditional supermarkets from Aldi and Lidl in particular and a squeeze on profit margins as a result. This is reflected in the CIL Review recommendation, which concludes that a CIL charge of £70 per m ² can be supported, somewhat less than the current 2021 rates in the Waveney (£193.26 per m ²) and Suffolk Coastal (£128.57 per m ²) CIL Charging Schedules.
	Employment development
2.36	Aspinall Verdi has separately assessed office and industrial development types. Neither is considered viable for CIL in any part of the district.
	Instalment Policy
2.37	Officers reviewed the two existing Instalment Policies and prepared an initial draft East Suffolk CIL Instalment Policy. Consultation comments received in spring 2021 on that initial draft have been reviewed (see Appendix G) and a small number of changes made.
2.38	The draft Instalment Policy (Appendix H) proposes that each separate CIL phase bill will (depending on the size of the bill), be able to be paid over two instalments (for amounts of less than £10,000, with the second 50% payable within 180 days of the construction commencement date). For the largest development (of separate phase of development) up to five instalments (for amounts over £1,000,000, with

	the last instalment payable 24 months after the commencement date) are available.
2.39	It is not mandatory to have a CIL Instalment Policy, and so such a Policy cannot be subject to formal examination – CIL Regulation 69B states that a new or altered Policy can be brought into effect at any time. Therefore, whilst the Council will consult at the same time as the Draft CIL Charging Schedule (and consider any representations made) and aims to bring the new Instalment Policy into effect at the same time in 2022, these remain decisions for the Council alone and so will not be a formal part of the examination. That being said, the document will clearly form part of the suite of background evidence documents that the Examiner will have before him.

3 How to address current situation

3.1	The next formal stage of the production process is to undertake the formal public consultation on the draft CIL Charging Schedule (alongside a non-formal consultation on the draft Instalment Policy). CIL Regulation 16 sets out the formal requirements at this stage, including publishing key information on the Council's website, and making key information available for inspection at the Council's principal office(s), as well as inviting representations from appropriate people and organisations. These requirements will be followed.
3.2	A six-week consultation is planned, currently proposed to run from Thursday 11 th November to Thursday 23 rd December 2021. Various evidence and supporting documents will also included in the consultation material, such as the Aspinall Verdi CIL Viability Report. Everyone on the Council's Planning Policy database will be written to, including parish councils and adjoining district and county councils, and a formal press notice will be published in local newspapers.
3.3	Anyone making a representation on the draft CIL Charging Schedule can request to be heard in person by the Examiner during the examination.
3.4	The Council must consider the comments received and decide whether to make any changes to the draft Charging Schedule. It would not be unusual for some changes to be made at this stage in response to representations and evidence submitted – the Council obviously needs to consider all representations carefully (working with adviser Aspinall Verdi). Most such changes – if indeed any are concluded to be appropriate to be made – would likely be more minor, but some might potentially be more significant (perhaps an adjustment to a proposed CIL rate).
3.5	The question of quite how 'significant' some potential modifications are is – obviously – a matter of fact and degree. The Local Plan Working Group (which is chaired by the Cabinet Member for Planning and Coastal Management) will be kept fully informed of any proposed modifications considered necessary/appropriate (as part of being kept up-to-date generally with the progress on the CIL Charging Schedule). Any issues that may require a more fundamental re-consideration of the CIL Charging Schedule – a major reduction in the proposed CIL rate for a site or area, for example – would need to be considered particularly carefully and <i>might</i> warrant a full revised Draft CIL Charging Schedule public consultation (needing to be approved by Cabinet). The professional opinion of the Head of Planning, in consultation with the Cabinet Member for Planning and Coastal Management, on these matters of judgment is considered wholly appropriate (as set out in Recommendation iii) and iv) above).

3.6	Where a 'Statement of Modifications' is set out, consultees must be informed of its publication. Anyone commenting on the modifications during the statutory four-week period can ask to be heard by the Examiner, whether or not they already had indicated their intent to attend through earlier formal representations.
3.7	The Council must formally submit the draft CIL Charging Schedule (and supporting evidence and information) for examination by an independent Examiner. The Council has appointed Mr Andrew Seaman FRTPI, of company Intelligent Plans and Examinations and who is an experienced former Planning Inspectorate inspector, as the Examiner. Mrs Annette Feeney will be the Examiner's Assistant (the 'link' between the Examiner and the Council) and she will organise and run the administration of the examination itself.
3.8	The Examiner runs the examination and has wide latitude in so doing – the legislation and guidance are not proscriptive about any particular approaches. Having considered the submitted CIL papers and material, though, it is almost certain that the Examiner will pose a series a questions to the Council to assist him in his deliberations.
3.9	At the end of the examination, the Examiner must recommend that the Charging Schedule be: i) approved; or ii) approved with specified modifications (for example, to adjust the CIL level for a particular type of development); or iii) rejected (because the authority has not complied with a regulatory requirement, which cannot be remedied during the Examination).
3.10	If the Examiner recommends approval (with or without modifications), then to bring it into effect, the CIL Charging Schedule must be approved by a resolution of Full Council, to come into effect at least one day after the CIL Charging Schedule has been published.
3.11	In order to effectively manage and progress the process from the end of the consultation on the draft CIL Charging Schedule to the end of the examination, it is requested that the Head of Planning and Coastal Management (in consultation with the Cabinet Member for Planning and Coastal Management) be given delegated powers to so do. This must include the ability to agree matters like undertaking any further background work and changes to proposed CIL rates (as appropriate). Members – and particularly the Local Plan Working Group – will be kept informed of the progress of the examination.
3.12	Whilst the timing of matters during the examination is down to the Examiner, the Council has a likely timetable on the CIL website , which is being kept up to date. It is hoped that the CIL Charging Schedule will be submitted in early 2022 and that the Examiner's report will be received in late spring 2022, with the Charging Schedule coming into effect in late summer 2022.
3.13	A short statement will be included in the consultation material to say that a Strategic Environmental Assessment, Habitats Regulations Assessment and Equalities Impact Assessment are not being prepared, in line with the outcome of the screening opinions and lack of opposing views to this in the spring 2021 consultation.
3.14	The Council's Statement of Community Involvement (SCI) , adopted in April 2021, reproduces what the CIL legislation requires to be done at the various stages, but also states additional steps that the Council will undertake. At the formal draft consultation stage (CIL Regs 16 and 17), the SCI says (page 30) that the Council will: i) notify consultation bodies, individuals and organisations on the Local Plan and related documents mailing list; ii) add consultation information on the Council's

	social media sites; and iii) make available copies of the Draft Charging Schedule and relevant evidence to local libraries. These steps will be followed (taking into account any Covid-related strictures that may be in place at libraries).
3.15	Given the significance of the move to a single new CIL Charging Schedule, there will be many questions for developers, landowners, residents, parish councils and other consultees/groups (how existing/proposed planning applications will be considered for CIL, for example). Officers have therefore prepared a Question & Answer document covering what are considered the most obvious areas. This Q&A will be published on the website and updated regularly.

4 Reason/s for recommendation

4.1	The two existing CIL Charging Schedules are now somewhat dated and, allied to the creation of East Suffolk Council in 2019 and the adoption of the two Local Plans in 2019 and 2020, it is appropriate to prepare a single CIL Charging Schedule for East Suffolk, to replace the two current CIL Charging Schedules.
4.2	The viability evidence work undertaken by consultancy Aspinall Verdi, alongside consideration of an earlier consultation exercise, has led to the formulation of the draft East Suffolk CIL Charging Schedule. Officers have also prepared a draft Instalment Policy, to replace the two existing Instalment Policies.
4.3	The draft East Suffolk CIL Charging Schedule now needs to be subject to a formal period of public consultation, with the representations received considered prior to submitting the Charging Schedule for independent examination. Consultation will also take place on the draft Instalment Policy.
4.4	Delegated powers are sought to enable officers – in consultation with the Cabinet Member for Planning and Coastal Management – to advance the progress of the Charging Schedule through the formal public consultation to the end of the independent examination. As with the Local Plan examinations, this is necessary to enable officers to agree any relevant non-major changes in an expeditious and pragmatic manner.

Appendices

Appendices:

Appendix A	Strategic Environmental Assessment Screening Opinion
Appendix B	Habitats Regulations Assessment Screening Opinion
Appendix C	Equalities Impact Assessment
Appendix D	Draft CIL Conformity Statement
Appendix E	Draft CIL Consultation Statement
Appendix F	CIL (Review) Viability Report (Aspinall Verdi)
Appendix G	Draft East Suffolk CIL Charging Schedule
Appendix H	Draft East Suffolk CIL Instalment Policy

Background reference papers:

None.