

Draft East Suffolk Community Infrastructure Levy Charging Schedule – Legislation and Policy Conformity Statement

November 2021

Introduction

1. Community Infrastructure Levy (CIL) is a charge on new development in a local authority's area, which is a tool to help deliver necessary infrastructure. The Council has two existing CIL Charging Schedules, one for the former Waveney area and one for the former Suffolk Coastal area.
2. The preparation, examination and 'adoption' (bringing into effect) of a CIL Charging Schedule is governed by Part 3 of the Community Infrastructure Regulations 2010 (as amended), as allowed for under Part 11 of the Planning Act 2008 (as amended). The Planning Practice Guidance sections on [CIL](https://www.gov.uk/guidance/community-infrastructure-levy) (<https://www.gov.uk/guidance/community-infrastructure-levy>) and [Viability](https://www.gov.uk/guidance/viability) (<https://www.gov.uk/guidance/viability>) provides more detailed advice and guidance.
3. Although not a legal requirement, the preparation of a CIL Charging Schedule is also covered in the Council's [Statement of Community Involvement \(SCI\)](#), which was adopted in April 2021. Prior to that, there were separate SCIs for the (former) districts of [Waveney](#) (2014) and [Suffolk Coastal](#) (2014), which both included sections on the production of a CIL Charging Schedule.
4. This document provides details of how the CIL Regulations ('the Regulations') and the Planning Act ('the Act') and the provisions of the SCI have been complied with so far. It will be updated following the formal consultation on the draft CIL Charging Schedule and included in the bundle of examination documents.

Preparing a CIL Charging Schedule

Format and content of a CIL Charging Schedule

5. Regulation 12 set out the basics that need to be complied with:

12.(1) Subject to the provisions of this Part a charging authority may determine the format and content of a charging schedule.

(2) A draft charging schedule submitted for examination in accordance with section 212 of PA 2008 must contain—

- (a) the name of the charging authority;*
- (b) the rates (set at pounds per square metre) at which CIL is to be chargeable in the authority's area;*
- (c) where a charging authority sets differential rates in accordance*

with regulation 13(1)(a), a map which—

- (i) identifies the location and boundaries of the zones,*
 - (ii) is reproduced from, or based on, an Ordnance Survey map,*
 - (iii) shows National Grid lines and reference numbers, and*
 - (iv) includes an explanation of any symbol or notation which it uses;*
- and*

d) an explanation of how the chargeable amount will be calculated.

(3) A charging schedule approved by a charging authority must, in addition to the contents mentioned in paragraph (2), contain—

- (a) the date on which the charging schedule was approved;*
- (b) the date on which the charging schedule takes effect; and*
- (c) a statement that it has been issued, approved and published in accordance with these Regulations and Part 11 of PA 2008.*

(4) In paragraph (2)(c)(ii) “Ordnance Survey map” means a map produced by Ordnance Survey or a map on a similar base at a registered scale.

6. The Council’s [Statement of Community Involvement](#) (SCI, 2021) says that at the evidence base stage, the Council may make use of workshops with parish and town councils and the Developers’ Forum if it is considered there are clear benefits to do so. The Planning Practice Guidance on CIL (<https://www.gov.uk/guidance/community-infrastructure-levy>) advises that the CIL evidence base should be developed in collaboration with neighbouring/overlapping authorities and other stakeholders.

Comment and discussion

7. Working with the Council’s CIL viability consultants, Aspinall Verdi, the Council prepared a consultation document covering many of the CIL viability basic assumptions and allowances proposed to be applied (see <https://eastsuffolk.inconsult.uk/CILCS21/consultationHome>). Elements included: proposed developers’ profit margins (20% on market housing and 6% on affordable housing); selling agents’ costs (1.5% of the gross development value of the development); and professional fee costs (for e.g. architects, highways consultants etc). The consultation document also contained details of the proposed residential ‘typologies’ (representative site-types).
8. The Council meets monthly with Suffolk County Council, to discuss infrastructure and CIL matters.
9. The consultation ran from 12th March to 26th April 2021. Various consultees were contacted specifically, including Suffolk County Council, neighbouring authorities, parish councils, developers and agents. The Council gave presentations at two East Suffolk Parish and Town Council Forums on 4th March and 25th March and also

discussed the consultation material at a special East Suffolk Developers' Forum meeting on 15th April (see the draft CIL Consultation Statement, for more details).

10. The consultation comments received have been assessed (see the Draft CIL Consultation Statement) and, where judged appropriate, some amendments made by Aspinall Verdi to the key assumptions and allowances in the now-completed CIL Viability Report. Some other changes have been made to key assumptions and allowances by Aspinall Verdi, due to more recent evidence and analysis.
11. The Draft CIL Charging Schedule proposes to have differential residential rates (which are allowable under Regulation 13; see below), so a map is included. It also includes the authority's name and the proposed CIL rates. Indicative dates for the approval of the Charging Schedule and when it will take effect are included, as the statement required under Reg 3(c), although they will obviously need to be confirmed at a later stage.

Differential rates

12. Regulation 13 specifies the various parameters by which differential rates can be charged:

13.(1) A charging authority may set differential rates—

- (a) for different zones in which development would be situated;*
- (b) by reference to different intended uses of development;*
- (c) by reference to the intended gross internal area of development;*
- (d) by reference to the intended number of dwellings or units to be constructed or provided under a planning permission.*

(2) In setting differential rates, a charging authority may set supplementary charges, nil rates, increased rates or reductions.

Comment and discussion

13. East Suffolk is the largest district in the country (in population terms) and land and property prices vary significantly. Values in the parts of Lowestoft (especially central Lowestoft) are low, and viability can sometimes be a barrier to development and re-development. However, some other areas of the district, such as Southwold, Aldeburgh and Woodbridge, have very high property prices.
14. Given the different characteristics of different development types, the Aspinall Verdi CIL Viability Report has undertaken a comprehensive review of viability for CIL (taking into account appropriate 'buffers') for:
 - i) residential development;

- ii) holiday accommodation;
- iii) specialist (retirement/care) accommodation;
- iv) retail uses; and
- v) office and industrial/commercial uses.
- vi) In addition, eight 'strategic' sites (generally the largest and/or most significant) allocated in the two Local Plans (the Waveney Local Plan (2019) and the Suffolk Coastal Local Plan (2020)) have been considered separately for residential CIL viability.

15. Given the differences in residential viability across the district identified in the Viability Assessment, five different residential zones have been concluded to be appropriate (excluding the 'strategic' sites), with varying CIL rates. Each strategic site has its own bespoke residential CIL rate (one is zero-rated), and the Brightwell Lakes/Adastral Park strategic site will also be zero-rated, as the outline planning permission was granted on a zero-rate basis in 2018 (as per the existing Suffolk Coastal CIL Charging Schedule), with the first reserved matters applications submitted in August 2021.
16. Only one type of holiday accommodation (holiday lodge development) is concluded to be viable for CIL, and this is only viable in part of the district (broadly, most of the coastal area, apart from Lowestoft, Felixstowe and the Sizewell/Leiston area).
17. Specialist residential accommodation (principally for elderly people) is concluded to be non-viable for CIL throughout the district, whether for care homes, extra-care accommodation or sheltered accommodation.
18. Convenience retail is concluded to be viable for CIL, but comparison retail is not viable.
19. Other forms of development – including office and industrial/commercial uses – are also concluded to be unviable for CIL.
20. The CIL PPG (Paragraph: 020 Reference ID: 25-020-20190901) advises that it is normally appropriate to allow for a buffer in setting CIL rates, so that development (generally) remains viable if there are changes in the economy (such as a slowdown in the housing market).
21. The CIL Viability Report has taken a generally conservative approach to some of the values and inputs, especially for residential uses. A report published by consultancy Lichfields in August 2021 ([fine-margins viability-assessments-in-planning-and-plan-making.pdf \(lichfields.uk\)](#)) reviewed 93 recent Local Plan and CIL viability reports and highlighted the typical range of values and approaches applied. Some specific examples of the conservative approach taken in the Aspinall Verdi CIL Viability

Report for standard residential uses are as follows, with cross-references to the Lichfields report (as relevant):

- i) Where different construction costs (BCIS) are published for Waveney and Suffolk Coastal (BCIS values for the single East Suffolk area are not yet published), the higher of the two values has generally been assumed (which is normally Suffolk Coastal);
- ii) The costs of “externals” (e.g. garages, internal roads, sewers, landscaping etc) are given as 15% (for ‘normal’ residential) or 20% (for strategic sites, to reflect the relatively greater costs that often apply for such sites); the Lichfields report gives a normal range of 10-20%;
- iii) For residential developments in the Suffolk Coastal area, contributions towards the Ipswich Strategic Policy Area Transport mitigation measures are required as part of the Suffolk Coastal Local Plan. An indicative cost of £943 per dwelling is allowed for (for CIL testing purposes) and this has been allowed for in standard residential testing. As this CIL viability testing has been done on a pan-authority basis (i.e. ignoring the former Suffolk Coastal/Waveney district boundary) this has the effect of providing extra ‘buffering’ in the former Waveney area (excluding strategic sites);
- iv) Affordable housing has been tested at 40% in the (residential) Higher Zone, even though only two parishes requiring 40% are in it (Reydon & Southwold, in the former Waveney area) – everywhere else (in the former Suffolk Coastal area) is 33%. This has the effect of increasing the effective “buffering” for residential viability in those parts of Suffolk Coastal within the Higher Zone;
- v) Some of the assumptions for the size of 4-bed+ dwellings are conservative, especially in the Mid Higher and Higher zone. No 5-bed dwellings are assumed in any of the dwellings mixes, even though in reality a small number will be likely on some sites, so this will likely underplay slightly the viability of such sites and typologies;
- vi) A 5% contingency rate is applied which, whilst the most common value reported in the Lichfields 2021 report, is still at the upper end of the typical range of 3-5%, and is generous for smaller greenfield sites in particular, which are unlikely to have too many ‘unknowns’ potentially adding to the cost; and
- vii) The value of self-build and custom-build serviced plots is treated the same as normal market dwellings, although they are unlikely to ever be worth less and there is some evidence that their values may actually be higher.

Setting rates

14.(1) 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 estimated 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.*

(2) In setting rates in a charging schedule, a charging authority may also have regard to actual and expected administrative expenses in connection with CIL to the extent that those expenses can be funded from CIL in accordance with regulation 61.

(3) In having regard to the potential effects of the imposition of CIL on the economic viability of development (in accordance with paragraph (1)(b)), a London borough Council or MDC must take into account the rates set by the Mayor.

(4) For the purposes of paragraph (3), the rates set by the Mayor are the rates in the most recent charging schedule approved by the Mayor before the London borough Council or MDC begins consultation on its Draft charging schedule in accordance with regulation 16.

(5) For the purposes of section 211(7A) of PA 2008, a charging authority's Draft infrastructure list is appropriate evidence to inform the preparation of their charging schedule.

Comment and discussion

22. The Council has prepared and published the first Infrastructure Funding Study (IFS) – for [2019/20](#) and the [2020/21 IFS](#) was agreed in principle by Cabinet in September 2020. They include details of the infrastructure identified to support the growth set out in the two Local Plans and ‘made’ (adopted) Neighbourhood Plans and (where known) what the costs of the pieces of infrastructure are.

23. The 2020/21 IFS highlights that the total (known) infrastructure costs are roughly £207m. Total non-CIL contributions (from S106 developer contributions, S278 highways developer contributions and other sources) are expected to be about £103m, leaving a funding ‘gap’ of about £104m (see Table 1 below).

Table 1: Estimated non-CIL infrastructure funding sources (all figures rounded)

Total estimated infrastructure costs	£207m
Total estimated S106 contributions	£93m
Non-developer contributions	£5m
S278 (highways) contributions	£5m
Total non-CIL contributions	£103m
Infrastructure funding gap (without CIL)	£104m

24. It is clearly impossible to predict CIL income to 2036 (the end date of the Local Plans) with any degree of accuracy, as there are many variables (the precise size of buildings, possible changes to CIL exemptions, windfall developments, when particular allocations will come forward, what the annual RICS CIL price index for future years will be etc etc). Based on the proposed CIL rates, however, a sum of (very) roughly £55m is projected to be raised from CIL (see Table 2 below), which would leave a 'gap' of about £49m.

Table 2: Estimated projected CIL income to 2036 (all figures rounded)

Residential total (excluding affordable housing)	£65m
Self-build (which is exempt)	-£7m
Rural affordable housing (on 'exception' or 'First Homes' sites)	-£3m
Convenience retail	£200,000
Total estimated CIL	£55m
Infrastructure funding gap including CIL (£104m-£55m)	£49m

25. The Council obviously has costs in managing the administration of the CIL process (such as sending out liability notices) and intends to use up to 5% of CIL income to cover administrative costs (in line with Regulation 61).

26. In setting the proposed CIL rates, appropriate buffers have been applied. The buffer rates, and the reasoning for these, are detailed in Chapter 10 of the (Aspinall Verdi) CIL Viability Report.

Publication of a Draft Charging Schedule

16.(1) *Before submitting a Draft charging schedule for examination in accordance with section 212 of PA 2008, the charging authority must—*

(a) make a copy of the Draft charging schedule, the relevant evidence and a statement of the representations procedure available for inspection—

(i) at its principal office, and

(ii) at such other places within its area as it considers appropriate;

(b) publish on its website—

(i) the Draft charging schedule,

(ii) the relevant evidence (to the extent that it is practicable to do so),

(iii) a statement of the representations procedure, and

(iv) a statement of the fact that the Draft charging schedule and relevant evidence are available for inspection and of the places at which they can

- be inspected;*
- (c) send to each of the consultation bodies—*
- (i) a copy of the Draft charging schedule, and*
 - (ii) a statement of the representations procedure;*
- (1A) The charging authority must invite representations on the Draft charging schedule from such of the following as the authority considers appropriate—*
- (a) persons who are resident or carrying on business in its area;*
 - (b) voluntary bodies some or all of whose activities benefit the charging authority's area; and*
 - (c) bodies which represent the interests of persons carrying on business in the charging authority's area.*

Comment and discussion

27. Whilst this stage has not yet been reached, the forthcoming consultation will address all these matters. The website and letters/emails to consultees will include all relevant information.

Representations relating to a Draft Charging Schedule

- 17.(1) Any person may make representations about a Draft charging schedule which a charging authority proposes to submit to the examiner.*
- (2) Any such representations must be—*
- (a) made within the period which the charging authority specifies for the purposes of this paragraph; and*
 - (b) sent to the address, and if the charging authority think it appropriate to specify a person, the person, which the charging authority specifies for the purposes of this paragraph.*
- (4) A person who has made representations about a Draft charging schedule may withdraw those representations at any time by giving notice in writing to the charging authority.*
- (5) The charging authority must take into account any representations made to it under this regulation before submitting a Draft charging schedule for examination in accordance with section 212 of PA 2008.*

Comment and discussion

28. The representations procedure will be set out clearly in the consultation material and on the Council's website.