

# **Community Infrastructure Levy Preliminary Draft Charging Schedule Consultation Report**

**March 2018**



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## 1. Summary

The Community Infrastructure Levy (CIL) Regulations require a minimum two rounds of public consultation as part of the process informing the development of a CIL Charging Schedule. This is the first of the two consultation exercises, and has been carried out in accordance with Regulation 15 of the CIL 2010 Regulations on a Preliminary Draft Charging Schedule (PDCS).

This document considers the outcome of the CIL PDCS consultation and outlines the Council's responses to the representations and comments received in a commentary.

Following consideration of representations received on the PDCS, a Draft Charging Schedule will be published in accordance with Regulation 16 of the CIL Regulations.

## 2. Background

Brighton & Hove City Council issued a Preliminary Draft Charging Schedule (PDCS) as the first formal stage in the preparation of a CIL Charging Schedule in accordance with the Planning Act 2008 (as amended by the Localism Act 2011) and the Community Infrastructure Levy Regulations 2010 (as amended).

The charging area is to cover the administrative area of Brighton & Hove City Council excluding the South Downs National Park area. The Charging Authority and Collecting Authority will be Brighton & Hove City Council.

## 3. Consultation methodology

Public consultation was undertaken during the period of **Friday 13<sup>th</sup> October 2017 and Sunday 10<sup>th</sup> December 2017**. Responses were invited through the BHCC online consultation portal, via email or post.

The PDCS, the bespoke Viability Report (DSP August 2017) and links to the Infrastructure Delivery Plan update and local development plan were made available on the council's consultation portal and [developer contributions web page](#).

In compliance with regulation 15 of the Community Infrastructure Levy Regulations 2010 (as amended) the following consultation methodology was undertaken:

Required consultation bodies were sent a copy of the PDCS along with information about the consultation, relevant dates and links to the developer contributions web page and consultation portal and invited to make representations. The list of bodies sent a copy of the PDCS, associated information and invited to make representations were:

**Adjoining or adjacent Local Planning Authorities**

South Downs National Park  
Adur District Council  
Worthing Borough Council  
Lewes District Council  
Mid Sussex District Council  
Horsham District Council  
Wealden District Council  
East Sussex County Council  
West Sussex County Council

**Parish Councils and Neighbourhood Areas within the Brighton & Hove City Council area**

Rottingdean Parish Council (with an agreed Neighbourhood Area)  
Brighton Marina Business Neighbourhood Area and Forum  
Hove Station Neighbourhood Area and Forum  
Hove Park Neighbourhood Area and Forum

**Designated Neighbourhood Areas adjoining or in the vicinity of the Brighton & Hove City Council boundary:**

Peacehaven and Telscombe Neighbourhood Area  
Ditchling Westmeston and Streat Neighbourhood Area  
Upper Beeding Neighbourhood Area

**The wider community**

Emails were sent inviting representations on the PDCS to the following groups on the council's planning policy database with information about the consultation, relevant dates and links to the developer contributions web page and consultation portal:

All contacts held for developers, planning agents and landowners; business groups; voluntary, community, amenity and civic bodies; relevant utilities and statutory undertakers; universities and other higher education establishments.

The council advertised the consultation through a press and social media release.

The council presented information on the PDCS during the consultation period to the Brighton and Hove Planning Agents' Forum and to the meeting of the Chairs of Brighton and Hove Local Action Teams.

The document was available for comment on the council's Consultation Portal for the duration of the consultation and all parties registered to be notified for every consultation on the portal would have been made aware of the PDCS along with the relevant consultation dates.

### **Preliminary Draft Charging Schedule Questions**

To aid consideration of consultation responses the following questions were posed:

'In responding to the consultation, the Council would in particular welcome comments and views on the following key issues and questions:

- 1) Given the CIL Viability Study findings and the need to fund infrastructure for the city, are the proposed CIL rates set at a reasonable level to bring forward citywide infrastructure whilst enabling developments to achieve viability?
- 2) Given the CIL Viability Study's analysis and recommendation of value zones, are the proposed CIL residential charging zones set realistically, and will they enable residential developments to achieve viability within each zone?
- 3) Please give comments and views regarding current section 106 contribution areas which are likely to form part of proposals for an associated scaling back of section 106 contributions upon introduction of CIL.'

Comments were also invited on 'any points or matters raised by this consultation document and supporting Viability Study, whether or not related to the above key issues and questions.'

### **Consultation Portal**

Using the portal enabled the council to gather broad views on key issues and questions using the following tickbox headings:

<b>Strongly Agree</b>	<b>Tend to Agree</b>	<b>Neither Agree or Disagree</b>	<b>Don't Know/ Not Sure</b>	<b>Tend to Disagree</b>	<b>Strongly Disagree</b>
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This methodology is considered to be an accessible and user friendly way to engage with residents, voluntary groups etc.

### **Layout of Consultation Portal questions**

**Q1a** 'Given the CIL Viability Study findings and the need to fund infrastructure for the city, Do you agree or disagree that the proposed CIL rates are set at a reasonable level to bring forward citywide infrastructure whilst enabling developments to achieve viability?' (Table 1)

**Q1b** 'Is there anything that we have not considered or do you have any comments about the proposed CIL rates which are suggested within the PDCS?'

**Q2a** 'Given the CIL Viability Study's analysis and recommendation of value zones, do you agree or disagree that the proposed CIL residential charging zones are set realistically, and will they enable residential developments to achieve viability within each zone?' (Table 2)

**Q2b.** 'Is there anything that we have not considered or do you have any comments about the proposed CIL residential charging zones which are suggested within the PDCS?'

**Q3**'Please give comments and views regarding current section 106 contribution areas which are likely to form part of proposals for an associated scaling back of section 106 contributions upon the introduction of CIL'

**Q4** comments are also invited on any points or matters raised by the consultation document and supporting Viability Study, whether or not related to the above key issues and questions

## 4. Respondents

- 25 resident/individuals responses, all received through the consultation portal.
- 23 organisations / groups. Of these, 11 comments were received via the consultation portal and 12 replied via email/post.

### **Organisations/groups who responded**

#### **On behalf of community organisations (7 responses)**

Rottingdean Parish Council

West Hove Forum

Brighton and Hove Community Transport

Brighton and Hove Housing Coalition

Brighton Marina Neighbourhood Forum

North Laine Community Association

Councillor response

#### **On behalf of Strategic Authorities / Public Bodies (6 responses)**

Highways England - Strategic Highways Authority

Sussex Police

Sport England

County Ecologist

Natural England

NHS Brighton and Hove Clinical Commissioning Group

#### **Business organisations/ groups (3 responses)**

Brighton and Hove Economic Partnership

Brighton & Hove Bus and Coach Company

Enterprise Car Club

**Developers/ Agents/ Landowners (7 responses)**

Brunswick Development Group PLC

GL Hearn Agents for owners of Churchill Square (JTC Fund Solutions (Jersey) Ltd)

QUOD Agents for St William Homes LLP (joint venture Berkeley Gp and National Grid

Jones Lang LaSalle Ltd on behalf of University of Brighton

Savills (UK) Ltd Agent on behalf of consortium consisting Crest Nicholson, Hyde Housing & Legal & General

Select Property Group

Lichfields on behalf of Landsec



## 5. Responses made to the Preliminary Draft Charging Schedule

### Question One – CIL Viability Study findings and proposed CIL Rates

**Table 1**

Portal Responses to Q1a 'Given the CIL Viability Study findings and the need to fund infrastructure for the city, Do you agree or disagree that the proposed CIL rates are set at a reasonable level to bring forward citywide infrastructure whilst enabling developments to achieve viability?'

Consultation Portal Responses to proposed CIL rates	Strongly Agree	Tend to Agree	Neither Agree or Disagree	Don't Know/ Not Sure	Tend to Disagree	Strongly Disagree	Overall Total
Resident	3	8	4	2	3	5	25
Organisation	2	2	1	2	1	2	10
<b>Totals</b>	<b>5</b>	<b>10</b>	<b>5</b>	<b>4</b>	<b>4</b>	<b>7</b>	<b>35</b>

**Commentary:**

Responses made in relation to the preliminary draft charging rates indicated that on balance proposed rates were set at a reasonable level. Responses stating charges were too high, manageable or too low were received in roughly equal proportions.

**Consultation Portal Responses to Q1b** 'Is there anything that we have not considered or do you have any comments about the proposed CIL rates which are suggested within the PDCS'

<b>Consultee</b>	<b>Agree/ Disagree with rates</b>	<b>Representations to Q1b</b>	<b>Council Response and any Changes to the DCS</b>
Brighton & Hove Economic Partnership	Tend to agree	Given 2.12.4 of the viability study, which states: 'Appraisals were run on the basis of scenario testing with a fixed land value input to allow a surplus to be generated after all other development costs had been accounted for. That sum could then be expressed as a sum per unit available for on-site s106 requirements and or CIL.' The levels set seem manageable going forward.	This comment on proposed CIL levels is noted and considered generally supportive
Resident	Tend to agree	Given that the associate documents are significant in size which will preclude most people from actually reading them this is an unfair question! There is a significant risk that raising the CIL rates will cause housing developers to seek to build the smallest possible homes in an effort to reduce costs	PDCS consultation has been run in accordance with CIL regulations. The scope of work undertaken by the Council and documents consulted upon are considered to be in accordance with accepted practice and commensurate with other charging authority information on the production of a Charging Schedule at this stage. This will be the first CIL here, but it will largely replace and not be entirely additional to existing planning obligations arrangements under s.106. The residential rates are informed by evidence based within a carefully considered bespoke viability study. There is no evidence to demonstrate that the proposed CIL rates would reduce the size of future residential units. CIL

			costs will only be equivalent to a very small proportion of the overall development values or costs, and in balance with the viability aspects will provide necessary funding for strategic infrastructure required by new development.
Resident	Tend to agree	The residential rates seem ok. Don't see need for different zones. Outer areas have more infrastructure needs. Don't agree to leave out 'other' forms of development. Need to include commercial uses e.g. b uses that can heavily impact infrastructure and include other land uses. Other councils do. Everyone wants to develop here so should charge all types of development- it won't make them less viable.	The Proposed Charging Schedule rates are informed by the evidence within and the recommendations of a bespoke CIL viability study considered to be appropriate evidence in terms of setting viable CIL rates, including geographical zoning as far as appropriate but not to the extent of over-complicating the charging schedule unnecessarily. Under the CIL regulations and guidance, the balance between the City-wide Local Plan infrastructure needs and viability is carefully considered by the charging authority. However, the rates are set primarily with reference to viability and not according to the distribution of infrastructure needs. Where a development use has a proposed £0/sq. m charge this is informed by the viability evidence pointing to insufficient financial scope for that use to bear a CIL charge. A nil-rating of most development uses beyond residential and retail is a common finding and a position seen within many CIL charging schedules.
Resident	Tend to agree	They could be increased a little, especially since many of the benefits of the Levy increase the value of the properties and improve the situation of the new occupants.	The Council aims to improve quality of life and access to facilities in the City, and a CIL will support the Local Plan strategies around this.

			<p>The effect on property values related to CIL supported infrastructure is likely to be very difficult to detect in most instances, since it relates most to wider provision of infrastructure than site specific measures. The Proposed Charging Schedule rates are informed by evidence within and the recommendations of a bespoke CIL viability study considered to be appropriate evidence in terms of setting viable CIL rates, in balance with the need to provide infrastructure. Where a development use has a proposed £0/sq. m charge this is informed by the viability evidence pointing to insufficient scope for that use to bear a CIL charge. Overall, the proposed rates are considered appropriately positioned.</p>
Brighton & Hove Housing Coalition	Tend to disagree	They need to be higher and more specific (for example, the construction of social housing)	<p>The Proposed Charging Schedule rates are informed by the information within and recommendations of a bespoke CIL viability study considered to provide appropriate evidence in terms of supporting the setting of suitable, viable CIL rates across the Brighton &amp; Hove charging area. The Council has no direct influence on the payment of CIL charges by social / affordable housing developments. Social housing that meets the relief criteria set out in the CIL regulations does not pay a CIL charge. This is the national approach and not unique to this authority.</p>
Resident	Tend to	I am concerned that the CIL rates will simply serve to provide an	The Proposed Charging Schedule rates are

	disagree	additional disincentive to residential properties being built, whilst at the same time forcing up the prices of those that are built.	informed by the information within and recommendations of a bespoke CIL viability study considered to provide appropriate evidence in terms of setting viable CIL rates in the local housing market context, whilst striking an appropriate balance and so also allowing for the provision of strategic infrastructure required by new development. The proposed CIL is not entirely additional - existing developer contributions will be scaled back on the introduction of a CIL charge. There is no evidence to suggest that the adoption of a CIL at the rates proposed will significantly impact the delivery of new homes, or force up the prices of those.
Select Property Group	Strongly disagree	On behalf of Select Property Group (SPG), we would like to address this question specifically in the context of the PDCS's proposed rate of £250 psm on purpose built student accommodation (PBSA). SPG concludes that BHCC's analysis of the viability impact of CIL on PBSA is extremely limited in scope. Where the Dixon Searle Partnership (DSP) Viability Study has assessed an array of residential scenarios, from 1 unit to 100 unit schemes, the Study has only considered one PBSA scenario for a 100% cluster type accommodation with 150 en-suite rooms. We acknowledge that the Viability Study will not test the viability of every possible site and scheme scenario and that the objective of a Viability Study is to test the site typologies considered most relevant to the Local Authority for the plan period. We also acknowledge that 'specific assumptions and values applied for our schemes are unlikely to be appropriate for all developments and a degree of professional judgment is required'. However, we strongly disagree that a sufficient range of PBSA typologies	These comments on the PBSA rates proposed within the PDCS are noted and as with all other comments have been taken into account in further review of the evidence and proposals. In this case, this further review work has extended to the preparation and review of additional test scenarios. Further appraisals have been carried out. This additional work is outlined in the CIL Viability Assessment Addendum (February 2018) and will be reflected subsequently in the preparation of the DCS. So the Council has ensured that due regard has been taken of the comments made here. The additional tests have enabled the consideration

		<p>has been assessed, and that the Viability Study has very limited credibility as a result. At the very least, the Viability Study should have assessed the viability of a large scale PBSA development that provides studio apartment and substantial common areas, of the type delivered by SPG. Developments of this type typically have larger rooms and higher construction costs. The model and appraisal assumptions for studio PBSA developments warrant DSP undertaking a separate set of appraisals. SPG would be pleased to work with BHCC and DSP to agree a suitable set of assumptions to use in the additional appraisals. In addition, while DSP recommends on page viii of the Viability Study that the zoned approach used for residential development is also applied to PBSA, it does not support this conclusion by providing viability assessments for PBSA by zone. This represents a major methodological inconsistency, and supports our requirement that further viability testing for a broader range of PBSA typologies is undertaken.</p>	<p>of the viability of Purpose Built Student Accommodation in a wider way, with both Studios based and Cluster based typologies appraised. The potential influence of a range of rental values have been tested, also allowing the consideration of both scheme type and location – again bearing in mind the acknowledged high-level of this work as fits the CIL principles.</p> <p>Taken together with the 2017 assessment and recommendations and now also acknowledging the consultation feedback, the Council is confident that the approach taken in the February 2018 Viability Study addendum which has taken into account these comments is appropriate, and it can be noted that the proposed charging rate for Purpose Built Student Housing has been amended between the proposed PDCS rate and the proposed DCS rate (see Table 1 of the DCS). This brings the amended proposed charge rate (at £175/sq. m) further in line with the viability consultants' earlier findings that pointed to setting PBSA rate or rates broadly aligned to or not exceeding the proposed residential rates range. It must be acknowledged that all schemes will vary to some extent. Having carefully considered the latest evidence and the consultants recommendations regarding a citywide or zoned approach, as well as</p>
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			<p>reviewing potential differences between the viability rates the council has concluded that there will be a single citywide rate proposed in the DCS for purpose built student accommodation – applicable to all schemes and so for example relevant to both studio apartment and cluster typologies.</p> <p>Acknowledging the likely imperfections within any area wide approach suitable for CIL, this simple approach at a reduced rate is considered to best reflect overall the variable nature of this development, site by site.</p> <p>While no further information was made available to inform the Addendum work and Council’s consideration of these matters, consultees would be welcome to make any further comments on the revised approach to be taken, following publication of the DCS.</p>
Brunswick Development Group	Strongly disagree	<p>We are concerned that the proposed levy is too high for zones 1 and 2, and that it will prove counter productive to encouraging the provision of much needed new homes. A zone one rate of £175 per square meter is untenably high when compared with Zone One CIL levys already adopted within Horsham, Worthing and Chichester of between £100 to £135 psm. Each of these areas is comparable to Brighton &amp; Hove in terms of average house prices and location bordering the South Downs National Park. It is worth noting that another comparable area is Mid-Sussex, and their CIL due to be adopted in early 2018 has a rate of £80 psm for apartments.</p>	<p>Most relevant to a charging authority are the particular market and characteristics within its area and not elsewhere. Whilst less relevant, in terms of these comments seeking to make broad comparisons, the Council is not sure that the other authority’s charging rates are fully reflected in the comments. Looking at those quoted and others, the range of rates adopted and most recently proposed is more like £80 to £235/sq. m, with the Brighton &amp; Hove rates proposals considered appropriately consistent</p>

			with the overall picture in any event. The Proposed Charging Schedule rates are informed by the content within and recommendations of a bespoke CIL viability study for Brighton & Hove; considered to be appropriate evidence in terms of setting viable CIL rates, whilst allowing for the provision of strategic infrastructure required by new development.
Resident	Strongly disagree	Not high enough	The Proposed Charging Schedule rates are informed by the content within and recommendations of a bespoke CIL viability study considered to be appropriate evidence in terms of setting viable CIL rates, whilst allowing for the provision of strategic infrastructure required by new development.
Resident	Strongly disagree	The proposed charging levels: The levels suggested for Retail – Larger formats are too low and should be raised to the same level as Purpose Built Student Housing.	The Proposed Charging Schedule rates are informed by the content within and recommendations of a bespoke CIL viability study considered to be appropriate evidence in terms of setting viable CIL rates, whilst allowing for the provision of strategic infrastructure required by new development. As seen in other forms of development, the viability outcomes reflecting the larger format retail types (retail warehousing and foodstores/supermarkets) were considered sensitive to adjusted investment assumptions, potentially affecting values and leading overall to a range of potential outcomes reflected by the rate as proposed.



Resident	N/A	Proposed CIL levy not set high enough. Although we need to balance economic and city growth with charging policy, in Brighton and Hove we are desirable enough for higher CIL rates to be charged without stalling or putting off developers.	This and other similar comments are noted in balance with those suggesting that the rates should be lower. A balance has to be struck between viability and the provision of infrastructure. In all cases, the Proposed Charging Schedule rates are informed by the content within and recommendations of a bespoke CIL viability study; considered to be appropriate evidence in terms of setting viable CIL rates, whilst allowing for the provision of strategic infrastructure required by new development.
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### Question One Email / postal responses

‘Given the CIL Viability Study findings and the need to fund infrastructure for the city, are the proposed CIL rates set at a reasonable level to bring forward citywide infrastructure whilst enabling developments to achieve viability?’

Consultee	Representations to Q1 – General Comment Summary	Council Response and any Changes to the DCS
Brighton Marina Neighbourhood Forum	Representation is made in relation to Brighton Marina – Concerns that development will not come forward due to the effect of financial viability on CIL rates; Note that Brighton Marina is key housing site in local development plan; Additional development increases funds in overall Marina Service charge benefiting existing Residents and businesses – don’t want to hold back new development;	These comments on the rates proposed within the PDCS as would impact this particular site are noted and as with all other comments have been taken into account in the Council’s further review of the evidence and proposals.  Given the Council’s knowledge of the site,

	<p>Note distance from the City centre; Development at the Marina expensive compared with other city locations in the City due to the nature of reclaimed land with subsequent foundation and substructure requirements, and building specifications required to cope with the extremely exposed location.</p> <p>Question whether the Marina should be within the highest charging rate band if developments are to be viable. The costs of section 106 and affordable housing provision to be included into the mix of costs affecting whether a developer will be confident to proceed with a project.</p>	<p>development area, longstanding proposals and discussions with development interests, as well as experience relating to the delivery of the outer harbour proposals, on review the Council considers that sufficient appropriate available evidence is already in place to support a nil-rating (£0/sq. m) of the Inner Harbour Site. This revised proposal is to be reflected in the DCS, and is consistent with the level of abnormal costs that to date have been shown to create a viability deficit. Accordingly the proposed charging rate for the Brighton Marina Inner Harbour site area (boundaries as mapped in the City Plan), considered as strategic in terms of CIL guidance, has been amended between the proposed PDCS rate and the proposed DCS rate (see Table 1 of the DCS)</p>
<p>Lichfields on behalf of Landsec - owners of Brighton Marina Inner Harbour site</p>	<p><b>CIL Viability Testing as a strategic site is required due to known and unavoidable abnormal infrastructure costs for introduction of podium structure and upgrade of sea defences and utilities at Brighton Marina.</b></p> <p>The Inner Harbour site at Brighton Marina is allocated for a minimum of 1,000 dwellings, which accounts for 7.6% of Brighton and Hove's housing requirement for the 2010-2030 Plan period. The importance of the allocation is clearly acknowledged in the Inspector's Report on the City Plan (dated 5 February 2016): Inner Harbour will deliver c. 5,000 sqm and 3,500 sqm of net additional retail and leisure/ recreational uses. It is estimated the redevelopment of the site will deliver approximately 305 net new FTE jobs, - a significant economic benefit.</p>	<p>As above, these comments on the rates proposed within the PDCS as would impact this particular site are noted and as with all other comments have been taken into account in the Council's further review of the evidence and proposals. Given the Council's knowledge of the site, development area, longstanding proposals and discussions with development interests, as well as experience relating to the delivery of the outer harbour proposals, on review the Council</p>

Lichfields (ctd)	<p>Landsec has undertaken its own viability appraisal under current market conditions and with an increased residential density but the Brighton Marina, Inner Harbour site remains unviable.</p> <p><b>Unavoidable costs</b> Significant investment is required to upgrade the utilities, introduce a podium structure and upgrade the sea defences at Brighton Marina. These abnormal infrastructure costs are not typical of other strategic development sites identified in the City Plan. These costs have not been sufficiently reflected within the Viability Assessment and as such it cannot be relied upon in relation to the Brighton Marina site. As one of the largest residential strategic sites in the City Plan it is important that viability is further tested to ensure that the levy will not undermine the delivery of housing on this site. Combined, it is estimated from feasibility work carried out to date that the above enabling development and infrastructure increase the cost of residential construction at Brighton Marina by 30%. These are site specific, abnormal costs that are not captured in the generalised development scenarios upon which the CIL viability evidence is based.</p>	<p>considers that sufficient appropriate available evidence is already in place to support a nil-rating (£0/sq. m) of the Inner Harbour Site. This revised proposal is to be reflected in the DCS, and is consistent with the level of abnormal costs that to date have been shown to create a viability deficit. Accordingly the proposed charging rate for the Brighton Marina Inner Harbour site area (boundaries as mapped in the City Plan), considered as strategic in terms of CIL guidance, has been amended between the proposed PDCS rate and the proposed DCS rate (see Table 1 of the DCS)</p>
QUOD Agents for St William Homes LLP (joint venture Berkeley Group and National Grid Property)	<p>The Council has not considered the implications of CIL for strategic sites, like Brighton Gasworks, as required by CIL Guidance;</p> <ul style="list-style-type: none"> <li>• That brownfield sites, which are critical to the delivery of the Local Plan given the constraints on land supply in and around Brighton, face significant abnormal costs which are not reflected in the generic appraisals undertaken by the Council;</li> <li>• That the Council’s Infrastructure Delivery Plan suggests that there could be significant site-specific requirements for these sites which have not been factored into the Viability Study appraisals;</li> <li>• That the proposed boundaries of charging zones in the Plan are unduly complex and unclear, and in the case of Brighton Gasworks bisect the site.</li> <li>• Former Gasworks sites are unique in both use and character and have</li> </ul>	<p>There are a wide range of sites and proposals due to come forward under the Local Plan, with greatly varying characteristics. A CIL is an area wide approach and will support the Plan as a whole; it is not intended or able to reflect potential issues on individual sites of a scale that are not critical to overall plan delivery when viewed individually . The gasworks site is allocated for 85 units within the City Plan so is not considered to be strategic in terms of CIL guidance. It is considered that the viability</p>

	<p>extremely high abnormal and technical costs, such as remediation, acknowledged by The City Plan. In order for the site to come forward viably and for it to contribute to delivering the Council’s Local Plan targets the Council should consider setting a single lower or zero rate for the site.</p> <p>This would allow the Council, in dealing with any planning application for the site, to balance obligations relating to affordable housing with other types of infrastructure contributions in the context of site specific viability issues. Proposed reforms to CIL would mean that the Council would still be able to ensure impacts of the development can be mitigated through Section 106 obligations.</p>	<p>assessment carried out has sampled sufficient brownfield sites within a suitable range of sizes for the purposes of a CIL charging schedule, and the proposals carried forward to the DCS reflect this robust approach.</p> <p>The Infrastructure Delivery Plan notes two ‘essential’ access improvements for the wider DA2 area – one of which is identified in policy DA2 2. Gas Works site d) ‘connectivity’. This is likely to be a site-specific s106 requirement for the Brighton Gasworks site. It is acknowledged by CIL regulations that sites may also be subject to site related planning obligations that meet the three ‘tests’ of CIL Regulation 122 alongside a CIL charge. It is not considered that this site specific requirement would be an obligation so abnormal or significant as to require a separate CIL rate, with CIL being a relatively small influence on overall development viability (and therefore not likely to render an otherwise viable site unviable in any event). It is not considered that the IDP prioritises further significant site specific requirements for the Gas Works site. Across the DA2 area the IDP also refers to site specific requirements relating to other DA2 sites as well as city wide priorities such as green infrastructure and provision of community buildings.</p> <p>A very complex approach to the CIL charging</p>
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		<p>schedule, with many layers of differentials, could arise were individual site characteristics to be followed to the extent envisaged in the comments received.</p> <p>As in all cases, where viability is clearly and robustly shown to be under too much pressure at the delivery stage, the overall package of obligations can be considered and reviewed if necessary. This approach again reflects the fact that all sites are different and that all individual characteristics cannot be expected to be reflected in a CIL charging schedule. Consistent with the Council's consultants' wide experience of preparing robust viability studies for this purpose, it is not appropriate to make generic allowances for abnormal costs in reviewing the viability of smaller sites, with such variation likely.</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS.</p>
Jones Lang LaSalle Ltd for University of Brighton (UoB)	<p>The UoB is concerned that the proposed £250psm CIL rate would render the development of student housing at affordable rents unviable, which in turn will restrict the future operation of the University which would be to the detriment of the UoB and the city as a whole. The viability analysis used to justify the £250 psm CIL rate is not based on sound underlying assumptions and evidence.</p> <p>Appendix IIb includes an appraisal summary for student accommodation.</p>	<p>These comments on the PBSA rates proposed within the PDCS are noted and as with all other comments have been taken into account in further review of the evidence and proposals. In this case, this further review work has extended to the preparation and review of additional test scenarios. Further appraisals</p>

This is based on a 150 bed block only with no sensitivity analysis apart from testing different CIL rates. It is considered this is too simplistic and does not reflect reality.

- No recognition varying costs of different types of student accommodation in different locations.
- No allowance is made for abnormal costs (apart from a general 5% contingency).
- No allowance made for S106 costs or other infrastructure.

The assumed income is based solely on rental information provided on the UoB and Sussex University websites, based on the weekly rent charged to students. However, this over estimates the income because student housing is not all rented out 52 weeks per annum (the accommodation closer to the city centre tends to achieve higher occupancy rates compare to campus based accommodation), and it ignores the costs of managing and maintaining the student accommodation. The net income per annum is significantly lower than has been assumed.

- There is a clear difference in the focus and viability between student residential built by the universities on campus and commercial developers of student accommodation in the city (39 week lets lower rents against 50 week lets premium rents). Furthermore, it is important when undertaking viability appraisals to recognise the difference between affordable and premium rents that might be achieved.

have been carried out. This additional work is outlined in the CIL Viability Assessment Addendum (February 2018) and will be reflected subsequently the preparation of the DCS.

So the Council has ensured that due regard has been taken of the comments made here. The additional tests have enabled the consideration of the viability of Purpose Built Student Accommodation in a wider way, with both Studios based and Cluster based typologies appraised. The potential influence of a range of rental values have been tested, also allowing the consideration of both scheme type and location – again bearing in mind the acknowledged high-level of this work as fits the CIL principles.

Taken together with the 2017 assessment and recommendations and now also acknowledging the consultation feedback, the Council is confident that the approach taken in the February 2018 Viability Study addendum, which has taken into account these comments, is appropriate, and it can be noted that the proposed charging rate for Purpose Built Student Housing has been amended between the proposed PDCS rate and the proposed DCS rate (see Table 1 of the DCS). This brings the amended proposed charge rate (at £175/sq. m) further in line with the viability consultants'

		<p>earlier findings that pointed to setting PBSA rate or rates broadly aligned to or not exceeding the proposed residential rates range. It must be acknowledged that all schemes will vary to some extent. Having carefully considered the latest evidence and the consultants recommendations regarding a citywide or zoned approach, as well as reviewing potential differences between the viability rates, the council has concluded that there will be a single citywide rate proposed in the DCS for purpose built student accommodation – applicable to all schemes and so for example relevant to both studio apartment and cluster typologies. Acknowledging the likely imperfections within any area wide approach suitable for CIL, this simple approach at a reduced rate is considered to best reflect overall the variable nature of this development, site by site.</p> <p>In arriving at the above, the Addendum work acknowledges the points made here on potential occupancy rates, and appropriate (potentially cautious) assumptions have been made on that.</p> <p>While no further information was made available to inform the Addendum work and Council's consideration of these matters, consultees would be welcome to make any further comments on</p>
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		the revised approach to be taken, following publication of the DCS.
GL Hearn for JTC (owners, Churchill Square)	<p>The CIL charging schedule does not take account of different forms of retail development as the retail floorspace delivered by DA1 area is not Small Retail but City Centre comparison shops (general/non-shopping centre) constituting an entirely different form of small scale retail development with a challenging background of changing retail dynamics. The type of retail floorspace that will be brought forward as part of DA1 will be a combination of retail units from large anchor units, large space units through to smaller standard units. This does not constitute “small scale retail development”.</p> <p>Rate does not include consideration being given to the delivery of complex retail led development projects which potentially generate significant new retail floorspace but also include abnormal development costs including land assembly, higher than normal development costs and additional associated infrastructure. City wide £50 sq m rate would have adverse impact on delivery of DA1 policy.</p> <p>Further consideration/assessment should be given to the proposed CIL rate for retail, residential and PBSH within major development areas in the city centre regarding impact on viability of bringing forward complex regeneration schemes</p>	<p>These comments on the application of charging rates for retail as proposed within the PDCS are noted and as with all other comments have been taken into account in further review of the evidence and proposals.</p> <p>In this case, this further review work has extended to the preparation and review of additional test scenarios. Further appraisals have been carried out. This additional work is outlined in the CIL Viability Assessment Addendum (February 2018) and will be reflected subsequently the preparation of the DCS.</p> <p>So the Council has ensured that due regard has been taken of the comments made here.</p> <p>Whilst there are many unknowns at this stage in regard to the Churchill Square shopping centre development / extension proposals, the additional tests have enabled the consideration of the viability of comprehensive shopping centre type development. Bearing in mind the necessarily high-level and assumption based nature of the exercise at this stage, for the purpose of CIL charge setting, the potential</p>



		<p>influence of a range of rental values and investment yields have been tested. The further review work is consistent with the CIL principles. Taken together with the 2017 viability assessment and recommendations and now also acknowledging the consultation feedback, the Council is confident that the approach taken in the February 2018 Viability Study addendum which has taken into account these comments is appropriate.</p> <p>A £50/sq. m CIL charging rate is considered likely to amount to a CIL liability (high-level estimate) of between approximately £1 and 2m, which represents only a very small proportion of the development value or cost considered likely to be relevant in this instance.</p> <p>It is a fact that any cost has an impact on viability, and this could be described as adverse, because a cost translates to a negative impact when considered in isolation. In practice, a charge at such a level is likely to be only a very small factor in overall scheme viability and merely one of a wide range of influences on the overall scheme costs.</p> <p>As the details are unknown, in common with all appraisals undertaken as part of the viability assessment, no allowance has been made for any existing floorspace that would have the effect of netting-off within the CIL liability calculation.</p>
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		<p>Overall, there is no evidence to suggest that applying the 'all other retail' rate of £50/sq. m to the retail element of the Churchill Square development would unduly undermine its viability and therefore threaten the delivery of the Plan.</p> <p>The proposed charging rate for city centre comparison retail has been clarified between the proposed PDCS and the proposed DCS as falling within the rate of 'other shopping units development' and is not considered to fall within the retail – larger format typology (see Table 1 of the DCS). Dealt with in this way, the £50/sq. m rate as proposed within the PDCS is considered to remain entirely relevant – for all retail outside the specified larger format types, including the Churchill Square proposals. This is considered an equitable and appropriate approach, robust and consistent with CIL principles.</p> <p>It is considered that references to residential development or PBSA (purpose built student's accommodation) within this area are not specifically relevant to policy DA1 in the local development plan and so would not be applicable in terms of strategic relevance of a CIL charge relating to the DA1 area. The conference centre element would in any event be subject to nil-</p>
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		rating within as per the PDCS rate for other development uses; to be carried forward to the DCS (See Table 1 of the DCS)
Savills for consortium of Crest Nicholson, Hyde Housing & Legal & General	<p>Referring to the Executive Summary within the consultation response, the Consortium has certain concerns with the BHCC proposed approach, notably:</p> <p>The timing of the production of the CIL ahead of anticipated (and now announced) reforms to CIL by Government;</p> <p>The assumptions taken with respect of Benchmark Land Values (BLV) and how these have been used to set the CIL rates proposed across each charging zone;</p> <p>The absence of evidence to support existing use value and BLV assumptions;</p> <p>Further evidence requirements with respect of infrastructure costs, servicing costs and various other externals/ abnormals costs.</p> <p>The application of a viability buffer of 50%, whilst welcome in principle, does not go far enough when considered against the concerns outlined, and on the basis of high (and perhaps challenging) growth requirements in the City and substantial unmet housing needs, which are placing additional development pressures elsewhere in Sussex. In addition, the recent under delivery of affordable homes in the City.</p> <p>The addition of a CIL charge will not bring forward sufficient affordable housing required by the city plan. CIL rates will threaten delivery of identified housing land supply. Current under-delivery since 2010.</p>	<p>The comment on the timing of bringing forward of these proposals is noted and the Council acknowledges that there are uncertainties. Experience shows that for quite some time there has been national level uncertainty and a therefore range of reasons for potentially delaying. Stalling will be unhelpful all round. Local authorities need to continue to make progress with their Local Plans and delivery measures. Therefore, the council intends to carry on with the introduction of CIL which continues to be supported by Government. The progression of the proposals will complement the delivery of the Local Plan and update the approach to ensuring that appropriate contributions to City wide infrastructure provision are secured, also offering more certainty to the development industry and those involved in providing the necessary new development.</p> <p>The comments appear to infer an expectation that the viability assessment assumptions and results, including the Benchmark Land Values, directly translate into a CIL rate calculation. This is not the case. The assessment covers of a range of appropriate development typologies, discussed in depth with the Council in designing</p>

		<p>the assessment to appropriately reflect a range of expected delivery.</p> <p>It is not possible to set a CIL charge covering mixed-use developments as a development type, within which varying proportions of different uses (each having different viability implications) may be present. Instead, such elements of schemes are charged CIL at the commensurate rate for the relevant development type.</p> <p>An established approach and methodology, proven in the support of numerous other Charging Schedules through examination, has been applied by the viability consultants. Inevitably this means making a large number of assumptions and judgements – in order to inform rather than necessarily directly set the proposed CIL rates.</p> <p>The information gathered to inform this process, range of existing available evidence in the form of previous studies, affordable housing contributions study work undertaken by the DVS and the Council's experience have been further reviewed in light of the consultation responses.</p> <p>The viability assessment uses an established and accepted approach to considering the influence of a range of benchmark land values. In practice,</p>
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		<p>land values may vary considerably from one site to the next, even within close proximity, as supported and constrained by the individual characteristics. The very high level of residual land values (RLVs) from the appraisals is evident across many scenarios, with the variation reflected in the proposed zoned approach to residential CIL charging.</p> <p>Not unique to Brighton and Hove, there is limited available reliable transaction based evidence of land values. Few details are reported and can rarely be analysed sufficiently to be confident that like for like comparisons are being made in a wide range of respects such as planning permission and s.106 details (or planning potential and risk), site conditions, legal issues and so on. Typically in the viability consultants' experience, this is also seen through a scarcity of information coming forward via the consultation process they run. A range of other land value indications are used, with positions in many cases having been informed also by reference to existing studies of and information on the area – appropriate available evidence.</p> <p>The Council remains of the view that given the nature of the process and the inevitable difficulties involved in ensuring a fit for all situations, the approach taken is suitable and</p>
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		<p>based on appropriate evidence. It considers that the viability assessment work, as now added to with the February 2018 Addendum covering elements considered to merit further appraisal work, clearly acknowledges the nature of the process. This includes the need for review of a wide range of information, making of assumptions and judgements; all informing the striking of an appropriate balance between the desirability of providing infrastructure to support the planned new development and its viability.</p> <p>Whilst the Council's priority is to set rates appropriate for its area, the proposed charging rates are also not considered significantly out of step with the range of those adopted or proposed by other authorities – neighbouring or otherwise.</p> <p>The use of prudent assumptions setting combined with a significant buffering factor has informed a set of proposed rates that are considered both suitable and beneath where they could have been justified, accepting that buffering is essentially arbitrary and a means of ensuring rates well within the maximum potential / theoretical levels. The viability assessment also includes, as a further checking layer, consideration of the proposed charging rates as a percentage of development values, which are at</p>
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		<p>modest levels.</p> <p>Following an opportunity to provide information at the stakeholders' consultation stage of the viability assessment and on review of the comments now received, the Council considers that insufficient information has been submitted to inform any alternative assumptions or views. Acknowledging that there is no exact science involved, the Council's own experience and the considerable experience of its viability consultants in CIL and other strategic level viability assessments and work across many site-specific viability reviews supports the use of the assumptions and judgements made; including on further review.</p> <p>Nevertheless the Council seeks to set out below additional points in response to the more specific consultation comments – aspects of appraisal assumptions / detail.</p> <p>The viability considerations are based upon policy-compliant development including affordable housing provision. CIL has been allowed for at the range of tested rates (at up to £1,000/sq. m for residential developments) with appropriate levels of build and other costs overall and contingency allowances in addition for any site specific s106 obligations and/or other site-</p>
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		<p>specific matters. In many cases, the adopted development density assumptions are potentially cautious. However, on housing and mixed schemes 15% has been added to the assumed net developable site areas across the range of smaller schemes tests.</p> <p>In the viability consultants' experience, the assumptions selected in a wide range of other areas, challenged through this representation, are sound for the purpose too. These include the finance interest rates, development timings, market and affordable housing revenue assumptions, dwelling mixes and sizes, overall construction costs allowances, contingencies and fees. In these respects, experience bears out that overall a suitable approach to the costs and values assumptions has been made and the Council notes also the very limited range of representations that have been made in such respects, balanced with the points also made by parties having the opposite view- i.e. that the CIL charging rates should be higher than the Council proposes.</p> <p>The viability consultants advise that on review of the 2017 viability assessment report, a presentational error has been noted at paragraph 2.5.9 (and in the corresponding table within the Appendix III). Some inadvertent transposing of figures has now been noted. This may have</p>
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		<p>contributed to a misunderstanding on the use of the values assumptions. The correctly tabled information can be found within the assessment Appendix I – as has been used in the appraisals and analysis.</p> <p>It can be noted that changes have been made as a result of consultation responses where considered appropriate and supported by the evidence, including as revisited – the proposed charging rate for Purpose Built Student Accommodation has been amended and specific differentiation for key strategic sites has also now been included in the Council’s updated approach (see Table 1 of the DCS)</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS.</p>
Rottingdean Parish Council	The RPC is not equipped to make judgement on CIL levels on the levies proposed but we assume BHCC is satisfied with the research carried out on their behalf and are satisfied with the levels recommended.	This comment on proposed CIL levels is noted

## Question Two – CIL Viability Study findings and Value Zones

**Table 2**

No. of portal comments received for Q2a ‘Given the CIL Viability Study’s analysis and recommendation of value zones, do you agree or disagree that the proposed CIL residential charging zones are set realistically, and will they enable residential developments to achieve viability within each zone?’

Portal Responses to proposed Residential Zones	Strongly Agree	Tend to Agree	Neither Agree or Disagree	Don’t Know/ Not Sure	Tend to Disagree	Strongly Disagree	Overall Total
Resident	3	6	3	3	5	4	24
Organisation	1	3	2	2	1	1	10
<b>Total per category</b>	<b>4</b>	<b>9</b>	<b>5</b>	<b>5</b>	<b>6</b>	<b>5</b>	<b>34</b>

**Commentary:**

Responses made in relation to the preliminary draft residential charging zones indicated that on balance the zones proposed were reasonable. Responses agreeing with zones and disagreeing with zones were received in roughly equal proportions.

## Consultation Portal Responses to Q2b

'Is there anything that we have not considered or do you have any comments about the proposed CIL residential charging zones which are suggested within the PDCS?'

Consultee	Agree/ Disagree with rates	Representations to Q2b	Council Response and any Changes to the DCS
North Laines Community Association	Tend to agree	CIL should cover and include areas such as St Peters and North Laine Ward.	The proposed charging schedule within the DCS demonstrates proposed CIL charges which include St Peters and North Laine Ward.
Brighton and Hove Economic Partnership	Tend to agree	Although the report 'acknowledges imperfections are likely in any mapped scenario' There may be some merit in revisiting some of the zoning areas. For example, there are parts of South Portslade (St. Aubyns Road, St. Andrews Road, Franklin Road and Station Road) where housing prices have risen such that in some instances they are equitable with some roads in west Hove. There may be a similar degree of equity elsewhere within the zoning scheme allowing for developers to pay less via CIL but still making significant gains on completion and sales. It may be worth considering a buffer zone between highest value and lowest zones to account for this	These comments on residential rates zoning and the associated zone "boundaries" proposed within the PDCS are noted and have been considered during a further review of the evidence in order to consider any case for an alternative approach. There have been only a small number of recent sales in the areas around the proposed zone boundary – insufficient to inform and support an alternative zoning or zone boundary to that proposed in the PDCS stage mapping. This is also an area within which a relatively small quantum only of new build development attracting CIL payments is likely to be provided. In practice, a charging rate adjusted from that proposed could be expected to make very little difference in the overall context of the Local Plan and the supporting CIL. Other sources such as 'Zoopla' heat mapping

			<p>have been considered and again point to the clearest, most representative of values patterns, boundary being as proposed. While open to considering evidenced alternatives, the Council considers it appropriate on balance to continue with the approach informed and supported by its evidence. This is also consistent with the findings of the Valuation Office Agency (VOA) Affordable Housing off-site contributions boundaries used by Brighton &amp; Hove Council in the determination of planning applications.</p> <p>The Council also notes that the introduction of a form of buffer zone between this junction of Zones 1 and 3, if satisfactorily evidenced, would reduce the differential by only £25/sq. m – i.e. the difference between the £150/sq. m zone 2 and £175/sq. m zone 3 proposed rates. On this basis, linked to the low level of development likely in this transitional area, the Council maintains that the PDCS approach to the proposed charging zones positioning remains appropriate.</p>
Resident	Tend to agree	Not clear as to definition of Affordable housing and Social Housing built by a Council. Will these be exempt of CIL levy	CIL Regulations allow relief for social housing. Planning Practice Guidance contains up to date definitions and conditions where social housing relief applies.
Resident	Tend to agree	The stated costs /values of 2 Bedroom Flats seems to be excessive	Property values in the City are typically high, and this contributes to the buoyancy of the local market and the nature of the viability findings

			overall. The proposed DCS rates are informed by a bespoke viability study for the city to test the likely impact of CIL rates on the viability of developments envisaged by the Local Development Plan. This is considered to be an appropriate evidence base to underpin CIL rates.
Select Property Group	Neither agree nor disagree	<p>With respect to PBSA and charging zones, SPG is very concerned that the Council diverts from the recommendations of its consultants without robustly explaining why it has done so. SPG strongly believes that the PDCS should be informed by appraisals exploring whether a zoned approach is appropriate for PBSA. The table at page viii of the Viability Study, titled 'CIL charging rates parameters' Recommendations Study<sup>2</sup>, suggests that the zoned approach to charging residential, at rates per sqm of £75-125, £150-200, £175-250, applies also to purpose-built students' housing<sup>2</sup>. Even though it is not informed by evidence, DSP's justification for this approach is stated at paragraph 3.6.4 of the Viability Study: For clarity and consistency, we recommend that the Council could consider CIL charging rates aligned to its selection of rates within the above noted recommended parameters for residential (C3) development. This would appear to present an appropriate and equitable scenario in our view. <sup>2</sup> Despite this advice, BHCC's PDCS proposes a flat rate of £250 psm for PBSA across the city, which is justified by officers by the absence of affordable housing requirements associated with this development type (paragraph 3.10 of the report to the Tourism, Development and Culture Committee Report of 21 September 2017). This justification is not supported by evidence nor by DSP's advice. It is also in contrast to the detailed reasons in paragraph 3.9 of the committee report for adopting the lower end of the parameter range and a zoned approach for residential development, which also apply to PBSA. The rationale for</p>	<p>These comments on the PBSH rates proposed within the PDCS are noted and have been taken into account in both the addendum viability assessment and subsequently the preparation of the DCS.</p> <p>Working with its consultants further to the PDCS consultation the Council had regard to the comments made here. Within the viability assessment addendum the approach to appraising and considering the viability of Purpose Built Student Housing has been extended to include varying type (cluster and studios based formats) and further look at the impact of potentially varying values – whether by scheme type, specification or location.</p> <p>Taking account of the submitted comments and the February 2018 Viability Study addendum, the proposed charging rate for Purpose Built Student Housing has been amended between the proposed PDCS rate and the proposed DCS rate (see Table 1 of the DCS).</p> <p>The viability assessment work informs rather</p>

		<p>adopting a city wide approach to PBSA is briefly explained in paragraph 3.6 of the Tourism, Development and Culture Committee Report, which explains that: Findings demonstrated no clearly justifiable approach to zone non-residential development rates. Therefore city wide charging rates are suggested for both retail and purpose built student housing. ☐</p> <p>While we agree that DSP does not adequately explain its recommendation to apply zoned rates to PBSA, the Council's rejection of DSP's advice also lacks any justification. There is an absence of detail from both parties: DSP's recommendations and the Council's dismissal of the recommendations are both unsubstantiated and lack evidence or reasoned explanation. Furthermore, Appendix IIb Non-Residential Results Summary does not include the appraisal for the £250 CIL rate, which was ultimately chosen for PBSA. SPG strongly believes that the PDCS should be reviewed after more detailed consideration of the suitable rate for PBSA, including more analysis exploring whether a zoned approach is appropriate. In the absence of thorough analysis and explanation, BHCC's proposed city wide rate of £250 psm on PBSA looks somewhat arbitrary and is opposed by SPG</p>	<p>than directs the selection of the CIL charging rate(s).</p> <p>Having carefully considered the latest evidence and the possibilities regarding a citywide or zoned approach, as well as reviewing potential differences between the viability rates based on type, the council has concluded that there will be a single citywide rate proposed in the DCS for purpose built student housing schemes of all types (i.e. including both studio apartment and cluster typologies) which will allow for a less complex charging schedule compared with potential alternatives including various forms of differentiation, as is appropriate to a CIL. Set at the revised proposed single rate, it is considered that this takes account of varying value and of some indications that, dependent on the details, the cluster type developments could often be the more viable, of these typically highly viable forms of development.</p> <p>The Council accepts that these developments could be delivered by a range of parties based on varying models of procurement and ownership / investment. However, this is likely to also apply to varying extents with many other types of development. CIL charges should not be based on the individual criteria or operations of particular providers or sectors - the basis is planning which is land and scheme based, and</p>
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			<p>does not reflect matters such as ownership models or particular business plans. This has been factored in to the view that a single rate for all developments of this nature, City area wide, is most appropriate – pitched, as amended, to cater for a range of development characteristics rather than maintained at a level beyond the upper residential charging rate.</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS.</p>
Brighton and Hove Housing Coalition	Tend to disagree	Social values tend to be ignored and environmental costs do not seem to be considered	An Equalities Impact Assessment and a Strategic Environmental Assessment Screening Determination will be carried out as part of the process of bringing in a CIL charge
Resident	Tend to disagree	The zones are oddly mixed for example Wish in Zone 1 but Brunswick and Adelaide and Goldschmid in Zone 2	These comments on residential zoning rates proposed within the PDCS are noted. The residential charging zones proposed in the PDCS and carried through to the DCS are evidenced by a bespoke viability study which has found that the proposed residential charging zones are appropriate for the level of a CIL rate and are consistent with the findings of the Valuation Office Agency (VOA) Affordable Housing off-site contributions boundaries used by Brighton & Hove Council in the determination of planning applications.
Resident	Tend to disagree	I'd be concerned that by zoning the city in the way proposed there is a suggestion that certain types of developments are encouraged within	Consistent with the regulations, a CIL cannot be used as a planning tool that seeks to secure

		each area. i.e.; larger property developments in low levy zones, small property developments in high levy areas.	objectives other than the securing of infrastructure contributions at an appropriate level informed by viability considerations. The Proposed Charging Schedule rates are informed by the information within and recommendations of a bespoke CIL viability study considered to be appropriate evidence in terms of setting viable CIL rates within geographical zoning areas where commensurate with the viability evidence.
Resident	Tend to disagree	I think the marina is overpriced and the slowdown in sales there may evidence this. perhaps move from zone 1? Also the council has little or no responsibilities inside the marina.	<p>Comments made in relation to Brighton Marina CIL rates proposed within the PDCS are noted and have been taken into account in the preparation of the DCS.</p> <p>It can be noted that the proposed charging rate for the Brighton Marina Inner Harbour site area (boundaries as mapped in the City Plan) , considered as strategic in terms of CIL guidance, has been amended between the proposed PDCS rate and the proposed DCS rate (see Table 1 of the DCS)</p>
Resident	Tend to disagree	Have one flat rate. Hard to justify different zones. Housing costs similar throughout the city.	The Proposed Charging Schedule rates are informed by the evidence within and recommendations of a bespoke CIL viability study considered to be appropriate evidence in terms of setting viable CIL rates within geographical zoning areas - proposed approach consistent with the viability evidence.



Brunswick Development s Group Plc	Strongly disagree	<p>We do not believe that Brighton Marina should be included within Zone one, as its residential sales value is not comparable to the seafront areas adjacent to the City Centre or to Hove. This is due to a number of factors, including the marina being separated geographically from the City Centre with limited transport links. The financial viability of all development within Brighton Marina needs to take into account that it starts from a point of significantly higher construction costs than anywhere else within the City; this is due to the nature of the reclaimed land site and the foundation and substructure requirements that this imposes, along with the enhanced building specifications required to cope with the extremely exposed location. Brighton Marina is recognised within the City Plan Part One as a key site for additional housing in the City realisable before 2030, and its inclusion within zone 1 will negatively impact on the financial viability of future residential development. It should also be noted that as a managed estate with its own 24 hour security Brighton Marina has a significantly lower dependency on public services, such as police, than elsewhere within the City, providing further reasoning for why it should not be included within Zone one.</p>	<p>Comments made in relation to Brighton Marina CIL rates proposed within the PDCS are noted and have been taken into account in the preparation of the DCS.</p> <p>As noted above the Council is satisfied on further review that it has the appropriate available evidence, based on existing information in order to inform an adjustment to the PDCS stage proposals so that the Brighton Marina Inner Harbour site area (boundaries as mapped in the City Plan), is considered as strategic in terms of CIL guidance, with the proposed DCS rate for this being £0/sq. m (see Table 1 of the DCS).</p> <p>The Council notes that based on the same approach of reviewing existing viability information and Housing Investment Fund bidding details, the appropriate available information exists to support the same approach in respect of the proposed housing at the strategic King Alfred site.</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS.</p>
Resident	Strongly disagree	Zone 1 should be expanded to take in further inland areas of high desirability and up and coming desirability (eg 7 dials, 5 ways, Dyke Road	The Proposed Charging Schedule rates are informed by the evidence within and

		and surrounding areas inc Withdean, central Hove up into Hove Park etc.	recommendations of a bespoke CIL viability study considered to be appropriate evidence in terms of setting viable CIL rates within geographical zoning areas – proposed approach consistent with the viability evidence.
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### Question Two - Email / postal responses

‘Given the CIL Viability Study’s analysis and recommendation of value zones, are the proposed CIL residential charging zones set realistically, and will they enable residential developments to achieve viability within each zone?’

Consultee	Representations to Q2 – General Comment Summary	Council Response and any Changes to the DCS
Brunswick Developments Group Plc and The Outer Harbour Development Company Partnership LLP	<p><b>Brighton Marina should not be included within Zone one:</b></p> <ul style="list-style-type: none"> <li>its residential sales value is not comparable to the seafront areas adjacent to the City Centre or Hove due to a number of factors, including geographical separation of marina from the City Centre with limited transport links.</li> <li>The financial viability of all development within Brighton Marina needs to take into account of significantly higher construction costs than anywhere else within the City; this is due to the nature of the reclaimed land site and the foundation and substructure requirements that this imposes, along with the enhanced building specifications required to cope with the extremely exposed location.</li> <li>Brighton Marina is recognised within the City Plan Part One as a key site for additional housing in the City realisable before 2030, and its inclusion within zone 1 will negatively impact on the financial viability of future residential development.</li> </ul>	<p>Comments made in relation to Brighton Marina Inner Harbour CIL rates proposed within the PDCS are noted and have been taken into account in the preparation of the DCS.</p> <p>Based on the Council’s existing appropriate available evidence, as above the Council proposes to remove this site from CIL charging zone 1 within the DCS.</p> <p>The proposed charging rate for the Brighton Marina Inner Harbour site area (boundaries as mapped in the City Plan) , considered as strategic in terms of CIL guidance, has been amended between the proposed PDCS rate and the proposed DCS rate (see Table 1 of the DCS). Sites</p>

	<ul style="list-style-type: none"> <li>It should also be noted that as a managed estate with its own 24 hour security Brighton Marina has a significantly lower dependency on public services, such as police, than elsewhere within the City, providing further reasoning for why it should not be included within Zone one.</li> </ul>	<p>in the vicinity of Brighton Marina Inner Harbour are not considered as strategic in terms of CIL guidance, however, and so further changes to the residential charging zones are not proposed.</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS.</p>
<p>QUOD Agents for St William Homes LLP (joint venture Berkeley Group and National Grid Property)</p>	<p>The Council has not considered the implications of CIL for strategic sites, like Brighton Gasworks, as required by CIL Guidance;</p> <ul style="list-style-type: none"> <li>Former Gasworks sites are unique in both use and character and have extremely high abnormal and technical costs, such as remediation, acknowledged by The City Plan. In order for the site to come forward viably and for it to contribute to delivering the Council's Local Plan targets the Council should consider setting a <b>single lower or zero rate for the site</b>.</li> </ul> <p>This would allow the Council, in dealing with any planning application for the site, to balance obligations relating to affordable housing with other types of infrastructure contributions in the context of site specific viability issues. Proposed reforms to CIL would mean that the Council would still be able to ensure impacts of the development can be mitigated through Section 106 obligations.</p>	<p>The gasworks site is allocated for 85 units within the City Plan and is not considered to be strategic in terms of CIL guidance. It is considered that the viability assessment carried out has sampled sufficient brownfield sites within a suitable range of sizes for the purposes of a CIL charging schedule, and the DCS reflects this robust approach.</p> <p>The Infrastructure Delivery Plan notes two 'essential' access improvements for the wider DA2 area – one of which is identified in policy DA2 2. Gas Works site d) 'connectivity'. This is likely to be a site-specific s106 requirement for the Brighton Gasworks site. It is acknowledged by CIL regulations that sites may also be subject to site related planning obligations that meet the three 'tests' of CIL Regulation 122 alongside a CIL charge. It is not considered that this site specific requirement would be an obligation so abnormal</p>

		<p>or significant as to require a separate CIL rate. It is not considered that the IDP prioritises further significant site specific requirements for the Gas Works site. Across the DA2 area the IDP also refers to site specific requirements relating to other DA2 sites as well as city wide priorities such as green infrastructure and provision of community buildings.</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS.</p>
<p>Lichfields on behalf of Landsec - owners of Brighton Marina Inner Harbour site</p>	<p><b>Nil CIL rate</b>  <b>Zone 1 is not viable for Marina; based on assumptions of minimal site infrastructure and s106 costs zone 1 CIL rate does not reflect abnormal costs.</b>          To fail to take account of these within the setting of the CIL rate would lead to a CIL Charging Schedule contrary to the CIL Regulations and NPPG guidance as it would compromise the delivery of housing in the City Plan.</p>	<p>Comments made in relation to Brighton Marina Inner Harbour CIL rates proposed within the PDCS are noted and have been taken into account in the preparation of the DCS.</p> <p>Based on the Council’s existing appropriate available evidence, as above the Council proposes to remove this site from CIL charging zone 1 within the DCS.</p> <p>The proposed charging rate for the Brighton Marina Inner Harbour site area (boundaries as mapped in the City Plan) , considered as strategic in terms of CIL guidance, has been amended between the proposed PDCS rate and the proposed DCS rate (see Table 1 of the DCS).</p>

		The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS.
Jones Lang LaSalle Ltd for University of Brighton	When further considering the CIL rate, it is considered that a single rate across the city is not appropriate, and there needs to be variation to reflect and differentiate between university and commercial development of residences	<p>Comments on the PBSA rates proposed within the PDCS are noted and have been taken into account in both the addendum viability assessment and subsequently the preparation of the DCS.</p> <p>Having carefully considered the latest evidence and the consultants recommendations regarding a citywide or zoned approach, as well as reviewing any potential differences between the viability rates by type or development source, the council has concluded that there will be a single simple approach of a citywide rate proposed in the DCS for purpose built student housing schemes of all types and provided by all parties. This is consistent with a need to ensure that the approach to setting CIL charges cannot be “personalised” according to potential varying or particular procurement or ownership / investment models etc.</p>
Select Property Group (SPG)	<u>Zoned Approach</u> : DSP recommends on page viii of the Viability Study that the zoned approach used for residential development is also applied to PBSA, it does not support this conclusion by providing viability assessments for PBSA by zone. This represents a major methodological inconsistency, and supports our requirement that further viability testing for a broader range of PBSA	Comments on the PBSA rates proposed within the PDCS are noted and have been taken into account in both the addendum viability assessment and subsequently the preparation of the DCS.

	<p>typologies is undertaken.</p>	<p>Having carefully considered the latest evidence and the consultants recommendations regarding a citywide or zoned approach, as well as reviewing potential differences between the viability rates, the council has concluded that there will be a single citywide rate proposed in the DCS for purpose built student housing schemes of all typologies which will allow for a clear and simple charging schedule as is appropriate to CIL principles, with the requisite rate set at an appropriate level to reflect a potential range of varying types, procurement/ownership models and locations.</p>
<p>GL Hearn for JTC (owners, Churchill Square)</p>	<p><b>Residential Zone 1</b> Delivering residential as part of a mixed use development on a complex City Centre Site, such as DA1, is very different from delivering residential on a “standard” development site, for the same reasons as set out above. Whilst the viability study makes reference to the variations between costs and values of different types of development scenarios, JTC is concerned that a blanket application of a CIL rate of £175 for residential floorspace as part of the DA1 development area will impact on the ability to bring forward this important regeneration project in the City Centre. Similar considerations apply to the development of student housing</p>	<p>It is considered that references to residential development or PBSA within this area are not specifically relevant to policy DA1 in the local development plan and so would not be applicable in terms of strategic relevance of a CIL charge relating to the DA1 area. The conference centre would be subject to nil-rating within the proposed DCS rate (See Table 1 of the DCS). With the retail element addressed separately, the Council considers that there is no need to further reflect these comments through additional review work or changes to the CIL charging proposals.</p>

### Question Three – Proposed changes to section 106 contributions

All comments received for Q3 ‘Please give comments and views regarding current section 106 contribution areas which are likely to form part of proposals for an associated scaling back of section 106 contributions upon the introduction of CIL’

Consultee	Representations to Q3 – General Comment Summary	Council Response and any Changes to the DCS
<p>Brunswick Developments Group Plc and The Outer Harbour Development Company Partnership LLP</p>	<p><b>Too much still required through s106 obligations</b> – should be more on CIL list funding as otherwise there will be too many other high cost s106 contributions                      The draft document outlines that the only S106 contributions that will be replaced by the introduction of CIL will be offsite recreation, education and sustainable transport contributions. Alongside significant affordable housing provision, this leaves many other high cost S106 contributions. We are concerned that the CIL in addition to these will significantly curtail future development.</p>	<p>It is acknowledged by CIL regulations that sites may also be subject to site related planning obligations that meet the three ‘tests’ of CIL Regulation 122 alongside a CIL charge.</p> <p>The bespoke CIL viability report has used an established, well recognised approach and has considered an appropriate range of development scenarios likely to come forward in the city. Viability considerations are based upon policy-compliant development including affordable housing provision, with a contingency allowance for site specific s106 obligations and/or other site-specific matters.</p>
<p>Enterprise Car Club</p>	<p>From previous experience on CIL - this is suited to procurement of assets/services on site at new developments. From a car club perspective these 106 payments for car clubs should be kept separate for both operator's and developers to work separately on. Typically due to the</p>	<p>This comment is noted. Site specific s106 obligations will remain alongside a CIL charge for strategic infrastructure where necessary and directly related to planning as</p>

	nature of CIL, a car club service tends to fall down the line in terms of what funds are available and where they should go. By keeping separate we are ensuring the benefits of reduced congestion, car ownership and improved air quality are still available to residents. Be it incorporating car club onsite, or membership of an existing network.	set out in CIL Regulation 122. A draft Regulation 123 list framework of items that may be funded by CIL will be consulted upon alongside the published DCS.
Brighton and Hove Community Transport	S106 are very restrictive and area focused. The use of S106 is permitted for citywide benefits	Citywide infrastructure is proposed to be funded by way of a CIL charge. Where necessary and directly related to planning as set out in CIL Regulation 122, site specific s106 obligations will remain alongside a CIL charge.
Brighton & Hove Bus and Coach Company	The current S106 contribution arrangements have worked extremely well in delivering local bus stop infrastructure at stops across the city and has seen the addition of many bus shelters, raised bus kerbs and live departure screens. The city council has done an excellent job in managing the process to ensure that funds aren't wasted. There have been some occasions where the restrictions on the site location have made it difficult to spend the sum available and a move to CIL could improve the situation but it is essential that suitable bus priority projects are included in the Regulation 123 list. There is a risk that the moving of a lot of the development funds to CIL will have a negative impact on local improvements at bus stops.	This comment is noted. Where necessary and directly related to planning as set out in CIL Regulation 122, site specific s106 obligations will remain alongside a CIL charge for strategic infrastructure. A draft Regulation 123 list framework of items that may be funded by CIL will be consulted upon alongside the published DCS
Brighton and Hove Housing Coalition	Lack of transparency and accountability with final agreements more concerned with local authority budgets as opposed to community needs.	This comment is noted
Sport England	As many infrastructure types including sport offer potential to be provided directly by developers through planning obligations as well as through CIL, the charging schedule should provide guidance for	This comment is noted. Where necessary and directly related to planning as set out in CIL Regulation 122, site specific s106



	<p>developers and the community on the relationship between CIL and site specific infrastructure requirements associated with major developments.</p> <p>current areas of s106 contributions proposed to remain secured via s106 on introduction of CIL for on-site provision include on-site recreation/sports facilities and/or space provision. Request consideration of including off-site provision for outdoor sports where necessary to mitigate the impact of a proposal, particularly as Brighton has a robust and up to date Playing Pitch Strategy as an evidence base to inform such contributions.</p> <p>There is an IDP listing some major projects related to sport; however unless it is possible to collect s106 contributions relating to off-site provision where justified, the improvements to various sites recommended in the Playing Pitch Strategy are unlikely to come forward. As developers cannot be charged for the same infrastructure through planning obligations and CIL, the charging schedule or its supporting documents should provide clarity and transparency on this issue e.g. through clarifying what infrastructure planned major developments will be expected to provide through planning obligations.</p> <p>Planning obligations will not be able to be used for any infrastructure types or projects that are included within the Reg 123 list (unless this is to mitigate the loss of existing sporting facilities in line with the requirements of Paragraph 74 of the NPPF) including facility types falling under a generic infrastructure heading included in a Reg 123 list (e.g. outdoor sports facilities).</p> <p>No requirement on a LA to ensure that the infrastructure listed in the Reg 123 list is delivered</p> <p>A number of competing infrastructure priorities on the list are likely. Advocacy important with, and within, a LA to help ensure that CIL funds are directed to appropriate sporting provision to meet the needs</p>	<p>obligations will remain alongside a CIL charge for strategic infrastructure. A draft Regulation 123 list framework of items that may be funded by CIL will be consulted upon alongside the published DCS.</p> <p>It will be noted that the Draft Regulation 123 List framework released for consultation to support the DCS includes references to 'Health Facilities', 'Open Space Provision' and 'Recreation space built facilities'.</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS and this Draft Regulation 123 list framework.</p>
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	<p>generated by new development. Sports facilities excluded from a Reg 123 list, can be delivered by planning obligations to meet the needs generated from a development for the facility type(s)/project.</p> <p>A LA may also state in their Reg 123 list that specific facility types or developments are excluded from the list therefore enabling planning obligations to be used, e.g. strategic scale developments</p>	
Brighton and Hove Economic Partnership	This seems appropriate, although it is noted that these may change in the future.	This comment on proposed approach to s106 is noted and considered generally supportive
Sussex Police	Seek to ensure that both CIL and S106 can be utilised to provide necessary expansion of policing infrastructure to make development acceptable in planning terms - a key priority of the police force.	<p>This comment is noted.</p> <p>It will be noted that the Draft Regulation 123 List framework to be released for consultation to support the DCS includes reference to 'Emergency services'.</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS and this Draft Regulation 123 list framework.</p>
East Sussex County Council Ecologist	The list of current areas covered by S106 planning obligations does not include contributions to on or off site compensation for ecological impacts, e.g. funding for the management of reptile translocations sites. How will such agreements be made and funded in the future? Also, it is unclear how the proposals fit with Annex 6 of SPD11: Calculating developer contributions and new nature conservation benefits.	<p>It is acknowledged by CIL regulations that sites may be subject to site related planning obligations that meet the three 'tests' of CIL Regulation 122 alongside a CIL charge.</p> <p>The DCS has been amended to reflect this comment. The methodologies used to calculate remaining s106 contribution areas are proposed to continue as set out in the updated Developer Contribution Technical</p>

		Guidance (March 2017).
NHS Clinical Commissioning Group (CCG)	<ul style="list-style-type: none"> <li>Request that on-site health buildings / land designated as community infrastructure are eligible for CIL funding.</li> <li>Request that specific pipeline projects named in most recent CCG estates strategy are identified as strategically important infrastructure and so eligible for CIL. These projects would require a healthcare footprint of over 1,000sqm and include some element of secondary care provision.</li> <li>Welcome inclusion of health building / land within the schedule of uses still eligible for s106 funding with careful dividing line to ensure no double dipping.</li> </ul>	<p>It will be noted that the Draft Regulation 123 List framework released for consultation to support the DCS includes reference to off-site citywide health care facilities provision.</p> <p>The consultee notes that Double Dipping is prohibited. The DCS refers to the potential for on-site health care facilities which would only be permissible under the terms of CIL regulation 122.</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS and this Draft Regulation 123 list framework.</p>
Highways England	Insofar as the Draft Charging Schedule is concerned Highways England have no comments to make, noting that the agreed A27 Trunk Road mitigations supporting the City Plan will be collected via s278 agreements with the various developers who's sites cumulatively impact on the relevant A27 junctions. Accordingly, the agreed mitigation schemes whilst listed in the councils Infrastructure Delivery Plan (IDP) should not appear in the councils CIL Reg 123 listing	<p>This comment is noted.</p> <p>It will be noted that the Draft Regulation 123 List framework released for consultation to support the DCS includes references to 'Transport and Highways'</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS and this Draft Regulation 123 list framework.</p>
Savills on behalf of consortium	BHCC has published an initial Draft Regulation 123 List to support the PDCS which sets out the infrastructure which it currently envisages will	This comment is noted.

<p>consisting Crest Nicholson, Hyde Housing &amp; Legal &amp; General</p>	<p>be paid for through either CIL or Section 106 contributions. The Consortium welcomes the publication of a Regulation 123 List at this initial stage in the CIL process.</p> <p>The Consortium would ask for further detail on the anticipated Section 106 contributions to be sought by BHCC to ensure that a realistic figure is included in the viability assessments. This information should be broken down by scheme type to enable a comparison on a cost per unit basis. This will help ensure that the combined total cost of Section 106 and CIL is not in excess of historically delivered Section 106 contributions and will not therefore adversely impact the deliverability of any sites coming forward.</p>	<p>It is acknowledged by CIL regulations that development may also be subject to site related planning obligations that meet the three 'tests' of CIL Regulation 122 alongside a CIL charge.</p> <p>A draft Regulation 123 list framework of items that may be funded by CIL will be consulted upon alongside the published DCS, which includes detail on anticipated s106 contributions.</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS and this Draft Regulation 123 list framework.</p>
<p>Resident</p>	<p>Off-site Sustainable Housing should also be included in s106/CIL exemption in addition to Transport, Education and Sustainable Transport provisions.</p>	<p>Site specific s106 obligations (including for affordable housing) will remain alongside a CIL charge for strategic infrastructure. A draft Regulation 123 list framework of items that may be funded by CIL will be consulted upon alongside the published DCS.</p> <p>The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS and this Draft Regulation 123 list framework.</p>
<p>Resident</p>	<p>Section 106 contributions may currently have an area boundary for infrastructure improvements, as CIL could have wider community development boundary or district. Would CIL follow only contribute within the Zones described in the paper. Is there a bidding process</p>	<p>The council is currently preparing a Charging Schedule which will set out the rate (£ / sq. m) that will be payable for specific development types within geographical</p>

	planned for community and leisure developments across the City, which are not currently in the City Plan?	locations as set out in the charging schedule. A draft Regulation 123 list framework of items that may be funded by CIL will be consulted upon alongside the published DCS. Issues of CIL funding governance are not yet set out.
Resident	I am not familiar with the existing Section 106 / Developer contribution documents and details to comment on this, other than to say that I would be concerned that the introduction of the CIL will provide developers with another means to escape from their responsibility to build affordable / social rent housing as part of their development.	Site specific s106 obligations (primarily including affordable housing provision) will remain alongside a CIL charge for strategic infrastructure. A draft Regulation 123 list framework of items that may be funded by CIL will be consulted upon alongside the published DCS. The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS and this Draft Regulation 123 list framework.
Resident	Don't agree to remove sustainable transport costs from s106 as these will be needed in immediate area of development site to mitigate affects- not somewhere across other side of city. On site costs doesn't cover all the impacts.	Site specific s106 obligations will remain alongside a CIL charge for strategic infrastructure. A draft Regulation 123 list framework of items that may be funded by CIL will be consulted upon alongside the published DCS. The consultee would be welcome to make any further comments on the approach taken, following publication of the DCS and this Draft Regulation 123 list framework.

Resident	The Developers could probably pay a higher Levy and the C.I.L. often benefits the Developers and the new occupants. Maybe there could be a different (lower) C.I.L. where there is a higher proportion of Affordable Housing.	<p>CIL is a fixed charge upon development types as set out in the relevant Charging Schedule.</p> <p>Social housing that meets the relief criteria set out in CIL regulations does not pay a CIL charge. This means that as the affordable housing content of a development rises, typically the CIL liability will reduce (as the CIL liable market homes content reduces).</p>
Resident	There needs to be some balance between levels of CIL, section 106 and affordable housing requirements to ensure that developments remain viable and are not delayed and frustrated by being overburdened with these contributions.	The bespoke CIL viability report has used an established, well recognised approach and has considered an appropriate range of development scenarios likely to come forward in the city. Viability considerations are based upon policy-compliant development including affordable housing provision, with a contingency allowance for site specific s106 obligations and/or other site-specific matters.
Resident	The way that section 106 money is spent is never made clear to the communities concerned. For instance none of us know how the section 106 money from the AMEX development was spent. or if it was spent. More transparency is needed and the money needs to be shown to have benefited the community - we can't see that the money AMEX paid has helped us at all and this is a deprived area	<p>The comment is noted.</p> <p>Once the CIL charge commences, CIL Regulations require that a meaningful proportion of revenue raised by development is allocated back to those neighbourhoods. The council will engage with those communities outside parish councils where development has taken place and agree with them how best to spend the neighbourhood funding.</p>

		Neighbourhood forums will have an influence over how funds are spent in their area. CIL regulations require a report to be made annually and this will include a summary of CIL expenditure.
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### Question Four - All Other Matters in relation to the PDCS

All comments received for Q4. – ‘Comments are invited on any points or matters raised by this consultation document and supporting Viability Study, whether or not related to the specific key issues and questions. Do you have any other Comments about the proposed CIL Preliminary Draft Changing Schedule or its supporting documents?’

Consultee	Representations to Q4 – General Comment Summary	Council Response and any Changes to the DCS
Sport England	I note that the document states that the Council intends to consider the appropriateness of introducing a discretionary payment in kind policy prior to the adoption of its charging schedule. As this would provide the flexibility for developers to pay directly for community infrastructure such as sports facilities, the charging schedule should in accordance with the regulations offer sufficient flexibility for such payments and provide guidance on how this will be applied in practice.	The DCS states that the council intends to consider the appropriateness of introducing a payment in kind policy.  This would not form part of the charging schedule and could be changed independently of the charging schedule.
Natural England	Does not consider that this PDCS poses any likely risk or opportunity in relation to their statutory purpose.	Comment Noted
Select	SPG considers that DSs approach to Benchmark Land Value (BLV) lacks	The comments received on the PBSA rates

<p>Property Group</p>	<p>rigour and specificity. Despite quoting relevant guidance repeatedly and at length, DSPs Viability Study does not provide any specific value assessments of BLV for each use, nor of the surplus achieved above these values in order to assess whether the residual land values (RLVs) generated by the financial appraisals are viable. This critical methodological step is absent from the Viability Study, and should be the basis on which the CIL rates are justified. In Appendix III paragraph 7.26, DSP states that: ‘[Benchmark Land Values] are not fixed in terms of creating definite cut-offs or steps in viability but in our experience, they serve well in terms of adding a layer of filtering to the results, to help enable the review of those. It adds in Appendix III at paragraph 7.27 that: ‘DSP’s practice is to compare the wide range of appraisal RLV results with a variety of potential land value comparisons.’ SPG considers DSP’s methodology to be very vague and the evidence insubstantial. While DSP outlines a variety of different methodologies for evaluating viability, it provides no specific details on how its evidence was analysed, and which methodology was ultimately used to arrive at the CIL rates. While we agree that viability testing is not an exact science, SPG considers that it is possible to arrive at an appropriate BLV comparing with RLVs. DSP’s discussion of Existing Use Value (EUV) is very non-committal and at no point does it specify the premium applied to EUV to arrive at BLV. It also does not give any indication of the surplus that arises when subtracting the RLV from BLV. For these reasons, SPG strongly believes that DSP should include much more robust consideration of these details in order to better understand how the rates in the PDCS have been arrived at. Without this information, SPG objects to the proposed CIL rate for PBSA and concludes that it would have a harmful impact of the viability of this form of development in Brighton.</p>	<p>proposed within the PDCS are noted and have been taken into account in both the addendum viability assessment and subsequently the preparation of the DCS.</p> <p>An established approach and methodology, proven in the support of numerous other Charging Schedules through examination, has been applied by the viability consultants. Inevitably this means making a large number of assumptions and judgements – in order to inform rather than necessarily directly set the proposed CIL rates.</p> <p>The information gathered to inform this process, range of existing available evidence in the form of previous studies, affordable housing contributions study work undertaken by the DVS and the Council’s experience have been further reviewed in light of the consultation responses.</p> <p>The viability assessment uses an established and accepted approach to considering the influence of a range of benchmark land values. In practice, land values may vary considerably from one site to the next, even within close proximity, as supported and constrained by the individual characteristics.</p> <p>The very high level of residual land values</p>
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		<p>(RLVs) seen from the PBSA appraisals typically is evident across the addendum test scenarios.</p> <p>Not unique to Brighton and Hove, there is limited available reliable transaction based evidence of land values. Few details are reported and can rarely be analysed sufficiently to be confident that like for like comparisons are being made in a wide range of respects such as planning permission and s.106 details (or planning potential and risk), site conditions, legal issues and so on. Typically in the viability consultants' experience, this is also seen through a scarcity of information coming forward via the consultation process they run. A range of other land value indications are used, with positions in many cases having been informed also by reference to existing studies of and information on the area – appropriate available evidence.</p> <p>The Council remains of the view that given the nature of the process and the inevitable difficulties involved in ensuring a fit for all situations, the approach taken is suitable and based on appropriate evidence. It considers that the viability assessment work, as now added to with the February 2018 Addendum covering elements considered to merit further appraisal work, clearly acknowledges the</p>
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		<p>nature of the process. This includes the need for review of a wide range of information, making of assumptions and judgements; all informing the striking of an appropriate balance between the desirability of providing infrastructure to support the planned new development and its viability.</p> <p>The consultants are highly experienced in assessing the viability of development for informing CIL rate-setting and the Council is confident that the approach taken in the February 2018 Viability Study addendum is appropriate in further supporting the general approach whilst suggesting some adjustment to that. Following consideration of the comments and further review, the proposed charging rate for Purpose Built Student Housing has been amended between the proposed PDCS rate and the proposed DCS rate (see Table 1 of the DCS)</p> <p>Having carefully considered the latest evidence and the consultants recommendations regarding a citywide or zoned approach, as well as reviewing potential differences between the viability rates the council has concluded that there will be a single citywide rate proposed in the DCS for purpose built student housing schemes of all types.</p> <p>The consultee would be welcome to make any</p>
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		further comments on the approach taken, following publication of the DCS.
North Laine Community Association	Unfortunately there is no definition of neighbourhood areas except for parish councils or neighbourhood forums. The North Laine does not have a neighbourhood forum, nor is it a parish council. It is therefore difficult to gauge, from the figures supplied, the amount included in a CIL - whether it might be offices or housing that could be used in our Conservation Area.	CIL regulations require that a meaningful proportion of revenue raised by development is allocated back to those neighbourhoods. This is set out in the DCS. The council will engage with those communities outside parish councils where development has taken place and agree with them how best to spend the neighbourhood funding.
Brighton & Hove Housing Coalition	There is a need for a thorough rethink and the genuine involvement of the local community.	Comment noted The council is currently preparing a Charging Schedule which will set out the rate (£ / sq. m) that will be payable for specific development types within geographical locations as set out in the charging schedule. Once the charge commences, as set out in the DCS, CIL Regulations require that a meaningful proportion of revenue raised by development is allocated back to those neighbourhoods. The council will engage with those communities outside parish councils where development has taken place and agree with them how best to spend the neighbourhood funding.
West Hove Forum	The key issue for us is the Neighbourhood Portion of the levy. The consultation document treatment of this is disconcertingly brief. However, we were represented at the meeting of the Chairs of LATs that was helpfully addressed . We subsequently received a note which provided an extract from the government guidance of CIL, and we have briefly	Comment noted  The council is currently preparing a Charging Schedule which will set out the rate (£ / sq. m)

reviewed the sections of the guidance which relate to the Neighbourhood Portion.

We understand that the council is legally obliged to allocate a minimum of 15% CIL revenues arising from development within the WHF neighbourhoods outside the Neighbourhood Plan area to be spent within these neighbourhoods and allocate a minimum of 25% in the Neighbourhood Plan area when the Neighbourhood Plan is adopted. Across the city it will be impractical for most neighbourhoods to organize to adopt a Neighbourhood Plan, and we are concerned that this distinction could be disadvantageous to areas without a formal plan.

The CIL regulations state that ‘ ***the use of neighbourhood funds should match priorities expressed by local communities, including priorities set out formally in neighbourhood plans***’ This raises important questions for the development of the BHCC CIL policy, not least how ‘local communities’ are to be defined and how the priorities of these communities are to be determined.

The WHF takes the view that the introduction of these neighbourhood funds is a very important opportunity to significantly enhance the involvement of local communities outside designated Neighbourhood Plan areas in the planning and development processes which shape their neighbourhoods.

The WHF is a stakeholder in the evolving Hove Station Neighbourhood Plan. We fully support the work the Forum is doing to ensure that local priorities for the expenditure of the 25% CIL funds are fully expressed in the Plan.

Council has advised that ‘we are not at stage in the process where there are many concrete answers to specific questions that may arise around the neighbourhood portion’

The WHF believes that in order for the potential benefits of the neighbourhood portion to be realized it is vital that the BHCC takes the

that will be payable for specific development types within geographical locations as set out in the charging schedule. Once the charge commences, as set out in the DCS, CIL Regulations require that a meaningful proportion of revenue raised by development is allocated back to those neighbourhoods. The council will engage with those communities outside parish councils where development has taken place and agree with them how best to spend the neighbourhood funding. Neighbourhood forums will have an influence over how funds are spent in their area.

LAT Chairs were consulted as part of the PDCS consultation exercise.

	<p>lead in establishing a participatory process for identifying the questions and developing answers which have widespread support. This process needs a timeline. It may be that the starting point should be the network of LATs. Our ward councillors play an active role in the work of WHF and this experience indicates that they and their colleagues elsewhere should be expected to play an important role in development of the BHCC approach to the Neighbourhood Portion.</p>	
<p>Brighton Marina Neighbourhood Forum</p>	<p>We do strongly welcome the principle of the 'neighbourhood portion' spending. We have seen situations at previous developments on the Marina where section 106 requirements which, whilst doubtless well-intentioned, have resulted in money being wasted on items which have ended up providing no benefit. We would very much like to avoid this happening in future developments.</p> <p>Neighbourhood Forums have a vital role to play in helping to target spending on the real needs and priorities of local communities, and therefore we believe there should be a formal consultation mechanism between the Council and the Neighbourhood Forum to shape spending proposals not only for the <b>CIL</b> monies but also on what should be in the s106 agreements covering developments in Forum areas.</p>	<p>Comment noted</p> <p>The council is currently preparing a Charging Schedule which will set out the rate (£ / sq. m) that will be payable for specific development types within geographical locations as set out in the charging schedule. Once the charge commences, as set out in the DCS, CIL Regulations require that a meaningful proportion of revenue raised by development is allocated back to those neighbourhoods. The council will engage with those communities outside parish councils where development has taken place and agree with them how best to spend the neighbourhood funding. Neighbourhood forums will have an influence over how funds are spent in their area.</p> <p>Site specific s106 obligations will remain alongside a CIL charge for strategic infrastructure where necessary and directly related to planning as set out in CIL Regulation 122.</p>
<p>Savills on</p>	<p>With regard to Discretionary Relief and Exceptional Circumstances Relief</p>	<p>Policies relating to discretionary reliefs would</p>

<p>behalf of consortium consisting Crest Nicholson, Hyde Housing &amp; Legal &amp; General</p>	<p>we note that BHCC does not comment on whether the relief will be offered and instead invites comment on the prospect of doing so. BHCC has stated that it will consider the implementation of these measures before adoption of the CIL.</p> <p>The Consortium would strongly suggest making the discretionary reliefs available, particularly relief for exceptional circumstances. The Consortium would recommend that this is clarified at Draft stage and encourage the Council to offer an exceptional circumstances relief policy as part of the emerging CIL.</p> <p>No considered detriment arising from the Council making available such reliefs within policies as part of its Charging Schedule, as the Council will still retain control over the application of the policies and strict tests surrounding the availability and applicability of Exceptional Circumstances Relief.</p>	<p>not form part of the charging schedule and could be changed independently of the charging schedule.</p> <p>The council intends to consider the appropriateness of introducing an instalment policy and payment in kind policy.</p>
<p>Resident</p>	<p>Charging developers will only mean they will add it to their final price and impact upon residents. council should encourage business and enable people to work,</p>	<p>The Proposed Charging Schedule rates are informed by consultant recommendations within a bespoke CIL viability study considered to be appropriate evidence in terms of setting viable CIL rates. The proposed charging schedule includes a nil charge for employment uses.</p>
<p>Resident</p>	<p>"residential" covers a wide range of use classes and it may be easier to specifically exclude uses rather than list all of them. Particular omissions I note with the current wording are C4 and Sui Generis large HMOs Would CIL apply to change of use? Would CIL apply to householder extensions?</p>	<p>It is considered that the wording is appropriate for enabling a CIL residential charge. Householder extensions under 100sq.m would be exempt from a CIL charge.</p>
<p>Resident</p>	<p>Concerned about Social &amp; Community space. No reference to developing parks or green areas and related rates. If read thoroughly</p>	<p>It will be noted that the Draft Regulation 123 List framework of items that may be funded by</p>

	<p>why is purpose built student space exempt and Sheltered Housing not exempt.</p>	<p>CIL will be released for consultation to support the DCS, and includes reference to Open Space Provision, Recreation space built facilities, Public realm and cultural infrastructure.</p> <p>The consultee would be welcome to make any further comments on the approach taken.</p>
Resident	<p>They're too complex and confusing for the lay person. This prevents this consultation from being truly effective because it does not enable general public and resident engagement. As a result it is unlikely that the collated data will truly reflect what most people within Brighton and Hove think about Section 106 / Developer Contributions / CIL levy etc. This is ultimately very disappointing and should be addressed before running the consultation again.</p>	<p>PDCS consultation has been run in accordance with CIL regulations. The approach of documents and information offered is considered to be in accordance with accepted practice and commensurate with other charging authority information on the production of a Charging Schedule at this stage.</p>
Resident	<p>Check we are charging like London boroughs as we have London land prices.</p>	<p>The Proposed Charging Schedule rates are informed by consultant recommendations within a bespoke CIL viability study considered to be appropriate evidence in terms of setting viable CIL rates.</p>

## **Further review of Strategic Sites further to Preliminary Draft Charging Schedule consultation – Informative**

A Community Infrastructure Levy (CIL) Charging Schedule supports the delivery of planned development set out in the adopted Local Development Plan. The levy is necessarily based upon an area wide approach. It is not intended or able to reflect all potential issues on individual sites and particularly those of a scale that are not critical to overall plan delivery. It is acknowledged that there are a wide range of sites and development proposals expected to come forward under the City Plan and that the original CIL Viability Study looked at a comprehensive range of site typologies/scenarios.

However, representations made in relation to strategic site allocation Preliminary Draft Charging Schedule (PDCS) have informed a further review of the proposed approach to the CIL charging schedule in respect of two key development sites allocated in City Plan Part One. These are Brighton Marina Inner Harbour strategic site allocation and the King Alfred/RNR Site strategic site allocation. Both are very large scale proposals on which the planned housing growth set out in City Plan Part One is dependent. In the case of the King Alfred/RNR site, the sports facilities provision is tied in with the housing development proposals, forming a critical delivery element of the Local Plan itself and needing financial support. The Brighton Marina Inner Harbour proposals are also very much mixed-use in nature, with the delivery of some of the non-residential elements looking likely to add to, rather than ease, the challenging viability scenario overall.

On further reflection, the very challenging viability scenarios that are known to the Council on a longstanding basis in both of these cases, the fact that both sites are considered to be strategic in terms of the CIL guidance and the available evidence all point to a review of the approach put forward in the PDCS being justified

The revised approach is limited to these two sites because the Council considers that other sites are not subject in the same way to the combined characteristics of supporting a critical development level in the City Plan and having well documented viability difficulties.



## **Brighton Marina Inner Harbour**

The Inner Harbour City Plan allocation is considered strategic in CIL terms due to the significant amount of proposed housing to come forward (1000 units). The infrastructure required to deliver the site as set out in representations to the PDCS, such as an underlying podium structure and an upgrade of sea defences and utilities result in abnormal costs that demonstrate a significant viability deficit. On review, and given the Council's knowledge of the site, discussions with development interests, as well as experience relating to the delivery of the Brighton Marina Outer Harbour proposal, the Council considers that sufficient appropriate available evidence is already in place to inform a nil-rating (£0/sq. m) of the Inner Harbour Site (boundaries as mapped in the City Plan). This appropriate available evidence informs the City Plan Part One - City Plan Part One Background Studies (2012) including - Viability Testing of Strategic Sites and Brighton and Hove Combined Viability Study Update (2014) where the above Inner Harbour issues are referred to.

## **King Alfred/RNR Site**

The King Alfred site is also considered strategic in CIL terms, as an allocation to make provision for new indoor public wet and dry sports facilities for the city as well as contribute significantly to the planned housing growth of the city. Evidence, including a recently successful Housing Investment Fund marginal viability bid of £15.2m, as well as previous experience of an unimplemented scheme due to a significant viability deficit demonstrate the significant viability issues associated with delivery of this development. Significant financial challenges lie ahead in delivering this scheme CIL charging rates should not further undermine the delivery of such a key component the City Plan, and in the circumstances it is considered that sufficient appropriate evidence is in place to support a nil-rating (£0/sq. m) of the King Alfred/ RNR site (boundaries as mapped in the City Plan).

