

Carmarthenshire County Council

Community Infrastructure Levy Preliminary Draft Charging Schedule

Consultation Document September 2016

Introduction

This Preliminary Draft Charging Schedule for Carmarthenshire is produced for public consultation as the first step in setting a Community Infrastructure Levy (CIL) in Carmarthenshire. Carmarthenshire County Council (the Council) will take into consideration any representations made on this document before considering publishing a Draft Charging Schedule for public consultation and examination.

What is CIL?

The CIL is a system of planning charges that Local Authorities can levy on new building projects through power provided under the Planning Act 2008. The Levy is a fixed rate charge per square metre of additional floorspace that developers pay on commencement of development or through an agreed phasing of payments during construction. The levy is raised to help pay for the infrastructure that is needed to support planned development.

CIL is intended to speed up the development process and reduce the lengthy delays involved in negotiating complex agreements. It is also designed to provide developers and land owners with more certainty about the sort of contribution a development will be required to make.

The charge is set at a Public Examination where an appointed Examiner will consider evidence around the viability of development. CIL must generally be 'affordable' for developers and must not threaten the overall viability of development in a given Local Authority area.

Section 106 and CIL

The CIL is intended to provide infrastructure to support the development of an area rather than making an individual planning application acceptable in planning terms (which is the purpose of Section 106 Agreements). As such, CIL will not fully replace Section 106 (S106) Agreements.

S106 agreements will continue to be the primary mechanism for securing affordable housing through the planning system. In addition, S106 agreements will still be used in certain situations to mitigate the direct impact of the development proposed.

The CIL Regulations restrict the use of Planning Obligations to ensure that developments are not charged for the same items through both S106 Agreements and the CIL. The Council is required to publish a list of the infrastructure it intends to fund via the levy. This is also known as a regulation 123 list. Once CIL is adopted, it will not be possible to seek planning obligations through S106 Agreements towards items on the infrastructure list.

Economic Viability and Rates

Carmarthenshire County Council commissioned the District Valuer Services – Valuation Office Agency to undertake a CIL economic viability study for Carmarthenshire. The Draft Study was completed in November 2015 and provides a comprehensive up-to-date evidence base upon which the proposed CIL rates are based.

To test the financial viability of introducing a potential CIL within Carmarthenshire the Study tested 33 actual and/or potential development sites located across the Local Authority area. These sites covered a range of intended uses from new housing to a broad range of commercial uses such as retail, office, industrial etc. The testing of economic viability has also included sensitivity analysis which tests the impact of a range of difficult conditions (namely changes in the property and development markets). The testing also took full account of the requirements of LDP Policy AH1 and assumed the delivery of 10% affordable housing on sites in the Ammanford / Cross Hands area, 20% in the Newcastle Emlyn and Northern Rural Area, Kidwelly, Burry Port, Pembrey and Lower Gwendraeth Valley and the Llanelli area, and 30% in the Llandovery, Llandeilo and North East Carmarthenshire, St Clears and Rural Hinterland and in Carmarthen and Rural area.

The Study concludes that some land uses would not be viable if a CIL was incurred and recommends a nil CIL rate for these, whilst other developments are sufficiently viable to charge a CIL, as identified below.

The proposed CIL rates for Carmarthenshire are set out in the following Preliminary Draft Charging Schedule:

Development Type	CIL Rate: £/m²
Residential Development (within Viable Areas - please refer to map in Appendix 1)	£60
Residential Development (outside of Viable Areas – please refer to map in Appendix 1)	Nil
Private Retirement Housing C3	£60
Comparison Retail	£70
Convenience Retail	£70
Other chargeable Development	Nil

Chargeable Development and Exemptions

CIL is levied on the development of virtually all buildings that people 'normally go into'.

The following types of development will be liable for the CIL:

- Developments of more than 100m² new floorspace;
- Developments of less than 100m² which result in the creation of one or more new dwelling; and,
- The conversion of a building that is no longer in lawful use

The Regulations allow mandatory relief for certain types of developments and they will not be liable to pay the CIL:

- Development by registered charities for the delivery of their charitable purposes;
- Those parts of a development which are to be used as social (affordable) housing;
- The conversion of any building previously used as a dwelling house to two or more dwellings;
- Development of less than 100m² of new build floorspace, provided that it does not result in the creation of a new dwelling;
- The conversion of, or works to, a building in lawful use that affects only the interior of the building;
- Development of buildings and structures into which people do not normally go (e.g. pylons, wind turbines and electricity sub stations);
- Residential annexes and extensions, where the person who would normally be liable for the charge owns a material interest in the main dwelling and occupies the main dwelling as the sole or main residence;
- Self-build housing where a dwelling is built by the person who would normally be liable for the charge (including where built following a commission by that person) and occupied by that person as their sole or main residence.

Discretionary Relief

The CIL Regulations make provision for Local Authorities to offer further discretionary relief:

- Discretionary charitable relief: investment activities (Regulation 44) - Developments by charities which are held as an investment from which the profits are applied for charitable purposes;
- Social housing relief (Regulation 49) – The Council have the option to offer discretionary relief which meet the criteria set out in Regulation 49A. Anyone can provide these homes, as long as measures are in place to ensure that the homes, if sold, will continue to be affordable for future purchasers at a maximum of 80% of market price.
- Relief for exceptional circumstances (Regulation 55) - Where a specific scheme cannot afford to pay the levy. Relief is only possible in these circumstances if the particular development has a S106 agreement and the cost of complying with the agreement is greater than the CIL

charge. It would also need to be demonstrated that paying the full charge would have an unacceptable impact on the development's economic viability and that, in being granted an exemption from CIL, the developer/liable party is not considered to be receiving state aid. These claims would be considered on a case by case basis.

When is CIL payable?

When planning permission is granted to a CIL liable development, a liability notice will be sent which will contain the amount of Levy that is due for the development, including when the total amount must be paid. The CIL charge is payable from the date at which a chargeable development commences unless the charging authority has adopted an instalment policy. The Local Authority has the option to offer payment of CIL by instalments. An instalment policy would provide more flexibility, in particular for larger schemes that have a phased delivery.

Calculating the chargeable amount

The amount of CIL to be paid for each development will be calculated in accordance with Regulation 40 of the CIL Regulations 2010 (as amended) as follows:

$$\frac{R \times A \times I_p}{I_c}$$

R = the CIL Rate set out in the table above

A = the deemed net area chargeable at rate R, calculated in accordance with paragraph (7) of Regulation 40 of the CIL Regulations 2010 as amended

I_p = the index figure for the year in which planning permission was granted

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

Where the chargeable amount is less than £50 it will be deemed to be zero, and no payment will be due.

What will CIL be spent on?

CIL receipts must be used to provide infrastructure to support development in the area. The funds cannot be used to remedy pre-existing infrastructure deficiencies unless new development worsens those deficiencies. The levy can be used to increase the capacity of existing infrastructure, or to repair failing existing infrastructure, if it is necessary to support development.

The CIL receipts can only be spent on infrastructure projects and types of infrastructure specified in our regulation 123 list of infrastructure. This list does not commit the Council to fund this infrastructure using the CIL, however, planning obligations cannot be used to fund any of the infrastructure included in the list.

The LDP (policy GP3) and the Caeau Mynydd Mawr Special Area of Conservation Supplementary Planning Guidance (SPG) states that planning contributions within the Caeau Mynydd Mawr area (as defined in the SPG) shall be prioritised towards the mitigation for potential harm to the European designated Special Area of Conservation. As such this priority will need to be reflected in the Regulation 123 list in order to comply with our responsibilities under Article 6(3) of the Habitats Directive (Council Directive 92/43/EEC).

Other than the Special Area of Conservation mitigation, it will be for the Council, as the charging authority to decide what the infrastructure funding priorities are. A formalised method of prioritising infrastructure funding will be established to produce a prioritised list.

In accordance with the CIL regulations, a neighbourhood portion of the CIL receipts will be given to each Town and Community Council. This will be 15%, up to a maximum of £100 per existing council tax dwelling per year, of the CIL received through development within that Town or Community Council area. This must be spent on supporting the development of the area, rather than on the more restrictive 'infrastructure'.

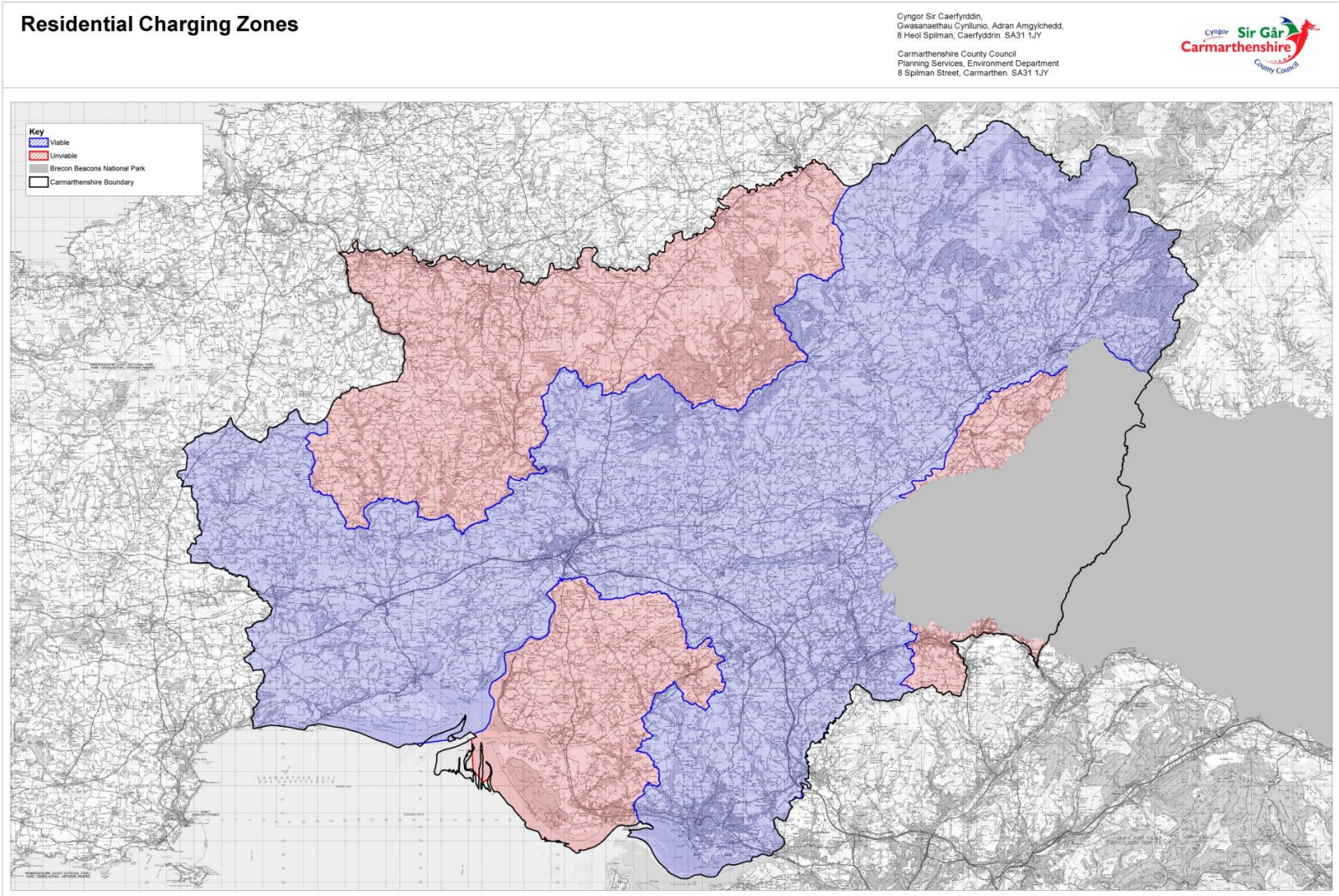
The Council proposes using 5% of the CIL revenue to fund the administrative costs of the Levy, in accordance with the regulations.

Site specific infrastructure and affordable housing can continue to be secured through Section 106 planning obligations. Affordable housing is specifically excluded from the CIL regulations' definition of infrastructure.

CIL Next Steps

Comments from this consultation will be taken into account in considering the suitability of a CIL for Carmarthenshire and in producing a Draft Charging Schedule for further consultation. When those consultation responses have been received and any amendments or clarifications made, this will then be submitted to an Independent Examiner.

Appendix 1 – Draft Residential Charging Zones



Appendix 2 Town and Community Council Areas within Residential Charging Zone

Town and Community Councils within Residential Charging Zone	
Abergwili	Llanfair-ar-y-Bryn
Ammanford Town	Llanfihangel Aberbythych
Betws	Llanfynydd
Bronwydd	Llangain
Carmarthen Town	Llangathen
Cil-y-cwm	Llangennech
Cilymaenllwyd	Llangunnor
Cynwyl Gaeo	Llangynin
Dyffryn Cennen	Llangynog
Eglwys Gymyn	Llanllawddog
Gors-las	Llan-non
Henllan Fallteg	Llanpumsaint
Laugharne Township	Llansadwrn
Llanarthne	Llansawel
Llanboidy	Llansteffan & Llanybri
Llanddarog	Llanwrda
Llanddowror and Llanmiloe	Llanycrwys
Llandeilo Town	Manordeilo and Salem
Llandovery Town	Meidrim
Llandybie	Newchurch & Merthyr
Llanedi	Pendine
Llanegwad	St Clears Town
Llanelli Rural	Talley
Llanelli Town	Whitland Town

Appendix 3 - Draft Regulation 123 List

Carmarthenshire Regulation 123 Draft Infrastructure List
Physical Infrastructure:
<p>Transportation and Highway Projects:</p> <ul style="list-style-type: none"> • Carmarthen West link road • Cross Hands economic link road • Ammanford economic regeneration infrastructure • Ammanford distributor road, phase 2 • A4138 access into Llanelli • Traffic modelling and addressing hotspots within the County • Road safety package Strategic bus services support • Bwcabus • Strengthening of bridges and highway structures at strategic locations
<p>Cycling and Walking Projects:</p> <ul style="list-style-type: none"> • Towy valley cycleway • Strategic active travel infrastructure
Public realm and town centre improvements
Development and associated infrastructure required to bring forward employment sites across the County
Social and Community Infrastructure:
Carmarthenshire Modernising Education Programme and associated enabling works
<p>Strategic leisure and sports facilities</p> <p>Including leisure centres, playing pitches, country parks but excluding local areas of play, local equipped areas of play, neighbourhood areas of play and multi-use games areas.</p>
Museums and galleries
Welsh language projects
Wi-Fi overlay project
Green Infrastructure:
<p>Caeau Mynydd Mawr marsh fritillary habitat project</p> <p>This is necessary in order to comply with our responsibilities under Article 6(3) of the Habitats Directive (Council Directive 92/43/EEC)</p>
Llanelli water vole habitat conservation and enhancement project
Conservation and enhancement of otter habitat around Carmarthen
Community Infrastructure Levy Preliminary Draft Charging Schedule

Strategic green infrastructure and open spaces

Exclusions from the Draft Regulation 123 List

The following types of infrastructure will be excluded from the Draft Regulation 123 List and will be funded through Section 106 planning obligations where they meet the statutory tests set out in CIL Regulation 122:

- Affordable housing ;
- Open space and play provisions such as Local Areas of Play, Local Equipped Areas of Play, Neighbourhood Areas of Play and Multi-Use Games Areas;
- Site specific biodiversity mitigation and enhancement;
- Site specific highway requirements; and,
- Site specific infrastructure requirements necessary to overcome obstacles to the development of a site

This draft Regulation 123 list does not signify a commitment from the Council to fund any of the projects listed through the CIL.

Appendix 4 – PDCS Consultation Questionnaire

Please note that all comments submitted will be made available for public inspection and cannot be treated as confidential.

Question 1: Do you agree that the evidence provided in the Study Into The Economic Viability Of Charging Community Infrastructure Levy In Carmarthenshire County Council by the District Valuer Services is correct?

Question 2: Do you agree that the CIL Rates proposed (per m²) strike an appropriate balance between the desirability of funding infrastructure through CIL and associated economic viability?

Question 3: Do you agree with the proposed rates for residential development (including private retirement housing) i.e. a charge of £60 per square metre in viable areas and no charge in the unviable areas?

Question 4: Do you agree with the proposed rates for retail development i.e. a charge of £70 per square metre?

Question 5: Do you agree that the other types of development are unable to afford a CIL contribution?

Question 6: Do you believe that the Council should offer payment by instalments?

Question 7: Do you believe that the Council should offer any discretionary relief?

Question 8: Do you have any other comments relevant to this PDCS or viability evidence? Objections should also specify the change sought, including evidence to support your view.