



AGENDA ITEM: 10

SUMMARY

Report for:	Cabinet
Date of meeting:	29th April 2014
PART:	1
If Part II, reason:	

Title of report:	Community Infrastructure Levy (CIL) - Submission
Contact:	<p>Cllr Andrew Williams, Leader of the Council and Portfolio Holder for Planning and Regeneration</p> <p>Robert Freeman – Strategic Planning and Regeneration Officer (Infrastructure Planning) (ext 2663)</p> <p>James Doe – Assistant Director, Planning, Development and Regeneration (ext 2583)</p>
Purpose of report:	To seek authorisation to submit the CIL Charging Schedule and associated policies to the Planning Inspector for Examination.
Recommendations:	<p>That Cabinet recommends to Council:</p> <ol style="list-style-type: none"> 1. Approval of the response to the comments made on the Draft Charging Schedule (DCS) 2. Approval of the proposed modifications to the DCS and associated policy documents 3. Approval of the Statement of Compliance with the CIL Regulations and Guidance 4. The submission of the DCS, a Statement of Compliance with the CIL Regulations and associated policy documents on Discretionary Charitable Relief, Exceptional Circumstances Relief, Instalments and Payments in Kind (Land) and supporting evidence to the Planning Inspectorate for Examination together with any representations on our proposed modifications. 5. That authority is delegated to the Assistant Director for

	<p>Planning, Development and Regeneration to submit further evidence to the CIL examiner where necessary to support the DCS.</p>
<p>Corporate objectives:</p>	<p>Preparation and implementation of a CIL contributes to all of the corporate objectives.</p> <p><u>Affordable Housing</u> Affordable housing will be exempt from paying CIL, and the CIL revenues cannot currently be used for provision of Affordable Housing, which will continue to be provided via S106. Officers from the Strategic Housing service are involved in developing the CIL charging schedule, for which affordable housing requirements will be a key consideration. If CIL is set too high then developers may not be able to meet the affordable housing policy requirements.</p> <p><u>Safe and Clean Environment</u> The infrastructure provided through CIL monies is likely to include open space and urban realm improvements to support the development of the borough, both of which contribute to a safe and clean environment.</p> <p><u>Building Community Capacity</u> CIL revenues may be used to social enterprise and local community infrastructure which supports those in the most deprived areas.</p> <p><u>Regeneration</u> CIL will be used in combination with S106 to support the delivery of the key regeneration priorities for the Council.</p> <p><u>Dacorum Delivers</u> Developing the CIL represents Value for Money as it will become cost-neutral once it is up and running as explained below. It will lead to the delivery of infrastructure required to support new development so will improve the reputation of the Council.</p>
<p>Implications:</p>	<p><u>Financial</u> The Planning Inspectorate charges £993+VAT for each day the Examiner spends on the examination of the Charging Schedule plus the Examiners travel and subsistence costs in accordance with the PINS travel and subsistence policy. It is anticipated that the examination of the CIL Charging Schedule will take only one day.</p> <p>The Council will require the support of BNP Paribas Real Estate at the CIL examination. The costs associated with the preparation of evidence and attendance at the CIL examination by Anthony Lee, Senior Director, BNP Paribas Real Estate are</p>

	<p>£200 per hour (exclusive of VAT and expenses) and Sacha Winfield-Ferreira, Associate Director, BNP Paribas Real Estate are £175 per hour (exclusive of VAT and Expenses).</p> <p>The cost of developing and implementing CIL is being borne by the Local Development Framework (LDF) budget, and may be repaid from future CIL receipts. Once implemented, up to 5% of CIL receipts may be used for its administration. The project is therefore expected to be cost-neutral in the long term.</p> <p>Once CIL is in place the Council will be responsible for collecting and allocating significant sums of money.</p> <p><u>Value for money</u> Where possible, technical work that supports the CIL has been jointly commissioned with adjoining authorities to ensure value for money. Also, see above regarding the project ultimately being cost neutral.</p> <p><u>Legal</u> CIL should reduce the need for involvement of the Council's planning solicitor, as it will reduce the role of s106 agreements. The Council's legal department may need to become involved in cases where liable parties do not pay CIL.</p> <p><u>Human Resources</u> A member of the Strategic Planning and Regeneration team has taken over the role of leading CIL development and associated infrastructure planning work, for an initial two year period. This secondment has recently been extended until March 2015, in order to cover the period of examination and early implementation. Any additional staff needs will be considered as the project develops and affect the Development Management, Legal and Financial teams.</p> <p><u>Land</u> Once in place, CIL will be payable for any chargeable development on Council owned land. The opportunity also exists for the Council to accumulate land for the delivery of infrastructure in lieu of CIL payment in accordance with Regulation 73 of the CIL Regulations. A draft policy on Payments in Kind will be submitted as evidence.</p>
<p>Risk implications:</p>	<p>The Project Initiation Document (PID) was updated in February 2013 and sets out full details of the risks associated with the introduction of a CIL. They include insufficient buy-in from infrastructure providers and key stakeholders, changes in Government policy and team capacity.</p> <p>The risk of the Charging Schedule being rejected was considered to be unlikely, but such a rejection would have significant financial consequences for the funding of</p>

	<p>infrastructure by the Council and infrastructure providers. It is noted that a number of recent Charging Schedules have been amended at the direction of their CIL examiner.</p>
<p>Equalities implications:</p>	<p>An Equality Impact Assessment has been carried out for CIL in support of the PID. No significant issues have arisen, largely as any expenditure from CIL monies will need to be reflective of the need to develop infrastructure in the Borough, as set out in the Borough's Infrastructure Delivery Plan.</p>
<p>Health and safety implications:</p>	<p>None</p>
<p>Sustainability implications:</p>	<p>The CIL charging schedule is intended to enable the delivery of infrastructure required to support development planned through the Core Strategy; the Core Strategy has been subject to Sustainability Appraisal incorporating a Strategic Environment Assessment.</p>
<p>Monitoring Officer/S.151 Officer Comments</p>	<p>Deputy Monitoring Officer:</p> <p>A robust CIL charging schedule is essential if the Council is to continue to meet the infrastructure requirements arising from development in the Borough. The draft charging schedule (DCS) appears to be based on sound evidence relating to the infrastructure requirements for the Borough and it is therefore appropriate to submit the DCS for examination. Careful consideration has been given to the representations made to the DCS and the Council's response appears reasonable and proportionate. The independent Inspector will consider the representations made in due course and make his recommendations which will be considered further by Cabinet and Council before final adoption.</p> <p>The annexed Compliance Statement demonstrates how the Council has complied with the procedural requirements of the Planning Act 2008, accompanying regulations and guidance, and this appears satisfactory.</p> <p>The policies on discretionary relief, exceptional circumstances relief, instalments, payment in kind and the proposed viability 'buffer' will be important to ensure that the viability of development schemes and consequently housing delivery are not adversely affected by CIL.</p> <p>Furthermore, robust governance procedures will need to be agreed to ensure that funds can be allocated to appropriate infrastructure in a timely and efficient manner. Progress on the governance framework has been made as reported to Cabinet in March and further work will be done to finalise these procedures to make sure they are appropriate before final</p>

	<p>approval by Cabinet in the autumn.</p> <p>Deputy S.151 Officer:</p> <p>No further comments to add.</p>
Consultees:	<ul style="list-style-type: none"> • CIL Task and Finish Group • CIL Officer Working Group • Officers at Hertfordshire County Council • Key landowners of strategic housing sites and Local Allocations. • Statutory Consultees under the CIL Regulations
Background papers:	<ul style="list-style-type: none"> • Cabinet Report – 23rd July 2013 • Cabinet Report – 26th November 2013 • CIL Guidance Notes 2014 (Department for Communities and Local Government) • CIL Regulations 2010 (amended 2011, 2012 and 2013 and 2014) • Community Infrastructure Levy Viability Study (BNP Paribas Real Estate) (December 2012) • Community Infrastructure Levy Viability Study Update (BNP Paribas Real Estate) (June 2013) • Community Infrastructure Levy Viability Study – Strategic Sites (BNP Paribas Real Estate) (November 2013) • Core Strategy 2006-2031 • Dacorum Infrastructure Delivery Plan (June 2012) • Dacorum Infrastructure Delivery Plan Update (January 2014) • Finance and Resources OSC – November 2013 • Infrastructure Funding Gap Assessment (December 2012) • Infrastructure Funding Gap Assessment Update (January 2014) • Preliminary Draft Charging Schedule (December 2012) • Project Initiation Document <p>Key documents are available on the Council's CIL web pages.</p>
Glossary of acronyms and any other abbreviations used in this report:	<p>BCIS – Building Cost Information Service CIL – Community Infrastructure Levy DCLG – Department for Communities and Local Government DCS – Draft Charging Schedule ECR – Exceptional Circumstances Relief EPR – Early Partial Review GDV – Gross Development Value IFGA – Infrastructure Funding Gap Assessment InDP – Infrastructure Delivery Plan NPPF – National Planning Policy Framework</p>

	PDCS – Preliminary Draft Charging Schedule PID – Project Initiation Document PINS – Planning Inspectorate
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BACKGROUND

1.0 Introduction:

- 1.1 The Community Infrastructure Levy (CIL) is a new way of collecting financial contributions from new developments to help fund the provision of infrastructure required to support growth in the Borough. The Charging Schedule sets out the type and level of charges to be applied over the Council's geographical area and the associated Regulation 123 list sets out the Council's framework for delivering new items of infrastructure.
- 1.2 The current mechanism for raising funds from new developments to mitigate the impact upon infrastructure is through the use of planning obligations secured under Section 106 of the Town and Country Planning Act 1990 (as amended). These will continue to play a role in funding new infrastructure. However the way that they may be applied to new developments will significantly change. The Government has made it clear through the CIL Regulations and CIL Guidance that it expects the use of S.106 to be scaled back to those matters that are directly related to a specific site and those which are not identified in CIL spending plans. The Government introduced restrictions upon pooling of S.106 agreements at an early stage in the introduction of CIL and although the deadline for pooling restrictions has been extended the government remains committed to this objective.
- 1.3 Once agreed, the Charging Schedule will effectively supersede the current Planning Obligations Supplementary Planning Document given the pooling restrictions set out in the CIL Regulations. The Council's CIL Regulation 123 list explains how sums will be secured towards items of infrastructure items under both CIL and S.106.

2.0 The Draft Charging Schedule

- 2.1 The next stage towards the adoption of a CIL is to submit the Draft Charging Schedule (DCS) together with relevant evidence for an examination.
- 2.2 The DCS is required by the CIL Regulations to contain information on (a) the name of the charging authority, (b) the rates (in pounds per square metre) at which CIL is to be charged, (c) the location and boundaries of the zones for differential rates, on an Ordnance Survey base showing grid lines and references, and (d) an explanation of how the charge will be calculated. A copy of the DCS is included in Appendix 1 to this report. Cabinet are asked to recommend that Council approves the submission of the DCS for examination.
- 2.3 The DCS was subject to consultation between the 22nd January 2014 and the 12th March 2014. Some 20 representation forms/emails were received from a range of organisations and individuals.

- 2.4 A summary of the key issues raised in the responses is included in Appendix 2 of this report. The Council is required to submit both this summary and the full representations for examination under the CIL Regulations. It is not required at this stage to address the comments made within the representations although some initial feedback from the Council is included in our statement to assist the examiner in his/her consideration of those comments. A more detailed commentary on the key issues raised in the consultation is set out in Section 3 below.
- 2.5 The DCS would charge new development as set out in Table 1 below. Charges would not be applicable to affordable housing. The charges themselves remain unchanged from those sent for consultation, although Officers are proposing a modification (MOD1) to the associated maps within the DCS to reflect the mapping requirements within the CIL Regulations.

Table 1: CIL Charging Schedule rates as set out in the DCS.

Development Type	CIL rate (per sq.m)			
	Zone 1: Berkhamsted and surrounding area	Zone 2: Elsewhere	Zone 3: Hemel Hempstead and Markyate	Zone 4: Identified Sites
Residential	£250	£150	£100	£0
Retirement Housing	£125	£0		
Convenience based supermarkets and superstores and retail warehousing (net retailing space of over 280 square metres)	£150			
Other	£0			
Retirement housing is housing which is purpose built or converted for sale to elderly people with a package of estate management services and which consists of grouped, self-contained accommodation with communal facilities amounting to less than 10% of the gross floor area These premises often have emergency alarm systems and/or wardens. These properties would not however be subject to significant levels of residential care (C2) as would be expected in care homes or extra care premises.				

3.0 Representations

- 3.1 The representations received by the Council on its DCS are broadly supportive of the overall approach towards CIL with objections falling within three main areas

Housing Supply and Residential CIL Buffers

- 3.2 The concerns regarding residential charges within the CIL Charging Schedule are concentrated on the charges imposed for the town of Berkhamsted and its surroundings with both Savills (representing Grand Union Investments) and Vincent and Gorbing (representing Taylor Wimpey) amongst those providing adverse comments thereon. It is claimed that the charge is too high. The representations encourage the Council to adopt a higher buffer between its proposed charge and a maximum charge identified within the Viability Report. It is claimed that a higher buffer is required given the acute need to ensure the delivery of housing and as a result of the Council's failure to plan for its full objective housing need. This would be exacerbated by a disproportionately low allocation of housing within the town of Berkhamsted in the Council's Core Strategy.
- 3.3 Savills have indicated that they consider it inappropriate to proceed with setting a CIL given uncertainties over the totality of housing and infrastructure needs within the Borough and in view of their client's legal challenge to the soundness of the Core Strategy. The Council has, subject to a decision by the High Court, a sound Core Strategy upon which it has based its assessment of infrastructure needs. These infrastructure needs will need to be reconsidered following the proposed Early Partial Review (EPR) of the Core Strategy. The Dacorum Strategic Infrastructure Study (2011) considered the infrastructure needs arising from higher levels of growth than envisaged in the Core Strategy and provides greater information over potential infrastructure needs. It would be prudent to pursue the adoption of a CIL Charging Schedule in these circumstances (noting that a CIL Charging Schedule can be withdrawn under the Regulations should the need arise). Notwithstanding this objection in principle, Savills are of the view that given a shortfall in housing against the objective housing need for the Borough (as highlighted by the Inspectorate at paragraphs 24 and 25 of the Inspectors report on the Core Strategy) and against their projections for the town itself, it is crucial to adopt a lower CIL rate to ensure the delivery of housing.
- 3.4 Vincent and Gorbing have highlighted that the charges for Berkhamsted, Northchurch and the surrounding area (Zone 1) within the Draft Charging Schedule are significantly higher than other authorities and adjoining charging zones. The charge also represents a much higher percentage of the Gross Development Value (GDV) for developments in this zone than elsewhere within the Borough. This they argue is disproportionate and will stifle the delivery of housing and affordable housing on Strategic and Local Allocations in Berkhamsted thereby undermining the delivery of the Core Strategy. Their representation does not appear to acknowledge the site specific viability testing undertaken in relation to their client's (Taylor Wimpey) site at the Egerton Rothsay School site (SS1). This demonstrates that the CIL proposed does not undermine the delivery of this site. Furthermore, they do not acknowledge that CIL would not be charged on their current planning application (4/00262/14/MFA) for the development of part of this allocated site, were it to be successful. This site forms a significant element of the remaining housing expected to occur within the settlement within the plan period (25%). It is noted that they have not provided any evidence to substantiate their assertion that the rate as proposed would put the delivery of the Council's Core Strategy at risk.
- 3.5 These representations indicate that as a minimum, the CIL buffer within the Viability report should be increased. This is currently between 30% and 50%

depending on location and sub market area¹. Savills have suggested that the buffer is increased from 30% to 40%. In Berkhamsted, this would represent a fall of some £40 per square metre against the proposed CIL charges (approximately £3,040 per dwelling). The difference between these charges is considered negligible in viability terms. It is noted that Savills have not provided evidence to demonstrate why a rate with a 40% buffer is more appropriate than that proposed.

- 3.6 It is worth noting the recent experience of Hertsmere Borough Council, who undertook their CIL examination late last year. The Examiner's report into their CIL Charging Schedule concluded that:

"It is of some relevance to this CIL examination that the CS Examiner had concerns about housing numbers. Modifications were necessary to increase the CS housing requirement to a minimum sound level.... A commitment to undertake an early partial review of the CS (within 3 years) was also required.... The CIL implication of this context, in my view, is that there is no margin for error in viability terms in setting CIL rates" (Paragraph 9, CIL Examination Report – Hertsmere Borough Council)

- 3.7 Amendments were made to the CIL rate for Zone B within the Hertsmere Charging Schedule (Bushey, Radlett and Shenley) to reduce the risk to the delivery of development in this zone under the instructions of their CIL examiner. The margin of CIL buffer applied by the examiner in this case was around 20%, over double that initially proposed by Hertsmere Borough Council.

- 3.8 Although Savills have been critical of the supply of housing, it is noted that at paragraph 29 of the Inspectors report on Dacorum's Core Strategy that:

"...there would be a general over-supply of housing in the short-medium term, especially over the next three years (as identified in the up-dated Trajectory). This over-supply would broadly be the equivalent to meeting the annualised CLG projection figure of 538 dwellings."

- 3.9 The Council is implementing a significant new build housing programme and a significant level of new residential development will benefit from planning permission by the time CIL is introduced². This will boost the supply of new homes within the Borough over the short/medium term.

- 3.10 BNP Paribas Real Estate have applied a 30% CIL buffer to the residential charges for Berkhamsted as set out in paragraph 7.4 and table 7.7.1 of the Dacorum CIL Viability Report. The Council considers that allowing for a buffer of 30% has complied with the CIL Regulations which requires Charging Authorities to 'strike an appropriate balance' between raising money through CIL towards infrastructure and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area. This buffer is considered

¹ The CIL charge for Hemel Hempstead is some £100 per square metre. This represents a 0%-50% buffer against the three housing sub markets for the town. It is accepted that CIL is at the margins of viability for northern wards within the town. Limited growth is envisaged in these locations (excluding Spencer's Park).

² As of the 1st April 2013, there were extant planning permissions for some 1726 dwellings across the Borough. Since April 2013 planning permission has either been granted (or is expected to be granted) for a number of sites including Royal Mail (86) The Elms (41) and London Road (36) Hemel Hempstead, Egerton Rothsay School (92) High Street Berkhamsted (48) and Farm Place (26), Berkhamsted

appropriate in this context and allows for changes in economic circumstances over the life time of the Charging Schedule. Although it is still important to set a charge which is not at the margins of viability, Officers consider that its importance has been overstated in objections to the Charging Schedule.

- 3.9 The BNP Paribas report continues to measure the scale of the CIL contribution against the GDV of the site with the CIL charges for Berkhamsted amounting to a modest 4.5% of GDV under the tested scenario. This assumes the cost of CIL is an entirely additional burden upon development. We are advised, by BNP Paribas Real Estate, that a figure of 5% of GDV has been accepted at a number of CIL examinations as being a reasonable charge and one which is unlikely to be the determining factor as to whether or not a scheme comes forward. The true additional cost as a percentage of GDV is likely to be much lower than 4.5% as Section 106 is scaled back in most cases.

CIL Assumptions

- 3.10 Only 2 representations, those of Savills and W.M Morrisons Supermarket Plc, directly challenge the assumptions within the BNP Paribas Real Estate Viability report for Dacorum.
- 3.11 Savills question the consideration of affordable housing within the viability appraisals by suggesting that it is inappropriate for the Council to apply a lower profit margin to the affordable housing elements within a scheme. Savills suggest that profit should be considered at a flat rate of 20% regardless of tenure.
- 3.12 Savills also suggest that we should not be adjusting the Benchmark Land Values (BLV) against which proposals are judged in the viability report to account for a loss in Social Housing Grant claiming that developers were not reflecting the grant available in acquisitions at this time. They also claim that the scale of reduction on the BLV suggested by BNP Paribas is inconsistent with that suggested for Chelmsford City Council.
- 3.13 These views are not shared by BNP Paribas Real Estate. With regard to the application of profit on the affordable housing, a 6% profit has been adopted in order to reflect the reduced risk associated with developing affordable housing. Any risk associated with take up of intermediate housing is borne by the acquiring Registered Provider (RP), not by the developer. A reduced profit level on the affordable housing reflects market practice and in BNP Paribas Real Estate's experience has been extensively accepted on CIL Viability, Local Plan Viability and site specific viability testing. Further, this approach is adopted in the GLA 'Development Control Toolkit' guidance and Homes and Communities Agency's guidelines in its Economic Appraisal Tool.
- 3.14 With respect to BLV, in BNP Paribas Real Estate's experience the BLV would have been inflated by developers factoring grant payments into their land transactions at this time and would reflect the development industry taking proportionate risk on reducing the planning requirements for such sites. It is noted viability testing was undertaken internally at Chelmsford City Council and that the 20% reduction in BLV associated with planning risk was their assumption not that of BNP Paribas Real Estate.

- 3.15 W.M Morrisons Supermarket Plc contend that build costs, rents for supermarkets, developers profits and professional fee assumptions should all be reconsidered by BNP Paribas Real Estate within their viability appraisals.
- 3.16 An additional note on Retail Viability is to be provided by BNP Paribas to address these concerns in detail and will be submitted as supporting evidence to the Examination. We are advised that BNP Paribas have re-run viability appraisals for retail development to take account of this representation. No changes to the retail rates are proposed as a result of these tests.

The Content of the Council's Regulation 123 list

- 3.17 Following publication of changes to the CIL Regulations and the publication of DCLG Guidance, the Council's draft spending plan for CIL (Regulation 123 list) is now identified as part of the evidence which should be submitted to support the Examination into the CIL Charging Schedule. It therefore forms part of the CIL Examination.
- 3.18 The Council has been criticised in a number of responses for providing a Draft Regulation 123 list which is considered too generic in nature.
- 3.19 Officers are however confident that the Draft Regulation 123 list clearly identifies where the Council would use CIL and where it will use S.106 to secure infrastructure improvements and is sufficiently clear on such matters to be considered appropriate in the context of the CIL examination. The Regulation 123 list is clearly distilled from our evidence on infrastructure needs as set out in the Infrastructure Delivery Plan Update (InDP Update) and based upon those items included in the Infrastructure Funding Gap Assessment (IFGA).
- 3.20 The Council has considered the infrastructure requirements of Strategic Site, Local Allocations and those requirements for new infrastructure identified within the Core Strategy and made clear judgements over the approach to securing such infrastructure works as evidenced in the Site Specific Viability Study of BNP Paribas Real Estate and the Regulation 123 list. These infrastructure proposals are clearly cross referenced to the Core Strategy within these documents, thereby providing clarity over the use of CIL and S.106.
- 3.21 Some small modifications are proposed to the Regulation 123 list to clarify the approach to securing some items of infrastructure. These are set out in Appendix 3
- 3.22 The Council has collaborated with the County Council over the preparation and amendment of the Regulation 123 list and will continue to do so as the CIL project is implemented. The Borough Council has set out through its initial proposals on CIL Governance (see Cabinet report of the 25th March 2014) that there is a role for the County Council on determining CIL spending priorities and that the County should be an integral part of the Infrastructure Advisory Group, whose remit should include setting and reviewing these priorities.

4.0 Modifications to the Charging Schedule

- 4.1 The CIL Regulations allow the Council to publish a list of proposed modifications to its Charging Schedule. Officers need to add some additional information to the base maps within the Charging Schedule to fully comply with the CIL Regulations (MOD1) as mentioned above. We are also proposing to make minor amendments to the Regulation 123 list, which is required to form a core element of our infrastructure evidence for the examination and also its Draft Exceptional Circumstances Relief policy (which is not subject to examination) to address comments that were made during consultation on the DCS. It is proposed to publish a single list of Modifications under the Regulations as set out in Appendix 3 to this report.
- 4.2 Cabinet are asked to consider the list of Modifications and recommend that Council approves these for consultation and submission. Notification of the proposed modifications will be given to those invited to make comment on the DCS and a four week period will be given to comment. This consultation will run concurrently to the submission of the CIL Charging Schedule and evidence, with any response being forwarded to the Examiner by a CIL Programme Officer.
- 4.3 The proposed modifications are required to clarify the Councils approach to CIL and do not change the Council's approach towards the application of CIL as set out in previous reports.

5.0 The Examination

- 5.1 The Council is required to submit the DCS for an examination by a suitably qualified and independent organisation. The examination will test whether the Council has set a CIL charge which reflects an appropriate balance between the need to fund infrastructure and the economic viability of new development in accordance with the CIL Regulations
- 5.2 The majority of Councils have submitted their CIL Charging Schedule to the Planning Inspectorate (PINS) for examination and it is recommended that the Council appoints PINS to undertake its CIL examination rather than a third party.
- 5.3 The Council will also need to appoint a Programme Officer to be in post at the date of submission of the Draft Charging Schedule whom must have no connection with the preparation of the submitted Draft Charging Schedule.
- 5.4 The Council has a substantial evidence base to submit both electronically and as a hard copy to the examiner as set out in Appendix 4 to this report. The examination library will be published as a separate section on the CIL page of the Council's website.
- 5.5 The evidence briefly comprises the following:
 - (a) Background Evidence
 - 5.5.1 The Council will need to supply background information over the levels of growth expected in the Borough and more detailed information over the breakdown of housing across its geographical area in order that the examiner can draw firm conclusions over how the charges affect the delivery of housing and growth as set out within the Core Strategy. The Core Strategy itself will clearly form part of

this background evidence, but it will also be useful to supply details relating to the contributions that those scenarios or sites tested within the viability evidence make towards the overall housing requirements within the Core Strategy.

(b) Evidence of Infrastructure Need

- 5.5.2 The Council's evidence on Infrastructure needs for the Borough comprises the Dacorum Strategic Infrastructure Study (2009) and the Council's Infrastructure Delivery Plan (InDP) Update (January 2014). Specific reference would be made to the Infrastructure Delivery Schedule (IDS) within the InDP Update which provides a list of infrastructure projects needed to deliver growth and the Core Strategy. The projects within the IDS were used to form the basis of the Infrastructure Funding Gap Assessment (IFGA) and its subsequent update (both of which will be referred to in evidence)
- 5.5.3 The work on infrastructure needs is underpinned by work undertaken on infrastructure at a County level and incorporated in the Hertfordshire Infrastructure and Investment Strategy together with a number of technical reports on infrastructure issues supporting the Core Strategy.

(c) Viability Studies

- 5.5.4 The Council's CIL rates are set on the basis of viability. The Council employed BNP Paribas Real Estate to produce viability evidence to support its CIL. The Council's viability evidence is contained in the Viability Report (July 2013) and a Site Specific Viability Study (October 2013) It is intended to supplement the evidence by an additional statement by BNP Paribas Real Estate on retail viability tests early next month. The Council should also quantify the impact of CIL on recognised typologies of development contained within the Core Strategy and should produce a statement of fact on such matters based upon information contained within its note on the housing trajectory submitted in relation to the Core Strategy examination.

(d) Income and Funding Evidence

- 5.5.5 Officers have continually revised income projections over the course of the CIL project to reflect changing assumptions over the delivery of sites, funding of infrastructure items and in an attempt to interpret the impact of changing CIL legislation on infrastructure funding. It is intended to submit two new documents; CIL – Bridging the Infrastructure Funding Gap (April 2014) and CIL – Historic S.106 Data (April 2014) to provide background information and help explain our approach to CIL and infrastructure delivery.

(e) Implementation Evidence

- 5.5.6 The Council will submit a range of documents which aim to set out how it intends to implement CIL and how CIL will be used to support the delivery of infrastructure. The Council's Draft Regulation 123 list sets out our initial plans for spending CIL. Policies on CIL relief (Discretionary Charitable Relief/Exceptional Circumstances Relief) and those on payment options (Instalments/Payment in Kind (Land)) are also available and will be used at Examination to support the

Councils view that appropriate measures have been taken to ensure that the CIL rates will not threaten delivery of the Core Strategy (as required under the NPPF)

- 5.6 The Council must also submit a Statement of Compliance with the CIL Regulations and Guidance. This is incorporated at Appendix 5 of this report. Members are requested to recommend the approval of this statement.
- 5.7 The submission of the Charging Schedule, the Statement of Compliance with the CIL Regulations and Guidance and associated documents and policies requires the approval of Council as set out in Section 212 of the Planning Act 2008. It is hoped that, subject to the approval of the Chief Executive and Mayor that such matters will be considered at Annual Council on the 28th May 2014. This should enable the Council to submit CIL for examination around the 4th June 2014, thereby enabling the Council to continue to meet the challenging timetable for the introduction of CIL as set out in previous reports and the CIL PID. A failure to consider the submission of CIL at the May Council meeting would delay its submission and would have a knock on effect for the remainder of the timetable. The Council would need to delay the date of implementation of CIL as recorded in the DCS and make an associated modification to the Charging Schedule

6.0 Recommendations

- 6.1 Cabinet are asked to consider the content of the DCS in Appendix 1 and recommend that Council approves its submission to PINS for examination.
- 6.2 Cabinet are asked to consider the representations on the DCS and our commentary on the representations at Section 3. Cabinet are asked to recommend that Council submits these representations together with our summary of representations and comments thereon to PINS for examination as set out in Appendix 2.
- 6.3 Cabinet are asked to consider the proposed modifications to the DCS contained in Appendix 3 and recommend that Council approves these modifications for consultation and submission to PINS together with any subsequent representations thereon.
- 6.4 Cabinet are asked to consider the proposed evidence base at paragraph 5.5 and Appendix 4 and delegate authority to the Assistant Director for Planning, Development and Regeneration to prepare and submit any relevant evidence considered necessary to support the CIL Charging Schedule in its examination.
- 6.5 Cabinet are asked to recommend the approval of the Statement of Compliance with the CIL Regulations and Guidance at Appendix 5 of this report.

APPENDIX 1 – DRAFT CHARGING SCHEDULE WITH MODIFIED MAPS



Community Infrastructure Levy Draft Charging Schedule

January 2014

Community Infrastructure Levy - Draft Charging Schedule

The Charging Authority

The Charging Authority is Dacorum Borough Council

Date of Approval

This Charging Schedule was approved by the Council on (date to be inserted following examination and Council approval)

Date of Effect

This Charging Schedule will come into effect on the 1st January 2015

CIL Rates

The rate at which CIL is charged shall be:

Development Type	CIL rate (per square metre)			
	Zone 1: Berkhamsted and surrounding area	Zone 2: Elsewhere	Zone 3: Hemel Hempstead and Markyate	Zone 4: Identified Sites
Residential	£250	£150	£100	£0
Retirement Housing	£125	£0		
Convenience based supermarkets and superstores and retail warehousing (net retailing space of over 280 square metres)	£150			
Other	£0			
Retirement housing is housing which is purpose built or converted for sale to elderly people with a package of estate management services and which consists of grouped, self-contained accommodation with communal facilities amounting to less than 10% of the gross floor area. These premises often have emergency alarm systems and/or wardens. These properties would not however be subject to significant levels of residential care (C2) as would be expected in care homes or extra care premises.				

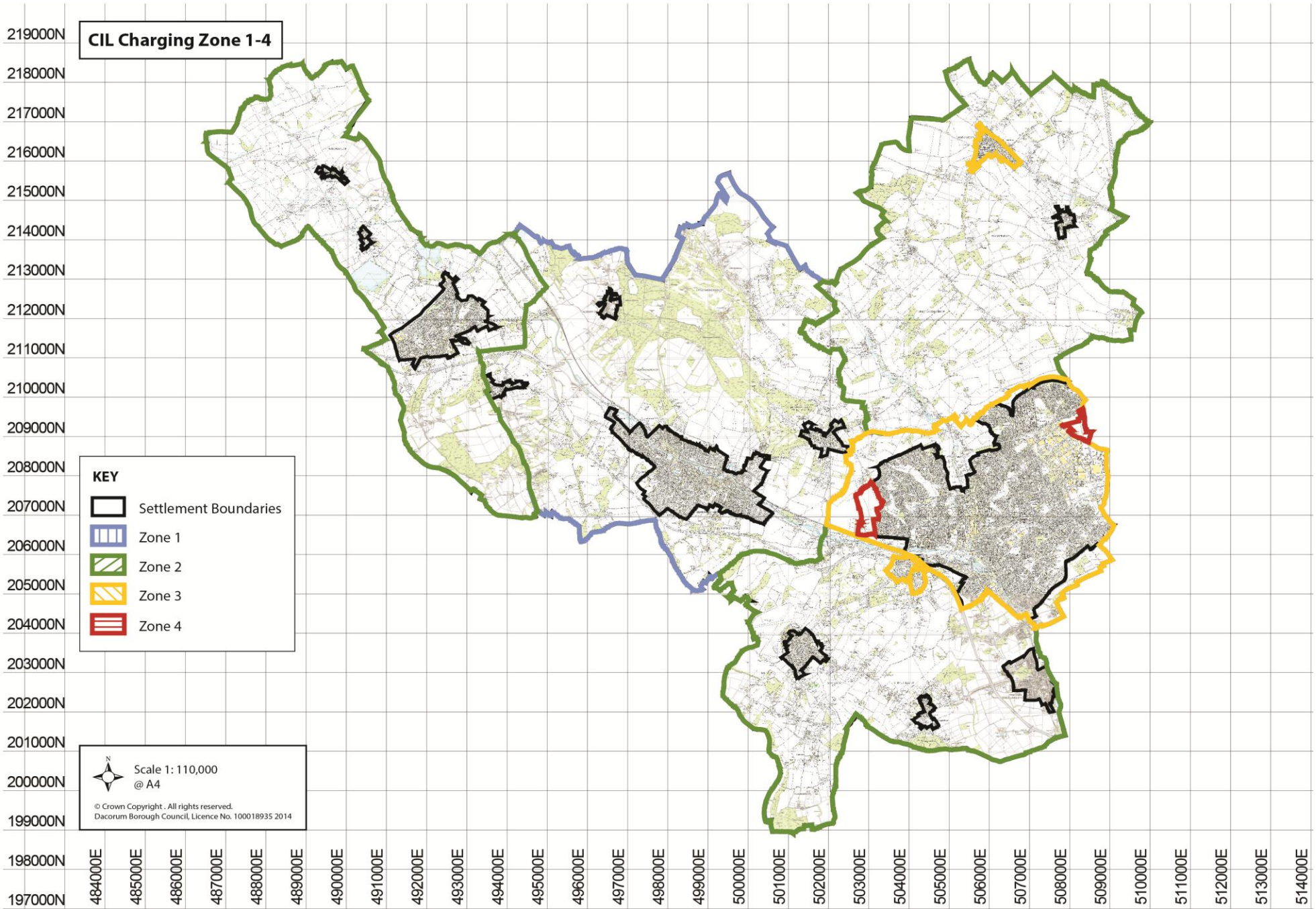
The Charging Areas

The Charging Areas are set out in the Community Infrastructure Levy Charging Area Map in Annex 1 of this schedule

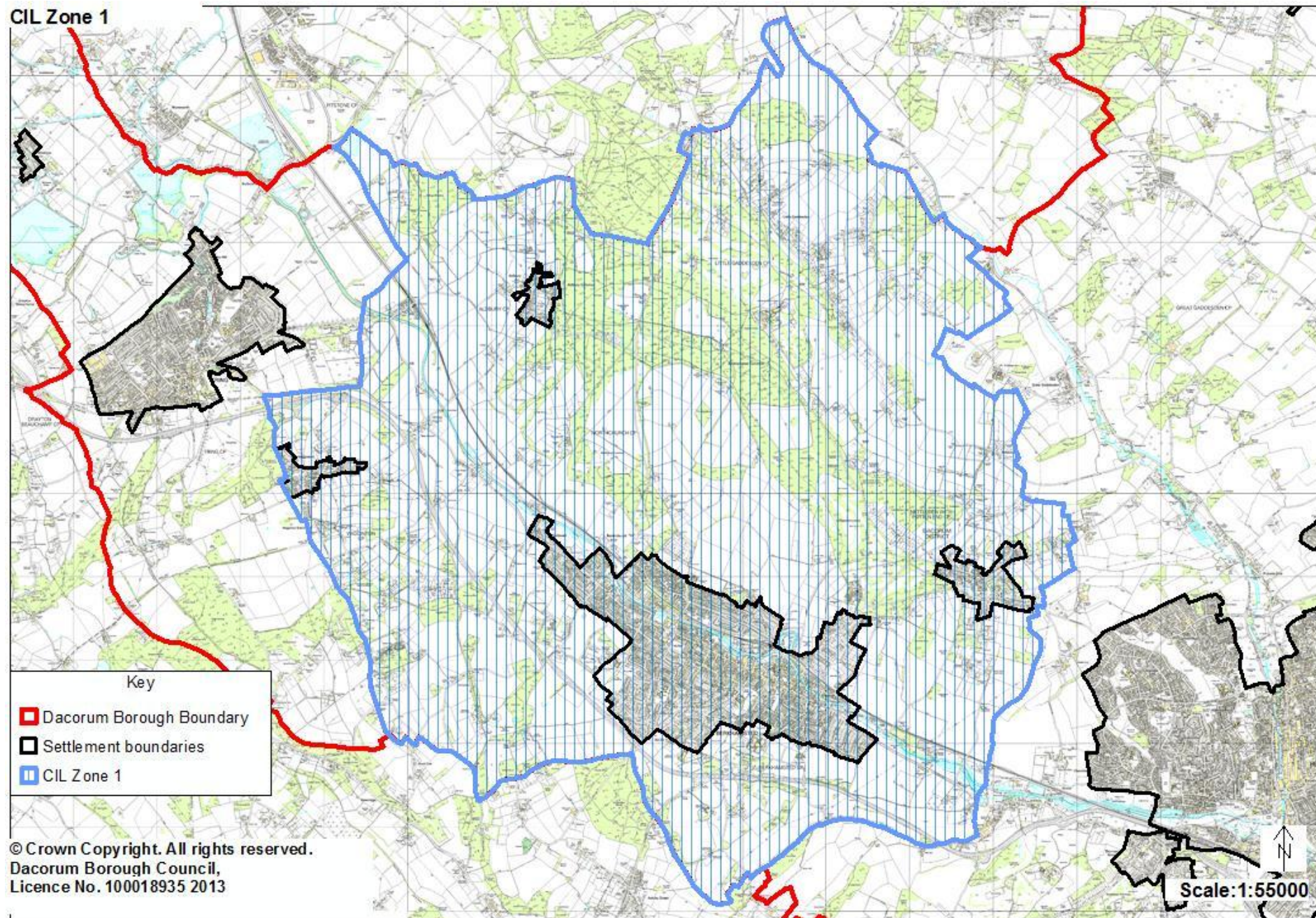
Calculating the Chargeable Amount

The Council will calculate the amount of CIL payable ("chargeable amount") in respect of a chargeable development in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended). This calculation is set out in Annex 2 of this Schedule.

ANNEX 1 – MAPS

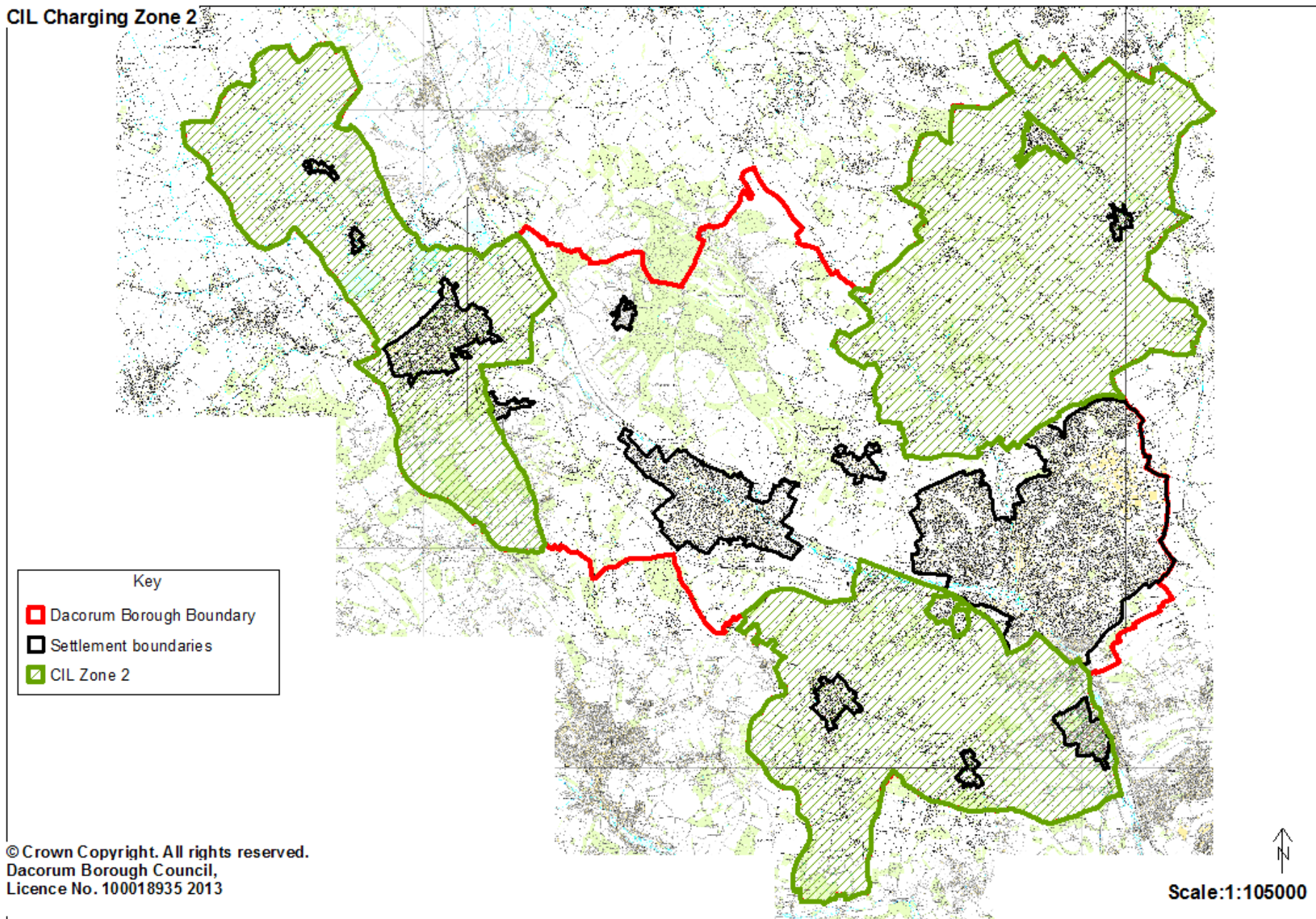


Zone 1: Berkhamsted and surrounding area



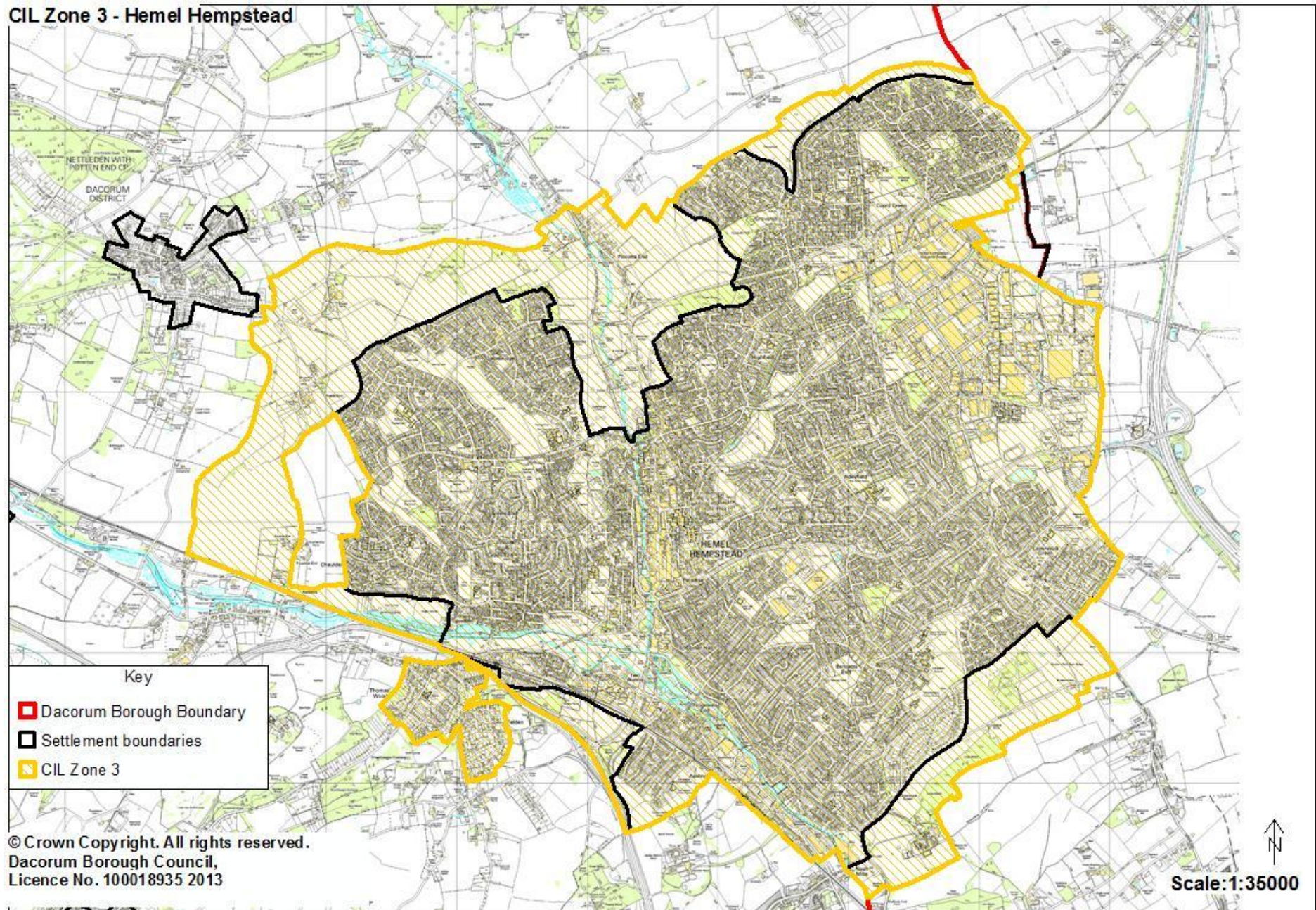
Zone 2 - Elsewhere

CIL Charging Zone 2



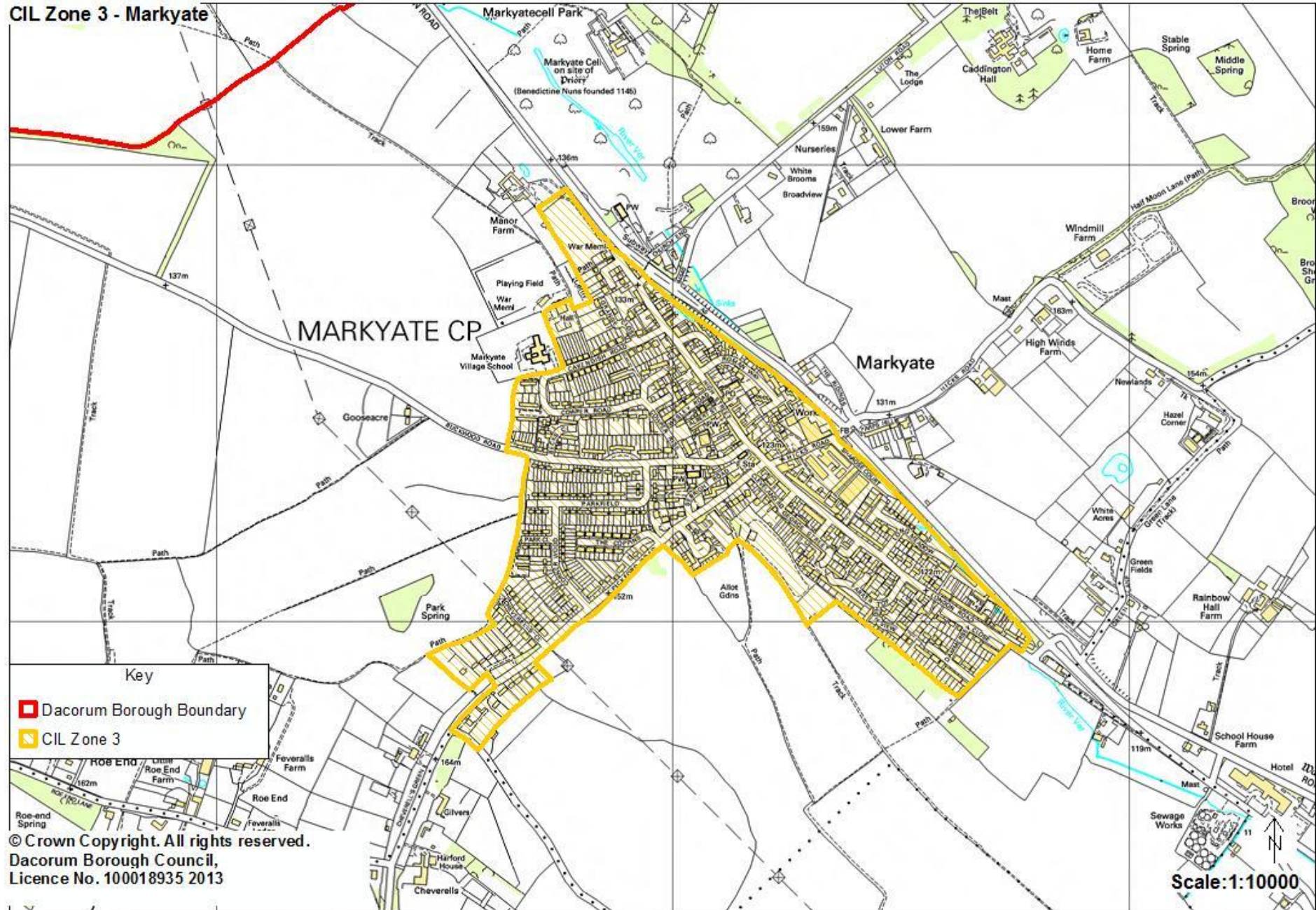
Zone 3: Hemel Hempstead

CIL Zone 3 - Hemel Hempstead



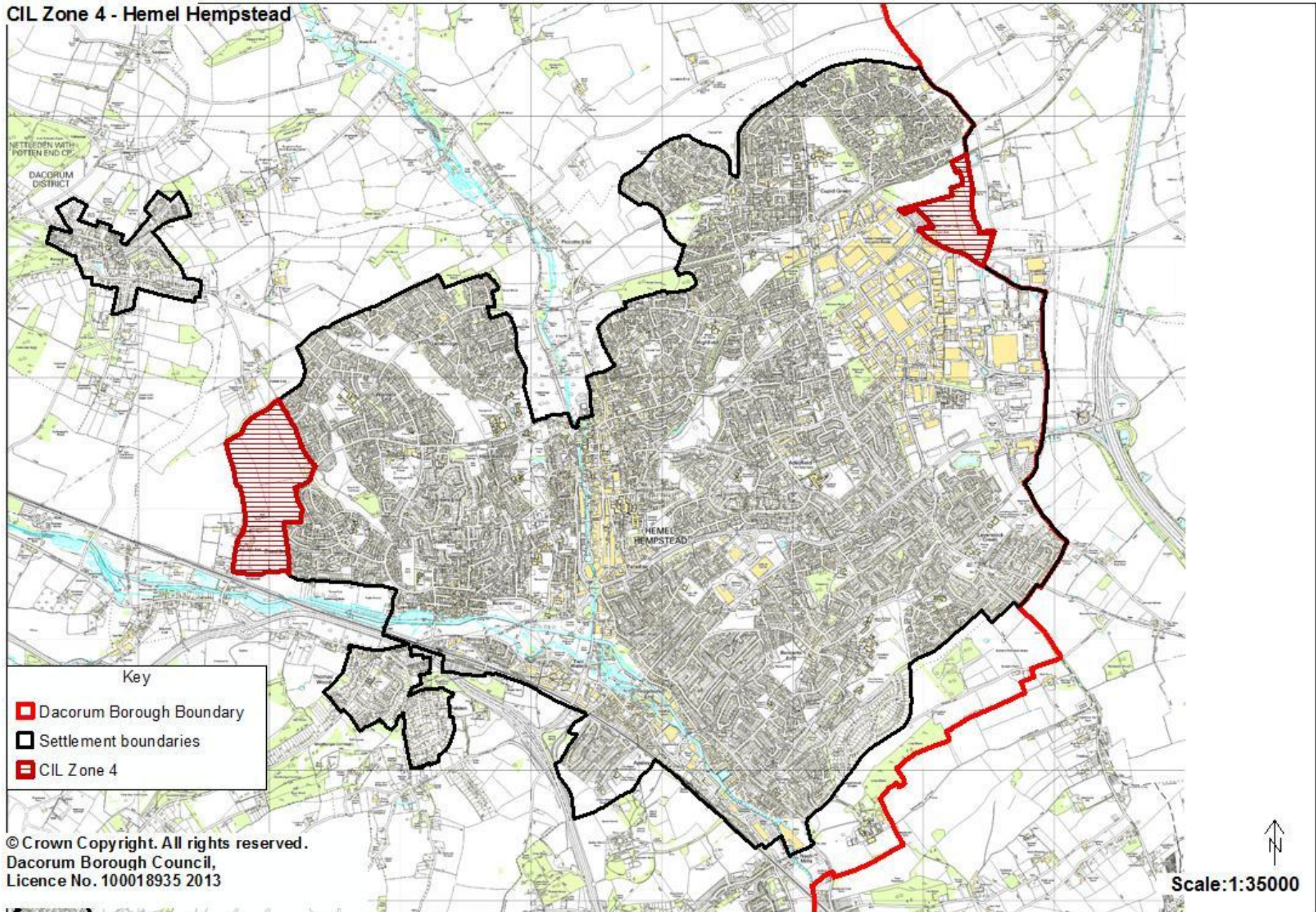
Zone 3: Markyate

CIL Zone 3 - Markyate



Zone 4: Identified Sites - Hemel Hempstead

CIL Zone 4 - Hemel Hempstead



ANNEX 2 – CIL CALCULATION

The CIL charge must be calculated in accordance with Regulation 40 of the Community Infrastructure Regulations 2010 (as amended). This states that:

- 40 - (1) The Collecting Authority must calculate the amount of CIL payable (“chargeable amount”) in respect of a chargeable development in accordance with this regulation.
- (2) The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.
- (3) But where that amount is less than £50 the chargeable amount is deemed to be zero.
- (4) The relevant rates are the rates at which CIL is chargeable in respect of the chargeable development taken from the charging schedule which are in effect –
- (a) at the time planning permission first permits the chargeable development; and
- (b) in the area in which the chargeable development will be situated.
- (5) The amount of CIL chargeable at a given rate (R) must be calculated by applying the following formula –

$$\frac{R \times A \times I_P}{I_C}$$

Where –

A = the deemed net area chargeable at rate R;

I_P = the index figure for the year in which planning permission was granted; and

I_C = the index figure for the year in which the charging schedule containing rate R took effect.

- (6) The value of A in paragraph (5) must be calculated by applying the following formula –

$$G_R - K_R - \left(\frac{G_R \times E}{G} \right)$$

Where

G = the gross internal area of the chargeable development;

G_R = the gross internal area of the part of the development chargeable at rate R;

E = an amount equal to the aggregate of the gross internal areas of all buildings which –

- (a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
- (b) are to be demolished before completion of the chargeable development; and

K_R = an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which –

- (a) on the day planning permission first permits chargeable development are situated on the relevant land and in lawful use;
- (b) will be part of the chargeable development upon completion; and
- (c) will be chargeable at rate R.

- (7) The index referred to in paragraph (5) is the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institute of Chartered Surveyors; and the figure for a given year is the figure for the 1st November of the preceding year.

- (8) But in the event that the All-in Tender Price Index ceases to be published, the index referred to in paragraph (5) is the retail price index; and the figure for a given year is the figure for November of the preceding year.

(9) Where the collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish –

- (a) the gross internal area of the building situated on the relevant land; or
- (b) whether a building situated on the relevant land is in lawful use,

the collecting authority may deem the gross internal area of the building to be zero.

(10) For the purpose of this regulation a building is in use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development.

(11) In this regulation “building” does not include –

- (a) a building into which people do not normally go;
- (b) a building into which people go only intermittently for the purposes of maintaining or inspecting machinery; or
- (c) a building for which planning permission was granted for a limited period

(12) In this regulation “new build” means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings.

**APPENDIX 2 - SUMMARY OF REPRESENTATIONS ON THE DRAFT CHARGING
SCHEDULE**



Community Infrastructure Levy Draft Charging Schedule

Regulation 19(1) Statement

April 2014

1.0 Introduction

- 1.1 In accordance with Regulation 19(1) of the Community Infrastructure Levy Regulations 2010 (as amended), this statement sets out information regarding the representations received in relation to the Council's Community Infrastructure Levy (CIL) Draft Charging Schedule.
- 1.2 Dacorum Borough Council invited representations on its CIL Draft Charging Schedule for a six week period from 22nd January 2014 to 12th March 2014
- 1.3 In accordance with the CIL Regulations this statement sets out:
 - The number of representations
 - Summaries of the main issues raised within the representations
 - Statement regarding proposed minor amendments

2.0 Statement of Representations

- 2.1 In accordance with Regulation 19 (1) (b), this statement confirms that representations were made to Dacorum Borough Council in respect of the CIL Draft Charging Schedule. 20 representations were made in accordance with Regulation 17 of the Community Infrastructure Levy Regulations 2010 (as amended)
- 2.2 2 responses indicated a wish to be heard at the Examination. These were response number 5 from Markyate Parish Council and number 12 on behalf of National Grid. A number of other responses wished to reserve a right to appear at the examination.
- 2.3 Full details are provided at Appendix A.

3.0 Summary of Main Issues

- 3.1 A summary of the main issues by respondent is available at Appendix B.

4.0 Proposed Minor Amendments

- 4.1 The Council has not made any modifications to the CIL rates or charging zones contained within the Draft Charging Schedule after it was published in accordance with Regulation 16 of the CIL Regulations 2010 (as amended)
- 4.2 The Council has made a minor amendment to its Exceptional Circumstances Policy as it had omitted an "or" from a series of criteria upon which applicants for Exceptional Circumstances may be judged. The Council's Exceptional Circumstances Policy is not subject to examination.

Appendix A

Details of respondents in relation to CIL Draft Charging Schedule Consultation

Response	Respondent	Organisation	Representing	Date of Response	Request to be heard at Examination	Reserves right to be heard at examination	Request to be kept informed of progress
1	Matthew Wilson	Hertsmere Borough Council		23/01/2014			x
2	Jill Stephenson	Network Rail		27/01/2014			
3	Gary Cox	Berkhamsted Town Council		28/01/2014			
4	Roy Warren	Sport England		13/02/2014			x
5	Jennifer Bissmire	Markyate Parish Council		18/02/2014	x		x
6	David Broadley	Aylesbury Vale District Council		19/02/2014			x
7	Helen Harding	Chiltern District Council		26/02/2014			
8	Claire Crouchley	Wigginton Parish Council		26/02/2014			
9	Martin Friend	Vincent and Goring	Taylor Wimpey	03/03/2014		x	
10	Loraine Kelly	Peacock and Smith	W.M Morrison Supermarkets Plc	05/03/2014		x	x
11	Jenny Volp	Highways Agency		06/03/2014			
12	Mark Wilson	Vincent and Goring	National Grid	10/03/2014	x		x
13	Mark Sommerville	Savills	Grand Union Investments	12/03/2014		x	x
14	Tom Gilbert-Wooldridge	English Heritage		12/03/2014			x
15	Sue Fogden/ David James	NHS England		12/03/2014			x
16	Jamie Melvin	Natural England		12/03/2014			
17	Neil	West Herts Hospital		12/03/2014			

	Richardson	Trust					
18	Catriona Ramsay	Watford Borough Council		13/03/2014			x
19	James Dale/ Alexandra Stevens	Hertfordshire County Council		14/03/2014		x	x
20	Adrian Cole	Adrian Cole & Partners					x

Appendix B

Summary of representations received on the Draft Charging Schedule during the consultation between the 22nd January 2014 and 12th March 2014.

Representation Number	Respondent	Summary of Representation	Summary Response of Dacorum Borough Council
1	Matthew Wilson (Hertsmere Borough Council)	<ul style="list-style-type: none"> • Raises no objections to the proposed CIL rates • Considers the Charging Schedule has been prepared in accordance with Regulations and Guidance 	N/a
2	Jill Stephenson (Network Rail)	<ul style="list-style-type: none"> • Network Rail believes that there should be a clear definition of buildings in the DCS and that developments on railway infrastructure should be exempt from CIL • Railway infrastructure should be included on the Regulation 123 list • We believe that under current proposals Network Rails operational buildings would have a nil rate and a nil rate should be retained for operational public transport buildings/infrastructure 	The Councils Regulation 123 list indicates that CIL may be used to fund strategic and local transport projects. These could include improvements to railway infrastructure within the Borough. The Charging Schedule does not include a charge for operational buildings
3	Gary Cox (Berkhamsted Town Council)	<ul style="list-style-type: none"> • Supports the proposed CIL rates for Berkhamsted 	N/a
4	Roy Warren (Sport England)	<ul style="list-style-type: none"> • The Regulation 123 list is not appropriate • The inclusion of Indoor Sport and Leisure facilities on the Regulation 123 list is welcomed in principle • The Council has not concluded its study of Outdoor sports facilities and once it is complete its recommendations should be incorporated in the IDP and Regulation 123 list. • It is assumed that outdoor sports facilities are not included in the Regulation 123 list in view of this gap in evidence. 	The concerns of Sport England appear to relate to the exclusion of Outdoor Sport facilities. The Council is proposing to clarify its position and address this concern through MOD 2
5	Jennifer Bissmire (Markyate Parish)	<ul style="list-style-type: none"> • Expressed concern that Markyate rates were the same as Hemel Hempstead despite relative infrastructure needs. 	The Council considers that the proposed CIL rate for both Markyate and Hemel Hempstead reflects the

	Council)	<ul style="list-style-type: none"> The charges could invite development into Markyate 	economic viability of development within the settlements and the need to fund infrastructure in the Borough as a whole.
6	David Broadley (Aylesbury Vale District Council)	<ul style="list-style-type: none"> This Council is concerned that an unjustified high charge for residential development in Berkhamsted could restrict development in this town and lead to developers looking to build in neighbouring authorities where CIL charges are lower. Would welcome active, constructive and ongoing engagement on CIL as required under the 'Duty to Co-Operate' 	There has been no viability evidence from AVDC to demonstrate that the CIL rates are too high. The Council considers that its obligations under the 'Duty to Co-Operate' have been met and can provide evidence accordingly.
7	Helen Harding (Chiltern District Council)	<ul style="list-style-type: none"> No comments 	N/a
8	Claire Crouchley (Wigginton Parish Council)	<ul style="list-style-type: none"> The Charges seem excessive when applied to the building of a single new residential property. 	No evidence has been provided to support this position. Technical work demonstrates that the proposed charges will not affect the overall viability of development in the Borough
9	Martin Friend (Vincent and Gorbng)	<ul style="list-style-type: none"> We would support the introduction of a 'nil' charge for Zone 4 which would include our clients land at LA3 We consider the charges for Zone 1 (Berkhamsted, Northchurch and surrounding area) are too high and unjustly penalises development in Berkhamsted We rate for Berkhamsted is considered to undermine the delivery of affordable housing on strategic and local allocations in Berkhamsted The Regulation 123 list although clear enough as to the types of infrastructure that will be funded by CIL and those which are excluded is considered to be too generic. We do not object to the introduction of Discretionary Charitable Relief for CIL Although we support the implementation of an Exceptional Circumstances policy we would recommend that the S.106 requirements are amended to reflect the less onerous requirements of the CIL Regulations and Guidance 2014. We welcome the provision of an Instalments policy 	No detailed viability evidence has been provided to demonstrate that the proposed charges for Berkhamsted are too high or that it would significantly undermine the supply of homes within the Borough. Accordingly the Council refutes the assertion that the proposed rates would undermine the delivery of its Core Strategy. The Council considers its Regulation 123 list provides sufficient clarity over the use of CIL and S.106/S.278 agreements and other funding. This is underpinned by a detailed Infrastructure Delivery Schedule within the Infrastructure Delivery Plan and evidence of an Infrastructure Funding Gap with clear links between both documents and the Regulation 123 list. The Council notes the concerns with the Discretionary Exceptional Circumstances Relief policy. However such matters are not subject to examination and remain policy decisions for the Borough Council. The Council proposes MOD 5 to add clarity to this decision.

		<ul style="list-style-type: none"> There is a lack of evidence that the proposals would not undermine the delivery of the Core Strategy. 	
10	Loraine Kelly (Peacock and Smith)	<ul style="list-style-type: none"> The proposed retail rates place an unrealistic burden on large scale retail development and pose a threat to future retail development within the Borough. The EUV needs to be reconsidered as the most appropriate measure for calculating the surplus for CIL over the development land market value benchmarks. The Viability reports makes several over optimistic assumptions The build costs need to be reviewed. The rent for supermarket units is considered to be too high The level of developers profit should be increased The evidence and rationale behind appraisal inputs, such as rents and values is not transparent Professional fees should be increased from 10% to 12% No allowance has been made for planning fees and costs – these are considerable No allowance has been made for letting legal fees (normally 5% of first years rent) Sensitivity analysis needs to consider a combination of assumptions and the findings should be used to establish an appropriate CIL buffer. 	The Council's retail rates remain viable and appropriate as set out in the viability evidence of BNP Paribas. Additional retail modelling has been undertaken by BNP Paribas and will be produced as supplementary evidence to the CIL submission.
11	Jenny Volp (Highways Agency)	<ul style="list-style-type: none"> Does not wish to make comment 	N/a
12	Mark Wilson (Vincent and Goring)	<ul style="list-style-type: none"> National Grid does not consider that the Regulation 123 list is specific enough over the projects to be funded from CIL. National Grid does not object to the provision of a Discretionary Charitable Relief policy National Grid strongly supports an Exceptional Circumstances policy to avoid rendering site with specific and exceptional costs unviable, but suggests the terms of Exceptional Circumstances relief should be amended to reflect the CIL Regulations 2014 and associated guidance. National Grid supports the introduction of an Instalments policy 	The Council considers its Regulation 123 list provides sufficient clarity over the use of CIL and S.106/S.278 agreements and other funding. This is underpinned by a detailed Infrastructure Delivery Schedule within the Infrastructure Delivery Plan and evidence of an Infrastructure Funding Gap with clear links between them and the Regulation 123 list. The Council does not consider it appropriate to fund utilities infrastructure via its CIL.

		<ul style="list-style-type: none"> The Council's overall approach to CIL will not undermine the delivery of its Core Strategy. 	
13	Mark Sommerville (Savills)	<ul style="list-style-type: none"> It is considered that there has not been an appropriate assessment of the evidence behind the charging zones and rates. GUI has launched a legal challenge into the soundness of the Core Strategy. GUI do not consider it appropriate to carry out a CIL assessment when there is uncertainty over the level of housing growth and associated infrastructure needs. The provision of a higher viability buffer for Berkhamsted to ensure the delivery of homes within the town is essential given an under provision of housing within the settlement and such matters should be taken into account in setting the rates for the town. Any Exceptional Circumstances policy should not be restricted by guidelines at part (b) requiring the value of a S.106 to exceed the CIL charge It is requested that DBC insert a draft Social Housing Relief Policy in accordance with Regulation 49(A) of the CIL Regulations 2014. The draft Instalments policy is welcome, albeit we believe there to be scope for improvements. Although we welcome the policy on Payment in Kind we consider that this should be extended to allow a full relief from the payment of CIL. Whilst we broadly agree with the approach used in the viability modelling of BNP Paribas we have a number of concerns with their assumptions, including those on profit, benchmark land value and the viability buffer. It would be prudent to outline a review mechanism prior to the adoption of a CIL Charging Schedule. 	The Council has an adopted Core Strategy which clearly establishes the level of growth expected within the Borough. The Council has established its infrastructure needs on the basis of this adopted policy and believes this to be both logical and appropriate. The Council further believes that its approach to CIL as set out in its Regulation 123 list and CIL policies is robust and will enable the Council to respond to any additional housing and infrastructure needs arising from the Early Partial Review (EPR) of the Core Strategy. Furthermore it is recognised that it would be appropriate to review the DCS following the conclusion of the EPR. The Council considers its inputs into its viability modelling are appropriate and that its CIL rates strike an appropriate balance between the need to fund infrastructure and economic viability.
14	Tom Gilbert-Wooldridge (English Heritage)	<ul style="list-style-type: none"> The Council should be aware of the implications of any CIL rates on the viability and effective conservation of the historic environment and heritage assets in development proposals, particularly those "at risk". It is essential CIL rates being proposed in areas where there 	The Council is only able to set CIL charges on the basis of use, scale and geographical location and only on the basis of viability. It cannot be generically applied to heritage assets. It may be that the development of heritage assets brings about exceptional development

		<p>are groups of heritage assets should not discourage schemes that involve heritage assets.</p> <ul style="list-style-type: none"> • Consideration should be given to exempting the development of Heritage Assets from CIL. • We recommend that conditions and procedures for CIL relief are set out within separate statements following the Draft Charging Schedule as recommended by the CIL Relief Information Document (2011). This statement should reiterate the relevant information requirements and procedures to follow including any need for notification and consultation. • English Heritage advises that CIL Charging authorities identify ways in which CIL, planning obligations and other funding streams can be used to implement the strategy and policies of the Local Plan aimed at achieving the conservation and enhancement of the historic environment, heritage assets and their setting in accordance with paragraphs 6, 126 and 157 of the NPPF. • CIL may be used for maintenance and on-going infrastructure costs and this may be applicable to a range of heritage assets. 	<p>costs which could be considered under our draft Exceptional Circumstances Relief policy. The Council considers that its policy framework and spending plans for CIL offer the flexibility to facilitate the preservation and enhancement of the historic environment within its area as may be appropriate noting that the assets themselves may in some circumstances constitute infrastructure.</p>
15	Sue Fogden and David James (NHS England)	<ul style="list-style-type: none"> • The Council should be clear on its ability to secure appropriate S.106 contributions from land at west Hemel Hempstead and Spencer's Park so that health provision is not disadvantaged. • Social care homes have a significant impact on health care services and should not be disregarded particularly on account of the ageing population. 	<p>The Council has identified health care facilities in its broadest terms as a potential recipient of CIL funding and is supportive of health infrastructure including care infrastructure for elderly or vulnerable residents. The Council is confident that it can secure appropriate S.106 contributions towards health service provision from both land at west Hemel Hempstead (LA5) and Spencer's Park. The Council does not propose to charge CIL for Care homes as set out in the Charging Schedule.</p>
16	Jamie Melvin (Natural England)	<ul style="list-style-type: none"> • Natural England has no specific comments to make on the draft CIL Charges • The Council should plan positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure in accordance with the NPPF and CIL has an important role in delivering such a strategic approach. 	<p>The Council's Regulation 123 list and Infrastructure Delivery Plan sets out detailed proposals for the use of CIL and other funds on proposals to improve open space and green infrastructure within the Borough.</p>
17	Neil Richardson	<ul style="list-style-type: none"> • West Herts Hospital Trust supports the Council's proposals for 	N/a

	(West Herts Hospital Trust)	CIL and the inclusion of healthcare facilities on its Regulation 123 list	
18	Catriona Ramsay (Watford Borough Council)	<ul style="list-style-type: none"> The Council has no objection and considers the DCS has been prepared in accordance with the relevant CIL Regulations and Guidance 	N/a
19	James Dale and Alexandra Stevens (Hertfordshire County Council)	<ul style="list-style-type: none"> It appears that the proposed CIL rates are set on appropriate viability evidence HCC would request that additional clarification is made on the meaning of retirement homes and in particular this should exclude not for profit care homes. The Regulation 123 list places clear thresholds for the application of CIL and S.106 The strategy appears to ensure that CIL funds are directed at addressing the cumulative impact of modest development on infrastructure. This is considered appropriate HCC would welcome a discussion over how the N.E Hemel Hempstead Relief Road/Maylands Growth Corridor project is to be delivered in accordance with the Core Strategy HCC would request that the exemption for Early Years Education and Childcare facilities on the Regulation 123 list is amended to “where provide alongside new school buildings secured under S.106” HCC would request that further discussions are held regarding the delivery of a school on the hospital site and whether such a proposal can be delivered under S.106 Although HCC is happy with the provisions for secondary education to be secured under CIL they request that an exemption is made for secondary school needs arising out of significant strategic growth not currently identified in the Core Strategy. HCC would welcome confirmation that education provision is essential infrastructure for the purposes of the proposed Exceptional Circumstances Relief policy and would welcome a discussion over the percentage of CIL relief. The provision of a Payment in Kind policy is noted and welcome. 	The Borough Council would acknowledge the general support of the County Council for our approach to CIL and highlight both historic and on-going discussions with the County Council over the delivery of infrastructure within its area. The Council has a clear strategy on how to deliver large pieces of infrastructure including the N.E Hemel Hempstead Relief Road/Maylands Growth Corridor project and a town centre school through S.106 and other funding sources and is happy to have continued discussions on such matters with the County. The Council considers its Regulation 123 list sets out the most appropriate mechanisms for the delivery of infrastructure items, subject to MOD 3 (proposed by HCC), required to deliver the Core Strategy.

		<ul style="list-style-type: none"> • HCC welcomes your invitation to discuss suggested governance arrangements circulated outside this consultation. • HCC are happy to attend the CIL examination in support of the Borough Council if necessary. 	
20	Adrian Cole (Adrian Cole and Partners)	<ul style="list-style-type: none"> • Would welcome confirmation that the proposals accord with the CIL Regulations 2014 • Supports the proposed Residential rates • Supports the proposed Retirement Home rates. • Considers the content of the Regulation 123 list to be appropriate 	The Council considers that it has met its requirements under the CIL Regulations 2014. It should be noted that the Council would be subject to the transitional arrangements set out at Part 14 having published its DCS under Regulation 16 prior to the CIL Regulations 2014 coming into force.

APPENDIX 3 – STATEMENT OF PROPOSED MODIFICATIONS



Community Infrastructure Levy (CIL) Statement of Modifications

Regulation 19(1) (d) Statement

April 2014

1.0 Introduction

1.1 This Statement of Modifications sets out the modifications which have been made to the Council's Draft Charging Schedule (DCS) and associated policies since they were published for consultation between the 22nd January 2014 and the 12th March 2014. It has been made in accordance with Regulation 19 (1) (d)

2.0 Publication

2.1 As required under Regulation 19 of the Regulations, a copy of this Statement of Modifications has been sent to each of the persons that were invited to make representations on the Draft Charging Schedule under Regulation 15 and has been published on the Council's website.

2.2 The Statement of Modifications will also be made available at the following Civic Offices and deposit points during the hours outlined below:

Table 1 – Deposit Points and Opening times

	Berkhamsted	Hemel Hempstead	Tring
<i>Monday</i>	9am-12.30pm and 1.30pm-5pm	8.45 am - 5.15 pm	9am-12.30pm and 1.30pm-5pm
<i>Tuesday</i>	9.30am- 2pm	8.45 am - 5.15 pm	CLOSED
<i>Wednesday</i>	CLOSED	8.45 am - 5.15 pm	9.30pm-2pm
<i>Thursday</i>	9.30am-2pm	8.45 am - 5.15 pm	CLOSED
<i>Friday</i>	9.30am-2pm	8.45 am - 4.45 pm	9.30pm-2pm

3.0 Requests to be heard

3.1 Any person may request to be heard by the Examiner in relation to the modifications as set out in this Statement of Modifications. Requests to be heard must include details of the modifications on which you wish to be heard (by reference to the Statement of Modifications) together with whether you support or oppose the modification and the reason. The Council will submit a copy of each request it receives to the examiner.

3.2 Requests to be heard by the examiner must be made in writing by the **DATE TO BE INSERTED¹** to:

CIL Programme Officer
c/o Strategic Planning and Regeneration
Dacorum Borough Council

¹ 4 Weeks from the date of submission under Section 11 Interpretation and application of Part 3 of the CIL Regulations 2010 (as amended)

Civic Centre
Marlowes
Hemel Hempstead
Hertfordshire
HP1 1HH

Email: cil@dacorum.gov.uk

Further information in relation to the Examination is available at www.dacorum.gov.uk/cil

4.0 Proposed Modifications

- 4.1 Table 2 sets out our modifications to the DCS and all associated documents since they were available during consultation and the reasons for these modifications being made.
- 4.2 The modifications mainly seek to clarify existing information within the DCS and Regulation 123 list. However the Regulation 123 list has been amended in response to concerns raised by Sport England (4) and Hertfordshire County Council (19).

Table 2 - Proposed Modifications

Changes are highlighted in **bold** with ~~strike through~~ indicating deletions and underline indicating additions.

Modifications			
	Document Reference	Modification	Reason for modification
MOD 1	Draft Charging Schedule – Annex 1 – Charging Zone Maps	Addition of National Grid reference numbers to plan (see revised document)	To ensure compliance with the Regulations and relevant CIL legislation
MOD 2	Regulation 123 list	Amendment to the list of Infrastructure Project or Type (to be secured through CIL) Green Infrastructure and Open Space - <u>Including outdoor sports pitches</u>	Amendment for clarity and in response to the concerns of Sport England.
MOD3/MOD4	Regulation 123 list	Amendments to the list of Exclusions (to be secured through S.106 or other alternative measures) Except where Early Years Education and Childcare Facilities are provided within <u>alongside</u> a new schools <u>building</u> secured under S.106 The provision and maintenance of public open space, LAP, LEAP or NEAP, <u>Local Area of Play (LAP), Local Equipped Area of Play (LEAP) and Neighbourhood Equipped Area of Play (NEAP)</u> on Strategic and Local	Amended in response to a request from Hertfordshire County Council Amendment for clarity

		Allocations	
MOD5	Exceptional Circumstances Relief Policy	<p>Format and re-classify qualifying criteria within the policy</p> <p>To qualify for relief the Council must be satisfied that:</p> <ul style="list-style-type: none"> a) A valid S.106 agreement is in place for the chargeable development, b) the value of complying with a S.106 agreement for the site would exceed the CIL charge for the development b) that paying the CIL Charge in respect of the chargeable development would have an unacceptable impact on economic viability and c) the relief would not constitute State Aid..... <p>.....Exceptional Circumstances Relief will rarely be granted and will only be available where:</p> <ul style="list-style-type: none"> a) the value of complying with a S.106 agreement for the site exceeds the CIL charge for the development b) it can be demonstrated that the requirements of the S.106 provide items of infrastructure which have been identified as essential infrastructure within the Council's Infrastructure 	<p>Amendment for clarity – it is a DBC policy requirement rather than a national requirement that any scheme seeking Exceptional Circumstances Relief should have a S.106 exceeding the value of CIL.</p> <p>“Or” omitted in error on ECR policy.</p>

		<p>Delivery Plan, <u>or</u></p> <p>c) the infrastructure items secured via the S.106 are identified as being necessary to support development in a Development Plan Document or Supplementary Planning Document, or</p> <p>d) the chargeable development would constitute a large scale major development</p>	
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APPENDIX 4 – PROPOSED EVIDENCE LIBRARY

Core Documents

CD/1 – Draft Charging Schedule

CD/2 - Dacorum Infrastructure Delivery Plan Update (January 2014)

CD/3 - Dacorum CIL Viability Report (July 2013)

CD/4 - Dacorum Strategic Site Testing (October 2013)

CD/5 - CIL Infrastructure Funding Gap Assessment Update (January 2014)

CD/6 - CIL Infrastructure Funding Gap Assessment (December 2012)

CD/7 - Statement of Compliance with Regulations and Guidance

CD/8 - Statement of Representations Procedure

CD/9 - Statement of Representations

CD/10 - Draft Regulation 123 List

CD/11 - Revised Retail Assessments by BNP Paribas Real Estate (April 2014)

CD/12 - Core Strategy 2006-2031

CD/13 – CIL - Bridging the Infrastructure Funding Gap (April 2014)

CD/14 – CIL – Historic S.106 Data (April 2014)

CD/15 - Hertfordshire Infrastructure and Investment Strategy Update (January 2013)

CD/16 – Planning Obligations SPD

Representations

CIL.RES 1a – Hertsmere Borough Council

CIL.RES 1b – Hertsmere Borough Council

CIL.RES 2 – Network Rail

CIL.RES 3a – Berkhamsted Town Council

CIL.RES 3b – Berkhamsted Town Council

CIL.RES 3c – Berkhamsted Town Council

CIL.RES 4 – Sport England

CIL.RES 5a – Markyate Parish Council

CIL.RES 5b – Markyate Parish Council

CIL.RES 6a – Aylesbury Vale District Council

CIL.RES 6b – Aylesbury Vale District Council

CIL.RES 7 – Chiltern District Council

CIL.RES 8 – Wigginton Parish Council

CIL.RES 9a – Vincent and Gorbing/Taylor Wimpey

CIL.RES 9b – Vincent and Gorbing/Taylor Wimpey

CIL.RES 9c - Vincent and Gorbing/Taylor Wimpey

CIL.RES 9d - Vincent and Gorbing/Taylor Wimpey

CIL.RES 10a – Peacock and Smith/W.M Morrisons Supermarket Plc

CIL.RES 10b – Peacock and Smith/W.M Morrisons Supermarket Plc

CIL.RES 11 – Highways Agency

CIL.RES 12a – Vincent and Gorbing/National Grid

CIL.RES 12b – Vincent and Gorbing/National Grid

CIL.RES 13a – Savills/Grand Union Investments

CIL.RES 13b – Savills/Grand Union Investments

CIL.RES 14a – English Heritage

CIL.RES 14b – English Heritage

CIL.RES 15a – NHS

CIL.RES 15b – NHS

CIL.RES 16a – Natural England

CIL.RES 16b – Natural England

CIL.RES 17 – West Herts Hospital Trust

CIL.RES 18 – Watford Borough Council

CIL.RES 19a – Hertfordshire County Council

CIL.RES 19b – Hertfordshire County Council

CIL.RES 20 – Adrian Cole and Partners

Supporting Policies

SP/1 - Draft Discretionary Charitable Relief Policy

SP/2 - Draft Exceptional Circumstances Policy

SP/3 – Draft Instalments Policy

SP/4 - Draft Payment in Kind Policy

Modifications

M/1 – Statement of Modifications

M/2 - Draft Charging Schedule with Modifications

M/3 - Draft Regulation 123 list with Modifications

M/4 - Draft Exceptional Circumstances Relief Policy with Modifications

Other CIL Documents and Council decisions

OTH/1 – Preliminary Draft Charging Schedule

OTH/2 – Council response to comments on Preliminary Draft Charging Schedule

OTH/3 – Council Report and minutes for 28th May 2014

OTH/4 – Cabinet Report and minutes for 29th April 2014

OTH/5 – Cabinet Report and minutes from 26th November 2013

OTH/6 – Cabinet Report and minutes from 23rd July 2013

OTH/7 – Cabinet Report and minutes from 27th November 2012

Infrastructure Evidence and Technical Reports

INF/1 - Dacorum Strategic Infrastructure Study (2009)

INF/2 - Hertfordshire Infrastructure and Investment Strategy (October 2009)

INF/3 - Hemel Hempstead Urban Transport Plan (January 2009)

INF/4 - Berkhamsted, Tring and Northchurch Urban Transport Plan (May 2013)

INF/5 - Green Infrastructure Study (March 2011)

**APPENDIX 5 – DRAFT STATEMENT OF COMPLIANCE WITH CIL
REGULATIONS AND GUIDANCE**



Community Infrastructure Levy - Legislative and Regulatory Compliance Statement

May 2014

This statement has been produced to demonstrate that Dacorum Borough Council has complied with the requirements set out in the Planning Act 2008, the CIL: Regulations 2010 (as amended) and DCLG CIL Guidance. The following table summarises how the Council has complied with the legislative requirements for the introduction of CIL

Planning Act 2008	
Paragraph 211	<p>In setting the rates and preparing the Draft Charging Schedule Dacorum Borough Council had regard to the actual and expected costs of infrastructure; the economic viability of development, other actual or expected sources of funding for infrastructure, the expected administration expenses in connection with CIL and Statutory Guidance.</p> <p>Dacorum Borough Council consulted a range of stakeholders in preparing the Draft Charging Schedule with consultations taking place as follows:</p> <p>Preliminary Draft Charging Schedule – 12th December 2012 to 12th March 2013. Draft Charging Schedule – 22nd January 2014 to 12th March 2014.</p>
Paragraph 212	<p>Dacorum Borough Council has appointed the Planning Inspectorate to examine the Draft Charging Schedule, as an appropriate independent body that has suitable qualifications and experience for the task.</p> <p>All persons who have submitted representations about the Draft Charging Schedule have been given the opportunity to be heard by the examiner.</p> <p>The following appropriate, available evidence has informed the Draft Charging Schedule:</p> <p>Dacorum Core Strategy 2006-2031 (September 2013) Dacorum Viability Study Update (June 2013) Dacorum Site Viability Assessment (December 2013) Infrastructure Delivery Plan Update (January 2014) Infrastructure Funding Gap Assessment Update (January 2014) Response to comments on the PDCS (July 2013)</p> <p>This Statement of Compliance with the CIL Regulations and Guidance was approved by Council on the 28th May 2014.</p>
Community Infrastructure Levy Regulations 2010 (as amended)	
Regulation 12	<p>The Draft Charging Schedule contains the information required by the Regulations namely:</p> <p>(a) The name of the Charging Authority (Dacorum)</p>

	<p>(b) The rate (in pounds per square metre) at which CIL is charged within the authority's area,</p> <p>(c) The location and boundaries of the zones for differential rates, on an Ordnance Survey base showing grid lines and references, and</p> <p>(d) An explanation of how the chargeable amount will be calculated.</p> <p>The date of approval, the date the charges take effect and a statement of its publication in accordance with the CIL Regulations and Planning Act 2008 should all be published on the completed Charging Schedule.</p>
Regulation 13	Dacorum Borough Council's differential rates are compliant with Regulation 13, which enables charging authorities to set differential rates (including nil rates) by location, type and scale of development
Regulation 14	<p>In setting its differential rates, Dacorum Borough Council, has complied with Regulation 14(1) which requires that it <i>"to 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"</i></p> <p>The following appropriate available evidence has informed the Draft Charging Schedule:</p> <p>Dacorum Core Strategy 2006-2031 (September 2013) Dacorum's Draft Infrastructure List/Regulation 123 List Dacorum Viability Study Update (June 2013) Dacorum Site Viability Assessment (December 2013) Infrastructure Delivery Plan Update (January 2014) Infrastructure Funding Gap Assessment Update (January 2014) Response to comment on the PDCS (July 2013)</p> <p>This matter was considered by Council at its meeting of the 28th May 2014</p>
Regulation 15	<p>A Preliminary Draft Charging Schedule was approved by Cabinet on the 27th November 2012. It was published on the 12th December 2012, together with the accompanying evidence base for public consultation. Consultation occurred over the period 12th December 2012 to 12th March 2013 with the prescribed consultation bodies.</p> <p>Letters containing copies of the CIL PDCS and inviting representations on it were forwarded to the consultation bodies (including adjoining Local Planning Authorities/County Council/Parish and Town Councils/persons who are resident</p>

	<p>and those carrying on business/voluntary bodies and those representing the interests of persons carrying out business in the Dacorum area)</p> <p>The Council invited representations from persons and organisations who were on the Dacorum LDF and CIL databases including local agents, builders and architects and infrastructure providers.</p> <p>The Council utilised the local press (Hemel Gazette and Berkhamsted and Tring Gazette) and Social media to publicise the consultation.</p> <p>30 responses were received on the Preliminary Draft Charging Schedule (PDCS). These informed the preparation of the Draft Charging Schedule and were reported to Cabinet on the 23rd July 2013. A summary of the representations and our response to them is set out on the Council's website.</p>
Regulation 16	<p>In accordance with the Regulations, the Draft Charging Schedule was published, together with relevant evidence and a Statement of Representations Procedure/Statement of Fact on the Council's website on the 22nd January 2014. The website stated that the Charging Schedule could be inspected at the Civic Centre, Hemel Hempstead and deposit points in Berkhamsted and Tring. Copies were sent to each of the prescribed consultation bodies.</p> <p>All previous respondents on the Preliminary Draft Charging Scheduled were notified of the publication of the Draft Charging Schedule.</p> <p>A local advertisement notice was placed in the local press on the 22nd January 2014.</p> <p>20 representations on the Draft Charging Schedule were received. Those making representations will be informed of subsequent stages in the examination and adoption process, including submission, publication of the examiner's report and approval of the Charging Schedule by the Charging Authority in accordance with their requests.</p>
Regulation 17	<p>The period for representations on the Draft Charging Schedule was 22nd January 2014 to 12th March 2014</p>
Regulation 19	<p>Dacorum Borough Council submitted this Declaration and the following documents to the examiner on the 4th June 2014 in both paper and electronic form (where practicable to do so):</p> <ul style="list-style-type: none"> (a) The Draft Charging Schedule (b) A summary of the main issues raised by the representations (c) Copies of the representations (d) Any modifications

	<p>(e) Copies of the relevant evidence</p> <p>Copies of the above documents will be made available at the Civic Centre as required by the Regulations. All documents will be available on the Council's website and a statement of fact that all documents are available for inspection and where they can be inspected will be published.</p> <p>Any modifications to the Draft Charging Schedule will be published on the Council's website and notified to all prescribed consultation bodies as required by the Regulations.</p> <p>All persons who requested to be notified of its submission, were notified of its submission on the 4th June 2014</p>
Regulation 21	<p>The Council received 2 requests to be heard by the Examiner within the period for making representations to the Draft Charging Schedule.</p> <p>The Council will publish the time and place of the CIL examination and the name of the examiner on its website and notify all persons who made representations in accordance with Regulation 17.</p> <p>An advert will be placed in the newspapers covering the Borough stating the time and place of the CIL examination and the name of the examiner.</p>