

Community Infrastructure Levy

Draft Charging Schedule

Consultation Statement – Submission version



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1 Introduction

- 1.1 This report explains how East Devon District Council has undertaken public consultation and considered responses in preparing the Community Infrastructure Levy (CIL) Draft Charging Schedule.
- 1.2 The council has carried out two periods of public consultation in preparing the Draft Charging Schedule. Chapter 2 outlines the approach and consultation responses on the Preliminary Draft Charging Schedule, whilst chapter 3 summarises the main issues raised on the Draft Charging Schedule.
- 1.3 This document is consistent with CIL regulations which require the council to take into account representations made on a preliminary draft charging schedule before publishing a draft charging schedule;¹ and to submit a statement to the examiner which sets out the number of representations made and a summary of the main issues raised (along with copies of any representations) on the draft charging schedule.²
- 1.4 Accordingly, this consultation statement, along with copies of representations made on the Draft Charging Schedule, will be submitted to the examiner who will carry out an examination of the CIL Draft Charging Schedule.

¹ CIL regulation 15(7) requires the council to take into account any representations made on a preliminary draft before it publishes a draft charging schedule. This regulation has been deleted in the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019, but the council is following transitional arrangements which means that it is still bound by this regulation, as set out in Regulation 13:

<http://www.legislation.gov.uk/uksi/2019/1103/regulation/13/made>

² This statement is required by CIL regulation 19(b). Although the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 require a summary of how representations received on the draft charging schedule have been taken into account, as noted in the footnote above, the council is following transitional arrangements which means that it is bound by this regulation as worded before the 2019 amendments.

2 Preliminary Draft Charging Schedule

- 2.1 This chapter explains the approach to consultation on the CIL Preliminary Draft Charging Schedule (PDCS), setting out:
- engagement undertaken in preparation of the PDCS, prior to its publication
 - which bodies and persons were invited to comment on the PDCS, and how
 - the representations that were received, and
 - the councils' response to those representations.

Preparation of the Preliminary Draft Charging Schedule

- 2.2 In 2017, the council appointed consultants to undertake viability evidence to inform a review of the CIL Charging Schedule and the Cranbrook Plan Development Plan Document. Initial engagement with the development industry took place through a viability workshop, which introduced the work and sought feedback on a series of key assumptions to be used in preparing the viability study.³
- 2.3 Also in 2017, the council updated its work on infrastructure provision to inform and support the delivery of the Local Plan and emerging Cranbrook Plan. The Infrastructure Delivery Plan review (November 2017) was prepared in consultation with numerous stakeholders, including a range of infrastructure and service providers, town and parish councils across East Devon, and other local authorities.⁴

Who we consulted on the Preliminary Draft Charging Schedule and how

- 2.4 The PDCS consultation document was published for consultation from Thursday 21 February until Friday 22 March 2019. The consultation document and supporting documents were made available on the council's website.⁵ In accordance with the regulations,⁶ the PDCS consultation document was sent to the following "consultation bodies":

³ Notes of the East Devon Viability Workshop can be seen in the CIL Review and Cranbrook Plan DPD Technical Annexes, Annex D: <http://eastdevon.gov.uk/media/2760830/east-devon-cil-review-and-cranbrook-viability-annexes.pdf>

⁴ East Devon Infrastructure Delivery Plan review (November 2017): http://eastdevon.gov.uk/media/2270747/idp-review-2017_report.pdf

⁵ The website for the CIL Charging Schedule Revision is: <http://eastdevon.gov.uk/planning/planning-policy/infrastructure-provision-and-community-infrastructure-levy/community-infrastructure-levy-policy/cil-charging-schedule-revision/>

⁶ CIL Regulation 15(3).

- *Adjoining local planning authorities:* Teignbridge District Council, Exeter City Council, Mid Devon District Council, Taunton Deane Borough Council,⁷ South Somerset District Council, West Dorset District Council⁸
- *County councils adjoining or within East Devon:* Devon County Council, Somerset County Council, Dorset County Council⁹
- *All parish councils in East Devon*

2.5 In addition, the council is required to invite representations from persons who are resident or carrying on business its area; and any voluntary bodies or bodies which represent the interests of persons carrying on business in the area that the council consider appropriate.¹⁰ Accordingly, a notification email was sent at the beginning of the consultation period to the following:

- Residents or businesses who had requested to be consulted
- Those who were invited to attend the developer workshop, registered providers operating in East Devon, and planning agents/consultancies who have previously engaged on planning matters in East Devon
- Government organisations such as the Environment Agency, Natural England, Historic England, Highways England, Sport England, NHS England
- Voluntary bodies including Libraries Unlimited, Campaign to Protect Rural England, Devon Wildlife Trust and National Trust
- Bodies that represent local businesses such as the Local Enterprise Partnership and local chambers of commerce

2.6 Altogether, over 600 organisations or individuals were contacted by email regarding consultation on the PDCS. A press release was also issued, and published on the front page of the council's website.¹¹

Comments received and how they have been taken into account

2.7 In total, 15 responses were received on the PDCS consultation document. A summary of the main issues raised in PDCS consultation, grouped by topic, is set out below:

⁷ Note that on 1 April 2019 (after consultation on the PDCS), Taunton Deane Borough Council was replaced by Somerset West and Taunton Council.

⁸ Note that on 1 April 2019 (after consultation on the PDCS), West Dorset District Council was replaced by Dorset Council.

⁹ Note that on 1 April 2019 (after consultation on the PDCS), Dorset County Council was replaced by Dorset Council.

¹⁰ CIL Regulation 15(5).

¹¹ The press release can be seen on the council's website: <http://eastdevon.gov.uk/news/2019/02/council-commences-four-week-consultation-on-draft-revised-community-infrastructure-levy-cil-charging-schedule/>

General

- Welcome the intention to hold parallel and linked examinations into the CIL Schedule and the Cranbrook DPD – the two are related and should be considered alongside each other
- Support revised charging schedule
- Support rural exception sites not paying CIL
- Support affordable housing not paying CIL
- Object to private care homes being exempt from CIL
- Support zero rating extra care housing
- The proposed nil rate for holiday accommodation and hotels is supported.
- The proposed rate of £150 per sq m is likely to lead to market failure as it will effectively stifle residential development due to the high cost of CIL and section 106 payments.

Cranbrook

- Object to Cranbrook being exempt from CIL – the difference between the development costs and sales values clearly suggest that a CIL contribution would be viable.
- Support zero rating at Cranbrook and continuation of a section 106 regime
- It would be inappropriate to update and publish the Draft Charging Schedule prior to considering the representations on the Cranbrook Plan
- The high level of planning obligations for Cranbrook mean that some infrastructure elements may be unaffordable – there will be a need to attract external funding
- The zero rate charging zone should be defined by the Cranbrook expansion area boundaries in the DPD and not the Built-up area boundaries.
- It is presumptuous to show a charging zone at Cranbrook that could well change as a result of consultation on the Cranbrook Plan.
- Allowing infrastructure (and the land required to deliver it) at Cranbrook to be funded through S106 or through direct provision by developers will provide more certainty over the availability of funding, enabling more timely provision of infrastructure

Strategic sites/Axminster

- All strategic allocations should be zero rated as relying on S106 Agreements is a more appropriate approach to facilitate the provision of infrastructure which is directly related to allocated development. As a minimum, education infrastructure should be considered under S106 for all sites which are yet to secure planning permission.
- If a combination of CIL and £20,000 per plot of s.106 could be applied to a site on the edge of Exeter with outline consent, there would be a huge impact upon its viability and deliverability.
- The Axminster charging zone should be amended to reflect the wider development area in the masterplan endorsed by the council in January 2019 to help ensure the development can proceed, given its viability assessment has considered a single charge across the whole of the expansion area.

Viability Study

- The assumptions in the Viability Study have all tended to be in the same “conservative” direction leading to a more optimistic picture of affordability or viability
- The Viability Study is deficient as it does not include all relevant assumptions and costs; unclear and unrealistic on costs, land values, margin and deliverability; questionable sensitivity testing through applying £20,000 per plot deduction for strategic sites.
- Changing the CIL amount at sites that already have planning permission could risk delivery – extant outline consents should be protected from the potential change in CIL rates.
- Incorrect assumptions are used in the Viability Study compared to industry standards, other studies undertaken by Three Dragons, and the 2013 East Devon viability work.
- Do not consider the Three Dragons Toolkit is sufficiently robust nor capable of dealing with cash flow implications of a multi-phase development site.
- Significant further analysis is required to assess benchmark land values.

Instalment policy

- Instalment policy is generally sound but there should be scope for negotiated agreement of an alternative payment plan if sensible.

Other

- Welcome that top priority is given to financial contributions to mitigate the impact of development on the Exe Estuary and Pebblebed Heaths European sites.
 - It should be noted that the location and quality of on-site SANG for Cranbrook has yet to be agreed.
 - Recommend progress on the CIL Draft Charging Schedule is delayed until any measures in the Government Technical Consultation are confirmed for implementation, **or** an “either/or” is included in the Charging Schedule.
 - The inclusion of ‘sport’ including playing fields as a generic term on the Reg 123 of CIL could preclude the use of s106 to secure mitigation when a sports facility or playing field is affected by a planning application.
 - In the future, further consideration will need to be given to the charging zones and relevant CIL rates across East Devon in the context of potential allocations which come forward through the GESP process.
- 2.8 The following table (figure 2.1) sets out the comments received, alongside the council’s response, showing how the comments have been taken into account. The council’s

response has been assessed by the consultants (Three Dragons) who prepared the Viability Study.¹²

¹² References to 'Viability Study' in this table mean the 'CIL Review and Cranbrook Plan DPD Viability Study', available on the councils' website: <http://eastdevon.gov.uk/planning/planning-policy/infrastructure-provision-and-community-infrastructure-levy/community-infrastructure-levy-policy/cil-charging-schedule-revision/>

Figure 2.1: Preliminary Draft Charging Schedule consultation document – comments received and Council response

Name or Organisation	Comment	Council response
<p>Councillor V Ranger</p>	<p>I support the new charging schedule clarifying when developers must pay CIL.</p> <p>I support exemption sites being exempt from CIL however I hope that EDDC will uphold that this is for the purposes of ensuring that there is a minimum of 66% affordable housing and will not be swayed by developers claiming viability issues to reduce this number in future.</p> <p>I also object to private care homes are exempt from CIL. These are commercial establishments which generate high profits and they should contribute to infrastructure to the local area.</p> <p>I would support any form of council housing being exempt from CIL, including council provided sheltered housing.</p> <p>I do not support major developers being exempt from CIL payments whilst raising charges for smaller developers who often provide higher spec properties.</p> <p>I welcome a clear CIL funding statement being produced each year and hope that EDDC are on target with this.</p> <p>I object to Cranbrook being exempt from CIL. This matter was discussed at the parish council meeting in February.</p> <p><i>The respondent then reproduces the Newton Poppleford and Harpford Parish Council consultation response, which can be seen below.</i></p>	<p>Support for zero rating rural exception sites is noted. Local Plan policy (Strategy 35) does not allow viability to be considered on rural exception sites, meaning at least 66% of homes should be affordable on such sites to be consistent with this policy.</p> <p>The Viability Study (in section 5.5) assessed three types of older persons housing. This showed that CIL is not viable for care homes in East Devon. The study showed that some older persons housing typologies were viable in certain areas of the District, but this was not universal. As guidance requires that the charging schedule is not overly complex, the Council determined that a single rate across the district would be appropriate.</p> <p>The rate of CIL at major developments is lower due to additional planning obligations costs. In all cases, a buffer has been applied (consistent with Planning Practice Guidance (PPG) reference ID: 25-019-20190315) so that CIL is not being set at the theoretical maximum.</p>

Name or Organisation	Comment	Council response
		The Viability Study showed that Cranbrook could not support CIL – further detail in response to this comment can be seen in response to the Newton Poppleford and Harpford Parish Council below.
Cranbrook Town Council	<p>In summary, the preliminary draft CIL charging schedule would not apply to Cranbrook and a Section 106 regime would continue to apply. The Committee noted that the Council’s asset delivery working group had been pressing for this outcome for some time.</p> <p>It was proposed by Cllr Les Bayliss, seconded by Cllr Sarah Gunn and resolved to support the provisions proposed in the preliminary draft charging schedule, especially the continuation of a Section 106 regime in Cranbrook.</p>	Support noted.
David Lock Associates on behalf of East Devon New Community Partners	<p>General Observations By way of preliminary and general observation, EDNCp are aware that the present consultation exercise will be followed by a formal consultation on a Draft Charging Schedule, a consultation which is expected to take place in the spring or summer of this year. It is at that point that EDNCp may request the right to be heard by an Examiner.</p> <p>Equally, there has only been limited time to consider the Preliminary Draft Charging Schedule (PDCS) and the evidence that supports it - the “CIL Review and Cranbrook DPD Viability Study” was only published on 11th February, a week prior to Committee, with consultation commencing the day following Committee, and only for four weeks.</p>	<p>General Observations General observations are noted. The council will consider an appropriate consultation period on the Draft Charging Schedule (noting that regulations require a period of at least four weeks).</p> <p>Relationship with Cranbrook DPD Support for parallel examinations into the CIL Charging Schedule and Cranbrook Plan is noted.</p>

Name or Organisation	Comment	Council response
	<p>For both of the above reasons the representations set out by EDNCP herein are more preliminary and more general in nature.</p> <p>Relationship with Cranbrook DPD EDNCP welcome the intention of EDDC to hold parallel and linked examinations into the CIL Schedule (when published in Draft form) and the Cranbrook DPD. The two are related and need to be considered alongside each other.</p> <p>The Cranbrook DPD is also out for consultation - but on a different timetable - until 24 April 2019. The evidence base - the CIL Review and Cranbrook DPD Viability study - is prepared in relation to the present consultation on CIL but also that on the Cranbrook DPD. EDNCP will set out its observations on that evidence base, in full, in relation to the Cranbrook DPD consultation - i.e. by 24th April.</p> <p>EDNCP suggest that it would be wholly inappropriate to update and publish the next version of the CIL (i.e. the Draft Charging Schedule”) prior to consideration being given to the representations made by EDNCP (and others) in relation to the Cranbrook DPD and the evidence base that supports it. Those observations will include more detailed consideration of the assumptions employed in the CIL schedule and evidence base and Cranbrook DPD Viability study. Publication of the Draft Charging Schedule will also take account of timing of the updating of the CIL Regulations.</p> <p>Preliminary CIL Rates</p>	<p>Whilst the CIL Charging Schedule and Cranbrook Plan are separate documents, the relationship between them is acknowledged and there should be general consistency with each other (PPG Reference ID: 25-011-20190315). This is the approach that the council is taking.</p> <p>Amended CIL Regulations are coming into force on 1 September 2019. The transitional arrangements¹³ state that Part 3: Charging Schedules continues to apply if a draft charging schedule is published before 1 September 2019 – therefore, the process for preparing East Devon’s revised charging schedule will follow the CIL Regulations in place prior to the 2019 amendments.</p> <p>Preliminary CIL Rates Viability concerns in relation to the Cranbrook Plan are noted, and these will be considered through that Plan. As the Preliminary Draft Charging Schedule already proposes a nil</p>

¹³ Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019: <http://www.legislation.gov.uk/ukxi/2019/1103/contents/made>

Name or Organisation	Comment	Council response
	<p>EDNCp note that a zero CIL rate is proposed for residential development at Cranbrook. EDNCp understand that this is in recognition of a substantial section 106 burden, anticipated by EDDC and described in the Cranbrook IDP and the viability study. The affordability of that infrastructure and section 106 obligation will need to be considered in the context of the Cranbrook DPD and its viability, effectiveness and justification.</p> <p>That said - the adoption of a zero CIL rate for Cranbrook still represents a quantum leap in the obligations placed on that development. Whereas the PDCS notes that the previous/current CIL regime - including a CIL levy - would generate no more than £30.8m of CIL receipts (across the whole district), the potential section 106 obligations on Cranbrook appear to be 2-3 times higher at Cranbrook alone. That CIL levy - including that at Cranbrook was assessed as the maximum affordable or viable contribution in 2016.</p> <p>In reality, if the potential section 106 contributions at Cranbrook (set out in the Cranbrook IDP) were to be fully taken into account then the resultant CIL rate would be heavily negative. Of course, it gets “capped” at £0. This will mean that it may well be the case that some infrastructure elements may prove unaffordable through the development. EDNCp will set out additional views in this regard in response to the DPD consultation.</p>	<p>charge at Cranbrook, it is not possible to ‘improve’ viability by setting a lower rate of CIL.</p> <p>It is possible that external funding may be available to help deliver infrastructure at Cranbrook (as occurred with the original, already consented scheme), and the council will explore the various options to achieve this, as they arise – a summary of potential funding options is given in the Infrastructure Delivery Plan review (November 2017), paragraphs 4.20-22; whilst further detail can be seen in the Cranbrook Infrastructure Delivery Plan (February 2019).</p> <p>The annual Infrastructure Funding Statement will not be published alongside the Draft Charging Schedule, due to the challenges of producing such statements (recognised by the Government¹⁴), current lack of Government guidance, and as the CIL Regulations 2019 implementation timescale of 31 December 2020.</p>

¹⁴ Government response to reforming developer contributions, June 2019, paragraph 66:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/806284/Developer_contributions_government_response.pdf

Name or Organisation	Comment	Council response
	<p>One element that is likely to need to be considered is the need to attract external funding to support infrastructure. To assist this process EDNCp advocate to EDDC the preparation and publication of the first Annual Infrastructure Funding Statement (required under the new Regs) alongside the Draft Charging Schedule. In this regard the most recent revision of the CIL Planning Practice Guidance is clear regarding the need for clarity: “<i>Charging authorities should work proactively with developers to ensure they are clear about the authorities’ infrastructure needs and what developers will be expected to pay for through which route</i>”. (Paragraph: 095 Reference ID: 25-095-20190315)</p> <p>Equally EDNCp note that the prelim rates across the district are set with a 50% buffer with the intention of ensuring that the CIL regime does not place a constraint on development. A similar consideration should be consistently applied at Cranbrook.</p> <p>EDNCp support the zero CIL rate for retail development in Cranbrook town centre. While every effort is made to progress retail development in the Town Centre, the frailty of the market is evident and is unable to support any CIL contribution for retail or other town centre uses.</p> <p>Geographical Extent of CIL Charging Zones. A major concern of EDNCp is in relation to the geographical extent of £0 rate Residential CIL Charging zone at Cranbrook for two important reasons. The zones proposed mirror what the Cranbrook DPD describes as the “Built-Up Boundary” in the DPD within which the DPD intends to restrict residential development. Two matters arise straight away.</p> <p>First the extent of those built up area boundaries and the need for any built up area will be debated and discussed through the Cranbrook DPD and its examination.</p>	<p>Support for zero rate for retail development at Cranbrook is noted.</p> <p>Geographical Extent of CIL Charging Zones Agree that the built-up area boundaries will be considered through the Cranbrook Plan and its Examination.</p> <p>Note the points in relation to the geographical extent of the charging zone, and agree that a wider boundary would be a more logical extent for the charging zone, based upon economic viability. Therefore, the Cranbrook £0 charging zone has been amended to reflect the “Cranbrook Plan area” in the DPD.</p> <p>Evidence Base and Assumptions Note that further points will be raised in relation to the Cranbrook Plan – these will be considered through that Plan. As noted above, the Preliminary Draft Charging Schedule already proposes a nil charge at Cranbrook, so it is not possible to ‘improve’ viability by setting a lower rate of CIL.</p>

Name or Organisation	Comment	Council response
	<p>EDNCp anticipate making representations that it is inappropriate to define built development limits in the precise manner proposed (and required if they are to be part of the CIL boundaries). For this reason, and in any event, the existence and nature of boundaries for built up areas is not established or correct.</p> <p>Second - even if built up area boundaries were confirmed through the DPD - then it is not the case that the land immediately beyond them is open countryside. It remains - even as proposed in the DPD to date - allocated as “expansion areas”. That is what is on the DPD Policies Map.</p> <p>Indeed the East Devon Local Plan Proposals Map - properly employs such allocation boundaries. So too does the existing CIL Charging Schedule. Should development come forward (in whatever circumstance - including through the proper more detailed master planning of each expansion area) then they would be expected to contribute to infrastructure in the same manner as the rest of the town. They would be part of Cranbrook and governed by the viability realities relating to Cranbrook.</p> <p><u>EDNCp consider that the zero rate charging schedule should be defined by the Cranbrook expansion area boundaries in the DPD and not the Built-up area boundaries.</u> The different areas are not governed by different economic realities.</p> <p><i>Evidence Base and Assumptions</i> As noted above EDNCp will respond fully in relation to the viability evidence pertaining to Cranbrook in response to the Cranbrook DPD consultation. For instance it will be necessary to review our preliminary concerns relating to:</p> <ul style="list-style-type: none"> • the modelling of, and values attributed to, affordable housing values; • the net to gross assumptions made in relation to Cranbrook and other development scenarios - the assumptions for instance relying on policy rather than the realities of site masterplanning (for instance the need to retain specific features of the site in 	

Name or Organisation	Comment	Council response
	<p>open space (floodplain, biodiversity or landscape features) etc well in excess of the EDLP or DPD standards). Such areas are part of the scheme and need to be considered in viability terms;</p> <ul style="list-style-type: none"> • the assumptions in relation to SANGs in particular the assumption made that a blended rate be applied; • the cost base assumptions employed in the viability study • cost attributed to some of the additional policy expectations at Cranbrook. • the realism of the trajectory or trajectories employed • potential rates of return and possible benchmark land values. <p>The initial impression in the viability work at Cranbrook and across EDDC is that were assumptions have been made then these have all tended to be in the same “conservative” direction leading to a more optimistic picture of affordability or viability.</p>	
<p>Devon County Council</p>	<p>As you know the County Council is responsible for the delivery of key strategic infrastructure and I welcome engagement with your council in setting priorities for how the levy will be spent. It is of great importance that the necessary transport infrastructure is in place to help in the delivery of development and that schools are delivered at the appropriate time to ensure that residential development is sustainable.</p> <p>The proposed changes to the CIL regulations are likely to have a positive benefit in the provision of infrastructure specifically with the removal of the S106 pooling restriction and the replacement of the regulation 123 list with an annual Infrastructure Funding Statement. However, I do remain concerned that a bidding process for CIL will not guarantee that the County will receive the funds necessary for transport infrastructure and delivery of schools.</p>	<p>Introductory comment noted.</p> <p><u>Relationship between CIL, S106 and viability</u> The Government has published amendments to CIL Regulations, coming into force on 1 September 2019. This confirms the removal of Regulation 123 lists. In the future (from December 2020), the annual Infrastructure Funding Statement will include information on how much CIL and planning obligations is collected, how much is spent and what it is spent on; along with a list of infrastructure projects or types of infrastructure which will be, or may be, wholly or partly funded by CIL.</p>

Name or Organisation	Comment	Council response
	<p><u>Relationship between CIL, S106 and viability</u> The County Council welcomes the review of CIL and is aware of its changing regulatory context. It would be useful to provide further clarity on how the District Council will manage the transition between CIL and S106. This is particularly the case where development has been approved under CIL and there are critical infrastructure items that are currently identified on the Regulation 123 list (for example, Tithebarn/Mosshayne, Exmouth and Axminster education requirements).</p> <p>Paragraph 2.11 sets out that CIL rates are reduced on strategic allocated sites due to additional infrastructure costs provided through S106 contributions. It would be helpful to provide clarity on which infrastructure is included within the assumed S106 contributions for such sites to ensure that infrastructure contributions can be made more appropriately through the S106 process. To increase clarity on this matter, it is suggested that the District Council considers a zero rate for all strategic allocations (as discussed in paragraph 5.4.6 and 7.1.6 in the viability study). Relying on S106 Agreements is a more appropriate approach in this instance as it facilitates the provision of infrastructure which is directly related to allocated development.</p> <p>As a minimum, the County Council would prefer for education infrastructure to be considered under S106 for all sites which are yet to secure planning permission. Sites which have already secured permission should be prioritised for the allocation of CIL funding as there will be limited further opportunities to secure the funding for these projects once the revised Charging Schedule is in place.</p> <p>It is vital that the County Council is able to engage in early discussions with the District Council regarding which projects will be prioritised for funding alongside clarity regarding which infrastructure is anticipated to be funded through CIL or S106. It will be important that viability discussions involve the County Council and achieve</p>	<p>The spending of CIL receipts is subject to consideration by the council through its CIL Working Party.</p> <p>The Viability Study (para 5.45) includes a sensitivity test that applies a £20,000 per dwelling s.106 cost on strategic sites, to reflect the cost of on (or near) site infrastructure provision on such sites if regulation 123 lists are abolished. This is based upon Local Plan infrastructure requirements includes all such requirements for these sites (Viability Study, para 4.1.17).</p> <p>The comment that s.106 is more appropriate for strategic allocations is noted. However, most of the large strategic allocated sites in the Local Plan already benefit from planning permission, with the remainder subject to a planning application. Therefore, retaining a CIL charge is consistent with their passage through the planning process thus far, and provides certainty for the developers regarding the costs associated with bringing their sites forward.</p>

Name or Organisation	Comment	Council response
	<p>an appropriate balance between critical infrastructure provision and affordable housing.</p> <p>Additionally, it would be helpful to discuss the role the County Council may have in supporting the preparation of the annual Infrastructure Funding Statements.</p> <p><u>Cranbrook</u> It is evident that the current and forecast CIL receipts in East Devon will not be sufficient to fund the critical and necessary infrastructure at Cranbrook covered by the existing Regulation 123 List, jeopardising or delaying its delivery. Enabling infrastructure (and the land required to deliver it) at Cranbrook to be funded through S106 or through direct provision by developers will provide more certainty over the availability of funding enabling more timely provision of infrastructure. In particular, there are substantial education infrastructure requirements at Cranbrook and the County Council has significant concerns over the ability to secure funding for these under the current CIL regime. This is also an issue for transportation and community facilities, particularly as a result of the unusually high proportion of families with young children and high levels of need for additional support. Given the limited health and wellbeing infrastructure currently in place, the County Council, along with other agencies, face significant challenges in supporting the health and social needs of the growing number of residents.</p> <p>Given these significant challenges, the County Council welcomes the proposal for a zero rate of CIL for all development at Cranbrook. It is essential that critical infrastructure at Cranbrook is provided in an appropriately phased and timely manner. Securing funding for education through S106 will assist in this matter.</p> <p><u>CIL Review and Cranbrook Viability Study</u></p>	<p>Under the amended CIL Regulations 2019, education infrastructure can be considered under s.106 in the future, as regulation 123 and the pooling restriction are being removed (coming into force on 1 September 2019). The allocation of CIL funding to specific projects will be considered separately by the council, through its CIL Working Party. The annual infrastructure funding statement will include the infrastructure projects or types that the council intends will be, or may be, wholly or partly funded by CIL. Further discussion on this will be undertaken with Devon County Council ahead of its publication by 31 December 2020.</p> <p><u>Cranbrook</u> Support for a CIL rate of zero and infrastructure delivery through s.106 at Cranbrook is noted. Further detail on this point is included in the Cranbrook Plan and its supporting Infrastructure Delivery Plan.</p> <p><u>CIL Review and Cranbrook Viability Study</u> The Viability Study reflects the number of dwellings proposed in the Cranbrook Plan (4,170), and this is the quantum of development that the County Council should plan for.</p>

Name or Organisation	Comment	Council response
	<p>There are a number of minor inconsistencies within the CIL Review and Cranbrook Viability Study:</p> <ul style="list-style-type: none"> • Paragraph 6.1.1 refers to a total of 7,670 dwellings (3,500 approved and 4,170 proposed) whereas the Cranbrook DPD identifies 7,750 dwellings. It would be helpful for both documents to identify a consistent number of homes to allow the County Council to plan for and request contributions towards infrastructure as effectively as possible. • Table 6.4, item 12 relates to Special Educational Needs (SEN) provision and includes a cost of £1m. Looking across the various documents, it appears that this cost relates to the expansion areas contribution towards SEN. The total cost of this is estimated to be £5.4m. • All education costs identified within the documents exclude land costs. The Cranbrook IDP has been updated to indicate the costs including land. It would be helpful for these documents to be consistent. <p><u>Extra care housing</u> The proposal to apply a zero rate of CIL to extra care housing is supported. Significant developer contributions are often required to make individual extra care housing schemes viable; a zero rate will assist in the viability and deliverability of these important schemes.</p> <p><u>Greater Exeter Strategic Plan</u> It should be noted that further consideration will need to be given in the future to the charging zones and the application of the relevant CIL rates across East Devon in the context of potential allocations which come forward through the GESP process.</p>	<p>Confirm that the Special Educational Needs contribution of £1m is that which is being sought by Devon County Council towards this project, which has a total cost of £5.4m.</p> <p>The education costs stated in the Cranbrook IDP <i>exclude</i> land (as stated in the “notes” column, Appendix 2).</p> <p><u>Extra care housing</u> Support for a nil charge for extra care housing is noted.</p> <p><u>Greater Exeter Strategic Plan</u> Noted. In the next review of CIL, further consideration will need to be given to the charging zones and relevant CIL rates across East Devon in the context of potential allocations to come forward through the GESP process.</p>
Dorset County Council	No particular issues with the schedule, as drafted. The schedule and rates, appear to be consistent with CIL on the Dorset side with strategic sites adjusted accordingly.	Comment noted.

Name or Organisation	Comment	Council response
	<p>Like you we look forward to the regulation changes proposed in the January MHCLG consultation, and have responded, to MHCLG, on that basis.</p>	
<p>Equality and Human Rights Commission</p>	<p>Local, Parish and Town Councils and other public authorities have obligations under the Public Sector Equality Duty (PSED) in the Equality Act 2010 to consider the effect of their policies and decisions on people sharing particular protected characteristics. We provide advice for public authorities on how to apply the PSED, which is the mechanism through which public authorities involved in the planning process should consider the potential for planning proposals to have an impact on equality for different groups of people. To assist, you will find our technical guidance here.</p>	<p>Noted. The CIL charging schedule is informed by evidence relating to economic viability and the delivery of infrastructure. There are not considered to be any specific impacts upon those with protected characteristics. This is consistent with the Government approach that CIL does not fall within the requirements for regulatory impact assessments.¹⁵</p>
<p>Highways England</p>	<p>We have reviewed the evidence base and are content that it identifies the opportunities and restraints faced by the Council in determining an appropriate levy, and that the draft charging schedule reflects this.</p> <p>It is noted that the council are working on the basis that revised CIL regulations will be published in due course, which will confirm the removal of regulation 123 lists and the section 106 pooling restriction as proposed in the draft regulations. Therefore, a revision of the regulation 123 list has not been considered for this consultation.</p>	<p>Comment noted.</p> <p>In the next review of CIL, further consideration will need to be given to the charging zones and relevant CIL rates across East Devon in the context of potential allocations to come forward through the GESP process.</p>

¹⁵ Reforming developer contributions – Technical consultation on draft regulations, MHCLG, 2018:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/767292/CIL_Amendment_Regulations_Consultation_Paper.pdf

Name or Organisation	Comment	Council response
	<p>Highways England are aware of the emerging Greater Exeter Strategic Plan (GESP), we will need to understand through the CIL consultation how sites within East Devon, that maybe allocated within GESP will be considered for charging.</p>	
<p>Lichfields on behalf of Bourne Leisure</p>	<p>By way of background, Bourne Leisure operates more than 50 holiday sites in the form of holiday parks, family entertainment resorts and hotels in Great Britain and is therefore a significant contributor to the national tourist economy, as well as local visitor economies. Within East Devon, Bourne Leisure operates Devon Cliffs Holiday Park.</p> <p>We provide comments on the following aspects of the consultation document: 1 Holiday accommodation; and, 2 Hotels.</p> <p>Holiday accommodation Paragraph 2.13 of the consultation document states: <i>“The viability study considers a range of other non-residential uses, noting that most share similar characteristics for the purposes of viability so are covered by the same rate... The rate for holiday accommodation will depend on whether it is a standard dwelling that the purchaser intends will be used for holiday accommodation (standard residential charge), or on a holiday park which will be part of all other non-residential uses category with no CIL charge.”</i></p> <p>Bourne Leisure endorses the Council’s clear recognition that holiday accommodation (including purpose built units) within holiday parks do not fall under the residential development category. These types of holiday accommodation are wholly distinct from residential development and are not comparable to other types of seasonal holiday lets that could also be used as dwellings. Such accommodation is narrowly restricted by condition to holiday use and can only be occupied while holiday parks</p>	<p>Support noted.</p> <p>The comment references the definition of “dwelling” in the CIL Regulations as having the meaning given in the Local Government Finance Act 1992. However, this reference falls within Part 7: ‘application of CIL’ (regulation 58A and 59A(7)) which relates to the amount of CIL receipts to be passed to parish councils (should not exceed £100 per dwelling in the area in each financial year). Therefore, it is not relevant to the calculation of the chargeable amount of CIL.</p>

Name or Organisation	Comment	Council response
	<p>and resorts are open. The units are used for short term lets of typically three, four or seven days at a time, by any family or group.</p> <p>As commercial premises, this type of holiday accommodation would be subject to payments of business rates, rather than council tax. Accordingly, it would not fall under the definition of a “dwelling” contained in the Local Government Finance Act 1992, cross-referenced by the CIL Regulations (2010, as amended).</p> <p>Recognition that holiday accommodation within holiday parks is not comparable to other types of seasonal holiday lets that could also be used as dwellings is welcomed. Further, based upon the viability evidence prepared, the proposed nil rate for such holiday accommodation is endorsed.</p> <p>Hotels Having reviewed the viability study prepared by Three Dragons with Ward Williams Associates to inform the emerging Charging Schedule, Bourne Leisure agrees with the proposed nil charge rate for hotel uses. The evidence clearly shows that any rate would render hotel development unviable.</p>	
Mr B Bailey	I am pleased to support this review it will be beneficial to the area.	Support noted.
Natural England	We welcome the inclusion of measures to mitigate the impact of development on the Exe Estuary and Pebblebed Heaths European sites, as set out in para 4.9 of the Infrastructure Delivery Plan Review 2017 (IDP), and the level of priority (priority one) given in that document to the financial contributions required to deliver such mitigation.	<p>The measures to mitigate the impact of development on European sites is the top priority for the council in spending CIL, and CIL receipts are ‘top-sliced’ for this purpose.</p> <p>The review of mitigation measures for the GESP is noted, and will be dealt with through that Plan – the impact of this upon the CIL</p>

Name or Organisation	Comment	Council response
	<p>We would like to stress the importance of mitigating the impacts arising from likely significant effects on European sites. Absence of certainty about adequate mitigation would prevent the development to proceed.</p> <p>It should be noted that the financial contributions required to mitigate the impact of development on the European sites referred to above will be reviewed in the light of emerging policy development for the Greater Exeter Strategic Plan (GESP) area. Any such revisions will therefore need to be reflected in future versions of the CIL charging schedule and supporting evidence documents.</p> <p>We note that the IDP makes specific reference to Cranbrook (para 5.6) and states that mitigation measures will include around 70 hectares of Suitable Alternative Greenspace (SANG) to be provided for the Cranbrook Expansion Areas. It should be noted that the location and quality of on-site SANG for Cranbrook has yet to be agreed.</p>	<p>Charging Schedule will be considered in its next review.</p> <p>SANGs at Cranbrook are being addressed through the emerging Cranbrook Plan Development Plan Document.</p>
<p>Newton Poppleford and Harpford Parish Council</p>	<p>In broad terms, the parish council contests whether the conclusions of the WWA report are indeed supported by the facts. Notwithstanding that within the detail there are costs that may be subject to challenge, such as £740k to construct allotments (on a greenfield site) and £31.3m for landscaping 563 acres at £55k per acre, the conclusion that total projected development costs of £769.6m to supply 4170 houses at an average of £185k per property are unviable for charging ANY CIL at all seems at odds with market housing rates.</p> <p>Rightmove.co.uk shows typical sale prices for the last year at Cranbrook (on the new estate) of between £190k and £373k. These values are supported by the table provided by WWA at 4.1.4. The difference between the cost and sale vales clearly suggests that a CIL contribution would in fact be viable.</p>	<p>The source of the allotment cost is the East Devon Open Space Study, which states a cost of £30 per square metre.</p> <p>It is too simplistic to just compare the total estimated development cost (£769.5m) with sales values to suggest that CIL would be viable, as this cost does not include purchasing the land, Stamp Duty, legal fees, marketing, finance costs or return for the developer.</p>

Name or Organisation	Comment	Council response
	<p>Reducing the current, already discounted, CIL rate for Cranbrook new build from £68/m² to NIL whilst simultaneously lowering affordable housing contribution at Cranbrook down to just 15% as recommended by WWA, will reduce income to East Devon by [120m² (estimated average house size) x 5,900 houses [per table 6.5] x £68 / m²] = £48,144,000. This equates to just £8,160 contribution per house. This should be compared to the proposed rate for most of the rest of East Devon of £150 / m², a discount of 55% or £59m.</p> <p>The costing system, “Three Dragons”, used by WWA appears to be a national industry standard costing system for this type of evaluation. It is, however, unclear if the costs in such a system allow for regional variations in costs of (say) lower labour rates in the South West of England. It would be helpful if ALL the assumptions and methodologies applied in the costing model can be made available for scrutiny.</p> <p>Finally, it should be pointed out that WWA, although an LLP, are a building services consultancy to residential and commercial customers in both the private and public sector. Whilst their integrity is not questioned it would be advisable to check their previous client base and whether they have previous or current connections to local or national housebuilders.</p> <p>On the basis of the report, the council would propose that the CIL level remains unchanged from its already discounted rate of £68 / m². This will make some</p>	<p>The suggested CIL income is considered to be an over-estimate as the stated average house size is too high (the average size of a new dwelling built in East Devon over the period 2014-18 is 108 sq m¹⁶) and table 6.5 includes 1,744 houses with planning permission prior to CIL being introduced, so will not be charged CIL.</p> <p>The quoted build costs include labour and are localised.</p> <p>A viability review would be required by the affordable housing policy if the developers propose less than 15% affordable housing – this would ensure the benefits of improved viability are provided to the council for the delivery of affordable housing.</p> <p>Overall, the council consider that £0 CIL at Cranbrook expansion areas and a section 106 approach instead is justified by both the viability evidence, and for the effective delivery</p>

¹⁶ Table NB1: domestic Energy Performance Certificate for new dwellings by energy efficiency rating: <https://www.gov.uk/government/statistical-data-sets/live-tables-on-energy-performance-of-buildings-certificates#epcs-for-all-new-domestic-properties-including-new-build-dwellings-conversions-and-change-of-use>

Name or Organisation	Comment	Council response
	<p>amends for the terribly low affordable housing percentage of 15% and allow EDDC to contribute to much needed services and support activities which have been hitherto slashed by years of “austerity”.</p> <p>At the very least, if a CIL of zero is applied on the basis of projected costs, there should be an extension to the s106 agreement which shows that if and when costs (on an open – book basis) are lower than estimated then a profit share of up to a maximum £48m is included in the agreement.</p>	<p>of the range of infrastructure necessary to make Cranbrook a sustainable community in which to live and work.</p>
<p>Persimmon Homes South West (PHSW)</p>	<p>The Evidence Base The same evidence is being used for the Cranbrook Plan DPD and the PDCS. It is logical that progressing the CIL Draft Charging Schedule is deferred until the evidence has been comprehensively reviewed and, where necessary, revised. Having briefly reviewed the viability study for the purposes of responding to this consultation, we have significant concerns about its accuracy and therefore its validity: as a consequence, the setting of the CIL rates via the PDCS based upon this evidence is questionable. The CIL Review and Viability Study notes that the assessment should be as accurate as possible to inform development, and include all relevant assumptions. The accuracy of the document is critical and has to reflect what can be deliverable.</p> <p>It is noted that by setting affordable housing in the expansion areas at 15% it is evident that it is not a particularly strong financial case, and therefore the need to have accurate evidence becomes even more pressing. PHSW will submit that the viability study:</p> <ul style="list-style-type: none"> - Is deficient as it does not include all relevant assumptions and issues. - Lacks evidential support to some of the assumptions used. - Is ambitious, to say the least, on delivery trajectory. 	<p>The Evidence Base The concerns relating to the viability study are noted, but no alternative evidence is suggested – for example, the comment does not suggest alternatives for the following concerns:</p> <ul style="list-style-type: none"> - relevant assumptions and issues (including evidential support) - delivery trajectory - costs, land values, margin and deliverability - modelling/sensitivity testing. <p>The relatively low s.106 cost at the quoted site on the edge of Exeter (£1,640 per plot compared to the £20,000 per plot modelled in the Viability Study) is because the regulation 123 list limited the s.106 contributions that could be made towards infrastructure. The scenario outlined in the comment of applying a</p>

Name or Organisation	Comment	Council response
	<ul style="list-style-type: none"> - Is unclear and unrealistic in its attribution of some of the costs, land values, margin and deliverability. - Uses very questionable modelling/sensitivity testing to inform potential CIL rates (e.g. applying a £20,000 per plot deduction in sensitivity testing on case study/strategic sites CS5, CS6 and CS7). <p>As an example to reflect our concerns, PHSW has outline planning consent on the Edge of Exeter for 900 units. The Section 106 costs equate to £1,640.50 per plot. The CIL rate is £80 per sqm with indexation. The land was bought for development on the open market with an assessment of viability and clearly that work would be rendered useless if, at reserved matters stage, a £20,000 per plot level of charge could be applied as well as the CIL contribution. The combination would have a huge impact and threaten the delivery of the development.</p> <p>Given the above, PHSW has some significant concerns and at this stage objects to the PDCS being progressed until there has been meaningful dialogue with stakeholders to ensure that the viability work is properly assessed and revised to reflect our concerns. A meeting is to take place on this issue with EDDC Officers on Monday 25th March, unfortunately after the close of the consultation date for the PDCS.</p> <p>Further detailed review is taking place which will inform discussion/response to the Cranbrook Plan DPD. There are fundamental issues of concern and the East Devon New Community Partners (EDNCp) and PHSW reserve our position to make further detailed comments on the viability study that is a critical piece of evidence to inform the PDCS.</p> <p>Phased Payments</p>	<p>£20,000 per plot s.106 alongside a CIL charge would not occur as the scheme already has consent with the 'limited' s.106 requirement.</p> <p>Phased payments General support for the instalment policy is noted. CIL Regulation 70(6) requires CIL to be payable in accordance with an instalment policy (if this policy is issued on or before the commencement date). Therefore, the regulations do not allow for a negotiated agreement of an alternative payment plan, as suggested.</p> <p>Reforming Developer Contributions The Government has now published amendments to CIL Regulations, coming into force on 1 September 2019. These confirm the replacement of Regulation 123 lists with an 'annual infrastructure funding statement' – the first such statement will be published by 31 December 2020. Therefore, an "either/or" provision is not required.</p> <p>CIL Residential Charging Zone – Axminster Note comment that the charging zone should be amended to reflect the masterplan area. The council has resolved to use the</p>

Name or Organisation	Comment	Council response
	<p>The instalment policy (paragraphs 2.15 to 2.18) set a definite approach to CIL payments. This is generally sound however there should be scope for negotiated agreement of an alternative payment plan if the situation arises that means deviating from the standard approach advocated in Figure 2 is sensible.</p> <p>Reforming Developer Contributions Paragraphs 2.19 to 2.21 refer to the recent technical consultation on Reforming developer contributions, and the intention to remove regulation 123 lists and of restrictions relating to the pooling of Section 106 monies. The PDCS presumes that the changes will be implemented and does not recommend a revision to the current Regulation 123 list on the expectation it will be abolished. The consultation on reforming developer contributions closed on 31st January 2019 and whilst the provisions consulted upon may well be implemented, it is premature to consider this is a formality. With this lack of certainty the District Council should therefore satisfy itself that the current list is fit for purpose if revisions to the regulations are not forthcoming. PHSW recommends progress on the CIL Draft Charging Schedule is delayed until any measures in the Technical Consultation are confirmed for implementation, or an “either/or” is included in the Charging Schedule.</p> <p>CIL Residential Charging Zone – Axminster Axminster’s Residential CIL Charging Zone map shows the area of the eastern extension that has been superseded by the masterplan area endorsed by the Council in January 2019. The area currently reflects a local plan policy which indicated circa 650 homes were to be built. The masterplan indicates a larger development area and up to 850 homes to be built. The map should be amended to reflect the wider development area to help ensure the development can proceed given its viability assessment has considered a single charge across the whole of the expansion area. It should be noted that EDDC Members endorsed the delivery of the</p>	<p>masterplan for the purposes of informing decision making on future planning applications for the urban extension, so agree that a single charging zone should be applied to the entire masterplan area.</p> <p>CIL Residential Charging Zone – Cranbrook Note the points in relation to the geographical extent of the charging zone, and a wider boundary is now considered more logical based upon economic viability. Therefore, the Cranbrook £0 charging zone has been amended to reflect the “Cranbrook Plan area” in the DPD.</p> <p>CIL Residential Charging Zone – Edge of Exeter The proposed CIL rate in the Draft Charging Schedule for strategic sites (£100) is similar to the current indexed rate (£94.23 in 2019). Therefore, this is not considered to be a significant variation that could risk future delivery on the edge of Exeter sites.</p> <p>Impact upon existing outline planning permissions Regulation 8(2) states that “planning permission first permits development on that</p>

Name or Organisation	Comment	Council response
	<p>masterplan based upon the viability work that included a single CIL charge across the site.</p> <p>CIL Residential Charging Zone – Cranbrook The extent of this area is consistent with the Cranbrook DPD’s proposed Built Up Area Boundary. The consultation period and timetable for examination and adoption are different and as such it is presumptuous for the CIL Charging Schedule to show a zone that could well change due to the result of other consultation activity. This is particularly pertinent for the Grange expansion area and its current lack of status in policy.</p> <p>CIL Residential Charging Zone – Edge of Exeter There are areas within the Edge of Exeter zones which have current outline planning permission. This land will have been purchased through the open market, and planning obligations will have informed development viability (and therefore delivery). To introduce a variation at this stage – which could impact upon reserved matters and any new applications within the area – risks delivery.</p> <p>Impact upon existing outline planning permissions It is requested that East Devon District Council provide confirmation that extant outline planning consents are protected from the potential change in CIL rates resulting from this review due to the likely impact upon viability and delivery.</p>	<p>the day that planning permission is granted for that development”. In the case of outline planning permission which is not phased, this is when the final approval of the last reserved matter is approved (Regulation 8(4)). For phased permissions, permission is linked to the last reserved matter associated with that phase or the final approval under any pre-commencement condition.</p> <p>Previously, the rate in the revised charging schedule would apply at the time reserved matters are approved. However, the 2019 amended regulations¹⁷ mean that the original charging schedule (as indexed) is applied at the time reserved matters are agreed. Therefore, the rate for outline permissions will be the original charging schedule (as indexed), rather than the new charging schedule, when it comes to calculating CIL at reserved matters stage.</p>

¹⁷ Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019, Schedule 1(2): <http://www.legislation.gov.uk/ukxi/2019/1103/contents/made>

Name or Organisation	Comment	Council response
South West Water	No comment.	Noted.
Sport England	<p>The purpose of Reg 123 list is to set out what infrastructure will be funded by new development under CIL and is to avoid duplicate payments by development for the same items of infrastructure, once through S106 and once through CIL. This is referred to as ‘double dipping’ on the planning portal.</p> <p>Reg 123 of CIL can prevent planning permission being granted if site specific sports facility mitigation can only be secured through a planning obligation (direct provision or financial contribution).</p> <p>The inclusion of ‘sport’ including playing fields as a generic term on the Reg 123 of CIL could preclude the use of s106 to secure mitigation when a sports facility or playing field is affected by a planning application and under para 97 of the NPPF the mitigation is needed to make the development acceptable. A number of authorities have looked at a work around including Westminster City Council and LB Croydon.</p>	<p>The Government has now published amendments to CIL Regulations, coming into force on 1 September 2019. These confirm the replacement of Regulation 123 lists with an ‘annual infrastructure funding statement’ – the first such statement will be published by 31 December 2020. The amended Regulations will allow authorities to use funds from both CIL and planning obligations to pay for the same piece of infrastructure, regardless of how many planning obligations have already contributed towards it.</p>
Sturt and Company on behalf of Devonshire Homes and Land Value Alliances	<p><i>NB. This is a detailed summary of the comment, rather than the full consultation response.</i></p> <p>Observations of residential inputs</p> <p>Incorrect assumptions are being used on some of the residential inputs – a comparison of Three Dragons approach and industry standard is given below:</p> <ul style="list-style-type: none"> - Profit should be 20% as this is required for bank financing and other independent banking assessment, rather than 15-20%. - Contractor’s return is identical at 6%. 	<p>Observations of residential inputs</p> <p>Profit – the profit assumption reflects Government Planning Practice Guidance (PPG) (reference ID: 10-018-20180724) which states “for the purpose of plan-making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers” and that a lower figure is appropriate in terms of affordable housing provision.</p>

Name or Organisation	Comment	Council response
	<ul style="list-style-type: none"> - Professional fees (6-8%) are very low and below other similar Three Dragons assessments – these should be 10%. Similarly, planning application costs and fees to the local authority are not included. - Finance rates (6%) have risen since 2017, as development finance has increased with a rise in interest rates so should be 7%. Valuation fees are not included. - Marketing fees of GDV are identical at 3%. - External works (10-15%) includes a contingency element which is not correct. - No contingency allowed. It is normal that 5% is allowed over all build costs to allow for contingency on sites, as applied by Three Dragons and other local authorities elsewhere. - BCIS costs should be updated as 7 months out of date and have increased between 5% to 8% from September 2018 to March 2019, and should be 'mean' rather than 'lower quartile' to 'mean' as BCIS data deals with different types of development e.g. estate housing is specifically weighted to allow for the location and nature of estate housing. It is common industry practice to use the average BCIS cost – it is not appropriate to weight costs due to the individual developer, as stated in RICS Guidance note for Financial Viability in Planning. - Garages should be £15,000+ for double garage. Some 3 bed units will need a single garage. 	<p>Professional fees – the Viability Study has been undertaken with a cost consultant who has advised that professional fees at around 6-8% are appropriate and within acceptable industry norms.</p> <p>Finance rates – the finance rate of 6% is common for current viability studies and reflects continued historic low interest rates. Note that the rate used is at current values and so excludes the allowance for inflation that is built into headline finance rates.</p> <p>External works and contingency – the allowance includes some contingency as well as external works (see Viability Study, para 4.1.3). Note that the PPG does not require contingency for area-wide typology testing (unlike site specific testing).</p> <p>BCIS costs – the study refers to a point in time and it is not appropriate to continually update values and costs. Paragraphs 4.1.11-12 of the Viability Study explain the approach to build cost and the evidence used to vary BCIS costs.</p>

Name or Organisation	Comment	Council response
	<p>- The GDVs/sales values seem high for the local market. The 30 unit case study uses an average of around £382 per sq ft for market housing which is not reflected in other new home schemes in the area. Three Dragons have used EPCs as a data source to analyse sales values, which is a poor methodology – marketing particulars with the areas of the properties being sold should be used. Whilst BCIS has increased 5-8% since September 2018, GDVs have fallen by 1% on a national basis.</p> <p>Other Three Dragons CIL submissions Three Dragons have prepared other CIL submissions for other local authorities recently (Exmoor, Waverly, New Forest) that use widely different assumptions, with no explanation, which cannot be justified by change in geographic location. The inputs in the 2013 East Devon viability work prepared by Three Dragons reflect industry standards far more closely than the current 2019 study.</p> <p>Three Dragons generic ARGUS appraisal We have assessed a 30 dwelling scheme based on a 50:50 delivery of private and affordable housing. Despite adopting the Local Authority’s own inputs, our appraisal is very different to that provided in the Three Dragons Report. I have calculated the corresponding land value to be £2,330,505 which is a £431,706 differential. This questions the veracity and programming of their toolkit.</p> <p>I have concerns over the use of a non-industry standard Excel appraisal for setting CIL – almost all Local Authorities now use either ARGUS or historically the Homes & Communities Agency Development Appraisal Tool.</p>	<p>Garages – garage costs are supported by the cost consultant and are applied to all detached houses.</p> <p>GDVs/sales values – sales values are based on Land Registry price paid data. Following the development industry workshop, a review of EPC floor area data was undertaken against planning records. This review showed that the EPC records were very similar to the floor areas reported by the developers with no systematic bias.</p> <p>Other Three Dragons CIL viability studies The inputs for the work in East Devon reflect the characteristics of development locally, as discussed during the development industry consultations. The same principles apply to studies undertaken elsewhere.</p> <p>Three Dragons generic ARGUS appraisal The appraisal summary using study inputs appears to relate to case study 3 (30 dwellings) in the Sidmouth/Budleigh Salterton value area. The appraisal arrives at a recognisably similar residual land value to the appraisal in the Viability Study (£2,330,505 compared to £2,380,274). This difference may</p>

Name or Organisation	Comment	Council response
	<p>Do not consider the Three Dragons Toolkit is sufficiently robust nor capable of dealing with cash flow implications of a multi-phase development site.</p> <p>Industry standard ARGUS appraisal Having inputted Three Dragons’ assumptions into ARGUS, there are a number of anomalies and inconsistencies, including 5% contractor’s margin not linked to GDV, no garages, no void costs, no legal fees on affordable or private sales. I have prepared a separate ARGUS appraisal for a 30 unit scheme using industry standard inputs with a reduced land value of only £1,488,305 (approximately £1,273,906 difference in land value).</p> <p>Benchmark Land Value The use of CoStar (which collates raw data of land sales from Land Registry) does not take into account many variables such as planning costs, promoters margins, ransom strips or other discounts. Significant further analysis is required, which has not been done. It is completely normal that the price quoted at Land Registry Title is often less than the Benchmark Land Value as it does not take into account the above factors. Often there are additional payments or deductions from Market Value. Only a RICS qualified surveyor would be able to assess the true benchmark land value, considering further research than CoStar.</p> <p>Cranbrook DPD testing scenarios Based on the above factors, there are significant implications that risk the viability of the entire Cranbrook allocation. My client’s site at Cranbrook (Farlands) is also subject to several specific on-site abnormalities which have not been taken into account in the appraisals. It is unlikely that SANGS land owners will release their land at the figures suggested. I am concerned that East Devon are aiming to fund infrastructure through section 106 contributions which have not been either fully costed or taken</p>	<p>be due to a number of factors including some small differences in some of the inputs (e.g. developer return at £1,420,241 instead of £1,402,368). In addition, Argus is orientated to produce developer return as the residual instead of land value and this can lead to some differences in resulting figures. Overall, however, the appraisals are showing a similar output and it is unclear where the “£431,706 differential” comes from.</p> <p>Industry standard ARGUS appraisal The Three Dragons Toolkit is an industry standard viability appraisal tool that has been used to provide the evidence in a number of local plan and CIL studies that have been found sound at Examination.</p> <p>Benchmark Land Value Benchmark land values have been developed in accordance with Government guidance, using the approach of ‘existing use value plus’, considering a range of issues and not just CoStar. These values were discussed at the developer workshop held at the outset of the study – whilst there were suggestions they were too low, no alternatives were put forward</p>

Name or Organisation	Comment	Council response
	<p>into account. Depending upon the final costings they may have further implications for affordable housing needing further downward adjustments to the 15% provision.</p> <p>Conclusions and Implications It is of vital importance to the delivery of housing in East Devon to only adopt a CIL that reflects the current performance of the residential market. If the CIL rate is set too high, land will not come forward for development which will have a significant impact on the housing land supply as well as the functioning of the market.</p> <p>The proposed rate of £150 per sq m is likely to lead to market failure as it will effectively stifle residential development due to the high cost of CIL and section 106 payments. Taken together with policy compliant affordable housing provision, it is extremely likely that even greenfield sites with low abnormalities would not come forward. I suggest a further round of consultation due to the serious errors and inconsistencies highlighted.</p>	<p>(Viability Study, section 4.2 contains further detail).</p> <p>Cranbrook DPD testing scenarios Site wide abnormalities <u>have</u> been included in the Viability Study (£22.2m in table 6.3). Consultation was undertaken with the promoters of Farlands in 2018 and no viability information was made available and this remains the case with the current response.</p> <p>Note the disagreement with price of SANGS, but no alternatives are suggested in the comment. A small premium above agricultural value is justified in the Viability Study (para 4.2.9), based on other examples.</p> <p>A significant s.106 cost (some £70.1m) has been included in the Viability Study, detailed in table 6.4. No additions are suggested in the comment. The level of affordable housing provision is a matter for the DPD, rather than the Charging Schedule.</p> <p>Conclusions and Implications Agree that the impact of CIL on viability is a key issue to consider in setting the rate. The Viability Study justifies the proposed rate of</p>

Name or Organisation	Comment	Council response
		£150 per sq m for “general residential development in the rest of East Devon”. Further consultation will be held on a Draft Charging Schedule, before it is subject to Examination by an independent Examiner.

3 Draft Charging Schedule

- 3.1 Following public consultation on the Preliminary Draft Charging Schedule (described in the previous chapter), the council made changes as appropriate and published the Draft Charging Schedule. Consultation on this document took place from Wednesday 21 August until Wednesday 2 October 2019. The relevant evidence, the statement of the representations procedure,¹⁸ and a statement of the fact that the draft charging schedule and relevant evidence are available for inspection, were all published on the council's website, in accordance with CIL regulation 16. An advertisement notice was also published in three local newspapers (see appendix one).¹⁹
- 3.2 For consultation on the Draft Charging Schedule, the council contacted all those who were informed of consultation on the Preliminary Draft (explained in paragraphs 2.4, 2.5 and 2.6) along with those who responded at that stage. A press release was also issued, and published on the front page of the council's website.²⁰
- 3.3 A total of 18 representations were made on the Draft Charging Schedule. A summary of the main issues raised by the representations, grouped by topic, is set out below:

General

- The build costs and other assumptions are now significantly out of date, and should be updated.
- Number of concerns with the assumptions applied in the Three Dragons viability assessment, relating to private sales values, affordable housing transfer values, build costs, land values and developer return.
- The benchmark land values are too low, which unduly inflates the CIL rates and could jeopardise the delivery of development.
- Support the Draft Charging Schedule.
- Revising the charging schedule seems pre-emptive as there may be new allocated sites in the Greater Exeter Strategic Plan, which may be unviable at the proposed level of CIL and will need to support strategic infrastructure.
- Important to ensure an appropriate 'contingency' allowance is made.

¹⁸ The statement of the representations procedure is available on the council's website at: <https://eastdevon.gov.uk/media/3300326/statement-of-the-reps-procedure.pdf>

¹⁹ Note that the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 delete the requirement to publish a local advertisement notice but, as previously explained in footnotes 1 and 2, the council is following transitional arrangements as if this change to the regulations has not been made.

²⁰ See press release at: <https://eastdevon.gov.uk/news/2019/09/public-consultation-underway-on-revised-community-infrastructure-levy-cil-draft-charging-schedule/>

- Need to consider likely developments that will come forward outside of allocated strategic sites.
- Absence of any viability testing between 50 and 150 dwellings is a significant shortcoming.
- The Viability Study only considers the values associated with affordable rent, which are higher than those associated with social rent.
- The residual s.106 cost of £1,500 per dwelling for schemes over 10 dwellings is too low and has not been fully justified. The removal of regulation 123 lists and pooling restrictions mean that s.106 costs are likely to rise substantially.
- Given the uncertainty in the housing market and general economy, the vast majority of major developers will be required to demonstrate a margin of at least 20% to bring development forward.
- The council should make discretionary relief for exceptional circumstances available to ensure flexibility for site specific conditions.
- The recently revised Instalment Policy is more onerous than the previous policy, and will mean larger developers having to pay their liability more quickly – this does not reflect cash flow and the timing of development delivery.

Cranbrook

- Support nil rate of CIL at Cranbrook due to the level of s.106 planning obligations and other costs associated with this development – this should help deliver essential infrastructure.
- Concerns relating to the timing and implementation of the Charging Schedule and its relationship with the Cranbrook Plan – there is potential for a disconnect between the up-to-date (2019) Charging Schedule and development proposals at Cranbrook.
- Welcome intention to hold parallel and linked examinations into the CIL Charging Schedule and the Cranbrook Plan.
- Cranbrook developers should contribute towards essential infrastructure via CIL so it is the same as other East Devon settlements.
- Support the geographical extent of the £0 residential CIL charging zone at Cranbrook, although the outcome of the DPD examination may require refinement of the boundary.
- The infrastructure costs and s.106 obligations for Cranbrook in the Cranbrook Plan DPD are vastly increased compared to the first phase of 3,500 dwellings.
- Support £0 retail rate at Cranbrook and its geographical boundary.
- It may be necessary for CIL receipts to be spent in Cranbrook, and the infrastructure list should allow for that more explicitly.

- A 50% buffer was included in the viability assessments for setting CIL rates, but similar buffers have not been used for the Cranbrook DPD.
- Concerned with the inappropriate and unjustified use of 17.5% developer return for market housing at Cranbrook, yet 20% in all other cases.
- Concerned that the net to gross assumptions, density and site coverage (and hence revenue generation) rely on policy rather than realities of site masterplanning.
- Concerned with the calculation of benchmark land values (including treatment of SANGs values) at Cranbrook.

Extra care housing

- Support zero rating of extra care housing as this is often an affordable housing product and developer contributions are usually required to make schemes viable.

Strategic sites

- All strategic allocations should be zero rated as this would clarify that s.106 would be secured from these developments, improving certainty over infrastructure delivery.
- The edge of Exeter charging zone doesn't fully cover the area that is allocated for phase 2 of Mosshayne, so it should be amended to help ensure that development can proceed.
- Support the change to the Axminster charging zone encompassing the masterplan area, but this should be nil rated as, like Cranbrook, there is a large forward funded s.106 requirement for infrastructure.
- The proposed CIL charge for the Axminster north eastern urban extension is higher than the rate assumed within the viability work that informed the Masterplan, which will make it difficult to achieve policy compliant planning obligations.
- Agree with additional site infrastructure cost of £20,000 per unit for sites of 150, 500 and 900 dwellings.
- Agree with limiting residential CIL charge at larger and strategic sites, but should apply to all sites above 100 dwellings (except Cranbrook), rather than only strategic allocated sites.

Retail

- Footnote 4 should be amended as reference to Town Shopping Areas defined in the Local Plan and Villages Plan do not include a shopping zone at Cranbrook:

“The retail rate applies to qualifying floor space outside of ~~Town Centre Shopping Areas as defined in the East Devon Local Plan 2013 to 2031 and East Devon Villages Plan~~, those £0 retail CIL zones as shown on the charging zone maps”.

Non-residential uses

- Endorse the proposed nil rate for holiday accommodation within holiday parks and for hotel uses, but charging schedule should clarify the types of non-residential uses that are subject to nil rate.
- Support nil rate for all other non-residential uses, as community and cultural facilities provide immense benefits to local communities. Additional obligations from development can undermine the viability and delivery of new/expanded facilities.

Infrastructure delivery

- Significant concerns over the delivery of education and transport infrastructure under the CIL regime, as the draft infrastructure list mixes ‘types’ of infrastructure and specific infrastructure ‘projects’.
- CIL should be used to fund *specific* education and transport projects (which would be identified on the infrastructure list, and then the annual infrastructure funding statement). Other education and transport projects would be funded by s.106.
- Given the infrastructure funding gap, CIL funding should be agreed on a priority basis over a five-year period, allowing better budgetary planning by infrastructure providers and opportunities for obtaining money from other sources.
- Welcome inclusion of measures to mitigate the impact of development on the Exe Estuary and Pebblebed Heaths European sites.
- Concerned with the reliance on s.106 to deliver SANG, which is different to the funding strategy assumed in the Local Plan.
- It may be necessary to attract external funding to deliver infrastructure at Cranbrook, including CIL receipts.
- Concerned that there does not appear to be a robust and up to date evidence base for sport and recreation in East Devon to inform infrastructure delivery and CIL.

- 3.4 This Consultation Statement, along with copies of the Draft Charging Schedule representations, has been submitted to an examiner for examination of the Draft Charging Schedule.

Appendix one – Local advertisement notice

In accordance with CIL regulation 16(d),²¹ the following local advertisement notice was published in the Exmouth Journal and Midweek Herald on 28 August 2019, and the Sidmouth Herald on 23 August 2019.

**Community Infrastructure Levy
Draft Charging Schedule
Statement of the representations procedure
August 2019**

Representations about the East Devon District Council Community Infrastructure Levy Draft Charging Schedule must be made from Wednesday 21 August until Wednesday 2 October 2019 (at 5pm). Representations may be made by email to planningpolicy@eastdevon.gov.uk or post to:

Planning Policy
East Devon District Council
Blackdown House, Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

Representations may request the right to be heard by the examiner, and/or to be notified of any of the following:

- that the Draft Charging Schedule has been submitted to the examiner
- the publication of the recommendations of the examiner and reasons for those recommendations
- the approval of the charging schedule by the council

The Draft Charging Schedule and relevant evidence will be available for inspection at the council address above during the consultation period. Further information is available at: <https://eastdevon.gov.uk/planning/planning-policy/infrastructure-provision-and-community-infrastructure-levy/community-infrastructure-levy-policy/cil-charging-schedule-revision/>

²¹ This regulation has been deleted by the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 but, as previously explained, the council is following transitional arrangements as if this regulation had not been deleted.
