

CIL REVIEW: CONSULTATION ON PRELIMINARY DRAFT CHARGING SCHEDULE

Summary of Representations and how these will be taken into Account

Introduction

The Inspector undertaking the Independent Examination of Local Plan Part 2: The Development Sites and Policies Plan and Part 3: The Welborne Plan requested to see a summary of responses to the Council's consultation on the Preliminary Draft Charging Schedule (PDCS) and an early indication of how the Council is intending to take these into account as it prepared the second stage of the CIL Review.

The Council undertook a period of consultation on the first stage of its review of the Community Infrastructure Levy (CIL) between the 25th June and the 6th August 2014.

The consultation was held on a document known as the 'Preliminary Draft Charging Schedule', as well as its supporting evidence, including a revised Infrastructure Delivery Plan, updated viability evidence and a revised 'Regulation 123 list'. All of these documents were made available on the Council's website and hard copies were available to view at all the Borough's libraries. A letter or email was sent to everyone on the Council's consultation database to inform them of the consultation.

Summary of the Representations

The Council received 11 responses to the consultation from a variety of respondents. A list of all these respondents, together with a summary of their representation can be seen in Table 1. Alongside each representation is a comment setting out how the Council intends to take the representations into account in preparing the next stage of the CIL Review.

Of the 11 responses received, 3 had no direct comment to make on the Preliminary Draft Charging Schedule (The Environment Agency, Natural England and Southern Water). The Welborne Joint Promoters agent expressed support for the proposed zero CIL rate for Welborne. The Fareham Society raised objection to the zero rate and the intended use of s.106 planning obligations in the Welborne area. English Heritage raised concern that the CIL rates may discourage heritage related projects and asked that Exceptional Circumstances Relief be made available. Hampshire County Council expressed support for the proposed CIL rate for extra care schemes and the zero rate for Welborne whilst voicing concerns relating to the effect of the pooling restrictions on the proposed use of s.106 agreements in Welborne to obtain contributions. The County Council also asked if flood management measures could be included on the Reg.123 list.

More substantive responses were received from Asda Stores Ltd, Hallam Land Management Ltd, Churchill Retirement Living and McCarthy & Stone and Barratt Homes.

Asda Stores Ltd raised some concerns with the content of the PBA Viability Report, said that the proposed retail CIL rates would discourage larger retail developments and subsidise smaller ones, and said that the proposed continuation of the split between convenience and comparison retail and differentiation by size is not in compliance with the CIL Regulations. Asda Stores Ltd also raised some further concerns that the proposed retail rates will give rise to state aid issues and asked that the Council lower the £25,000 threshold for payment by instalment, as well as offer Exceptional Circumstances Relief and the possibility of payment by the provision of infrastructure.

Hallam Land Management Ltd asked that the CIL rates for any additional housing sites that may be allocated in the Local Plan should be set with a view to the sites strategic importance, felt that the proposed rates are set too near the upper limit of viability and commented that the IDP is based on a level of housing that will not meet housing needs.

Churchill Retirement Living and McCarthy & Stone raised concerns that the PBA Viability Report did not cover specialist accommodation for the elderly or assessed the viability of extra care and similar types of accommodation, challenged some of the assumptions underpinning the viability appraisals in the PBA Viability Report in relation to flat developments and expressed the view that any development entirely comprising flats is not viable enough to support any level of CIL.

Barratt Homes expressed the view that the CIL Review should not have been undertaken before the outcome of the Local Plan Examinations are known later in the year, that the proposed rate for development of more than 5 dwellings is too high, that the proposed residential rate is generally too high, that there should be a lower rate for residential flats and that the benchmark land values in the PBA Viability Report are too high. In addition, Barratt Homes expressed the view that payment by the provision of infrastructure should be offered, that the proposed rates will make some residential schemes unviable, that the proposed residential rates will create pressure for higher density schemes, that the proposed rate for developments of 1-4 dwellings will limit the number of dwellings coming forward and that the content of the IDP may not comply with the CIL Regulations.

How the Representations will be taken into Account

Some of the representations highlighted a number of minor errors in the Council's viability evidence and these will be corrected and a revised viability evidence report published at the next stage of the CIL Review. Some responses raised significant objections to the proposed CIL rates in the Preliminary Draft Charging Schedule (PDCS) and to the methodology of the viability evidence that supports them. Having considered the responses, the initial view of Council Officers is that some further work is needed on the viability appraisals, particularly in relation to flatted developments, 'extra care' schemes and 'sheltered housing' schemes.

Following the completion of the additional viability work, it is possible that the some amendments will be recommended to the next stage of the CIL Review, known as the Draft Charging Schedule. A full Council response to the representations on the PDCS

will be recommended to the Council's Executive alongside the Draft Charging Schedule later in the autumn.

Next Steps

This document will be sent to the Inspector undertaking the Examination of the Local Plan Parts 2 and 3.

Once the further work on the Council's viability evidence has been completed, a Draft Charging Schedule will be prepared, including any changes to the current CIL rate proposals. Once approved by the Council's Executive, the Draft Charging Schedule, as well as the revised and additional viability evidence, will be subjected to public consultation for a period of at least 4 weeks.

Following consultation on the Draft Charging Schedule and revised evidence base, the Council will consider whether any changes to proposed rates are required. Subsequently, the Draft Charging Schedule, including any required 'Statement of Modifications', will be submitted to an Independent CIL Examiner for examination in public.

Following examination, and if the Independent Examiner recommends adoption, the Council will adopt the new CIL Charging Schedule, including the date on which it will become effective and therefore replace Fareham's current CIL Charging Schedule.

**CIL REVIEW – PRELIMINARY DRAFT CHARGING SCHEDULE
TABLE 1**

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS001a	English Heritage	PDCS - Table 2	Suggests that CIL rates should be set at a level which would not discourage heritage-led regeneration.	It is impossible to quantify possible future heritage schemes in Fareham. Setting CIL rates at a level significantly lower than is being proposed would reduce overall CIL income and widen the infrastructure funding gap. No evidence has been seen by the Council to suggest that the proposed charge rates would have the effect of discouraging heritage-led regeneration within the Borough.
PDCS 001b	English Heritage	PDCS (Section 5) - Exceptional Circumstances Relief	Would like Exceptional Circumstances Relief (ECR) to be made available.	<p>The Council has considered whether to introduce relief from CIL in exceptional circumstances, as set out in the legislation. However, given the conditions that have to be met under the legislation in order to qualify, it is considered that this would only be of benefit in very rare cases.</p> <p>The adoption of a policy to offer such relief would increase the complexity of Fareham's CIL and could significantly increase the Council's costs in operating such a policy.</p> <p>Overall, the current view of the Council is that the benefits of adopting this measure would not outweigh the costs involved.</p>
PDCS 001c	English Heritage		Makes suggestions as to what CIL should be spent on.	CIL spending decisions are not part of the current consultation process, although the 'Regulation 123 list' (Section 5 of the PDCS Consultation Document) does set out the infrastructure projects and types that the Council currently considers are likely to be funded in whole or in part through CIL.
PDCS 002a	The Environment Agency		No specific comments on the proposed charging rates but considers the draft IDP to be "very thorough".	No action required.

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 003a	Deloitte for Welborne Joint Promoters	PDCS - Table 2	Supports the zero charging rate for Welborne.	No action required.
PDCS 004a	Hampshire County Council	PDCS - Table 2	Supports Extra Care rate. Suggests minor amendment to extra care definition.	The Council will consider the need for a minor revision to the definition of the type of Extra Care schemes referred to in the Preliminary Draft Charging Schedule (PDCS).
PDCS 004b	Hampshire County Council	PDCS - Table 2	Generally supports the zero CIL rate for Welborne but has some concerns relating to the exclusive use of s.106 agreements and the possibility of difficulties with the pooling restrictions contained in the CIL Regs.	The Council is aware of the potential difficulties surrounding the s.106 pooling restrictions. Work with the Welborne Joint Promoters is continuing and is seeking to agree an appropriate way forward for securing developer contributions. This is being supported by advice being sought from the Council's legal representatives.
PDCS 004c	Hampshire County Council	PDCS (Section 5) Draft revised Reg.123 list	Has concerns relating to the Reg. 123 list as it refers generically to "Transport Infrastructure and facilities" and believes that the approach is not consistent with Govt. guidance and could be perceived as allowing "double dipping". Would like to see a more specific approach adopted to transport schemes	The Council's view is that current wording of the Draft Regulation 123 list is consistent with CIL Guidance. However, work will be undertaken with Hampshire County Council to further understand their concerns and to consider whether any changes to the Regulation 123 list need to be made.
PDCS 004d	Hampshire County Council	PDCS (Section 5) Draft revised Reg.123 list	Would like to see flood management measures included in the Reg. 123 list.	The absence of flood management measures from the Reg.123 list does not preclude the use of CIL for part funding such schemes. However, the Council will consider the need for a revision to the Draft Regulation 123 list to take this into account.
PDCS 005a	Natural England		No Comment to make on the consultation document.	No action required.

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 006a	The Fareham Society	PDCS - Table 2	Objection to the zero rate for Welborne on the ground that the use of s.106 agreements in the Welborne area would be less transparent/democratic and would be subject to variation after 5 years thus producing uncertainty.	As CIL can be spent on anything in any part of the Borough that constitutes "infrastructure" the Council's view is that s.106 agreements, that will specify exactly what contributions will be spent on, provide greater certainty and transparency in the funding of infrastructure required by the Welborne development.
PDCS 006b	The Fareham Society		CIL provides developers with more certainty "up front" as to what their financial liabilities will be.	In the case of the Welborne area, the Council has undertaken significant work on infrastructure requirements and the likely costs involved and this has involved on-going engagement with the Joint Promoters of the Welborne development. These discussions with the Joint Promoters (who between them control 90% the site) are continuing, meaning that the current owners of the site and any potential developers purchasing from them will be very aware of the scale of s.106 requirements.
PDCS 006c	The Fareham Society		The use of s.106 agreements would mean that 15% of contributions received would not be spent in the "neighbourhood" as they are required to with CIL.	In areas such as Fareham, where there are no local councils (such as parish councils), there is no requirement for 15% of CIL receipts to be spent in the relevant area. Government guidance does however encourage it. Any s.106 agreement relating to a Welborne planning application will, by its very nature, directly relate to the needs of the Welborne development.
PDCS 007a	Asda Stores Ltd (Thomas Egger)	PBA Viability Study - Exec Summary; Para 4 and Main Report; Para 2.2.9	Some sections of the PBA Viability Report are worded in a way that is inconsistent with the PDCS and with CIL legislation, in particular, by describing the test in Regulation 14 (as amended) as 'should strike an appropriate balance...' rather than the correct 'must strike and appropriate balance...'. The Council is urged to undertake a new viability study and to reconsult when this is ready.	The PBA Viability Study was completed following the most recent changes to CIL legislation and was prepared to be fully consistent with current legislation, a point that is emphasised within the document. A search of the Viability Study has indicated two instances where there is an inconsistency of the sort highlighted, and PBA will be requested to revise the wording in each case.

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 007b	Asda Stores Ltd (Thomas Egger)	PDCS - Table 2	<p>The proposed CIL rates would discourage larger retail development and would therefore put at risk the benefits that come with such development, including the creation of local employment and the support provided to the regeneration of existing retail centres.</p> <p>It is asserted that the rates set for larger retail would amount to the creation of a CIL subsidy for other types of development, at the expense of larger retail. It is also asserted that the Council has failed to fully assess the role of retail within the national economy.</p>	<p>The CIL rates within Table 2 of the PDCS are set at a level allowing the balance required by CIL Regulation 14 (as amended) to be achieved. They are based on viability evidence undertaken by PBA, including both financial appraisals based on the sorts of retail development typical of the Fareham area and also on PBA's understanding of the national trends in retail viability.</p> <p>Allowing for CIL indexation, the proposed CIL rates for large convenience retail are at the same level of Fareham's current rates. This is in spite of the strong level of economic recovery that has been experienced in the last year or so.</p> <p>It should also be noted that the retail appraisal results indicate significant 'viability headroom' for medium and larger convenience retail development. Indeed, the proposed CIL rate of £140 per sq. metre for convenience retail over 500 sq. metres represents about a quarter of the potential maximum viability headroom. This 'headroom gap' is proportionately larger than for any other type of development tested by PBA. Therefore, it cannot be the case that larger convenience retail is either subsidising other development or is being disincentivised by the proposed rates.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 007c	Asda Stores Ltd (Thomas Egger)	PBA Viability Report page 43 and Appendix A	<p>The Viability Report makes assumptions about residual Section 106 and Section 278 payments that result in an underestimation of the planning and development costs of developing large retail stores and an overestimation of the amount of CIL such development could bear.</p> <p>There are some specific inconsistencies between two of the assumptions set out within the PBA Viability Report and the viability appraisals themselves.</p>	<p>The Council's 'Regulation 123 list' sets out the sorts of infrastructure that CIL will be used to fund and this infrastructure will therefore no longer be fundable through Section 106. Although some residual site mitigation (through s106) is allowed for in the Regulation 123 list, the Council expects this is to be minimal. Therefore, the level established within the viability appraisal (£15 per sq. metre) is considered to be a reasonable assumption.</p> <p>It should also be noted that a total of 15% of build costs (amounting to over £700,000 for a 4,000 sq. metre store) has also been assumed for 'plot externals' and contingency costs. This should also be taken into account (in addition to the residual Section 106 figure and the potential total CIL liability) when the 'budget' for planning and development costs external to the retail store construction, is being estimated.</p> <p>The Council will ensure that the specific inconsistencies referred to within the viability work are addressed and corrected.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 007d	Asda Stores Ltd (Thomas Egger)	PDCS - Table 2	<p>The Council's proposal to continue setting differential CIL rates for convenience and comparison retail falls outside of the scope of Regulation 13 (as amended) and the definitions with the Use Classes Order should be used when interpreting the CIL Regulations.</p>	<p>The CIL Regulations do not define how 'intended use of development' should be interpreted. However, the most recent version of the Statutory CIL Guidance (now part of the Planning Practice Guidance) states that:</p> <p><i>The definition of "use" for this purpose is not tied to the classes of development in the Town and Country Planning Act (Use Classes) Order 1987, although that Order does provide a useful reference point. Charging authorities taking this approach will need to ensure that the differential rates are supported by robust evidence on economic viability.</i> (Ref: 25-022-20140612)</p> <p>The Council's proposals are consistent with this guidance and are based on clear evidence of significant differences between the economic viability of comparison and convenience retail development.</p> <p>It should also be noted that this element of Regulation 13 has not changed since Fareham's current CIL charging rates were examined in December 2012. At that time, the Independent Examiner concluded that the Council's intention to set differential rates for comparison and convenience retail complied with the CIL legislation.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 007e	Asda Stores Ltd (Thomas Egger)	PDCS - Table 2 and PBA Viability Report Section 9 and Appendix A	<p>The Council's proposal to set differential CIL rates by size of convenience retail uses (supermarkets and smaller retail developments) goes beyond the scope of the CIL Regulations. The proposal to use 500 sq. metres as the threshold size is arbitrary, not properly explained and is not based on clear viability evidence.</p> <p>The Council is urged to follow the example of Mid Devon, Elmbridge, Poole, Bassetlaw and other Councils in withdrawing such differential rates.</p>	<p>The changes made to Regulation 13 by the CIL (Amendment) Regulations 2014 allow differential rates to be set by size of development, as long as this is based on viability evidence. PBA undertook a range of financial viability appraisals of both convenience and comparison retail of different sizes, as set out in Paragraph 9.3.4 of their Report.</p> <p>The results (at paragraph 9.4.2) indicated clearly that, whilst there was no clear evidence of viability differences by size of comparison retail development, there was a significant divergence in the viability of convenience retail by size of development. The viability appraisal undertaken on a small format convenience store indicated maximum viability headroom of approximately half that of medium and larger format store developments. Therefore, the proposal of the differential rate by size for convenience retail is based on viability evidence and is consistent with the CIL legislation.</p> <p>The examples referred to of Council's withdrawing differential retail rates by size have each been considered. However, in each case there were other specific factors involved that do not apply to Fareham's proposals. In addition, in all four cases, the decision to withdraw was made prior to the 2014 CIL (Amendment) Regulations coming into effect.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 007f	Asda Stores Ltd (Thomas Egger)	PDCS - Table 2	The setting of differential rates for different types of commercial entity within the same Use Class will give rise to selective economic advantage for certain commercial uses and this will in turn give rise to EU State Aid issues. The Council is urged to adopt a flat CIL rate approach or to explain why State Aid issues are not engaged.	<p>The Council is aware of the EU State Aid rules and the need to ensure that CIL rate proposals do not constitute the giving of State Aid through the creation of selective advantage or distorting the market place. For this reason, the Council has ensured that its CIL proposals comply with the CIL legislation and the Statutory Guidance, which seeks to help charging authorities minimise the risk of giving rise to State Aid through their CIL rate setting.</p> <p>In the case of proposed CIL rates for comparison and convenience retail, the Council has ensured that rates set are clearly based on up-to-date viability evidence to avoid creating any selective advantage for certain undertakings. Equally, the changes to Fareham's existing commercial CIL rates are being proposed in order to reflect changes in the viability evidence and to better ensure that rates avoid giving rise to selective advantage.</p>
PDCS 007g	Asda Stores Ltd (Thomas Egger)	PDCS (Section 5) – Instalment Policy	The proposal to continue to use a CIL Instalments Policy is supported. However, it is requested that CIL liabilities of £25,000 or less benefit from more than one instalment.	<p>The Council designed its instalment policy for the introduction of the existing CIL charges in early 2013. No changes to this policy have been proposed in the PDCS Consultation Document. The evidence over the past year or so indicates that the policy is working well and that the levels are set in the appropriate way.</p> <p>The option to offer instalment payments for CIL liabilities less than £25,000 has been considered. However, this has to be balanced against the additional administrative and enforcement costs created by increasing the number of CIL payment instalments. Overall, the Council considers that the proposed policy strikes the appropriate balance.</p>
PDCS 007h	Asda Stores Ltd (Thomas Egger)	PDCS (Section 5) - Exceptional Circumstances Relief	The Council is urged to offer Exceptional Circumstances Relief from CIL to allow strategic or desirable, but unprofitable, development to come forward.	See response to representation 1b above.

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 007i	Asda Stores Ltd (Thomas Egger)	PDCS (Section 5) – Payments in kind	The Council is urged to make use of the recently expanded powers for payments of CIL to be accepted by way of infrastructure works (i.e. as payment in kind)	As explained in paragraph 5.13 of the PDCS, the Council is still considering whether or not to make use of the new payment in kind powers. Therefore, the comment is noted and a decision will be made in due course.
PDCS 008a	Hallam Land Management Ltd (Barton Willmore)	PDCS - Table 2	In the circumstances that additional housing sites are allocated within the Local Plan, their CIL rate should be assessed against the strategic importance the sites make to meeting housing needs of the Borough.	The CIL legislation establishes that rates need to be set to balance the desirability for raising funds for infrastructure and the need to ensure that development across the area is not made unviable. This would preclude setting CIL rates for individual sites based on the strategic importance of those sites for meeting housing needs.
PDCS 008b	Hallam Land Management Ltd (Barton Willmore)	PDCS - Table 2 and PBA Viability Report (Section 6)	<p>There is concern that residential CIL rates proposed are set at the upper limit of what was considered appropriate within the Viability Report. Rates should be lowered to ensure that housing delivery over the plan period is not affected.</p> <p>There is also no explanation of how recommended CIL rates within the Viability Report relate to the theoretical rates emerging from the viability appraisals.</p>	<p>Table 6.1 of the Viability Report contains the results of the residential viability appraisals and paragraph 6.6.2 sets out PBA's recommended CIL rates, which are taken forward in Table 2 of the PDCS. These sections of the report show that recommended rates are well below the upper limit of viability headroom. For developments comprising only houses, the recommended rates are less than 50% of the maximum potential viability.</p> <p>Section 6.6 of the Viability Report and paragraphs 3.31 to 3.34 of the PDCS set out an explanation of how the residential rates proposed relate to the outcomes of the viability appraisals.</p> <p>Overall, the Council is satisfied that the viability evidence demonstrates that residential CIL rates proposed are reasonable and will not threaten the viability of residential development set out within the Local Plan. It should be noted that, in spite of significant recovery in local house prices over the past two years, the proposals only to seek to maintain current CIL rates for the vast majority of new homes that will be built within the Borough.</p>
PDCS 008c	Hallam Land Management Ltd (Barton Willmore)	Infrastructure Delivery Plan (IDP)	The infrastructure contained within the IDP is based on a level of housing growth that is considered to be	The infrastructure within the IDP is based on meeting the needs of the development proposed within the Local Plan, including the Submission version of the Local Plan Part 2: Development Sites and Policies Plan.

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
	Willmore)		insufficient to meet objectively assessed housing needs. It should therefore be reassessed against any amendments to the housing number in the local plan.	It is agreed that, should the level of residential development proposed within the Local Plan change, a review of the IDP would be required. However, whether that would trigger a further review of CIL rates would depend on the circumstances, including evidence of housing market trends and the ability of development as a whole within the Borough to remain viable.
PDCS 009a	Churchill Retirement Living and McCarthy & Stone	PBA Viability Report	<p>Concern that the PBA Viability Report does not cover specialist accommodation for the elderly (falling within Use Class C3) and has not viability assessed either Extra Care or similar types of accommodation, in spite of PBA's known experience in this regard.</p> <p>It is asserted that there is a strong case for viability testing such forms of development separately from general flatted residential development. It is also asserted that if FBC had done so, the outcomes would have demonstrated that it would be inappropriate to include private sector specialist accommodation for the elderly within the general residential CIL rate, as this would render such schemes unviable.</p>	<p>In light of the issues raised and the information provided by Churchill Retirement Living and McCarthy & Stone, the Council will undertake further viability evidence work on schemes comprising specialist accommodation for the elderly that fall within Use Class C3.</p> <p>This work will be used to consider the need for any changes to the proposed CIL rate structure. The additional evidence, as well as any resulting changes to proposed CIL rates, will be set out in the Draft Charging Schedule at the next stage of the review of Fareham's CIL.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 009b	Churchill Retirement Living and McCarthy & Stone	PDCS – Table 2 and PBA Viability Report Table 3.1	<p>The proposed zero CIL rate for Extra Care accommodation (where this requires public sector funding and comprises more than 50% affordable or social rental housing) has not been viability tested by PBA.</p> <p>It is assumed that this omission is because the rate relates to the specific viability concerns of the 80-unit Extra Care scheme promoted for the Fareham Railway Station Yard site. If this is the case, it is contrary to the spirit of CIL Guidance, which sets out that rates should apply to particular types or scales of development and not to particular development schemes.</p>	<p>The type of development that would qualify for the proposed ‘zero rate’ does not need to be formally viability tested by PBA. This development is defined (in part) by its dependence on public sector funding due to its inability to come forward without such funding. Therefore, if the public sector funding were not required, the development would not be able to benefit from the proposed ‘zero rate’.</p> <p>The proposed ‘zero rate’ does not relate to the ‘Extra Care’ scheme referred to in Table 3.16 and in the Submitted Development Sites and Policies Plan. This reference was an error and should have referred to an 80-bed care home. PBA will be asked to correct this error and a minor modification to the Submitted Development Sites and Policies Plan will be proposed to the Plan’s Inspector.</p> <p>The proposed ‘zero rate’ relates to the sorts of schemes developed by either Fareham Borough Council or by Hampshire County Council, specifically to meet the needs of those within the Borough who are not able to access the sorts of accommodation provided by the private market.</p> <p>There is no single format or funding model for such schemes and each one is designed to be appropriate to its own circumstances, including the availability of funding. However, the common features of such schemes include the provision of higher proportions of housing for social and/or affordable rent and, importantly, the need for public sector capital and revenue funding to enable such schemes to come forward.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 009c	Churchill Retirement Living and McCarthy & Stone	PDCS – Table 2	<p>It is not disputed that non-private market Extra Care accommodation is unable to support £120 per sq. metre. However, it is asserted that equivalent private market schemes (with lower levels of affordable housing and no public sector support) would equally not be able to bear the standard residential CIL rate.</p> <p>Indeed, it may be the case that since affordable housing attracts 100% CIL relief, a private market scheme with 40% or less affordable housing may be less viable than the schemes intended to benefit from the Council's proposed zero rate.</p>	<p>As indicated in Response 9a above, the Council will undertake further viability evidence work to address these concerns. The outcomes of this additional work and any resulting changes to the proposed CIL rate structure will be set out at the next stage of Fareham's CIL review.</p> <p>With regard to the proposed zero rate for certain types of Extra Care accommodation, it should be noted that qualification depends on more than simply the level of affordable housing proposed. It also depends on public sector funding being required to bring the scheme forward. There is nothing to prevent the private market from seeking to benefit from the proposed 'zero rate' as long as the qualification conditions can be met. Equally, any public sector scheme that could not meet all of the qualification conditions would not be able to benefit from the zero CIL rate.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 009d	Churchill Retirement Living and McCarthy & Stone	PBA Viability Report – Section 6	<p>Some of the assumptions underpinning the viability appraisals undertaken on entirely flatted schemes are challenged:</p> <ul style="list-style-type: none"> • The benchmark land value used by PBA for flatted and other residential schemes should have been identical since developers bidding for sites suitable for flatted schemes would need to compete for the same sites against those promoting schemes comprising only houses or a mix of both; • The density of flatted schemes being assumed by PBA was too low; and • There is no viability assessment of flatted schemes larger than 20 units, even though the Council anticipates a much larger entirely flatted scheme at Fareham Station. 	<p>In order to address the issues raised, the Council will undertake the following additional work:</p> <ul style="list-style-type: none"> • Further explanation will be provided to justify the difference between the benchmark land values assumed for houses and for flats; • Further work will be done on the residential density assumption to ensure that the most appropriate and reasonable values are being used to underpin the viability evidence; • The Council will publish its site-specific viability evidence that supports the deliverability of the two proposed allocations within the Submitted Development Sites and Policies Plan that propose entirely flatted development. <p>The above work, and any resulting changes to the proposed CIL rate structure, will be set out at the next stage of the Fareham CIL review.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 009e	Churchill Retirement Living and McCarthy & Stone	PDCS – Table 2	<p>The PBA evidence clearly shows that entirely flatted housing schemes are not capable of bearing any level of CIL. By including these within the general residential CIL rate, the Council is excluding both specialist accommodation for the elderly and flatted development as a whole. This is considered to be at odds with the Local Plan and with CIL regulations. Therefore, a nil CIL rate for flatted development, including specialist accommodation for the elderly, should be implemented.</p>	<p>The Council accepts that the PBA area-based sampling viability evidence shows that entirely flatted developments may not currently be viable, irrespective of CIL. However, it is important to keep in mind that a key task of the Charging Authority in setting rates is to ensure that proposed rates support the delivery of the Local Plan and do not threaten the viability of development across the area. The Council has sufficient site-specific evidence to demonstrate that the flatted development schemes proposed within the adopted and emerging Local Plan have a reasonable prospect of being viable when CIL and affordable housing are factored in.</p> <p>In light of this site-specific evidence, the Council is confident that the proposed residential CIL rates support the implementation of the Local Plan and do not threaten the viability of any development types that are anticipated to come forward within the Borough.</p> <p>In addition, an important principle of CIL is the need for as simple a charge rate structure as possible, whilst still meeting the relevant legal tests. Whilst a more differentiated approach could have the potential to more closely reflect the changing values and viability of different forms of residential development, such variety always occurs and is likely to be highly site and scheme specific. Therefore, it is considered appropriate to include all types of residential development (with a net gain of 5 or more units) within the same charge rate and thereby avoid making CIL rates unnecessarily complex.</p> <p>In relation to specialist accommodation for the elderly, which may well be distinct from general residential development, it has been indicated above that further evidence will be sought, taking into account the guidelines referred to by McCarthy & Stone and Churchill. The outcomes of this evidence will be used to consider whether any changes are required to the applicable proposed rate of CIL for the types of development concerned.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 0010a	Southern Water	IDP	No comment was made.	Noted.
PDCS 0011a	Barratt Homes (Bryan Jezeph)	PDCS	The consultation on the CIL PDCS is considered to be too early and should await the outcome of the FBC Local Plan Examinations later in 2014.	The PDCS Consultation Document explains that it is important to ensure that the new CIL rate structure is in place at about the same time that the Welborne Plan is adopted. This is to avoid any delays to the implementation of that plan. Given the time required to undertake the various stages required in reviewing the Borough's CIL, the timing of the PDCS consultation was considered appropriate. There will be a further consultation on proposed CIL rates in the Draft Charging Schedule later in the year.
PDCS 0011b	Barratt Homes (Bryan Jezeph)	PDCS – Table 2	<p>The proposed charge rate for residential development of 5 or more units (£120 per sq. metres) is considered too high as developments paying this rate will also need to pay Section 106 contributions and contribute to the provision of affordable housing, which may be expensive. In addition the s106 costs cannot be known until the site is investigated.</p> <p>As all of these costs need to be deducted from the land value, the proposed CIL rate will lead to landowners being unwilling to release land for development.</p>	<p>The proposed residential rate for developments with a net gain of 5 or more dwellings is based on the up-to-date viability evidence prepared by PBA. This evidence is consistent with the requirements of CIL legislation and Statutory Guidance.</p> <p>It is important to note that the viability appraisals undertaken allow for both the current policy target rate of affordable housing provision and for the provision of residual s106 payments. The latter is deliberately set at a low level as the Council's policy is to reduce s106 costs to an absolute minimum to reflect the primary role of CIL in funding infrastructure required by new development. It is accepted that, in a few cases, s106 costs may be higher than the assumed rate. However, this is one of the reasons why the proposed CIL rates have been set well below the maximum viability headroom indicated within Table 6.1.</p> <p>Ultimately, the Council needs to be confident that its proposed CIL rates will support the delivery of the Local Plan and will not threaten the viability of development across the area. In this light it is important to note that the proposed rates do not represent an increase over the current rates, allowing for the effects of indexation. The evidence available, for example, the planning applications being received by the Council for residential development, do not support the view that CIL rates are making landowners unwilling to release land for development.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 0011c	Barratt Homes (Bryan Jezeph)	PDCS – Table 2	<p>The proposed increase of the main residential CIL rate from £105 to £120 per sq. metres is not appropriate as the prospects for the acquisition of land suitable for future development has worsened since FBC originally introduced CIL. It is considered that there will be few opportunities to bring forward larger sites (more than 15 dwellings) in future and this will exclude Barratt Homes from developing within the Borough for the next 10 years.</p>	<p>It is important to bear in mind that the proposed CIL rate referred to does not represent an increase in current rates. CIL is subject to Statutory indexation against the BCIS All-in Tender Index and the best current estimation is that the existing residential CIL rate, allowing for this indexation, will be in excess of £120 per sq. metre from 1st January 2015.</p> <p>The point about worsening conditions for development land acquisition is not entirely clear. If what is referred to is the increase in land values during recent months, the evidence is that this is being followed through with increases in local house prices. It is also not clear why Barratt Homes would be excluded from developing new homes within the Borough. They would have the same opportunity as any developer to acquire potential housing sites, including at Welborne where development parcels are anticipated to be substantial in size.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 0011d	Barratt Homes (Bryan Jezeph)	PDCS – Table 2	<p>The decision not to propose a separate lower CIL rate for flatted developments within Fareham is contested. This will result in a constraint being placed on the potential to develop stand-alone schemes in sustainable locations.</p> <p>Furthermore, there has been an increase in pressure for larger schemes to include flatted elements and smaller dwellings, which will reduce, site viability.</p>	<p>The reasons why a differential rate for flatted developments was not proposed are set out in paragraph 3.32 of the PDCS Consultation Document and also within paragraphs 6.5.4 and 6.5.5 of the PBA Viability Report.</p> <p>In addition, an important principle of CIL is the need for as simple a charge rate structure as possible, whilst still meeting the relevant legal tests. Whilst a more differentiated approach could have the potential to more closely reflect the changing values and viability of different forms of residential development, such variety always occurs and is likely to be highly site and scheme specific. Therefore, it is considered appropriate to include all types of residential development (with a net gain of 5 or more units) within the same charge rate and thereby avoid making CIL rates unnecessarily complex.</p> <p>In the two cases where development proposed within the Submitted Development Sites and Policies Plan comprises of entirely flatted schemes, site-specific viability evidence exists to support delivery (including CIL payments and affordable housing) in each case. This evidence will be made available at the next stage of the CIL review.</p> <p>The source of the increased pressure to build flats is not clear. Fareham’s Local Plan, including the Submitted Development Sites and Policies Plan do not apply any such pressure and seek to provide flexibility for developers to deliver the types of homes for which there is demand at the time developments come forward.</p>
PDCS 0011e	Barratt Homes (Bryan Jezeph)	Viability Report – Para 5.2.9	The benchmark land values used are considered to be too high.	PBA are experienced at undertaking CIL area-based viability evidence across the country and the Council is confident that the stated benchmark values are reasonable and appropriate for Fareham. No evidence has been seen that would support the assertion made that these values are too high.

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 0011f	Barratt Homes (Bryan Jezeph)	PDCS (Section 5) – Payments in kind	The principle of making CIL payments ‘in kind’ is supported to enable development to provide local benefits.	Noted.
PDCS 0011g	Barratt Homes (Bryan Jezeph)	Viability Study (?)	The Viability Study admits that the Levy rate, at £120 per sq. metre, will make some schemes unviable which is an extraordinary statement. This means that CIL will prevent some developments from coming forward.	<p>The statement referred to does not appear to be made within the Viability Report.</p> <p>In the case of entirely flatted developments, it is not the case that the proposed CIL rate is making such development unviable and preventing it from coming forward. The area-based sampling evidence shows that such developments may not currently be viable, irrespective of CIL. However, as explained above, the task of the Charging Authority is to ensure that CIL rates proposed support the delivery of the Local Plan and do not threaten the viability of development across the area. The Council has sufficient site-specific evidence to demonstrate that the flatted development schemes within the adopted and emerging Local Plan have a reasonable prospect of being viable when CIL and affordable housing are factored in.</p> <p>In light of this site-specific evidence, the Council is confident that the proposed residential rates support the implementation of the Local Plan and do not threaten the viability of any development types that are anticipated to come forward within the Borough.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 0011h	Barratt Homes (Bryan Jezeph)	Viability Report – Para 3.2.5	The statement that “long term residential development within Fareham will remain focussed on the provision of good quality housing” is contested as the proposed CIL rates (in addition to s106 and affordable housing) will create pressure to increase densities and build units with the smallest possible floor area.	<p>The evidence undertaken by PBA has taken into account the full set of policy requirements of the Fareham Local Plan, including relevant policies on the design of new homes.</p> <p>The Council is not aware of any evidence that supports the assertion that the proposed rates of CIL will lead to pressure to build at higher densities or to the smallest possible floor area.</p> <p>CIL represents only a very small fraction of overall development and construction costs and it is hard to understand why this may have such an impact on the design, size and quality of new homes that it could override the influence of market demand.</p>
PDCS 0011i	Barratt Homes (Bryan Jezeph)	PDCS – Table 2	<p>The proposed CIL rate for developments with a net gain of 1-4 dwellings (£185 per sq. metre) will limit the number of houses coming forward as only very valuable schemes will be able to afford this figure and reduce CIL revenues.</p> <p>The rate will also incentivise self-build, which could reduce CIL revenues.</p>	<p>The CIL rate proposed for developments with a net gain of 1-4 dwellings is based closely on PBA’s viability evidence which indicated very strong viability for these types of development, aided by the lack of any requirement to provide for affordable housing. It should be noted that the proposed rate (£185 per sq. metre) is set well below the maximum viability headroom values indicated in Table 6.1 of the Viability Report.</p> <p>Therefore, except in rare cases where there may be abnormally high development costs, the Council is confident that small housing developments will continue to come forward and be able to bear the proposed rate of CIL.</p> <p>The Council supports self-build as an alternative approach to house purchase. It is considered that any modest reductions in CIL revenue due to the relief from CIL now being provided to self-builders will be offset by the increase in revenue from the higher proposed CIL rate for other small housing developments.</p>

Ref.	Name of Respondent	Document Paragraph	Summary of Representation	How Representations Will be Taken into Account
PDCS 0011j	Barratt Homes (Bryan Jezeph)	IDP	A simple review of the infrastructure projects within the IDP brings into question whether these projects meet the CIL Regulations.	The IDP covers all types of infrastructure that is likely to be required to support the implementation of the Local Plan (excluding Welborne). The projects detailed are not limited to those that are intended to be fundable through CIL. The types of infrastructure that the Council intends to be funded, in whole or in part, through CIL are set out within the 'Regulation 123 List', found within Section 5 of the PDCS Consultation Document.