

Community Infrastructure Levy

Draft Charging Schedule

Regulation 19 (submission) version



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Commenting on modifications to the Draft Charging Schedule

Regulation 19 of the CIL Regulations 2010 (as amended) requires the Charging Authority (the Council) to submit the CIL Draft Charging Schedule (DCS) to an independent examiner for a CIL Examination.

The Charging Authority is also required to produce a Statement of Modifications, separate to this DCS, to show the modifications made to the DCS following its publication under Regulation 16.

A request to be heard by the examiner may be made in relation to the modifications on the DCS. Comments regarding the Statement of Modifications should relate only to those modifications made to the DCS since its publication under Regulation 16.

The Council submitted the CIL DCS to the Planning Inspectorate for examination on Friday 27th February 2015. Requests to be heard by the Examiner should be made in writing before 4.30pm on Friday 27th March 2015 and include details of the modifications on which to be heard.

It is at the examiner's discretion to grant a request to be heard. Requests to be heard may be withdrawn at any time before the opening of the examination by writing to the Council.

All correspondence and requests to be heard at the CIL examination should be addressed to the CIL Programme Officer who acts as the independent liaison between the Council and the Examiner.

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Supporting documents

The Draft Charging Schedule is supported by the following documents:

1. CIL Viability Study
2. Draft Regulation 123 List
3. Infrastructure Delivery Plan February 2014
4. Draft Instalment Policy
5. Infrastructure Funding Gap
6. DCS Summary of Representations and Responses
7. Statement of Modifications
8. Infrastructure Statement

1. Introduction

- 1.1** The Community Infrastructure Levy (CIL) is a new levy that local authorities can choose to charge on new development in their area. The funding can be used to support the development of infrastructure that the Council, local communities and neighbourhoods deem necessary.
- 1.2** The Council is a Charging Authority under the CIL Legislation and has undertaken consultation on the Draft Charging Schedule (DCS) between 25 July and 5 September 2014 with a view to adopting CIL. The Council considered all representations to the DCS and has produced a Schedule of Responses which is available on the Council's website.

2. Background

- 2.1** CIL was introduced by the 2008 Planning Act. The process for setting and implementing the Levy is set out in the CIL Regulations 2010, together with subsequent Amended Regulations in 2011, 2012, 2013 and 2014. Changes for the use of S106 Planning Obligations will come into force from 6 April 2015. This will significantly restrict current infrastructure funding practices whether the Council has adopted a CIL Charging Schedule or not.
- 2.2** The government has identified a number of key features of CIL and intends that CIL will:
- deliver additional funding to carry out a wide range of infrastructure projects that support growth and benefit local communities;
 - allow the Council the flexibility and freedom to set their own priorities for what the money should be spent on – as well as a more predictable funding stream that allows the Council to plan ahead;
 - provide developers with much more certainty about how much CIL they will have to pay, which in turn encourages greater confidence and higher levels of inward investment;
 - enable the Council to allocate a share of the levy raised to communities to deliver local infrastructure projects
- 2.3** CIL is a discretionary, tariff-based approach, which the Council can choose to adopt to support the provision of local infrastructure. Once adopted CIL is fixed, non-negotiable and enforceable. The CIL Regulations exempt the following types of development from paying a CIL charge:

- 2.4** Development that is exempt from CIL (subject to submission of sufficient evidence to demonstrate an exemption consistent with the requirements of the CIL Regulations):
- Buildings where people do not normally go (e.g. electricity substations)
 - Development that does not increase existing floor space
 - Affordable (social) housing
 - Self-build housing
 - Development by charities
 - Any development under 100 sqm (except for a new house irrespective of size)
 - Self-build extensions and residential annexes within the curtilage of the property
 - Non self-build residential extensions under 100 sqm
- 2.5** CIL is charged per square metre on the gross internal floorspace of the net additional floorspace of development. Notwithstanding the above exceptions, CIL applies to all development of 100 square metres or over. It also applies to all new residential dwellings, even if the total floor space of the new dwellings is less than 100 square metres.
- 2.6** The Council does not have the discretion to exempt different types of residential dwellings from CIL including agricultural dwellings and rural worker dwellings unless they are self-build. The Council has the discretion to introduce an Instalment Policy in accordance with Regulation 69B of the CIL Regulations. The Council made available a draft Instalment Policy during consultation on the DCS.

3. Rate Setting

- 3.1** In order to charge a Levy on development within Test Valley, the Council must set the rate(s) and any other criteria in a 'Charging Schedule'¹. The Council may determine the format and content of the Charging Schedule in accordance with Part 3 of the CIL Regulations 2010 (as amended).
- 3.2** When setting rates for CIL in the Charging Schedule, the Council must strike an appropriate balance between the desirability of funding the infrastructure required to support development of its area and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development². In considering the cost of infrastructure, other actual and expected sources of funding must be taken into account, leaving a 'funding gap' which could be filled or part filled by CIL revenues. In striking an appropriate balance, the DCS should be informed by relevant evidence as set out in section 5 of this document.
- 3.3** Regulation 13 of the CIL Regulations (2010 as amended) makes provision for charging authorities to set differential rates by reference to geography, use and scale of development across their charging area. The definition of 'use' does not follow the formal definition of classes of land use as set out within the Town and Country Planning Act (Use Classes) Order 1987 (as amended).
- 3.4** Nil rates, special rates and supplementary rates can also be set. The National Planning Policy Guidance (NPPG) for CIL³ advises that where charging authorities can set differential rates that "fine-grained sampling is also likely to be necessary where they wish to differentiate between categories or scales of intended_use". The Guidance also recognises that major strategic allocations can be treated as separate zones and a different rate applied provided there is the economic viability evidence to do so.
- 3.5** Based on the evidence in the Viability Study, the Council has made a judgement as to the appropriate level at which to set CIL rates. Section 5 sets out the proposed rates of CIL for specific land uses and the geographical areas in which they apply across Test Valley.

1 Section 211 (1) of the Planning Act 2008

2 Regulation 14 of the CIL Regulations 2010 (as amended)

3 Paragraph 019 NPPG 12 June 2014

4. S106 and CIL

- 4.1** From 6 April 2015 the Council will be limited in the use of S106 obligations. The Council will only be able to pool a maximum of 5 planning obligations for an infrastructure project or type of infrastructure. The CIL Regulations limit the use of planning obligations to ensure that developments are not charged for the same item of infrastructure through both S106 Agreements and CIL.
- 4.2** Amendments to the CIL Regulations in 2014 restrict the way S278 Highway Agreements (under the Highways Act 1980) can be used. The purpose of the restriction is to ensure that S278 Agreements cannot be required for works that are intended to be funded through the Levy. There is no pooling restriction on S278 Agreements.
- 4.3** CIL will be the main mechanism for delivering off-site community infrastructure. S106 obligations will continue to be used on individual sites and in the vicinity of development to mitigate the direct impact of a proposed development.
- 4.4** The Council has also compiled a draft list, called a Regulation 123 List, of infrastructure types and projects that it intends to fund through CIL. This list was available for information alongside the Draft Charging Schedule as part of the public consultation.
- 4.5** Affordable Housing is exempt from being charged CIL and will continue to be delivered through S106 Agreements consistent with the NPPG published in November 2014.

5. Proposed CIL charging rates

- 5.1** To inform the decision on the introduction of CIL, the Council commissioned a Viability Study through an independent consultant. The Viability Study found that the economic viability of development, and therefore the ability to afford a CIL charge, varied across the Borough both by the type of development, and for residential development only, varied geographically.
- 5.2** The Viability Study recommended a differential rate of CIL be applied to residential development across four charging zones, ranging from £100 to £250 per square metre. The recommended rates are maximum rates. The evidence shows that housing development in rural and southern areas of Test Valley can accommodate a higher CIL charge than in and around Andover. The study also recommended that development in the form of retail warehousing and retail superstores over the size of 280 square metres can support a maximum rate of approximately £209 per square metre.
- 5.3** For residential development, it is proposed to charge separate rates of CIL for four geographical zones. The four proposed zones are shown on the CIL Residential Charging Zones in Appendix 2. The proposed rates are derived from the maximum recommended rate in the Viability Study. The rates for the purposes of the DCS have been set at a rate that is 30% below the maximum recommended rate. The proposed rate for each zone is shown in Table 1.
- 5.4** The revised Local Plan allocates the strategic residential allocations⁴ of Whitenap, Hoe Lane, Park Farm, George Yard/Black Swan Yard, Picket Piece and the Picket Twenty extension land for residential development. The allocations above were tested in the Viability Study as they do not have planning permission and would be liable for CIL in the future. The economic viability evidence resulting from separate appraisals of these allocations demonstrates that they are not able to support a CIL rate in addition to meeting the necessary on-site infrastructure requirements. Based on the economic viability evidence, a nil rate of CIL will apply. The strategic sites are shown on the CIL Strategic Sites Map in Appendix 3.
- 5.5** The Draft Charging Schedule has been prepared in the context of the CIL Regulations 2010 (as amended).

⁴ Strategic allocations refer to allocated residential development sites in the revised Local Plan Regulation 22 Submission July 2014. These sites do not have planning permission.

Table 1

Zone	Parish	Proposed CIL (£ per sq m)
1	Sherfield English, Awbridge, Michelmersh & Timsbury, Lockerley, Mottisfont, Kings Somborne, East Dean, Frenchmoor, East Tytherley, West Tytherley, Bossington, Ashley, Houghton, Broughton, Little Somborne, Buckholt, Nether Wallop, Stockbridge, Leckford, Longstock	175
2	Melchet Park and Plaitford (with exception of area covered by New Forest National Park), Wellow (with exception of area covered by New Forest National Park), Romsey, Romsey Extra, Nursling and Rownhams, Chilworth, North Baddesley, Valley Park, Ampfield, Braishfield, Upper Clatford, Goodworth Clatford, Abbots Ann, Monxton, Ampport, Quarley, Appleshaw, Wherwell, Chilbolton, Longparish, Over Wallop, Grateley	140
3	Barton Stacey, Bullington, , Thruxton, Shipton Bellinger, Kimpton, Fyfield, Penton Grafton, Penton Mewsey, Tangley, Hurstbourne Tarrant, Vernham Dean, Linkenholt, Facombe	105
4	Andover, Charlton, Enham Alamein, Smannell	70

5.6 It is proposed that the Test Valley Borough Council CIL is set at the following rates:

Table 2

Development Type	Zone 1	Zone 2	Zone 3	Zone 4	Strategic sites ⁵
Residential	£175	£140	£105	£70	£0
Extra Care accommodation ⁶	£0	£0	£0	£0	£0
Development Type	Borough Wide				
Retail supermarkets and superstores ⁷ and retail warehouses ⁸	£180	£180	£180	£180	£0
Retail excluding supermarkets, superstores and retail warehouses	£0	£0	£0	£0	£0
Office, Industrial and Distribution	£0	£0	£0	£0	£0
Hotel	£0	£0	£0	£0	£0
Community use including non-residential institution	£0	£0	£0	£0	£0
Retirement housing ⁹ on previously developed land ¹⁰	£0	£0	£0	£0	£0
Retirement housing on greenfield sites	£60	£60	£60	£60	£60

5 Refers to allocated residential development sites in the revised Local Plan of Whitenap (COM3), Hoe Lane (COM4), Park Farm (COM5), George Yard/Black Swan Yard (LE14), Picket Piece (COM6) and Picket Twenty extension land (COM6A).

6 A development of one and two bed apartments, for rent and/or for sale, grouped together with communal facilities, that through the provision of on site care and support services 24 hours a day and 7 days a week offers a viable alternative to a residential care home for many vulnerable older people and vulnerable adults with particular care needs, enabling them to remain a part of and active within the wider community.

7 For the purposes of this Draft Charging Schedule, retail superstores/supermarkets over 280 square metres are shopping destinations in their own right meeting weekly food shopping needs and often includes non-food floor space as part of the overall mix of the unit.

8 For the purposes of this Draft Charging Schedule retail warehouses are large stores over 280 square metres specialising in the sale of household goods (such as carpets, furniture and electrical items), DIY items and other range of goods catering mainly for car-borne customers.

9 Retirement housing is housing which is purpose built or converted for sale to elderly people with a package of estate management services and which consists of grouped, self-contained accommodation with communal facilities. These premises often have emergency alarm systems and/or wardens and promote independent living. These properties would not be subject to significant levels of residential care (C2) as provided in care homes or extra care schemes.

10 As defined by the National Planning Policy Framework Annex 2: Glossary

- 5.7** The Council intends to set differential rates⁶ of CIL for different intended uses of development based on the economic viability evidence which has emerged from the Viability Study. The Government's Guidance⁷ advises that differential rates for geographical zones, the intended uses or scale of development must be justified by reference to economic viability evidence.
- 5.8** The Viability Assessment recommended that retail supermarket/superstore development and retail warehouse development could support a charge of up to £209 per square metre. The DCS proposes a Borough-wide CIL rate of £180 per square metre for this type of development which is approximately 14% below the maximum recommended rate. The proposed rate of £180 per square metre follows the same principle adopted for the proposed residential rates which are 20% below the maximum recommended rate.
- 5.9** Retail warehouse and supermarket/superstore development over 280 square metres tends to be on land that has a lower existing use value than smaller supermarkets. Coupled with the greater covenant strength that occupiers of retail supermarkets/superstores and retail warehouses hold and buoyant rents of around £17.50 per square metre which is demonstrated by the viability evidence, this type of retail development can generate sufficient surplus to support a CIL rate of £180 per square metre.
- 5.10** Further investigation as a result of the representations received during the DCS consultation resulted in the addition of a separate rate for retirement living housing. The Viability Study tested a typical 40 unit retirement living scheme with varying amounts of non-saleable floor space and 40% affordable housing on site. It was demonstrated that retirement living schemes against Benchmark Land Values (BLV) 1⁸ and 2⁹ would not be able to afford CIL and have therefore been set a nil rate of CIL. However, retirement living schemes against BLV 3¹⁰ and 4¹¹ could support a lower rate of CIL of £60 per square metre.

6 Regulation 13 of the CIL Regulations 2010 (as amended)

7 Paragraph 019 NPPG 12 June 2014

8 BLV 1 – Serviced residential land

9 BLV 2 – Industrial land

10 BLV 3 – low value strategic residential land

11 BLV 4 – higher value strategic residential land

6. Exemptions and payment terms

- 6.1** CIL payments are due from the date a chargeable development is commenced. The CIL Regulations allow Councils the discretion of introducing an Instalment Policy¹² to allow a flexible approach in taking development viability into account. In recognition of the impact of up-front CIL payments and the effect this has on development finances the Council has published an Instalment Policy. Due to the discretionary nature of an Instalment Policy, the Council can withdraw or amend this policy at any time.
- 6.2** The Council is not intending to introduce an Exceptional Circumstances Relief policy as decided at a meeting of the Cabinet on 26 November 2014. However, the Council will keep this situation under review and has the discretion to introduce this policy at any time.
- 6.3** Part 9 of the CIL Regulations 2010 (as amended) allow Charging Authorities to impose surcharges for failure to assume liability, apportioning liability, failure to submit a notice of chargeable development and failure to submit a commencement notice. It is the Council's intention to impose surcharges consistent with the amounts set out in the relevant regulations of the CIL Regulations 2010 (as amended).

12 CIL Regulation 69B of the CIL Regulations 2010 (as amended)

7. Collecting the levy

- 7.1** The Council will collect CIL as the 'Collecting Authority'. A CIL charge in the form of a Liability Notice is imposed on CIL liable development the day after planning permission is granted. The CIL charge must be paid upon commencement, unless the person or persons liable for the CIL charge opts to pay in accordance with the Council's Instalment Policy. Regulation 8 defines the time at which a planning permission is treated as first permitting development. The definition of commencement for the purposes of CIL is the same as that used in planning legislation¹³.
- 7.2** When planning permission is granted to CIL liable development, a CIL Liability Notice will be sent which will contain the amount of CIL that is due for the development including when the total amount is due. The CIL Liability Notice is registered as a Land Charge. For development that does not require planning permission but is liable for CIL, the onus is on the person responsible for that development to submit a Commencement Notice after which a Demand Notice will be issued. All liabilities on CIL Demand Notices will be indexed using the All-in Tender Price Index.
- 7.3** The CIL liability runs with the land therefore ultimate responsibility for paying the levy rests with the landowner. However, anyone can come forward and assume liability for the charge.

8. Next steps in the CIL Programme

- 8.1** Representations to the DCS have been assessed and the 'DCS Schedule of Responses' is available on the Council's website. A Schedule of Responses and Statement of Modifications will be available on the Council's website when the DCS is submitted to the Planning Inspectorate for Examination.
- 8.2** Details of the examination will be made available on the Council's website and those that submitted representations and wished to be kept informed will be notified directly in writing.

13 'Material operation' as defined by Section 56 (4) of the Town and Country Planning Act 1990

Appendix One - Calculating the Levy

The Borough Council will need to calculate the ‘chargeable amount’ of CIL payable using the locally-set rates above multiplied by the ‘gross internal area’¹⁴ of new buildings and enlargements¹⁵ to existing buildings, taking demolished floorspace into account. The formal calculation methodology is provided in Regulation 40 and Part 5 of the CIL Regulations 2010 (as amended).

Key points in calculating the CIL charge:

- CIL is charged on the net additional internal floor area of development.
- Where buildings are demolished to make way for new buildings, the charge will be based on the floorspace of new buildings less the floorspace of the demolished buildings, provided the buildings were in use¹⁶ prior to demolition.
- If the total CIL calculated amounts to less than £50 no charge will apply.
- The relevant rates are the rates as set out in the Charging Schedule which apply to type and location of the relevant development. They apply at the time planning permission first permits the chargeable development.

1. The amount of CIL charge must be calculated by applying the following formula:

$$\text{CIL Charge} = \frac{R \times A \times I_p}{I_c}$$

Where-

A= the deemed net area chargeable at rate R, calculated in accordance with paragraph 7 of Regulation 40 (2014 amendment to CIL Regulations 2010)

I_p= the index figure for the year in which planning permission was granted

I_c= the index figure for the year in which the charging schedule containing rate R took effect

R= the relevant chargeable rate

¹⁴ The Borough Council will use the HMRC Valuation Office Agency’s definition of Gross Internal Area.

¹⁵ Regulation 42 of the CIL Regulations 2010 (as amended)

¹⁶ Regulation 40 (CIL Regulation 2014 amendment) defines an in-use building as a building which “contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development.”

If it is necessary to apply several rate(s) to a chargeable development, the total amount will equal the sum of the amounts of CIL charge calculated at each relevant rate.

The index figure for a given year is:

- a) the figure for 1st November for the preceding year in the national All-in Tender Price Index published from time to time by the Build Cost Information Service of the Royal Institute of Chartered Surveyors, or
- b) if the All-in Tender Price Index ceases to be published, the figure for 1st November for the preceding year in the retail prices index

2. Calculation of net chargeable area, A

A is calculated by:

$$\text{Net Chargeable Area (A)} = G_R - K_R - \frac{(G_R \times E)}{G}$$

Where-

G = the gross internal area of the development

G_R = the gross internal area of the part of the development at a rate R

K_R = the aggregate of the gross internal areas of the following –

- (i) retained parts of in-use buildings, and
- (ii) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is in use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;

E = the aggregate of the following –

- (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development, and
- (ii) for the second and subsequent phases of a phased planning permission, the value E_x (as determined under paragraph 8 of the CIL Regulations, 2014 amendment), unless E_x is negative, provided that no part of any building may be taken into account under both of paragraphs (i) and (ii) above.

The value of E_x must be calculated by applying the following formula –

$$E_p - (G_p - K_{PR})$$

Where –

E_p = the value of E for the previously commenced phase of the planning permission

G_p = the value of G for the previously commenced phase of the planning permission; and

K_{PR} = the total of the value of K_R for the previously commenced phase of the planning permission

3. Calculating social housing relief

The amount of social housing relief for which a chargeable development is eligible

(the qualifying amount) must be calculated by applying the following formula –

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

Where –

A = the deemed net area chargeable at rate R

I_p = the index figure for the year in which planning permission was granted; and

I_c = the index figure for the year in which the charging schedule containing rate R took effect

The value of A must be calculated by applying the following formula -

$$G_R - K_R - \frac{(G_R \times E)}{G}$$

Where –

G = the gross internal area of the chargeable development;

G_R = the gross internal area of the part of the chargeable development chargeable at rate R;

K_R = the aggregate of the gross internal areas of the following –

- (i) retained part of in-use buildings, and
- (ii) for other relevant building, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;

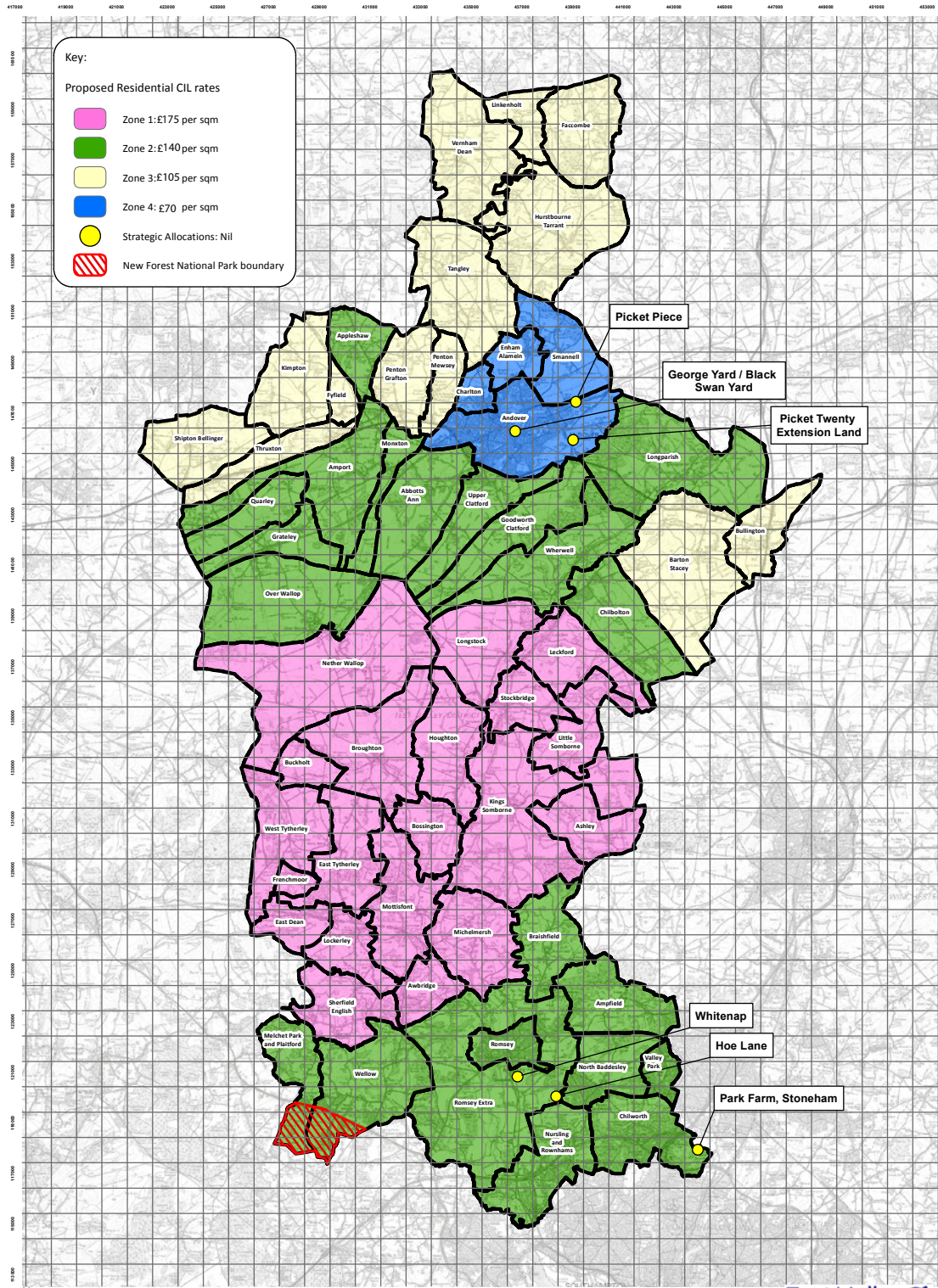
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- (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development, and
- (ii) for the second and subsequent phases of a phased planning permission, the value E_x (as determined under paragraph 8 of the CIL Regulations 2014 amendment), unless E_x is negative,

provided that no part of any building may be taken into account under both of paragraphs (i) and (ii) above.

Appendix Two -

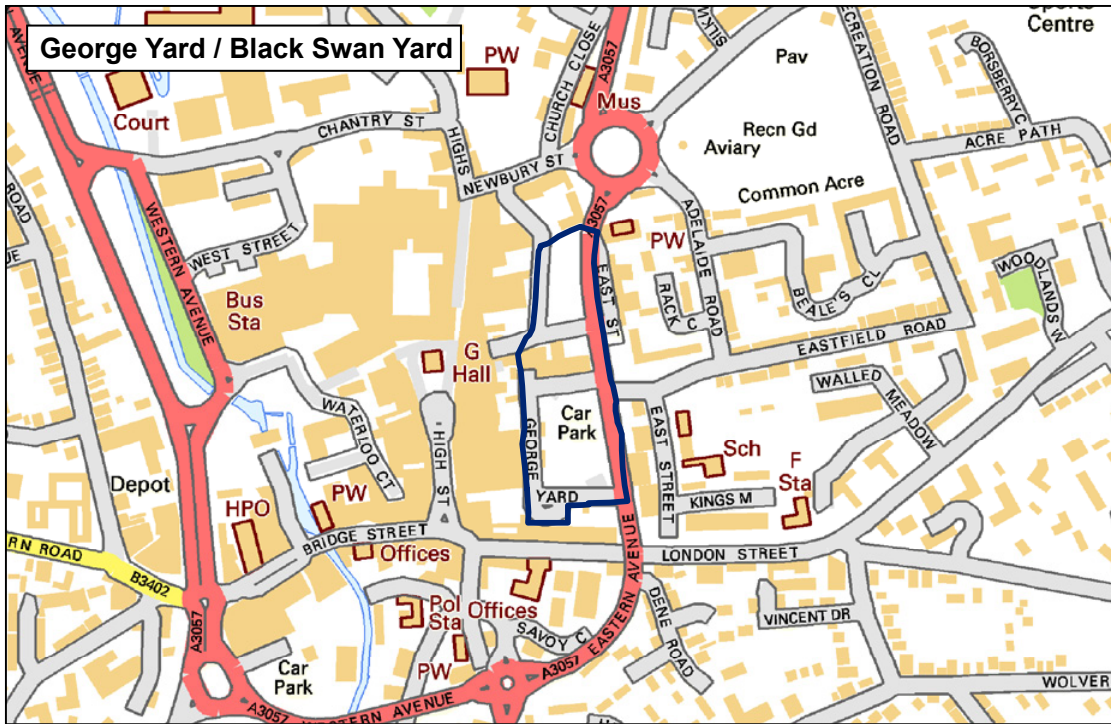
Map showing residential charging zones



Residential Charging Zones
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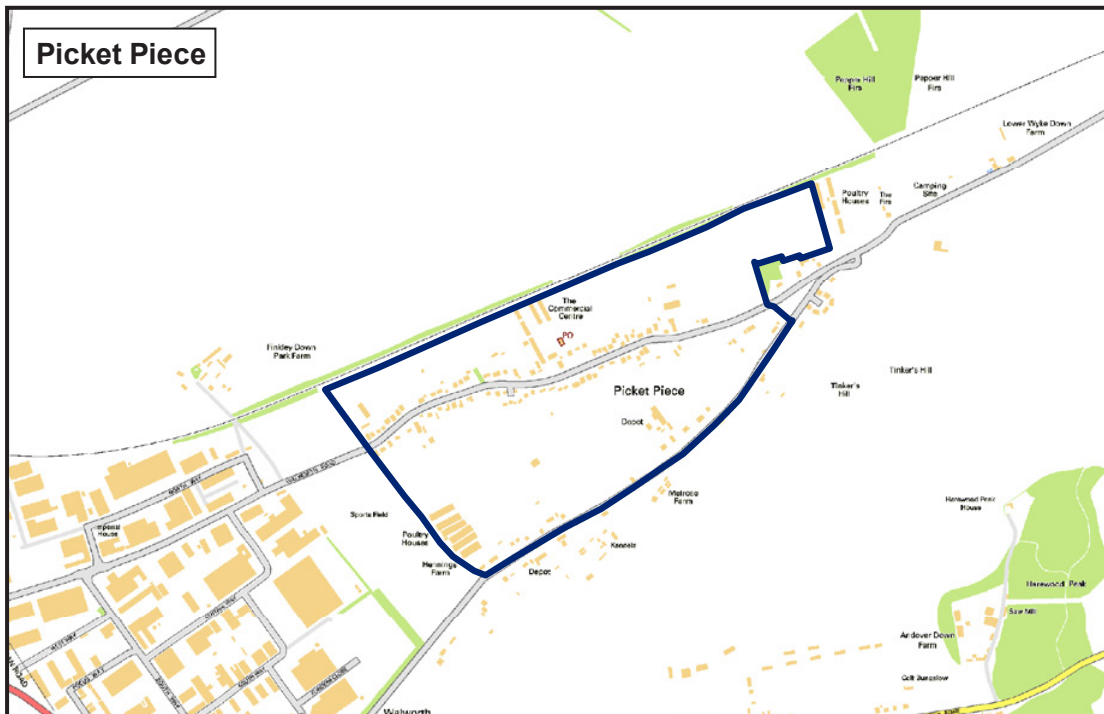
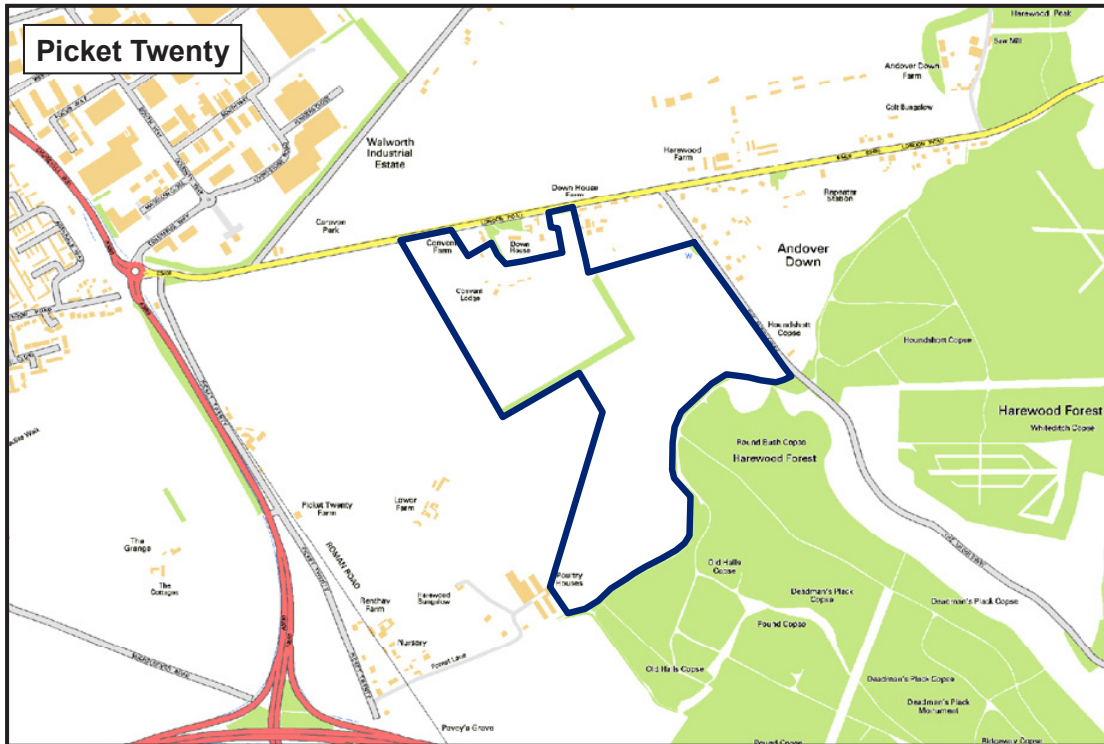
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Appendix Two -

Map showing residential charging zones



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