

Background Paper 2 - Arun District Council Community Infrastructure Levy Draft Charging Schedule Examination

CIL Examiner's Modifications Report December 2019

1. On 3 December 2019, the Council received the CIL Examiner's report. In the report, the examiner concluded that the draft Arun District Council Community Infrastructure Levy Charging Schedule, subject to making of the two modifications set out in EM1 and EM2, satisfies the drafting requirements and therefore recommends that the draft Charging Schedule be approved.
2. Therefore, in order for the Council to approve the CIL Charging Schedule, in accordance with section 213 of the Planning Act, 2008, it must have regard to the examiner's recommendations and reasons for them, and approve the CIL Charging Schedule which includes modifications that are sufficient and necessary to remedy any non-compliance with the drafting requirements of the CIL Regulations.
3. Table 1 below sets out the two modifications, to be made to the Arun Draft Charging Schedule (Submission Version), as recommended by the CIL Examiner in his report. The table provides the reasons for the modifications being recommended and explains how the modification will be incorporated into the Charging Schedule.
4. Table 2 sets out the minor modifications which will be made to the Arun Draft Charging Schedule (Submission Version). As set out in paragraph 44 of the Examiner's report, these are helpful and useful clarifications endorsed by the Examiner, but do not require a formal recommendation (this means that the Charging Schedule could still be approved without these minor modifications).
5. Table 3 sets out additional information that the Examiner has considered would be useful for the Council to explain, either within the Charging Schedule or on the Council's website/in a Frequently Asked Questions (FAQ) Document.

Table 1 – Two modifications necessary to meet the drafting requirements of the Community Infrastructure Levy 2010 (as amended).

Examiner Modification Reference	Modification – To Remedy Non-Compliance with CIL Regulations 2010 (as amended)	Reason for Modification	Modification made
EM1	Delete Part 10 and Appendix 2 of the CS and replace them with an interim Infrastructure Funding Statement, to the extent that it clarifies the relationship between CIL and S106 & Section 278 (highway) legal agreements and sets out an infrastructure list.	For the purposes of viability and clarity/certainty	Rewrite Part 10- Annual Monitoring to make reference to the Annual Infrastructure Funding Statement and Replace Appendix 2 – Regulation 123 List with Appendix 2 – Interim Infrastructure Funding Statement Delete all reference to Regulation 123 of the CIL Regulations 2010 (as amended), in particular within paragraph 4.7.

Examiner Modification Reference	Modification – To Remedy Non-Compliance with CIL Regulations 2010 (as amended)	Reason for Modification	Modification made
EM2	Include a larger scale map at 1:30,000 scale with OS grid reference lines and numbers showing the residential charging zones and the boundaries between them to accompany the schedule when adopted, with reference to larger scale versions showing more detailed boundaries that are available online.	For the purposes of clarity/certainty	Replace the map in Appendix 1 of the CIL Draft Charging Schedule with a 1:30,000 scale map with OS grid reference. This district wide map, along with three inset maps at this scale will also be made available on the ADC website: www.arun.gov.uk/cil alongside an interactive GIS mapping system.

Table 2 – Minor Modifications to be made to the Draft Charging Schedule

Minor Modification	Action – to provide clarification.
Provide clarifications on the definitions of older peoples housing when compared to those definitions provided within the updated Planning Practice Guidance.	<p>Add in the following paragraph under paragraph 7.5:</p> <p>For the purpose of clarity, the following definitions of older people’s housing, as defined in the Planning Practice Guidance Paragraph: 010 Reference ID: 63-010-20190626, relate to the definitions used in the LPVU, 2017 report as follows:</p> <p>Age-restricted general market housing: This is between unrestricted housing and the definition of sheltered housing used in the viability evidence. Housing that falls within this definition will be taken to be Sheltered Housing for the purpose of CIL.</p> <p>Retirement living or sheltered housing: This is similar to the definition of Sheltered Housing used in the viability evidence. Housing that falls within this definition will be taken to be Sheltered Housing for the purpose of CIL.</p> <p>Extra care housing or housing-with-care: This is similar to the definition of Extracare Housing used in the viability evidence. Housing that falls within this definition will be taken to be Extracare Housing for the purpose of CIL.</p> <p>Residential care homes and nursing homes:</p>

	Are not C3 housing (rather being C2 institutional accommodation). Development that falls within this definition will be taken to be All Other Development (so subject to the zero rate) for the purpose of CIL.
To provide clarification on the definition of 'residential' in relation to static caravans.	Add the following text, shown in bold , to the end of paragraph 7.4 of the Draft Charging Schedule (submission version): “ [1] Residential does not include residential institutions including purpose built student accommodation. Neither does it include development which is covered by a condition that limits it to holiday use only. Where this condition has not been applied to static caravan holiday units or holiday rental units, these should be considered to be in residential use, or have the potential to be used for residential use provided that the static caravan is, on the facts, properly regarded as a structure or building in conventional planning terms. ”
Include a definition of Gross Internal Area (GIA), along the lines produced by Spelthorne Borough Council	Include a definition of GIA in the Charging Schedule and also signpost to more details regarding floorspace measurement guidelines on the ADC website and Frequently Asked Questions (FAQ) document.

Table 3 – Additional points of clarification

Paragraph number	Examiner's Comment	Action
38	It would provide certainty for the council to confirm the specific date on which the CS will first apply and how valid planning applications submitted before that date and thus “in the pipeline” at that point would be treated in relation to any CIL liability.	The date from which CIL will come into effect in Arun will be set out clearly in the Arun CIL Charging Schedule, which will be recommended for approval. Details regarding how “in the pipeline” applications will be treated will be included in the Charging Schedule, by reference to the Arun District Council website and FAQ Document.