Torridge District Council

Community Infrastructure Levy (CIL)

Draft Charging Schedule

June 2014
If you have any queries or questions relating to this document please get in touch using the details shown below:

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1 Introduction

1.1 Torridge District Council has resolved to produce a Community Infrastructure Levy Charging Schedule, alongside reduced arrangements for the use of Section 106 obligations.

1.2 The Community Infrastructure Levy (CIL) is a charge that local planning authorities can levy on new building projects, through powers provided under Part 11 of the Planning Act 2008. The money raised must be used to help fund infrastructure to support the development of the Council's area\(^1\).

1.3 The CIL Regulations 2010, which govern this new charge, came into force on 6th May 2010. Amendments to the Regulations have been introduced in 2011, 2012, 2013 and 2014\(^2\).

1.4 Torridge District Council invites representations to this draft Charging Schedule to be submitted by 8th August 2014. These representations will then be considered by the Council and submitted to the examiner of the draft Charging Schedule along with details of the number of representations received and a summary of the issues covered in accordance with the provisions of paragraph 19 of the 2010 Regulations (as amended). If any amendments are made as a result of the representations received then a statement of modifications will be produced and publicised in accordance with Regulation 19(4) as amended.

1.5 The intention is to submit the draft Charging Schedule for formal consultation alongside the emerging North Devon and Torridge Local Plan 2011 – 2031.

1.6 Torridge District Council is producing a joint Local Plan with North Devon Council and the viability assessment that has been carried out to inform the affordable housing policies of that Local Plan as well as the CIL Charging Schedule has been carried out across the two districts. Each district however, is a separate charging authority and notwithstanding any joint arrangements that may be made for the application of funds collected from the Levy in the two districts, each must produce and consult on its own charging schedule.

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1 CIL Regulation 59 (2010 as amended).
2 Reasons for implementing a Community Infrastructure Levy in

2.1 The Levy is a fixed charge applicable to chargeable development within the Council’s area that will allow the Council to plan with greater certainty for the delivery of the infrastructure required to support the level of development detailed in the Local Plan.

2.2 A proportion\(^{(3)}\) of the Levy collected will be passed directly from the Council to the Town or Parish Council hosting the development from which it has arisen. The amount passed on will depend on whether or not a Neighbourhood Plan or Neighbourhood Development Order has been adopted.

2.3 It can be levied on most types of new building projects to ensure that most new development contributes towards the provision or enhancement of the infrastructure it relies upon.

2.4 From April 2015, no more than five S106 obligations can be collected to fund any single infrastructure project, CIL will therefore become the principal mechanism for delivering off-site community infrastructure from developer contributions.

2.5 Section 106 obligations will continue to be used to deliver affordable housing and certain infrastructure needs and mitigation measures not covered by the list of infrastructure to which CIL may be applied, produced in accordance with CIL Regulation 123.

\(3\) 25% for those Councils with an adopted neighbourhood plan or neighbourhood development order 25% for those Councils with an adopted neighbourhood plan or neighbourhood development order in place or 15% (capped at a maximum of £100 per existing dwelling) for those without – CIL Regulation 59A (2013)
3 CIL Charging Schedule

3.1 In order to charge a Levy on development in Torridge, the Council must set the rates and any other criteria in a ‘charging schedule’. The Council may determine the format and content of the charging schedule in accordance with Part 3 of the CIL Regulations 2010 (as amended).

3.2 When setting rates for CIL in the charging schedule, the Council must demonstrate that it has struck an appropriate balance between the desirability of funding the total cost of the infrastructure required to support the development of its area and the overall potential effects of the imposition of CIL on the economic viability of development.

3.3 In considering the cost of total infrastructure, other sources of funding and potential “in-kind” provision must be taken into account, leaving a “funding gap” which CIL can help address, subject to the aforementioned consideration of viability. In striking what appears to be an appropriate balance, the charging schedule should be informed by clear evidence, as set out below.

3.4 Regulation 13 of the CIL Regulations 2010 allows the Council to set differential rates of CIL for different geographical zones and/or different intended uses of development. There is also provision for supplementary charges, nil rates, increased rates or reductions to be set. The Government’s guidance advises that differential rates can only be justified on the basis of economic viability. If differential geographical zones are set, they must be clearly identified on a map within the charging schedule. Differential rates should not be related to the costs of infrastructure in different areas nor used to encourage or discourage development in particular locations.

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4 Section 211(1) of the Planning Act (2008)
5 CIL Regulation 14 (2013)
6 CIL Regulation 73
7 CLG Guidance: Charging setting and charging schedule procedures (April 2013, para.34)
4 Evidence Base for Charging Schedule

4.1 The charging schedule must be informed by appropriate evidence. This draft Charging Schedule and the proposed CIL rates in the next section have been informed by:

- the proposed Publication Local Plan for North Devon and Torridge Districts;
- the draft Infrastructure Delivery Plan; and
- the Community Infrastructure Levy and Affordable Housing Viability Study (2013)

4.2 Copies of the latest versions of the evidence base documents can be viewed on the Council’s website: Economic Viability Assessment or in the Council's Offices at Riverbank House.

4.3 The proposed Publication Local Plan sets out the Council’s vision, objectives and strategy for the development and delivery of sustainable communities in North Devon and Torridge for the period 2011 to 2031. The Local Plan includes a housing requirement of about 8,100 over the plan period for Torridge. It also addresses economic development in communities across the district.

4.4 Draft Local Plan Policy ST23: Infrastructure, refers to the Community Infrastructure Levy as a primary method of infrastructure funding and seeks to ensure the delivery of the necessary infrastructure to support development and contribute to sustainable communities.

4.5 Draft Local Plan Policy ST18: Affordable Housing on Development Sites, sets a requirement for 30% affordable housing provision for residential development throughout the district. Affordable housing is exempt from CIL, but all other housing (unless exempted by other Government legislation) will be liable to pay CIL at the prevailing rate.

4.6 The draft Infrastructure Delivery Plan (IDP) identifies the nature, location and estimated cost of infrastructure required to support the development of North Devon and Torridge as set out in the proposed submission Local Plan. The draft IDP will be updated as infrastructure demands are identified over the Local Plan period and as projects are confirmed and completed.

4.7 The draft IDP has estimated that the total cost of infrastructure needed to support new development in North Devon and Torridge is approximately £200 million. Taking into account other actual and expected sources of funding, there is a potential infrastructure funding requirement of £120 million which could be partly filled by CIL revenues. It is anticipated that CIL on the proposed growth during the plan period might yield half of the funding gap. This funding gap demonstrates the need to set a Levy and the justification for setting it at the proposed levels, subject to not impacting

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8 Defined by Section 211 (7A) of Planning Act 2008 (as amended by the Localism Act 2011).
adversely on the viability of delivering the growth set out in the proposed submission Local Plan. Certain significant developments are likely to be approved before CIL is introduced, in which case their contribution towards the funding gap will be via s106 rather than CIL. The overall figures above however are not expected to be significantly affected.

4.8 It is anticipated that approximately 60% of the overall infrastructure funding required will relate to projects in North Devon, but the proposed housing in North Devon will only amount to about 53% of the total for both districts. Because of the strategic and cross boundary nature of much of the infrastructure and the likelihood that CIL receipts will only cover approximately half the funding gap identified, it is not envisaged that this discrepancy will adversely impact on either the rationale behind the proposed levels of CIL or the deliverability of proposed development levels in either district.

4.9 For the purposes of transparency, the Council will publish a list of infrastructure to be funded through CIL with the Charging Schedule, in order that there is no conflict with planning obligations secured through S106 agreements.\(^9\)

4.10 North Devon and Torridge District Councils appointed consultants Adams Integra to prepare a Community Infrastructure Levy and Affordable Housing Viability Assessment as the key piece of evidence to inform the draft Charging Schedule and the affordable housing requirements of the emerging Local Plan.

4.11 The study assessed the economic viability of housing and commercial development across the districts and policy options for affordable housing provision. The study specifically assessed a range of possible rates of CIL across different parts of the districts and for different types of development. A Residual Land Value model was used for the viability assessment.

4.12 Numerous variables and assumptions were examined for North Devon and Torridge including residential market values; a range of site densities; construction costs\(^{10}\); Code for Sustainable Homes requirements; appropriate average levels of developer profit at and a range of Existing Use Values.

4.13 A series of scenarios were modelled combining the above variables with a range of CIL charges from nil to £80 per square metre and the affordable housing provision between 0% and 30%.

4.14 The viability assessment concluded that whilst there were variations in the viability of development across the districts, the variations were not pronounced enough between readily identifiable areas to justify setting differential rates between geographically defined areas. As a result, the study recommended a single rate of CIL be applied to residential development of £60 per square metre.

\(^9\) In accordance with CIL Regulation 123 (2010).
\(^{10}\) Based on Royal Institution of Chartered Surveyors Building Cost Information Services costs locally adjusted.
4.15 It was further concluded that no persuasive evidence existed to justify not also applying this same rate to sheltered housing schemes, allowing for affordable units to be exempt.

4.16 As far as non-residential uses are concerned, the majority were found not to be viable enough to be able to support a CIL payment. There is evidence to show that supermarkets and retail warehouses are able to afford a CIL higher level of levy than other retail currently proposed at (£0/m²). A separate rate of £150 per square metre is therefore proposed for supermarkets and retail warehouses exceeding 1000m² in size\(^{(11)}\).

4.17 The inclusion of the supermarket levy rate (£150/m²) within town centres may adversely affect the viability of retail or mixed use development within town centres. As such CIL will not be charged on supermarkets within town centres as defined on the town plans in the emerging Local Plan.

4.18 Should the expected level of development identified in the proposed Publication Local Plan be delivered and pay a CIL charge under the proposed charging schedule, the potential Levy yield\(^{(12)}\) would fall within the infrastructure funding gap of £120m outlined above. The proposed Levy rates are therefore justified in accordance with the regulations and guidance.

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\(^{(11)}\) Differential rates set by scale of development are allowed by Regulation 13 (1) (c) (as amended)

\(^{(12)}\) Potential yield range based on new market homes at an average size of 90m² paying the proposed rate of £60/m² and Supermarkets/Retail Warehouses paying £150/m².
5 Draft Charging Schedule

It is proposed that the Torridge CIL be set at the following rates:

Use of Development\(^{(13)}\) Proposed Levy (£/m\(^2\)) – all areas

- **Residential** (including C3 sheltered accommodation) £60;
- **Supermarkets**\(^{(14)}\) exceeding 1000m\(^2\) (excluding in town centres as defined by Local Plan) £150
- **Retail Warehouses**\(^{(15)}\) exceeding 1000m\(^2\) £150;
- **Retail (A1)** – other than Supermarkets and Retail Warehouses £0;
- **Hotels (C1)** £0;
- **Commercial Leisure** – (excluding community use or not-for-profit leisure development) £0
- **Community use**\(^{(16)}\) £0;
- **Office and Business Use (B1)** £0;
- **Industrial, Warehousing and Distribution (B2/B8)** £0;
- **All other development** £0.

The Council will calculate the ‘chargeable amount’ of CIL payable using the appropriate rate from the list above multiplied by the ‘gross internal area’\(^{(17)}\) of new buildings and enlargements\(^{(18)}\) to existing buildings, taking demolished floor space into account. The calculation methodology is provided in Regulation 40 of the CIL Regulations 2010, as amended.

Most types of development to which persons may customarily have access can be liable to pay a CIL charge. New buildings and extensions with a gross internal area over 100m\(^2\) are liable to be assessed for CIL, except for additional dwellings for which no minimum threshold applies. The charge is imposed at the time planning permission is granted and paid on the commencement of development, or by instalments at the Council’s discretion.

It is the intention of the Council to consider the publication of an instalment policy in accordance with the provisions of Regulation 69(B) as introduced by the CIL (Amendment) Regulations 2011. Representations are invited on the appropriate terms of any such policy.

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13 ‘Intended uses of development’ as referred to in Regulation 13; CIL Regulations 2010.
14 "Supermarkets: Self-service stores selling mainly food, or a mixture of food and comparison goods with a trading floor space above 1,000 m\(^2\), with supporting car parking."
15 Retail Warehouses: Self-service stores selling mainly non-food goods, with a trading floor space above 1,000m\(^2\), with supporting car parking."
16 For the purposes of the North Devon CIL Charging Schedule ‘Community Use’ includes: ‘Non-residential institutions’ as defined by Class D1 of the Use Classes Order 1987 (as amended); Leisure development that principally delivers community or public benefits; Community uses such as sports halls, swimming pools, schools, community halls, religious institutions, etc.
17 The Council will use the HMRC Valuation Office Agency’s definition of Gross Internal Area
18 CIL Regulation 42 (2013)
The CIL Regulations exempt various types of development from paying a CIL Charge\(^ {19} \): These include most notably Affordable Housing, development by charitable institutions; changes of use that do not increase floor space and buildings with temporary permission.

The Council proposes to set differential rates of CIL for different intended uses of development based on the evidence of their economic viability.

The CIL rates are index linked to the ‘All-in Tender Price Index’ published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors.

5.1 Following adoption of the Charging Schedule, CIL payments will be due on subsequently granted planning permissions from the date that a chargeable development is commenced.

5.2 The Council can permit the discretionary payment of CIL by instalments to give the Council flexibility in dealing with certain applications. An instalment policy containing details of the number of instalments permitted, the timing and dates of payments, the amount payable in any instalment and a minimum monetary threshold will be published with the adopted Charging Schedule and a draft is attached at Appendix A. The ‘instalment policy’ may be amended or removed at any time.

5.3 The Council will consider offering ‘discretionary relief for exceptional circumstances\(^ {20} \) from liability to pay CIL. Offering exceptional circumstances relief would provide the Council with some flexibility to deal with individual sites where development is desirable, but which are proved to have exceptional costs or other requirements which make them unviable. Exceptional circumstances relief can be activated and deactivated at any time and a notice of intention will be published by the Council.

5.4 The Council proposes, at its discretion, to allow the value of land and “in-kind” infrastructure provided by the developer either on or off site to be offset against the chargeable amount of CIL\(^ {21} \). The value of land acquired will be determined by the District Valuer (at the cost of the developer) whilst the cost of any “in-kind” infrastructure will be agreed between the charging authority and the developer.

5.5 The Council proposes that it may apply CIL funds to ‘administrative expenses’\(^ {22} \) incurred in connection with CIL.

5.6 The Council may offer ‘discretionary charitable relief for investment activities’\(^ {23} \) where a charity landowner will hold the development as an investment from which the profits are applied for charitable purposes. This discretionary relief can be activated and deactivated at any time and a notice of intention will be published by the Council.

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19 Community Infrastructure Levy Regulations 2010 (as Amended): Part 6: ‘Exemptions And Relief’.
20 Under the provisions and limitations of Regulations 55 to 57 of the CIL Regulations 2010 (as amended)
21 Enabled by Regulation 73 ‘Payment in Kind’ of the CIL Regulations 2010 (as amended)
22 Under the provisions and limitations of Reg 61 of the CIL Regulations 2010
23 Under the provisions and limitations of Regs 44-48 of the CIL Regulations 2010 (as amended)
5.7 The Council may offer ‘discretionary social housing relief’ for homes for sale at a cost below the market level\(^{(24)}\), where homes are provided to eligible households whose needs are not met by the market. This provisional discretionary relief can be activated and deactivated at any time and a notice of intention will be published by the Council.

\(^{(24)}\) Under the provisions and limitations of Regs 49-50 of the CIL Regulations 2010 (as amended)
6 Charging Schedule Maps

6.1 For the purposes of assessing where charges for supermarkets and retail warehouses will not be applicable (designed to avoid adverse impact on the viability of possible town centre regeneration projects) town centre areas will be taken as those shown in the town maps within the North Devon and Torridge Local Plan 2011 – 2031. It is not intended to produce separate Charging Schedule Maps specifically for CIL purposes. Should the extend of town centre designated areas be changed during any revision of the Local Plan then the areas exempt from charge will be changed simultaneously.
7 Advisory Note

7.1 Torridge District Council is aware of the implications of the examinations of the CIL Charging Schedules for Exeter City Council and Mid-Devon Council and how any proposed CIL rates must relate to Development Plan policies.

7.2 At the time of this consultation the final Publication draft of the North Devon and Torridge Local Plan 2011 – 2031 has been approved by Members at the Councils and is being consulted on contemporaneously with this Draft Charging Schedule. The Draft Charging Schedule is therefore based on the Publication Draft of the emerging Local Plan. If there are changes to draft Local Plan policies prior to submission that may impact on the viability of development across all or part of the districts' area then appropriate alteration will be made when preparing the draft Charging Schedule.
8 How to comment on this publication

The consultation period for this Torridge CIL preliminary draft Charging Schedule will run until 8th August 2014.

Comments are invited, preferably using the facility afforded by this site, although the following methods can also be used:

Through the Council's website: http://consult.torridge.gov.uk/

By Email: localplan@torridge.gov.uk or graham.townsend@northdevon.gov.uk
(Please put TDC CIL Consultation in the subject line)

By Post:
TDC CIL Consultation, Planning Policy Unit (Attn. Graham Townsend)
North Devon Council
Civic Centre
Barnstaple
Devon
EX31 1EA

Documents related to this publication can be viewed on Torridge Council’s Planning Policy web page or electronically at the Riverbank House, Bideford. Paper copies of this documentation will be provided at the Council's main offices and in local libraries, for inspection. Copies for purchase will be provided at an appropriate charge on request.

This publication is in accordance with Regulation 16 of the CIL Regulations 2010 (as amended) and the Council will consider any representations made when preparing the draft Charging Schedule for submission for examination in accordance with Regulations 17 and 19.
To assist with the delivery of allocated sites the Council has the option to operate an instalments policy to alleviate the difficulty of finding large sums to meet the CIL charge for large sites on commencement. The following payment schedule was approved by the Council’s Community and Resources Committee on 14th April 2014 and was confirmed by a joint Full Council meeting with North Devon on 30th April 2014.

<table>
<thead>
<tr>
<th>Houses</th>
<th>90 days</th>
<th>180 days</th>
<th>270 days</th>
<th>360 days</th>
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<tbody>
<tr>
<td>1-9</td>
<td>50%</td>
<td>50%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10-99</td>
<td>40%</td>
<td>30%</td>
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<tr>
<td>100-199</td>
<td>35%</td>
<td>35%</td>
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<tr>
<td>200+</td>
<td>35%</td>
<td>25%</td>
<td>20%</td>
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Notes:
These instalment provisions shall only be applicable where, after the payment of any instalment in accordance with the table above, the amount outstanding exceeds £10,000. If the amount that would remain is less than £10,000 then the whole balance should be cleared at the time of the last appropriate instalment.

The number of days shown at the head of each column shall be calculated from the intended commencement date as shown on the commencement notice to be served on the collecting authority in accordance with the provisions of paragraph 67 of the CIL Regulations 2010. If any instalment is not paid promptly by the day shown (or if the due date falls on a weekend or public holiday the last working day before the due date) then the ability to pay by instalments is lost and the full liability in respect of the development become due immediately.