

Community Infrastructure Levy (CIL)

Draft Charging Schedule

STATEMENT OF MODIFICATIONS

Submission Version

November 2022

1. Introduction

- 1.1 This Statement sets out several minor modifications that Folkestone & Hythe District Council has made to its Draft Community Infrastructure Levy (CIL) Charging Schedule, in response to representations received during the period of public consultation, which ran from 22nd August until 3rd October 2022.
- 1.2 Table 1 comprises a schedule of all the minor modifications to the CIL Charging Schedule, with deleted text shown as strike through and additional text shown in red and highlighted in bold. Table 2 details the minor modifications to the CIL Viability Study report prepared by Gerald Eve on behalf of the Council. Both tables include a brief justification for each modification, as well as the name of the respondent to whose consultation comments the modification relates. In the case of Table 2, the modifications follow the exchange of dialogue between Gerald Eve and Savills, representing Camland Hythe Ltd, had during the consultation period.
- 1.3 The Statement of Modifications is being published in accordance with Regulation 19(1)(d) of the Community Infrastructure Levy Regulations 2010 (as amended) and has been made available to the appointed Examiner, who will conduct the independent Examination into the Draft CIL Charging Schedule.

2. Right to be heard by the Examiner

- 2.1 Any person may request to be heard by the Examiner in relation to any of the modifications set out in this Statement of Modifications.
- 2.2 Requests to be heard by the Examiner in relation to the modifications set out in this Statement of Modifications can be made during the 4-week period following the formal submission date of the Draft CIL Charging Schedule, i.e. from **24 November to midnight on 22 December 2022** and these can be submitted:
- via email to: planning.policy@folkestone-hythe.gov.uk (with 'FHDC CIL Modifications' in the subject line); or
 - via post to:
- FHDC CIL Modifications
Folkestone & Hythe District Council
Civic Centre
Castle Hill Ave
Folkestone
Kent
CT20 2QY
- 2.3 Requests must include details of the modifications on which you wish to be heard. Please also detail whether you support or oppose the modification and why.
- 2.4 Your right to be heard at this stage applies only to the Modifications. The Council will submit a copy of each request it receives to the Examiner via the Programme Officer.

- 2.5 For your request to be considered by the Examiner, you must also provide your name and address, which we will share with the appointed Examiner and a Programme Officer, who acts as a point of contact between the Council, Examiner and respondents before, during and after the Examination. In line with the Community Infrastructure Levy Regulations 2010, you may be contacted by the Programme Officer (or where necessary the Council) with relevant updates regarding the Examination or other aspects of our CIL review.
- 2.6 Copies of any requests received on the Statement of Modifications submitted by individuals will be published on the Council's website, alongside their name. No other contact details will be published. Requests submitted by businesses and/or organisations will be published, including contact details.
- 2.7 If you would like to know more about the Council's data protection registration or to find out about your personal data, please visit: <https://www.folkestone-hythe.gov.uk/privacy-policy#cookie-consents-updated>
- 2.8 A request to be heard on the Modifications may be withdrawn at any time prior to the start of the Examination, by giving notice in writing to the Council.

Table 1. Modifications to the Draft Community Infrastructure Levy (CIL) Charging Schedule

Mod Ref	Respondent	Document Reference	Modification	Reason for Modification
Mod 01	National Highways	Draft CIL Charging Schedule	<p>Inclusion of a new paragraph, to be labelled as 4.4, as follows:</p> <p>4.4. National Highways cannot agree to mitigation to the Strategic Road Network (SRN) through use of CIL receipts because it does not provide the necessary certainty to National Highways and, in turn, the Secretary of State for Transport, that if development occurs, so too will the required SRN mitigation.</p>	To provide appropriate clarity
Mod 02	Kent County Council	Draft CIL Charging Schedule - Paragraph 4.2 & 4.3	<p>Inclusion of two new paragraphs, to be labelled as 4.2 and 4.3, as follows:</p> <p>4.2 In respect of education infrastructure, Kent County Council have advised that: “Section 106 is the appropriate mechanism for securing developer contributions towards the delivery of necessary education infrastructure and this is reflected in the FHDC CIL Infrastructure Funding Statement schedule. Accordingly, KCC will not use any component of its proportionate share of CIL receipts¹ to fund education infrastructure.”</p> <p>4.3 The corresponding figures for education infrastructure are presented in Table 2 of the Infrastructure Funding Statement, albeit that the education infrastructure figures are not carried forward into the total values in Table 2 as KCC will not be utilising their</p>	To clarify that KCC will only utilise S106 developer contributions to fund education infrastructure going forward, such that CIL receipts will not be used by KCC to fund education infrastructure

			<p>proportionate share of CIL receipts to fund education infrastructure.</p> <p>Add footnote to paragraph 4.2 as follows:</p> <p>As set out in the adopted CIL Governance Framework (adopted on 24th June 2020) the District Council assigns 35% of CIL receipts to Kent County Council (KCC) to enable KCC to spend this proportion of the receipts in accordance with their own priorities - https://folkestone-hythe.gov.uk/moderngov/ieListDocuments.aspx?CId=142&MId=4774&Ver=4</p>	To provide an explanation of the CIL Governance Framework (adopted 2020)
Mod 03	National Highways	Infrastructure Schedule	Refer to Infrastructure Schedule dated October 2022 (as amended)	To provide details of the body/bodies responsible for ensuring mitigation are fully funded and delivered
Mod 04	National Highways	Infrastructure Schedule	Refer to Infrastructure Schedule dated October 2022 (as amended)	Removal of several strategic highway projects from the infrastructure schedule on account of the fact National Highways cannot agree to mitigation to the Strategic Road Network (SRN) through use of CIL receipts because it does not provide the necessary certainty to National Highways and, in turn, the Secretary of State for Transport, that if development occurs, so too will the required SRN mitigation. Refer to Mod 01
Mod 05	National Highways	Infrastructure Funding Gap Statement	Updated data presented in Tables 2 and 4 to reflect the removal of several strategic highway projects from the infrastructure schedule.	Removal of several strategic highway projects from the infrastructure schedule on account of the fact National Highways cannot agree to mitigation to the Strategic Road Network (SRN) through use of CIL receipts because it does not provide the necessary certainty to National Highways and, in turn, the Secretary of State for Transport, that if development occurs, so too will the required SRN mitigation. Refer to Mods 01 and 04

Table 2. Modifications to the CIL Viability Report prepared by Gerald Eve on behalf of the Council

Page/ Para	Amendment	Reason
Title page	16 August 20 October 2022	Updated report date
Footer – every page in report	16 August October 2022	Updated report date
Page 7 Xii	As large-scale developments are generally susceptible to market cycles over the long project life-spans, these sites have been assessed with a 10% viability buffer. This has been applied through sensitivity testing up to +/-5% in both costs and revenue (equating to a gross 10% buffer from base scenarios).	Additional text included for clarity
Page 9 XXIV.	With current uncertainty in the construction market and UK economy, as detailed within Section 8, we are of the view that when considered with a 10% 'buffer' through the use of sensitivity analysis the Strategic Sites could not viably support an additional contribution through CIL. Additionally, we would anticipate that any potential surplus generated within the Strategic Sites could be targeted towards necessary Section 106 contributions, as required.	Additional text included for clarity.
Page 13 1.22	In assessing the Strategic Sites, the industry standard model of Argus Developer has been used. Due to the large-scale developments being susceptible to the market conditions cycle over the long project life-span, these sites have been assessed with a 10% viability buffer, through sensitivity testing up to +/-5% in both costs and revenue (equating to a gross 10% buffer from base scenarios).	Additional text included for clarity.
Page 31 5.7	Sensitivity analysis of the inputs can then be undertaken to provide more robust analysis of these results and to incorporate a 'buffer zone' to allow for potential variance in future market conditions. This will include testing of the key inputs, but also of the inputs that we are testing in affordable housing levels and CIL rates.	Additional text included for clarity.
Page 47 6.47	<ul style="list-style-type: none"> • A 3-Phased Scheme to deliver 1,050 homes (subject scheme) over a gross acreage of 167.60 acres. • Phases 1 & 2 incorporate 400 homes and construction is currently ongoing. • Phase 3 comprises an application for 650 homes. • Phases 1 & 2 incorporate 400 homes, receiving detailed planning permissions, with a number of units already built out. • The site encompasses a gross area of 93.52 acres of a wider development, which including phases 1 and 2 already permissioned extends to a gross acreage of some 167.60 acres – the subject therefore making up 55.8% of the mtello Lakes project. 	Strike through and additional text included for clarity.
Page 47 6.49	The Sellindge Sites consist of 2 phases. The first phase, currently being has been delivered by Taylor Wimpey and comprises solely the Land Adjacent to the Surgery site.	Strike through and additional text included for clarity.

Page 54 7.43	In assessing the commercial revenue within the Strategic Sites, we formed the opinion that the rents and yields adopted within the appraisals were aligned with wider comparable evidence and were therefore not indexed.	Additional text included for clarity.																									
Page 58 8.24	Where relevant, an allocation of costs has also been included for 'Abnormal' Infrastructure Items. This is where the discussions on the potential additional costs are still ongoing between the Council and the developers. A key example of this relates to the nutrient neutrality issues previously raised by Natural England in relation to the Sellindge Sites being delivered as part of Phase 2.	Additional text included for clarity.																									
Page 61 8.42	Strategic Sites have been tested with the exclusion of CIL charges. Therefore, the viability 'buffer' is incorporated in a 10% 'buffer' through sensitivity testing of key appraisal inputs.	Additional text included for clarity																									
Page 62 8.46	It is assumed that site specific cost plans regarding abnormal costs would incorporate an allowance for inflation. Therefore, abnormal fees have not been inflated within our assessment of the Strategic Sites.	Additional text included for clarity																									
Page 68 10.40	BLV Summary	Additional text included for clarity																									
Page 68 10.41	<p>Strategic Site BLV's have been calculated as Greenfield land, with the exception of Folkstone Seafront. The following Strategic BLV's have been adopted for the Strategic Sites:</p> <table border="1"> <thead> <tr> <th>Strategic Site</th> <th>Existing Use</th> <th>Land Value per acre</th> <th>Gross Acreage (Acres)</th> <th>Benchmark Land Value</th> </tr> </thead> <tbody> <tr> <td>Folkstone Seafront</td> <td>Brownfield</td> <td>£350,000</td> <td>42</td> <td>£14,700,000</td> </tr> <tr> <td>Martello Lakes</td> <td>Greenfield</td> <td>£100,000</td> <td>167.60</td> <td>£16,760,000</td> </tr> <tr> <td>Otterpool</td> <td>Greenfield</td> <td>£60,000¹</td> <td></td> <td>£95,000,000</td> </tr> <tr> <td>Sellindge Phase 2</td> <td>Greenfield</td> <td>£100,000</td> <td>58</td> <td>£5,800,000</td> </tr> </tbody> </table>	Strategic Site	Existing Use	Land Value per acre	Gross Acreage (Acres)	Benchmark Land Value	Folkstone Seafront	Brownfield	£350,000	42	£14,700,000	Martello Lakes	Greenfield	£100,000	167.60	£16,760,000	Otterpool	Greenfield	£60,000 ¹		£95,000,000	Sellindge Phase 2	Greenfield	£100,000	58	£5,800,000	Additional text and summary table included for clarity
Strategic Site	Existing Use	Land Value per acre	Gross Acreage (Acres)	Benchmark Land Value																							
Folkstone Seafront	Brownfield	£350,000	42	£14,700,000																							
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Sellindge Phase 2	Greenfield	£100,000	58	£5,800,000																							
Footnote 5 Page 68	Greenfield Land Value of £100,000 per acre incorporating an allowance for abnormals	Additional text included for clarity																									
11.10 Page 73	Table 39: Nicholls Quarry Surplus/ Deficit amended from £9.07m to £8,850,183	Amendment following clarity on area																									

¹ Greenfield Land Value of £100,000 per acre incorporating an allowance for abnormals.

12.50 Page 80	In assessing the four Strategic Sites, sensitivity testing has been conducted within the bespoke Argus Developer appraisals. As such, the stepped sensitivity variation of +/-2.5% increments, up to a 5% variance (up and down) for each site is included in Appendix 12(iv) , showing steps in private sales, construction costs and both inputs simultaneously.	Additional text included for clarity
12.51 Page 81	In order to assess the potential for the Strategic Sites to be in a viable position where CIL charging could be possible, the viability threshold must be assessed against the maximum position of the sensitivity analysis. Therefore, the Strategic Sites must be assessed at -5% private sales values and +5% construction costs, representing the least viable position, if market conditions were to shift to the schemes' detriment. The sensitivity analysis has been identified as a method of incorporating an appropriate viability 'buffer' of 10% in assessing the viability positions of the Strategic Sites against their respective BLV's. As such, the range between +/-5% in costs and revenue would encapsulate an allowance for potential market variances. Therefore, we believe that each sensitivity level would require a surplus in order to consider additional charging through CIL.	Amendment and additional text included for clarity
12.52 Page 81	Due to the length of programme and quantum of homes, we would anticipate that variation in market conditions would have considerable impact on the viability of the Strategic Sites over the course of their life-span. In regard to recent market conditions, we understand that it is plausible for conditions to potentially vary further than the tested +/- 5% changes over the construction programmes and therefore consideration must be made during analysis of results.	Additional text included for clarity
Page 81 12.54	As an additional point, specifically in relation to Otterpool Park and Martello Lakes, if the scheme generates a surplus above a reasonable Developer Return, as the Council is a beneficiary party of the LLP, there should be an opportunity for the surplus to be reinvested in the project to further support the development and meet planning policy requirements. This statement is made in accordance with evidence given to the Examination of the Core Strategy Review.	Strikethrough. Amended for clarity.
Page 89 13.36	Analysis of the bespoke appraisals constructed for the chosen Strategic Sites indicate that at a Base level , three of the four sites reflect a positive surplus in respect of the BLV, when incorporating the assumptions detailed within this report. comparing calculated residual land value to the BLV of the site.	Amendment and additional text included for clarity
Page 89 13.37	Due to the scale of the strategic sites, they are perceived to be far more susceptible to fluctuations in market conditions than smaller sites. Therefore, sensitivity testing is integral when assessing potential viability. The Strategic Sites are understood to be susceptible to changes in market conditions over their project life-spans due to the quantum of homes and respective programme	Amendment and additional text included for clarity

	lengths. Therefore, a 10% viability 'buffer' is required to capture the potential for a scope of variance in future market conditions in our analysis.	
Page 89 13.38	As detailed within Section 12 , the Strategic Sites have been tested in stepped (up and down) increments of +/-2.5% in revenues and construction costs, up to +/-5%, resulting in an overall 10% variance buffer to the base RLV . Incorporating the required 'buffer', the scope of the sensitivity analysis indicates that if revenues were to be reduced and construction costs increased, the sites would be all express an unviable position or positions that would not justify implementing CIL.	Amendment and additional text included for clarity
Page 92 14.14	At a base level, the individual assessments of the Strategic Sites suggest that three out of four sites indicate the potential of producing a viable position in respect to their BLV's. However, when incorporating the required 10% viability 'buffer' into our analysis, it is evident that the schemes are highly sensitive to external market influences. As such, 100% of the tested Strategic Sites express a position of relative viability deficit when experiencing negative market conditions, such as increased construction costs or a reduction in sales values. The individual outputs reflected that the strategic sites, except for Folkestone Seafront, were producing a positive surplus when compared to the previously agreed benchmark land values produced as part of the Core Strategy Review. However sensitivity analysis shows that any fluctuations in market conditions would greatly impact the deliverability of the schemes.	Amendment and additional text included for clarity
Page 92 14.15	With current uncertainty in the construction market and UK economy, as detailed within Section 8, and the potential impact posed to the large schemes over their programme length , we are of the view that the Strategic Sites could not viably support an additional contribution through CIL.	Additional text included for clarity.
Page 93 15.6	Due to their site specific complexities and ongoing discussions with the Council , further analysis should be undertaken to determine the potential surplus that the strategic sites could achieve moving forward. The Council should seek to determine whether additional contributions could be sought for Section 106 on a site-by-site basis, at the planning application stage.	Additional text included for clarity.
Appendices	Appendix 11 – Model Outputs (Martello Lakes) Appendix 11 – Model Outputs (Otterpool Park) Appendix 11 – Model Outputs (Sellindge Phase 2 – Site A) Appendix 11 – Model Outputs (Sellindge Phase 2 – Site B) Appendix 12 – Sensitivity Analysis (Strategic Sites)	Further clarity provided following consultation.