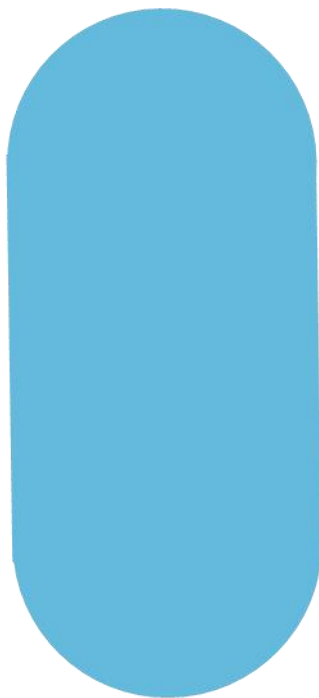
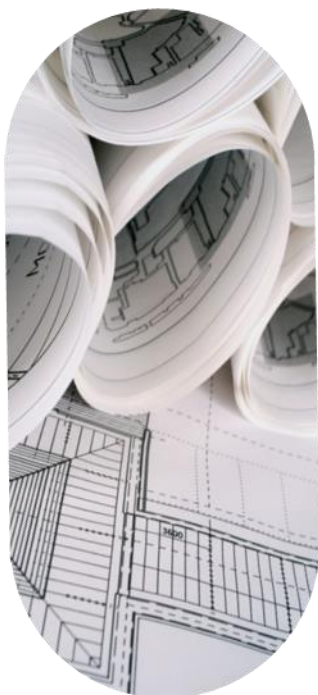


Representations

**Rugby Borough Council Community Infrastructure Levy Draft
Charging Schedule**

Richborough Estates

June 2023





1. The following representations are made in response to the Rugby Borough Council Community Infrastructure Levy (CIL) Draft Charging Schedule (Spring 2023) on behalf of Richborough Estates in respect of their land interest at Clifton upon Dunsmore.
2. Richborough Estates wish to be kept informed when the Council submits the Draft Charging Schedule for Examination, when the Examiner publishes their recommendations and when the Charging Schedule has been approved. Further, Richborough Estates request the right to be heard by the Examiner to discuss the content of their representations, as below.

The Relationship between CIL and Section 106 / Section 278 Planning Obligations

3. As set out in Paragraph 8 of the CIL Draft Charging Schedule, the Council propose to continue to utilise Section 106 and Section 278 agreements to secure funding for appropriate development mitigation measures. Richborough Estates are concerned that the introduction of a CIL rate of £160 per m² for residential development of 11 units or more in the rural area in combination with continued Section 106 and Section 278 planning obligation requests will have a significant impact on the viability of development proposals, in particular future strategic scale sites which have significant infrastructure requirements.
4. This concern is indeed evidenced by the approach being taken to Coton Park East, an adopted Local Plan allocation for approximately 800 dwellings and 7.5 hectares of employment space. As set out in the supporting Viability Assessment, Coton Park East could potentially support a lower CIL rate of between £9 and £49 per m², much lower than the proposed CIL rate of £160 per m² which the site would have otherwise been subject to if not identified as a strategic site for the purposes of CIL. The Viability Assessment supports the adoption of a £0 CIL rate for the residential development aspect of Coton Park East, “given that the Section 106 package for this site is likely to be significant”.
5. There is not a unique set of circumstances or an unduly substantial infrastructure package required to bring forward Coton Park East. Given the conclusions of the Viability Assessment, it is considered highly likely that other future strategic scale development could only potentially support a lower CIL rate, and thus it would be more



appropriate to adopt a £0 CIL rate for strategic scale growth given the likely significant Section 106 (and Section 278) developer contributions required.

6. It is considered that when setting the Charging Schedule the continued level of Section 106 and Section 278 agreements has been grossly underestimated. £1,500 per dwelling may be appropriate for small schemes which will have a limited impact on local infrastructure, but is not adequate for any scheme which is required to make contributions towards education, transport, health and other significant infrastructure. It is noted that recent Section 106 agreements for strategic scale growth in Rugby Borough have been far more significant than £1,500 per dwelling, with the signed accompanying planning permission for up to 210 dwellings and a primary school at Cawston¹ amounting to more than £32,000 per dwelling.
7. Evidence from Warwick and Stratford District Councils suggests that Section 106 requests from infrastructure providers continued to be made (from large requests such as transport and education to small such as library contributions), and actual amount per dwelling in reality is much greater than anticipated when the CIL Charging Schedule was set. For Section 106 obligations alone (excluding affordable housing), this can signed Section 106 agreements upwards of £15,000 per dwelling, often even higher.
8. This is a national issue where CIL has been implemented, given the CIL rates are set and collected by the Borough or District Council but the most significant infrastructure requests (education and transport) are made by the County Council, with uncertainty around the contribution of CIL towards those infrastructure requirements and thus Section 106 planning obligations requests being maintained at the same level.
9. It is noted that the largest Typology tested in the Viability Assessment is 250 dwellings, however there is a clear trend in the evidence presented in Tables 6.7.1 to 6.7.7 of the Viability Assessment of Typologies being less able to viably contribute towards CIL the larger they are when making a Local Plan compliant level of affordable housing contribution. This is even with the significantly underestimated level of

¹ [Citizen Portal Planning \(agileapplications.co.uk\)](https://www.agileapplications.co.uk/) – R18/0936



Section 106 contributions to be sought incorporated into the calculation, as described above.

10. Further, the CIL Charging Schedule and supporting Viability Assessment simply considers the impact on CIL against the growth set out in the adopted Local Plan. However, there are circumstances where speculative development proposals could come forward in the Borough, for example in if the Council has a shortfall in housing delivery or housing land supply in accordance with Paragraph 11 d) of the National Planning Policy Framework, whereby the CIL rate set could unduly impact viability. This could mean reduced or no contributions being made to much needed affordable housing, education or transport infrastructure, or even speculative development proposals being deemed entirely unviable on the basis of a disproportionate level of CIL liability, further cementing the shortfall in housing supply.
11. Given the above, Richborough Estates consider that a consistent approach should be taken to dealing with development proposals of a strategic scale, noting the likely requirement for significant infrastructure packages and related Section 106 and Section 278 planning obligations to deliver such schemes. Thus Richborough Estates consider a £0 CIL rate should applied to all development proposals of strategic scale. Richborough Estates consider this could be development proposals of circa 200 dwellings or more, but recommend further work is undertaken including taking account of a more reasonable level of Section 106 contributions which are likely to be required as set out above.
12. Alternatively, should the £160 per m² CIL rate sought to be applied to residential development of 11 units or more in the rural area, the level of any Section 106 contributions sought once CIL is implemented in Rugby Borough should be restricted (and this approach agreed with infrastructure providers). This will ensure that otherwise deliverable and viable development proposals are not unduly impacted and can deliver a policy compliant development, including the appropriate level of much needed affordable housing.
13. As written, the Draft Charging Schedule threatens the successful delivery of the Local Plan and its forthcoming review. It is recommended that the CIL Draft Charging Schedule be kept under review as the Local Plan Review emerges.



Sales Values Assumptions

14. Richborough Estates consider that the assumptions relating to sales values are out-of-date and require updating in order to be considered appropriate evidence to support the Draft Charging Schedule.
15. Paragraph 2.22 of the Viability Assessment discusses the uncertainty of the future trajectory of house prices in the UK, referencing Savills' research from Winter 2021 which predicted annual growth in the West Midlands market in the period 2022 to 2026 equating to cumulative growth of 15.9%.
16. Market dynamics changed significantly in late 2022. Indeed, Savills' more recent research from Winter 2022² paints a much bleaker picture, projecting a national fall in values of some 10% in 2023 followed by a steady rise thereafter to 2027. The West Midlands market is expected to retract by some 9% in 2023, and whilst positive growth is expected in the period 2024 to 2027 the net cumulative growth is just 8.9%.
17. Sales value evidence is provided from October 2017 to May 2019, and is thus already considerably out-of-date, particularly given the current state of the market as described above. The sales period is also considered to be relatively short which means that some areas of the Borough are not adequately considered, including Clifton upon Dunsmore to the east of Rugby for which there are no reported sales in that period to evaluate.
18. These limited sales values are utilised to justify applying a relatively high CIL rate to the entire rural area, however it is considered that this area is too broad. This view is reinforced by Paragraph 2.23 of the Viability Assessment which states that "highest sales values are achieved in the rural areas to the north and west of the Rugby urban area".
19. As such, Richborough Estates consider more detailed analysis of sales values should be undertaken to inform the Draft Charging Schedule, and consideration should be given to zoning the rural area to ensure higher sales values in the north and west of Rugby Borough are accounted for in setting the CIL rate.

² [Savills UK | Residential Forecast 2023-27](#)



Costs Growth Assumptions

20. Table 4.3.1 of the Viability Assessment sets out the growth scenario utilised in sensitivity testing the CIL rates proposed, including sales values growth as discussed above but also costs growth assumptions.
21. Richborough Estates consider that the assumed 2% growth in 2022 and 2023 followed by 2.5% growth from 2024 are significant underestimates. Indeed data from the Department for Business and Trade indicates that the cost of building materials rose sharply during 2022 by some 11.2%³ and has continued to increase during the early months of 2023⁴.
22. The costs growth assumption should therefore be increased to better reflect the situation on the ground and not unduly underestimate build costs.

The Impact of Implementing CIL in line with the Draft Charging Schedule in Rugby Borough

23. As set out in the accompanying Infrastructure Funding Gap report, the implementation of CIL is expected to generate circa £9 million in the remaining Local Plan period to 2031. This equates to around 8% of the total calculated infrastructure costs of circa £109 million, a “modest contribution” as referenced in the Infrastructure Funding Gap report itself.
24. As an aside, it is noted that it is suggested that there is £0 of known funding towards education, transport, health and other infrastructure, however as identified in the Infrastructure Delivery Plan⁵ supporting the adopted Local Plan these are largely expected to be funded by developers bringing forward allocations and windfall development proposals. As such, to suggest that there is no funding sources for infrastructure delivery in the Borough is erroneous. Indeed as recognised in the Draft

³ [Monthly Statistics of Building Materials and Components January 2023 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

⁴ [Monthly Statistics of Building Materials and Components April 2023 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

⁵ [Local Plan Infrastructure Delivery Plan | Rugby Borough Council](#)



Charging Schedule at Table 2, Section 106 obligations have generated millions of pounds of funding towards infrastructure.

25. Given the limited impact CIL will have on delivering infrastructure in Rugby Borough and the likely related impacts on development viability which is likely to, amongst other implications, decrease affordable housing delivery in the Borough, Richborough Estates consider that the evident limited benefits of implementing CIL should be further considered.

Introduction of the Infrastructure Levy

26. The Government are proposing to reform the existing system of developer contributions made up of Section 106 planning obligations and the Community Infrastructure Levy through the introduction of the Infrastructure Levy. A technical consultation on the Infrastructure Levy concluded earlier in June 2023, and it is anticipated that the Infrastructure Levy will be introduced on a national basis later this decade following test and learn piloting which will commence in 2025.
27. The Infrastructure Levy is proposed to capture land value uplift rather than seek to obtain developer contributions on the granting of planning permission, meaning the costs of delivering infrastructure will be more appropriately factored into the value of land when purchased by developers and will lead to increased funding for infrastructure overall.
28. Whilst the Council are still able to adopt and implement CIL in advance of the Infrastructure Levy coming into force, given this clear change in direction the Government are proposing it is considered that the Council should more carefully consider the merits of the implementation of CIL, including taking into account the above.