

AGENDA

Meeting: Cabinet
Place: Kennet Room - County Hall, Trowbridge BA14 8JN
Date: Monday 11 May 2015
Time: 10.00 am

Membership:

Cllr Jane Scott OBE	Leader of the Council
Cllr John Thomson	Deputy Leader and Cabinet Member for Communities, Campuses, Area Boards and Broadband
Cllr Fleur de Rhé-Philippe	Cabinet Member for Economic Development, Skills and Strategic Transport
Cllr Keith Humphries	Cabinet Member for Health (including Public Health) and Adult Social Care
Cllr Laura Mayes	Cabinet Member for Children's Services
Cllr Jonathon Seed	Cabinet Member for Housing, Leisure, Libraries and Flooding
Cllr Toby Sturgis	Cabinet Member for Strategic Planning (strategic and development management), Property, Waste and Strategic Housing
Cllr Dick Tonge	Cabinet Member for Finance, Performance, Risk, Systems Thinking, Procurement and Welfare Reform
Cllr Stuart Wheeler	Cabinet Member for Hubs, Governance (including information management), Support Services (HR, Legal, ICT, Business Services, Democratic Services), Heritage & Arts and Customer Care
Cllr Philip Whitehead	Cabinet Member for Highways and Transport

Please direct any enquiries on this Agenda to Yamina Rhouati, of Democratic Services, County Hall, Trowbridge, direct line 01225 718024 or email yamina.rhouati@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225)713114/713115.

All public reports referred to on this agenda are available on the Council's website at www.wiltshire.gov.uk

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Part I

Items to be considered while the meeting is open to the public

Key Decisions Matters defined as 'Key' Decisions and included in the Council's Forward Work Plan are shown as 

1 Apologies

2 Declarations of Interest

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

3 Leader's announcements

4 Public participation and Questions from Councillors

The Council welcomes contributions from members of the public. This meeting is open to the public, who may ask a question or make a statement. Questions may also be asked by members of the Council. Written notice of questions or statements should be given to Yamina Rhouati of Democratic Services by 12.00 noon on Tuesday 5th May 2015. Anyone wishing to ask a question or make a statement should contact the officer named above.

5 Community Infrastructure Levy (CIL) (*Pages 5 - 202*)

 Report by Dr Carlton Brand, Corporate Director

6 Urgent Items

Any other items of business, which the Leader agrees to consider as a matter of urgency.

The items on this agenda reflect the key goals of Wiltshire Council, namely 'To protect those who are most vulnerable', 'To boost the local economy – creating and safeguarding jobs' and 'To support and empower communities to do more for themselves'.

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Wiltshire Council

Cabinet

11 May 2015

Subject: **Wiltshire Community Infrastructure Levy - Adoption of CIL Charging Schedule, Planning Obligations Supplementary Planning Document, Regulation 123 List and associated CIL policies**

Cabinet Member: **Councillor Toby Sturgis, Strategic Planning, Development Management, Strategic Housing, Property and Waste**

Key Decision: **Yes**

Executive Summary

The Wiltshire Community Infrastructure Levy (CIL) Charging Schedule sets out the proposed rates of CIL to be charged on different types of new development in Wiltshire. Consistent with legislation it is informed by three key pieces of evidence - the Wiltshire Core Strategy, the Infrastructure Delivery Plan and an economic viability assessment.

Cabinet approved the Wiltshire CIL Draft Charging Schedule and draft Regulation 123 List for consultation on 17 December 2013 and, following consideration of the outcome, to submit it for examination. Consultation was subsequently undertaken on two sets of proposed modifications to the Charging Schedule.

On 16 March 2015, the Council received the Report into the Examination of the Wiltshire CIL Draft Charging Schedule. Examination hearing sessions were held in January 2015. The Examiner's report concluded that, subject to some minor modifications to improve clarity, the charging schedule provides an appropriate basis for the collection of CIL in Wiltshire. As a result, the Council is now in a position to adopt the charging schedule and implement CIL in Wiltshire.

To support the implementation of CIL, officers have prepared and consulted upon a draft Planning Obligations Supplementary Planning Document (SPD), a revised draft Regulation 123 List (CIL spending list) and the Council's approach to associated CIL policies. Comments received during the consultation period have been taken into account and final versions of these documents are proposed. Together they support the implementation of the Charging Schedule and set out how the Council will seek infrastructure contributions from development.

Following adoption of the Wiltshire CIL Charging Schedule and associated documents, it is proposed that the Council will start charging CIL on all CIL liable development granted planning permission on or after Monday 18 May 2015.

Proposals

That Cabinet:

- (i) Notes the content of the Examiner's report on the examination of the Wiltshire CIL Charging Schedule (**Appendix 1**); and accepts the modifications in the Appendix of the Examiner's Report, which the Examiner considers are necessary to improve clarity.
- (ii) Recommends to Council that the Wiltshire CIL Charging Schedule proposed in **Appendix 3**, as amended as set out in (i) above together with the other proposed minor modifications identified in the interest of clarity (**Appendix 2**), be approved as the appropriate basis for charging CIL in Wiltshire.
- (iii) Recommends to Council that it adopts the proposed Regulation 123 List at **Appendix 5** and the Instalments Policy as set out in **Appendix 6** alongside the Wiltshire CIL Charging Schedule in (ii).
- (iv) Recommends to Council that it adopts the Planning Obligations Supplementary Planning Document as proposed in **Appendix 8**.
- (v) Subject to approval of Council, agrees that the Associate Director for Economic Development and Planning, in consultation with the Cabinet Member for Strategic Planning, Development Management, Strategic Housing, Property and Waste and, the Associate Directors of Finance and Legal and Governance, will undertake the final stages associated with the formal adoption and implementation of CIL, including any minor textual changes to documents in the interest of clarity and accuracy.
- (vi) Recommends to Council that it agrees the proposed implementation date for CIL of Monday 18 May 2015.

Reason for Proposals

To enable the Council to charge CIL on new development and secure funding through this mechanism to help pay for infrastructure and support the delivery of sustainable development across Wiltshire. From 6 April 2015 the Council has been restricted in the amount of funding it can secure through pooled contributions from developments to pay for infrastructure.

Dr Carlton Brand
Corporate Director

Wiltshire Council

Cabinet

11 May 2015

Subject: **Wiltshire Community Infrastructure Levy - Adoption of CIL Charging Schedule, Planning Obligations Supplementary Planning Document, Regulation 123 List and associated CIL policies**

Cabinet Member: **Councillor Toby Sturgis, Strategic Planning, Development Management, Strategic Housing, Property and Waste**

Key Decision: **Yes**

Purpose of Report

1. To:

- (i) Inform Cabinet of the Examiner's 'Report on the Examination of the Draft Wiltshire Council Community Infrastructure Levy Charging Schedule' and recommendation that the Charging Schedule be adopted, subject to modifications.
- (ii) Recommend that the Charging Schedule, as amended by the modifications in the Examiner's Report and other modifications that have been made in the interest of accuracy and consistency, be adopted by Council.
- (iii) Recommend that the Regulation 123 List and policy documents, including the Planning Obligations Supplementary Planning Document, that support the implementation of Community Infrastructure Levy (CIL) be adopted by Council alongside the Charging Schedule.
- (vi) Seek delegated authority for the Associate Director for Economic Development and Planning in consultation with the Cabinet Member for Strategic Planning, Development Management, Strategic Housing, Property and Waste, and the Associate Directors of Finance and Legal and Governance to make any minor changes to the above documents in the interest of accuracy and consistency and to undertake the final stages associated with the implementation of CIL.

Relevance to the Council's Business Plan

- 2. Once adopted, the CIL will support the delivery of the Council's vision to create stronger and more resilient communities by raising revenue from new development to help pay for the provision of infrastructure to support growth.

Background

3. Cabinet on 17 December 2013 resolved that the Wiltshire CIL Draft Charging Schedule be approved for consultation and, following consideration of the outcome of the consultation, submitted for examination. Delegated authority was granted to allow for consultation on any proposed modifications following submission. Cabinet also resolved that the draft Regulation 123 List be approved for consultation at the same time.
4. Consultation was undertaken on the Draft Charging Schedule from 13 January to 24 February 2014 and it was subsequently submitted for examination on 23 June 2014, together with proposed modifications following consideration of the consultation response. Mr Philip Staddon from The Planning Inspectorate was appointed to examine the Draft Charging Schedule. The submitted document was supported by three key pieces of evidence - an up-to-date development plan (the Wiltshire Core Strategy), infrastructure delivery plan and an economic viability study.
5. Consultation was then undertaken on the proposed modifications to the Draft Charging Schedule from 23 June to 21 July 2014.
6. During the examination the Council proposed two modifications to the Charging Schedule (see <http://www.wiltshire.gov.uk/2-cil-january-2015-draft-charging-schedule-post-submission-version.pdf> for proposed modifications) in response to objections received:
 - (i) Zero rate for Service Family Accommodation built by the Ministry of Defence - this was consulted on prior to the hearing sessions (22 December to 21 January 2015, see <http://www.wiltshire.gov.uk/spatial-wiltshire-local-development-framework-december.pdf> for further information) and attracted no objections.
 - (ii) The lower rate of CIL relating to 'strategically important sites allocated in the Wiltshire Core Strategy' to apply also to similar sites coming forward through the Chippenham and Wiltshire Site Allocations Plan that will have significant on site development costs - this was put forward during the hearing sessions in response to discussion that took place. However, the Examiner did not accept this proposed modification (see paragraph 12).
7. The Examination hearing sessions did not take place until January to allow for the Wiltshire Core Strategy to be sufficiently advanced. One of the considerations for the Examiner was the consistency of the Charging Schedule with the adopted Wiltshire Core Strategy. The hearing sessions took place on 27 and 28 January 2015.
8. From 6 April 2015, in accordance with legislation, the Council has been limited in its ability to use the mechanism of pooling contributions through planning obligations - i.e. legal agreements attached to planning permissions, generally referred to as Section 106 agreements. The pooling restrictions include all planning obligations entered into since 6 April 2010. If five or more obligations for a project or type of infrastructure have already been entered into since 6 April 2010 then no more funds can be collected through Section 106 agreements. The use of Section 106 agreements is now generally limited to securing

site-specific infrastructure not on the Regulation 123 List and affordable housing, or a project or type of infrastructure that can be attributed to five or fewer developments and is not on the Regulation 123 List. The role of the Regulation 123 List is discussed in paragraph 10.

9. Unlike funds received through Section 106 agreements, CIL revenue does not have to be spent directly in relation to the site on which it was levied. Once the CIL is implemented by the Council, funding can be collected through this mechanism to help pay for infrastructure to support growth (e.g. schools, transport, healthcare, open space, leisure, biodiversity etc). Affordable housing will continue to be delivered through Section 106 agreements.
10. As the designated 'Charging Authority', the Council must publish on its website a list of infrastructure that it intends to fund, wholly or in part, through CIL. The purpose of this list, known as the 'Regulation 123 List', is to avoid developers being charged twice for the same item, or type, of infrastructure. Therefore, Section 106 agreements cannot be used to fund the delivery of infrastructure that is itemised on the Regulation 123 List. The inclusion of infrastructure on the list does not signify a commitment from the Council to fund (either in whole or part) it or imply any preference or priority.

Main Considerations for the Council

11. On 16 March 2015, the Council received the Examiner's Report on the Examination of the Draft Wiltshire Council CIL Charging Schedule. This is attached in full at **Appendix 1**.

"This Report concludes that, subject to some minor modifications to improve clarity, the Wiltshire Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in its area. The Council is able to demonstrate that it has sufficient evidence to support the Schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in its Core Strategy, at risk. The proposals will secure an important funding stream for necessary infrastructure to support planned growth in the district."

(Non-Technical Summary, page 1, Examiner's Report)

12. The Examiner's consideration of the two modifications referred to in paragraph 6 above regarding the rate for Service Family Accommodation (SFA) and allocations to be identified within the Council's Site Allocations Plans are set out at paragraph 77, and 70 to 73, respectively. He is satisfied that there is a special case for SFA locally and supported the Council's proposed modification in that respect. However, he considered that the Chippenham and Wiltshire Site Allocations Plans were not sufficiently advanced in order to allow the locations and boundaries of sites to be identified on a map(s), which is required by the Regulations. The Examiner considered that the "*only workable solution*" would be to review CIL regime once the site allocations are settled (paragraph 73) but recognised that the Council could be pragmatic in its application of Section 106 agreements in the interim period.

13. The Examiner has only proposed minor modifications that relate to points of clarification and are set out on page 19 of his report. In addition, it is proposed that a number of other minor modifications are made for the purposes of clarity and consistency. A Schedule of all the proposed modifications is set out in **Appendix 2**. The proposed final version of the Wiltshire CIL Charging Schedule incorporating the Examiner's and Council's minor modifications is included at **Appendix 3**.
14. In order for the Council to become a Charging Authority and implement CIL, in addition to the Charging Schedule, the following documents should also be in place:
- (i) Planning Obligations Supplementary Planning Document (SPD) to clarify the implementation of 'Core Policy 3: Infrastructure Requirements' of the Wiltshire Core Strategy and explain the:
 - Council's approach to using planning obligations to local residents, developers and the wider community; and
 - relationship between CIL and planning obligations.
 - (ii) Final 'Regulation 123 List' (see paragraph 10 above)
 - (iii) The Council's position on policies regarding: instalments, payment in kind and exceptional circumstances relief.
15. Officers have prepared for, and undertaken, consultation on a draft Planning Obligations SPD, revised draft Regulation 123 List, draft instalments policy for the payment of CIL and the proposed position on other policies. The SPD has been informed by Officers from across the Council. Consultation took place over a four week and two day period starting 23 March and ending 22 April 2015. Further information on the consultation and the consultation documents can be found on the Council's website at:
<http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy.htm>
16. The outcome of the consultation on the revised draft Regulation 123 List and the Council's approach to CIL policies, including summaries of responses and resulting actions, is set out in **Appendix 4**. A Consultation Statement setting out the approach to consultation and consultation response on the draft Planning Obligations SPD, as well as any proposed changes to address matters raised is set out in **Appendix 7**. This demonstrates how the SPD has been prepared in line with legislation and the Council's Statement of Community Involvement. In total, there were 33 respondents to the consultation. In summary, the main issues that were raised during the consultation related to the following:
- Concerns that the changes to the Regulation 123 List and SPD appear to remove earlier clarity and transparency over infrastructure requirements, could potentially lead to developers being charged twice ('double dipping') and might undermine the viability evidence presented at the CIL examination;
 - Need for more detailed reference to certain infrastructure types in the Regulation 123 List and SPD, e.g. canals, historic environment, habitat

mitigation strategies, fire and rescue services and open space/green infrastructure;

- Requests to include community projects in the Regulation 123 List;
- Requests for further information on the process for updating the Regulation 123 List and Infrastructure Delivery Plan, how projects are selected, and the involvement of local communities;
- Support for instalments policy but with various alternative payment schedules being put forward;
- Request for more clarity on the timetable for adopting the Charging Schedule and associated document and sufficient notice given to developers;
- Request for more involvement for town and parish councils in the CIL and Section 106 processes, including spending decisions and negotiations;
- Concerns regarding how the Council calculates requirements to secure Section 106 agreements, e.g. education and open space.

Sections 4 of **Appendices 4** and **7** set out a more detailed summary of the representations made including the officer response and proposed changes arising.

17. Proposed final versions of the Regulation 123 List, Instalments Policy and Planning Obligations SPD are set out in **Appendices 5, 6** and **8** of this report, respectively.
18. Following adoption of the Wiltshire CIL Charging Schedule and the associated documents, the Council will be able to proceed to implement of CIL. It is proposed that the Council starts charging CIL on all CIL liable development granted planning permission on or after Monday 18 May 2015.
19. It is unlikely that the Council will start to accrue a significant pot of CIL funding until after the first few years of implementation.
20. The parish councils within which CIL receipts are raised will receive 15% (capped at £100 per registered council tax dwelling in the parish in any one financial year) of revenue from development within their area to spend on local infrastructure projects. This rises to 25% (uncapped) where neighbourhood plans have been 'made' by Wiltshire Council. The Council will transfer the local allocation to parish councils as soon as practicable after the funding is received by the Council.

Safeguarding Implications

21. There are no safeguarding implications as a direct result of this proposal.

Public Health Implications

22. CIL will help fund the infrastructure required to support growth. Well planned development, including appropriate infrastructure, supports the health and wellbeing of local communities, for example through the provision of green infrastructure, sports facilities and infrastructure to encourage walking and cycling as means of travel.

Corporate Procurement Implications

23. The Council commissioned independent consultants BNP Paribas Real Estate to undertake the economic viability assessment, which formed part of the evidence base supporting the Wiltshire CIL Charging Schedule. The appointment of BNP Paribas Real Estate was in line with corporate procurement guidelines. In the light of the Examiner's conclusions in paragraph 73 of his report an early review of CIL may be appropriate, which could require new viability evidence to be commissioned.

Equalities Impact of the Proposal

24. Adoption of the Wiltshire CIL Charging Schedule will enable the Council to collect contributions from new development to support infrastructure delivery across the county. The public consultation and examination processes aimed to ensure that all stakeholders and interested parties had the opportunity to inform the preparation of the Charging Schedule. Consultation undertaken on the Regulation 123 List, Planning Obligations SPD and the Council's approach to associated CIL policies has also enabled open public engagement.

Environmental and Climate Change Considerations

25. The Wiltshire Core Strategy sets out the growth and distribution of new development in Wiltshire up to 2026. Growth has implications for the social, economic and physical environment. CIL will help fund the infrastructure required to support sustainable development, which may include sustainable transport, strategic open space and green infrastructure, flood mitigation measures and strategic habitat protection.
26. The Habitats Regulations Assessment of the Wiltshire Core Strategy identified that the cumulative effects of growth has the potential to effect a number of European protected sites - the Salisbury Plain and New Forest Protection Areas and the River Avon Special Area of Conservation. To meet the requirements of the Habitats Directive, funding will need to be directed towards appropriate ecological and green infrastructure measures to offset impacts to these protected sites. In order to demonstrate that the Core Strategy was sound and that infrastructure would be provided to offset the impact, the Council made a commitment to Natural England that CIL revenue would be taken out of the CIL pot for this purpose before other funds are allocated.

Risk Assessment

Risks that may arise if the proposed decision and related work is not taken

27. Since 6 April 2015, Regulations have restricted what the Council can collect from Section 106 agreements. If the implementation of CIL is not undertaken the Council and local communities will not benefit from this funding stream and therefore will not be able to secure funds via CIL to help deliver infrastructure to support sustainable growth. See Financial Implications for further details.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

28. CIL only provides one of the funding mechanisms available for supporting the delivery of infrastructure to support growth. As recognised in paragraph 19, it will take time for a funding pot to be accrued that can be directed towards infrastructure delivery and there is no certainty that CIL will meet all the demands placed on it. Infrastructure providers and stakeholders other than Wiltshire Council are likely to seek funding from CIL to help meet their needs or aspirations. As such, the Council will need to develop and set out its approach to identifying funding priorities to provide clarity and avoid raising expectation.
29. The Council will need to monitor CIL to ensure that appropriate new infrastructure is being delivered to support sustainable development and in terms of rates, whether these remain appropriate or should be reviewed either because they are too high or too low. In areas where viability may be more challenging, the adoption of an Instalments Policy has the benefit of easing the financial impact on development by spreading payments. The Council also has the option of changing its approach to Exceptional Circumstances and could introduce a detailed policy, if and when considered appropriate.
30. Early review of the Charging Schedule may be appropriate as suggested by the Examiner (see paragraph 12 above) in order to address the need to bring in lower rates for the sites within the Site Allocations Plans. This will also provide an opportunity for evidence to be refreshed, new rates to be brought forward if appropriate and any fine tuning to be undertaken.

Financial Implications

31. The financial implications of adopting and publishing the Charging Schedule and associated documents, as well as the arrangements for the collection of CIL will be met from the Economic Development and Planning budget and income.
32. Using the charging proposals for residential development set out in the Wiltshire CIL Charging Schedule, the projected income from CIL receipts for Wiltshire over the Core Strategy plan period to 2026 (using a 1 April 2014 base date) is estimated to be circa £48 million. This indicative calculation is based on residential development only and would be lower if the housing monitoring data for the last financial year was available to allow a more up-to-date estimate to be made. However, it can be expected that retail and other chargeable uses will also contribute to the CIL receipts the Council receives over the Plan period, although it is not possible to estimate how much this would offset any reduction. It is, therefore, difficult to predict a more accurate figure for CIL receipts at this stage.
33. As referred to in paragraph 20 above, in accordance with the Regulations, a proportion of the income from CIL receipts will go to the town or parish councils at a rate of 15% of CIL raised in their area or 25% if they have a neighbourhood plan in force. In addition, 5% of CIL raised can be directed towards administrative costs.

34. It is unlikely that the Council will start to accrue a significant pot of CIL funding until after the first few years of implementation, which may have implications for the Council regarding the timely delivery of infrastructure. See paragraph 26 also regarding the need to direct some CIL funding towards Habitat Regulation Assessment mitigation strategies.
35. Monitoring of CIL and Section 106 combined will enable the Council to understand how much funding can be secured from development compared to the previous mechanism of Section 106 and unrestricted pooled contributions.
36. Adoption of a Charging Schedule will present the Council with the opportunity to secure CIL funding for infrastructure to support the delivery of new housing and other forms of development across Wiltshire.

Legal Implications

37. In accordance with the Planning and Compulsory Purchase Act 2004, Planning Act 2008 and Growth and Infrastructure Act 2013, the Council has a statutory duty to plan for infrastructure delivery, which has been reinforced through the National Planning Policy Framework and Localism Act. The CIL Regulations 2010 (as amended) introduced legal restrictions on the use of Section 106 agreements to secure developer contributions towards the funding of infrastructure. From 6 April 2015, Section 106 agreements will be largely restricted to site-specific infrastructure not on the Regulation 123 List or infrastructure that is linked to development that can be attributed to five or fewer developments and is not on the Regulation 123 List, and affordable housing. While there is no legal obligation to introduce a CIL Charging Schedule, CIL provides an important funding stream that will help support infrastructure delivery in Wiltshire.
38. Regulation 25 of the CIL Regulations 2010 (as amended) requires the Council, as the CIL Charging Authority for Wiltshire, to approve a charging schedule in accordance with Section 213 of the Planning Act 2008.
39. Section 213 of the Planning Act 2008 states that a charging authority:
 - (a) may approve a charging schedule only -
 - a) if the examiner under section 212 has recommended approval, and
 - b) subject to any modifications recommended by the examiner
 - (b) must approve a charging schedule -
 - a) at a meeting of the authority, and
 - b) by a majority of votes of members present
40. As soon as practicable after adoption, in accordance with Regulation 25 of the CIL Regulations 2010 (as amended), arrangements will be made to:
 - (a) Publish the charging schedule on its website;
 - (b) Make the charging schedule available for inspection at all council libraries and main office hubs during normal office hours;
 - (c) Give notice by local advertisement of the approval of the charging schedule, that a copy of the charging schedule is available for inspection, and the places at which it is inspected, and

- (d) Give notice to those persons who requested to be notified of the approval of the charging schedule that it has been so approved.
41. Regulation 122 of the CIL Regulations 2010 (as amended) prevents the Council from seeking contributions from development towards the same type or item of infrastructure through both CIL and Section 106 agreements. The purpose of the Regulation 123 List is to identify what the Council will fund through CIL. This is discussed further below in paragraph 47.
42. In accordance with Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012, before a local planning authority can adopt a supplementary planning document it must prepare a Consultation Statement (**Appendix 7**) setting out who was consulted, a summary of the main issues and how these issues have been addressed in the supplementary planning document.
43. As soon as reasonably practicable after the local planning authority adopt a supplementary planning document they must:
- (a) Make available in accordance with Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012, by publishing on their website and making available for inspection at their principal offices and other places within their area as the local planning authority consider appropriate (e.g. all council libraries and main office hubs) during normal office hours, the:
 - a) supplementary planning document, and
 - b) an adoption statement, which includes the date on which the supplementary planning document was adopted and, pursuant to Section 23(1) of the Planning and Compulsory Purchase Act 2004, any modifications made since the draft supplementary planning document was subject to consultation, and
 - (b) Send a copy of the adoption statement to any person who has asked to be notified of the adoption of the supplementary planning document
44. Any person with sufficient interest in the decision to adopt the supplementary planning document may apply to the High Court for permission to apply for judicial review of that decision, and that any such application must be made promptly and in any event not later than three months after the date on which the supplementary planning document was adopted.

Options Considered

45. The adoption of a CIL charging schedule is optional. However, the options open to the Council at this stage are limited by the legislation (see legal implications above). The Council can either:
- (i) Adopt the CIL Charging Schedule with the modifications recommended by the Examiner, or
 - (ii) Resolve not to adopt the CIL Charging Schedule.

46. In the case of (ii) the Council would need to withdraw the CIL Charging Schedule and, should it still wish to charge CIL on development, begin preparation of a new charging schedule that would take between a year to 18 months to put in place. This would limit the ability of the Council to collect infrastructure contributions from new development prior to any new charging schedule coming into force.
47. The adoption of a Regulation 123 List and Planning Obligations Supplementary Planning Document (SPD) will provide clarity on the types or items of infrastructure that the Council will seek through CIL and Section 106 agreements. Regulation 122 of the CIL Regulations 2010 (as amended) prevents the Council from seeking contributions from development towards the same type or item of infrastructure through both CIL and Section 106 agreements. If the Council does not adopt a Regulation 123 List, it will be assumed that the Council intends to fund all infrastructure through CIL. Therefore, the Council will be unable to secure any infrastructure through Section 106 agreements. The likely effect of this could be to prevent developments coming forward as it would not be possible to provide for the necessary infrastructure to make the development acceptable in planning terms.
48. The adoption of an instalments policy will allow for flexibility in the payment of CIL, by aiding cash flow and the general viability of development. Without an instalments policy, CIL would become fully payable within 60 days of commencement of development. The likely effect of this could be to create a more challenging environment, especially for larger development, and, as CIL is a mandatory, non-negotiable charge, could lead to renegotiation of other contributions (e.g. affordable housing) through Section 106 agreements. At this stage, there is no proposal to offer further flexibility through payments in kind and exceptional circumstances relief policies. If the monitoring of CIL indicates that a different position should be taken the Council has the option to offer these.

Conclusion

49. Adoption of the Wiltshire CIL Charging Schedule, Planning Obligations Supplementary Planning Document, Regulation 123 List and Instalments policy will ensure that Wiltshire can become a CIL Charging Authority and implement CIL. Arrangements can be made to collect CIL on and after Monday 18 May 2015. This will ensure that the Council, within viability constraints, can maximise developer contributions for infrastructure to support sustainable growth in the county.

Alistair Cunningham

Associate Director for Economic Development and Planning

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Date of Report: 24 April 2015

The following unpublished documents have been relied on in the preparation of this Report:

None

Appendices:

- Appendix 1 - Report on the Examination of the Draft Wiltshire Council Community Infrastructure Levy Charging Schedule (March 2015)
- Appendix 2 - Schedule of Post-Examination Modifications to Wiltshire CIL Draft Charging Schedule Post-Submission Version (January 2015)
- Appendix 3 - Wiltshire CIL Charging Schedule (April 2015)
- Appendix 4 - Summary of responses to consultation and actions on revised draft Regulation 123 List and other CIL policies (April 2015)
- Appendix 5 - Regulation 123 List (April 2015)
- Appendix 6 - CIL Instalment Policy (April 2015)
- Appendix 7 - Consultation Statement on Planning Obligations Supplementary Planning Document (April 2015)
- Appendix 8 - Planning Obligations Supplementary Planning Document (April 2015)

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Report to Wiltshire Council

by Mr Philip Staddon BSc, Dip, MBA, MRTPI

an Examiner appointed by the Council

Date: 16 March 2015

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT WILTSHIRE COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 23 June 2014

Examination hearings held on 27 and 28 January 2015

File Ref: LDF/001527

Non-Technical Summary

This report concludes that, subject to some minor modifications to improve clarity, the Wiltshire Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The Council is able to demonstrate that it has sufficient evidence to support the Schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in its Core Strategy, at risk. The proposals will secure an important funding stream for infrastructure necessary to support planned growth in the district.

Introduction

1. This report contains my assessment of Wiltshire Council's draft Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008 (as amended). It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance set out in the National Planning Practice Guidance (NPPG).
2. To comply with the relevant legislation and guidance the local charging authority has to submit a charging schedule that should set an appropriate balance between helping to fund necessary new infrastructure and the potential effect of the proposed CIL rates on the economic viability of development across its area.
3. The basis for the examination, on which Hearing sessions were held on 27 and 28 January 2015, is the submitted Draft Charging Schedule (DCS), which was published for public consultation between 13 January 2014 and 24 February 2014, along with a Statement of Modifications (published in June 2014) and a Further Statement of Modifications (published in December 2014).
4. The Council's CIL proposals seek to include charges for residential development and for specific types of commercial developments: hotels, student housing and retail developments. Development falling within 'all other uses' would be zero rated for CIL purposes.
5. Residential developments would incur CIL charges which are differentiated in two ways. First, by geographical location in one of two charging zones and second, by classification into strategic or non-strategic developments i.e. there are four charging categories. 'Residential development' on non-strategic sites would incur charges of £85 per square metre (psm) in Charging Zone 1 and £55 psm in Charging Zone 2. 'Residential development' on 'strategically important sites, as set out in the Wiltshire

Core Strategy', would incur a £40 psm charge in Zone 1 and a £30 psm charge in Zone 2. The 'further' modification to the DCS (December 2014) would exempt Service Family Accommodation (SFA) from any residential CIL charges.

6. 'Student accommodation' developments would incur a £70 psm in all locations i.e. the charges are not zoned.
7. 'Hotels' would also incur a £70 psm charge in all locations.
8. The proposed retail CIL charges fall into three categories. First, 'retail warehouse and superstore/supermarket' development would incur a £175 psm CIL charge in all parts of the county. Second, retail development (excluding retail warehouse and superstore development) would incur a £70 psm CIL charge in the defined shopping centres of Bradford on Avon, Chippenham, Marlborough, Salisbury and Trowbridge. Third, retail development elsewhere (again excluding retail warehouse and superstore development) would be nil rated for CIL purposes i.e. £0 psm.

Background evidence – the relevant plan, infrastructure needs and economic viability evidence

9. Wiltshire Council is one of the largest and newest unitary authorities in the country, formed in 2009 by the amalgamation of the former county council and the four component district councils (Salisbury, West Wiltshire, North Wiltshire and Kennet).
10. The authority's administrative area is significant in size and largely rural in nature. It includes parts of three separate Areas of Outstanding Natural Beauty, part of the Western Wiltshire Green Belt, an element of the New Forest National Park and a World Heritage Site (at Stonehenge and Avebury). The largest settlements are Salisbury, Trowbridge and Chippenham which are complemented by smaller towns and villages. The Council serves a resident population of some 460,000. There are strong interdependencies with larger settlements beyond the administrative boundaries, most notably Bath and Bristol to the west, Swindon to the north east and Southampton to the south east.

The relevant plan

11. The examination of the Wiltshire Core Strategy (CS) has only recently concluded, with the Examiner's report being published in December 2014. The CS represents the first Wiltshire-wide strategic plan since the Council was formed and replaces the strategic content of the Local Plans of the former district councils. Given the scale and diversity of the areas, the production of the plan was understandably complex and protracted.
12. The CS, as modified by the Inspector's recommendations, proposes 'at least 42,000' new homes (an increase on the 37,000 contained in the submitted

plan) and the provision of 178 hectares of employment land over the plan period which extends from 2006 – 2026.

13. The spatial approach to accommodating this housing and employment growth follows sustainable development principles. It reflects the settlement hierarchy, with the bulk of new development directed to Principal Settlements and Market Towns, with smaller quantities in Local Service Centres. In smaller villages and rural areas, there is a general policy approach of development restraint.
14. Core Policy 2 sets out the geographical distribution of the (minimum) 42,000 new homes across three defined Housing Market Areas (HMA), together with a smaller allocation (900) on the edge of Swindon. The majority of the new homes (about 59%) are planned in the North and West Wiltshire HMA, which includes the Principal Settlements of Chippenham and Trowbridge. About 25% of the housing requirement is planned in the South Wiltshire HMA, which includes the Principal Settlement of Salisbury. The remainder of new homes are planned in the East Wiltshire HMA (about 14%) and the 'West of Swindon' allocation (2%). Overall, there had been 16,385 completions at that time, with 20,269 in commitments and 5,664 yet to be allocated.
15. Central to the CS approach of accommodating planned growth is the identification of a portfolio of 'strategically important sites' which include housing, employment and mixed use allocations. In the submission draft of the CS there were a total of 20 such sites, but complications arose over the Chippenham site allocations which resulted in its 4 strategic site allocations being removed from the CS. The remaining 16 sites are, typically, green field allocations and, in terms of housing numbers, they would, together, deliver almost 10,000 new homes.
16. To address the increased housing requirement (the additional 5,664 homes) and to resolve the Chippenham issues, the Council has committed to produce Development Plan Documents (DPD) to ensure effective delivery of planned development. These will include a Chippenham Site Allocation DPD (planned adoption in January 2016) and a Housing Sites Allocation DPD (planned adoption in June 2016). The Council has also committed to an early partial review of the CS.
17. The CS also incorporates an Inspector modification which establishes a two tier locality based Affordable Housing requirement (30% and 40%). The originally submitted plan contained a 40% county-wide policy but viability evidence demonstrated geographical disparities and this informed the two zone approach.
18. The CIL proposals are being put forward against the backdrop of an up to date and very recently adopted CS. There is a degree of uncertainty over the Chippenham strategic site allocations, at least for the time being. It will be some time before the broader 'sites allocations' are settled and this may include further sites of a strategic scale (to meet the increased housing requirement) along with a range of other smaller sites.

Infrastructure planning evidence

19. The CS evidence included an Infrastructure Delivery Plan (IDP) which assesses and analyses the future infrastructure needs in the county. It is a thorough and comprehensive analysis, covering a broad range of physical, social and green infrastructure needs in each community area. Projects are categorised into either 'essential' or 'place-shaping', with understandably higher priority given to the essential projects.
20. The Council has undertaken an infrastructure funding gap assessment. This is based on the IDP projects but the analysis excludes any projects that are already funded, those where costs are unknown and infrastructure that would not be CIL funded (such as strategic site infrastructure that is anticipated through S.106 planning agreements). This refined list covers five categories: education, transport, open space / green infrastructure, community facilities and health. The total funding cost for these types of infrastructure is circa £897 million in the plan period (to 2026) and, of this figure, about £635 million is categorised as 'essential'. Once known funding is deducted, there is an estimated 'essential' infrastructure funding gap of £456 million. The largest 'essential' infrastructure type funding gaps are in education (£193 million), health facilities (£182 million) and transport (£74 million).
21. The Council estimates, using a 2011 baseline, that its CIL receipts in the plan period would be equivalent to circa £62 million, based upon the anticipated quantum of CIL liable development. The CIL revenue would therefore make a modest, but nonetheless important, contribution to filling the assessed funding gap. CIL revenues would equate to about 13.6% of the 'essential' infrastructure funding gap. The evidenced funding gap is substantial and provides a clear justification for introducing a CIL regime.
22. The Council has produced a Draft Regulation 123 list which sets out the infrastructure types that it intends to fund, partly or wholly, through CIL receipts. The list includes education, sustainable transport, open space / green infrastructure, flood mitigation, community facilities, emergency services, health facilities and cross boundary infrastructure.
23. The 2014 Guidance makes plain that it is not the purpose of the CIL examination to 'challenge' the Draft Regulation 123 list. However, there were quite a number of representations made on the list and some comment is appropriate. The representations sought revisions to the list to provide a more explicit identification of specific types of infrastructure projects.
24. In my view, I do not see any flaw with the Council's approach. It does clearly identify the CIL funded infrastructure categories and many of the project types promoted (by representors) could be covered. I am not convinced that there is any great merit in specifying more detailed 'sub-sets' of infrastructure under the broad identified types. Given the size of the funding gap for 'essential' infrastructure alone, there are inevitably going to be some difficult assessments around prioritisation, and specifying more

detailed project types might unduly raise expectations of funding. The important point is that the list does achieve the key purpose of providing the transparency and clarity about the use of CIL receipts.

25. The Council has also produced a Planning Obligations Position Statement (June 2014) which sets out the residual role for S.106 planning agreements once the CIL regime is in place. This document includes a helpful table setting out which infrastructure types would be CIL funded, alongside more localised S.106 secured 'mitigation' infrastructure. The latter includes a range of identified education projects such as primary schools on strategic urban extension sites. When reviewed together, the Draft Regulation 123 List and the Planning Obligations Position Statement provide a useful and unambiguous distinction between the two infrastructure funding mechanisms.

Economic viability evidence – methodology and modelling assumptions and challenges

Methodology

26. The Council commissioned consultants to undertake a Viability Study (VS) to support its CIL proposals. The VS was completed in November 2013, against the strategic policy backdrop of the submission draft CS, although there have been some later additions and updates.
27. The VS employs a residual valuation approach. In simple terms, this involves deducting the total costs of a development from its end value to calculate a residual land value (RLV). That residual land value is then compared to assumed benchmark land values (BLV) to test viability. If the RLV is higher than the BLV, the scheme would be judged viable and vice versa. For residential developments, the methodology involves testing the ability of schemes to support potential CIL charge levels, ranging from £0 up to £280 psm. For commercial schemes a 'maximum' CIL is computed.

Modelling assumptions - residential development

28. The testing of residential scheme viability included five notional development types which the Council assessed, at that time, to be representative of the likely development in the county and which also reflected assumptions made in an earlier (2011) affordable housing viability assessment. Densities varied from 25 dwellings / hectare for the smallest scheme, up to 50 dwellings per hectare for the larger schemes. I noted views expressed that the densities used for the larger schemes were considered too high and may, as a consequence, overstate the value that can be extracted from a set unit of land.
29. The VS also included bespoke testing of seven of the largest identified 'strategic' sites, albeit that three of these were Chippenham sites which were not confirmed through the CS. The sites ranged in size from 700 up to 2600 units and, together, would account for about 8,500 new homes.

30. In my view, the testing of notional sites is adequate, if a little limited given the scale and geography of the county. It is also complicated by the Council's indication that new build flats (included in three of the five notional types) are now not expected to feature to any great degree, due to higher costs and lower returns. However, the reduction of the flatted element does, to an extent at least, mitigate some of the industry criticism about the density levels employed. The testing of strategic sites, which are expected to yield significant housing numbers, is well grounded and in line with the CIL guidance, and creates a strong connection with the delivery route for many of the planned new homes. Taking the notional and strategic site testing together, I am satisfied that this is a reasonable testing platform for CIL viability modelling.
31. To undertake the viability analysis, the modelling on residential developments entailed making assumptions about a range of development costs and revenues. Sales values had been drawn from an analysis of 46 new build developments and 243 associated transactions, largely in 2012. This was complemented by data from about 200 transactions from the 'second hand' market from the same period. This data was used to define average sales values in four distinct 'settlement categories'. The highest average values (£3,294 psm) were in Category 1 which includes Marlborough and Pewsey. Category 2 averaged sales values of £2,648 and covers Bradford on Avon, Salisbury, Wilton and Chippenham. Category 3 averaged £2,314 psm and includes Corsham, Amesbury and Devizes. The lowest average sales values of £2,110 were in the Category 4 settlements which encompass Melksham, Trowbridge, Westbury, Dilton Marsh, Calne, Warminster, Tisbury and Mere.
32. These four categories are of some wider relevance as they reflect the two tier affordable housing requirements (the higher value areas in Categories 1 and 2 attracting a 40% requirement; the lower value areas 3 and 4 attracting a 30% requirement). The categories also relate to the two proposed CIL charging zones, with Categories 1 - 3 falling in Charging Zone 1 and Category 4 falling in Charging Zone 2.
33. There was a degree of challenge to the definition of the sales category zones. It was suggested that the zones did not accord with the local property price 'heat map' and that certain settlements and locations should be in different categories. In particular, I listened to views that Malmesbury, Mere and Chippenham should be moved from Category 2 to the lower sales value Category 3. Views were also expressed that certain anomalies may limit the element of CIL receipts that would be paid to parish councils.
34. In my view, there are a number of matters to consider here. First, any exercise of averaging sales values over such large areas is inevitably going to include an underlying range and, unavoidably, a degree of anomaly. Second, a degree of care is needed in using 'heat maps' as they are based on unit prices and may not be directly comparable to the Council's data set. Third, the sales value data, whilst quite wide ranging, is now a little dated and will underestimate today's values, which the Council reported had increased by 8.4% in the intervening period. Fourth, even allowing for a

degree of caution around the sales values employed in a few locations, these are matters that can be considered 'in the round' when assessing the modelling results and, indeed, the context of where new development is actually planned.

35. The establishment of robust BLVs is clearly of great significance in this type of viability modelling, as these become the yardsticks against which viability is judged. However, it is a perennial theme with CIL examinations that local available transactional evidence on land values is either thin or non-existent. This means that reliance has to be placed on published (but essentially amalgamated and approximate) sources, such as Valuation Office Agency (VOA) data or, simply, upon informed assumptions. The Council has used a combination of these sources to define four BLVs.
36. Based on VOA figures for the region, with adjustments made, the Council defined BLV1 as 'higher value residential land' at £1.35 million per hectare. BLV2 was set at £1.185 million per hectare reflecting the lower values for residential land elsewhere in the county. BLV3 was set at £1.038 million per hectare and would typically relate to secondary industrial / employment land and was helpfully informed by some 2011 transactional research carried out for the Council's affordable housing viability testing. BLV4 was defined at £350,000 per hectare and would relate to greenfield land values, based upon research contained in the Department for Communities and Local Government (DCLG) study¹ which suggested a range of £250,000 - £374,000 per hectare. At the Hearing sessions the Council expressed a view that it felt, with hindsight, it had set BLV4 at too high a level.
37. The Council stated that it expected most housing supply to come from the lower value land, notably BLV4, and that the higher land value BLV1 would only be relevant in localised areas. The Council also considered that the higher land values (BLV 1 and 2) would include a degree of legacy from the 'old' policy era, such as a reflection of times when grant aid was available for affordable housing and when CIL was not known or anticipated.
38. Base build costs for residential schemes were drawn from Building Cost Information Service (BCIS) rates at the time when the VS was produced (2013). The Council opted to use a base build cost figure of £815 psm for houses and £963 psm for flats, which it advised were the midpoint values from the BCIS range for the region at that time. On top of the base build costs, the Council made additional cost allowances for contingencies (5%), external works (15%) and Code for Sustainable Homes requirements (6%), which appeared reasonable (in fact the latter appeared to be over stated). On strategic sites, an additional allowance of £20,000 per plot was applied on most sites (the exception being a partly serviced site) to cover the costs associated with servicing greenfield sites e.g. providing new utilities infrastructure.
39. There was some challenge to the base build costs assumptions, with views

¹ *Cumulative Impacts of Regulations on House Builders and Landowners* - Research Paper. Published by DCLG in 2011 (although commissioned by the previous Government in 2008).

expressed that the rates should be increased in line with recent changes in the BCIS rates, which had risen by about 9% in the intervening period. In my view, the fact that build costs may have increased in recent times, is a matter that can be considered 'in the round', along with sales price increases, when assessing the modelling results. It is worth noting that, whilst the percentage increases in sales and build costs are similar, a growth in sales values has a much greater positive impact on viability than the negative impact of an equivalent percentage increase in build costs.

40. Costs assumptions in respect of fees, contingencies and finance conformed with accepted industry norms. Developer profit was assumed at 20% of Gross Development Value (GDV) on market housing and 6% of GDV on affordable housing, which I consider reasonable.
41. Affordable housing was modelled in line with the submission draft CS's 40% requirement. However, sensitivity analysis of lower levels for the notional sites included a 30% proportion, which enables, where appropriate, the lower tier policy compliant scenarios to be identified. At my request, the Council re-appraised the two strategic test sites that fell within the new lower tier (30%) affordable housing area. Assumed tenure split was in line with policy and the testing assumed an absence of any grant subsidy.
42. Residual S.106 planning agreement costs were included at a notional £1,000 per unit for site types 1 – 4. Site type 5 was assumed as the proxy for a large site and a S.106 allowance of £15,000 per unit was assumed to cover on-site infrastructure. For the strategic sites, where S.106 contributions are expected to be significant (primarily due to site specific education and strategic transport requirements), bespoke cost assumptions were made.

Modelling assumptions – commercial developments

43. The commercial development modelling used similar assumptions and methodology. Notional schemes for offices, various types of retail development, industrial, student housing and hotel developments were tested in the VS. A later testing of commercial residential care home developments was also undertaken. Other than employment schemes on greenfield sites, the tested schemes were assumed to involve an intensification of an existing use of the site and current use values were assessed based on assumed occupancy, rent and yields. The assumptions employed for the notional schemes all appeared reasonable, including the assumed rents, yields, build costs and profit levels. The commercial development modelling outputs were compared to three assumed Current Use Values (CUV) rather than BLVs and these appeared reasonable for CIL testing purposes.

Conclusions on background evidence

44. The CS provides a very recent and robust development plan framework for sustainable growth in the district. The strategy has a strong focus on strategic site development to deliver many of the planned new homes and

jobs. The CS examination outcome raises a number of complications for the CIL regime, but none of these undermine the key fact that there is an up to date relevant plan, which identifies 'the development of an area'² that needs to be supported by new infrastructure.

45. The IDP identifies the infrastructure required to support the CS planned growth in population and jobs. The evidence demonstrates a sizeable infrastructure funding gap that justifies the introduction of a CIL regime. CIL receipts will help to reduce that gap, although a significant funding shortfall will remain.
46. The background economic viability evidence has been the subject of some representor challenge on detailed aspects, and there is a degree of time lag and limitation on some of the body of evidence. However, in my view, these are matters that can be considered 'in the round' when assessing the modelling outputs. Accordingly, I consider that, for both residential and commercial development, the Council's CIL testing platform is reasonable, robust, proportionate and appropriate. The actual interpretation and use of the economic viability evidence in defining the proposed CIL rates is discussed more fully below.

Residential Development CIL – viability appraisal findings and proposed CIL charges

Notional sites testing results and CIL rates

47. Although some details are yet to be finalised, about half of (unbuilt) CS planned new homes will lie outside of the identified strategic sites. The notional site testing on Types 1 – 4 is essentially the proxy for these developments (Type 5 is a proxy for larger more strategic development) which will typically be smaller than 'strategically important sites' (the smallest listed strategic housing site is 150 dwellings). These non-strategic sites will cover a wide range of greenfield, brownfield and infill sites spread across the county.
48. Interpreting the appraisal outputs for the notional sites requires a degree of care and judgement. The modelling methodology inevitably generates a matrix of results which includes scenarios that are likely to reflect anticipated real world development, alongside scenarios which are unlikely. For example, in many cases 'not viable' results are returned against the higher BLVs but this does not necessarily imply that CS planned housing numbers will not be delivered. Rather, it implies that where existing land values are higher (i.e. those sites occupied by existing development), residential development returns are insufficient to 'outbid' the existing use value. The Council advised that it expects most of the housing supply to come from lower value land and, in particular, BLV 4 land i.e. greenfield. However, I am also mindful of views expressed by the development industry

² Section 205(2) of the Planning Act 2008 (as amended by the Localism Act 2011).

that it is simply not possible to acquire smaller sites, particularly in established settlement locations, at the assumed BLV 4 land value. A balanced view is required.

49. In Settlement Category 1, the modelling showed strong viability across all five development types and all four BLVs. Indeed, the majority of the 'policy compliant' test scenarios hit the test CIL maximum of £280 psm and the lowest was £200 psm.
50. In Settlement Category 2, the modelling showed the effects of somewhat lower sales values. Whilst viability was still very strong for all schemes on BLV4 (generating four results at £280 psm and one at £220 psm), the higher values of BLV1 - 3 resulted in 'not viable' results at policy compliant levels of affordable housing. This suggests that such developments would either not happen or that there would be some pressure on affordable housing content.
51. Settlement Category 3 results reflected those in category 2, albeit that they were a little weaker due to lower sales values, although to an extent this was mitigated by the lower tier (30%) affordable housing level. The BLV4 test results were, from smallest scheme upwards, maximum CIL rates of £200 / £180 / £140 / £120 / £40 psm. The higher BLV 1 - 3 results were 'not viable'.
52. Settlement Category 4 was the most challenging in terms of scheme viability. Although the small 4 unit scheme (no affordable housing) generated a £220 psm maximum CIL result at BLV4, the remaining results, based on the 30% affordable housing level, were £20 psm (15 houses) and 'not viable' for the 50, 60 and 70 unit schemes. The sensitivity analysis suggested that only quite significant reductions in affordable housing content would enable viable schemes to come forward.
53. The Council undertook a process of assessing and blending the most relevant modelling results to define a suggested maximum CIL rate for each Settlement Category Area. The Council's assessed maximum rates for Categories 1 - 4 were, respectively, £200, £160, £120 and £100 psm. The process of arriving at these suggested maximums was not altogether clear and seemed to rely on judgement rather than any clear mathematical process. However, from my analysis, the assessment of maximum rates for Settlement Categories 1- 3 is reasonable and robust, as it enjoys a good correlation with the data set. However, a degree of caution is required in the Category 4 assessed 'maximum' CIL rate of £100, given that there were only two policy compliant positive results, one of which was £220 psm (four houses), the other £20 psm (15 houses with 30% affordable housing).
54. In terms of the CIL rates on non-strategic sites, the Council proposes two charging zones. Settlement Categories 1 – 3 would fall within Charging Zone 1 and would incur a £85 psm charge. Settlement Category 4, which includes the lowest sales value areas, would fall within Charging Zone 2 and would incur a £55 psm charge.

55. There were many different views expressed about the Council's approach to CIL zones and charges, including advocates for a single rate and for higher rates in particular areas, notably AONB locations which tend to attract premium house prices. However, it is not my role to determine whether the Council has adopted the 'best' approach, as there are many possible permutations and merits / demerits to each. My role is to assess the Council's published charging schedule and assess whether it sets an appropriate balance between helping to fund necessary new infrastructure and the potential effect on the economic viability of development across its area.
56. In that context, I am satisfied that the £85 psm CIL rate for non-strategic development in Charging Zone 1 is supported by the evidence. Viability across Settlement Categories 1 - 3 is generally positive, especially on the lower value land that the Council expects to be predominant in the supply of new homes. In almost all such cases, the £85 psm charge is readily absorbed, often with a substantial degree of headroom or 'buffer.'
57. The proposed £55 psm rate for non-strategic development in Charging Zone 2 is less straightforward. The VS modelling evidence indicates that development viability across this area (Settlement Category 4) can be challenging and policy compliant results were limited to just two, one of which would be below the proposed charge. However, this is an area which the Council reported continues to deliver new homes on small and large sites, along with reasonable levels of affordable housing and S.106 infrastructure contributions. Some examples of recent S.106 agreement content suggested CIL equivalent infrastructure contributions well above the £55 charge proposed (although examples quoted tended to relate to larger sites).
58. It is also important to recognise that the £55 psm charge evolved from the Preliminary DCS consultation, which proposed a £70 psm single rate for Wiltshire i.e. the Council has now sought to recognise the generally more challenging viability across Settlement Category 4. The Council has also calculated that the lower (£55 psm) rate in this zone would be equivalent to just 1.5% of development costs.
59. I am satisfied that, in these particular local circumstances, the lower (£55 psm) CIL charge in Charging Zone 2 is reasonable and, when considered alongside the reduced (30%) affordable housing target, reflects the lower viability in this area. In my view, it is unlikely to put development viability at risk. However, it is important that I record that the Council's VS evidence base could have been more comprehensive, but the CIL charge would comprise such a small component of overall development costs that it would be unlikely to be a critical determinant in terms of schemes coming forward. However, I would urge the Council to monitor carefully housing (and affordable housing) delivery, and the effects of CIL, in this area, given its importance in delivering CS housing numbers.

Strategically important sites testing results and CIL rates

60. 'Strategically important sites' will play a critical role in delivering the CS housing requirements. They comprise the identified sites in the CS and will be supplemented by further strategic sites that will emerge from the Chippenham Sites Allocation DPD and, possibly, further strategic sites that may arise through the Housing Sites Allocation DPD.
61. The VS tested sites included three in Chippenham. Whilst these are currently unconfirmed in terms of development plan status, the testing is still relevant as it, along with the other four sites, reflects the development economics associated with larger housing developments. The Council also confirmed that the Chippenham sites could be seen as in accord with the 'strategic intentions' of the CS.
62. The key differences from smaller scale development are the additional costs associated with servicing these typically large greenfield sites, along with the substantial site specific infrastructure costs, notably for strategic transport and new schools on each site.
63. Once adjustments were made for the lower (30%) CS affordable housing requirement on two of the sites, all seven tested schemes generated positive RLVs. However, with the exception of one high value site in Salisbury, all of the remaining six schemes generated RLVs below the BLV4 value of £350,000 / gross hectare. The range was from £85,500 / gross hectare (King's Gate) up to £343,400 gross hectare (Rawlings Green).
64. Although some caution is needed in comparing these figures (as the housing density is very low in certain cases), there is a clear pattern of relatively low, although still positive, land values on these strategic sites. Earlier in this report (paragraphs 38 -40) I drew attention to the difficulties of robustly evidencing land values for CIL testing purposes. Whilst the referenced DCLG study's suggested range of £250,000 - £374,000 per hectare is a useful starting point, that document itself does not contain any evidential rationale for its figures. Based on the Council's evidence, four of its seven tested strategic schemes would not reach the lowest point on the range, and it appears that the development economics of strategic sites in Wiltshire will typically result in RLVs below the range suggested by the DCLG paper (referenced in paragraph 36 of this report).
65. The Council accepts that, with hindsight, its £350,000 / gross hectare BLV4 for its strategic sites was too high a benchmark, given the local development economics and the substantial additional costs associated with such schemes. However, for reasons rehearsed earlier, it is very difficult to define a 'right' land value assumption for such sites. Guidance in the 'Harman Report'³ notes the importance of setting 'threshold' land values to represent the level at which a landowner is likely to release land for development, and this chimes with the National Planning Policy Framework's reference to a 'competitive return' to a willing landowner.

³ *Viability Testing Local Plans – Local Housing Delivery Group Chaired by Sir John Harman – June 2012.*

66. To add some perspective, the existing land use of these 'strategic' sites in Wiltshire is essentially agricultural, with an associated value reported by the Council to be circa £23,000 per gross hectare. In many cases the modelled RLVs would still generate very substantial 'uplift' on farm land values. Before CIL is applied these would range from multipliers of 3.7 on the least viable (Kings Gate) to 14.86 on Rawlings Green (and 37.7 for the high value Salisbury site).
67. The key issue here is whether the Council's proposed CIL rates would actually threaten viability and prevent important strategic schemes happening. The proposed CIL charges are effectively discounted 'normal' rates and would be £40 psm for the strategic sites falling in Charging Zone 1 (five of the tested sites) and £30 psm for those falling in Charging Zone 2 (two of the tested sites). Although views were expressed that such sites should not receive discounted rates, I do not agree, as the evidence demonstrates the substantial additional site specific infrastructure costs that would fall on these sites.
68. Although there is scope for some conjecture about RLVs and whether they are sufficient to trigger release for development, it seems unlikely that such conservative CIL charges will be critical factors. Expressed as a percentage of development costs, CIL would amount to a sum falling within a narrow range of just 0.9% - 1.1%. At these levels, it is my judgment that the CIL charges will not threaten these developments. This view appears to be confirmed by some late evidence from the Council that computed recent agreed S.106 contributions on larger 'real world' schemes in Settlement Category 4 (where viability is weakest); these suggested that the equivalent 'CIL' component of recently secured, or at least agreed, S.106 obligations would be well above the proposed CIL charges. However, it is plain from the examination evidence and process that there are some viability pressures that will need to be monitored carefully and reflected in S.106 negotiations and, at the appropriate time, in any future CIL review.
69. An important related issue concerns the treatment of (currently) unconfirmed strategic sites in the Chippenham area, along with other larger sites, potentially of 'strategic' scale and status, that may emerge through the Housing Sites Allocations DPD. The issue here is that within a relatively short space of time, a number of strategic sites will be identified and, subject to due process, confirmed in the DPDs.
70. The Council has an understandable desire to apply its proposed CIL approach on strategic sites to any future additional strategic sites that may come forward through the two DPDs. The development industry appears to agree. However, two contrasting suggestions to solve this conundrum were put forward. The Council suggested a narrative amendment to the DCS by adding to the CS strategic sites any proposed DPD allocations "*....that, by virtue of the intended number of dwellings, are required to deliver significant on-site infrastructure in line with policy and the Council's Infrastructure Delivery Plan e.g. new school(s), Sustainable Urban Drainage Schemes, utilities, highway connections, sustainable transport schemes etc.*" The development industry suggested a 150 unit threshold to

distinguish strategic and non-strategic. Unfortunately, I do not consider either option is workable.

71. The Council's suggestion, whilst well intentioned, cannot comply with Regulation 12 of the Community Infrastructure Levy Regulations 2010 (as amended). This requires any geographically differentiated rates to be defined, in terms of locations and boundaries, on an Ordnance Survey based map. Whilst the Council is able to do this for its CS sites (and these are clearly identified on the DCS maps) it is not able to do so for unconfirmed sites, some of which may actually be unknown at this stage.
72. The development industry's suggestion of a threshold does have the benefit of simplicity and it does conform with Regulation 13 (as amended) which permits differentiation by reference to the intended number of dwellings. However, the problem here is that the evidence does not point to where that threshold should lie. The Council's evidence for the lower CIL rates on strategic sites is essentially based on seven sites of significant scale (the smallest was 700 units). The key factors in seeking to justify lower CIL rates were the additional costs of i) servicing large greenfield sites and ii) the additional on-site infrastructure costs of schools and strategic transport works. There is little doubt that developments of this scale (700+ units) will trigger such costs. However, that may not be the case with smaller schemes (such as the 150 unit scale suggested) as, for example, such developments are unlikely to be required to fund a new on-site primary school. They may also include brownfield sites with different development economics.
73. The only workable solution to this problem is to review the CIL regime once the DPD site allocations are settled, perhaps in around two years' time. I do appreciate that, in the meantime, there could be some complications should any new 'strategic' site proposals come forward through planning applications in advance of the DPD adoptions (and any planned CIL review). However, that seems to me to be an unavoidable issue in the first few years of 'settling in' the CIL regime, given the particular circumstances in Wiltshire. Although not ideal, should the issue arise, there is the potential for the Council to address it through flexibility and pragmatism in terms of S.106 negotiations and, possibly, adjustments to the Regulation 123 list, to ensure that there is a degree of parity between 'new' strategic sites and the identified CS strategic sites. In my view, the Council would be wise to timetable a CIL review to follow on from the DPD adoptions. This will not only enable the outstanding issues to be properly addressed, but also allow for any local impacts to be assessed and any fine tuning adjustments to be made.

Specialist types of accommodation for older people

74. The Council's DCS does not propose any differentiation for specialist types of accommodation for older people. There were some representations suggesting that there was a growing demand for such accommodation to meet an ageing population, and that lower rates or exemptions should apply. The Council did not specifically test the viability of retirement housing schemes but submitted that, in its view, the higher densities and sales

values associated with such schemes would offset the additional costs associated with communal (non-saleable) floorspace.

75. The Council did, in response to a representor request, run a viability test on a notional 60 bedroom residential care home. The results indicated that, with CIL applied, the RLV would be well above BLV1. However, this was challenged by operators who claimed that the floorspace allowance per resident used by the Council (22.88 square metres per resident) was too low and a much higher figure (48 square metres per resident) should be used. Employing the higher figure (more than double the Council's figure) resulted, unsurprisingly, in unviable schemes. However, the Council's assumptions appear to be well grounded as they are based on National Care Standards requirements, which are a reasonable 'base' position for CIL testing. I also noted the Council's calculation that the CIL charge would amount to 1.86% of development costs (at a Zone 1 rate of £85 psm).
76. Based on the evidence before me, I do not consider that the Council's CIL proposal will introduce any significant viability threat to such specialist forms of residential development coming forward.

Service Families Accommodation

77. Wiltshire has a significant and long standing association with the Armed Forces in terms of bases, training grounds and service personnel accommodation. The Council engaged in significant and positive discussion concerning the special circumstances that surround Service Family Accommodation (SFA). A Statement of Common Ground (SOCG) emerged from those discussions which recognised the similarities between SFA and affordable housing and the case for similar exemption from CIL charges. Agreement was also reached that should any SFA become surplus and released to the open market, legally binding agreements to cover obligations, payments and an element of affordable housing, would be entered into. I am satisfied that the special case for SFA locally is supported by the evidence.

Commercial CIL – viability appraisal evidence and proposed CIL charges

Employment development

78. The VA's testing of office, industrial and warehouse developments demonstrated that these employment uses are currently unable to support CIL charges. Indeed, the evidence suggests a considerable improvement in market conditions would be needed to achieve levels of viability that could support a CIL charge for such developments.

Student accommodation development

79. The Council's CIL proposals for student accommodation have been rather overtaken by events. When first conceived, there was the prospect of some

significant student accommodation development in the county. However, that now looks less likely, although future developments associated with institutions within, and just outside, the county cannot be ruled out. The VS testing, using reasonable modelling assumptions, indicated that a notional commercially operated student accommodation development could support a CIL charge of up to £142 psm. Even though such development now appears less likely, the evidence does support the conclusion that a £70 psm CIL charge is reasonable and can be absorbed with a good amount of headroom.

Hotel development

80. The VS testing indicated that budget hotel development, employing reasonable industry assumptions, could support a CIL rate of up to £253 psm on the most likely lower value land (CUV1). The Council advised that there had been a number of recent developments in the county including new hotels at Trowbridge and Devizes, suggesting an active market. The Council also considered its modelling was pitched at the least viable end of the spectrum and premium hotel operations would be able to absorb higher contributions. Based on the evidence, I am satisfied that the £70 psm county-wide CIL charge for hotel development will not create any undue threat to viability.

Retail development

81. The VS tested a range of different types of retail development, in varying locations, sizes and covenant strengths.
82. The testing of retail developments within the main retail centres (Trowbridge, Chippenham, Salisbury, Marlborough and Bradford on Avon) indicated surpluses able to support maximum CIL charges of £690 psm (CUV1), £316 psm (CUV2) and £181 psm (CUV3). Setting the CIL rate at £70 psm appears reasonable, as it allows for all CUVs (with a good amount of headroom) and also allows for variations (from the notional test scheme) in terms of rents, yields and site specific costs.
83. The testing of conventional retail developments outside of the main shopping centres demonstrated that these would not currently be viable. The £0 psm charge is supported by the evidence.
84. By contrast the testing of 'retail warehouse and superstore / supermarket developments' on a county-wide basis showed healthy viability. The Council advised that, if any such development came forward, they would typically be on greenfield sites where the proxy land value (CUV1) would result in a modelled maximum CIL of £316 psm. The proposed £175 psm charge, whilst accommodating a lower (although still substantial) buffer than the town centre CIL charges, is reasonable in my opinion.
85. Some views were expressed suggesting that the retail CIL charges might undermine a particular retail led regeneration scheme. However, the Council advised that this was on a site in its ownership and that it was content that

CIL should apply and be 'recycled' into infrastructure provision.

Overall Conclusions

86. Wiltshire is a geographically large and diverse area. Its CS has only very recently been adopted following a long and complex process which resulted in some key changes to housing numbers, allocations and affordable housing policy. Those complexities have implications for the Council's CIL proposals, which were conceived alongside the earlier submission draft CS. This has resulted in an element of time lag and some challenges in terms of how to address the issues arising.
87. However, none of these complications suggest that the CIL regime is premature. Indeed, the evidence demonstrates that there is a significant funding gap for infrastructure that is considered essential to support the CS planned growth. Although, some of the Council's supporting data is now several years old and, in a few areas, a little narrow, there is limit to the testing a charging authority can reasonably undertake. Viability testing for CIL purposes will always be a broad brush and strategic analysis of viability. On a number of matters where the Council's evidence is a little dated, such as residential sales values, the effect is merely to understate development viability. Overall, I am satisfied that the Council has used appropriate and available evidence which has informed assumptions about land and development values and likely costs.
88. For housing development, given the scale and diversity of the county, there is little doubt that a wide range of CIL zoning / charging permutations could have been pursued. The Council's approach is relatively simple and that is encouraged in the guidance. It differentiates areas where viability is more challenging, and further differentiates 'strategic' developments, that will typically carry much higher on site infrastructure costs. Such an approach unavoidably results in anomalies and some inconsistencies, but I am satisfied that the overall development of the area, as set out in the CS, will not be put at risk if the proposed CIL charges are applied. However, I have, through this report, drawn attention to the need for careful monitoring, particularly in areas where viability is more challenging. I have further suggested that the Council considers a relatively early CIL review to address the issues around additional strategic sites arising from its DPDs. That will also provide an opportunity for evidence to be refreshed and any fine tuning to be undertaken.
89. For commercial developments, the Council has used appropriate and available evidence and I conclude that the charges are reasonable.
90. I have made some recommendations for minor modifications to improve clarity and to confirm the 'final' DCS version. My first recommendation simply confirms the substantive DCS. The second recommendation is to reformat the charging table to distinguish student accommodation, hotels and SFA from 'residential' developments. The third recommendation is to

ensure that the retail categories employ consistent wording. These recommendations are attached as an appendix to this report.

91. I conclude that, subject to my recommended modifications, the Wiltshire Council Draft Community Infrastructure Levy Charging Schedule, as modified by its Statements of Modifications, satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Charging Schedule be approved.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Wiltshire Core Strategy and is supported by an adequate financial appraisal.

P.J. Staddon

Examiner

Attached: Appendix A – Recommended Modifications

Appendix A

Modifications that the Examiner specifies so that the Charging Schedule may be approved.

Reference	Clarification / Modification
EM1	<p><u>Clarification</u></p> <p>For the avoidance of doubt the substantive DCS is the <i>Wiltshire Community Infrastructure Levy Draft Charging Schedule (post-submission version)</i> – January 2015</p>
EM2	<p><u>Clarification / Modification</u></p> <p>Page 3 – Table</p> <p>The clarity of the table can be improved by separating 'residential' (green shaded column) from the categories of 'student accommodation', 'hotels' and 'Service Family Accommodation'</p> <p>Add separate boxes and titles in the left hand column: 'student accommodation', 'hotels' and 'Service Family Accommodation'.</p>
EM3	<p><u>Clarification / Modification</u></p> <p>Page 3 – Table</p> <p>The clarity of the three retail development types can be improved by making the descriptions consistent. In the first and second categories, add '/ supermarket' after the word 'superstore' to make these consistent with the third category.</p>

Wiltshire Community Infrastructure Levy (CIL)

Post-Examination Modifications

April 2015

Introduction

This is a list of the proposed changes made to the Wiltshire CIL Draft Charging Schedule following the independent examination.

- *Table 1* is a list of the modifications that the Examiner specifies so that the Charging Schedule may be approved.
- *Table 2* is a list of minor changes to be made by the council to the supporting text in the interests of clarity. They do not in any way alter the CIL rates approved by the Examiner.

Table 1 – Modifications that the Examiner specifies so that the Charging Schedule may be approved

Reference	Clarification / Modification
EM1	<p><u>Clarification</u></p> <p>For the avoidance of doubt the substantive DCS is the <i>Wiltshire Community Infrastructure Levy Draft Charging Schedule (post-submission version) – January 2015</i> ¹</p>
EM2	<p><u>Clarification / Modification</u></p> <p>Page 3 – Table</p> <p>The clarity of the table can be improved by separating 'residential' (green shaded column) from the categories of 'student accommodation', 'hotels' and 'Service Family Accommodation'</p> <p>Add separate boxes and titles in the left hand column: 'student accommodation', 'hotels' and 'Service Family Accommodation'.</p>
EM3	<p><u>Clarification / Modification</u></p> <p>Page 3 – Table</p> <p>The clarity of the three retail development types can be improved by making the descriptions consistent. In the first and second categories, add '/ supermarket' after the word 'superstore' to make these consistent with the third category.</p>

¹ <http://www.wiltshire.gov.uk/2-cil-january-2015-draft-charging-schedule-post-submission-version.pdf>

Table 2 – Minor changes made by the council for clarity

Reference	Clarification / Modification
CM1	Insert date of adoption by Council, i.e. 12 May 2015
CM2	Insert date of implementation, i.e. 17 May 2015
CM3	Deletion of repetition
CM4	Change of contact details post-CIL implementation to 'the Section 106 and Community Infrastructure Levy Administrator (Economic Development and Planning on 01225 716766'.



Wiltshire Community Infrastructure Levy

Charging Schedule

May 2015

Wiltshire Council

Information about Wiltshire Council services can be made available on request in other languages including BSL and formats such as **large print** and audio. Please contact the council on **0300 456 0100**, by textphone on 01225 712500 or by email on customerservices@wiltshire.gov.uk.

如果有需要我們可以使用其他形式（例如：大字體版本或者錄音帶）或其他語言版本向您提供有關威爾特郡政務會各項服務的資訊，敬請與政務會聯繫，電話：0300 456 0100，文本電話：(01225) 712500，或者發電子郵件至：customerservices@wiltshire.gov.uk

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1. Statutory compliance

- 1.1. The Community Infrastructure Levy (CIL) is a charge that local authorities in England and Wales can put on new development in their area to raise funds to help deliver the infrastructure necessary to support this development.

The Charging Authority

- 1.2. Wiltshire Council is a Charging Authority for the purposes of Part 11 of the Planning Act 2008 and may therefore charge CIL in respect of development in its administrative area. The Council is both the CIL Charging Authority and Collecting Authority for its administrative area.
- 1.3. In preparing this Draft Charging Schedule, Wiltshire Council has complied with the requirements set out in Part 11 of the Planning Act (as amended) and the Community Infrastructure Levy Regulations 2010 (as amended).
- 1.4. In setting the CIL rates, the Council has struck an appropriate balance between:
- The desirability of funding from CIL, in whole or in part, the estimated cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding, and
 - The potential effects, taken as a whole, of the imposition of CIL on the economic viability of development across its area

Date of approval

- 1.5. This Charging Schedule was approved by the Council on **[INSERT DATE]**.

Date of effect

- 1.6. This Charging Schedule will come into effect on **[INSERT DATE]**.

2. CIL rates

- 2.1. The CIL rates to be charged by Wiltshire Council are set out in *Table 2.1*.
- 2.2. The Charging Zones 1 and 2 for residential development are defined in *Appendix A*. A list of settlements within each settlement category and charging zone can be found in *Appendix B*. The charging zones for retail development (excluding retail warehouse and superstore/ supermarket development) are defined in *Appendix C*.

Definitions

- 2.3. **Retail warehouses** are large stores specialising in the sale of a broad range of household goods (including but not limited to carpets, furniture and electrical goods), DIY items and other ranges of goods, catering for mainly car-borne customers.
- 2.4. **Superstores/ supermarkets** are shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.

Table 2.1 – Rates of CIL to be charged on new development

Development Type ¹		CIL charge £/ sq m	
		Charging Zone 1 (settlement categories 1, 2 and 3)	Charging Zone 2 (settlement category 4 ²)
Residential development	Residential development (excluding strategically important sites as set out in the Wiltshire Core Strategy) <u>Planning Use Classes:</u> C2, C2A, C3 and C4	£85	£55
	Residential development (strategically important sites as set out in the Wiltshire Core Strategy) <u>Planning Use Classes:</u> C2, C2A, C3 and C4	£40	£30
Student Accommodation	Student accommodation <u>Planning Use Classes:</u> C2, C2A, C3, C4 and <i>sui generis</i> akin to student accommodation	£70	
Hotels	Hotels <u>Planning Use Class:</u> C1	£70	
Service Family Accommodation	Service Family Accommodation (SFA) for members of the Armed Forces ³	£0	
Retail	Retail development (excluding retail warehouse and superstore/ supermarket development) within the defined areas in Bradford on Avon, Chippenham, Marlborough, Salisbury and Trowbridge, as shown in <i>Appendix C</i> <u>Planning Use Classes:</u> A1 to A5 and <i>sui generis</i> uses akin to non-food retail	£70	
	Retail development (excluding retail warehouse and superstore/ supermarket development) outside the defined areas in Bradford on Avon, Chippenham, Marlborough, Salisbury and Trowbridge, as shown in <i>Appendix C</i> <u>Planning Use Classes:</u> A1 to A5 and <i>sui generis</i> uses akin to non-food retail	£0	
	Retail warehouse and superstore/ supermarket development anywhere in the County <u>Planning Use Class:</u> A1 to A5 and <i>sui generis</i> uses akin to non-food retail	£175	
All other uses	All other uses <u>Planning Use Classes:</u> B1, B2 and B8, D1, D2 and other <i>sui generis</i> uses (including military single living accommodation (SLA) ancillary to a military establishment)	£0	

¹ As defined by the Use Classes Order 1987 (as amended)

² Settlement category 4 includes the whole Community Areas of Calne, Melksham, Trowbridge, Warminster and Tidworth, plus the parishes of Staverton, Westbury, Dilton Marsh, Mere and Tisbury.

³ Housing exclusively constructed by the MOD or its appointed contractors for use by members of the Armed Forces and their families, as secured through a Section 106 Agreement between the Ministry of Defence (MOD) and the Council.

3. Calculation of the CIL charge

Liability to pay CIL

- 3.1. CIL may be payable on development that creates net additional floor space (measured as Gross Internal Area), where the gross internal area of new build exceeds 100 square metres (paragraph 3.6 explains how this is calculated). That limit does not apply to new houses or flats, and a charge can be levied on a single house or flat of any size, unless it is by a 'self builder' (see paragraph 3.2 and Regulations 54A and 54B).
- 3.2. The following types of development do not pay CIL:
- Development of less than 100 square metres (See Regulation 42 on Minor Development Exemptions), unless this is a whole house, in which case CIL is payable
 - Houses, flats, residential annexes and residential extensions which are built by 'self-builders' (see Regulations 42A, 42B, 54A and 54B, inserted by the 2014 Regulations)
 - Social housing that meets the relief criteria set out in Regulation 49 or 49A (as amended by the 2014 Regulations)
 - Charitable development that meets the relief criteria set out in Regulations 43 to 48
 - Buildings into which people do not normally go, or into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery (see Regulation 5(2))
 - Structures which are not buildings, such as pylons and wind turbines
 - Specified types of development that local authorities have decided should be subject to a 'zero' rate and specified as such in their charging schedules
 - Vacant buildings brought back into the same use (see Regulation 40 as amended by the 2014 Regulations)
- 3.3. Where the CIL liability is calculated to be less than £50, the chargeable amount is deemed to be zero so no CIL is due.
- 3.4. Mezzanine floors of less than 200 square metres, inserted into an existing building, are not liable for CIL unless they form part of a wider planning permission that seeks to provide other works as well.
- 3.5. Landowners are ultimately liable for CIL, but anyone involved in a development may take on the liability to pay CIL. In order to benefit from payment windows and instalments, someone must assume liability in this way. Where no one has assumed liability to pay CIL, the liability will automatically default to the landowners and payment becomes due as soon as development commences (see Regulation 7 and, section 56(4) of the Town and Country Planning Act 1990, for the definition of 'commencement of development'). Liability to pay CIL can also default to the landowners where the collecting authority has been unable to recover CIL from the party that assumed liability for CIL, despite making all reasonable efforts.

Calculating the chargeable amount

- 3.6. CIL will be calculated on the basis set out in Regulation 40 of Part Five of the Community Infrastructure Levy Regulations 2010 (as amended in 2011, 2012 and 2014). CIL is calculated by multiplying the net increase in gross internal floor area (m²) by the relevant CIL rate (£/m²), plus any indexing for inflation/ deflation (between the year in which planning permission was granted and the year in which the charging schedule took effect). The basic formula for calculating CIL, as set out in Regulation 40, is as follows:

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

Where:

- R is the CIL rate in £/ sq m
- A is the net increase in gross internal floor area
- I_p is the All-in Tender Price Index for the year in which planning permission was granted
- I_c is the All-in Tender Price Index for the year in which the charging schedule started operation

Indexation and inflation

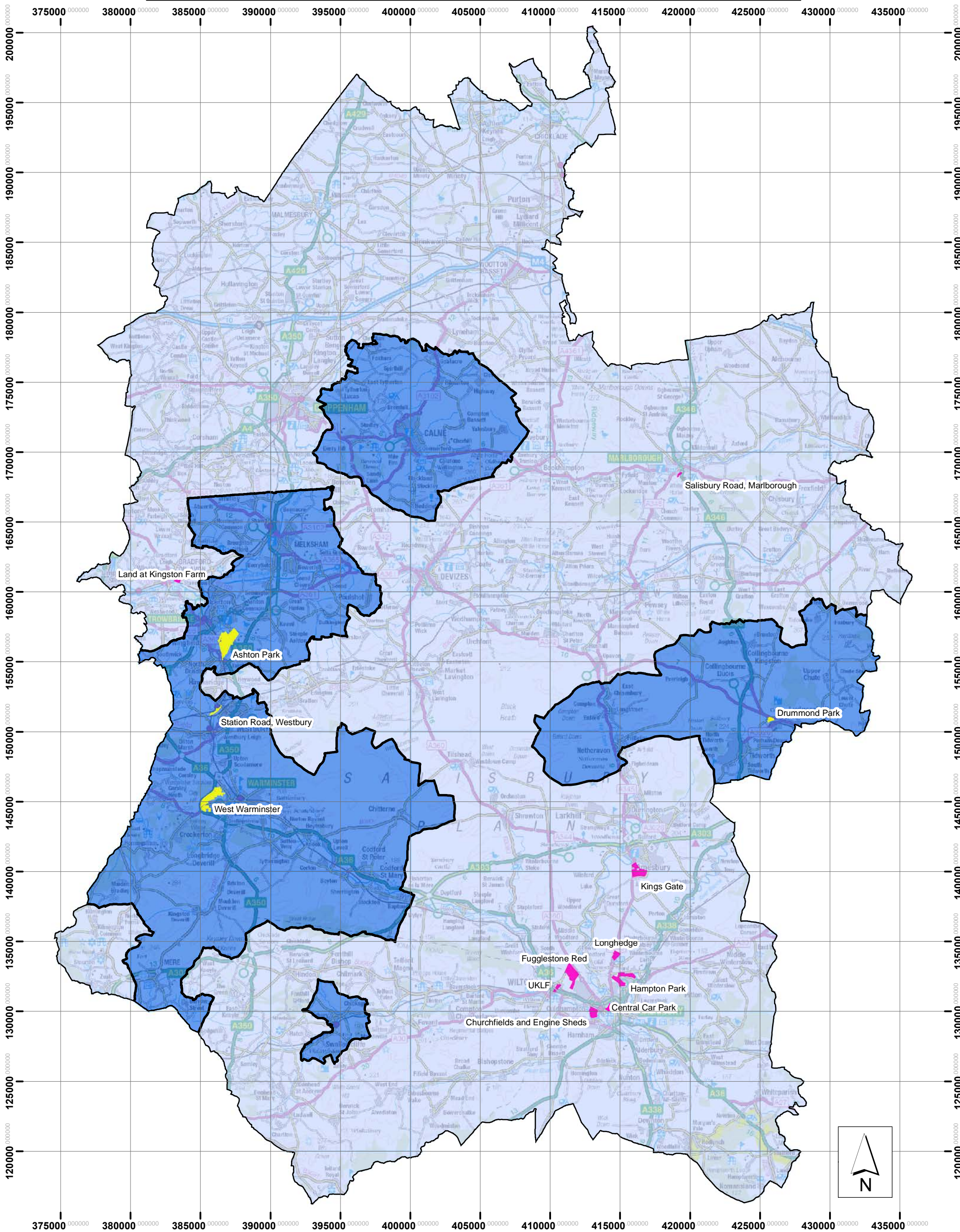
- 3.7. The rates shown will be updated annually for inflation in accordance with the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors (RICS) "All In Tender Price Index".

4. Further information

- 4.1. Further information on the Community Infrastructure Levy is available on the Council's website at www.wiltshire.gov.uk/communityinfrastructurelevy.
- 4.2. Alternatively, contact the Section 106 and Community Infrastructure Levy Administrator (Economic Development and Planning) on 01225 716766.

Appendix A: Wiltshire Residential Charging Zone Map

Appendix A – Wiltshire Residential Charging Zone Map



- Residential Charging Zone boundary
- Charging Zone 1: Settlement Categories 1, 2 and 3
- Charging Zone 2: Settlement Category 4
- Strategically Important Sites in Charging Zone 1
- Strategically Important Sites in Charging Zone 2

1:250000

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Table 2.1 of the Draft Charging Schedule sets out the oil rates for each charging zone and strategically important sites (as set out in the Wiltshire Core Strategy) within these zones.

Appendix B: List of settlements, settlement categories and charging zones

Appendix B – List of settlements, settlement categories and charging zones

NB. Read in conjunction with Appendix A – Wiltshire Residential Charging Zone Map

1) Charging Zone 1 (*settlement categories 1, 2 and 3*)

a) Settlement Category 1

Community Area	Parishes
Marlborough	All parishes

b) Settlement Category 2

Community Area	Parishes
Bradford on Avon	All parishes, except Staverton
Chippenham Community Area	All parishes
Malmesbury	All parishes
Mere	All parishes, except Mere
Pewsey	All parishes
Royal Wootton Bassett & Cricklade	All parishes
Salisbury	All parishes
Southern Wiltshire	All parishes, except Downton
Tisbury	All parishes, except Tisbury
Westbury	All parishes, except Westbury and Dilton Marsh
Wilton	All parishes

c) Settlement Category 3

Community Area	Parishes
Amesbury	All parishes
Corsham	All parishes
Devizes	All parishes
Southern Wiltshire	The parish of Downton only

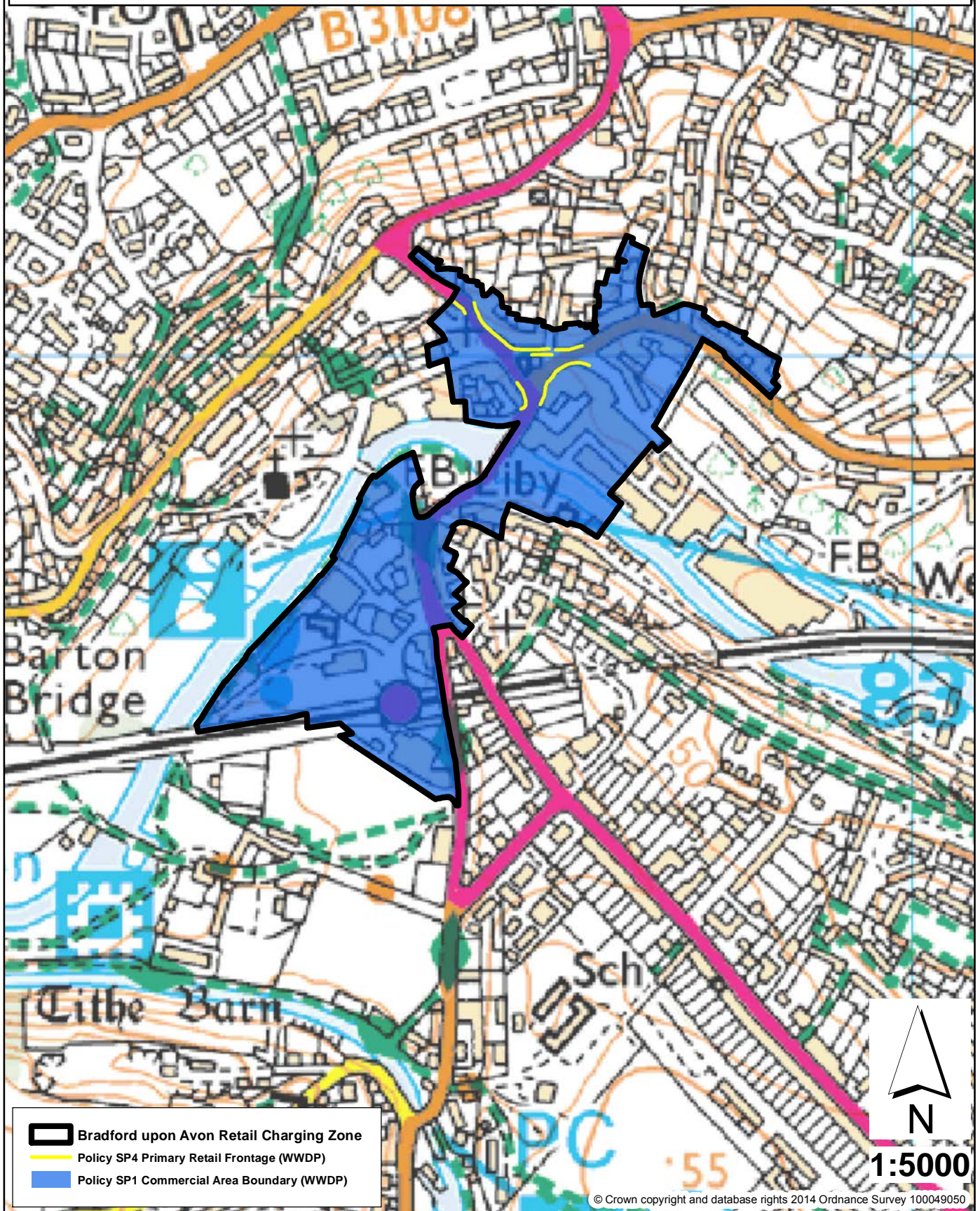
2) Charging Zone 2 (*settlement category 4*)

Community Area	Parishes
Bradford on Avon	The parish of Staverton only
Calne	All parishes
Melksham	All parishes
Mere	The parish of Mere only
Tidworth	All parishes
Tisbury	The parish of Tisbury only
Trowbridge	All parishes
Warminster	All parishes
Westbury	The parishes of Westbury and Dilton Marsh only

Appendix C1 – Bradford upon Avon Retail Charging Zone

Appendix C1

Bradford on Avon Retail Charging Zone

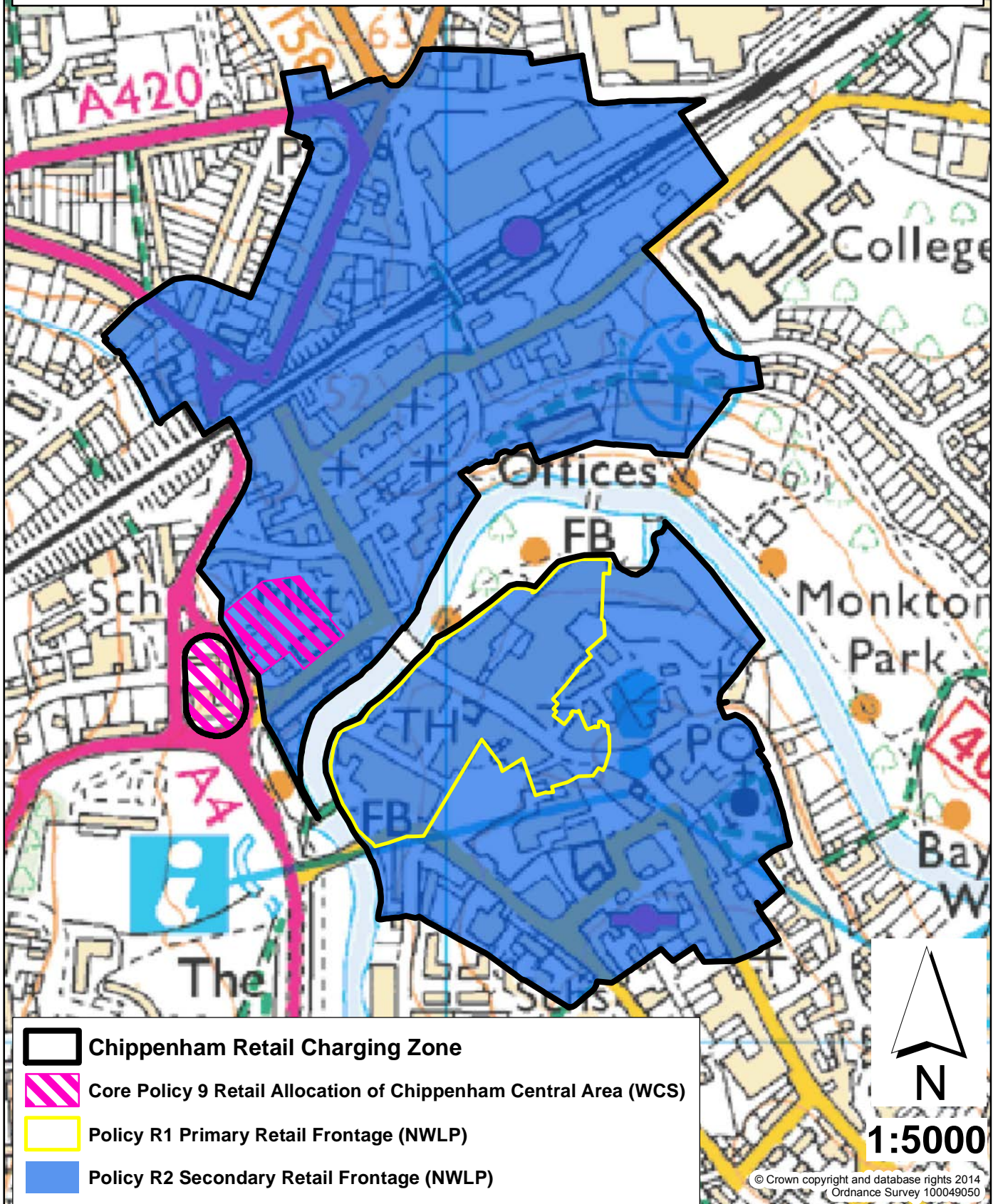


The retail charging zone boundary for Bradford upon Avon is currently drawn from the West Wiltshire District Plan – First Alteration and constitutes the “commercial area” (Saved Policy SP1). Saved policies will be reviewed through the partial review of the Core Strategy. If any amendments are made through the Core Strategy review process, then an early review of CIL may be required to update retail charging zone boundaries.

Appendix C2 – Chippenham Retail Charging Zone

Appendix C2

Chippenham Retail Charging Zone

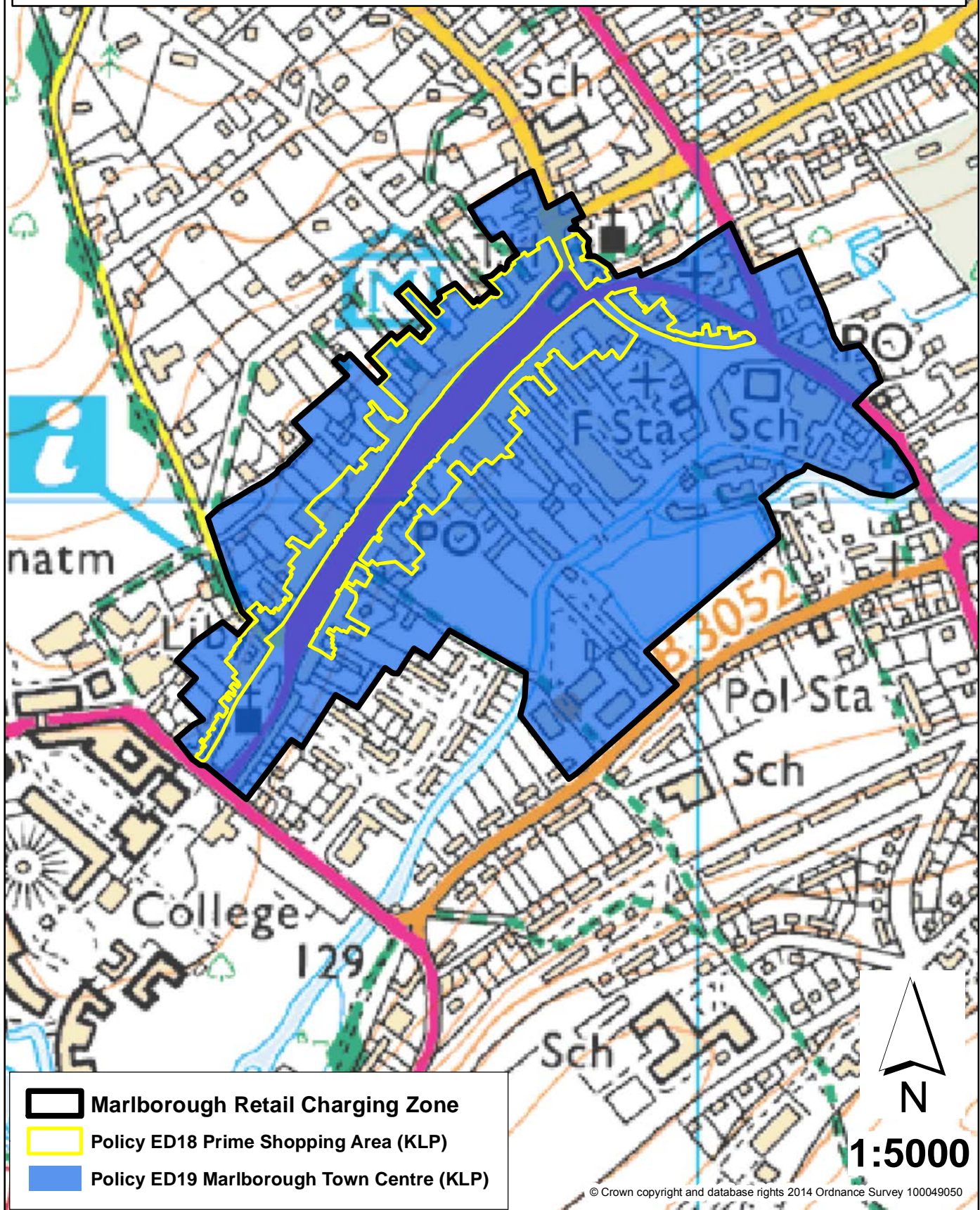


The retail charging zone boundary for Chippenham is currently drawn from the North Wiltshire Local Plan and constitutes the “secondary retail frontage area” (Saved policy R2). Core Policy 9 of the Wiltshire Core Strategy contains a retail allocation within the Central Area of Opportunity. Saved policies will be reviewed through the partial review of the Core Strategy. If any amendments are made through the Core Strategy review process, then an early review of CIL may be required to update retail charging zone boundaries.

Appendix C3 – Marlborough Retail Charging Zone

Appendix C3

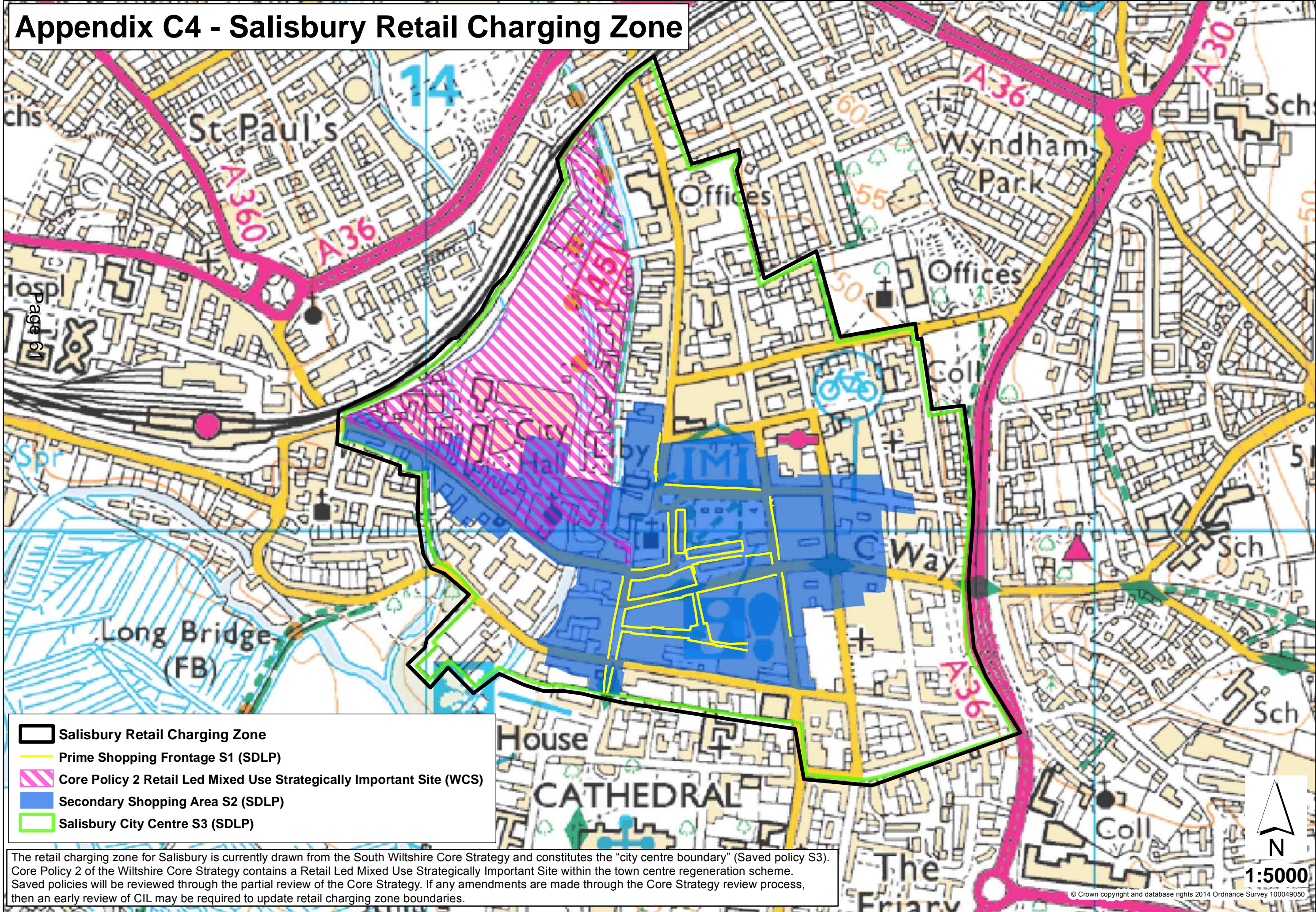
Marlborough Retail Charging Zone



The retail charging zone for Marlborough is currently drawn from the Kennet Local Plan and constitutes the “town centre” (Saved policy ED19). Saved policies will be reviewed through the partial review of the Core Strategy. If any amendments are made through the Core Strategy review process, then an early review of CIL may be required to update retail charging zone boundaries.

Appendix C4 – Salisbury Retail Charging Zone

Appendix C4 - Salisbury Retail Charging Zone



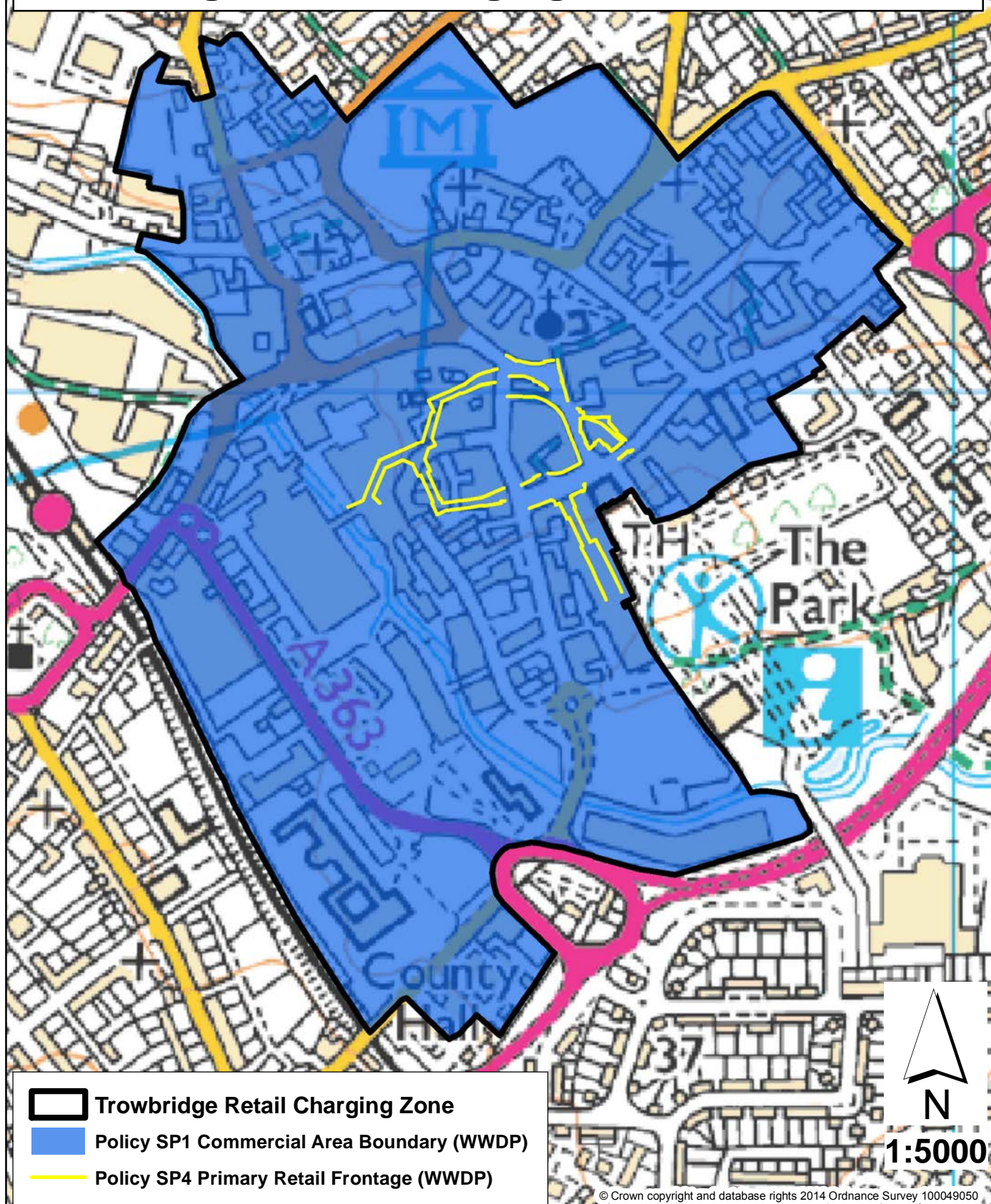
Page 61

- Salisbury Retail Charging Zone
- Prime Shopping Frontage S1 (SDLP)
- Core Policy 2 Retail Led Mixed Use Strategically Important Site (WCS)
- Secondary Shopping Area S2 (SDLP)
- Salisbury City Centre S3 (SDLP)

The retail charging zone for Salisbury is currently drawn from the South Wiltshire Core Strategy and constitutes the “city centre boundary” (Saved policy S3). Core Policy 2 of the Wiltshire Core Strategy contains a Retail Led Mixed Use Strategically Important Site within the town centre regeneration scheme. Saved policies will be reviewed through the partial review of the Core Strategy. If any amendments are made through the Core Strategy review process, then an early review of CIL may be required to update retail charging zone boundaries.

Appendix C5 – Trowbridge Retail Charging Zone

Appendix C5 Trowbridge Retail Charging Zone



The retail charging zone for Trowbridge is currently drawn from the West Wiltshire District Plan – First Alteration and constitutes the “commercial area” (Saved Policy SP1). Saved policies will be reviewed through the partial review of the Core Strategy. If any amendments are made through the Core Strategy review process, then an early review of CIL may be required to update retail charging zone boundaries.

This document was published by Economic, Development and Planning, Wiltshire Council.

For further information please visit the following website:

<http://consult.wiltshire.gov.uk/portal>

Wiltshire Community Infrastructure Levy

Revised Draft Regulation 123 List and Other CIL Policies

Consultation Report

April 2015

[TRANSLATIONS]

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Appendix A – List of respondents

Appendix B – Consultation materials

1. Introduction

- 1.1. The revised Draft Regulation 123 List sets out the types of infrastructure that the council intends will be, or may be, wholly or part funded by the Community Infrastructure Levy (CIL). The inclusion of an infrastructure type on the list does not signify a commitment from the council to fund (either in whole or part) the listed project or type of infrastructure. The order of the list does not imply any preference or priority.
- 1.2. Wiltshire Council may seek planning obligations through section 106 agreements for specific infrastructure projects or types of infrastructure included within this list but **only where the requirement is created by five or fewer developments**. Any such site-specific infrastructure requirements will be subject to the three statutory tests set out under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).
- 1.3. Appendix A to the revised Draft Regulation 123 List provides more detail on how the List will be applied drawing on examples from the council's Infrastructure Delivery Plan.
- 1.4. The revised Draft Regulation 123 List incorporates changes made by the council to the draft Regulation 123 List submitted to the independent examination of the Wiltshire CIL Draft Charging Schedule.
- 1.5. To accompany the adoption and implementation of the Wiltshire CIL Charging Schedule, the council will also need to publish its approach to paying CIL by instalments and in-kind, as well as its position on offering various types of discretionary relief from CIL, e.g. exceptional circumstances, social housing and charitable development relief.
- 1.6. Between 23 March and 22 April 2015, the council consulted on a revised draft Regulation 123 List, an instalment policy for the payment of CIL and its approach to other CIL policies, alongside a draft Planning Obligations Supplementary Planning Document (SPD).
- 1.7. The Regulation 123 List and other CIL policies should be read in conjunction with the Wiltshire Community Infrastructure Levy (CIL) Charging Schedule and the Planning Obligations SPD. The council intends to adopt the charging schedule and the SPD, alongside the Regulation 123 List and other CIL policies, in May 2015.
- 1.8. Regulation 123 of the CIL Regulations 2010 (as amended) requires the council, as the CIL charging authority for Wiltshire, to publish a list of infrastructure projects or types that it intends will be, or may be, wholly or partly funded by CIL. The council cannot seek a planning obligation towards infrastructure projects or types on this list as a reason for granting planning permission for a development. If the council does not publish a List, then it cannot seek a planning obligation towards any infrastructure.

- 1.9. The council produced this document, a 'Consultation Report', to set out: the consultation methodology, the representations received to the revised draft Regulation 123 List and other CIL Policies consultation, and a summary of key issues and how the council has considered the representations.

Structure of this document

- 1.10. Chapter 2 lists the various ways by which the council consulted upon the Regulation 123 List and other CIL policies.
- 1.11. Chapter 3 provides a breakdown of the number of representations received.
- 1.12. Chapter 4 summarises the key issues arising from the representations with officer comments and proposed changes.
- 1.13. Chapter 5 lists a series of key changes as a result of the representations on the Regulation 123 List and other CIL policies. It also sets out the next steps and a timetable.
- 1.14. Appendix A provides a list of respondents to the consultation on the Regulation 123 List and other CIL policies.
- 1.15. Appendix B collates the various consultation adverts and notices.

2. Consultation methodology

2.1. The council consulted on the Regulation 123 List and other CIL policies in the following ways

- Town and parish newsletter (published week commencing 13 April 2015)
- Local newspapers (i.e. Wiltshire Times, Wiltshire Gazette and Herald and Salisbury Journal) (published week commencing 16/03/2015)
- Direct email/ letter notifications to: all town and parish councils; neighbouring authorities; national/local developers, landowners and property agents; infrastructure providers; local businesses and Chambers of Commerce; charities and voluntary organisations; and local interest groups
- Hard copies of all consultation documents available from the main council offices (at Chippenham, Devizes, Trowbridge and Salisbury) and libraries
- Information published on the council's website and electronic copies of all consultation documents available from the council's website and online consultation portal
- Comments accepted by post, email and online through the council's consultation portal

2.2. The following consultation material was provided:

- Wiltshire Draft Regulation 123 List (March 2015)
- Wiltshire Community Infrastructure Levy (CIL) Policies Consultation Document (March 2015)
- Wiltshire Draft Planning Obligations Supplementary Planning Document (March 2015)
- Representation Form (PDF and WORD versions)

3. Representations

- 3.1. In all, the council received representations on the draft SPD from 33 different individuals or organisations.
- 3.2. *Figure 3.1* below illustrates the breakdown of respondent by type. It shows that the largest groups of respondents were landowners and developers and advisory and local interest organisations. Other representations were received from infrastructure providers, town and parish councils, neighbouring authorities and individuals.

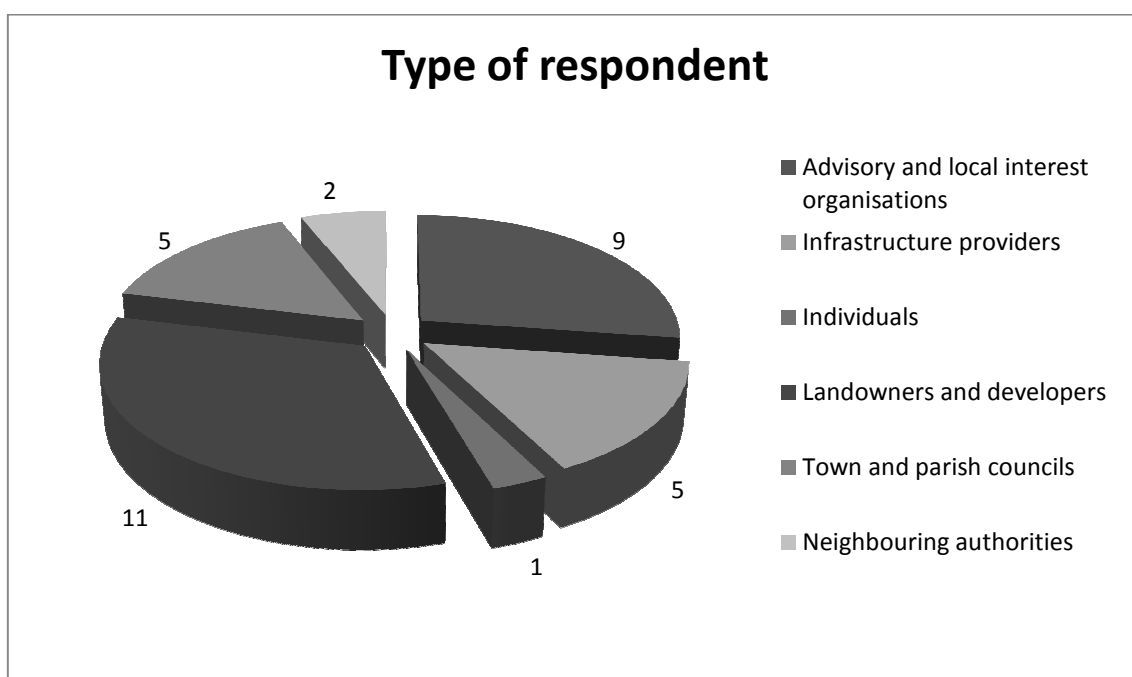


Figure 3.1 – Number of representations by type of respondent

- 3.3. *Figure 3.2* below illustrates the methods by which representations were received.

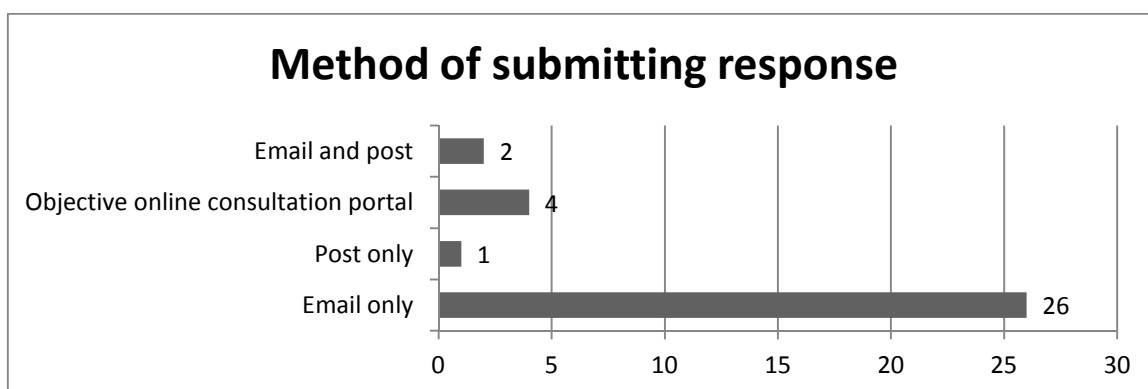


Figure 3.2 - Number of representations received by method

4. Summary of the main issues raised by the representations

- 4.1. The main issues raised by the representations are summarised in *Table 4.1*, with officer commentary and proposed changes, and ordered by the following topics:
- Changes to the draft Regulation 123 List (March 2015)
 - Content of the Regulation 123 List (inc. infrastructure types/ sub-types)
 - Review and consultation process
 - Spending of CIL
 - Instalments policy
 - Other policies
- 4.2. The number in the column titled ‘#’ can be used to link the issues to individual respondents listed in *Appendix A*.
- 4.3. All individual representations are available to view in full, either through the council’s online consultation portal at <http://consult.wiltshire.gov.uk/portal>.

Table 4.1 – Summary of main issues raised by the consultation

Topic	#	Issues	Officer comments/ proposed changes
Changes to the draft Regulation 123 List (March 2015)	5	Changes to the draft Regulation 123 List (March 2015) create a lack of clarity and transparency and will lead to uncertainty. The previous version, which was submitted for examination (June 2014), provided certainty and transparency.	<p>The council welcomes the acknowledgement that the submitted draft Regulation 123 List (June 2014) provided certainty and transparency because it considers that nothing has been fundamentally changed in the draft Regulation 123 List (March 2015).</p> <p>The extra words added to Table 1, i.e. ‘<i>except where the requirement can be attributed to five or fewer developments</i>’,</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>are not new and in fact were present in the submitted draft Regulation 123 List (June 2014). Specifically, in paragraph 1.3, third bullet point, of the supporting text, where the council states that it may seek planning obligations towards infrastructure projects, or types, included on the Regulation 123 List but only where there is a need for site-specific infrastructure contributions that ‘...arises from five or fewer developments.’</p> <p>In any case, the council is simply clarifying the pooling limit on planning obligations, introduced by the CIL Regulations 2010 (as amended) that came into force on 6 April 2015.</p> <p>The council also submitted for examination a Planning Obligations Position Statement. This document set out the “residual role for S.106 planning agreements once the CIL regime is in place” and provided the examiner with a series of examples of how CIL and S106 will work in practice. In his report (para 25) the examiner reflected on the relationship between the submitted materials and concluded that when “reviewed together, the Draft Regulation 123 list and the Planning Obligations Position Statement provide a useful and unambiguous distinction between the two [CIL vs S106] infrastructure mechanisms.”</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>As the 'amendments' the Council may have made to the Regulation 123 list essentially reflect the approach taken in the Planning Obligations Position Statement, the council has not actually done anything to alter the position in relation to evidence (IDP), viability and attitude towards funding infrastructure. If anything, the council has made things more clear.</p> <p>No change</p>
	7	<p>Changes to the draft Regulation 123 List (March 2015) undermine the viability evidence upon which the CIL rates were derived.</p> <p>The assumption for four out of the five development typologies was that an allowance of £1000 per dwellings would be required for site-specific infrastructure. This was the assumption tested at examination. No strong objections were raised by the development industry as there were no caveats present in the submitted draft Regulation 123 List (June 2014).</p> <p>Had the draft Regulation 123 List (March 2015) been before the Examination, significant concerns would have been raised that the £1000 allowance would be wholly inappropriate and considerably below the potential scale of the obligations sought. The development industry would have raised objections and proposed an alternative s106 assumption.</p>	<p>Disagree.</p> <p>First of all, it is incorrect to suggest that the draft Regulation 123 List the council submitted for reference was in some way 'independently tested alongside the Charging Schedule at the CIL examination'. In his report, the examiner discusses the draft R123 List but, with "reference to the 2014 Guidance", makes it clear that "it is not the purpose of the CIL examination to 'challenge' the Draft Regulation 123 list". However, in accordance with Regulation 20, he nonetheless fully considered all representations submitted in relation to the Draft Charging Schedule.</p> <p>The four typologies referred to are all for development sizes fewer than 70 dwellings. As discussed at Examination,</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>it is unlikely that developments of this size will have significant site-specific infrastructure requirements and, therefore, the £1000 per dwelling allowance is considered appropriate.</p> <p>The fifth typology applied to development sizes of 70 units and over and made a s106 allowance of £15,000 per dwelling. Larger developments may, but not always, have significant site-specific requirements and, therefore, the £15,000 per dwelling allowance was included in the viability assessments to reflect this.</p> <p>As well as an increased s106 allowance for larger sites, the council also addressed their potentially higher site-specific requirements by proposing a reduced rate of CIL for sites allocated in the Core Strategy. The council's proposal to extend this to other sites to be allocated through the forthcoming Housing Sites DPD was rejected by the CIL Examiner, for the reasons set out in his report.</p> <p>Furthermore, no viability evidence has actually been produced to substantiate these arguments. In contrast, the council was able to demonstrate at examination that the actual costs of implementing CIL would a) not put at risk 'the relevant plan' and b) represent approximately 1-</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>2% of scheme value.</p> <p>Overall, the council considers that, on the basis that the Regulation 123 List could not be 'challenged' at the examination and hasn't been fundamentally altered since, plus a distinct lack of evidence to substantiate the assertions made by HBF, the proposed Regulation 123 List will not ruin development prospects across Wiltshire.</p> <p>No change</p>
	9	<p>Changes to the draft Regulation 123 List (March 2015) create uncertainty over the delivery of infrastructure and supporting Hallam Land Management and Bloor Homes outline planning application for residential-led East of Melksham development. Risk of developers being double charged for the same infrastructure item through both CIL and s106.</p> <p>Developers did not object to the CIL Draft Charging Schedule regarding the east Melksham development because took the submitted draft Regulation 123 List (June 2014) to mean that CIL would fund the delivery of all required education and community facilities. The changes in the draft Regulation 123 List (March 2015) raise doubt and uncertainty and the potential for double charging. If these had been present in the submitted draft Regulation 123 List (June 2014), then developers would have objected and participated in the CIL examination.</p> <p>Assumed that GP surgery/ community hall would be delivered through the CIL payment in kind mechanism and expansion of education facilities/ maintenance of open space covered by CIL. However, if these are not funded through CIL then developers would strongly object to the Regulation 123 List.</p>	<p>Disagree, for reasons outlined in response to issue #5 and #7 above.</p> <p>However, Hallam Land Management and Bloor Homes are responsible for their own decision not to participate in the CIL examination. As pointed out in the council's response to issue #5, the draft Regulation 123 List (June 2014) was not specifically examined and, in any case, the council does not consider that it has fundamentally changed in the draft Regulation 123 List (March 2015).</p> <p>The council is unsure why Hallam Land Management and Bloor Homes have assumed that infrastructure would be delivered through an infrastructure payment in kind policy for CIL because the council is not, and never has, been</p>

Topic	#	Issues	Officer comments/ proposed changes
		Developers request clarification regarding the planning application at east Melksham.	proposing to introduce such a policy (<i>see CIL Policies Consultation Document</i>). No change
	18	Without certainty and updated viability assessment, unclear how adoption of Regulation 123 List will affect the viability of the King's Gate development – given that it generated a negative residual value back in November 2013.	The council is not required to conduct a viability assessment on behalf of the developers of a particular site. No change
	19	The draft Regulation 123 List (March 2015) proposes that education sites will be secured through s106 agreements – this will lead to developers of major sites providing strategic infrastructure and paying a CIL contribution towards strategic infrastructure at the same time.	The council understands that Regulation 122 prevents it from funding the same infrastructure item through both CIL and s106. The pooling limits, which came into force on 6 April 2015 (and backdated to include all planning obligations entered into since 6 April 2010) prevent the council from entering into more than five separate planning obligations for the same infrastructure item. No change
	26	More clarity is needed on whether a new school, which is proposed as part of the Land to the north of Victoria Road site (Hannick Homes and Persimmon Homes) would be delivered through a planning obligations as understood. Further detail is required in Appendix A of the Regulation 123 List and p.14 of the Planning Obligations SPD.	Site specific infrastructure will be secured through planning obligations. Up to five separate planning obligations can be pooled towards the same infrastructure item. The list as drafted will allow this to be delivered. No change

Topic	#	Issues	Officer comments/ proposed changes
Content of the Regulation 123 List (inc. Infrastructure types/ sub-types)	1	Add specific reference to sub-types of open space/ green infrastructure and community/ cultural facilities, such as those in paragraph 6.2 of the draft Planning Obligations SPD	Disagree. The council considers there to be no great merit in specifying more detailed sub-sets of infrastructure under the broad identified types. To do so might unduly raise expectations of funding. Appendix 1 to the draft Regulation 123 List provides examples of how CIL and planning obligations might work in practice. No change
	4	Lack of reference to the use of CIL to fund historic environment infrastructure	The historic environment is a distinct type of infrastructure, rather than a sub-set. There is a brief reference to heritage assets in Appendix A, which is linked to public realm infrastructure, but under the 'other' category. Change: Add an extra row to Table 1 as follows: <u>Historic environment and public realm infrastructure</u> <u>The provision, improvement, replacement, operation or maintenance of new and existing historic and public realm infrastructure, except where the requirement can be attributed to five or fewer developments.</u>
	8	Lack of reference to canals, which could fall under either open space/	The council considers there to be no

Topic	#	Issues	Officer comments/ proposed changes
		green infrastructure or cross boundary infrastructure	<p>great merit in specifying more detailed sub-sets of infrastructure under the broad identified types. To do so might unduly raise expectations of funding. Appendix 1 to the draft Regulation 123 List provides examples of how CIL and planning obligations might work in practice.</p> <p>No change</p>
	10	No reference in Appendix A to specific infrastructure projects in Westbury	<p>Appendix A does not reference any community areas. Its purpose is to provide examples of how CIL and s106 will work in practice. This does not preclude CIL being spent on infrastructure projects in Westbury.</p> <p>No change</p>
	16	While Highways England would expect that strategic transport infrastructure would be included on the List, it accepts that the nature and cost of schemes is not known and, therefore, a funding gap cannot be identified for which CIL receipts are required. Have the relevant costs have been taken into account when setting the CIL level?	<p>As Highways England acknowledge, the nature and cost of strategic road network schemes are not known at the present time.</p> <p>No change</p>
	21	Regulation 123 List is very generic, with few schemes identified to demonstrate what schemes CIL payments will apply to and the estimated cost of these schemes to justify the CIL tariff set.	<p>Appendix A to the Regulation 123 List provides examples of how s106 and CIL might operate in practice.</p> <p>The council submitted an Infrastructure Funding Gap Analysis (IFGA) to support the Wiltshire CIL Draft Charging Schedule at examination. The IFGA</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>drew upon projects identified and costed in the council's Infrastructure Delivery Plan to identify the total cost of infrastructure schemes that were CIL eligible. The amount of known available funding from other sources was taken away from the total cost to identify a funding gap towards which CIL is intended to contribute.</p> <p>No change</p>
	22	<p>Sport England are concerned that the council could be challenged by developers due to the wording of the draft Regulation 123 List and the draft Planning Obligations SPD.</p> <p>Recommend that the Regulation 123 List should state specific infrastructure projects. By using generic wording, a developer could claim that a s106 contribution cannot be collected for a project of this type because contributions are already being collected through CIL.</p> <p>Suggest specific strategic projects are put on the Regulation 123 List, with smaller scale projects funded through s106 agreements with identified sites, bearing in mind the pooling restrictions.</p> <p>The council's Playing Pitch Strategy will help the council determine sports infrastructure requirements and Sports England will work with the council to ensure that the outputs from this work and the council's other strategies for outdoor and indoor facilities can be fed into the council's Regulation 123 List, IDP and SPD.</p>	<p>The council's approach was supported by the CIL Examiner in his report (dated 16 March 2015). The council submitted a draft Regulation 123 List (June 2014) and a Planning Obligations Position Statement (now Appendix A to the Regulation 123 List). The latter document set out the "residual role for S.106 planning agreements once the CIL regime is in place" and provided the examiner with a series of examples of how CIL and S106 will work in practice.</p> <p>In his report (para 25) the examiner reflected on the relationship between the submitted materials and concluded that when "reviewed together, the Draft Regulation 123 list and the Planning Obligations Position Statement provide a useful and unambiguous distinction between the two [CIL vs S106] infrastructure mechanisms."</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>The draft Regulation 123 List (March 2015) has not been fundamentally changed since the version submitted for examination. The amendments made essentially reflect the approach taken in the Planning Obligations Position Statement.</p> <p>The council welcomes the support of Sports England in developing the council's approach to infrastructure planning and delivery.</p> <p>No change</p>
	23	Appendix A should be subdivided to take account of the needs of each of the three services. Specifically, the following text should be added; 'Fire stations and associated facilities and requirements and all matters associated with the delivery of fire station services'	<p>Appendix A is intended to provide examples of how s106 and CIL would operate in practice. The council does not believe that specifying further sub-types of emergency services infrastructure would add greatly to the clarity of the document and it may raise expectations of funding unnecessarily.</p> <p>No change</p>
	25	Clarify that where the Regulation 123 List states '... except where the requirement can be attributed to five or fewer developments' that it relates to instances where no more than five obligations for that project or type of infrastructure have been entered into since 6 April 2010.	<p>The council will amend the Regulation 123 List accordingly. The start date for the pooling limit is already referenced in paragraph 2.12 of the SPD.</p> <p>CHANGE:</p> <p>Amend the supporting text in the draft Regulation 123 List as follows:</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>Wiltshire Council may seek planning obligations through section 106 agreements for specific infrastructure projects or types of infrastructure included within this list but only where the requirement is created by five or fewer developments. <u>This pooling limit is backdated to include all planning obligations entered into since 6 April 2010.</u> Any such site-specific infrastructure requirements will be subject to the three statutory tests set out under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).</p>
	47	AONB Management Plan policies PT5 and PT6 should be referenced.	<p>The AONB Management Plan policies guide the actions of the AONB rather than set out what the council might expect from developers in terms of planning obligations. Policy PT5 states that the AONB will work with local planning authorities to identify infrastructure projects and priorities. The council welcomes this cooperation and will continue to consult the AONB on local planning policy documents.</p> <p>Policy PT6 states that the AONB will encourage local planning authorities to spend CIL on AONB management plan projects. The council considers that any such projects would be likely to fall under the infrastructure types set out in</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>the draft Regulation 123 List and, therefore, eligible to be considered for CIL funding. The council will seek site-specific mitigation of the impact of development through planning obligations. This would apply to development taking place within the AONB area, as in any other area of Wiltshire.</p> <p>No change.</p>
	48	No reference to landscapes or landscape management in connection with green infrastructure. Designated areas, such as the AONBs and special landscape areas form part of green infrastructure and should be explicitly included	<p>The council considers that any such projects would be likely to fall under the infrastructure types set out in the draft Regulation 123 List.</p> <p>The council considers there to be no great merit in specifying more detailed sub-sets of infrastructure under the broad identified types. To do so might unduly raise expectations of funding. Appendix 1 to the draft Regulation 123 List provides examples of how CIL and planning obligations might work in practice.</p> <p>No change</p>
Review and consultation process	2	Process for updating the Regulation 123 List and the Infrastructure Delivery Plan (IDP) should be defined.	When the council updates the Regulation 123 List, this process will be clearly explained and subject to appropriate local consultation in line with the CIL Regulations 2010 (as amended).

Topic	#	Issues	Officer comments/ proposed changes
			<p>It is unlikely that the council will accrue a significant pool of CIL funding until a few years after implementing CIL. However, the council recognises the need to develop and set out its approach to identifying a process for reviewing the Regulation 123 List and identifying funding priorities to provide clarity and avoid raising expectations.</p> <p>No change</p>
	3	Unclear how projects have been selected for inclusion in the IDP e.g. SAL017 Boathouse for Wiltshire Scullers School. How can the local community make its views known? Local communities should be involved in updating the IDP and the Regulation 123 List. This would be in line with the council's Business Plan 2015-2017 and CIL guidance, which requires appropriate local consultation when local authorities wish to revise their Regulation 123 List.	<p>The council has consulted extensively with infrastructure service providers on the content of the IDP. As part of the evidence base supporting the Wiltshire Core Strategy and the CIL Charging Schedule, the IDP has also been made available for public comment during consultations/ examinations on those documents. It is anticipated that the IDP will be further updated and available for comment during formal consultations on the forthcoming Housing Sites DPDs.</p> <p>The council will consider suggestions for the inclusion of projects within the IDP. However, the council would encourage community groups to work with town and parish councils to draw up their own infrastructure priorities for their area. This would help them in directing their proportion of CIL receipts towards local community infrastructure projects. It is important to remember that CIL will not</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>fund all infrastructure. The strategic purpose of CIL and, thus, infrastructure on the Regulation 123 List, means that town and parish council CIL receipts (along with other sources of funding) might be a more appropriate avenue to explore.</p> <p>No change</p>
	17	In addition to the monitoring required under CIL Regulation 62, Highways England suggest that the council might wish to assist the local community, developers and others by including on the website an indicative forward profile of future spend that would then inform any review of the IDP and Regulation 123 List.	<p>The council welcomes Highways England suggestion of a list of projects that CIL would be spent on in the future but considers that this is actually the purpose of the Regulation 123 List and looks forward to working with Highways England to identify specific schemes for inclusion.</p> <p>No change</p>
	24	Request information on the decision process for the allocation of CIL funding, spending prioritisation and how much CIL funding the Wiltshire Fire and Rescue Service can expect to receive to assist with the delivery of identified infrastructure projects.	<p>It is unlikely that the council will accrue a significant pool of CIL funding until a few years after implementing CIL. However, the council recognises the need to develop and set out its approach to identifying a process for reviewing the Regulation 123 List and identifying funding priorities to provide clarity and avoid raising expectations.</p> <p>No change</p>
Spending of CIL	6	Developers/ landowners have no control over how CIL receipts are spent. No guarantee that a CIL payment within one community area will result in	It is long established principle in the CIL Regulations and national planning

Topic	#	Issues	Officer comments/ proposed changes
		improved or enhanced infrastructure in that location to support development.	guidance that, unlike s106, the spending of CIL is not tied to a particular development or area. CIL is intended to contribute towards the strategic impact of development over a wider area. No change
	11	Wiltshire Council negotiations over CIL payments should not include the proportion passed to parishes.	The payment of CIL is not negotiable. In any case, it is up to the parishes how they spend their proportion of CIL. They are not restricted by the council's spending decisions. No change
	12	Unpaid CIL instalments should be secured against the developers assets.	There are various enforcement measures that the council can use in the event of non-payment of CIL. However, there is no provision in the CIL Regulations for outstanding CIL payments to be secured against a developer's assets. No change
	13	Concern that developers will end up paying twice for the same infrastructure, e.g. CIL towards the cumulative impact of the development on education provision, sustainable transport provision, health provision and community infrastructure, and s106 towards the site-specific requirements generated by that development, or up to five developments in aggregate.	The council is well aware that the CIL Regulations and national planning guidance preclude it from securing funding from both CIL and s106 towards the same infrastructure project. The council will not be spending CIL on infrastructure projects secured through s106.

Topic	#	Issues	Officer comments/ proposed changes
			No change
	14	Development taking place outside Salisbury City Council boundaries will impact upon the city rather than the neighbouring parishes in which the development takes place. Core Policy 3 references the need for town and parish councils and other stakeholders to work together to establish local priorities and organise funding through CIL (and planning obligations) as appropriate. How will this work in practice?	<p>Town and parish councils can spend their proportion of CIL on infrastructure outside their boundaries if it supports development within their boundaries. Therefore, CIL receipts passed to parishes bordering Salisbury City Council boundaries could be spent on infrastructure within the city boundaries. The council would encourage parishes to work together to identify local infrastructure needs resulting from new developments and how they could be funded through town and parish CIL receipts. The council would still seek site-specific infrastructure requirements through planning obligations, and strategic infrastructure requirements that address the cumulative impact of development through its proportion of CIL.</p> <p>No change</p>
	15	Request a realistic amount allocated from CIL towards cycling infrastructure projects in the IDP (i.e. £620K p.a. or £9m+ between 2011 and 2026).	<p>The council has long recognised that it has never been the intention, nor is it possible, that CIL will fund all the demands for infrastructure provision. Instead, the purpose of CIL is to contribute towards funding infrastructure, in conjunction with other sources of funding.</p> <p>The figure included in the IDP for</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>spending on walking and cycling infrastructure is derived from the evidence base underpinning the transport strategies for the principal settlements of Chippenham, Salisbury and Trowbridge. When the IDP is updated, the latest information and figures will be included.</p> <p>No change</p>
	20	Full CIL requirements relating to education and health should be assessed and calculated now so that landowners/ developers can be clear on the tariffs being sought.	<p>The CIL rates that apply to different types of development are clearly set out in the Wiltshire CIL Charging Schedule.</p> <p>A tariff system cannot be used to secure planning obligations towards infrastructure. Instead, site-specific infrastructure is requested on a case-by-case basis. Planning obligations must meet the statutory tests set out in the CIL Regulations 2010 (as amended) and no more than five separate planning obligations can be pooled towards the same infrastructure item.</p> <p>No change</p>
Instalments policy	27	Support principle of an instalments policy	<p>Support noted.</p> <p>No change</p>
	28	Concern over the structure of the proposed approach to CIL instalments policy insofar as it's based on 'days elapsed' rather than trigger points linked to individual site circumstances.	<p>The approach proposed has been tailored along the lines of tried and tested approaches from the</p>

Topic	#	Issues	Officer comments/ proposed changes
			<p>implementation of CIL in other local authorities. In addition, the approach proposed is considered to accord with the provisions of Regulation 69B of the amended CIL regulations. Therefore, at this stage, the approach is considered to be reasonable and workable.</p> <p>No change</p>
	30	Remove the requirement that the timing of the final payment should always fall upon completion of the development – most developments do not start to deliver value until after completion. Places an unnecessary burden on cash-flow.	<p>The council does not consider that there is any evidence put forward to justify changing the council's proposed instalments policy, which is derived from assumptions made in the CIL Viability Study (November 2013) and is in line with practice elsewhere.</p> <p>For large scale developments, the council has the option of allowing such developments to be delivered in phases. The CIL Regulations (Regulation 8(3A) as amended by the 2014 Regulations) allow for both detailed and outline permissions (and therefore 'hybrid' permissions as well) to be treated as phased developments for the purposes of CIL. This means that each phase would be a separate chargeable development and therefore liable for payment in line with the council's instalment policy.</p> <p>The council will regularly monitor and review the implementation of CIL,</p>
	31	<p>Schemes with CIL payments over £500,000, of which there will be a significant number, would be better served by payment in four instalments, as opposed to three, i.e.</p> <ul style="list-style-type: none"> • 25% payable within 60 days • 25% payable with 420 days • 25% payable within 660 days, and • 25% payable within 720 days <p>Or,</p> <p>Add an additional band to instalments policy – for schemes with a CIL liability over £750,000 to follow the above proposed format.</p>	
	34	Suggest that the dates in the CIL Instalments Policy relate to multiples of 365 days for convenience.	
	35	<p>For large developments, suggest spreading infrastructure costs over a longer period, as follows:</p> <ul style="list-style-type: none"> • for CIL liability of between £35,000 and £250,000, that the final 	

Topic	#	Issues	Officer comments/ proposed changes
		<p>payment is payable within 365 days (rather than 360 days)</p> <ul style="list-style-type: none"> for CIL liability of between £250,000 and £500,000, that the first 35% payment be made within 365 days (rather than 360 days) for CIL liability of over £500,000 – and there is no upper limit specified here - that the first 35% payment be made within 730 days (rather than 360 days) and that the final 35% payment be made within 1460 days 	<p>including the efficacy of its instalment policy. The council has the flexibility to revise or withdraw the policy when appropriate, subject to providing at least 28 days notice.</p> <p>No change</p>
	40	Request greater certainty about how the instalments policy will be applied to strategic sites/ allocations	
	41	Initial payment of 30% within 60 days of commencement could delay delivery – high number of strategic allocations within Wiltshire; most other authorities require 20% payment within that period owing to high upfront costs associated with starting construction	
	44	Lower initial instalment of 20%, followed by three further instalments (four instalments in total, rather than three)	
	45	<p>Instalments policy inflexible in accommodating various scales of development.</p> <p>Difference between 1st tier (i.e. 100% of CIL liability up to £35k within 60 days) and 2nd tier (£35k to £250k in three instalments) is too great.</p> <p>Potential to penalise smaller development proposals that generate a small increase in floorspace, such as hotel developments to deliver a limited number of additional rooms/ facilities only be recouped over the longer term, where a high upfront CIL payment could generate cash-flow problems.</p> <p>Suggest additional payment tiers, otherwise a payment of £35K has to be paid in one instalment, whereas £35,001 could be spread over three</p>	

Topic	#	Issues	Officer comments/ proposed changes
		<p>instalments</p> <p>Suggested instalments policy:</p> <ul style="list-style-type: none"> • CIL liability between £15K and £35K payable in two instalments • CIL liability between £35,001 and £150K payable in three instalments • CIL liability above £150K payable in four instalments 	
	32	<p>Potential implication of CIL instalment policy is that a funding shortfall could exist for Regulation 123 schemes, e.g. where high cost strategic schemes are necessary early in the CIL period. Where schemes are necessary to ensure development impact on the strategic road network is not severe, Highways England would normally recommend a planning condition that any necessary mitigation is in place prior to the severe impact occurring. Any delay due to CIL accrual falling behind scheme spending requirement could result in delays to development occupations. This could apply to local road schemes and strategic road network schemes. Highways England request suitable reassurance that there are contingencies in place to ensure that this situation does not occur and reduce the risk that infrastructure may be delayed due to any instalments arrangement.</p>	<p>The council would expect that schemes that mitigate the impact of specific development on the strategic road network would be secured through planning condition or planning obligation.</p> <p>CIL is intended to contribute towards infrastructure that addresses the cumulative impact of development. It must be recognised that CIL receipts will take time to accrue and may not be available in sufficient amounts towards the beginning of its operation.</p> <p>No change</p>
	38	<p>Will the instalments policy apply for contributions to Wiltshire Fire and Rescue?</p>	<p>The instalments policy sets out the proposed schedule for payment of CIL by developers. CIL is paid into a 'central pot' held by the council. This money will then be spent on infrastructure types or projects on the Regulation 123 List.</p> <p>No change</p>

Topic	#	Issues	Officer comments/ proposed changes
	42	<p>Seek unequivocal confirmation that the council will agree to CIL being applied to phases or sub-phases of strategic sites – requires clarification on what constitutes a strategic site and a phase/ sub-phase.</p> <p>Change the wording that the council 'may' allow phased developments for the purposes of CIL to 'will' allow.</p> <p>Instalments policy should specifically state that it will apply to phases/ sub-phases of development</p> <p>Instalments policy should make specific reference that the council will agree to CIL being levied on phases or sub-phases of 50 dwellings or more</p>	<p>It is not for the council to decide for developers how they phase their development.</p> <p>It is down to the developer to make their proposals and the local planning authority to consider them.</p> <p>Disagree with proposals to specify that CIL will apply to phases/ sub-phases of 50 dwellings or more.</p> <p>No change</p>
	43	Viability doubts over proposals in category 4 settlements	<p>The settlement category 4 rates were considered at the examination. See examiner's report.</p> <p>No change</p>
Other CIL policies	29	Request that the council adopt CIL policies of infrastructure payment in kind and exceptional circumstances to reduce the risk of developers being charged twice for the same infrastructure projects and to ensure that projects included on the Regulation 123 List are delivered within a specific timescale.	<p>The council does not consider it necessary at the present time to introduce CIL policies on payment in kind or exceptional circumstances. However, the council will monitor the implementation of CIL and has the option of introducing either of these policies should it deem them necessary.</p> <p>No change</p>
	33	Support approach to social housing relief.	<p>Noted.</p> <p>No change</p>

Topic	#	Issues	Officer comments/ proposed changes
	36	Urge the council to consider modifying the proposed social housing relief policy, given the amendments to the CIL Regulations that came into force on 1 April 2015 (during this consultation process).	While mandatory social housing relief will of course apply in Wiltshire, as set out in the CIL Regulations 2010 (as amended), the council is not proposing to introduce a discretionary social housing relief policy. No change
	37	Welcome the council's proposed payment in kind policy.	Support noted. However, just to clarify, the council is not proposing an infrastructure payment in kind policy for CIL, for which the council would be required to set out a policy signalling its intention to do so. No change
	39	Does the payment in kind policy prevent or limit Wiltshire Fire and Rescue Service from entering into agreements with landowners and/ or developers?	The council is not proposing to adopt an infrastructure payment in kind policy, for which it would have to publish a policy expressing its intention to do so. No change
	46	Unclear when CIL will commence and how it will impact on applications currently submitted. Request clarity on timescale given concerns about potential 'double dipping'.	The council will commence charging CIL in May 2015, on the date specified on the Wiltshire CIL Charging Schedule.

5. Proposed changes and next steps

- 5.1. *Table 5.1* contains a list of proposed changes as a result of consultation feedback.

Proposed changes

Table 5.1 - Proposed actions as a result of consultation feedback

#	Proposed changes
C1	<p>Add an extra row to Table 1 as follows:</p> <p><u>Historic environment and public realm infrastructure</u></p> <p><u>The provision, improvement, replacement, operation or maintenance of new and existing historic and public realm infrastructure, except where the requirement can be attributed to five or fewer developments.</u></p>
C2	<p>Amend the supporting text in the draft Regulation 123 List as follows:</p> <p>Wiltshire Council may seek planning obligations through section 106 agreements for specific infrastructure projects or types of infrastructure included within this list but <u>only where the requirement is created by five or fewer developments. This pooling limit is backdated to include all planning obligations entered into since 6 April 2010.</u> Any such site-specific infrastructure requirements will be subject to the three statutory tests set out under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).</p>

Next steps

- 5.2. This Consultation Report presents a summary of the feedback from the consultation on the revised draft Regulation 123 List and other CIL policies.
- 5.3. The next step will be to prepare the final documents, taking into account the proposed changes and any others following internal review, which will then be presented to the council's Cabinet for recommendation to adopt by a meeting of Full Council.

Timetable

- 5.4. The next stages in the preparation of the revised draft Regulation 123 List and other CIL policies are set out in *Table 5.2* below.

Stage	Date
Cabinet (recommendation to Council for adoption)	11 May 2015

Council (adoption)	12 May 2015
Implementation	18 May 2015

Appendix A List of respondents

Revised Draft Regulation 123 List and other CIL Policies

Consultation Statement Appendix A – List of Respondents

Index

The number in the column titled 'issue(s) #' can be used to link each respondent to the issues raised in Table 4.1. Where there is N/A, either the respondent had no comments or their comments related to the draft Planning Obligations Supplementary Planning Document (SPD) and were included in the separate consultation statement for the SPD.

Comment ID(s)	Respondent	Issue(s) #
1	GPSS Consultee ID: 390747 c/o Ms Emma Pattison Fisher German Agent ID: 846301	N/A
2	Mr John Moran Health and Safety Executive Consultee ID: 899838	N/A
3	Mr Lance Allan Trowbridge Town Council Consultee ID: 391073	1
4	Mr Charles Routh Natural England Consultee ID: 382216	N/A
5	Thames Water Consultee ID: 401427 c/o David Wilson Savills Agent ID: 785231	N/A
6	Ms Patricia Trevett Bemerton Community Ltd Consultee ID: 902570	2; 3
7	Ms Kath Hatton Wilts & Berks Canal Trust Consultee ID: 550537	N/A
8	Mr Philip Bamford Gladman Developments Consultee ID: 785866	27; 28
9	Mrs Jane Hennell Canal & River Trust Consultee ID: 376324	N/A
10	Mrs Lynne Fish Consultee ID: 549368	2; 3

11	Mr Rohan Torkildsen English Heritage Consultee ID: 403792	4
12	Home Builders Federation Consultee ID: 710752 c/o Mr Nick Matthews Savills Agent ID: 389644	5; 6; 7
13	Mr Neville Nelder Cotswolds Canal Trust Consultee ID: 463097	8
14	Ms Kate Neal Hallam Land Management and Bloor Homes Consultee ID: 902742	5; 9
15	Ms Helen Patton New Forest National Park Authority Consultee ID: 382305	N/A
16	Ms Amanda McCann Westbury Town Council Consultee ID: 840677	10; 11; 12
17	Mrs Teresa Strange Melksham Without Parish Council Consultee ID: 857749	N/A
18	Ms Judi Scholey Asda Stores Ltd Consultee ID: 903164 c/o Ms Nicola Gooch Thomas Eggar LLP Agent ID: 903167	13; 27; 29; 30; 31
19	Mr Chris Southwood Persimmon Homes South Coast Consultee ID: 902868	5; 7
20	Mrs Gill Smith Dorset County Council Consultee ID: 634998	N/A
21	Mr Reg Williams Salisbury City Council Consultee ID: 820831	2; 3; 14
22	Dr Gill Anlezark Cycling Opportunities Group for Salisbury Consultee ID: 466447	2; 3; 16
23	Ms Rachel Sandy Highways England Consultee ID: 903251	16; 17; 32

24	SW HARP Planning Consortium Consultee ID: 710073 c/o Mr Sean Lewis Tetlow King Planning Agent ID: 903267	33
25	Mr Ron Hatchett Bloor Homes Southern Consultee ID: 395552 c/o Mr Martin Miller Terence O'Rourke Agent ID: 817881	13; 18; 19; 34; 35; 36; 37
26	Mr Gerry Keay Waddeton Park Ltd Consultee ID: 836038	20; 21; 29
27	Ms Emma Slyvester Bradford on Avon Town Council Consultee ID: 903313	N/A
28	Mrs Victoria Ashton Sport England Consultee ID: 903317	22
29	Mr Peter Newman Wiltshire Fire and Rescue Service Consultee ID: 817684	23; 24; 38; 39
30	Mr Derek Woodward Hannick Homes and Persimmon Homes Consultee ID: 707260 c/o Mr Denis Barry GL Hearn Agent ID: 707258	25; 40; 41; 42; 43; 44
31	Ms Ruth Shaw Bourne Leisure Ltd Consultee ID: 397796 c/o Mr Arwel Evans Nathaniel Litchfield & Partners Agent ID: 899663	29
32	Redrow Homes Ltd Consultee ID: 903369 c/o Miss Jenny Mitter Nathaniel Litchfield & Partners Agent ID: 903370	5; 7; 13; 25; 26; 46
33	Mr Richard Burden Cranborne Chase and West Wiltshire Downs AONB Consultee ID: 556113	47; 48

Appendix B Consultation materials

Draft Planning Obligations Supplementary Planning Document
Consultation Statement Appendix B – Consultation materials

Index

- 1) Newspaper advert (published week commencing 16 March 2015)
- 2) Consultation letter/ email
- 3) Town and parish council newsletter (published 13 April 2015)

1) Newspaper advert (published week commencing 16 March 2015)

Wiltshire Council Local Development Framework
Notice of consultation on draft Planning
Obligations Supplementary Planning Document,
draft Community Infrastructure Levy (CIL)
Regulation 123 List and CIL policies
consultation document

Town and Country Planning (Local Planning)
(England) Regulations 2012 (Regulations 11 to 16)
Community Infrastructure Levy (CIL)
Regulations 2010 (as amended)

Wiltshire Council is consulting on a draft Planning Obligations Supplementary Planning Document (SPD), a draft Community Infrastructure Levy (CIL) Regulation 123 List and CIL policies consultation document. Together, when finalised, they will support the introduction of the Wiltshire CIL Draft Charging Schedule and set out how the council will seek infrastructure contributions from development.

The draft Planning Obligations SPD explains how the council will use section 106 planning obligations. It details how they will operate alongside other mechanisms for securing developer contributions, such as CIL, section 278 (highways) agreements and planning conditions.

The draft Regulation 123 List sets out the infrastructure types or projects that the council may fund through CIL. The council is also consulting on a draft instalments policy for CIL payments and its position on other CIL policies including provisions for exemptions.

Availability of documents

The draft Planning Obligations SPD, draft Regulation 123 List, CIL policies consultation document and information on how to make comments will be published on **23 March 2015**. The documents can be found on the Wiltshire Council website at www.wiltshire.gov.uk/communityinfrastructurelevy.

Hard copies of these documents will also be made available from **23 March 2015** during normal office hours at: Council libraries; and the main Council offices in Chippenham (Monkton Park), Devizes (3-5 Snuff Street), Salisbury (27-29 Milford Street) and Trowbridge (County Hall).

How to comment

In accordance with the council's Statement of Community Involvement (SCI), comments are invited on these documents over a four week period **until 5pm, 22 April 2015**. Comments can be made:

- Online via the council's consultation portal: <http://consult.wiltshire.gov.uk/portal>
- By email using the form available at www.wiltshire.gov.uk/communityinfrastructurelevy and returned to cil@wiltshire.gov.uk
- By post in writing to: Spatial Planning, Economic Development & Planning, Wiltshire Council, County Hall, Bythesea Road, Trowbridge, Wiltshire, BA14 8JN.

If responding by post, comment forms are available from libraries and main Council offices.

Next steps

All comments received during the consultation period will then be taken into account in finalising these documents. The final versions of the documents will be considered, alongside the Wiltshire Council Community Infrastructure Levy Charging Schedule, by the council's Cabinet for recommendation to Full Council for adoption in May 2015.

Any queries should be made to Spatial Planning, Economic Development and Planning, Wiltshire Council on (01225) 713223 or CIL@wiltshire.gov.uk

Alistair Cunningham
Director
Economic Development and Planning
Wiltshire Council

Wiltshire Council
Where everybody matters

2) Consultation letter/ email (sent out 18 March-20 March 2015)

Dear Sir/ Madam,

Re: Draft Planning Obligations Supplementary Planning Document, draft Community Infrastructure (CIL) Regulation 123 List and CIL policies consultation document

I'm writing to inform you that Wiltshire Council is consulting on a draft Planning Obligations Supplementary Planning Document (SPD), a draft Community Infrastructure Levy (CIL) Regulation 123 List and a CIL policies consultation document. Together, when finalised, they will support the introduction of the Wiltshire CIL Draft Charging Schedule and set out how the council will seek infrastructure contributions from development.

The draft Planning Obligations SPD explains how the council will use section 106 planning obligations. It details how they will operate alongside other mechanisms for securing developer contributions, such as CIL, section 278 (highways) agreements and planning conditions.

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Availability of documents

The draft Planning Obligations SPD, draft Regulation 123 List, CIL policies consultation document and information on how to make comments will be published on **23 March 2015**. The documents can be found on the Wiltshire Council website at www.wiltshire.gov.uk/communityinfrastructurelevy.

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How to comment

In accordance with the council's Statement of Community Involvement (SCI), comments are invited on these documents over a four week and two day period **until 5pm, 22 April 2015**. Comments can be made:

- Online via the council's consultation portal: <http://consult.wiltshire.gov.uk/portal>
- By email using the form available at www.wiltshire.gov.uk/communityinfrastructurelevy and returned to cil@wiltshire.gov.uk
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Next steps

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Any queries should be made to Spatial Planning, Economic Development and Planning, Wiltshire Council on (01225) 713223 or CIL@wiltshire.gov.uk.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'Alistair Cunningham'.

Alistair Cunningham

Associate Director, Economic Development & Planning

Wiltshire Council

3) Town and parish newsletter (published week commencing 13 April 2015)

Wiltshire Council Local Development Framework

Wiltshire Council is consulting on a draft Planning Obligations Supplementary Planning Document (SPD), a draft Community Infrastructure Levy (CIL) Regulation 123 List and CIL policies consultation document. Together, when finalised, they will support the introduction of the Wiltshire CIL Draft Charging Schedule and set out how the council will seek infrastructure contributions from development.

The draft Planning Obligations SPD explains how the council will use section 106 planning obligations. It details how they will operate alongside other mechanisms for securing developer contributions, such as CIL, section 278 (highways) agreements and planning conditions.

The draft Regulation 123 List sets out the infrastructure types or projects that the council may fund through CIL. The council is also consulting on a draft instalments policy for CIL payments and its position on other CIL policies including provisions for exemptions.

The draft Planning Obligations SPD, draft Regulation 123 List, CIL policies consultation document and information on how to make comments can be found on the Wiltshire Council website at www.wiltshire.gov.uk/communityinfrastructurelevy.

Hard copies of these documents are available during normal office hours at: council libraries; and the main council offices in Chippenham (Monkton Park), Devizes (3-5 Snuff Street), Salisbury (27-29 Milford Street) and Trowbridge (County Hall).

In accordance with the council's Statement of Community Involvement (SCI), comments are invited on these documents until 5pm, 22 April 2015. Comments can be made:

- Online via the council's consultation portal: <http://consult.wiltshire.gov.uk/portal>
 - By email using the form available at www.wiltshire.gov.uk/communityinfrastructurelevy and returned to cil@wiltshire.gov.uk
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Wiltshire Council, County Hall, Bythesea Road,
Trowbridge, Wiltshire, BA14 8JN.

If responding by post, comment forms are available from libraries and main council offices.

All comments received during the consultation period will then be taken into account in finalising these documents. The final versions of the documents will be considered, alongside the Wiltshire Council Community Infrastructure Levy Charging Schedule, by the council's Cabinet for recommendation to Full Council for adoption in May 2015.

Any queries should be made to Spatial Planning, Economic Development and Planning, Wiltshire Council on (01225) 713223 or CIL@wiltshire.gov.uk.

Wiltshire Community Infrastructure Levy Regulation 123 List

March-May 2015

Comment [I1]: Change to adoption date

Types of infrastructure that may be funded, in whole or in part, by CIL	
Education facilities	The provision, improvement, replacement, operation or maintenance of new and existing public education facilities (excluding sites, which will be secured through s106), except where the requirement can be attributed to five or fewer developments.
Sustainable Transport	The provision, improvement, replacement, operation or maintenance of new and existing roads, highways, traffic management, public transportation, cycling and pedestrian routes and other transport facilities, except where the requirement can be attributed to five or fewer developments.
Open space/ green infrastructure	The provision, improvement, replacement, operation or maintenance of new and existing open space, including rights of way, biodiversity measures and meeting the requirements of the Habitat Directive, except where the requirement can be attributed to five or fewer developments.
Flood mitigation measures	The provision, improvement, replacement, operation or maintenance of new and existing flood mitigation measures, except where the requirement can be attributed to five or fewer developments.
Community and cultural facilities	The provision, improvement, replacement, operation or maintenance of new and existing community and cultural facilities such as leisure centres and libraries, except where the requirement can be attributed to five or fewer developments.
Emergency services	The provision, improvement, replacement, operation or maintenance of new and existing emergency services facilities, except where the requirement can be attributed to five or fewer developments.
Health facilities	The provision, improvement, replacement, operation or maintenance of new and existing primary health care facilities, except where the requirement can be attributed to five or fewer developments.
<u>Historic environment and public realm infrastructure</u>	<u>The provision, improvement, replacement, operation or maintenance of new and existing historic and public realm infrastructure, except where the requirement can be attributed to five or fewer developments.</u>
Cross boundary infrastructure	The provision, improvement, replacement, operation or maintenance of new and existing cross boundary infrastructure where it supports development in Wiltshire, except where the requirement can be attributed to five or fewer developments.

Comment [I2]: Proposed change C1

Table 1 - Infrastructure that may be funded through the Community Infrastructure Levy

Table 1 above sets out the types of infrastructure that the council intends will be, or may be, wholly or part funded by CIL. The inclusion of an infrastructure type on the list does not signify a commitment from the council to fund (either in whole or part) the listed project or type of infrastructure. The order of the list does not imply any preference or priority.

Wiltshire Council may seek planning obligations through section 106 agreements for specific infrastructure projects or types of infrastructure included within this list but **only where the**

requirement is created by five or fewer developments. [This pooling limit is backdated to include all planning obligations entered into since 6 April 2010.](#) Any such site-specific infrastructure requirements will be subject to the three statutory tests set out under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).

Comment [13]: Proposed change C2

Appendix A sets out in more detail how the List will be applied drawing on examples from the council's Infrastructure Delivery Plan.

Appendix A: Examples of how the Council will apply the R123 List and Planning Obligations in practice

Infrastructure type	Specific requirement	Site/ location	Delivery mechanism	
			S106	CIL
Affordable housing	See Wiltshire Core Strategy (Core Policies 43, 44, 45 and 46), Planning Obligations SPD (draft March 2015) and Affordable Housing SPD (TBC)		✓	X
Education facilities	2 x 2FE primary schools	Ashton Park Urban Extension/ Trowbridge	✓	X
	2FE Primary School	Churchfields & Engine Shed / South Wiltshire	✓	X
	2FE Primary School	Fuggleston Red / South Wiltshire	✓	X
	1FE Primary School	Hampton Park / South Wiltshire	✓	X
	2FE Primary School	Longhenge / South Wiltshire	✓	X
	1FE Primary School	UKLF, Wilton / South Wiltshire	✓	X
	1FE Primary School	Kings Gate / Amesbury	✓	X
	Secondary school expansion	Kings Gate / Amesbury	✓	X
	Secondary school site	Ashton Park Urban Extension/ Trowbridge		
	Nursery, primary, special and secondary schools (including sites), where the requirement can be attributed to five or fewer developments		✓	X
	Other cumulative impact of development upon nursery, primary, special and secondary school provision (excluding sites, which will be secured through s106)		X	✓

Infrastructure type	Specific requirement	Site/ location	Delivery mechanism	
			S106	CIL
Sustainable transport	Site-specific transport/ highways mitigation and sustainable transport improvements (e.g. site-specific highway works, including localised safety improvements, reinstatement of highways etc. and site-specific works to amenity land, access roads etc.)		✓	X
	Strategic, county-wide sustainable transport improvements, except where the requirement can be attributed to five or fewer developments		X	✓
Open space/ green infrastructure	Site-specific open space/ green infrastructure, including parks, children's play space, green areas, outdoor sports and playing fields, where the requirement can be attributed to five or fewer developments		✓	X
	Strategic open space/ green infrastructure, including parks, children's play space, green areas, outdoor sports and playing fields		X	✓
	Site-specific ecological impacts of development, where the requirement can be attributed to five or fewer developments		✓	X
	Strategic habitat protection and nature conservation		X	✓
Flood mitigation measures	SUDS, exceptional drainage or flood risk management measures		✓	X
Community and cultural facilities	Site-specific requirements for community and cultural facilities, where the requirement can be attributed to five or fewer developments		✓X	X✓

Comment [I1]: Internal review proposed change 1

Infrastructure type	Specific requirement	Site/ location	Delivery mechanism	
			S106	CIL
	Strategic provision of community and cultural facilities, such as multi-use community facilities, leisure centres and libraries and cultural facilities, except where the requirement can be attributed to five or fewer developments		X	✓
	Waste and recycling containers		✓	X
Emergency services	Fire stations, ambulance stations/ standby points and police stations		X	✓
	Fire hydrants (if not secured through planning conditions)		✓	X
Health facilities	Primary Health Facility	Ashton Park Urban Extension/Trowbridge	✓	X
	Primary Health Facility	Churchfields & Engine Shed / South Wiltshire	✓	X
	Primary health facilities, where the requirement can be attributed to five or fewer developments		✓	X
	Other cumulative impact of development upon the provision of health facilities		X	✓
Cross boundary infrastructure	Strategic cross-boundary infrastructure, except for site-specific projects where the need can be attributed to five or fewer developments		X	✓
	Site-specific, cross-boundary infrastructure, where the need can be attributed to five or fewer developments		✓	X

Infrastructure type	Specific requirement	Site/ location	Delivery mechanism	
			S106	CIL
<u>OtherHistoric environment and public realm infrastructure</u>	Site-specific public realm infrastructure, where the requirement can be attributed to five or fewer developments		✓	X
	Strategic public realm infrastructure, e.g. streetscene and built environment, community safety measures, heritage asset improvements, visitor management issues and public art, except where the requirement can be attributed to five or fewer developments		X	✓
<u>Other</u>	Employment and skills training, where the requirement can be attributed to five or fewer developments (e.g. job brokerage, construction phase skills training, end user skills training, apprenticeships and work placements, local enterprise supply chain and training commuted sum improvements)		✓	X

Comment [12]: For consistency with Proposed change C1 to the draft Regulation 123 List

[Front cover]

Wiltshire Local Development Framework

Community Infrastructure Levy

Instalments Policy

May 2015

Wiltshire Council

[Translations]

Wiltshire Council

Community Infrastructure Levy (CIL)

Instalment Policy

Takes effect on 18th May 2015

Community Infrastructure Levy (CIL) Instalment Policy

In accordance with Regulation 69B of the Community Infrastructure Levy Regulations 2010 (as amended), Wiltshire Council will allow the payment of CIL by instalments, as set out in the following table.

WILTSHIRE COUNCIL CIL INSTALMENT POLICY		
Total CIL Liability	Number of Instalments	Payment Period
Up to £35,000	1	100% payable within 60 days of commencement
£35,000 to £250,000	3	<ul style="list-style-type: none">• 30% payable within 60 days;• A further 35% payable within 180 days, and• the final 35% payable within 360 days (or upon completion of development if earlier).
£250,000 to £500,000	3	<ul style="list-style-type: none">• 30% payable within 60 days;• A further 35% payable within 360 days, and• The final 35% payable within 540 days (or upon completion of development if earlier).
Over £500,000	3	<ul style="list-style-type: none">• 30% payable within 60 days;• A further 35% payable within 420 days, and• The final 35% payable within 660 days (or upon completion of development if earlier).

The Instalment Policy only applies in cases where the persons liable for paying CIL have complied with all the relevant regulations and requirements. These requirements are set out in the CIL Instalment Policy Guidance Note on the following page.

CIL Instalment Policy Guidance Note

Regulation 70 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) sets out the requirements that must be complied with in order to benefit from the CIL Instalment Policy.

The CIL Instalment Policy will only apply in the following circumstances:

1. Where the council has received a CIL Assumption of Liability form prior to commencement of the chargeable development (Regulation 70(1) (a)), and
2. Where the council has received a CIL Commencement Notice prior to commencement of the chargeable development (Regulation 70(1) (b))

If either of the above requirements are not complied with, the total CIL liability will become payable within 60 days of the commencement of the chargeable development. In addition, surcharges may apply due to the CIL Assumption of Liability Form and/ or the CIL Commencement Notice not being submitted to the council prior to the commencement of the chargeable development.

Once the development has commenced, all CIL payments must be made in accordance with the CIL Instalment Policy. Where a payment is not received in full on or before the day on which it is due, the total CIL liability becomes payable in full immediately (Regulation 70(8)(a)).

In summary, to benefit from the CIL Instalment Policy, the relevant forms must be submitted to the council prior to the commencement of the chargeable development, and all payments must be paid in accordance with the CIL Instalment Policy.

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Wiltshire Community Infrastructure Levy

Planning Obligations Supplementary Planning Document

Statement of Consultation

April 2015

[TRANSLATIONS]

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Appendix A – List of respondents

Appendix B – Consultation materials

Appendix C – Adoption Statement

1. Introduction

- 1.1. The Planning Obligations Supplementary Planning Document (SPD) will support policies within the adopted Wiltshire Core Strategy (January 2015), particularly Core Policy 3 Infrastructure Requirements. It will identify the types of planning obligations that may be sought by the council from development that generates a need for new infrastructure. While it is not part of the statutory development plan, the Planning Obligations SPD will be a material consideration in determining planning applications.
- 1.2. Between 23 March and 22 April 2015, the council consulted on a draft Planning Obligations SPD, alongside a revised draft Regulation 123 List, an instalment policy for the payment of CIL and its approach to other CIL policies.
- 1.3. The SPD should be read in conjunction with the Wiltshire Community Infrastructure Levy (CIL) Charging Schedule and the Wiltshire Regulation 123 List. The Wiltshire CIL Charging Schedule sets out the amount of CIL that will be charged on new development. In March 2015, the council received the Examiner's report into the Wiltshire CIL Charging Schedule. The Examiner approved it subject to minor modifications for the purposes of clarification and transparency. The council intends to adopt the charging schedule, alongside this SPD, in May 2015.
- 1.4. Planning obligations cannot be used to deliver projects that will be provided for through CIL. The Wiltshire Regulation 123 List sets out the infrastructure types or projects that the council may fund, in whole or in part, through CIL and so cannot be the subject of an obligation.
- 1.5. Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 set out the requirements for preparing a supplementary planning document. Regulation 12 requires the council to prepare a statement setting out who was consulted, a summary of the main issues they raised and how those issues have been addressed in the supplementary planning document.
- 1.6. The council produced this document, a 'Consultation Statement', to set out: the consultation methodology, the representations received to the draft Planning Obligations SPD consultation, and a summary of key issues and how the council has considered the representations, as required by Regulation 12.
- 1.7. The SPD has been prepared in consultation with the council's key services such as Development Control, New Housing, Sustainable Transport, Environment Services, Environmental Health, Libraries and Heritage, Drainage, Countryside Management and Children and Education.

Structure of this document

- 1.8. Chapter 2 lists the various ways by which the council consulted upon the draft Planning Obligations SPD.
- 1.9. Chapter 3 provides a breakdown of the number of representations received.
- 1.10. Chapter 4 summarises the key issues arising from the representations with officer comments and proposed changes.
- 1.11. Chapter 5 lists the proposed changes as a result of the representations on the draft Planning Obligations SPD. It also sets out the next steps in the preparations of the SPD and a timetable.
- 1.12. Appendix A provides a list of respondents to the consultation on the draft Planning Obligations SPD.
- 1.13. Appendix B collates the various consultation adverts and notices.

2. Consultation methodology

2.1. The council consulted on the draft Planning Obligations SPD in the following ways

- Town and parish newsletter (published week commencing 13 April 2015)
- Local newspapers (i.e. Wiltshire Times, Wiltshire Gazette and Herald and Salisbury Journal) (published week commencing 16/03/2015)
- Direct email/ letter notifications to: all town and parish councils; neighbouring authorities; national/local developers, landowners and property agents; infrastructure providers; local businesses and Chambers of Commerce; charities and voluntary organisations; and local interest groups
- Hard copies of all consultation documents available from the main council offices (at Chippenham, Devizes, Trowbridge and Salisbury) and libraries
- Information published on the council's website and electronic copies of all consultation documents available from the council's website and online consultation portal
- Comments accepted by post, email and online through the council's consultation portal

2.2. The following consultation material was provided:

- Wiltshire Draft Planning Obligations Supplementary Planning Document (March 2015)
- Wiltshire Draft Regulation 123 List (March 2015)
- Wiltshire Community Infrastructure Levy (CIL) Policies Consultation Document (March 2015)
- Representation Form (PDF and WORD versions)

3. Representations

- 3.1. In all, the council received representations on the draft SPD from 33 different individuals or organisations.
- 3.2. *Figure 3.1* below illustrates the breakdown of respondent by type. It shows that the largest groups of respondents were landowners and developers and advisory and local interest organisations. Other representations were received from infrastructure providers, town and parish councils, neighbouring authorities and individuals.

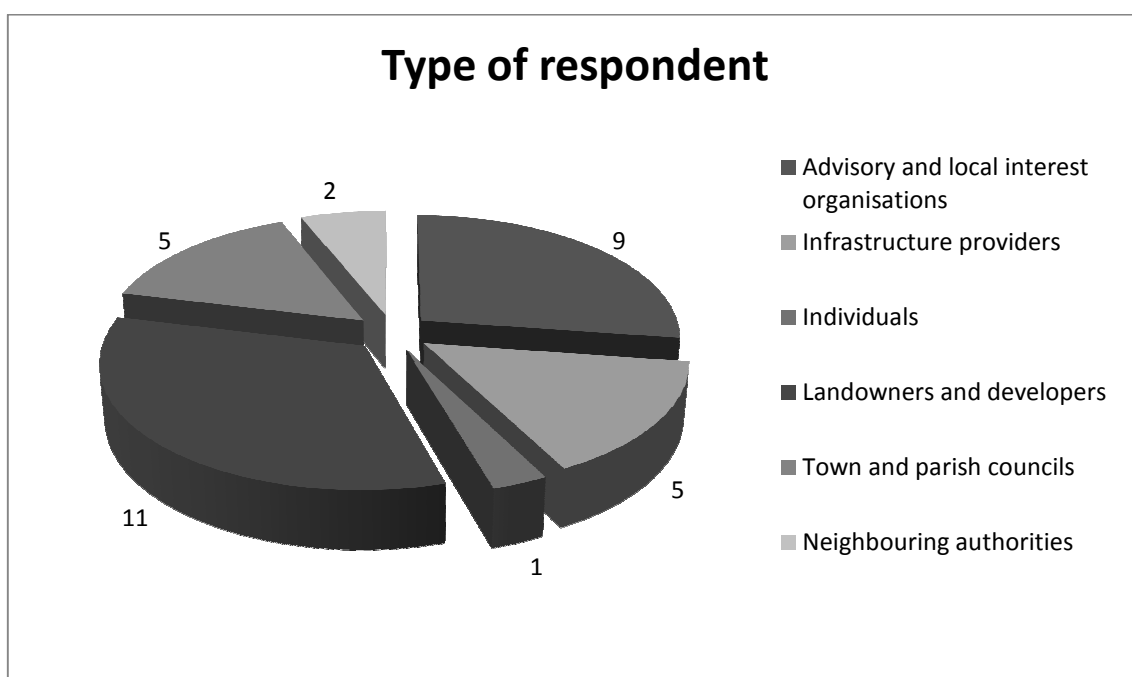


Figure 3.1 – Number of representations by type of respondent

- 3.3. *Figure 3.2* below illustrates the methods by which representations were received.

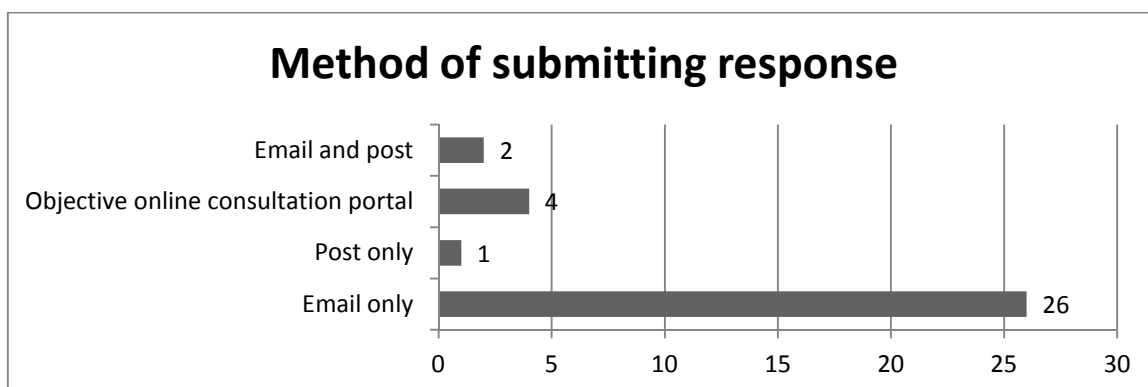


Figure 3.2 - Number of representations received by method

4. Summary of the main issues raised by the representations

- 4.1. The main issues raised by the representations are summarised in *Table 4.1*, with officer commentary and proposed changes, and ordered by the following topics consistent with the format of the draft SPD:
- Legislative and policy framework
 - Affordable housing
 - Education
 - Open space and green infrastructure
 - Transport/ highways
 - Other planning obligations
 - Negotiating planning obligations in Wiltshire
 - Procedure and management
 - Other issues
- 4.2. The number in the column titled ‘#’ can be used to link the issues to individual respondents listed in *Appendix A*.
- 4.3. All individual representations are available to view in full, either through the council’s online consultation portal at <http://consult.wiltshire.gov.uk/portal>.

Table 4.1 – Summary of main issues raised by the consultation

Topic	#	Issues	Officer comments/ proposed change
Legislative and policy framework	26	Can the council confirm that the pooling limit does not apply to planning conditions?	Paragraph 2.2 clarifies that planning conditions cannot be used to request financial contributions as such the pooling limit will not apply. No change.
Affordable	24	Support approach to affordable housing.	Noted.

housing			No change.
	27	Affordable housing can present Wiltshire Fire and Rescue Service with a higher risk – should this be identified in paragraph 4.4 and related to Core Policy 46 (Meeting the needs of Wiltshire’s vulnerable and older people).	This is considered to be an unnecessary level of detail. No change.
Education	3	Objection to the requirement to contribute towards early year’s educational provision through new development. The Council is not statutorily obliged to provide places for such services; and many such facilities are run by the private sector.	The statutory position in relation to the provision of early years educational provision is clearly established. The draft SPD reflects relevant legal requirements and the Council’s policies in relation to such matters. It is accepted that early years educational facilities are generally provided via the private sector. However, the Council nonetheless has a duty to respond to the law in respect of such matters and hence provision will still be sought in line with internal policies. The position taken in the draft SPD is considered to provide a reasonable and appropriate level of advice on such matters and doesn’t warrant further amendment. In addition, development proposals will be considered on their merits and hence a decision as to how early years learning educational requirements are addressed can be addressed through pre-application engagement. No change.
	4	In assessing the needs of primary and secondary schools, the Council must consider the fact that parental choice drives demand for places. Therefore, it would be unreasonable to require educational contributions to provide additional school places when capacity exists within a wider	The Council accept that parental choice in terms of educational provision is a factor that needs to be taken into account through the planning process. However,

		catchment area.	<p>although such choice can lead to pressure on certain schools, in certain catchments, the Council's education team nonetheless have a legal duty to ensure that all local authority schools, in all catchments are catered for in terms of places. Therefore, the pressure that new development can exert on existing facilities will continue to require attention through the planning process.</p> <p>No change.</p>
	5	The proposed 30% discount given to education provision arising from affordable housing is considered to insufficient and should be raised to reflect the restrictive nature of such development.	<p>The 30% discount applied to education provision associated with affordable housing reflects long-standing Council practice. At this stage, there would appear to be no evidence to warrant a change in approach but, as with all policies, the position will be monitored to assess performance.</p> <p>No change.</p>
	10	Reference to the use of both CIL and planning obligations to secure education infrastructure in paragraph 5.4 creates uncertainty over what developers will be asked to pay and undermines the clarity and transparency of the approach taken by the council in the CIL Examination.	<p>Disagree. Paragraph 5.4 is simply saying that the site-specific impact of development will be dealt with through s106. This has been the council's position throughout the CIL process.</p> <p>In the SPD, the council is simply seeking to establish that:</p> <ul style="list-style-type: none"> • If there's a justification for doing so, we can seek planning obligations to pay for infrastructure required to make a development proposal acceptable in planning terms; and

			<ul style="list-style-type: none"> In circumstances where the need for such infrastructure comes from more than one development, but is nonetheless required, we can pool obligations from up to five developments to pay for such infrastructure. <p>No change.</p>
	19	<p>Concerned that there is no reference in the draft SPD to the need for CIL towards infrastructure in neighbouring authorities. Note that the IDP includes proposed extensions to secondary schools in Gillingham and Shaftesbury (Dorset) to serve development in Mere and Tisbury respectively.</p> <p>Request explanatory text in SPD in Chapter 5 to make developers aware of this requirement.</p>	<p>While the Regulation 123 List already includes 'cross boundary infrastructure' as being eligible for CIL funding, the Planning Obligations SPD could be amended to reference education facilities in neighbouring authorities.</p> <p>CHANGE:</p> <p>Amend paragraph 5.2 as follows:</p> <p>Wiltshire's school population is predicted to increase over the period to 2026 both in the primary and secondary sectors. This is as a result of population growth, economic factors and housing development. There will be a need for a significant increase in school places and in some areas new schools in both sectors. There may also be the need to increase the provision of special school places across the wider catchment area.</p> <p><u>New development in Wiltshire may also place demands on infrastructure in neighbouring authorities. For example, pupils in Mere and Tisbury attend secondary schools in Gillingham and Shaftesbury</u></p>

			respectively. The Department of Education will provide only formula funding where there is a demographic increase in actual numbers. This will not cover the full cost of assembling land and building a school.
	29	Add ' where practical ' to summary of NPPF requirements in Paragraph 5.8, Table 5.1.	Agreed. CHANGE: Amend text in Table 5.1 as follows: Locate key facilities, such as primary schools, within walking distance of most properties, where practical , and provide a sufficient choice of school places.
	30	What is meant by 'pending developments' in paragraph 5.13?	'Pending developments' refers to planning applications that are awaiting a decision. However, the council will clarify in the text. CHANGE: Amend paragraph 5.13 as follows: It will then be assessed whether the likely number of pupils can be accommodated within the existing capacity of the relevant catchment area school, taking into account other known granted or pending developments planning applications in their catchment area.
	31	Unreasonable to expect all new developments to be located within walking distance of a secondary school because they have much larger catchment areas than primary schools	The SPD is proposed to be amended as follows. CHANGE:

			<p>Amend paragraph 5.15 as follows:</p> <p>Development proposals for around 400 to 500 houses may require a significant expansion of existing primary and secondary schools (combined or individually). Proposals for more than around 700 houses may require new nursery and primary schools, as well as a significant expansion of existing secondary schools, to serve children generated by the development. In both instances, this will depend upon the extent of any surplus capacity within reasonable (defined) walking distance of the development. <u>Proposals of this size may also require significant expansion of existing secondary schools, taking into account any surplus capacity within the catchment area.</u></p>
	32	<p>Further clarity needed over the trigger for the potential need to deliver a new secondary school – unclear what constitutes a 'major urban extension'. More appropriate to refer to the minimum pupil product that would necessitate consideration of a new secondary school and to confirm that the council would subsequently assess each scheme on its merits having regard to viability</p>	<p>Agreed about the need for more clarity. The council will amend the text accordingly.</p> <p>CHANGE:</p> <p>Amend paragraph 5.16 as follows: A new secondary school is only likely to be required to serve a major urban expansion scheme. <u>The council will consider the establishment of a new secondary school where long term demand is likely to lead to a school with 900 11-16 school places.</u> Special schools have a relatively wide catchment area and large development proposals may require the expansion of special</p>

			school provision serving a wider area.
	35	Request guidance and clarity from the council on how it proposes to secure funding for school improvement works in the event that it meets the pooling limit restriction. Concern that the council's approach to funding education will lead to uncertainty and potentially 'double-charging'.	The council will fund infrastructure projects where the need cannot be attributed to five or fewer developments through CIL and other funding sources. No change.
	36	Question source of information used to produce figures for calculation of likely number of pupils arising from a development. Overestimates pupil product figure based on using census figures.	The calculation for the likely number of pupils arising from a development is taken from the adopted Revised Policy for School Infrastructure & Capital Cost Multipliers for Section 106 Agreements (18 March 2014) and is based on information in the council's School Organisation Plan No change.
Open space and green infrastructure	2	Include reference to Core Policy 53 Wiltshire's Canals in Table 6.1	Agreed. CHANGE: Add the following row to Table 6.1, Chapter 6 Open space and green infrastructure. <u>Core Policy 53 Wiltshire's canals</u> <u>Supports in principle the restoration and reconstruction of the Wilts & Berks and Thames and Severn canals as navigable waterways. Safeguards their alignments from new development. Permits proposals that develop the recreational and nature conservation potential.</u>

	6	<p>With regard to open space, it is suggested that the SPD should be amended to reflect the fact that such facilities are often transferred to private or other management companies to manage in perpetuity on behalf of the Council or Parish / Town Council. Would provide clarity about responsibility for enforcing the requirement that public open space is secured and maintained in perpetuity for the benefit of the public.</p>	<p>With regard to open space provision, the Council acknowledge that the long-term management and maintenance of such facilities can and often is dealt with through contracts with the private sector. However, it could also be through a third party, for example a charitable trust. An amendment to the draft SPD will be introduced to fully reflect the mechanisms for managing/ maintaining open space.</p> <p>CHANGE:</p> <p>Amend paragraph 6.9 of the Planning Obligations SPD to read:</p> <p>“Onsite provision of open space and landscaping schemes may be offered to the council or its nominee (usually a town or parish council) by a developer for adoption as council owned and maintained provision <u>to be managed in perpetuity by a management company on behalf of the council or town/ parish council.</u>”</p>
	8	<p>Unclear which mechanism (i.e. s106 and/ or CIL) the council will use to mitigate the impact of new development on the canal network, e.g. increased use of the waterways and towpaths. Canals could be classed as strategic because of their length, multi-functionality and cross-boundary nature. CIL may then be seen as the appropriate mechanism. However, individual developments may have a localised impact on the canal network. Mitigation through s106 agreements may be the more appropriate mechanism in this case. Due to the cross boundary nature of the canal network, would the pooling limit on planning obligations apply to those entered into by other local planning authorities? The Canal & River Trust requests a meeting with the council to discuss their concerns.</p>	<p>The council would deal with the site-specific impact of development upon the canal network through planning obligations. Therefore, the Canal & River Trust may wish (in responding to planning applications) to identify specific infrastructure projects where the need can be attributed to the particular development. The council is unable to pool more than five planning obligations towards the same infrastructure type or project. This pooling limit applies to each council and includes all planning</p>

			<p>obligations entered into since 6 April 2010.</p> <p>The council would be happy to meet with the Canal & River Trust to discuss their specific issues.</p> <p>No change.</p>
	11	The SPD should be expanded to provide clear guidance for developers on how other elements of habitat mitigation strategies that do not fall under 'hard infrastructure' and clearly cannot be funded through CIL receipts, i.e. ranger provision and information leaflets for residents and visitors, will be funded through planning obligations.	<p>Agreed.</p> <p>See Proposed Change C9.</p>
	13	Referencing paragraph 6.3, Melksham Without Parish Council object to improvements to existing public open space and green infrastructure being funded through CIL, unless directly related to the proposed development, when new provision will be sought through planning obligations. There are examples of recent planning applications within the parish, where s106 was used to fund improvements to public open space.	<p>Planning obligations can only be sought where they meet the three statutory tests under CIL Regulation 122 of the CIL Regulations 2010 (as amended).</p> <p>In addition, the pooling limit on planning obligations that came into force on 6 April 2015 (and backdated to included all planning obligations entered into since 6 April 2010) means that no more than five planning obligations can be entered into by the council for the same infrastructure type or project.</p> <p>However, the council will amend paragraph 6.3 to make this clear and to reflect the wording in the Regulation 123 List.</p> <p>CHANGE:</p> <p>Amend paragraph 6.3 as follows:</p> <p>The provision of new and</p>

			<p>improvements to existing public open space and green infrastructure will generally be funded through CIL, <u>except where the requirement can be attributed to five or fewer developments unless directly related to the proposed development</u>, when new provision they will <u>may</u> be sought through planning obligations, <u>subject to meeting the three statutory tests in Regulation 122 of the CIL Regulations 2010 (as amended)</u>.</p>
	14	Support for reference to NPPF requirement encouraging access to high quality open spaces but queries whether this was always achieved.	<p>Support noted. The council seeks open space provision in line with adopted open space standards.</p> <p>No change.</p>
	15	Request details on the Open Space Study when available.	<p>The Open Space Study is part of the evidence base supporting the Partial Review of the Wiltshire Core Strategy, which is out for consultation until 26 May 2015, and available on the council's website and consultation portal.</p> <p>No change.</p>
	33	Overlap between paragraphs 6.4 and 6.5 relating to habitat mitigation strategies	<p>The strategic HRA mitigation measures identified by the Wiltshire Core Strategy HRA do not include habitat creation / enhancement, but rather deal with recreational impacts and phosphate levels. Para.6.4 could be amended as follows for clarity.</p> <p>CHANGE:</p> <p>Amend paragraph 6.4 as follows:</p>

			<p>Mitigation of ecological impacts will generally continue to be managed through planning conditions and obligations as these matters are typically site specific. However, in exceptional circumstances where off-site compensation, such as habitat creation or enhancement, is may be required to offset the effects of development where onsite mitigation is not possible. For example, a financial contribution may be required through a planning obligation to fund capital works and ongoing management by the council or relevant third parties. <u>This would exclude funding of strategic HRA mitigation strategies, as identified in the Regulation 123 list, Infrastructure Delivery Plan and / or paragraph 6.70 of the Wiltshire Core Strategy.</u></p>
	37	AONB Management Plan policies PT5 and PT6 should be referenced.	<p>Disagree.</p> <p>The AONB Management Plan policies guide the actions of the AONB rather than set out what the council might expect from developers in terms of planning obligations. Policy PT5 states that the AONB will work with local planning authorities to identify infrastructure projects and priorities. The council welcomes this cooperation and will continue to consult the AONB on local planning policy documents.</p> <p>Policy PT6 states that the AONB will encourage local planning authorities to spend CIL on AONB management plan</p>

			<p>projects. The council considers that any such projects would be likely to fall under the infrastructure types set out in the draft Regulation 123 List and, therefore, eligible to be considered for CIL funding. The council will seek site-specific mitigation of the impact of development through planning obligations. This would apply to development taking place within the AONB area, as in any other area of Wiltshire.</p> <p>No change.</p>
	38	<p>No reference to landscapes or landscape management in connection with green infrastructure. Designated areas, such as the AONBs and special landscape areas form part of green infrastructure and should be explicitly included</p> <p>.</p>	<p>Disagree. In Table 6.1, the Planning Obligations SPD refers to Core Policy 51 Landscape from the adopted Wiltshire Core Strategy. Also, Core Policy 52 Green Infrastructure addresses the natural and historic landscape. Core Policy 57 addresses landscape issues by requiring development to adhere to a high standard of design relating to the natural environment. Paragraph 6.9 discusses the provision of onsite open space and landscaping schemes.</p> <p>No change.</p>
Transport/ highways	16	<p>Unclear how transport requirements are identified in towns other than principle settlements, which have their own transport strategies.</p>	<p>The council's highways team conduct transport assessments of the market towns and identify improvement schemes in the Local Transport Plan.</p> <p>No change.</p>
	22	<p>Highways England requests that the council provide an update on how any current or remaining s106 contributions towards SRN improvements in the area will, or are intended to be spent.</p>	<p>The council's s106 and CIL monitoring officer can provide information on how current and remaining s106 contributions</p>

			towards SRN improvements will be spent. No change.
	23	Highways England welcome clarification as to how the council will manage situations where contributions towards the SRN could come from various sources, including CIL and/ or s106, given the Regulations against 'double charging' and the pooling limit on planning obligations.	The council will mitigate the site-specific impact of development on the SRN through planning obligations, where the need can be attributed to five or fewer developments. CIL, in conjunction with other funding sources, could help contribute towards addressing the cumulative impact of development on the SRN. No change.
Other planning obligations	1	Add paragraph requiring developers to (1) demonstrate that there is adequate water supply, waste water capacity and surface water drainage both on and off site to serve the development, and (2) fund studies to ascertain capacity of water infrastructure, where necessary	This is a matter that would be addressed through the planning application process. No change.
	9	Lack of reference to the use of planning obligations to mitigate the impact of development upon the historic environment.	Agreed. CHANGE: Add an additional bullet point in paragraphs 3.2 and 10.2 as follows: <ul style="list-style-type: none">• <u>Site-specific measures to protect and enhance the historic environment</u>
	25	Wiltshire Fire and Rescue Service intend to use a planning condition to secure provision of fire hydrants, as per paragraph 3.2 and 10.2 of the draft SPD.	Noted. No change.
	28	Request specific reference to fire and rescue service infrastructure in Chapter 9 Community and Health Facilities, referencing Core Policy 3	The council does not anticipate there will be a need to fund fire and rescue service

		and the inclusion of emergency services as essential infrastructure.	<p>infrastructure through planning obligations. It is expected that fire hydrants will be secured through planning conditions.</p> <p>No change.</p>
Negotiating planning obligations in Wiltshire	7	Objection is raised to paragraph 11.10 of the draft SPD on the basis that national policy (NPPF, paragraph 186, 187) requires planning authorities to plan proactively to foster the delivery of sustainable development. As such, there is an imperative to take as long as is necessary to reach solutions in relation to the determination of planning applications.	<p>The Council fully acknowledge and embrace the statements in the Framework in relation to positive planning. The statements in paragraph 11.10 merely reflect the fact that decisions in respect of planning applications have to be made in accordance with prescribed timescales. This is why the Council encourages early and effective engagement through the pre-application process.</p> <p>No change.</p>
	12	Developers should be encouraged to consult with town and parish councils on any identified planning obligations at the pre-application stage to provide them with the opportunity to make their views known on local priorities. Town and parish councils have not always been notified, let alone involved, in these decisions. They are often not consulted until later in the planning applications process, after Heads of Terms are drawn up at the pre-application stage without reference to local representatives.	<p>The SPD already references pre-application consultation with local communities. However, this could be made clearer.</p> <p>CHANGE:</p> <p>Amend paragraph 11.6 as follows:</p> <p>The council would expect that developers will have undertaken pre-application consultation with local communities prior to submitting development proposals. This will enable them to gain a greater understanding of local concerns and issues, <u>including the relative priority of any identified planning obligations at the local level,</u> and should inform the</p>

			detail of their planning application.
	34	Change 'would expect that developers will have undertaken' in paragraph 11.16 to 'will encourage developers to undertake'. The use of 'expect' suggests that it is a requirement. The council's Statement of Community Involvement (March 2015) advises at paragraph 5.20 that the council will 'encourage' pre-application consultation.	<p>The text in paragraph 11.16 is proposed to be amended accordingly.</p> <p>CHANGE:</p> <p>The following text to be added to paragraph 11.6:</p> <p>The council would expect that encourage developers will have to undertaken pre-application consultation with local communities prior to submitting development proposals. This will enable them to gain a greater understanding of local concerns and issues and should inform the detail of their planning application.</p>
Procedure and management	17	Support for approach to post-decision monitoring and publication of section 106 agreements but unclear where these can be found.	<p>Support noted. Reports on the council's use of CIL and planning obligations will be published on the council's website.</p> <p>No change.</p>
	18	Support approach to phasing of infrastructure and timing of payments, i.e. in line with needs of the development. Historically, this has not happened. For instance, over 700 homes are occupied in the East of Melksham development but the new school is unfinished, the NEAP has not commenced and no formal sports provision has been installed.	<p>Support noted.</p> <p>No change.</p>
	21	SPD (Chapter 12, paragraph 12.1) refers to the managing of planning obligations. Unclear whether this refers only to planning obligations or to other types of planning contributions, including CIL. Charging authorities are required to report at least annually on CIL and the council should make it clear how it intends to comply with their requirement. Ideally, all developer contributions should be grouped together and treated in the	As it states, paragraph 12.1, Chapter 12 of the Planning Obligations SPD deals with the monitoring of planning obligations. However, the council is also required by Regulation 62 of the CIL Regulations 2010 (as amended) to

		same open and transparent way.	<p>produce an annual monitoring report on CIL receipts. What this report should include is specified in the CIL Regulations and will be published on an annual basis as part of the CIL implementation process.</p> <p>No change.</p>
Other issues	20	Suggest that the Planning Obligations SPD be retitled 'Planning Contributions SPD' because it makes reference to other types of developer contributions, e.g. planning conditions, section 278 agreements and CIL.	<p>The primary focus of the SPD is planning obligations. However, it is necessary to demonstrate how they operate alongside other forms of developer contributions. This necessitates some explanation of these other forms of developer contributions.</p> <p>No change.</p>

5. Proposed changes and next steps

5.1. Table 5.1 contains a list of proposed changes as a result of consultation feedback.

Proposed changes

Table 5.1 - Proposed actions as a result of consultation feedback

#	Proposed changes
C1	<p>Amend paragraph 5.2 as follows:</p> <p>Wiltshire's school population is predicted to increase over the period to 2026 both in the primary and secondary sectors. This is as a result of population growth, economic factors and housing development. There will be a need for a significant increase in school places and in some areas new schools in both sectors. There may also be the need to increase the provision of special school places across the wider catchment area. <u>New development in Wiltshire may also place demands on infrastructure in neighbouring authorities. For example, pupils in Mere and Tisbury attend secondary schools in Gillingham and Shaftesbury respectively.</u> The Department of Education will provide only formula funding where there is a demographic increase in actual numbers. This will not cover the full cost of assembling land and building a school.</p>
C2	<p>Amend text in Table 5.1 as follows:</p> <p>Locate key facilities, such as primary schools, within walking distance of most properties, <u>where practical</u>, and provide a sufficient choice of school places.</p>
C3	<p>Amend paragraph 5.13 as follows:</p> <p>It will then be assessed whether the likely number of pupils can be accommodated within the existing capacity of the relevant catchment area school, taking into account other known granted or pending developments <u>planning applications</u> in their catchment area.</p>
C4	<p>Amend paragraph 5.15 as follows:</p> <p>Development proposals for around 400 to 500 houses may require a significant expansion of existing primary and secondary schools (combined or individually). Proposals for more than around 700 houses may require new nursery and primary schools, as well as a significant expansion of existing secondary schools, to serve children generated by the development. In both instances, this will depend upon the extent of any surplus capacity within reasonable (defined) walking distance of the development. <u>Proposals of this size may also require significant expansion of existing secondary schools, taking into account any surplus capacity within the catchment area.</u></p>
C5	<p>Amend paragraph 5.16 as follows:</p> <p>A new secondary school is only likely to be required to serve a major urban expansion scheme. <u>The council will consider the establishment of a new secondary school where long term demand is likely to lead to a school with 900 11-16 school places.</u> Special schools have a relatively wide catchment area and large development proposals may require the expansion of special school provision serving a wider area.</p>
C6	<p>Add the following row to Table 6.1, Chapter 6 Open space and green infrastructure.</p> <p><u>Core Policy 53 Wiltshire's canals</u></p>

	<u>Supports in principle the restoration and reconstruction of the Wilts & Berks and Thames and Severn canals as navigable waterways. Safeguards their alignments from new development. Permits proposals that develop the recreational and nature conservation potential.</u>
C7	<p>Amend paragraph 6.9 of the Planning Obligations SPD to read:</p> <p>Onsite provision of open space and landscaping schemes may be offered to the council or its nominee (usually a town or parish council) by a developer as council-owned and maintained provision <u>to be managed in perpetuity by a management company on behalf of the council or town/ parish council.</u></p>
C8	<p>Amend paragraph 6.3 as follows:</p> <p><u>The provision of new and improvements to existing public open space and green infrastructure will generally be funded through CIL, except where the requirement can be attributed to five or fewer developments unless directly related to the proposed development, when new provision they will may be sought through planning obligations, subject to meeting the three statutory tests in Regulation 122 of the CIL Regulations 2010 (as amended).</u></p>
C9	<p>Amend paragraph 6.4 as follows:</p> <p>Mitigation of ecological impacts will generally continue to be managed through planning conditions and obligations as these matters are typically site specific. However, in exceptional circumstances where off-site compensation, such as habitat creation or enhancement, is <u>may be</u> required to offset the effects of development <u>where onsite mitigation is not possible. For example, a financial contribution may be required through a planning obligation to fund capital works and ongoing management by the council or relevant third parties. This would exclude funding of strategic HRA mitigation strategies, as identified in the Regulation 123 list, Infrastructure Delivery Plan and / or paragraph 6.70 of the Wiltshire Core Strategy.</u></p>
C10	<p>Add an additional bullet point in paragraphs 3.2 and 10.2 as follows:</p> <ul style="list-style-type: none"> <u>Site-specific measures to protect and enhance the historic environment</u>
C11	<p>Amend paragraph 11.6 as follows:</p> <p>The council would expect that developers will have undertaken pre-application consultation with local communities prior to submitting development proposals. This will enable them to gain a greater understanding of local concerns and issues, <u>including the relative priority of any identified planning obligations at the local level,</u> and should inform the detail of their planning application.</p>
C12	<p>The following text to be added to paragraph 11.6:</p> <p>The council would expect that encourage developers will have to undertaken pre-application consultation with local communities prior to submitting development proposals. This will enable them to gain a greater understanding of local concerns and issues and should inform the detail of their planning application.</p>

Next steps

- 5.2. This Consultation Statement presents a summary of the feedback from the consultation on the Wiltshire Draft Planning Obligations Supplementary Planning Document (SPD).

- 5.3. The next step in the preparation of the SPD will be to prepare a final document, taking into account the proposed changes and any others following internal review, which will then be presented to the council's Cabinet for recommendation to adopt by a meeting of Full Council. Once adopted, the SPD will become a material consideration in the determining of planning applications and support the implementation of CIL in Wiltshire.

Timetable

- 5.4. The next stages in the preparation of the Planning Obligations SPD are set out in *Table 5.2* below.

Stage	Date
Cabinet (recommendation to Council for adoption)	11 May 2015
Council (adoption)	12 May 2015
Implementation	18 May 2015

Appendix A List of respondents

Draft Planning Obligations Supplementary Planning Document

Consultation Statement Appendix A – List of Respondents

Index

The number in the column titled 'issue(s) #' can be used to link each respondent to the issues raised in Table 4.1. Where there is N/A, either the respondent had no comments or their comments related to the draft Regulation 123 List and CIL Policies Consultation Document and were included in the separate consultation report for those documents.

Comment ID(s)	Respondent	Issue(s) #
1	GPSS Consultee ID: 390747 c/o Ms Emma Pattison Fisher German Agent ID: 846301	N/A
2	Mr John Moran Health and Safety Executive Consultee ID: 899838	N/A
3	Mr Lance Allan Trowbridge Town Council Consultee ID: 391073	N/A
4	Mr Charles Routh Natural England Consultee ID: 382216	N/A
5	Thames Water Consultee ID: 401427 c/o David Wilson Savills Agent ID: 785231	1
6	Ms Patricia Trevett Bemerton Community Ltd Consultee ID: 902570	N/A
7	Ms Kath Hatton Wilts & Berks Canal Trust Consultee ID: 550537	2
8	Mr Philip Bamford Gladman Developments Consultee ID: 785866	3; 4; 5; 6; 7
9	Mrs Jane Hennell Canal & River Trust Consultee ID: 376324	8
10	Mrs Lynne Fish Consultee ID: 549368	N/A

11	Mr Rohan Torkildsen English Heritage Consultee ID: 403792	9
12	Home Builders Federation Consultee ID: 710752 c/o Mr Nick Matthews Savills Agent ID: 389644	10
13	Mr Neville Nelder Cotswolds Canal Trust Consultee ID: 463097	2
14	Ms Kate Neal Hallam Land Management and Bloor Homes Consultee ID: 902742	10
15	Ms Helen Patton New Forest National Park Authority Consultee ID: 382305	11
16	Ms Amanda McCann Westbury Town Council Consultee ID: 840677	12
17	Mrs Teresa Strange Melksham Without Parish Council Consultee ID: 857749	6; 12; 13; 14; 15; 16; 17; 18
18	Ms Judi Scholey Asda Stores Ltd Consultee ID: 903164 c/o Ms Nicola Gooch Thomas Eggar LLP Agent ID: 903167	N/A
19	Mr Chris Southwood Persimmon Homes South Coast Consultee ID: 902868	N/A
20	Mrs Gill Smith Dorset County Council Consultee ID: 634998	19
21	Mr Reg Williams Salisbury City Council Consultee ID: 820831	20; 21
22	Dr Gill Anlezark Cycling Opportunities Group for Salisbury Consultee ID: 466447	N/A
23	Ms Rachel Sandy Highways England Consultee ID: 903251	22; 23

24	SW HARP Planning Consortium Consultee ID: 710073 c/o Mr Sean Lewis Tetlow King Planning Agent ID: 903267	24
25	Mr Ron Hatchett Bloor Homes Southern Consultee ID: 395552 c/o Mr Martin Miller Terence O'Rourke Agent ID: 817881	N/A
26	Mr Gerry Keay Waddeton Park Ltd Consultee ID: 836038	N/A
27	Ms Emma Slyvester Bradford on Avon Town Council Consultee ID: 903313	12
28	Mrs Victoria Ashton Sport England Consultee ID: 903317	N/A
29	Mr Peter Newman Wiltshire Fire and Rescue Service Consultee ID: 817684	25; 26; 27; 28
30	Mr Derek Woodward Hannick Homes and Persimmon Homes Consultee ID: 707260 c/o Mr Denis Barry GL Hearn Agent ID: 707258	29; 30; 31; 32; 33; 34; 36
31	Ms Ruth Shaw Bourne Leisure Ltd Consultee ID: 397796 c/o Mr Arwel Evans Nathaniel Litchfield & Partners Agent ID: 899663	N/A
32	Redrow Homes Ltd Consultee ID: 903369 c/o Miss Jenny Mitter Nathaniel Litchfield & Partners Agent ID: 903370	35
33	Mr Richard Burden Cranborne Chase and West Wiltshire Downs AONB Consultee ID: 556113	37; 38

Appendix B Consultation materials

Draft Planning Obligations Supplementary Planning Document
Consultation Statement Appendix C – Consultation material

Index

- 1) Newspaper advert (published week commencing 16 March 2015)
- 2) Consultation letter/ email
- 3) Town and parish council newsletter (published week commencing 13 April 2015)

1) Newspaper advert (published week commencing 16 March 2015)

Wiltshire Council Local Development Framework
Notice of consultation on draft Planning
Obligations Supplementary Planning Document,
draft Community Infrastructure Levy (CIL)
Regulation 123 List and CIL policies
consultation document

Town and Country Planning (Local Planning)
(England) Regulations 2012 (Regulations 11 to 16)
Community Infrastructure Levy (CIL)
Regulations 2010 (as amended)

Wiltshire Council is consulting on a draft Planning Obligations Supplementary Planning Document (SPD), a draft Community Infrastructure Levy (CIL) Regulation 123 List and CIL policies consultation document. Together, when finalised, they will support the introduction of the Wiltshire CIL Draft Charging Schedule and set out how the council will seek infrastructure contributions from development.

The draft Planning Obligations SPD explains how the council will use section 106 planning obligations. It details how they will operate alongside other mechanisms for securing developer contributions, such as CIL, section 278 (highways) agreements and planning conditions.

The draft Regulation 123 List sets out the infrastructure types or projects that the council may fund through CIL. The council is also consulting on a draft instalments policy for CIL payments and its position on other CIL policies including provisions for exemptions.

Availability of documents

The draft Planning Obligations SPD, draft Regulation 123 List, CIL policies consultation document and information on how to make comments will be published on **23 March 2015**. The documents can be found on the Wiltshire Council website at www.wiltshire.gov.uk/communityinfrastructurelevy.

Hard copies of these documents will also be made available from **23 March 2015** during normal office hours at: Council libraries; and the main Council offices in Chippenham (Monkton Park), Devizes (3-5 Snuff Street), Salisbury (27-29 Milford Street) and Trowbridge (County Hall).

How to comment

In accordance with the council's Statement of Community Involvement (SCI), comments are invited on these documents over a four week period **until 5pm, 22 April 2015**. Comments can be made:

- Online via the council's consultation portal: <http://consult.wiltshire.gov.uk/portal>
- By email using the form available at www.wiltshire.gov.uk/communityinfrastructurelevy and returned to cil@wiltshire.gov.uk
- By post in writing to: Spatial Planning, Economic Development & Planning, Wiltshire Council, County Hall, Bythesea Road, Trowbridge, Wiltshire, BA14 8JN.

If responding by post, comment forms are available from libraries and main Council offices.

Next steps

All comments received during the consultation period will then be taken into account in finalising these documents. The final versions of the documents will be considered, alongside the Wiltshire Council Community Infrastructure Levy Charging Schedule, by the council's Cabinet for recommendation to Full Council for adoption in May 2015.

Any queries should be made to Spatial Planning, Economic Development and Planning, Wiltshire Council on (01225) 713223 or CIL@wiltshire.gov.uk

Alistair Cunningham
Director
Economic Development and Planning
Wiltshire Council

Wiltshire Council
Where everybody matters

2) Consultation letter/ email (sent out 18 March-20 March 2015)

Dear Sir/ Madam,

Re: Draft Planning Obligations Supplementary Planning Document, draft Community Infrastructure (CIL) Regulation 123 List and CIL policies consultation document

I'm writing to inform you that Wiltshire Council is consulting on a draft Planning Obligations Supplementary Planning Document (SPD), a draft Community Infrastructure Levy (CIL) Regulation 123 List and a CIL policies consultation document. Together, when finalised, they will support the introduction of the Wiltshire CIL Draft Charging Schedule and set out how the council will seek infrastructure contributions from development.

The draft Planning Obligations SPD explains how the council will use section 106 planning obligations. It details how they will operate alongside other mechanisms for securing developer contributions, such as CIL, section 278 (highways) agreements and planning conditions.

The draft Regulation 123 List sets out the infrastructure types or projects that the council may fund through CIL. The council is also consulting on a draft instalments policy for CIL payments and its position on other CIL policies including provisions for exemptions.

Availability of documents

The draft Planning Obligations SPD, draft Regulation 123 List, CIL policies consultation document and information on how to make comments will be published on **23 March 2015**. The documents can be found on the Wiltshire Council website at www.wiltshire.gov.uk/communityinfrastructurelevy.

Hard copies of these documents will also be made available from **23 March 2015** during normal office hours at: Council libraries; and the main Council offices in Chippenham (Monkton Park), Devizes (3-5 Snuff Street), Salisbury (27-29 Milford Street) and Trowbridge (County Hall).

How to comment

In accordance with the council's Statement of Community Involvement (SCI), comments are invited on these documents over a four week and two day period **until 5pm, 22 April 2015**. Comments can be made:

- Online via the council's consultation portal: <http://consult.wiltshire.gov.uk/portal>
- By email using the form available at www.wiltshire.gov.uk/communityinfrastructurelevy and returned to cil@wiltshire.gov.uk
- By post in writing to: Spatial Planning, Economic Development & Planning,
Wiltshire Council, County Hall, Bythesea Road,
Trowbridge, Wiltshire, BA14 8JN.

If responding by post, comment forms are available from libraries and main Council offices.

Next steps

All comments received during the consultation period will then be taken into account in finalising these documents. The final versions of the documents will be considered, alongside the Wiltshire Council Community Infrastructure Levy Charging Schedule, by the council's Cabinet for recommendation to Full Council for adoption in May 2015.

Any queries should be made to Spatial Planning, Economic Development and Planning, Wiltshire Council on (01225) 713223 or CIL@wiltshire.gov.uk.

Yours faithfully,



Alistair Cunningham

Associate Director, Economic Development & Planning

Wiltshire Council

3) Town and parish newsletter (published week commencing 13 April 2015)

Wiltshire Council Local Development Framework

Wiltshire Council is consulting on a draft Planning Obligations Supplementary Planning Document (SPD), a draft Community Infrastructure Levy (CIL) Regulation 123 List and CIL policies consultation document. Together, when finalised, they will support the introduction of the Wiltshire CIL Draft Charging Schedule and set out how the council will seek infrastructure contributions from development.

The draft Planning Obligations SPD explains how the council will use section 106 planning obligations. It details how they will operate alongside other mechanisms for securing developer contributions, such as CIL, section 278 (highways) agreements and planning conditions.

The draft Regulation 123 List sets out the infrastructure types or projects that the council may fund through CIL. The council is also consulting on a draft instalments policy for CIL payments and its position on other CIL policies including provisions for exemptions.

The draft Planning Obligations SPD, draft Regulation 123 List, CIL policies consultation document and information on how to make comments can be found on the Wiltshire Council website at www.wiltshire.gov.uk/communityinfrastructurelevy.

Hard copies of these documents are available during normal office hours at: council libraries; and the main council offices in Chippenham (Monkton Park), Devizes (3-5 Snuff Street), Salisbury (27-29 Milford Street) and Trowbridge (County Hall).

In accordance with the council's Statement of Community Involvement (SCI), comments are invited on these documents until 5pm, 22 April 2015. Comments can be made:

- Online via the council's consultation portal: <http://consult.wiltshire.gov.uk/portal>
 - By email using the form available at www.wiltshire.gov.uk/communityinfrastructurelevy and returned to cil@wiltshire.gov.uk
-

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All comments received during the consultation period will then be taken into account in finalising these documents. The final versions of the documents will be considered, alongside the Wiltshire Council Community Infrastructure Levy Charging Schedule, by the council's Cabinet for recommendation to Full Council for adoption in May 2015.

Any queries should be made to Spatial Planning, Economic Development and Planning, Wiltshire Council on (01225) 713223 or CIL@wiltshire.gov.uk

Appendix C Adoption Statement

Planning Obligations Supplementary Planning Document (SPD)
Town and Country Planning (Local Planning) (England) Regulations 2012
(Regulations 11 to 16)
Community Infrastructure Levy (CIL) Regulations 2010 (as amended)

Adoption Statement

Adoption

The Planning Obligations Supplementary Planning Document (SPD) was adopted at a meeting of Wiltshire Council in accordance with the Council's Statement of Community Involvement.

Modifications

In accordance with sections 11 and 14 of The Town and Country Planning (Local Planning) (England) Regulations 2012 this adoption statement sets out pursuant to Section 23(1) of the Planning and Compulsory Purchase Act 2004 the modifications to the Planning Obligations SPD that have been made since the draft SPD was subject to consultation, as follows:

#	Proposed changes
C1	<p>Amend paragraph 5.2 as follows:</p> <p>Wiltshire's school population is predicted to increase over the period to 2026 both in the primary and secondary sectors. This is as a result of population growth, economic factors and housing development. There will be a need for a significant increase in school places and in some areas new schools in both sectors. There may also be the need to increase the provision of special school places across the wider catchment area. <u>New development in Wiltshire may also place demands on infrastructure in neighbouring authorities. For example, pupils in Mere and Tisbury attend secondary schools in Gillingham and Shaftesbury respectively.</u> The Department of Education will provide only formula funding where there is a demographic increase in actual numbers. This will not cover the full cost of assembling land and building a school.</p>
C2	<p>Amend text in Table 5.1 as follows:</p> <p>Locate key facilities, such as primary schools, within walking distance of most properties, <u>where practical</u>, and provide a sufficient choice of school places.</p>
C3	<p>Amend paragraph 5.13 as follows:</p> <p>It will then be assessed whether the likely number of pupils can be accommodated within the existing capacity of the relevant catchment area school, taking into account other known granted or pending developments <u>planning applications</u> in their catchment area.</p>
C4	<p>Amend paragraph 5.15 as follows:</p> <p>Development proposals for around 400 to 500 houses may require a significant expansion of existing primary and secondary schools (combined or individually). Proposals for more than around 700 houses may require new nursery and primary schools, as well as a significant expansion of existing secondary schools, to serve children generated by the development. In both instances, this will depend upon the extent of any surplus capacity within reasonable (defined) walking distance of the development. <u>Proposals of this size may also require</u></p>

	<u>significant expansion of existing secondary schools, taking into account any surplus capacity within the catchment area.</u>
C5	<p>Amend paragraph 5.16 as follows:</p> <p>A new secondary school is only likely to be required to serve a major urban expansion scheme. <u>The council will consider the establishment of a new secondary school where long term demand is likely to lead to a school with 900 11-16 school places.</u> Special schools have a relatively wide catchment area and large development proposals may require the expansion of special school provision serving a wider area.</p>
C6	<p>Add the following row to Table 6.1, Chapter 6 Open space and green infrastructure.</p> <p><u>Core Policy 53 Wiltshire's canals</u></p> <p><u>Supports in principle the restoration and reconstruction of the Wilts & Berks and Thames and Severn canals as navigable waterways. Safeguards their alignments from new development. Permits proposals that develop the recreational and nature conservation potential.</u></p>
C7	<p>Amend paragraph 6.9 of the Planning Obligations SPD to read:</p> <p>Onsite provision of open space and landscaping schemes may be offered to the council or its nominee (usually a town or parish council) by a developer as council-owned and maintained provision <u>to be managed in perpetuity by a management company on behalf of the council or town/ parish council.</u></p>
C8	<p>Amend paragraph 6.3 as follows:</p> <p><u>The provision of new and improvements to existing public open space and green infrastructure will generally be funded through CIL, except where the requirement can be attributed to five or fewer developments unless directly related to the proposed development, when new provision they will may be sought through planning obligations, subject to meeting the three statutory tests in Regulation 122 of the CIL Regulations 2010 (as amended).</u></p>
C9	<p>Amend paragraph 6.4 as follows:</p> <p>Mitigation of ecological impacts will generally continue to be managed through planning conditions and obligations as these matters are typically site specific. However, in exceptional circumstances where off-site compensation, such as habitat creation or enhancement, is <u>may be</u> required to offset the effects of development <u>where onsite mitigation is not possible. For example</u>, a financial contribution may be required through a planning obligation to fund capital works and ongoing management by the council or relevant third parties. <u>This would exclude funding of strategic HRA mitigation strategies, as identified in the Regulation 123 list, Infrastructure Delivery Plan and / or paragraph 6.70 of the Wiltshire Core Strategy.</u></p>
C10	<p>Add an additional bullet point in paragraphs 3.2 and 10.2 as follows:</p> <ul style="list-style-type: none"> • <u>Site-specific measures to protect and enhance the historic environment</u>
C11	<p>Amend paragraph 11.6 as follows:</p> <p>The council would expect that developers will have undertaken pre-application consultation with local communities prior to submitting development proposals. This will enable them to gain a greater understanding of local concerns and issues, <u>including the relative priority of any identified planning obligations at the local level</u>, and should inform the detail of their planning application.</p>

C12	<p>The following text to be added to paragraph 11.6:</p> <p>The council would expect that encourage developers will have to undertaken pre-application consultation with local communities prior to submitting development proposals. This will enable them to gain a greater understanding of local concerns and issues and should inform the detail of their planning application.</p>
IR1	<p>Amend the title page as follows:</p> <p>Draft Planning Obligations Supplementary Planning Document</p> <p>March May 2015</p>
IR2	Remove the page containing information about the consultation
IR3	<p>Amend paragraph 2.6 to reflect that the Highways Agency is now called Highways England:</p> <p>Regulation 123 of the CIL Regulations 2010 (as amended) prevents section 278 agreements being used to fund items on the Regulation 123 List. The exception is where the section 278 agreement relates to roads that are the responsibility of the Highways Agency England. There are no pooling restrictions on section 278 agreements. Pooling is discussed in more detail in paragraph 2.13.</p>
IR4	<p>Amend the final sentence of paragraph 6.9 to clarify the function of the source for open space/ green infrastructure calculations:</p> <p>These are calculated using rates from the current Spons external works and landscape price book.</p>
IR5	<p>Add a paragraph following paragraph 6.9 to explain how offsite contributions for open space/ green infrastructure are calculated:</p> <p><u>Off-site provision of open space will be sought through planning obligations where it is not possible for the provision to be made on-site and the off-site open space is directly related to the proposed development. The off-site contribution will be calculated in line with the adopted Wiltshire Open Space standards and based on rates from the current Spons external works and landscape price book.</u></p>
IR6	Correct Appendix 1 to show that site-specific community and cultural facilities infrastructure will be delivered through s106 and not CIL

Legal challenge

Any person with sufficient interest in the decision to adopt the Planning Obligations SPD may apply to the High Court for permission to apply for judicial review of that decision. Any such application must be made promptly and in any event not later than 3 months after the date on which the Planning Obligations SPD was adopted.

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Planning Obligations Supplementary Planning Document

May 2015

Wiltshire Council

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Appendix 1 – Summary of the council's approach to planning obligations and CIL

Appendix 2 – Affordable housing zones map (CP43)

Appendix 3 – Useful links

1. Introduction

- 1.1. The adopted Wiltshire Core Strategy (2015) provides for at least 42,000 homes and approximately 178 ha of employment land in Wiltshire from 2006 to 2026.
- 1.2. Ensuring that the necessary infrastructure is put in place to support this new development requires developer contributions, using the following mechanisms (as discussed in Section 2 below):
 - Planning conditions (*see paragraph 2.2*)
 - Section 278 agreements to deliver highways works (*see paragraph 2.5*)
 - Planning obligations (*see paragraph 2.7*)
 - Community Infrastructure Levy (CIL) (*see paragraph 2.15*)
- 1.3. Supplementary planning documents should be prepared only where necessary and in line with paragraph 153 of the National Planning Policy Framework (NPPF). They should build upon and provide more detailed advice or guidance on the policies in the Local Plan. They should not add unnecessarily to the financial burdens on development.
- 1.4. This Planning Obligations Supplementary Planning Document (SPD) supports policies within the adopted Wiltshire Core Strategy (January 2015), particularly Core Policy 3 Infrastructure Requirements. It should be read in conjunction with the Wiltshire CIL Charging Schedule and the Wiltshire Regulation 123 List (*see paragraph 2.12*).
- 1.5. This SPD will identify the planning obligations that will be sought by the council for development that generates a need for new infrastructure.
- 1.6. While it is not part of the statutory development plan, this SPD will be a material consideration in determining planning applications.
- 1.7. Chapter Two of this SPD sets out the legislative and policy framework that shapes the Council's approach to planning obligations and CIL. Chapters three through to 10 clarify which types of infrastructure will be funded by each mechanism. Chapters 11 and 12 describe the processes for negotiating, implementing and monitoring planning obligations.

2. Legislative and policy framework

2.1. The legislative and policy framework for planning obligations includes the following:

- Town and Country Planning Act 1990 (as amended)
- Planning Act 2008
- The Community Infrastructure Levy Regulations 2010 (as amended)
- The National Planning Policy Framework (NPPF) (2012)
- The Planning Practice Guidance (PPG) (2014)
- The Wiltshire Core Strategy (2015)

Planning conditions

2.2. Planning conditions (mainly under the Town and Country Planning Act 1990) require actions needed in order to make a development acceptable in planning terms. They relate directly to the actual physical development and its construction on-site but cannot be used to request financial contributions.

2.3. Paragraph 206 of the NPPF requires conditions to be necessary, relevant to planning and the development, enforceable, precise, and reasonable in all other respects.

2.4. In Wiltshire, planning conditions are likely to cover, amongst other things, the requirement to:

- undertake archaeological investigations prior to commencement
- remediate contaminated land
- implement necessary local site-related transport improvements
- undertake appropriate flood risk solutions
- submit details of materials to be used in the development, and
- control opening hours of environmentally unfriendly but necessary uses.

Section 278 agreements

2.5. Section 278 agreements (under the Highways Act 1980) are made between a highway authority and a person who agrees to pay all or part of the cost of highways works.

2.6. Regulation 123 of the CIL Regulations 2010 (as amended) prevents section 278 agreements being used to fund items on the Regulation 123 List. The exception is where the section 278 agreement relates to roads that are the responsibility of Highways England. There are no pooling restrictions on section 278 agreements. Pooling is discussed in more detail in paragraph 2.13.

Planning obligations

2.7. A planning obligation may be required by the council to:

- Control the impact of development, for example, a proportion of the housing must be affordable;
- Compensate for the loss or damage caused by the development, for example, loss of a footpath;

- Mitigate a development's impact, for example, increase public transport provision.

2.8. To mitigate the impacts of development, planning obligations can be:

- Financial obligations requiring monetary contributions to the local authority to fund works or services, and
- In-kind obligations requiring specific actions to be performed by specific parties

2.9. The Council can secure planning obligations through a legal agreement (under section 106 of the Town and Country Planning Act 1990) with an applicant. Or it will expect the applicant to enter into a unilateral undertaking, which is a type of planning obligation where only the applicant need be bound by the obligation. A planning obligation is attached to the land, which means that it will remain enforceable even when the land is sold.

2.10. Regulation 122 of the CIL Regulations 2010 (as amended) sets out three statutory tests for planning obligations, namely that:

"A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

(a) Necessary to make the development acceptable in planning terms;

(b) Directly related to the development; and

(c) Fairly and reasonably related in scale and kind to the development."

If a planning obligation does not meet all of these tests it cannot legally be taken into account in granting planning permission. The local planning authority needs to be convinced that, without the obligation, permission should be refused.

2.11. Planning obligations cannot be used to deliver projects which will be provided for by CIL. The Wiltshire Regulation 123 List sets out the infrastructure projects that the Council may fund through CIL and so cannot be the subject of an obligation.

2.12. Regulation 123 of the CIL Regulations 2010 (as amended) limits the pooling of planning obligations towards infrastructure not on the Regulation 123 List. The pooling limit includes all planning obligations entered into since 6 April 2010. No more than five separate planning obligations may be pooled towards an infrastructure type or project if it is capable of being funded by CIL. This includes planning obligations attached to applications under section 73 of the Town and Country Planning Act 1990, which vary a planning condition. Phased payments as part of a planning obligation collectively count as a single obligation. There are no pooling limits in relation to affordable housing and for infrastructure that is not capable of being funded by CIL.

Community infrastructure levy

- 2.13. CIL is a fixed, non-negotiable charge on new development. The amount is based upon the size of a development and is charged in pounds per square metre. It varies according to the type of development (e.g. residential, retail or employment uses) and in which area of Wiltshire the development takes place. The Wiltshire CIL Charging Schedule sets out the CIL rates that apply to different types of development in different parts of the county.
- 2.14. CIL applies to development that creates net additional floorspace (measured as Gross Internal Area) of at least 100 square metres. Development of less than 100 square metres is also liable for CIL if it involves the creation of at least one new dwelling. CIL is calculated at the same time as an applicant seeks planning permission. It is payable upon commencement of development in line with the charging authority's proposed instalments policy. There are several types of development that do not pay CIL, by virtue of the rates being £0, and these are listed in the Wiltshire CIL Charging Schedule.
- 2.15. CIL will be used to help fund infrastructure projects on the Wiltshire Regulation 123 List. These projects are taken from the Wiltshire Infrastructure Delivery Plan, which identifies infrastructure necessary to deliver housing and employment development in the Wiltshire Core Strategy. The intention behind CIL is that it will contribute towards the funding of infrastructure to support the cumulative impact of development across the county. Planning obligations will be used to mitigate the site-specific impact of development and deliver affordable housing.
- 2.16. A broad definition of 'infrastructure' for the purposes of CIL funding is set out in section 216(2) of the Planning Act 2008 and includes:
- Roads and other transport facilities
 - Flood defences
 - Schools and other education facilities
 - Medical facilities
 - Sporting and recreational facilities
 - Open spaces

3. The Council's approach to developer contributions

3.1. Core Policy 3 Infrastructure Requirements of the Wiltshire Core Strategy outlines the council's approach to planning obligations, which will be sought to:

- Mitigate the direct impact(s) of a development
- Secure its implementation
- Control phasing where necessary, and
- Secure and contribute to the delivery of infrastructure made necessary by development.

3.2. Since the adoption of Wiltshire's CIL Charging Schedule, the scope of planning obligations is reduced. However, planning obligations will still be sought towards affordable housing. The council may also seek planning obligations, where it is not appropriate to use planning conditions, towards site-specific infrastructure projects not on the Wiltshire Regulation 123 List. Such site-specific infrastructure projects may fall under the following categories:

- Education
- Open space/ green infrastructure
- Transport/ highways
- Flood alleviation and sustainable urban drainage schemes
- Community and health facilities
- Air quality, contaminated land and noise monitoring and mitigation measures
- Fire hydrants
- Local employment, skills training and enterprise benefits
- Waste and recycling containers
- Art and design in the public realm
- Site-specific measures to protect and enhance the historic environment

3.3. Larger developments, especially residential, typically have greater impacts and may require site-specific infrastructure, such as schools, community facilities and transport/ highways improvements. These can still be secured through planning obligations, even under the tighter restrictions introduced by the CIL Regulations 2010 (as amended).

3.4. For large developments, master plans and other planning policy guidance may provide further details. In securing planning obligations on large developments, the council will apply the statutory tests and avoid duplication with CIL. Where necessary, development viability will be taken into account on a site-by-site basis in assessing planning obligations, in accordance with paragraph 205 of the NPPF.

3.5. The following chapters address in more detail the various types of planning obligations that may be necessary for a development to mitigate against its impact on the local area.

4. Affordable housing

General approach

- 4.1. The Council will continue to secure affordable housing through planning obligations. Full details of thresholds, application and requirements will be contained within the forthcoming Affordable Housing SPD. This should be read in conjunction with this SPD.
- 4.2. One of the key issues facing Wiltshire is the provision of new housing to help meet the needs of its communities. Securing the provision of new affordable housing in all developments will be given a high priority in terms of planning obligations.
- 4.3. The NPPF definition for affordable housing includes social, affordable and intermediate housing for rent or sale. They are provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices.
- 4.4. Planning obligations used to secure affordable housing should include provisions for the housing to remain affordable for future eligible households.

Policy context and framework

- 4.5. Any requirements for affordable housing will be justified in accordance with the NPPF and the Wiltshire Core Strategy (Core Policies and the development templates), as amended by the provisions of the PPG at the time of writing (see *Table 4.1*).

Policy	Requirement
NPPF	
Paragraph 50	To deliver a wide choice of high quality homes and where local authorities have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified
Wiltshire Core Strategy	
Core Policy 3 <i>Infrastructure requirements</i>	Planning obligations sought to mitigate the direct impact of development, contribute towards delivery of infrastructure made necessary by the development, and provision of local facilities and services.
Core Policy 43 <i>Providing affordable homes</i>	Sites of five or more dwellings: At least 30% (net) affordable housing within the '30% affordable housing zone' on Policies Map ¹ . At least 40% (net) affordable housing within the '40% affordable housing zone' on Policies Map. In exceptional circumstances, the council will accept a commuted sum.

¹ See Appendix 2.

Policy	Requirement
Core Policy 44 <i>Rural exceptions sites</i>	Only affordable houses for local need. Must follow criteria in CP44. Does not apply to principal settlements or market towns. Only local service centres, large and small villages and other settlements (CP1). The council will work in a positive way with parish councils and others.
Core Policy 45 <i>Meeting Wiltshire's housing needs</i>	Affordable homes provided should meet identified local needs including the appropriate tenure, size and type of home.
Core Policy 46 <i>Meeting the needs of Wiltshire's vulnerable and older people</i>	New homes should take account of the needs of older and vulnerable people. Affordable housing policies in CP43 will apply to extra care housing/very sheltered housing and any other accommodation for vulnerable people.

Table 4.1 – Summary of affordable housing policies

Thresholds and application

- 4.6. For sites over 10 dwellings and sites of 6 to 10 dwellings with maximum combined net additional floorspace above 1,000 square metres², Core Policy 43 seeks at least 30% or 40% (net) affordable housing provision on-site depending upon the location of development (see *Appendix 2* for a map of the affordable housing zones). In exceptional circumstances, the Council will accept a commuted sum. This will apply to proposals for 6 to 10 dwellings with a maximum combined net additional floorspace of less than 1,000 sqm in designated rural areas, including Areas of Outstanding Natural Beauty (AONBs), in Wiltshire as defined for the purpose of the PPG. Provision may vary on a site by site basis, taking into account local need, mix and development viability. On rural exception sites, Core Policy 44 allows affordable houses for local need³.
- 4.7. Affordable housing requirements apply to houses that fall under Use Class C3 of the Use Classes Order 1987 (as amended). It includes market housing, self-contained student housing, homes for the active elderly, sheltered housing and extra care or very sheltered housing. Affordable housing requirements do not apply to nursing homes, residential care homes, hotels and student accommodation (non self-contained).

² A change in national policy introduced by a Ministerial Statement (28 November 2014) stipulated that affordable housing and tariff style planning obligations should not be sought from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1000sqm. Neither should they be sought from proposals for residential annexes or extensions. Local authorities can apply a threshold of five units or less in designated rural areas, including national parks and Areas of Outstanding Natural Beauty, but must then seek affordable housing and tariff style contributions on development of between six and 10 units in the form of cash payments commuted until after completion of units within the development.

³ The restrictions on seeking affordable housing and tariff style planning obligations introduced by the Ministerial Statement (28 November 2014) do not apply to development on Rural Exception Sites, although they should not be sought from residential annexes or extensions.

5. Education facilities and school places

General approach

- 5.1. Education impacts of development will be addressed through the use of planning conditions, planning obligations and through the application of CIL receipts.
- 5.2. Wiltshire's school population is predicted to increase over the period to 2026 both in the primary and secondary sectors. This is as a result of population growth, economic factors and housing development. There will be a need for a significant increase in school places and in some areas new schools in both sectors. There may also be the need to increase the provision of special school places across the wider catchment area. New development in Wiltshire may also place demands on infrastructure in neighbouring authorities. For example, pupils in Mere and Tisbury attend secondary schools in Gillingham and Shaftesbury respectively. The Department of Education will provide only formula funding where there is a demographic increase in actual numbers. This will not cover the full cost of assembling land and building a school.
- 5.3. Some development schemes in isolation will result in a significant net increase in the number of residents and a cluster of neighbouring developments will often lead to a significant local increase in population. These factors can and will create the need for new schools on sites in the development locality or extensions to existing schools. This will be necessary unless there is local capacity available in schools or capacity is likely to become available at the right time.
- 5.4. A specific local education need may be identified that is linked to development. CIL is unlikely to cover the full cost of land or the provision of a new school, or extension to existing schools. Therefore, this may be secured through planning obligations. The Council can pool up to five separate planning obligations towards a specific project not on the Regulation 123 List. In some cases, the scale of a development may be sufficient by itself to justify a new school. The developer will then be expected to provide the site free of charge and pay the full construction costs, including all design fees and charges.
- 5.5. Provision of education facilities either on-site or in the vicinity of significant development(s) may be required where justified. To justify any such requirement, the council will demonstrate that sufficient school age children will be generated to necessitate a new school or an extension to an existing school. The council will also demonstrate that the additional children could not be provided for within existing schools in the catchment area.
- 5.6. The council will seek to open new (4-11) schools for primary phase pupils. For secondary phase pupils, the Council will seek to open new (11-16) or (11-18) schools, rather than any other school organisation arrangements. For primary schools there is a strong preference for schools which take in between one (210 places) and three forms of entry (630 places). Smaller new schools will only be considered if it is not possible to expand existing schools and the additional demand does not require seven classes.
- 5.7. Under the Childcare Act 2006, the council must provide up to 15 hours free early years funding for all three and four year olds. Since September 2014, the council must provide free early years funding for 40% of all two year olds. The council may seek provision of early years facilities through development.

Policy context and framework

- 5.8. Any education requirements will be justified in accordance with the NPPF, the Wiltshire Core Strategy (Core Policies and the development templates) and saved policies (see *Table 5.1*).

Policy	Requirement
NPPF	
Paragraphs 38 and 72	Locate key facilities, such as primary schools, within walking distance of most properties, where practical, and provide a sufficient choice of school places
Wiltshire Core Strategy	
Core Policy 3 <i>Infrastructure requirements</i>	Planning obligations sought to mitigate the direct impact of development, contribute towards delivery of infrastructure made necessary by the development, and provision of local facilities and services.
Saved policies	
Kennet District Local Plan HC37 <i>Demand for Education</i>	Seeks contributions towards schools from new development
West Wiltshire District Plan S1 <i>Education</i>	Seeks contributions towards schools from new development
West Wiltshire District Plan S2 <i>Primary schools</i>	Allocates land for new or extensions to existing primary schools
Salisbury District Local Plan PS4 <i>New school sites at Landford and Shrewton</i>	Safeguards sites for new schools from other forms of development
Salisbury District Local Plan PS5 <i>New education facilities</i>	Seeks contributions from developers for new education facilities
Salisbury District Local Plan PS6 <i>Playgroups, childminding facilities and day nurseries</i>	Supports provision of playgroups, childminding facilities and day nurseries

Table 5.1 – Summary of education policies

- 5.9. *Table 5.2 sets out how the council will use planning obligations and CIL to secure education facilities from development, including known site-specific requirements resulting from strategically important sites allocated in the Wiltshire Core Strategy.*

Strategic Site	Specific Requirement	Mechanism for securing developer contribution	
		Planning Obligation	CIL
Ashton Park Urban Extension, Trowbridge	2 x 2FE primary school	✓	X
	Secondary school site	✓	X
Churchfields and Engine Shed, Salisbury	2FE primary school	✓	X
Fugglestone Red, Salisbury	2FE primary school	✓	X
Hampton Park, Salisbury	1FE primary school	✓	X
Longhedge, Salisbury	2FE primary school	✓	X
UKLF, Wilton	1FE primary school	✓	X
Kings Gate, Amesbury	1FE primary school	✓	X
	Secondary school expansion	✓	X
	Nursery, primary, special and secondary schools (including sites), where the need can be attributed to five or fewer developments	✓	X
	Other cumulative impacts of development upon nursery, primary, special and secondary school provision (excluding sites)	X	✓

Table 5.2 Known site-specific education requirements

Thresholds and application

- 5.10. The council will calculate the number of nursery, primary and secondary aged children likely to come from a new housing development. Several factors are taken into account, including the most current data available on pupil numbers and forecasts, schools' capacities and details of other know housing applied for/ approved within the relevant school catchment area(s).
- 5.11. The likely number of pupils arising from a development will be calculated using pupil product figures, which have been derived from the number of children arriving in early years settings and schools over a 10 year period. These figures are:
- 0.04 per dwelling for 0-2 year olds (4 per 100 dwellings)

- 0.09 per dwelling for 3-4 year olds (9 per 100 dwellings)
- 0.31 per dwelling for primary aged pupils (31 per 100 dwellings)
- 0.22 per dwelling for secondary aged pupils (22 per 100 dwellings).

- 5.12. All one bed properties are considered unlikely to generate school age children and so are discounted entirely. A 30% discount is given on the social housing element of applications. This reflects pupils moving within the relevant designated areas (most relevant at secondary level) and so not needing to change their school place.
- 5.13. It will then be assessed whether the likely number of pupils can be accommodated within the existing capacity of the relevant catchment area school, taking into account other known granted or planning applications in their catchment area. The estimated pupil product calculated for a new housing development, plus the forecast numbers on roll at the appropriate school(s) are compared with their permanent capacities to identify the extent of any deficit that will need to be addressed. The determination of whether or not there is sufficient Early Years provision in the area of the development will be done via reference to the current [Wiltshire Childcare Sufficiency Report](#) and an assessment of the impact of the development on existing capacity.
- 5.14. Where the proposed housing development would lead to a forecast school and early years population in excess of the permanent capacity, the council would seek either land and/ or provision of education facilities to meet the shortfall in places.
- 5.15. Development proposals for around 400 to 500 houses may require a significant expansion of existing primary and secondary schools (combined or individually). Proposals for more than around 700 houses may require new nursery and primary schools to serve children generated by the development. In both instances, this will depend upon the extent of any surplus capacity within reasonable (defined) walking distance of the development. Proposals of this size may also require significant expansion of existing secondary schools, taking into account any surplus capacity within the catchment area.
- 5.16. A new secondary school is only likely to be required to serve a major urban expansion scheme. The council will consider the establishment of a new secondary school where long term demand is likely to lead to a school with 900 11-16 school places. Special schools have a relatively wide catchment area and large development proposals may require the expansion of special school provision serving a wider area.

6. Open space/ green infrastructure

General approach

- 6.1. The council will generally mitigate the site specific impact of development on Wiltshire's open space and green infrastructure through planning obligations.
- 6.2. Population increase from new developments creates increased pressure on the use of open space and green infrastructure. Open space and green infrastructure can include allotments, cemeteries, parks, children's and youth play space, public rights of way, green areas, outdoor fitness and outdoor sports playing fields. It can also include areas of nature conservation, habitat creation and habitat protection, and ecological impacts.
- 6.3. The provision of new and improvements to existing public open space and green infrastructure will generally be funded through CIL, except where the requirement can be attributed to five or fewer developments, when they may be sought through planning obligations, subject to meeting the three statutory tests in Regulation 122 of the CIL Regulations 2010 (as amended).
- 6.4. Mitigation of ecological impacts will generally continue to be managed through planning conditions and obligations as these matters are typically site specific. However, in exceptional circumstances off-site compensation, such as habitat creation or enhancement, may be required to offset the effects of development where onsite mitigation is not possible. For example, a financial contribution may be required to fund capital works and ongoing management by the council or relevant third parties. This would exclude funding of strategic HRA mitigation strategies, as identified in the Regulation 123 list, Infrastructure Delivery Plan and / or paragraph 6.70 of the Wiltshire Core Strategy.
- 6.5. The Habitats Regulations Assessment of the Wiltshire Core Strategy identified that the cumulative effects of planned development has the potential to effect a number of European designations including the Salisbury Plain and the New Forest Special Protection Areas and the River Avon Special Area of Conservation; strategic mitigation strategies for these areas will be funded through CIL receipts. To meet the strict requirements of the Habitat Directive to ensure that these strategies are delivered, funds will be ring-fenced annually from CIL receipts prior to spending on any other infrastructure item.

Policy context and framework

- 6.6. Any open space/ green infrastructure requirements will be justified in accordance with the NPPF, the Wiltshire Core Strategy (Core Policies and the development templates) and saved policies (see *Table 6.1*).

Policy	Requirement
NPPF	
Paragraphs 16, 17, 73, 74, 99 and 114	Supports positive planning; encourages access to high quality open spaces and opportunities for sport and recreation; protects existing open space, sports and recreational buildings and land; takes into account climate change, and plans for a strategic approach to biodiversity and green infrastructure.

Policy	Requirement
Wiltshire Core Strategy	
Core Policy 50 <i>Biodiversity and geodiversity</i>	Requires development to mitigate its ecological impact, enhance biodiversity and, where appropriate, contribute towards management of local sites
Core Policy 51 <i>Landscape</i>	Requires development to mitigate any negative impacts upon landscape character through sensitive design and landscape measures, and to conserve and, where possible, enhance landscape character
Core Policy 52 <i>Green infrastructure</i>	Requires development to retain and enhance existing on-site green infrastructure, make provision for accessible open spaces according to the adopted Wiltshire Open Space Standards, ensure long-term management of directly related green infrastructure, contribute towards the Wiltshire Green Infrastructure Strategy and improve links between the natural and historic landscapes
Core Policy 53 <i>Wiltshire's Canals</i>	Supports in principle the restoration and reconstruction of the Wilts & Berks and Thames and Severn canals as navigable waterways. Safeguards their alignments from new development. Permits proposals that develop the recreational and nature conservation potential.
Core Policy 57 <i>Ensuring high quality design and place-shaping</i>	Requires development to adhere to a high standard of design relating to the natural environment, such as the retention and enhancement of landscaping and natural features, for example trees, hedges, banks and watercourses, in order to take opportunities to enhance biodiversity and create wildlife and recreational corridors.
Core Policies 60, 61 and 62	<i>See Chapter 7 Transport/ highways, Table 7.1</i> for policies applying to rights of way, which may also be classified as open space/ green infrastructure
Core Policy 67	<i>See Chapter 8 Flood risk alleviation and sustainable urban drainage systems, Table 8.1.</i> for policies applying to such schemes that may also be classified as open space/ green infrastructure
Core Policy 68 <i>Water resources</i>	Requires development to contribute towards the delivery of the relevant River Basin or catchment management plan and, for non-residential development, incorporate water efficiency measures
Core Policy 69 <i>Protection of the River Avon SAC</i>	Requires development to mitigate its impact on the River Avon Special Area of Conservation (SAC)
Saved policies	
Kennet District Local Plan HC34 <i>Recreation provision on large housing sites</i>	Contains the adopted open space standards for east Wiltshire

Policy	Requirement
Kennet District Local Plan HC35 <i>Recreation provision on small housing sites</i>	Contains the adopted open space standards for east Wiltshire
North Wiltshire Local Plan CF3 <i>Provisions of open space</i>	Contains the adopted open space standards for north Wiltshire
West Wiltshire Leisure and Recreation Development Plan Document LP4 <i>Providing recreation facilities in new developments</i>	Contains the adopted open space standards for west Wiltshire
Salisbury District Local Plan R2 <i>Open space provision</i>	Contains the adopted open space standards for south Wiltshire
Salisbury District Local Plan R3 <i>Open space provision</i>	Contains the adopted open space standards for south Wiltshire

Table 6.1 - Summary of open space/ green infrastructure policies

- 6.7. The saved Local Plan policies contain the adopted Wiltshire open space standards. These will be replaced by Wiltshire-wide standards, which will be informed by an Open Spaces Study to be completed in 2015. The new standards will be formally adopted as part of the partial review of the Wiltshire Core Strategy programmed in the Council's Local Development Scheme.

Thresholds and application

- 6.8. Thresholds for planning obligations are set out in the adopted Wiltshire open space standards. Four sets of open space standards are currently in operation across Wiltshire, with different standards applying in each of the former district areas. These will be replaced by Wiltshire-wide standards which will be informed by an Open Spaces Study, to be completed in 2015, with the new standards adopted as part of the partial review of the Wiltshire Core Strategy by the end of 2015. Core Policy 52 requires development to make provision in line with the adopted Wiltshire Open Space standards.
- 6.9. Onsite provision of open space and landscaping schemes may be offered to the council or its nominee (usually a town or parish council) by a developer for adoption to be managed in perpetuity by a management company on behalf of the council or town/ parish council. Where new publically accessible open space is proposed as part of a development, the council will require these facilities to be useable and of high quality. There are currently no specific standards against which the Council will undertake this assessment. It will be guided by the Open Spaces Study, to be completed in 2015, dependent upon individual site characteristics and, as such, in the interim period decisions will be made on a case by case basis. Open space must initially be maintained by the developer to the satisfaction of the council for at least 12 months after being provided on-site (this may be lengthened or shortened at the council's discretion). All new public open space must be secured and maintained in perpetuity for the benefit of the public. A commuted maintenance payment to cover a period of 20 years will also be required. The payment will be calculated using either the annual maintenance unit rates in place at the time of completion of the section 106 agreement, index linked to take into account inflations that may occur prior to receipt of payment, or the annual maintenance unit rates in place at the time the open space site is transferred to the council. These are calculated using rates from the current Spons external works and landscape price book.
- 6.10. Off-site provision of open space will be sought through planning obligations where it is not possible for the provision to be made on-site and the off-site open space is directly related to the proposed development. The off-site contribution will be calculated in line with the adopted Wiltshire Open Space standards and based on rates from the current Spons external works and landscape price book.

7. Transport/ highways

General approach

- 7.1. Transport impacts of development will be addressed through the use of planning conditions, planning obligations and through the application of CIL receipts. Generally and in accordance with national guidance, the council will first try to address transport and highways issues through planning conditions. This might be for on-site highways infrastructure or off-street parking to ensure the efficacy of the proposed network.
- 7.2. Inevitably, developments generating or attracting significant trips will have an off-site impact. Appropriate mitigation will need to be identified in the supporting transport assessment. It might be possible to directly mitigate the off-site impact of development on the wider transport network. In these situations, mitigation will normally be secured through negatively framed planning conditions, with works carried out under a section 278 (highways) agreement. This agreement can be drafted alongside the section 106 agreement.
- 7.3. However, section 278 agreements cannot be used to mitigate the cumulative impact of developments. Instead, planning obligations (subject to pooling restrictions) would normally be sought towards, for example, highways infrastructure or revenue support for local bus services. Obligations will also be used for traffic regulation orders directly required by development, typically for controlling traffic parking by directional movement or by weight.
- 7.4. The principle settlements in Wiltshire (i.e. Chippenham, Salisbury and Trowbridge) are supported by transport strategies. These identify measures to mitigate the cumulative impacts of development. Consideration of these is a key determinant of the highways authority recommendation on a planning application. Specific proposals could be delivered by planning obligations (subject to pooling restrictions). Such measures include:
- Road improvement schemes
 - Junction capacity improvements
 - Measures to facilitate the shift from car use to more sustainable means of transport, primary bus, cycle or walking schemes but also improvements to rail infrastructure
- 7.5. The accessibility and connectivity of development will be taken into consideration, including local destinations reasonably required by future residents, or vice-versa in the case of non-residential development. For example, measures might include new or upgraded pedestrian and cycle facilities. These may be identified in transport assessments, cycle and footpath route audits and travel plans, or through the local knowledge of officers.
- 7.6. The provision of sustainable transport measures may be more challenging in rural areas but is likely reflect those sought in more urban areas of the county.

Policy context and framework

- 7.7. Any transport/ highways requirements will be justified in accordance with the NPPF, the Wiltshire Core Strategy (Core Policies and the development templates) and saved policies (see Table 7.1).

Policy	Requirement
NPPF	
Paragraphs 29 to 41	Promote sustainable transport measures
Wiltshire Core Strategy	
Core Policy 3 <i>Infrastructure requirements</i>	Planning obligations sought to mitigate the direct impact of development, contribute towards delivery of infrastructure made necessary by the development, and provision of local facilities and services.
Core Policy 60 <i>Sustainable transport</i>	Reduce the need to travel and deliver sustainable transport. Planning obligations sought to mitigate the impact of development on transport users, local communities and the environment.
Core Policy 61 <i>Transport and development</i>	Planning obligations sought towards sustainable transport improvements identified in transport assessments.
Core Policy 62 <i>Development impacts on the transport network</i>	Appropriate mitigation measures from development sought to offset any adverse impacts on the transport network at both the construction and operational stages.
Core Policy 63 <i>Transport strategies</i>	Planning obligations sought towards implementing the transport strategies for the principal areas of development in Wiltshire (i.e. Chippenham, Salisbury and Trowbridge) to address the need for integrated transport solutions in these settlements.
Core Policy 64 <i>Demand management</i>	Demand management mitigation measures sought to reduce reliance on the car and encourage the use of sustainable transport alternatives.
Core Policy 66 <i>Strategic transport network</i>	Identifies improvements to the A350 national primary route at Yarnbrook/ West Ashton. Mitigation measures sought to ensure important commuting routes for Annex II species are protected.
Saved policies	
West Wiltshire Leisure and Recreation DPD CR1 <i>Footpaths and rights of way</i>	Protects public rights of way network from development and, where appropriate, seeks improvements as part of development proposals
Other	
Planning Practice Guidance	Provides further guidance, which will be referred to by the council in seeking transport/ highways contributions, especially around the use of conditions, transport assessments and travel planning.
DfT publications	Further design-related national guidance, e.g. Design Manual for Roads and the Manual for Streets

Table 7.1 – Summary of transport/ highways policies

Thresholds and application

- 7.8. Planning obligations may be sought regardless of the size of the development proposed, depending upon the site related circumstances. However, developments not requiring a transport assessment⁴ are unlikely to need to provide for any off-site works. Those that do can be anticipated to be required to mitigate their impact. Smaller developments will help reduce their limited impacts through the use of CIL receipts.
- 7.9. Where significant infrastructure is included on-site, it will likely need to be of a size to accommodate internal and any external trips it might facilitate. On-site infrastructure may need to be appropriately upgraded to accommodate planned connecting infrastructure. This will be required as a pro bono contribution, as part of the abnormal development costs.
- 7.10. In the principal settlements, planning obligations will have regard to the relevant transport strategy. Off-site measures will primarily be restricted to residential development because they generate trips. Contributions (subject to pooling restrictions) are normally sought on a per dwelling basis but this approach is subject to review.
- 7.11. Employment development attracts trips and is to be encouraged to support the increase in forecast population. It will normally be required only to address immediate and local transport impacts, where they have a deleterious effect on the transport network. Major employment and retail developments may be required to mitigate their impacts away from the immediate area, e.g. congestive impacts at identified junctions.
- 7.12. There will be some transport schemes that cannot be funded through planning obligations and these will be delivered through CIL receipts. This will generally be targeted towards 'softer' transport measures, as identified in the Regulation 123 List, such as:
- Personalised travel planning
 - Town way-finding schemes
 - Footpath and cycle route enhancements
 - Wider urban bus service support
 - Mobility schemes
 - Cycle stand provision
 - On-highway public realm improvements
- 7.13. Any requirements for transport/ highways planning obligations will meet the three statutory tests in CIL Regulation 122 in the following way:
- **Necessary** – acceptability of the transport impacts of the development in the absence of mitigation, which is considered on a site-by-site or cumulative basis.
 - **Directly related** – impact of the development on the local transport network resulting from the trips directly associated with the development

⁴ Guidance on Transport Assessments, March 2007, GCLG/ DfT.

- **Scale** – measures that do not exceed only what is necessary to mitigate the development's own impact on the local network. However, negotiated mitigation measures might result in, for example, local improvements to capacity at one junction at the expense of another. At least a five year life would be expected from any works on the highway.

8. Flood alleviation and sustainable urban drainage schemes

General approach

- 8.1. The council will continue to secure site-specific flood alleviation and sustainable urban drainage schemes (SuDS) mainly through planning conditions but, occasionally, through planning obligations.
- 8.2. The council is committed to implementing sustainable approaches to surface water drainage, expecting developments to incorporate sustainable urban drainage systems (SuDS). Additionally, several areas in Wiltshire are within Flood Zones 2 and 3. Developments proposed that fall into those zones will require additional evidence that no lower risk alternative sites were available.
- 8.3. All new development will need to include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable urban drainage), unless site or environmental conditions make these measures unsuitable.
- 8.4. Development will be expected to incorporate a sustainable urban drainage system (SUDs), such as rainwater harvesting, green roofs, permeable paving, ponds, wetlands and swales, wherever possible.
- 8.5. The provision of green infrastructure, including woodland, should also be considered as a measure to reduce surface water run-off. Any opportunities to reinstate or create additional, natural functional floodplain through the development process will be encouraged.

Policy context and framework

- 8.6. Any requirements for flood alleviation and SuDS infrastructure will be justified in accordance with the NPPF, the Wiltshire Core Strategy (Core Policies and the development templates) and saved policies (see *Table 8.1*).

Policy	Requirement
NPPF	
Paragraphs 99 – 104	Meeting the challenge of climate, change, flooding and coastal change
Wiltshire Core Strategy	
Core Policy 3 <i>Infrastructure requirements</i>	Planning obligations sought to mitigate the direct impact of development, contribute towards delivery of infrastructure made necessary by the development, and provision of local facilities and services.
Core Policy 67 <i>Flood risk</i>	Requires all new development to include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable urban drainage) unless site or environmental conditions make these measures unsuitable
Saved policies	
West Wiltshire District Plan U1a <i>Foul water disposal</i>	Requires development to have adequate foul drainage and connect to mains drainage

Policy	Requirement
Other	
Environment Agency	<i>Sustainable Drainage Systems: An Introduction</i> , which sets out the 'surface water management train' approach recommended by the Environment Agency that developers will be expected to follow
Wiltshire Council	<i>A Developer's Guide to SuDS in Wiltshire</i>

Table 8.1 – Summary of flood alleviation and sustainable urban drainage schemes policies

Thresholds and application

- 8.7. Major flood alleviation and SuDS projects will be delivered by the water companies, or via CIL and other infrastructure funding. Section 106 agreements will not be used to seek funding for these projects.
- 8.8. However, developers may be expected to mitigate the direct impacts of their development on local drainage and flood risk management through planning obligations. Planning obligations may be sought where the development requires:
- Off site management of surface water to ameliorate the impact of the development on the capacity of Sewage Treatment Works
 - Off site management of surface water to ameliorate the impact of the development on the risk of flooding to properties nearby
 - Off site works to manage the impact of the development on the risk of flooding from fluvial sources to properties nearby
- 8.9. The section 106 agreement will require the nature of the works to be undertaken to be agreed by the Council. Appropriate contracts will need to be in place to secure the delivery of off-site work before the development can commence. This will involve securing the agreement of the relevant landowner(s) as well as appropriate agreements from the local drainage company and/ or relevant regulatory bodies.
- 8.10. On-site infrastructure may also be provided to alleviate the risk of flooding, and reduce impacts on drainage infrastructure. This will normally form part of the detailed matters submitted and agreed through the planning application process. The delivery can therefore be secured through a planning condition.
- 8.11. However, the ongoing maintenance of on-site infrastructure may need to be subject to a section 106 agreement. Off-site infrastructure will need to be maintained in order to ensure it continues to operate effectively. Additionally, some developments will incorporate on-site flood risk management and drainage infrastructure which will require maintenance beyond the normal timeframe of development.
- 8.12. The developer may be able to get this infrastructure adopted by the local drainage company if it meets their specifications. Where this cannot be achieved, the developer must put in place mechanisms to ensure the ongoing maintenance and effective operation of the infrastructure in perpetuity.

- 8.13. The council will include clauses within section 106 agreements to secure the ongoing maintenance of flood alleviation and SuDS. This could apply to both off-site and on-site provision. Normally the section 106 agreement will require either:
- the developer to enter into an agreement with the local drainage company to adopt the flood alleviation and SuDS prior to initial occupation/ use, or
 - the developer to prepare a management plan for the flood alleviation and SuDS, agreed by the council, and put in place mechanisms to deliver ongoing management of the infrastructure prior to initial occupation/ use.
- 8.14. Due to the unpredictable nature of flood risk and drainage issues, later implementation of maintenance is unacceptable.
- 8.15. It is necessary to ensure delivery of flood alleviation and SuDS alongside development. Therefore, any financial planning obligations must be paid upon commencement of development to allow sufficient time to deliver the required infrastructure. If the developer is undertaking the physical work themselves then it must be completed prior to initial occupation or use. The section 106 agreement will set out the phasing requirements for planning obligations related to flood alleviation and SuDS.

9. Community and health facilities

General approach

- 9.1. Where there is a direct link to development, the council will fund community and health facilities through planning obligations. CIL may be used to fund other health facilities and community facilities such as multi-use community facilities, leisure centres and libraries and cultural facilities.

Policy context and framework

- 9.2. Any requirements for community and health facilities will be justified in accordance with the NPPF, the Wiltshire Core Strategy (Core Policies and the development templates) and saved policies (*see Table 9.1*).

Policy	Requirement
NPPF	
Paragraphs 28 and 70	Support economic growth in rural areas, and the delivery of social, recreational and cultural facilities and services
Paragraphs 156, 162 and 171	Supports strategic policies to deliver health, security, community and cultural infrastructure and other local facilities, working with providers to assess the capacity of and the need for strategic infrastructure, and work with health providers to understand and take into account the health needs of the local population
Wiltshire Core Strategy	
Core Policy 3 <i>Infrastructure requirements</i>	Planning obligations sought to mitigate the direct impact of development, contribute towards delivery of infrastructure made necessary by the development, and provision of local facilities and services.
Core Policy 48 <i>Supporting rural life</i>	Supports improving access to services and infrastructure, community ownership and new shops in rural areas
Core Policy 49 <i>Protection of services and community facilities</i>	Protects existing services and community facilities
Saved policies	
North Wiltshire Local Plan CF2 <i>Leisure facilities and open space</i>	Supports proposals for leisure facilities (and open space) within settlement boundaries
Salisbury District Local Plan PS1 <i>Community facilities</i>	Supports provision of health facilities.

Policy	Requirement
Salisbury District Local Plan R4 <i>Indoor community and leisure provision</i>	Seeks provision of new indoor community and leisure facilities, or contributions towards existing facilities, from development
West Wiltshire Leisure and Recreation DPD Policies LP1, LP2, LP3, LP4 and LP5	Protect and enhance existing open space or leisure and recreation provision. Seek provision of recreation facilities in new development.
West Wiltshire Leisure and Recreation DPD Policies OS1 and OS2	Seek provision of new artificial turf and grass pitch provision from new development
West Wiltshire Leisure and Recreation DPD Policies YP2	Seeks provision of youth facilities from new development

Table 9.1 – Summary of community and health facilities policies

- 9.3. *Table 9.2* sets out site-specific requirements for health facilities resulting from new development allocated in the Wiltshire Core Strategy.

Strategic Site	Specific Requirement	Mechanism for securing developer contribution	
		Planning Obligation	CIL
Ashton Park Urban Extension, Trowbridge	Primary health facility	✓	X
Churchfields and Engine Shed, Salisbury	Primary health facility	✓	X

Table 9.2 Known site-specific health facilities requirements

Thresholds and application

- 9.4. Depending on the size of the residential development it may be possible that community facilities such as a village hall or changing rooms for a sports pitch for example are delivered through planning obligations directly linked to the development and are used in the development.

- 9.5. Large residential developments or a cluster of neighbouring developments will lead to a local increase in population. This can create a need for specific local health facilities if there is no existing local capacity or likely to be in the near future. The average list size for a whole time equivalent GP is 1,750 patients. New development that results in more than 7,000 new residents (a patient list of four whole time equivalent GPs) may require a new facility to be provided.

10. Other planning obligations

- 10.1. The council reserves the right to seek additional section 106 planning obligations to those listed above; where justified by local circumstance and where such planning obligations can meet the statutory tests set out in CIL Regulation 122.
- 10.2. Examples of section 106 obligations may include but will not be limited to:
- Site-specific air quality, contaminated land and noise monitoring and mitigation measures
 - Fire hydrants
 - Local employment, skills training and enterprise benefits
 - Waste and recycling containers⁵
 - Art and design in the public realm⁶
 - Site-specific measures to protect and enhance the historic environment
- 10.3. Planning obligations may be secured to ensure that provision is made directly on-site or, as appropriate, off-site.

⁵ Wiltshire Council (2014), *Waste Storage and Collection Guidance for New Developments*. See Appendix 4.

⁶ Wiltshire Council (2011), *Guidance Note for Art and Design in the Public Realm*.

11. Negotiating planning obligations in Wiltshire

- 11.1. The process for negotiating planning obligations is set within the framework of national legislation and guidance, and local policy and guidance, and other material considerations relevant in each particular case. The council must meet the statutory tests in the CIL Regulations 2010 (as amended) and consider the policy guidance in the NPPF and PPG.

Role of the case officer

- 11.2. The case officer assigned to assess planning proposals will act as one point of contact for the negotiation of planning obligations.

Pre-application stage

- 11.3. The council provides a pre-application advice service to anyone wanting help with a development proposal before the submission of a planning application. The aim is to provide responsive, consistent and timely advice. This de-risks the application process and reduces the time taken to deal with applications at the formal decision making stage. The charge for pre-application advice is set out on the 'Planning' pages of the council website.
- 11.4. Pre-application advice will identify policies of the development plan which generate a need for planning obligations. Where possible, it will specify expected heads of terms for any legal agreement or unilateral undertaking. The advice will provide details and/ or calculations of expected contributions, where relevant and possible. Potentially, this will assist applicants with the drafting of agreements or undertakings to enable them to be submitted before the submission of formal planning applications. Applicants will be encouraged to prepare agreements and undertakings in cooperation with the council's solicitors, and, wherever possible, use the council's template legal documents.
- 11.5. Applicants should use this SPD, alongside an analysis of their proposed works, to identify planning obligations necessary to mitigate the impacts of development.

Application stage

- 11.6. The applicant or their agent must ensure that the formal process of applying for planning permission is followed. Guidance is set out on the 'Planning' pages of the council website.
- 11.7. Applicants are encouraged to submit forms and related documentation electronically (via the council website or Planning Portal). Paper submissions are also acceptable. Standard application forms are available in packs either on-line or on request.
- 11.8. Planning applications are validated on receipt using 'local validation checklists', available to view on-line or on request. The council can refuse to register a planning application unless it receives all of the information set out in the checklists. Where applications generate the need for planning obligations the local validation checklists require, as a minimum, the heads of terms of the inevitable legal agreement or unilateral undertaking to be set out in the application documentation. The pre-application enquiry process will inform this process.

- 11.9. In rare situations where an applicant is unwilling to meet any, or all, of the expected planning obligations they should set out their reasons in a separate statement. If necessary, this should be accompanied by a viability appraisal (*see paragraph 11.12*).
- 11.10. The council is not required to enter into protracted negotiations on the nature and extent of expected planning obligations during the formal application process. For this reason, the council reserves the right to refuse inadequately justified applications without further explanation. To avoid this scenario, pre-application discussions are encouraged.

Thresholds

- 11.11. Some infrastructure types contain individual minimum thresholds, e.g. affordable housing, below which an obligation of that type will not be sought. In general, whether an obligation is sought will depend upon the nature, type, location and crucially impact of the proposal.

Size of development

- 11.12. Larger developments tend to create a specific need for infrastructure provision and improvements. They may require site specific infrastructure, such as schools, open spaces, community facilities and highway improvements or enabling works, to be secured through planning obligations. This could apply to smaller developments with site specific impacts.

Viability

- 11.13. On rare occasions the cost of obligations may be greater than the proposed development is able to bear. Where the outcome is judged to have a significant impact on residual land values and financial viability is raised as a concern, a financial appraisal of the proposed development by the applicant will be required to substantiate the claim. This should form part of the application documentation. The council will scrutinise the financial appraisal before confirming or otherwise viability.
- 11.14. A scenario may arise whereby the financial appraisal shows that little or no infrastructure could be provided. The potential for a planning refusal in these circumstances must be balanced against the benefit of bringing a site forward for development.
- 11.15. Paragraph 205 of the NPPF addresses concerns about delivery of development and development viability, stating that *'where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.'*

Input from local communities

- 11.16. The council would encourage developers to undertake pre-application consultation with local communities prior to submitting development proposals. This will enable them to gain a greater understanding of local concerns and issues, including the relative priority of any identified planning obligations at the local level, and should inform the detail of their planning application.

- 11.17. Parish and town councils are well placed to articulate the needs of the local community. They may identify necessary mitigation measures required from development proposals. In addition, neighbourhood plans may also play a key role in identifying and prioritising local infrastructure that could be delivered via planning obligations or CIL receipts.

12. Procedure and management

Post-decision monitoring and implementation

- 12.1. To ensure proper and effective management of planning obligations copies of every agreement and undertaking will be placed on the planning register with the planning decision notice. Thereafter the council will monitor development sites to ensure obligations are met as and when 'triggers' set out in the agreements and undertakings are reached. On the rare occasions when obligations are not fulfilled the council will take appropriate enforcement action.
- 12.2. The council will publish reports setting out details of planning obligations negotiated, details of extant planning obligations where development has not yet commenced, details of works undertaken and/or expenditure from planning obligations where development has commenced, and details of expenditure planned in the future.

Phasing of infrastructure and timing of payments

- 12.3. The phasing of infrastructure provision or the timing of the payment of financial contributions required within a planning obligation will be negotiated separately as part of the agreement or undertaking. The rate of delivery of infrastructure will be in line with the needs of the development.

Indexing and interest payments

- 12.4. The council will require indexing clauses within agreements and undertakings for all obligations which require financial contributions to be made. These will apply where delays in payment are either built-in to the agreement/ undertaking (for example, phased payment conditions) and/ or driven by external influences (for example, delayed commencement of the development). Contributions will be indexed from the date of the agreement/ undertaking to the date of receipt. The form of indexing will be appropriate to the nature of the obligation.
- 12.5. Interest sums will apply where payments are made later than the date due as set out in the agreement/ undertaking.

Legal costs

- 12.6. The council's legal costs for the drafting or checking of legal agreements must be met by the applicant.

Complying with in-kind contributions

- 12.7. Where an in-kind obligation is required through an s106 agreement the developer should provide evidence of compliance with the obligation to the council, as outlined in the terms of the specific clauses. This evidence should be provided to the council's Section 106 and CIL Monitoring Officer. If approval is required from the council on an element of the in-kind obligation, the Section 106 and CIL Monitoring Officer should be the first point of contact.

Non-financial obligations

- 12.8. The delivery of non-financial contributions, or in-kind obligations, will be monitored by the appropriate service areas responsible for project delivery. For example, where there is an affordable housing element to a legal agreement, the New Housing Team will monitor this section of the agreement to ensure that it is complied with.

Financial contributions

- 12.9. Once a financial contribution is received by the council the service area or organisation with the responsibility for delivery of the s106 project will be informed.
- 12.10. CIL Regulation 123 states that the pooling of contributions from more than five separate planning obligations towards a specific type of infrastructure or infrastructure project will not be permitted (for example, pooling contributions to pay for improvements to Wiltshire's parks).
- 12.11. Only in very exceptional circumstances where no more than five separate developments are proposed in close proximity to each other and the cumulative effect will result in the need for a specific mitigating measure which hasn't been pooled since 2010, the council may pool contributions for each of these developments in order to fund the necessary measures.
- 12.12. Any pooling of contributions will be in line with CIL Regulations and guidance.

Appendix 1 – Examples of how the Council will apply the R123 List and Planning Obligations in practice

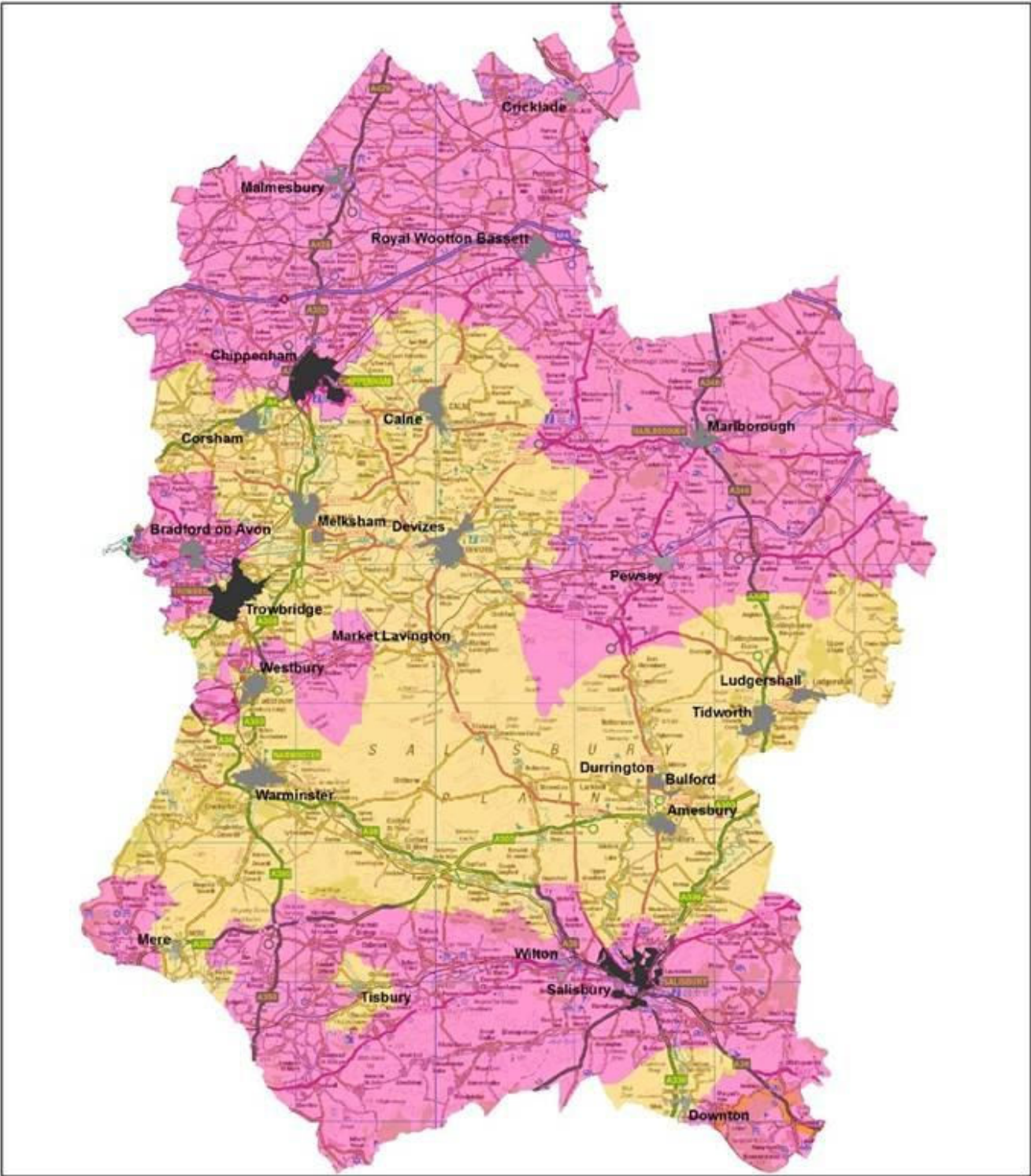
Infrastructure type	Specific requirement	Site/ location	Delivery mechanism	
			S106	CIL
Affordable housing	See Wiltshire Core Strategy (Core Policies 43, 44, 45 and 46), Planning Obligations SPD (draft March 2015) and Affordable Housing SPD (TBC)		✓	X
Education facilities	2 x 2FE primary schools	Ashton Park Urban Extension/ Trowbridge	✓	X
	2FE Primary School	Churchfields & Engine Shed / South Wiltshire	✓	X
	2FE Primary School	Fuggleston Red / South Wiltshire	✓	X
	1FE Primary School	Hampton Park / South Wiltshire	✓	X
	2FE Primary School	Longhenge / South Wiltshire	✓	X
	1FE Primary School	UKLF, Wilton / South Wiltshire	✓	X
	1FE Primary School	Kings Gate / Amesbury	✓	X
	Secondary school expansion	Kings Gate / Amesbury	✓	X
	Secondary school site	Ashton Park Urban Extension/ Trowbridge		
	Nursery, primary, special and secondary schools (including sites), where the requirement can be attributed to five or fewer developments		✓	X
	Other cumulative impact of development upon nursery, primary, special and secondary school provision (excluding sites, which will be secured through s106)		X	✓
Sustainable transport	Site-specific transport/ highways mitigation and sustainable transport improvements (e.g. site-specific		✓	X

Infrastructure type	Specific requirement	Site/ location	Delivery mechanism	
			S106	CIL
	highway works, including localised safety improvements, reinstatement of highways etc. and site-specific works to amenity land, access roads etc.)			
	Strategic, county-wide sustainable transport improvements, except where the requirement can be attributed to five or fewer developments		X	✓
Open space/ green infrastructure	Site-specific open space/ green infrastructure, including parks, children's play space, green areas, outdoor sports and playing fields, where the requirement can be attributed to five or fewer developments		✓	X
	Strategic open space/ green infrastructure, including parks, children's play space, green areas, outdoor sports and playing fields		X	✓
	Site-specific ecological impacts of development, where the requirement can be attributed to five or fewer developments		✓	X
	Strategic habitat protection and nature conservation		X	✓
Flood mitigation measures	SUDS, exceptional drainage or flood risk management measures		✓	X
Community and cultural facilities	Site-specific requirements for community and cultural facilities, where the requirement can be attributed to five or fewer developments		✓	X
	Strategic provision of community and other cultural facilities, such as multi-use community facilities, leisure centres and libraries and cultural facilities, except where the requirement can be attributed to five or fewer		X	✓



Infrastructure type	Specific requirement	Site/ location	Delivery mechanism	
			S106	CIL
	developments			
	Waste and recycling containers		✓	X
Emergency services	Fire stations, ambulance stations/ standby points and police stations		X	✓
	Fire hydrants (if not secured through planning conditions)		✓	X
Health facilities	Primary Health Facility	Ashton Park Urban Extension/Trowbridge	✓	X
	Primary Health Facility	Churchfields & Engine Shed / South Wiltshire	✓	X
	Primary health facilities, where the requirement can be attributed to five or fewer developments		✓	X
	Other cumulative impact of development upon the provision of health facilities		X	✓
Cross boundary infrastructure	Strategic cross-boundary infrastructure, except for site-specific projects where the need can be attributed to five or fewer developments		X	✓
	Site-specific, cross-boundary infrastructure, where the need can be attributed to five or fewer developments		✓	X
Other	Site-specific public realm infrastructure, where the requirement can be attributed to five or fewer developments		✓	X
	Strategic public realm infrastructure, e.g. streetscene and built environment, community safety measures, heritage asset improvements, visitor management issues and public art, except where the requirement		X	✓

Infrastructure type	Specific requirement	Site/ location	Delivery mechanism	
			S106	CIL
	can be attributed to five or fewer developments			
	Employment and skills training, where the requirement can be attributed to five or fewer developments (e.g. job brokerage, construction phase skills training, end user skills training, apprenticeships and work placements, local enterprise supply chain and training commuted sum improvements)		✓	X

Appendix 2 – Wiltshire Affordable Housing Zones Map (CP43)



Key:

- 40% affordable housing zone 
- 30% affordable housing zone 

Appendix 3 – Useful links

Planning legislation

- [CIL Regulations 2010](#)
- [CIL Regulations \(amended\) 2011](#)
- [CIL Regulations \(amended\) 2012](#)
- [CIL Regulations \(amended\) 2013](#)
- [CIL Regulations \(amended\) 2014](#)

National planning policy

- [Planning Practice Guidance \(PPG\)](#)
- [National Planning Policy Framework \(NPPF\)](#)
- [National Planning Policy Guidance \(NPPG\)](#)

Local planning policy

- [Wiltshire Core Strategy](#)
- [Wiltshire Community Infrastructure Levy](#)

Local planning application process advice and fees

- [Planning and building control](#)

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