



AGENDA ITEM: 8
SUMMARY

Report for:	Cabinet
Date of meeting:	23 July 2013
PART:	1
If Part II, reason:	

Title of report:	Community Infrastructure Levy (CIL) Update
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 update Members on the progress towards the adoption of CIL and agree a formal response to the public consultation on the Preliminary Draft Charging Schedule (PDCS) and associated next steps.
Recommendations:	<ol style="list-style-type: none"> 1. To note the progress and programme for the development of a Community Infrastructure Levy (“CIL”) for Dacorum. 2. To agree the timescales for adopting CIL as outlined at paragraph 3.8 and Appendix 1 of this report 3. To agree the proposed response to the public consultation on the Preliminary Draft Charging Schedule as set out in Appendix 3 to this report 4. To support the preparation of Policies on Discretionary Relief and Exceptional Circumstances Relief from CIL, Instalments, ‘Payments in Kind’ and the Interaction of CIL and S.106 prior to public consultation on a Draft Charging Schedule, as set out in paragraphs 3.7 and 4.21 and Appendix 3 of this report
Corporate objectives:	Preparation and implementation of a CIL contributes to all of the corporate objectives.

	<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 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. Any additional staff needs will be considered as the project develops. It is likely that the current secondment which ends in early 2014 will need to be extended.</p> <p><u>Land</u> Once in place, CIL will be payable for any chargeable development on Council owned land. The opportunity exists for the Council to accumulate land for the delivery of infrastructure in lieu of payment in accordance with Regulation 73 of the CIL Regulations.</p>
Risk implications:	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.
Equalities implications:	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.
Health and safety implications:	None
Sustainability implications:	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 a Sustainability Appraisal.
Monitoring Officer / S.151 Officer comments	<p>Deputy Monitoring Officer</p> <p>A robust Charging Schedule is essential if the Council is to continue to meet the infrastructure requirements arising from development in the area. The policies on discretionary relief will be important to ensure that the viability of development schemes are not adversely affected by CIL and these policies will need to be carefully drafted to ensure that they are clear and not open to interpretation or legal challenge.</p> <p>Officers will be aware of the need to closely follow the consultation and adoption procedures to ensure that any risk of challenge to the Charging Schedule is minimised.</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.</p> <p>Deputy S151 Officer</p> <p>There are no budgetary implications arising from the recommendations in this report.</p>

<p>Consultees:</p>	<p>The CIL Task and Finish Group, Finance and Resources Overview and Scrutiny Committee and Strategic Planning and Environment Overview and Scrutiny Committees have considered both the programme for the introduction of CIL and the proposed response to consultation responses on the Preliminary Draft Charging Schedule. The outcome of these discussions is reflected in this report.</p>
<p>Background papers:</p>	<ul style="list-style-type: none"> • CIL examination report – Wycombe District Council http://www.wycombe.gov.uk/council-services/planning-and-buildings/planning-policy/community-infrastructure-levy/examination.aspx • CIL Guidance Notes 2013 (Department for Communities and Local Government) • CIL Regulations 2010 (amended 2011, 2012 and 2013) • Community Infrastructure Levy Viability Study (BNP Paribas Real Estate) (December 2012) • Community Infrastructure Levy Viability Study Update (BNP Paribas Real Estate) (June 2013) • Dacorum Infrastructure Delivery Plan (June 2012) • Infrastructure Funding Gap Assessment (December 2012) • Preliminary Draft Charging Schedule (December 2012) • Project Initiation Document • Strategic Planning and Environment OSC - November 2012
<p>Glossary of acronyms and any other abbreviations used in this report:</p>	<p>BCIS – Building Cost Information Service CIL – Community Infrastructure Levy CRG – Corporate Regeneration Group DCLG – Department for Communities and Local Government DCS – Draft Charging Schedule IFGA – Infrastructure Funding Gap Assessment InDP – Infrastructure Delivery Plan NPPF – National Planning Policy Framework PDCS – Preliminary Draft Charging Schedule PID – Project Initiation Document</p>

BACKGROUND

1.0 Introduction:

- 1.1 The Community Infrastructure Levy 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. It is a tariff style system applied to the area of the development as a cost per square metre and may vary by both use and location. The level of charge must be informed by evidence of infrastructure need and scheme viability, and once set will be mandatory for developers to pay.
- 1.2 The Council is responsible for setting the charges, collecting the money and allocating the money for spend. Both the rate at which CIL is set and how its revenue is used will have a big impact on the future growth of the borough. The Council can spend CIL revenues on '*infrastructure to support development of its area*'; it can be spent on the provision of new infrastructure or the on-going costs

of infrastructure – but it cannot be used to correct existing deficits in infrastructure provision.

- 1.3 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. The Council will need to develop a clear and co-ordinated approach to the collection and use of CIL and S106.

2.0 CIL Policy and Guidance

The DCLG CIL Guidance 2013

- 2.1 The DCLG published new CIL Guidance on the 14th December 2012. This set out a change in emphasis in the CIL Regulations and clarified how the Regulations are expected to be interpreted by both charging authorities¹ and by extension, examiners appointed to examine such schedules. The update to this Guidance was published on the 26th April 2013 to cover the CIL (Amendment) Regulations 2013.
- 2.2 A fundamental change was in the application of Regulation 14 of the CIL Regulations. Regulation 14 requires the charging authority to strike what it considers to be the appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy on the economic viability of the development across the area. The DCLG CIL Guidance establishes that this is not solely a matter for the charging authority, but should be subject to greater scrutiny by the CIL examiner at examination. It was reiterated that the charging schedule should not threaten the delivery of the local plan – including a requirement for the local authority to ‘show and explain’ how the proposed levy supports the plan and development.
- 2.3 The role of the CIL examiner has become more judicial. Where initially CIL examiners were concerned with checking viability, they are now expected to be more analytical. They are required to analyse the evidence of historical use of Section 106 and delivery. They must examine evidence on viability at a finer grain and on the basis of site specific viability evidence. They must scrutinise the links between the items of infrastructure identified in spending plans and the aims and objectives to the Core Strategy.
- 2.4 The role of the charging authority at examination has become more narrative. The charging authority must provide a greater explanation and evidence on how funds for infrastructure have historically been secured and allocated. The charging authority must also explain proposals for new infrastructure items and their links to the Core Strategy and outline the charging authorities strategy for the delivering these items of infrastructure through use of either Section 106 or CIL funding.

¹ Dacorum Borough Council is the charging authority.

CIL (Amendment) Regulations 2013

- 2.5 The primary purpose of this amendment to the CIL Regulations was to explain and set out the requirements for neighbourhood funding. Under Regulation 59 of the CIL Regulations the Council has a duty to pass CIL receipts to local Council's for developments within their areas. The amount due to the local body varies between 15%-25% depending on whether a Neighbourhood Plan has been adopted. A policy and procedure on the governance for delivery will need to be prepared.

3.0 The CIL Project

- 3.1 The PID developed for CIL was updated in February 2013 in light of the above changes in CIL Policy and Guidance. The PID sets out the key aims for the project and the necessary steps involved in its implementation. A copy of the project plan (as amended) is appended at Appendix 1 of this report. Officers would highlight the increase in workload between June 2013 and October 2013 as a result of the Government's new requirements.
- 3.2 There are three main areas of work which are necessary to provide additional information in response to the DCLG Guidance and CIL Regulations in advance of consultation on the Draft Charging Schedule and examination.

Viability Evidence

- 3.3 The Council has commissioned BNP Paribas Real Estate to undertake additional viability studies on Strategic sites and Local Allocations from the Core Strategy and other key development sites. These studies will test the ability of these sites to deliver the planning objectives set out in the Core Strategy and associated S.106 and CIL payments. The report will recommend options for delivering the infrastructure improvements necessary as a result of developing these sites. This could include setting a reduced CIL rate for these sites and increase the dependence upon S.106 as a mechanism for delivering on-site infrastructure.

Spending Plans

- 3.4 The Council is required under Regulation 123 of the CIL Regulations to publish a list of infrastructure types or specific infrastructure schemes that will be wholly or partially funded by CIL. The Council will not be able to seek S.106 contributions towards infrastructure items upon this list and will be subject to restrictions over the use and pooling of future S.106 monies once CIL is adopted (or April 2014 whichever is earliest²).
- 3.5 A number of local authorities that have already introduced a CIL did not fully consider their spending plans until after the CIL examination. However following the Guidance and CIL (Amendment) Regulations 2013, it is now necessary to provide this detail at the CIL examination stage.
- 3.6 Officers from both the Borough and County Council are considering the content of the InDP projects and those projects brought forward to the Infrastructure Funding Gap Assessment (IFGA) to justify the collection of CIL. The infrastructure

² This date is currently subject to consultation on CIL – Further Reforms. The Government are proposing to extend this deadline to April 2015.

project schedule is being reviewed to determine the best mechanism to deliver the infrastructure in question and allocate this to the most appropriate CIL or S.106 list. Clearly there will be a need to engage Members in finalising these spending plans and arrangements have been made to discuss these matters with the CIL Task and Finish Group.

Supporting Policies

- 3.7 Paragraphs 173-178 of the NPPF place an obligation on the Council to ensure that sufficient measures are in place to facilitate the delivery of the Core Strategy and ensure that the viability of schemes is not threatened. The Council has a number of mechanisms that can be used to assist developers with scheme viability. These include the following items:
- *Discretionary Relief Policy*
Charitable organisations already benefit from a statutory exemption to paying CIL where they can clearly demonstrate they are developing their own land for charitable purposes, but would not qualify for relief were the development not explicitly for charitable purposes. The Council has scope under the CIL Regulations to publish a Discretionary Relief Policy which would allow charities to carry out enabling development without triggering a CIL payment. The Council would need to be clear who and how organisations qualified for relief. Members of the CIL Task and Finish Group advised that any such policy should make clear that charities would be expected to be formally registered with the Charities Commission.
 - *Exceptional Circumstances Policy*
The Council can publish a policy on the application of an Exceptional Circumstances Policy which would relieve the need to pay CIL. The CIL Regulations make it clear that in order to utilise an Exceptional Circumstances Policy the proposed development would need to be subject to a S.106 which would exceed the CIL bill and should not be subject to State Aid. The DCLG consultation on CIL - Further Reforms seeks to address the poor use of this policy by authorities which have already implemented CIL. They propose altering the percentage of the CIL bill which would need to be exceeded by a S.106 agreement to qualify for Exceptional Circumstances Relief.
 - *Instalments*
The Council can facilitate the delivery of developments by seeking to reduce the 'up front' burden to developers associated with the full cost of CIL by phasing payments. In order to do so the Council would need to publish an Instalments policy setting out when and how these payments may be received.
 - *Payments in Kind*
The Council is permitted under Regulation 73 to enter into "land agreements" to ensure the transfer and protection of land upon which infrastructure is expected to be provided in lieu of CIL payments. The decision on whether to accept a land payment rests with the charging authority. It would be beneficial for the Council to set out a clear policy on 'Payments in Kind' prior to examination. The proposals under the DCLG consultation, CIL- Further Reforms, proposed to extend this provision of in kind infrastructure.

Implications for the CIL Programme

3.8 The CIL programme has been delayed by some 6-8 months to that set out in the initial PID. The timescale is still challenging due to the need to prepare and publish the draft policies in advance of consultation on the Draft Charging Schedule, in order to comply with the new Regulations. These are listed in paragraph 3.7. This timetable is dependent on a timely and appropriate input from other infrastructure providers notably Hertfordshire County Council. The following timescales for the project are now envisaged:

- Consultation Draft of the DCS to Cabinet for approval – October 2013
- Public Consultation on the DCS: December 2013 – January 2014
- Prepare Charging Schedule for examination – January 2014- March 2014
- Submission to the Planning Inspectorate for examination: April 2014
- Examination completed and Examiner’s report received: June 2014
- Final Charging Schedule considered by Cabinet and Full Council: October 2014-November 2014
- Adopt CIL in January 2015.

4.0 Consultation on the PDCS

4.1 The PDCS was subject to public consultation between the 12th December 2012 and 12th March 2013. Responses to the consultation were received from the groups and organisations listed in Appendix 2.

Consultation Results

4.2 The following table provides a quantitate summary of the answers to questions posed on the PDCS. A number of people and organisations responding to the PDCS consultation provided written statements relating to their concerns which could not be categorised as a simple Yes/No response.

Table 1 – Summary of Consultation Responses by Question

Questions on the PDCS	Yes	No
Question 1 - Do you think the identified infrastructure needs are supported by evidence and are up to date?	8	6
Question 2 - Do you think that a sound funding gap has been identified to justify the need for CIL?	9	4
Question 3 - Do you consider the rates proposed put the overall development of the area at risk?	7	7
Question 4 - Do you think that different residential rates are appropriate and supported by evidence?	9	3
Question 5 - If you support differential rates, do you think the boundaries between different zones are appropriate boundaries?	5	4
Question 6 - Do you think it is appropriate to have a single rate for retirement housing across the Borough?	6	3
Question 7 - Do you think the proposed rate for retirement housing is appropriate?	6	3
Question 8 - Do you think the proposed rate for large retail is appropriate?	5	4
Question 9 - Do you think the proposed threshold for large retail is appropriate?	8	1
Question 10 – Do you think there should be a nil rate for ‘other’ uses and if	8	2

not which 'other' uses should be charged?		
Question 11 – Do you think the Council should adopt an Exceptional Circumstances policy?	16	2
Question 12 – Do you think the Council should adopt an Instalments policy?	16	1

4.3 A full summary of the comments raised in relation to the PDCS, including issues which could not be recorded above, is set out at Appendix 3 to this report. The Council's proposed response to these comments is also set out at Appendix 3. The results of the consultation and key issues have been discussed by Members of the CIL Task and Finish Group and both the Finance and Resources and Strategic Planning and Environment Overview and Scrutiny Committees. Their comments are reflected within the body of this report. Members are requested to agree the schedule in Appendix 3 as the Council's formal response to the consultation.

4.4 The key changes to the CIL rates as a result of the consultation are set out in Table 2 and Table 3. The changes to the Charging Schedule are supported by further viability testing by the consultants BNP Paribas as reported in the Viability Study Update. An explanation of the changes follows these two tables.

Table 2: Proposed CIL Charging Schedule rates set out in the PDCS (December 2012)

Development Type	CIL rate (per sq.m)		
	Zone 1: Elsewhere	Zone 2: Berkhamsted and surrounding area	Zone 3: Hemel Hempstead and Markyate
Residential	£150	£250	£100
Retirement Housing	£125		
Large Retail (over 280sqm)	£200		
Other	Nil		

Table 3: Proposed Amended CIL Charging Schedule rates for inclusion in the DCS (June 2013)

Development Type	CIL rate (per sq.m)		
	Zone 1: Elsewhere	Zone 2: Berkhamsted and surrounding area	Zone 3: Hemel Hempstead and Markyate
Residential	£150	£250	£100
Retirement Housing	Nil	£125	Nil
Convenience based supermarkets and superstores and retail warehousing (net retailing space of over 280 square metres)	£150		
Other	Nil		

Key Housing Sites including Strategic and Local Allocations

- 4.5 During the consultation concerns were raised by a number of landowners in the Borough regarding the impact of CIL upon the viability of large housing sites including those set out as Strategic sites and Local Allocations within the Core Strategy. These sites are vital to the overall supply of housing within the Borough.
- 4.6 A number of these sites have key pieces of infrastructure associated with them (often site-specific infrastructure) which the Council and County Council may prefer to secure through the use of S.106. There is perception amongst the development industry that developers will effectively be 'double charged' for these works through CIL and that the costs associated with the planning requirements, CIL and S.106 may be prohibitively high undermining housing delivery.
- 4.7 The PDCS does not explicitly address this issue as it does not set out the overall strategy for the use of both CIL funds or S.106 and how these mechanisms may interact on larger housing sites. The publication of spending plans under Regulation 123 will add greater clarification and certainty and will clearly form the focus for future discussions.
- 4.8 It is likely, but not a certainty, that new charging areas will need to be introduced for these large sites with either a low or nil CIL charge applicable to them. This may be necessary to reflect the higher development costs associated with planning requirements in the Core Strategy (for example affordable housing requirements) and delivery of large items of infrastructure on site (for example, a new primary school).
- 4.9 Officers have instructed BNP Paribas to undertake additional site specific viability work to consider the ability of Strategic sites and Local Allocations and other key housing sites to contribute both S.106 and CIL payments and, if it is viable to do so, the rate at which a CIL may be set for these sites. This approach is encouraged under the DCLG CIL Guidance 2013. The results of this work will be considered by the CIL Task and Finish Group and reported to members in October 2013 when the DCS is agreed for publication.

Residential Rates

- 4.10 No changes are proposed to the residential CIL rates within the Borough, despite concerns being raised during the consultation over the impact of the Hemel Hempstead rate upon developments in the northern wards of the town and the relatively high charge on residential development within Zone 2 (Berkhamsted and surrounding area).
- 4.11 Members of the CIL Task and Finish Group are still minded to set a single residential rate for CIL across Hemel Hempstead, notwithstanding concerns raised during the public consultation exercise. The group recognised that although a CIL of £100 per square metre might be regarded as towards the high end of charging in the northern part of Hemel Hempstead, on balance this was considered acceptable given that a relatively small proportion of the overall development for the Borough is expected to take place as a result of windfall developments within this area. The treatment of designated housing sites with a lower CIL charge could mitigate these concerns.
- 4.12 The evidence within the BNP Paribas Real Estate Viability Study (December 2012) does not support the reduction in a charge for Berkhamsted and objectors

have been requested to substantiate their claims with additional viability evidence should they still wish to dispute the residential rates for this charging zone.

Retail Rates

- 4.13 A number of major retailers have responded to the PDCS. These responses cover three main themes; whether it is fair to charge retailers CIL on the basis of the impact on infrastructure, whether splitting retail charges between large and small retailer operations falls within the scope of the CIL Regulations, and whether the charges are justified on viability evidence.
- 4.14 A key test for the charging authority is to provide a clear delineation between different retail operations which must be on the basis of use and viability evidence. Many CIL examinations have examined this issue of 'large v small' retail and it is useful that the DCLG consultation on CIL- Further Reforms has clarified the issue by suggesting amendments to the Regulations to "*allow different rates to be applied to both different uses and scales of development e.g. small shops, retail warehouses and supermarkets*"
- 4.15 The Council consulted on the basis of large retailers being subject to CIL, with a threshold of some 280 square metres used to differentiate between uses. Although this is clearly within the scope of the CIL Regulations, it is considered that this threshold does not necessarily reflect the relative viability of retail schemes and their characteristics. There is clear evidence to suggest that convenience based supermarkets and superstores³ and retail warehouses⁴ (with a net retail sales space of over 280 square metres) are more viable and this threshold has been adopted by a number of authorities to differentiate between retail uses (notably Wycombe District Council) BNP Paribas Real Estate recommend that we this threshold is adopted when moving forward with a retail charge.
- 4.16 BNP Paribas Real Estate has undertaken some additional viability testing of retail schemes in light of comments received during the consultation on the PDCS. Additional retail appraisals have been carried out to reflect two different scales of retail store. The updated appraisals incorporate updated construction costs from BCIS and incorporated assumptions on residual S.106 costs. As a result of these appraisals the maximum CIL rate identified as viable has been reduced for the retail uses. BNP Paribas Real Estate recommended that the CIL charging schedule is amended from £200 per square metre to £150 per square metre.
- 4.17 These recommendations have been discussed by the CIL Task and Finish group and Overview and Scrutiny Committees who have endorsed these proposed alterations to the charging schedule.

Retirement Housing Rates

- 4.18 BNP Paribas Real Estate updated the retirement appraisals to reflect the comments of developers in the retirement housing sector. The appraisals tested a sales model for retirement housing rather than the rental model for disposal of

³ Superstores/supermarkets are shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace.

⁴ Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture, electrical goods), DIY items and other ranges of goods catered for mainly by car-borne customers.

retirement units and demonstrated that generally retirement housing can only afford to pay a CIL within the highest value areas within the Borough (Zone 2 – Berkhamsted and surrounding areas)

- 4.19 The CIL Task and Finish Group discussed this recommendation at its meeting of the 13th May 2013 and requested further clarification on whether a lower CIL charge (lower than the £125 per square metre in the PDCS) could still be applied to the lower value areas. It has also requested that the definition of retirement housing is clarified to ensure that it does not cover care home and extra care accommodation. The feedback from BNP Paribas Real Estate is that a reasonable charge could not be maintained in other areas in the Borough and as such officers are advocating the complete removal of the charge from Zones 1 (Elsewhere) and Zone 3 (Hemel Hempstead and Markyate)
- 4.20 The removal of this charge for this type of development is unlikely to have a significant impact upon the totality of CIL payments as the submission of this type of scheme is a relatively rare occurrence.

Discretionary Relief, Exceptional Circumstances Relief and Instalments

- 4.21 There is clear support for the introduction of policies to support the use of Exceptional Circumstances Relief and Instalments within the responses to the PDCS and from members of the CIL Task and Finish Group. Members of CIL Task and Finish also indicated that they wish to include policies on Discretionary Relief alongside the charging schedule, however these would need to be carefully drafted to minimise any potential loop holes which could be exploited by the construction industry in order to avoid CIL payments to the detriment of infrastructure funding.

5.0 Next Steps and recommendations

- 5.1 Cabinet is asked to note the timescales for the introduction of CIL as outlined in this report. The key dates within the timetable are set out at paragraph 3.8 of this report and the full programme is set out in Appendix 1.
- 5.2 The next stage is to prepare the DCS and associated policies for public consultation. This will include discussing the Council's spending priorities for CIL receipts and procedures for governing the expenditure of CIL receipts and will involve high level discussions with the CIL Working Groups at both Borough and County Council levels and the CIL Task and Finish Group. The CIL Task and Finish Group are due to meet again on the 29th July 2013 to discuss these matters.
- 5.3 Cabinet is asked to agree the proposed CIL rates contained in Table 3 of this report for inclusion in the DCS. The DCS will be published for public consultation in late December 2013; a consultation period of 6 weeks is expected (as per recommendations of CIL - Further Reforms) but given that it will be over Christmas period, Officers are proposing to extend this consultation until the end of January 2014.

retirement units and demonstrated that generally retirement housing can only afford to pay a CIL within the highest value areas within the Borough (Zone 2 – Berkhamsted and surrounding areas)

- 4.19 The CIL Task and Finish Group discussed this recommendation at its meeting of the 13th May 2013 and requested further clarification on whether a lower CIL charge (lower than the £125 per square metre in the PDCS) could still be applied to the lower value areas. It has also requested that the definition of retirement housing is clarified to ensure that it does not cover care home and extra care accommodation.
- 4.20 The feedback from BNP Paribas Real Estate is that a nil or nominal charge could be maintained in other areas in the Borough. Officers are advocating the complete removal of the charge from Zones 1 (Elsewhere) and Zone 3 (Hemel Hempstead and Markyate) The updated viability evidence would suggest that a nominal charge of between £30 and £50 would be possible within Zones 1 (Elsewhere) and Zone 3 (Hemel Hempstead and Markyate) should members wish to exercise an option to pursue such matters further.
- 4.20 a) Any such charge should be pursued with caution. The setting of a charge for retirement housing within these low value areas and at the margins of viability could stifle the supply of much needed housing for older people, particularly should the economy suffer a further decline. It is important to note that the costs in establishing and administering a more complex charging schedule would also need to be carefully balanced against the benefits that may arise from any additional income. The removal of this charge for this type of development is unlikely to have a significant impact upon the totality of CIL payments as the submission of this type of scheme is a relatively rare occurrence

Discretionary Relief, Exceptional Circumstances Relief and Instalments

- 4.21 There is clear support for the introduction of policies to support the use of Exceptional Circumstances Relief and Instalments within the responses to the PDCS and from members of the CIL Task and Finish Group. Members of CIL Task and Finish also indicated that they wish to include policies on Discretionary Relief alongside the charging schedule, however these would need to be carefully drafted to minimise any potential loop holes which could be exploited by the construction industry in order to avoid CIL payments to the detriment of infrastructure funding.

5.0 Next Steps and recommendations

- 5.1 Cabinet is asked to note the timescales for the introduction of CIL as outlined in this report. The key dates within the timetable are set out at paragraph 3.8 of this report and the full programme is set out in Appendix 1.
- 5.2 The next stage is to prepare the DCS and associated policies for public consultation. This will include discussing the Council's spending priorities for CIL receipts and procedures for governing the expenditure of CIL receipts and will involve high level discussions with the CIL Working Groups at both Borough and County Council levels and the CIL Task and Finish Group. The CIL Task and Finish Group are due to meet again on the 29th July 2013 to discuss these matters.
- 5.3 Cabinet is asked to agree the proposed CIL rates contained in Table 3 of this report for inclusion in the DCS. The DCS will be published for public consultation in late December 2013; a consultation period of 6 weeks is expected (as per recommendations of CIL - Further Reforms) but given that it will be over Christmas period, Officers are proposing to extend this consultation until the end of January 2014.

Project Plan update	2013												2014												
	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
1.1 review current S106																									
1.2 S106 project plan																									
2.1.1 Update INDR																									
2.1.2 Funding Gap																									
2.1.3 V testing – sites																									
2.2.1 Produce PDCS																									
2.2.2 Consult PDCS																									
2.3.1 PDCS responses																									
2.3.2 Viability w/shops																									
2.3.3 Produce & consult DCS																									
2.3.4 Prepare & approve CS for submission																									
2.3.5 Submit, exam, report																									
2.4.1 Changes to cabinet																									
2.4.2 Approval at FC																									
3.1.1 Criteria or R123 list																									
3.1.2 Publish R123 list																									
3.2.1 S106/CIL policy																									
3.2.2 Exemptions policy																									
3.3 Instalment policy																									
4.1 Governance/transfer procedures																									
4.2 Collection procedures																									
4.3 Guidance note																									
5.1 Monitoring procedures																									
5.2 AMR																									

Local Authorities

Hertfordshire County Council (Development Services)
Hertfordshire County Council (Environment & Property)
Aylesbury Vale District Council
Central Bedfordshire District Council
Hertsmere Borough Council
Luton Borough Council
St. Albans City and District Council
Three River's District Council

Town and Parish Council's

Berkhamsted Town Council
Tring Town Council
Chipperfield Parish Council
Markyate Parish Council

Strategic Landowners

Barratt Developments
The Crown Estate
Grand Union Investments
Taylor Wimpey (Woolf Bond Planning Consultants)
Taylor Wimpey (Vincent and Gorbing)

Small Housing Developers

Brian Barber Associates (on behalf of D.B. Rees (Builders) Ltd and TDP Developments Ltd)
D.B. Rees (Builders) Ltd
TDP Developments Ltd

Retailers

ALDI
Asda
Sainbury's
Tesco's

Elderly Care Sector

The Retirement Housing Group
McCarthy and Stone Retirement Lifestyles Ltd

Others

Berkhamsted Citizens Association
Dacorum Sports Trust
Sport England
West Herts NHS Hospital Trust

Appendix 3 - Key Responses to the Preliminary Draft Charging Schedule – June 2013

Issue	Comments	Proposed Response	Reference	Proposed Action
Berkhamsted Town Council (BTC)				
<p>3.0 Infrastructure Needs</p>	<p>The evidence base is incomplete and does not include or appear to include provisions for parking facilities, elderly day care, nursery and child care facilities, community centres and green spaces for Berkhamsted.</p>	<p>The Infrastructure needs for the Borough are set out in the Infrastructure Delivery Plan (IDP) which was last updated in 2012. The IDP is based on the comments and information provided by key infrastructure providers. The Council is currently undertaking a review of the IDP to ensure that its evidence on infrastructure needs is accurate, up to date and only contains projects that have a realistic prospect of delivery. This work should be completed by Summer 2013. On the basis of the current information provided, we are not anticipating any significant new requirements for items of infrastructure within Berkhamsted. The Council is required under Regulation 59 of the CIL Regulations to pass on some 15-25% of the CIL received within the town to the Town Council for local projects and the Council would support the identification of these projects by the Town Council at an early stage if possible. .</p>	<p>BTC1</p>	<p>The Town Council have been asked to feed projects into the IDP update where they have evidence to support the need for such infrastructure items or should there be items which they may wish to deliver themselves. The Town Council have set up a working group to identify local infrastructure needs with local action groups. The Councils Infrastructure Officer will engage with this group as appropriate.</p> <p>Projects in the updated IDP schedule can be identified and in some cases mapped on a settlement basis where appropriate to assist identification of relevant projects to the Town or Parish Councils</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
4.0 Infrastructure Funding Gap	A sound funding gap has been identified.	We welcome the support of the Town Council for pursuing a CIL on the evidence of the established funding gap.	BTC2	None
5.0 Viability Assessment	The proposed charging rate for Berkhamsted is not considered to put the development of the area at risk. It is recognised that the evidence within the BNP report suggests a higher charge could be sustained within the town	We welcome the support of the Town Council to the proposed charges for Berkhamsted. The proposed charge is relatively high compared to the proposed charges for adjoining authorities and other Zones within the Dacorum Charging Schedule. They are considered to be appropriate given the relative viability of the town.	BTC3	The charge for Berkhamsted should be closely monitored given the concerns of small developers and may need to be adjusted should additional evidence be presented to the Council challenging viability.
6.0 Charging Rates Overall	The rates are generally appropriate for the town of Berkhamsted.	The support for the charges in Berkhamsted is welcomed.	BTC4	See BTC3
Residential	There may be a need to test the	The Council acknowledges the need for further	BTC5	The Council is currently pursuing further

<p>Retirement Homes</p>	<p>ability of larger sites to sustain both a CIL charge and S.106</p> <p>Berkhamsted Town Council queries whilst the rate for retirement housing is not zoned per settlement</p>	<p>site specific viability work to test strategic and local allocations from the Core Strategy as encouraged by the DCLG CIL guidance – December 2012.</p> <p>The Council does not propose to charge for retirement housing on a zoned basis given the findings in the BNP Paribas Viability assessment. An update to this report has been carried out since the end of the consultation on the PDCS taking account of the comments thereon. This has indicated that the retirement charge is unviable in all but the highest value market areas (Berkhamsted and surroundings). BNP Paribas have proposing an increase in the retirement home charge for Zone 2 (Berkhamsted and surroundings) to some £200 per square metre. This is not considered to be appropriate at this stage.</p>	<p>BTC6</p>	<p>site specific viability work through our consultants BNP Paribas in relation to strategic and local allocations. This is to ensure that the development of these sites remains viable.</p> <p>The charges for retirement housing should be removed from Zones 1 and 3 in accordance with the recommendations within the update to the BNP Paribas Viability study. This evidence behind this change will be published alongside the adopted response to the PDCS consultation in June 2013</p>
<p>Retail</p>	<p>Berkhamsted Town Council queries the use of differential rates for retail development and whether the charge for retail should be zoned by settlement.</p>	<p>The evidence presented in the BNP Paribas Viability assessment indicated that only large retail developments could sustain a CIL and accordingly it was this form of development that was subjected to a charge in the PDCS. The relative viability of retail development is not solely determined by geographical location. Some additional retail scenarios have been tested since the PDCS by BNP Paribas. The Council is proposing to reduce the retail charge to some £150 per square metres in accordance with their recommendations.</p>	<p>BTC7</p>	<p>The charges for retail development should be lowered to reflect the findings of the BNP Paribas in their update to the Viability study.</p>

Other	<p>Berkhamsted Town Council is pleased that such charges are not applicable to smaller retailers and support the proposed retail threshold.</p> <p>Berkhamsted Town Council supports a nil charge for other uses.</p>	<p>The Council welcomes the support for the retail threshold. The Council is proposing to amend the thresholds for retail to 'Convenience based supermarkets and superstores and retail warehousing (with net retail space over 280 square metres) in order to more clearly delineate between retail uses. Smaller retail operators would not be charged CIL as set out in the charging schedule to the PDCS</p> <p>The Council welcomes the support of the Town Council.</p>	<p>BTC8</p> <p>BTC9</p>	<p>The threshold and definition of retail developments that will be subject to the Charging Schedule will need to be amended to reflect the findings of BNP Paribas.</p> <p>None</p>
7.0 Exemptions from CIL	<p>Berkhamsted Town Council would seek further clarification on the content of an exceptional circumstance policy as it relates to land owned by charities.</p>	<p>The Town Council has confused the Statutory Exemptions from CIL with the possibility of introducing either a Discretionary Relief Policy or Exceptional Circumstances Relief Policy. The CIL Regulations exempt development to be used wholly or mainly for charitable purposes from payment providing that the land is owned (in part) by the charity. A Discretionary Relief Policy could extend this requirement to enabling works by charitable organisations. The Council has not set out full details of any Discretionary Relief Policy or Exceptional Circumstances Policy at this stage but is minded to introduce an Exceptional Circumstances Policy in order to demonstrate at examination that the authority is trying to</p>	<p>BTC10</p>	<p>It is intended to publish a draft Discretionary Relief and Exceptional Circumstances Policy prior to consultation on the DCS. This policy will need to reflect the guidance produced by the DCLG.</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
<p>9.0</p> <p>Payment and Collection of CIL</p>	<p>The Town Council recognises the need for and would be supportive of an instalments policy.</p>	<p>The Council is required to explain how the introduction of a CIL will contribute positively towards the delivery of the Core Strategy. An Instalment policy is considered to be critical to this task and the support of the Town Council for an instalment policy is welcomed.</p>	<p>BTC11</p>	<p>It is intended to publish a draft Instalments Policy alongside the DCS.</p>
<p>Tring Town Council (TTC)</p>				
<p>3.0</p> <p>Infrastructure Needs</p>	<p>There are no gaps in the Infrastructure needs evidence that Tring Town Council are aware of.</p>	<p>The support for the infrastructure needs evidence is welcomed - See BTC1</p>	<p>TTC1</p>	<p>None</p>
<p>4.0</p> <p>Funding Gap</p>	<p>A sound funding gap has been identified.</p>	<p>We welcome the support of the Town Council for pursuing a CIL on the evidence of an established funding gap.</p>	<p>TTC2</p>	<p>None</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
<p>5.0</p> <p>Viability Rate</p>	<p>The proposed rate does not prejudice the overall development of the Borough</p> <p>The Council are concerned that CIL charges may undermine viability and should be subject to review</p>	<p>We welcome the support of the Town Council for the proposed charges for development.</p> <p>The Charging Schedule should be reviewed over time to account for changes to the viability of schemes, for example a substantial increase in construction costs. The Council intends to review the Charging Schedule has appropriate.</p>	<p>TTC3</p> <p>TTC4</p>	<p>None</p> <p>There is a need to undertake regular reviews of the CIL Charging Schedule. The need for a review will be informed by the annual monitoring of CIL. The Council would expect a review of the Charging Schedule to coincide with the partial review of the Core Strategy.</p>
<p>6.0</p> <p>Charging Rates</p> <p>Overall</p>	<p>Tring Town Council supports the charges proposed for residential, retirement homes, retail and other uses</p>	<p>The support for the proposed charges is welcomed. It is proposed to amend the charges for retirement housing and retail developments. The retirement home charge will only be applicable to the Zone 2 development (Berkhamsted and surroundings) and the retail charge will be reduced from £200 per square metre to £150 per square metre – see BTC6 to</p>	<p>TTC5</p>	<p>The charging schedule will be amended to reflect the proposed changes in the retirement housing and retail levy set out in the update of the Viability study of BNP Paribas as is applicable.</p>

		BTC8, ASDA2, SAIN4 and MRSL2		
Issue	Comment	Response	Reference	Action
7.0 Exemptions from CIL	Tring Town Council supports an Exceptional Circumstances Policy	The support for an Exceptional Circumstances Policy is welcomed – see BTC10	TTC6	It is intended to publish a draft Discretionary Relief and Exceptional Circumstances Policy prior to consultation on the DCS
9.0 Payment and Collection of CIL	Tring Town Council supports the provision of an Instalment Policy	The support for an Instalment Policy is welcomed - see BTC11	TTC7	It is intended to publish a draft Instalments Policy alongside the DCS
Chipperfield Parish Council (CPC)				
3.0 Infrastructure Needs	The infrastructure needs identified within the PDCS appear to be supported by evidence.	The support for the infrastructure needs evidence is welcomed – see BTC1	CPC1	None

Issue	Comment	Proposed Response	Reference	Proposed Action
4.0 Funding Gap	A sound funding gap has been identified by the Council	We welcome the support of the Parish Council for pursuing a CIL on the evidence of the established funding gap.	CPC2	None
6.0 Charging Rates				
Overall	The proposed rates would not put the overall development of the area at risk	We welcome the support of the Parish Council to the proposed charges for development	CPC3	The charging schedule will be amended to reflect the proposed changes in the retirement housing and retail levy suggested by BNP Paribas following an update to the Viability study.
Residential	A change in residential rate between settlements does not seem appropriate or equitable.	The difference in the residential rate reflects the viability of providing new dwellings in these locations as set out in the BNP Paribas Viability report.	CPC4	None
Retirement Homes	Chipperfield Parish Council supports the charge for retirement homes	The support for the proposed charge is welcomed – see BTC6 and MRSL2	CPC5	The charging schedule will be amended to reflect the proposed changes in the retirement housing and retail levy suggested by BNP Paribas following an update to the Viability study.

Other	A nil rate for 'other uses' is supported	The support for the proposed charge is welcomed – see BTC9	CPC6	None
7.0 Exemptions from CIL	Chippresfield Parish Council supports an Exceptional Circumstances Policy	The support for an Exceptional Circumstances Policy is welcomed – see BTC10	CPC7	It is intended to publish a draft Discretionary Relief and Exceptional Circumstances Policy prior to consultation on the DCS
9.0 Payment and Collection of CIL	Tring Town Council supports the provision of an Instalment Policy	The support for an Instalment Policy is welcomed - see BTC11	CPC8	It is intended to publish a draft Instalments Policy alongside the DCS
Markyate Parish Council (MPC)				
3.0 Infrastructure Needs	The development of Markyate has already stretched the village infrastructure and the Parish Council requests that education needs, burial needs and the transport needs of village are fully considered.	The IDP takes into account both existing deficiencies and future infrastructure needs arising from growth within the Borough. The infrastructure items mentioned by Markyate Parish Council are included within the IDP report. The Council is therefore satisfied that such matters have been adequately addressed.	MPC1	The issue of secondary education provision for Markyate is a cross boundary issue (with St. Albans District Council) The educational needs of the village are generally met by schools within the town of Harpenden. This matter has been discussed with HCC.

Issue	Comments	Proposed Response	Reference	Proposed Action
<p>6.0</p> <p>Charging Rates</p> <p>Residential/ Retirement Homes</p> <p>Retail</p>	<p>The proposed zones should have an urban or rural classification to reflect the desirability of additional residential development and the relative infrastructure needs of the area. A lower CIL should be applied to more urban areas to favour these locations over rural sites.</p> <p>Although we are not competent to comment on the actual rate we would support a charge which discourages larger retail uses and retail development.</p> <p>The retail threshold would seem appropriate.</p>	<p>The Council is allowed to set a differential CIL rate only on the grounds of economic viability and as such it would not be possible to provide additional CIL zones on the policy basis suggested by the Parish Council.</p> <p>See above response to MPC2.</p> <p>The support for the retail threshold is welcomed There is a need to amend the wording delineating between typologies of retail development in accordance with recommendations of BNP Paribas –see BTC8, ASDA6 and SAIN4</p>	<p>MPC2</p> <p>MPC3</p> <p>MPC4</p>	<p>The proposed charge for retirement homes will need to be amended to follow the recommendations for Zones 1 and 3 within the update to the Viability study undertaken by BNP Paribas – see BTC6 and MRSL2</p> <p>Both the retail rate and threshold will need to be amended within the DCS</p> <p>Both the retail rate and threshold will need to be amended within the DCS</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
7.0 Exemptions from CIL	There is support for an Exceptional Circumstances Policy	The support for the Exceptional Circumstances Policy would be supported – see BTC10	MPC5	It is intended to publish a draft Discretionary Relief and Exceptional Circumstances Policy prior to consultation on the DCS
9.0 Payment and Collection of CIL	The topic of instalment policies is outside the area of expertise of Markyate Parish Council – there should be a balance between providing infrastructure in advance of occupation and existing phased payments.	The Council currently structures existing S.106 agreements to provide phased payments on larger and more complex development sites. It may be appropriate to provide a similar framework for CIL payments reducing the initial burden upon developers resulting from the need for upfront CIL payments. The Instalments Policy would need to comply with the CIL Regulations and be phased on the basis of time elapsed since implementation – see BTC11	MPC6	It is intended to publish a draft Instalments Policy alongside the DCS
Hertfordshire County Council – Development Services (HCC)				
3.0 Infrastructure Needs	Information regarding anticipated service needs has already been	The Borough Council has a good working relationship with the key infrastructure providers	HCC1	The County Council are providing additional information to supplement the

	provided by HCC in connection to the IDP and these are generally included. We are disappointed that some services have not been included in the Infrastructure Funding Gap. It is recognised that further work may now be required to prioritise infrastructure projects and provide estimates of costs and sources of funding.	at the County Council and understands the infrastructure needs and implications for County Council services resulting from growth in the Borough.		evidence within the IDP and IFGA. Additional projects are being identified which are necessary to support the level of growth required in the Borough and costs are being sought for those items for which CIL funding may be a necessity. The updated IDP is expected to be finalised during May 2013.
4.0 Funding Gap	Further service costs should be added to the funding gap to cover early years, library, youth facilities and those for secondary education provision.	The Funding Gap only includes identified projects and costs from the IDP. Not all the costs are known at this stage nor have strategies to fully meet the infrastructure needs associated with growth been finalised by the County Council. The Borough Council is developing a complete picture of infrastructure needs and projects and assessing the service implications for the County Council in partnership with them.	HCC2	See response to HCC1
6.0 Charging Rates Overall	The proposed rates would not appear to put the development of	The support for the overall charging regime is welcomed.	HCC3	The rates will be updated to reflect the advice within an update to the Viability

<p>Residential</p>	<p>the area at risk. The Viability study appears to include a buffer on the total viable charge to allow for a change in circumstances</p> <p>Differential residential rates would appear to be appropriate as set out in the PDCS however following the advice in the CIL Guidance 2012 it may be appropriate to introduce site specific rates to cover larger sites and those allocated in the Core Strategy.</p> <p>It may also be useful to apply a threshold for the use of S.106 contributions</p>	<p>The Council welcomes the support of the County Council for the overall strategy for setting CIL charges and the use of residential zones. The Council has commissioned some further site specific viability work to consider the implications of applying CIL to strategic and local allocations in the Core Strategy. This work is to be undertaken by BNP Paribas.</p> <p>It is likely that S.106 agreements will still be necessary or preferable in a number of cases to secure on site infrastructure works, particularly on larger sites, and Affordable Housing requirements in accordance with the Core Strategy. It is agreed that a threshold for S.106 may be useful and the appropriate threshold will be subject to further consideration and discussion.</p>	<p>HCC4</p> <p>HCC5</p>	<p>report from BNP Paribas responding to consultation replies to the PDCS.</p> <p>The Council is currently pursuing further viability work with our consultants BNP Paribas on strategic and local allocations from the Core Strategy.</p> <p>The Council is engaging with the County Council over the appropriate use of S.106 and CIL. The Council will need to set out how S.106 will operate prior to the consultation of the DCS.</p>
<p>7.0 Exemptions from CIL</p>	<p>HCC welcomes proposals to introduce an Exceptional Circumstances Policy</p>	<p>The support for the Exceptional Circumstances Policy is welcomed – see BTC10</p>	<p>HCC6</p>	<p>It is intended to publish a draft Discretionary Relief and Exceptional Circumstances Policy prior to consultation on the DCS</p>

Issue	Comments	Proposed Response	Reference	Proposed Action
9.0 Payment and Collection of CIL	The Council should adopt an Instalments Policy.	The support for an Instalment Policy is welcomed - see BTC11	HCC7	It is intended to publish a draft Instalments Policy alongside the DCS
Hertfordshire County Council – Spatial Planning and Land Use Planning (HCCSpL)				
General	The Council will need to fully consider the requirements of the DCLG CIL Guidance 2012 including the need to clarify the relationship between CIL and S.106 and work in collaboration with the County Council.	The Borough Council has highlighted a number of key work areas to the County Council including those at a)-e) of their response and are working in partnership with the County Council to ensure that the requirements of the CIL Guidance 2012 are fully met.	HCCSpL1	None
3.0 Infrastructure Needs	The Infrastructure planning work has identified a range of infrastructure schemes which will be required to support the growth set out in the Core Strategy. Some highway related	The Council would support the County Council's approach to rationalising infrastructure projects and needs for the purpose of CIL. CIL monies must be spent upon items of infrastructure necessary to support growth within the Borough. It is recognised that CIL will only contribute some	HCCSpL2	The County Council are a major infrastructure provider within the Borough and are currently the main recipient of S.106 funding. The County Council has established a CIL Working Group of officers to discuss their

	<p>schemes may also relate to existing deficiencies. Where possible the work includes costs and potential funding sources. The projects will need to be refined.</p>	<p>10-30% of the total infrastructure cost (CIL Knowledge) and therefore it is necessary to prioritise projects from the IDP and relevant policy documents.</p>		<p>infrastructure priorities for the Borough. The Council will need to consider these items when formulating our spending plans and committing these to a Regulation 123 list under CIL.</p>
<p>6.0 Charging Rates</p>	<p>It is for the Borough to determine what the appropriate rate should be for the area. In general the approach set out in the PDCS should be supported.</p> <p>When considering the use of S.106 and CIL it is considered that the main infrastructure items for larger more strategic sites may be better secured through S.10</p>	<p>The Council welcomes the support of the County Council for the overall strategy for setting CIL charges and the use of residential zones.</p> <p>The preference for using S.106 agreements on larger sites is noted. The Council will need to be clear which items of infrastructure will be delivered by this mechanism in order to exclude such items from its Regulation 123 list and avoid “double dipping” - see also HCC4 and HCC5.</p>	<p>HCCSpL3 HCCSpL4</p>	<p>BNP Paribas have prepared an update to the Viability study in response to the comments received in relation to the PDCS. The rates will need to be amended to reflect the findings of this update.</p> <p>It is intended to publish a statement on the interaction of S.106 and CIL prior to consultation on the DCS. The content and approach will be informed by viability work carried out by BNP Paribas and discussions with HCC.</p>
<p>10.0 Using CIL Monies</p>	<p>The Levy will not be sufficient to fund all identified infrastructure schemes and therefore the County intends to prioritise those projects for the receipt of CIL monies. We should identify those projects on the R123 list in</p>	<p>The Borough Council understands that a number of infrastructure projects that will need funding through CIL will include HCC services and is committed to working in partnership with HCC to objectively assess how these County projects may be delivered including the need, if any, for CIL funding.</p>	<p>HCCSpL5</p>	<p>The County Council has established a CIL Working Group of officers to consider infrastructure projects and the appropriate mechanism for the delivery of infrastructure items. The Council will need to publish a draft Regulation 123 list prior to examination of the Charging</p>

	partnership with the County Council			Schedule and are likely to publish this when consulting on the DCS
Issue	Comments	Proposed Response	Reference	Proposed Actions
West Hertfordshire Hospital NHS Trust (WHHT)				
3.0 Infrastructure Needs	There are no references to health care as a core infrastructure need at Table 4.1 of the PDCS. The provision of state of the art medical facilities and services is crucial to the development and maintenance of sustainable communities in the Borough and the well-being of residents.	The IDP identifies some needs for additional health infrastructure. Insufficient information has however been provided by the infrastructure providers over future service plans and projects to include these items within the Infrastructure Funding Gap Assessment (IFGA).	WHHT1	The Council is seeking to establish the full extent of health service plans for the provision of health facilities on the hospital site and elsewhere within the Borough. Once these plans are clear they can be reflected within the IDP, as appropriate
4.0 Funding Gap	There is no explanation of how the funding gap has been calculated or derived. There is likely to be a substantial gap between capital outlay	The Council published the 'Community Infrastructure Levy – Infrastructure Funding Gap Assessment' (December 2012) alongside the PDCS. This clearly explains how the funding gap has been calculated and includes a Schedule of projects which form the funding gap. The Council will need to consider whether it wishes to contribute CIL towards health	WHHT2 WHHT3	None It is intended to publish a draft Regulation 123 list prior to consultation

	needed for new health facilities at Hemel Hempstead General Hospital and funds available for this project.	infrastructure and include health care provision on the list of items it intends to partially or wholly fund through CIL under Regulation 123. It should be noted the Council does not normally secure S.106 monies to put directly towards health facilities within the Borough. It is arguable whether CIL should be used to fund this gap in provision.		on the DCS.
6.0				
Charging Rates				
Overall	The proposed rates put the overall development of the area at risk – there is no explanation of viability.	The Council published its Viability evidence alongside the PDCS on the CIL pages of the Council website. BNP Paribas have updated the report in response to comments on the PDCS and this update will be published in June 2013.	WHHT4	The Council is currently pursuing further viability work with our consultants BNP Paribas for strategic and local allocations within the Core Strategy.
Residential	Although we understand that different property values require different zones and support this approach, there is no evidence in the PDCS that different residential zones are appropriate.	The support for the principle of differing residential zones is welcomed. The Council evidence on viability has been published as a separate supporting document to the PDCS. BNP Paribas have updated the report in response to comments on the PDCS and this update will be published in June 2013	WHHT5	None
Retirement Homes	Adopting a single rate for retirement housing does not appear appropriate or logical particularly where the rate is one	BNP Paribas have undertaken additional viability work since the PDCS consultation was undertaken. This work indicates that the charge for retirement housing is not viable in all but the	WHHT6	The Council will need to update the retirement charge to reflect the findings of BNP Paribas in their update to the Viability study.

	which exceeds the general rate in some locations.	highest value areas in the Borough (Zone 2) and as such the Council intends to remove the charge from the Charging Schedule for other locations within the Borough – see BTC6 and MRSL2 for further details.		
Retail	The rate does not appear to be appropriate and justified within the PDCS. We accept the logic behind the suggested threshold	The Council evidence on viability has been published as a separate supporting document to the PDCS. The Council is proposing to alter the retail charge and threshold to reflect the findings of an update to the Viability study – see BTC7 and BTC8	WHHT7	The Council will need to update the retail charge and threshold to reflect the findings of BNP Paribas in their update to the Viability study.
Other	A nil CIL is considered appropriate	The support for the proposed charge is welcomed.	WHHT8	None
7.0 Exemptions from CIL	We would welcome the introduction of an Exceptional Circumstances Policy	The support for the Exceptional Circumstances Policy is welcomed –see BTC10	WHHT9	It is intended to publish a draft Discretionary Relief and Exceptional Circumstances Policy prior to consultation on the DCS
9.0 Payment and Collection of CIL	An Instalments Policy is fundamental due to the significant impacts of the proposed charges on scheme viability.	The support for an Instalment Policy is welcomed - see BTC11	WHHT10	It is intended to publish a draft Instalments Policy alongside the DCS

Issue	Comment	Proposed Response	Reference	Proposed Action
Dacorum Sports Trust (Sportspace) (DST)				
3.0 Infrastructure Needs	The Infrastructure needs are supported by evidence and are up to date.	The support for the evidence on infrastructure needs is welcomed – See BTC1	DST1	None
4.0 Funding Gap	A sound funding gap has been established.	The support for pursuing a CIL on the evidence of an established funding gap is welcomed.	DST2	None
6.0 Charging Rates Overall	The proposed rates have potential to put the proposed overall development of the area at risk	The Council would disagree with this statement. DST do not explain why they consider the overall rates to be detrimental to the development of the area and provide no evidence that such charges would be unviable within their response.	DST3	None
Residential	The proposed zones for residential rates are considered	The support for the residential zones is welcomed.	DST4	None

	appropriate and we would make no amendment to the boundaries for these zones.			
Retirement Homes	The proposed rate for retirement homes is appropriate.	The support for the retirement home rate is welcomed. It is intended to only apply the retirement home charge to the highest value areas (Zone 2) in view of the findings of BNP Paribas during a recent update to their Viability study.	DST5	The Council will need to update the retirement charge to reflect the findings on BNP Paribas in their update to the Viability study.
Retail	The proposed retail charge and threshold for charging are considered appropriate.	The support for the retail charge is welcomed. It is recommended that the retail charge is amended in view of the findings of BNP Paribas during a recent update to their Viability study.	DST6	The Council will need to update the retail charge to reflect the findings on BNP Paribas in their update to the Viability study.
Other	A nil charge for other uses is supported.	The support for a nil charge for other uses is welcomed.	DST7	None
7.0 Exemptions to CIL	The Council should adopt an Exceptional Circumstances Policy	The support for the Exceptional Circumstances Policy is welcomed – see BTC10	DST8	It is intended to publish a draft Discretionary Relief and Exceptional Circumstances Policy prior to consultation on the DCS
9.0 Payment and Collection of CIL	The Council should adopt an Instalments Policy.	The support for an Instalment Policy is welcomed - see BTC11	DST9	It is intended to publish a draft Instalments Policy alongside the DCS.

Issue	Comment	Proposed Response	Reference	Proposed Action
The Crown Estate (by Carter Jonas) (CWN)				
General	<p>The PDCS states that some 10,750 new homes are expected in the Borough and gives broad locations to development. The examination of the Core Strategy has yet to be completed and it is inappropriate to pre-judge its outcome. The PDCS needs to be flexible to allow other sites to come forward.</p>	<p>The level of development indicated in the PDCS is consistent with that identified in the Core Strategy and subject to adoption by the Council.</p> <p>The Core Strategy Inspector has highlighted the need for an early partial review of the Core Strategy which should include a re-assessment of housing need and reflect the outcomes of a comprehensive Green Belt review. These do not constitute his conclusions over the soundness of the Core Strategy, which will be known when the final report on the examination is received. The Council is committed to a partial review of the Core Strategy which will include a comprehensive Green Belt boundary review. This is referred to in Main Modifications to the Core Strategy (MM28). For further information please refer to the Report of Representations on the Main Modifications on the Council’s examination web page. It is considered appropriate to proceed with the DCS on the basis of the figures set out in the Core Strategy.</p> <p>A regular review of the CIL charging schedule would be appropriate, particularly where the location of development and scheme viability</p>	CWN1	<p>None</p> <p>References to reviews of the Charging Schedule will be strengthened prior to consultation on the DCS</p>

		<p>may change significantly over time. It would be sensible to co-ordinate a review of CIL with any partial review of the Core Strategy.</p> <p>It is likely that any housing site released from the Green Belt would be significant in scale and as such would probably be subject to a S.106 agreement to deliver infrastructure works directly on site. BNP Paribas are undertaking additional site specific viability work to advise whether payment of both CIL and S.106 would be viable in such circumstances and whether it would be necessary to introduce a separate (lower) charging zone(s) for these locations.</p>		<p>The Council is pursuing further viability work with consultants BNP Paribas for strategic sites and local allocations within the Core Strategy.</p>
3.0 Infrastructure Needs	<p>The infrastructure needs are up to date and supported by evidence.</p>	<p>The support for the evidence on infrastructure needs is welcomed – See BTC1</p>	CWN2	None
4.0 Funding Gap	<p>A sound funding gap has been identified.</p>	<p>The support for pursuing a CIL on the evidence of an established funding gap is welcomed.</p>	CWN3	None

Issue	Comment	Proposed Response	Reference	Proposed Action
<p>6.0</p> <p>Charging Rates</p> <p>General</p>	<p>Our primary concern with the PDCS is that the approach towards Hemel Hempstead in terms of the rate and use of a single charging zone puts the viability of new residential development in the northern parts of the town at risk and undermines the delivery of the Core Strategy objectives. There should be two charging zones for Hemel Hempstead in accordance with the recommendations of the BNP Paribas Viability report.</p>	<p>It is acknowledged that residential development is less viable in the northern wards of Hemel Hempstead as set out in the BNP Paribas Viability report. The Council has however taken the decision that a single rate should be applied to the whole of the town in order to fund the necessary infrastructure improvements required across the Borough and having regard to the complexity of the charging schedule. The proposed rate for the town of Hemel Hempstead has been set so that it would not exceed the maximum charge considered viable for the northern parts of the town. It is not possible to precisely quantify the level of development which may be put at risk. However there appear to be limited opportunities for infill development within the wards of Grovehill, Highfield and Woodhall Farm from an inspection of these neighbourhoods.</p> <p>The Council also proposes to undertake some site specific viability testing in accordance with the recent advice in the DCLG CIL Guidance 2012 to test whether some strategic and local allocations</p>	<p>CWN4</p>	<p>The Council is currently pursuing further viability work with consultants BNP Paribas on strategic sites and local allocations from the Core Strategy and other key sites. This may affect the location of different charging zones.</p>

		would be capable of sustaining a CIL and S.106 and delivering the planning objectives for these sites. This would include land owned by the Crown Estate at Spencer's Park, Hemel Hempstead to the north/east of the town.		
9.0 Payment and Collection of CIL	We urge the Council to consider the use of phased payments and suggest a tiered approach according to phasing.	The support for an Instalment Policy is welcomed - see BTC11.	CWN5	It is intended to publish a draft Instalments Policy alongside the DCS
Grand Union Investments (by Savills) (GUI)				
General	It is clear from the Core Strategy examination and Inspectors comments thereon that there are fundamental concerns with the level of growth proposed for Dacorum. The preliminary findings identify that there is insufficient evidence that a figure of 11,320 dwellings represents a fully objectively assessed level of housing need and that a greater level of housing need cannot be accommodated within Dacorum. This matter requires due scrutiny	See CWN1 for the Council's comments on the timing of the preparation of a CIL charging schedule.	GUI1	None

	before a CIL can be progressed further.			
Issue	Comment	Proposed Response	Reference	Proposed Action
General	The Council is encouraged to outline a review mechanism for CIL as part of its annual monitoring of CIL	The Council are required to monitor the impact of CIL and report annually on both the amount of CIL secured and the spending of CIL. This is a similar process to the existing monitoring and annual reporting of S.106. Members have recently requested that reports monitoring S.106 are more frequently prepared. Careful consideration should be given to the data which could be monitored and which will give us an indication of how well the CIL policy is working. This may include a more detailed recording of the number, size and profile of dwellings under construction within the Borough.	GUI2	References to reviewing the Charging Schedule should be strengthened in the DCS. It is considered that the monitoring of CIL should be discussed in more detail by the CIL Working Group and with Members to ensure appropriate data is gathered during the monitoring process.
3.0 Infrastructure Needs	It is imperative that the evidence supporting a CIL clearly sets out the key infrastructure projects required to support development within the area. We have concerns with the adequacy of the evidence provided as this appears to be based on high level infrastructure evidence from	See response under BTC1	GUI3	None

Issue	Comment	Proposed Response	Reference	Proposed Action
<p>6.0</p> <p>Charging Rates</p> <p>General</p>	<p>The sales values provided from Rightmove are not considered to be sufficient or robust enough to draw clear conclusions on average sales values. The use of a market value in the BNP Paribas report is not appropriate.</p> <p>BNP state that the build costs are taken from the Build Cost Information Service (BCIS). BNP have added 15% to allow for external works but the HCA analysis from 2007 indicates that</p>	<p>BNP Paribas have undertaken research using a range of sources including Land Registry data on sales values achieved as identified on the Right Move website, pricing on individual new build developments, from properties being advertised on Right Move and finally following discussions with active local agents. The evidence presented in the report is based on the average house prices of properties sold in the Borough in the specified areas as identified on Rightmove and sourced from the Land Registry. They are satisfied that this information is robust, however should Savills have access to any additional evidence that is not in the public domain, we would welcome their assistance with evidence to inform the study – See also response at GUI6</p> <p>BNP Paribas have reviewed the HCA document to which Savills have referred (The HCA Area Wide Viability Model, Annex 1 Transparent Viability Assumptions (August 2010 Consultation version) We are advised that in BNP Paribas experience of undertaking site specific viability assessments for</p>	<p>GUI4</p> <p>GUI5</p>	<p>None</p> <p>None</p>

	<p>a figure of 27% would be more appropriate. BNP do not appear to have included an appropriate allowance for infrastructure costs and these costs will significantly reduce viability.</p> <p>BNP have tested a number of sites against the existing use value (EUV) which we believe is not appropriate given the need for competitive returns anticipated by the landowner and developer or market value for sites of a mixed used. We consider that the benchmark land value against which viability judgements are made should be the Market Value of land using</p>	<p>which cost plans have been produced, external costs can be above 15% in some cases and below 15% in others i.e. it varies from scheme to scheme. This position is confirmed by the HCA report, which also identifies that the accepted market practice for allowing for external works is between 10% and 20%. The adopted 15% allowance lies in the middle of these costs and as such is considered to be a reasonable assumption based on the fact that such costs will vary significantly between sites.</p> <p>With regard to infrastructure works, on infill sites within urban areas it is considered that the allowances included in BNP Paribas appraisal are appropriate to allow for the necessary infrastructure requirements identified by Savills. With regard to the larger greenfield sites, they would highlight that an additional allowance of £10,000 per unit has been included.</p> <p>It is considered that market transactions will always (or should be) based on current planning policy requirements and as such they are of no assistance to the Council in determining what planning requirements could be sought in the near future. It is not uncommon for developers to negotiate on the removal or reduction of planning policy requirements and as such market transactions rarely take full account of the planning policy requirements.</p> <p>The Council considers the approach of BNP</p>	<p>GUI6</p>	<p>None</p>
--	---	--	-------------	-------------

	<p>comparable land transactions (based on RICS guidance and case law). This is supported by the recent appeal at Land north of St.Edmunds Terrace, NW8.</p> <p>We do not believe that the value of affordable housing units has been calculated correctly and takes account of what Register Providers will pay for the units or the affordability criteria set by Dacorum.</p>	<p>Paribas to viability assessments to be appropriate. Basing the assessment on current use value is an approach that is recognised as appropriate by both the RICS guidance note (albeit this guidance is inconsistent) and the Harman Group guidance¹; the latter being directly relevant to planning policy testing.</p> <p>Discussions have been held with the Strategic Housing section of the Council who, have confirmed that the assumptions within the BNP Paribas are reasonable.</p>	GUI7	None
7.0 Exemptions to CIL	<p>We note that the offer of relief is discretionary It is considered imperative that the Council makes available relief from the date of the adoption of CIL.</p>	<p>A Discretionary Relief policy does not form part of the CIL examination. Although the Council is under no obligation to publish a Discretionary Relief and Exceptional Circumstances Policy prior to examination, it is considered prudent to include this information in draft form at the DCS stage and have this information prepared for the examination given the obligation upon the Council to 'show and explain' how the introduction of a CIL charge would contribute positively towards the Core Strategy objectives and delivery of growth. The support for an</p>	GUI8	<p>It is intended to publish a draft Discretionary Relief and Exceptional Circumstances policy prior to consultation on the DCS</p>

¹ 'Viability Testing Local Plans, Advice for planning practitioners' Local Housing Delivery Group, Chaired by Sir John Harman (June 2012).

	<p>The relief should include affordable housing and guidance should be provided on the level of detail required for the viability assessment needed to qualify for Exceptional Circumstances relief</p>	<p>Exceptional Circumstances policy is welcomed.</p> <p>Affordable Housing is exempt from CIL payment as a Statutory Exemption under the CIL Regulations. This is clearly set out in Section 7 of the PDCS. The Council will consider the use of an Exceptional Circumstances policy in due course and this will be subject to further consultation through the DCS. It should be noted that the CIL Regulations are fairly prescriptive over the content of any Exceptional Circumstances Policy.</p>	<p>GUI9</p>	<p>It is intended to publish a draft policy on Discretionary Relief and Exceptional Circumstances policy prior to consultation on the DCS.</p>
<p>9.0 Payment and Collection of CIL</p>	<p>We would recommend that the Council adopts an Instalments Policy and sets out the content of this policy at the earliest opportunity.</p> <p>It is recommended that proposals for any Instalment Policy are based on build out rates and should not be set to specific timescales.</p> <p>Regulation 73(1) permits the payment of land in lieu of CIL and the PDCS is silent on payments through this mechanism. Savills would express concerns that</p>	<p>The support for an Instalment Policy is welcomed - see BTC11.</p> <p>The content of the Instalments Policy has yet to be determined. The CIL Regulations do not allow you to introduce instalments on the basis set out in this representation which would also be discouraged given a lack of precision over the payment periods.</p> <p>The DCS is not required to set out details of the Council's approach to 'Payments in Kind' although the DCLG's current consultation document on reforms to the CIL Regulations proposes to give charging authorities the choice</p>	<p>GUI10</p> <p>GUI11</p> <p>GUI12</p>	<p>It is intended to publish a draft Instalments Policy alongside the DCS</p> <p>The content of the Instalments Policy will need to comply with the CIL Regulations.</p> <p>It is recommended that the Council considers the formulation of a policy on 'Payment in Kind' prior to the adoption of CIL. Regulation 73 already sets out some qualifying requirements for 'Payment in</p>

	<p>large strategic sites may provide items of infrastructure onsite and without an effective policy on 'land in lieu' then developers may be double charged for infrastructure or incur unjustified costs for infrastructure. We are also concerned about how such land is valued and the level of discount that may be applicable to the CIL charge.</p>	<p>to accept a combination of land payments and/or provision of infrastructure where there is a published policy on the charging authority website. This choice would only apply to that infrastructure which the charging authority has listed as part of its policy.</p> <p>Currently Regulation 73(1) allows charging authorities to accept one or more land payments in satisfaction of the whole or part of the levy due in respect of a chargeable development. Under Regulation 73(3) the amount of the levy paid is an amount equal to the value of the acquired land.</p> <p>Circumstances may arise where it is sensible for a developer to provide infrastructure either as well as land or instead of land. For instance, it may be a priority for a charging authority to ensure the delivery of certain on-site or off-site infrastructure to bring forward a particular development. Where this is the case, the developer may be best placed to deliver that infrastructure in a timely and cost effective way.</p> <p>There may be circumstances where it is more desirable for a charging authority to receive land instead of monies upon which infrastructure items may be provided. The Council would agree that it would be beneficial to highlight the circumstances in which the Council considers the payment by land would be appropriate or the situations and if possible sites on which they will</p>	<p>Kind' which will need to be incorporated into this policy including a requirement for the CIL payment to exceed £50,000. The Regulations relating to 'Payments in Kind' are subject to changes being proposed in a recent consultation by the DCLG. A response to this document is being prepared by the Infrastructure Planning Officer to be submitted on behalf of the Council.</p> <p>It should be noted that the Regulations require land to be valued independently and this has resource implications for the Council who would have to outsource this work. The payment of land in kind does not appear to off-set any requirements for monetary payments to the Town or Parish Council under the "meaningful proportion" (Regulation 59) and as such the Council should not allow such payments to exceed 75% of the CIL due for payment. Any such policy would need to be carefully drafted in consultation with both the legal and procurement sections (should the payment in kind be extended to direct provision of items of infrastructure) of the Council.</p>
--	---	--	---

Issue	Comment	Proposed Response	Reference	Proposed Action
10.0 Using CIL Monies	We have concerns with regards to the lack of a Regulation 123 list setting out the Council's spending priorities for CIL which we consider demonstrates that the infrastructure needs of the Borough and charges are ill conceived.	The PDCS was sent for consultation prior to the publication of the DCLG CIL Guidance 2012. This guidance indicates that it is now beneficial for the Charging Authority to set out its draft proposals for spending CIL prior to examination; this was not required. The Council will address this new requirement prior to consultation on the DCS.	GUI13	It is intended to publish a draft Regulation 123 list prior to consultation on the DCS.
Taylor Wimpey UK Limited (by Woolf Bond Planning) (TWWB)				
General	The Council has set a target for 35% of new homes to be affordable and it is vital that the proposed CIL rate reflects this constraint on viability.	BNP Paribas have assumed that 35% of homes would be affordable in accordance with Policy CS19 of the Core Strategy during the preparation of the Viability assessment to support the CIL charging schedule. Financial contributions towards affordable housing have also been included where appropriate in lieu of provision on site. A higher percentage of affordable housing (40%) is required on strategic and local allocations and as such there is a requirement for additional viability testing to check the viability of these sites with a CIL – See the responses to BTC5	TWWB1	None

		and HCC4. The CIL charge has been calculated to ensure that the delivery of affordable housing is not undermined.		
6.0 Charging Rates General	The Charging Rate is significantly higher than a number of neighbouring or nearby authorities particularly the charge for Zone 2 (Berkhamsted and surrounding areas)	There is limited benefit in comparing charges between local authorities given the complexity of viability assessments and the scope for variation over geographical areas. It is acknowledged that the charges for Zone 2 (Berkhamsted and surrounding areas) appears to be relatively high and there could be scope to reduce the charge should future viability work indicate that such charges are proving unviable.	TWWB2	It is not proposed to amend the general residential charge for Zone 2 (Berkhamsted and surrounding areas) at this stage given a lack of evidence in support of a reduction on viability grounds. The charge for Zone 2 (Berkhamsted and surrounding areas) is being considered further by officers who are gathering further information on the scale and implications of the charge in relation to current planning applications within this charging zone.
Overall Strategy	Dacorum Borough Council does not have sufficient flexibility for alternative sites to come forward for residential use given the constraints of the Borough (Green Belt etc) and as such it would not be appropriate to charge a premium under CIL and	The Council is satisfied that it has an appropriate supply of housing sites to meet the requirements of paragraph 47 of the NPPF. The Council has sufficient sites to ensure a choice of sites and competition in the market for land. Full details of the housing land supply will be set out in the Site Allocations DPD which will include sites within the urban area and sites released from the	TWWB3	None

<p>Residential</p>	<p>put some sites at risk of coming forward.</p> <p>The proposed different rates are not appropriate. The CIL as a percentage of Gross Development Value will be significantly higher in Berkhamsted and we believe unjustly skews the location of development prejudicing future site allocation decisions.</p>	<p>Green Belt as already identified in the Core Strategy. The Council is committed to a partial review of the Core Strategy as set out in the Main Modifications to the Core Strategy (MM28) – see CWN1. Depending on the outcomes of the review there may be the need to identify some alternative development sites however the results of this review should not be pre-empted. The Council is comfortable that its charges would not put a significant level of development at risk. It is acknowledged that proposals for development in the northern wards of Hemel Hempstead would be at the margins of scheme viability – see CWN4</p> <p>The charges have been set on the basis of viability in accordance with the findings of the BNP Paribas Viability study. The Council does not intend to amend the residential charges for Zone 2 (Berkhamsted and surrounding areas) at this stage.</p>	<p>TWWB4</p>	<p>None – see TWWB2</p>
<p>10.0 Using CIL Monies</p>	<p>The Council has not published a R123 list for the spending of CIL nor explained its proposed use of S.106.</p>	<p>See response to GUI13</p>	<p>TWWB5</p>	<p>It is intended to publish a draft Regulation 123 list prior to consultation on the DCS.</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
Taylor Wimpey UK Limited (by Vincent and Goring) (TWVG)				
3.0 Infrastructure Needs	The list of potential items in Appendix A of the IFGA is derived from the IDP which supports the Core Strategy. It is accepted that providing the Core Strategy is found sound the IDP provides a reasonable basis for defining infrastructure needs.	The support for the evidence on infrastructure needs is welcomed – see BTC1	TWVG1	None
4.0 Funding Gap	The requirement to fund infrastructure with a CIL charge is accepted. Further information and detail on the infrastructure costs would assist the soundness of the schedule.	The support for pursuing a CIL on the evidence of an established funding gap is welcomed. The costs within the IFGA are estimates and will be updated and amended as more precise information becomes available on the scale and nature of projects within the IDP.	TWVG2	The costs within the IFGA will be updated to reflect our best estimate of the overall cost of providing infrastructure items within the IDP as more detail becomes available.

Issue	Comment	Proposed Response	Reference	Action
<p>6.0</p> <p>Charging Rates</p> <p>Residential</p>	<p>It is considered that the rates for residential development do not put the overall development of the area at risk. Broadly speaking the assumptions within the viability evidence is considered to be robust for most sites. An exceptional circumstances policy should be introduced where the provision of on-site infrastructure may have a significant influence on viability.</p> <p>It should be recognised that although a 6% allowance has been included for meeting Level 4 of the Code for Sustainable Homes within the assumed Build Costs, such costs will significantly increase with the introduction of Code Level 5.</p>	<p>The Council appreciates confirmation that the assumptions within the Viability Assessment are reasonable in most cases and the general support for the overall charging schedule is welcomed. See response at TWVG7 for comments on whether the Council should introduce an Exceptional Circumstances Policy</p> <p>The cost associated with complying with the Code for Sustainable Homes are considered reasonable in the short term given the planning policy requirements within the Core Strategy. The Council would recognise that the building costs associated with construction activities will change over the timescale of the Core Strategy and with the phased introduction of stricter policy requirements for sustainable means of construction. The Council will need to consider reviewing the charging schedule where such</p>	<p>TWVG3</p> <p>TWVG4</p>	<p>None</p> <p>A review of the CIL charging schedule will be undertaken periodically to ensure that the CIL charges remain viable given the prevailing planning policy framework and economic circumstances in the Borough.</p>

Other	<p>We accept the principle of the residential zones as set out in the PDCS and consider that the proposals reflect different sub-markets for housing in Dacorum.</p> <p>Although we accept that ‘other’ uses are not capable of supporting a CIL charge at present given the current market, it is considered unfair that the brunt of infrastructure costs should be borne by the residential schemes. We would encourage reviews of the charging schedule to require payments from these uses.</p>	<p>changes have a significant impact on the overall viability of schemes.</p> <p>The Council welcomes the support for the different residential charging zones within the Borough</p> <p>It would appear reasonable to consider whether other uses could support a CIL charge when the DCS is reviewed.</p>	<p>TWVG5</p> <p>TWVG6</p>	<p>BNP Paribas are currently undertaking some additional site specific viability tests to determine whether some amendments are required to the charging zones to account for strategic and local allocations.</p> <p>The charging schedule will be subject to regular reviews which may introduce additional charges for other forms of development where it can be demonstrated that such proposals would be viable.</p>
-------	--	---	---------------------------	--

Issue	Comment	Proposed Response	Reference	Proposed Action
<p>7.0</p> <p>Exemptions to CIL</p>	<p>It is crucial that a policy on Exceptional Circumstances Relief is provided. The BNP Paribas report makes it clear that the greenfield allocations have substantial on site costs for infrastructure which, if allied with CIL, could make viability marginal.</p>	<p>The Exceptional Circumstances relief mechanism is not necessarily considered to be the most appropriate mechanism for dealing with the circumstances described in the response of Vincent and Gorbng. It may be more beneficial to secure on site infrastructure improvements by using a S.106 agreement and charge either a reduced or nil CIL in these locations. BNP Paribas are looking at site specific viability issues on behalf of the Council and will advise on whether strategic and local allocations can sustain the planning policy requirements and both S.106 and CIL.</p>	<p>TWVG7</p>	<p>It is intended to publish a draft Discretionary Relief and Exceptional Circumstances policy prior to consultation on the DCS.</p>
<p>9.0</p> <p>Payment and Collection of CIL</p>	<p>It is essential that an Instalments Policy is introduced to assist the cash flow of developments on larger sites.</p>	<p>The support for an Instalment Policy is welcomed - see BTC11.</p>	<p>TWVG8</p>	<p>It is intended to publish a draft Instalments Policy alongside the DCS</p>
<p>10.0</p> <p>Using CIL Monies</p>	<p>The Council has yet to clarify the relationship between the use of</p>	<p>This is a relatively new requirement on the Council arising from the DCLG CIL Guidance</p>	<p>TWVG9</p>	<p>It is intended to publish a statement on the interaction of S.106 and CIL prior to</p>

	CIL and S.106	(December 2012) The Council is likely to use S.106 agreements to require the direct provision of larger and site specific items of infrastructure rather than CIL. It is clear that such agreements will be necessary to secure Affordable Housing in accordance with Policy CS19 of the Core Strategy. The relationship between S.106 and CIL will be set out in more detail following site specific viability work by BNP Paribas and discussions with both the County and local landowners.		consultation on the DCS.
Barratt Developments Plc (by Rapleys) (BAR)				
General	We believe the general principles of the PDCS in terms of formula, calculation, exemptions and processes are in accordance with the Regulations.	Confirmation that the proposals in the PDCS meet the CIL Regulations is welcomed.	BAR1	None
4.0 Funding Gap	The IFGA does not contain sufficient information to consider whether infrastructure needs are supported. Although we agree in principle with the types of infrastructure identified in the IFGA and note the removal of unrelated infrastructure needs, there is a lack of clarity in the	The support for the charging of CIL on the basis of a funding gap is welcomed even though there are concerns over the clarity of the information and justification for both infrastructure needs and funding. The PDCS is accompanied by a number of supporting documents which include the IDP and IFGA. The IFGA sets out that the infrastructure needs and the funding gap has been calculated. It will ultimately be based on the	BAR2	The IFGA will inevitably contain estimated costs for items of infrastructure that are not intended to be delivered within a short timescale. The costs of infrastructure items within the IFGA will be updated as further information is available from infrastructure providers to improve its accuracy moving forward with CIL.

	PDCS. We believe that the funding gap is realistic and that there is a need to charge CIL.	best available information from the infrastructure providers and contain a number of estimates as to the overall cost of the proposed infrastructure item. There are clear links between the infrastructure items identified in the IDP and those on the IFGA. The Council considers its approach to the funding gap to be logical and appropriate.		
6.0 Charging Rates				
Overall	The proposed rates for residential use are not considered to put the overall development of the area at risk, although it is difficult to comment on those for retirement homes or retail and other uses.	The general support for the charging rates is welcomed.	BAR3	None
Residential	It is considered that the use of different CIL rates for different zones across the Borough are justified on land values and viability grounds. We are however concerned with some of the assumptions in the BNP Paribas report in relation to sales and construction timetables, particularly for larger schemes.	The support for different charging zones is welcomed. The concerns regards the viability of larger schemes are noted. The Council notes that such schemes are likely to utilise the Instalments policy for CIL and/or be subject to S.106 payments where a bespoke payment process can be set out within the legal agreement. This will assist with the delivery and viability of these proposals. The Council is pursuing additional viability work to inform decisions over whether a S.106 and CIL payment should be sought on	BAR4	It is intended to publish a draft Instalments policy prior to consultation on the DCS.

<p>Other uses</p>	<p>Although the Viability study indicates that other uses are not able to pay CIL it is considered that residential, retirement and retail uses should not cross subsidise necessary infrastructure for other uses. The charge should therefore be reconsidered and subject to regular review.</p>	<p>larger sites. Further information has been requested from BNP Paribas on sale and construction timetables.</p> <p>The Council does not consider it appropriate to charge other uses at this stage given the findings of the Viability study and the prevailing economic circumstances within the Borough.</p>	<p>BAR5</p>	<p>The charging schedule will be subject to regular reviews and where necessary and appropriate charges may be introduced for other uses.</p>
<p>7.0 Exemptions to CIL</p>	<p>It is our experience that the inclusion of a policy regards Exceptional Circumstance Relief is essential and will promote development within the Borough.</p>	<p>The Council accepts that there is a need to provide further information on an Exceptional Circumstances Policy – see BTC10</p>	<p>BAR6</p>	<p>It is intended to publish a draft Discretionary Relief and Exceptional Circumstances policy prior to consultation on the DCS.</p>
<p>9.0 Payment and Collection of CIL</p>	<p>An Instalments Policy is likely to assist the viability of new schemes and such a policy should be based upon the completion or the occupation of new residential properties or development.</p>	<p>The support for an Instalment Policy is welcomed - see BTC11.</p>	<p>BAR7</p>	<p>It is intended to publish a draft Instalments Policy alongside the DCS.</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
<p>10.0</p> <p>Using CIL Monies</p>	<p>It is requested that the Council's CIL makes provisions to avoid the practice of 'double dipping' and suitable adjustments are considered when drawing up S.106 agreements.</p> <p>All items upon the Regulation 123 list should relate to infrastructure in the IFGA</p>	<p>The Council is in the process of determining which items of infrastructure should be requested through a S.106 agreement and which items could be funded through CIL. The overall strategy and mechanisms for delivering infrastructure items are being developed in consultation with the County Council, other infrastructure providers and the key developers within the Borough.</p> <p>There is a clear link between evidence in the IDP and those items in the IFGA. The Regulation 123 list should be derived from information in these document</p>	<p>BAR8</p> <p>BAR9</p>	<p>It is intended to publish a statement on the interaction of S.106 and CIL prior to consultation on the DCS. A Draft Regulation 123 list setting out the Council's spending priorities for CIL will also be published. The content and approach will be informed by viability work being undertaken by BNP Paribas and discussions with the County Council</p> <p>See BAR8</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
Asda (by Thomas Eggar LLP) (ASDA)				
General	We consider it prudent to note that if the Inspector requires material changes to the Core Strategy and finds this unsound then this should be recognised in the Charging Schedule and further consultation would be required.	The point regarding the soundness of the Core Strategy is noted. However, the Council does not consider that such matters should unduly prevent the formulation of the DCS and supporting documents for consultation in late 2013 – see CWN1	ASDA1	None
6.0 Charging Rates Overall	There is a disproportionate level of CIL being placed upon large retail developments which will undermine the economic growth and opportunities for employment in the Borough.	Regulation 14 of the CIL Regulations requires the Council to set a levy which requires an appropriate balance between funding the cost of infrastructure and the impact upon economic viability. It is considered that large retail uses should contribute CIL in view of the impact of such facilities on the surrounding highway networks and/or town centre infrastructure. A viable charge has been levied on large retailers in light of the evidence presented in the Council's	ASDA2	BNP Paribas updated their Viability study to take account of comments received during the consultation on the PDCS. The Council will need to update the retail charge to reflect their recommendations.

	<p>It is recommended that a flat CIL rate is adopted for all development.</p>	<p>Viability study and in accordance with its update. The proposed level of the charge should not prevent the delivery of larger retail schemes</p> <p>It is clear that a flat CIL rate for all development would not meet with the requirements of Regulation 14 as such an approach would not strike the appropriate balance between funding infrastructure and economic viability. There are clear economic viability grounds to propose different charges, particularly in housing sub market areas. BNP Paribas strongly advise against setting a charge which is known to be unviable in the case of retail development. The charges themselves are unlikely to fund the infrastructure items identified in the IFGA and additional sources of funding will be required. The impact on schemes which are identified as unviable could not be balanced by the implementation of an Exceptional Circumstances policy as suggested by ASDA. This would be both illogical and contrary to the CIL Regulations.</p>	<p>ASDA3</p>	<p>None</p>
<p>Retail</p>	<p>The proposed retail charge is not competitive with neighbouring Three Rivers and will detract investment in the Borough.</p>	<p>The Council is proposing to reduce its rate to £150 per square metre for convenience based supermarkets, superstores and retail warehouses (with a net retail space exceeding 280 sq.m) on the basis of revised Viability evidence presented by BNP Paribas in response to the consultation on the PDCS. Three Rivers District Councils have proposed charging a flat charge of £120 per square metre for retail development regardless of its scale. The rates proposed are based on the</p>	<p>ASDA4</p>	<p>The Council will need to update the retail charge to reflect the recommendations of BNP Paribas in their update to the Viability study.</p>

	<p>The decision to split small and large retail developments falls outside the scope of the CIL Regulations. There is insufficient evidence to warrant the division proposed either on use or viability grounds and the threshold for retail development is not therefore appropriate.</p> <p>The Viability Study contains retail assumptions that are inadequate and do not make sufficient allowances for S.106 contributions which will need to be paid in addition to CIL and the costs of obtaining planning permission. When combined with the proposed CIL charge these costs make large retail developments unviable.</p>	<p>relative viability of retail developments within these locations as required by Regulation 14 of the CIL Regulations.</p> <p>The differentiation of retail uses has been more clearly defined as a result of updated and additional viability testing by BNP Paribas. A number of authorities have now adopted a differential rate for differing scales of retail development. There are clear viability grounds on which to differentiate between the scales of retail uses. The Council is of the view that such matters fall within the scope of Regulation 13(1)</p> <p>The Council does not have a standard approach to charging S.106 for retail sites within the existing policy framework and such negotiations have been undertaken historically on a case by case basis. BNP Paribas have re-run appraisals included an assumed charge of £25 per square metre for Section 106 costs. Contributions towards S106 costs are to be scaled back as of April 2014 (subject to consultation) and they consider that this would be an appropriate assumption. We intend to reduce the retail charge from £200 per sq.m to £150 per sq.m in accordance with the conclusions of BNP Paribas.</p> <p>Planning application fees and costs are included within the professional fees assumptions allowed for in the appraisals. It is considered that the contingency of 5% adopted within the appraisals, which is also applied to the professional fees,</p>	<p>ASDA5</p> <p>ASDA6</p>	<p>The Council will need to amend the description and thresholds for retail charges in accordance with the recommendations of BNP Paribas in their update to the Viability study.</p> <p>The Council will need to update the retail charge to reflect the recommendations of BNP Paribas in their update to the Viability study. The Council will seek to improve the evidence which sits behind the retail assumptions through examination of historic S.106 agreements.</p>
--	---	--	---------------------------	---

	<p>The charging schedule does not make the connection between the CIL charges proposed and the infrastructure requirements of the particular development upon which they are being levied.</p> <p>Many regeneration projects on brownfield land or town centres involve demolishing, converting or redeveloping buildings that have lain vacant for some time and the CIL Regulations only allow the Council to deduct pre-existing floor space from CIL if it is in lawful use. The Viability Study does not acknowledge the economics of conversion schemes are different to new builds and the viability of such schemes.</p>	<p>would account for any unforeseen costs</p> <p>The CIL guidance requires the proposed rates to be informed by viability considerations of developments rather than their relative impact on infrastructure. The Council would contend that the CIL charge for retail is proportionate with the impact on infrastructure and the need for infrastructure improvements to support retail development – see ASDA2.</p> <p>The recently released DCLG Consultation on Community Infrastructure Levy Further Reforms. This document seeks to address the concerns relating to Regulation 40 - The Vacancy period test for calculating the levy liability so that vacant floor space can be offset in certain circumstances. This would mean that the charge would only be applicable to net gains in floor space in refurbishment and redevelopment schemes. The Council is supportive of this approach which would facilitate its regeneration plans. The Council does not consider that there are any sites suitable for large retail development within the Borough which would benefit from the circumstances described in this response.</p>	<p>ASDA7</p> <p>ASDA8</p>	<p>None</p> <p>Officers will respond to the DCLG consultation recommending supporting the proposed amendments to Regulation 40 of the CIL Regulations.</p>
<p>7.0</p> <p>Exemptions from CIL</p>	<p>We would encourage the adoption of an Exceptional Circumstances Policy</p>	<p>The support for an Exceptional Circumstances Policy is to be welcomed –see BTC10</p>	<p>ASDA9</p>	<p>The Council intends to publish a draft Discretionary Relief and Exceptional Circumstances Policy prior to consultation on the DCS.</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
9.0 Payment and Collection of CIL	It is recommended that an Instalments Policy is adopted by the Council.	The support for an Instalment Policy is welcomed - see BTC11	ASDA10	It is intended to publish a draft Instalments Policy alongside the DCS.
Sainsbury's (by Indigo Planning Limited) (SAIN)				
General	The implications of State Aid do not appear to have been fully considered particularly those relating to selective advantage. It is clear that selective advantage is being given in respect to certain forms of retail and residential development and this should be addressed.	As the decisions on the charging rates are based on viability evidence and not framed to give a selective advantage to any individual or organisation it is considered that there are no state aid issue to address.	SAIN1	None.
6.0 Charging Rates General	It is clear that there is a bias against larger retail development because it is more viable and that	The CIL guidance requires the proposed rates are informed by viability considerations rather than on their relative impact on infrastructure. The	SAIN2	The Council will need to update the retail charge and threshold to reflect the recommendations of BNP Paribas

Retail	<p>as retail developments do not give rise to significant impacts on infrastructure this is clearly disproportionate and contrary to Paragraphs 12 and 37 of the DCLG CIL Guidance – December 2012.</p> <p>There is insufficient evidence to justify the proposed retail rate.</p> <p>The BNP Paribas Viability Assessment only tests a limited number of retail scenarios and these do not relate to current retail practices.</p> <p>The retail scenarios do not take account of any costs associated with brownfield sites, the removal of existing uses and other such matters such as the</p>	<p>rate for 'large retail' (as defined in the PDCS), has now been re-defined as 'Convenience-based supermarkets and superstores and retail warehousing (net retailing space of over 280 square metres)' following the recommendations of BNP Paribas and has been set in relation to viability in line with the regulations and guidance. See also ASDA2 and ASDA6</p> <p>The Council would disagree with this statement for the reasons set out below.</p> <p>BNP Paribas have, in response to the objections, appraised a smaller and larger scheme of 1,000 square metres and 5,000 square metres respectively for 'Convenience-based supermarkets and superstores and retail warehousing (net retailing space of over 280 square metres)'. It is logical to test these scenarios given the identification of different cost implications identified by BCIS for developing supermarkets up to 1,000 sq m from those over 1,000 sq up to 7,000 sq m.</p> <p>The assumptions are all set out within table 4.55.1 and Appendix 3 of the Viability Assessment and updates thereon.</p> <p>Three current use values have been considered in the assessment which provides a range against which the retail uses are to be assessed. These include secondary industrial, new industrial and office uses incorporating an appropriate premium</p>	<p>SAIN3</p> <p>SAIN4</p> <p>SAIN5</p>	<p>following their update to the Viability study.</p> <p>None</p> <p>The Council will need to update the retail charge to reflect the findings of BNP Paribas as set out in their update to the Viability study.</p> <p>None</p>
--------	--	--	--	--

	<p>need to deal with site contamination etc.</p> <p>The evidence base of BNP Paribas suggests that retail uses cannot sustain a CIL at the rate suggested. Retail developments in Berkhamsted can only sustain a charge of £100 per square metre and no retail charge can be sustained within the town of Hemel Hempstead</p> <p>There is insufficient justification for the retail threshold and as</p>	<p>above the CUV.</p> <p>An allowance has been made for demolition however it is not possible to incorporate a cost for remediation of brownfield sites within an area wide viability study. The Bristol CIL examiner identified this at Paragraph 26 of his report dated July 2012, stating that, <i>'By definition, the CIL cannot make allowance for abnormal, site specific, costs'</i></p> <p>The retail development referred to in this response has now been defined as "all other retail (Classes A1-A5)" and is not subject to a charge as set out in an update to the Viability study. The original evidence presented in the BNP Paribas report highlighted that these retail uses could only sustain a CIL charge in the settlement of Berkhamsted and on this basis the Council determined not to pursue a charge for small forms of retail development through the PDCS. The Council has set the proposed retail rate based on the viability evidence and have not set the rate at the margins of theoretical scheme viability i.e. we have adopted a buffer to account for changes in economic circumstances. The proposed CIL is a very marginal additional cost and S106 should be scaled back as a result of introducing CIL. The impact on the vast majority of developments should be minimal</p> <p>BNP Paribas have revised the viability assessment with regard to the definition of retail uses</p>	<p>SAIN6</p> <p>SAIN7</p>	<p>The Council will need to update the retail threshold to reflect the findings on BNP Paribas in their update to the Viability study.</p> <p>The Council will need to update the retail threshold to reflect the findings of BNP</p>
--	--	---	---------------------------	---

	<p>such it is not considered appropriate.</p>	<p>assessed. They now identifies the retail uses as:</p> <ul style="list-style-type: none"> • Convenience supermarkets, superstores and retail warehousing (net retailing space of over 280 square metres); and • All other retail (A1-A5) <p>This definition should be adopted by the Council in its DCS.</p> <p>It is acknowledged that size does not necessarily result in the higher values generated by convenience based supermarkets and superstores and retail warehousing uses. A number of other factors are involved.</p> <p>BNP Paribas have undertaken a review of convenience based supermarket units within Dacorum Borough using the VOA business rates website, and has identified that the units for which the above characteristics are associated and for which occupiers with greater covenant strength are associated predominantly exceed the Sunday Trading Law threshold of 280 sq m (there are one or two exceptions). In their experience, the national occupiers seek units of between 2,500 sq ft (232.26 sq m) to 4,000 sq ft (371.61 sq m) for their smaller format convenience stores, however their preference is for larger units, which we understand they can run more economically and they are not impacted as greatly as local occupiers by the limit on the opening hours. In this regard it is a logical</p>	<p>Paribas in their update to the Viability study.</p>
--	---	---	--

		<p>threshold at which to set the rate</p> <p>Evidence has clearly been presented in several CIL examinations to demonstrate that supermarkets, large retail stores and retail warehouses have differing characteristics to small retail units and as such it is reasonable to levy a differing charge thereon.</p>			
7.0	Exemptions to CIL	We consider it important that the Council accepts applications for Exceptional Circumstances Relief (under Regulation 55)	The support for an Exceptional Circumstances Policy is welcomed.	SAIN8	It is intended to publish a draft Discretionary Relief and Exceptional Circumstances Policy prior to consultation on the DCS.
9.0	Payment and Collection of CIL	It is considered that the Council should introduce a policy on Instalments as this will assist the viability of larger schemes.	The support for the introduction of an Instalments Policy is to be welcomed.	SAIN9	The Council intends to publish a draft Instalments Policy prior to consultation on the DCS.
ALDI (by Turley Associates) (ALDI)					
General	It would be helpful if the Council could set out its intended administration costs and processes.	The CIL Regulations clearly set out that up to 5% of the CIL receipts may be used for administration of the charge. The costs associated with administering CIL are not known	ALDI1	None	

		at this stage although there has been significant start up costs for which it would be beneficial to retain these funds.		
Issue	Comment	Proposed Response	Reference	Proposed Action
6.0 Charging Rates				
Overall	The proposed charges put the overall development of the area at risk and cannot be supported.	The Council disagrees with this statement for the reasons set out in this response.	ALDI2	None.
Retail	The LPA's evidence acknowledges that there are differences between 'large' and 'small' retail developments. It is not however appropriate to differentiate on size alone unless there is a distinct and reliable delineation between uses which is based on viability characteristics.	The Council will adopt an amended description and threshold for retail as set out in an update to the Viability report carried out by BNP Paribas in response to points raised during the consultation on the PDCS. This new threshold differentiates the retail charge on grounds of use and character in addition to size and is considered to provide a more distinct and reliable delineation of retail uses.	ALDI3	The Council will need to amend the charges and threshold in the DCS to reflect the findings set out in updates to the Viability report by BNP Paribas.
	ALDI operate a business model based on delivering discounted goods. A high CIL would undermine the viability of this model and result in a loss of retail choice.	The concerns with the overall level of charge are noted. It is intended to reduce the charge in accordance with the advice of BNP Paribas	ALDI4	The retail charge will be reduced in accordance with the recommendations in the updated Viability report prepared by BNP Paribas in response to comments on the PDCS

	<p>We would expect the CIL charge for retail to be reduced given that it is acknowledged in the BNP Paribas report that the development of small retail uses is unviable in most locations and our concerns with differentiating retail uses. We would request that S.106 costs are factored into viability appraisals and adjustments to the charge are made to reflect the impact of S.106 on viability.</p> <p>It is recommended that the charge is regularly reviewed and any such review periods should be clearly set out in the DCS.</p>	<p>Additional viability assessments have been carried out by BNP Paribas and an assumption on the residual S.106 sum cost has been incorporated into the assessment as requested by ALDI. This has reduced the applicable charge for retail development from some £200 per sq.m to £150 per sq.m. The Council proposes to amend the charging schedule accordingly.</p> <p>The Council is committed to carrying out regular reviews of the charging schedule. There is no requirement to set these review periods out for examination.</p>	<p>ALDI5</p> <p>ALDI6</p>	<p>See above comment to ALDI3 and ALDI4</p> <p>There is a requirement to periodically review the charging schedule. The requirement for a formal review will be informed by the findings of the annual monitoring and reporting on CIL.</p>
<p>7.0 Exemptions from CIL</p>	<p>We note that the Council has not made a decision on whether it offers Discretionary Relief, but it is likely to offer Exceptional Circumstances Relief. It is recommended that the Council introduces an Exceptional Circumstances Policy</p>	<p>The support for an Exceptional Circumstances Policy is welcomed – see BTC10</p>	<p>ALDI7</p>	<p>It is our intention for a draft policy on Discretionary Relief and Exceptional Circumstances to be published prior to consultation on the DCS.</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
<p>9.0</p> <p>Payment and Collection of CIL</p>	<p>It is recommended that the Council introduces an Instalments Policy. We note that BNP Paribas recommend that payments on large schemes should be spread over a period of up to two years.</p>	<p>The support for an Instalments Policy is welcomed – see BTC11</p>	<p>ALDI8</p>	<p>It is intended to publish a draft Instalments Policy prior to consultation on the DCS.</p>
<p>The Retirement Housing Group (RET)</p>				
<p>6.0</p> <p>Charging Rates</p> <p>Retirement Homes</p>	<p>The inclusion of developments of accommodation for older people within a general residential heading fails to acknowledge the specific viability issues associated with such housing.</p> <p>Given that viability of schemes for extra care may be marginal a CIL may prevent them coming forward. This would not address</p>	<p>BNP Paribas recognise the issues associated with providing retirement housing and housing for older people. The Council is proposing a rate for retirement housing which is not applicable to care homes and extra care units. A further clarification note will be added to the DCS to acknowledge this situation.</p> <p>A ‘nil’ charge is proposed for extra care facilities as it is acknowledged that a charge would not be viable within the report of BNP Paribas. The charge for retirement housing is only to be</p>	<p>RET1</p> <p>RET2</p>	<p>Footnotes need to be added to the Charging Schedule to clarify the nature of retirement housing schemes that would be chargeable under CIL.</p> <p>An update to the BNP Paribas Viability report will be published alongside the adopted response of the Council to the PDCS in June 2013. The charges will be</p>

		<p>consider to be an appropriate assumption. BNP Paribas appreciate that such schemes have to operate all the communal areas from first occupation and as such there will be costs associated with the vacant units in a scheme. They have therefore allowed for empty property costs of £2,000 per unit, which they consider to be a reasonable allowance.</p> <p>This re-run of the appraisals sitting behind the retirement home charge suggests that retirement housing developments are only viable in the highest value areas of the Borough. BNP Paribas recommends that the Council amends the CIL charging schedule to allow for a £200 per sq.m charge for Zone 2 (Berkhamsted and surrounding areas) and removes charges for retirement housing elsewhere in the Borough. This would be an increase in charges for Zone 2 (Berkhamsted and surrounding areas) of some £75 per sq.m on that presented in the PDCS. The Council only intends to remove the charge from low value areas and does not consider raising the charge to be appropriate at this stage</p>		
9.0				
Payment and Collection of CIL	We would welcome the introduction of an Instalments policy and would request that such a policy is based upon the occupation of the scheme.	The Council welcomes the support for an Instalments policy – see BTC12. Unlike S.106 contributions which can be tied to occupation of units, the CIL Regulations (Regulation 69B (2) (d) of the Regulations 2011) only allow for	MRS L3	It is intended to publish a draft Instalments policy prior to consultation on the DCS.

		instalments to be structured to timescales after the planning consent has been implemented. The Council cannot follow the approach suggested in this response.		
Brian Barber Associates (BBA)				
6.0 Charging Rates Residential	<p>The proposed charges put the development of the area at risk.</p> <p>The proposed CIL rates represent a substantial increase on the planning costs per plot compared to the existing S.106 policy and will undermine the delivery of housing as a result.</p> <p>The development typologies and unit sizes tested are not representative of scenarios common in Dacorum. For example it is not uncommon for small infill schemes featuring</p>	<p>The proposed charges are within the viability thresholds identified in the viability report of BNP Paribas and should not put the overall development of the area at risk</p> <p>The CIL Regulations require that the rates are based on viability evidence not those amount's that have historically been secured via S.106. The proposed rates of CIL will account for no more than 4-5% of scheme costs which is a marginal addition to costs similar to a developer's contingency allowance.</p> <p>The typologies represent the range of scenarios likely to take place over the life of the charging schedule and include small infill developments. The Viability Appraisals generate a quantum of floor space to which an average sales value per square metre is applied and as such unit types</p>	<p>BBA1</p> <p>BBA2</p> <p>BBA3</p>	<p>None</p> <p>The Council will be required to produce evidence in relation to existing and historical S.106 agreements for the CIL examination.</p> <p>BNP Paribas have been commissioned to undertake some additional viability work on strategic and local allocations within the Core Strategy. No action is required to test smaller infill sites which have already been tested in original Viability</p>

	<p>larger dwellings to be implemented within Berkhamsted. These schemes would be unviable as a result of flaws in the Viability assessment.</p> <p>We advocate a reduction in the CIL rate as a whole and a cap on the maximum size and contribution as the cost from CIL is inequitable to the impact on infrastructure resulting from the development of a single large dwelling.</p> <p>A fundamental concern with the viability appraisals are that they take no account of current use values. We acknowledge that CIL only applies to additional floor area, but the deduction is nowhere near local values of existing property.</p> <p>The proposed CIL charges cannot be viewed in isolation. The emerging affordable housing policy in the Core Strategy will result in a huge increase in scheme cost. The Core Strategy is at an advanced stage and we have every reason to believe that the policy will be introduced.</p>	<p>and sizes have little material difference to the appraisal outcomes.</p> <p>The CIL is not based on a perceived impact on infrastructure but on grounds of scheme viability. There are no valid viability reasons for reducing the overall CIL charges. The developer appears to be suggesting a form of selective advantage to developers of larger homes which may breach rules on State Aid. .</p> <p>When appraising two larger houses, the residual values increase considerably, such that an existing property could be purchased without undermining scheme viability.</p> <p>The affordable housing policy in the Core Strategy has been taken fully into account when setting the CIL charges. The planning policy is flexible and a contribution can be waived should the site specific circumstances demonstrate that the scheme would be unviable. Officers are of the opinion that such circumstances would be rare and this approach would be unlikely to significantly prejudice the</p>	<p>BBA4</p> <p>BBA5</p> <p>BBA6</p>	<p>study by BNP Paribas.</p> <p>None</p> <p>None</p> <p>Officers are gathering further data to support the position outlined in this response</p>
--	---	---	-------------------------------------	---

	<p>The representations include appraisals for two scenarios.</p>	<p>supply of affordable homes.</p> <p>The charges quoted in the examples provided in the representation under value the affordable housing sales values and commuted sums are over stated making the proposals appear less viable than might be the case. Scenario 2 has been re-tested by BNP Paribas in an update to the Viability study. The proposals results in a significant increase in residual land value sufficient for the purchase of land.</p> <p>This view is not shared by the Council and its consultants BNP Paribas who suggest that land values will adjust to accommodate the CIL requirements, particularly those relating to garden land.</p>	<p>BBA7</p>	<p>None</p>
	<p>Example – Meadway</p>	<p>We are advised that the scenario presented in the Meadway example is not typical of most developments within the country with the site being purchased for a relatively high land value.</p>	<p>BBA8</p>	<p>None</p>
	<p>The impact of CIL and affordable housing policy is likely to have a significant impact on the viability of small sites including infill plots, side gardens and proposals involving demolition of existing dwellings.</p>	<p>See response to BBA6</p>	<p>BBA9</p>	<p>None</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
<p>7.0</p> <p>Exemptions from CIL.</p>	<p>We would urge the Council to adopt a Discretionary Relief and a policy on Exceptional Circumstance. Such matters would not however alleviate the need to amend the charge.</p>	<p>The support for Discretionary Relief and an Exceptional Circumstances Policy is welcomed – see BTC10.</p>	<p>BBA10</p>	<p>It is our intention for a draft policy on Discretionary Relief and Exceptional Circumstances to be published prior to consultation on the DCS.</p>
<p>9.0</p> <p>Payments and Collection of CIL</p>	<p>We urge the Council to adopt an Instalments policy. However, we wish to make it clear that this does not address our fundamental concerns with the charge being too high. A failure to provide an Instalment policy would place a significant financial burden on the developer.</p>	<p>The support for an Instalments Policy is welcomed – see BTC11.</p>	<p>BBA11</p>	<p>It is intended to publish a draft policy on Instalments prior to consultation on the DCS.</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
D.B. Rees (Builders) Limited (DBR)				
<p>6.0</p> <p>Charging Rates</p> <p>Residential</p>	<p>The imposition of both additional affordable housing requirements and CIL will result in a failure to deliver small sites and price small developers out of the market.</p>	<p>The evidence in the viability study does not support these conclusions and consequently the Council does not propose any reductions in the charge at this stage. The proposed CIL represents a modest addition to the overall scheme cost and will not have a significant adverse impact on the majority of schemes.</p>	<p>DBR1</p>	<p>None</p>
TDP Developments Limited (TDP)				
<p>6.0</p> <p>Charging Rates</p> <p>Residential</p>	<p>As a small building company we have been building medium to large 4/5 bedroom detached houses in Berkhamsted for the last ten years. We have</p>	<p>The evidence in the viability study produced by BNP Paribas has concluded that modest infill developments can sustain the CIL charge and as such there are no proposals to reduce the charge for Berkhamsted.</p>	<p>TDP1</p>	<p>None</p>

	<p>undertaken a study of all developments that have been completed by TDP in the Dacorum area and have determined that all of them would not have been viable if CIL had applied as the scheme costs would have reduced prices to below current use value. Some 14% of housing development in Dacorum has been on this type of garden land in the last 10 years and the proposals would thus significantly undermine the supply of housing.</p> <p>We propose that the CIL rate should be reduced and capped per plot as there is no additional impact on infrastructure relating to the size of differing five bedroom properties.</p>	See response to BBA2	TDP2	None
Sport England (SPD)				
3.0 Infrastructure Needs	We consider that there are other sporting infrastructure needs other than those identified for Berkhamsted Sports Centre and	The Council has commissioned a new Outdoor Sports Facilities and Playing Pitch Assessment to update the findings of the last assessment in 2006. The findings of this report will be included	SPO1	The Council currently secures limited funding towards sporting infrastructure through the existing Planning Obligations SPD and will need to consider whether

	Tring Sports Centre. The lack of a up to date Playing Pitch Assessment and Strategy is considered to be a flaw in the infrastructure evidence.	in an update to the IDP.		utilising CIL to improve sports facilities would be appropriate given the pressure upon such facilities and the availability of alternative funding sources.
4.0 Funding Gap	The IFGA indicates that there is no gap envisaged to deliver the required infrastructure at Berkhamsted Sports Centre and Tring Sports Centre given the availability of alternative funding. Sport England would question whether such funds are available and whether there is actually a funding gap which needs to be filled with CIL funding.	The information provided by Dacorum Sports Trust and Sportspace suggests that they do not require funding to improve these sporting facilities in accordance with the IDP and therefore it is proposed that no CIL funding will be sought for these matters.	SPO2	Based upon the current information, it does not appear that any reference to funding additional sports facilities needs to be included within the Regulation 123 list.
Harrow Estate Plc (HAR)				
3.0 Infrastructure Needs	An up to date plan is a starting point for preparation of a CIL and at present the Council's Core Strategy is under scrutiny. We consider that any additional growth is likely to have significant	See CWN1 for the Council's comments on the appropriateness of preparing a CIL charging schedule at this stage. Any additional infrastructure needs resulting from the identification of additional housing sites as part of a review of the Core Strategy can be included	HAR1	None

	implications for infrastructure needs.	in a revision to the Charging Schedule. It would be sensible to coordinate a review of both documents.		
Issue	Comment	Proposed Response	Reference	Proposed Action
6.0 Charging Rates Residential	<p>The BNP Paribas viability study does not appear to take account of the costs associated with the development of previously developed land (some 86% of the housing to be provided under the Core Strategy) and we consider that the charges could therefore have a serious detrimental impact on delivery of housing on such sites contrary to the CIL Regulations.</p> <p>The land at West Hemel Hempstead (LA3) will deliver up to 9% of the planned housing growth in Dacorum but there will be significant infrastructure costs associated with the site including a primary school and doctor's surgery. The impact of CIL on the</p>	<p>The BNP Paribas viability assessment uses a base construction cost based on BCIS and provides an adjustment to account for external works. This is likely to be appropriate in the majority of cases within the urban area of Hemel Hempstead.</p> <p>The Council acknowledges that the infrastructure requirements of strategic and local allocations within the Core Strategy may be delivered more effectively by using a S.106 agreement. Such agreements are still permissible under the CIL Regulations and will often be used to secure infrastructure directly related to or provided on the application site. The Council has</p>	<p>HAR2</p> <p>HAR3</p>	<p>None</p> <p>BNP Paribas are carrying out additional viability work on strategic and local allocations to test whether these sites will support CIL and S.106 and determine the most appropriate delivery vehicle for infrastructure items.</p>

	delivery of this site must be considered as its application could undermine scheme viability.	commissioned BNP Paribas to test whether such sites can sustain both a S.106 and CIL charge as encouraged by the DCLG CIL Guidance 2012.		
10.0 Using CIL Monies	The Council must ensure that an explicit list is provided that identifies those areas covered by CIL and S.106. This work is required for the Regulation 123 list and is crucial to avoid the possibility of 'double counting'	The Council is in the process of determining which items of infrastructure will be requested through a S.106 agreement and which items will be pursued through CIL.	HAR4	It is intended to publish a statement on the interaction of S.106 and CIL prior to consultation on the DCS and a Draft Regulation 123 list on the spending priorities for CIL. The content and approach will be informed by viability work from BNP Paribas and discussions with HCC.
Berkhamsted Citizens Association (BCA)				
3.0 Infrastructure Needs	We believe the infrastructure needs are up to date and supported by evidence.	The support for the infrastructure needs evidence is welcomed – see BTC1	BCA1	None
4.0 Funding Gap	We believe that a sound funding gap has been identified.	The support for the evidence supporting the funding gap is welcomed.	BCA2	None

Issue	Comments	Proposed Response	Reference	Proposed Actions
<p>6.0</p> <p>Charging Rates</p> <p>Residential</p>	<p>The current charging schedule is inequitable and will prevent growth in Berkhamsted. The charge should be applied to the Council Tax band applicable to the property as this would be a more equitable approach.</p>	<p>The proposed charges are based on a detailed viability assessments carried out by BNP Paribas in accordance with the CIL Regulations. This clearly demonstrates that a higher charge can be supported by development within the town of Berkhamsted. The approach suggested by the BCA would not differentiate development for either its use or scale and as such would not be permissible under the CIL Regulations.</p>	<p>BCA3</p>	<p>It is proposed to amend the charges to reflect some of the findings of BNP Paribas in their update to the viability study. The concerns with the level of charge for Berkhamsted are noted. In light of these concerns, given the demographics of the area and infrastructure needs it is not proposed to increase the charge on retirement housing for this settlement.</p>
<p>Other Charges</p>	<p>The proposed charges for other items are appropriate.</p>	<p>The support for the other charges in the charging schedule is welcomed</p>	<p>BCA4</p>	<p>None</p>
<p>7.0</p> <p>Exemptions from CIL</p>	<p>The Council should adopt an Exceptional Circumstances Policy</p>	<p>The support for an Exceptional Circumstances Policy is welcomed.</p>	<p>BCA5</p>	<p>It is intended to publish a draft policy on Discretionary Relief and Exceptional Circumstances prior to consultation on the DCS.</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
<p>9.0</p> <p>Payment and Collection of CIL</p>	<p>The Council should not adopt an Instalments policy.</p>	<p>The Council is required to explain how the introduction of a CIL will contribute positively towards the delivery of the Core Strategy. An Instalment Policy is considered to be critical to this task. The Council will produce an Instalment Policy prior to consultation on the DCS.</p>	<p>BCA6</p>	<p>It is intended to publish a draft Instalments policy prior to consultation on the DCS</p>
<p>Highways Agency (HA)</p>				
<p>10.0</p> <p>Using CIL Monies</p>	<p>The Highways Agency has no comments to make as infrastructure improvements to the strategic network (A5 and M1) will usually be secured through a S.278 agreement.</p>	<p>The Council has not identified any improvements to the strategic road network (A5 and M1) within its IDP and therefore welcomes the clarification from the Highways Agency that they are not seeking any CIL.</p>	<p>HA1</p>	<p>There is no need to identify any highway projects relating to the A5 or M1 upon the Council's Regulation 123 List.</p>
<p>Aylesbury Vale District Council (AVDC)</p>				
<p>General</p>	<p>AVDC does not wish to make any comments at this stage.</p>	<p>None</p>	<p>AVDC1</p>	<p>None</p>

Issue	Comment	Proposed Response	Reference	Proposed Action
Central Bedfordshire District Council (CBDC)				
General	Central Bedfordshire does not wish to make any formal comments at this stage	None	CBDC1	None
Hertsmere Borough Council (HBC)				
General	Hertsmere Borough Council notes your proposals and do not have any comments to make at this stage.	None	HBC1	None
Luton Borough Council (LUT)				
General	The Council needs to keep up to date with other Council's charging schedules and ensure the charges are kept under regular review.	The Council will undertake a regular review of the CIL charging schedule	LUT1	The charging schedule will need to be reviewed to reflect changes in local circumstances. This review process will be informed by the monitoring of CIL.

Issue	Comment	Proposed Response	Reference	Proposed Action
3.0 Infrastructure Needs	The infrastructure needs appear to be up to date and supported by evidence	The support for the infrastructure evidence is welcomed.	LUT2	None
4.0 Funding Gap	A sound funding gap has been identified.	The support for the information on the funding gap is welcomed.	LUT3	None
6.0 Charging Rates General	The proposed charging rates are considered to be appropriate and would not put development at risk.	The support for the charging schedule is welcomed	LUT4	The Council will be making some amendments to the charging schedule to reflect some of the findings of the updated viability study undertaken by BNP Paribas
7.0 Exemptions	It would be appropriate for an	The support for an Exceptional Circumstances	LUT5	It is intended to publish a draft policy on

from CIL	Exceptional Circumstances Policy to be introduced.	Policy is to be welcomed.		Discretionary Relief and Exceptional Circumstances prior to consultation on the DCS.
Issue	Comment	Proposed Response	Reference	Proposed Action
9.0 Payment and Collection of CIL	It is recommended that an Instalments Policy is adopted.	The support for an Instalments Policy is welcomed.	LUT6	It is intended to publish a draft policy on Instalments prior to consultation on the DCS.
St.Albans City and District Council (SADC)				
6.0 Charging Rates Residential	The PDCS states that there may be viability issues to the north of Hemel Hempstead at a rate of £100 per square metre. The balance between the investment made on infrastructure works and viability of submitted schemes will need to more careful consideration in view of the DCLG CIL Guidance 2012.	The DCLG CIL Guidance of December 2012 states that in meeting the requirements of Regulation 14(1), charging authorities should show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant Plan and support the development of their area. As set out in the NPPF in England, the ability to develop viably the sites and the scale of development identified in the Local Plan should not be threatened. This is a subtle	SADC1	None. The Council has employed BNP Paribas to undertake some new site specific viability work in consultation with local landowners. This work will inform the charging schedule and help determine whether strategic and local allocations should secure infrastructure improvements through the use of S.106 and CIL.

Retail	It is this Councils understanding that the application of different rates should be based on viability evidence and we would therefore recommend that the threshold for retail development is carefully considered.	<p>difference to the wording set out in the CIL Regulations and slightly changes the emphasis on the level of charge that may be applied.</p> <p>At this stage no changes are proposed to the charges for Hemel Hempstead given that the charge is still within, albeit at the margins, of the viability range suggested within the BNP Paribas viability report for northern wards in the town. The Council is undertaking additional site specific viability work in relation to strategic and local allocations in the Core Strategy to determine whether it is appropriate for the current CIL charge to be applied to these sites instead or in addition to any S.106 agreement which may be sought for these cases.</p> <p>There is clear viability evidence that some larger retail units are more viable and can sustain a CIL charge. We are rewording the threshold to more accurately reflect the differences in retail typology in line with the wording within the Wycombe District Council Charging Schedule.</p>	SADC2	It is proposed to alter the wording of the retail thresholds prior to consultation on the DCS.
--------	---	---	-------	--