

Brighton & Hove City Council Community Infrastructure Levy Draft Charging Schedule

Summary of Representations to Modifications Consultation, October 2019

Main Modifications

Reference	Representor name/organisation	Summary of representation	Council's Response
MM1	No representations received		
MM2	No representations received		
MM3	No representations received		
MM4	No representations received		
MM5	No representations received		
MM6	Turley on behalf of Moda Living	Support. Supports nil-CIL charge zone.	Support noted.
MM7	Brighton Marina Neighbourhood Forum	Support. Supports widening of nil-CIL charge zone to include entire DA2 area; will support the unlocking of sites and delivery of a cohesive development.	Support noted.
	Carter Jonas on behalf of National Grid Property	Support. Supports widening of nil-CIL charge zone at Brighton Marina to include the Gas Works site; will enable site to be brought forward.	Support noted.
	Quod on behalf of St William	Support. Supports widening of nil-CIL charge zone to include entire	Support noted

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		DA2 area, enabling a viable development to come forward.	
	Montagu Evans on behalf of JTC Fund (Churchill Square)	Support. Supports development at the Black Rock site being subject to a nil CIL rate.	Support noted.
MM8	Turley on behalf of Moda Living	Support. Supports inclusion of Sackville Trading Estate/Coal Yard (SSA4) site within nil-CIL charge zone reflecting viability evidence.	Support noted
MM9	No representations received		
MM10	No relevant representations received		
MM11	No relevant representations received		
MM12	Turley on behalf of Moda Living	Support. Supports nil-CIL charge zone boundary amendments to include Sackville Trading Estate (SSA4), reflecting viability evidence.	Support welcomed.
MM13	DMH Stallard on behalf of Community Stadium Ltd	Object. Objects to CIL being chargeable against retail units associated with Major Sporting Venues; CIL payable would make it unviable.	This issue was addressed at the CIL Examination Public Hearing on 2 April and also in the Council's submitted Examination Statement (dated 2 April, paragraph 5.8).

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			It is considered that a CIL rate of £50/sqm would have a minimal impact on new ancillary retail floorspace at major sporting venues and therefore the Council maintains its position that there is no justification to amend the charging schedule.
MM14	No representations received		
MM15	No representations received		
MM16	No representations received		

Any other comments

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Eversheds Sutherland on behalf of Toads Hole Valley (22.08.19)	Concerned to identify the basis upon which BHCC intend to monitor, regulate and control the relationship between CIL payments and S.106 obligations at THV, relating to the issue of "double-counting". Also, concerned about the absence of a statutory Regulation 123 List from September 2019 and the impact this will have regarding addressing any potential risk of double counting.	This representation does not address a proposed modification. (NB: A planning application for the proposed development of the Toads Hole Valley development site, as allocated in adopted City Plan Part One, is currently under consideration by BHCC). Adoption and implementation of CIL is currently anticipated for June 2020, pending receipt of the Examiners Report, adoption by Full Council and

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		<p>allowing sufficient time for CIL set up.</p> <p>On this basis, discussions relating to the scale and nature of developer contributions have, to date, been conducted necessarily on the basis of S106 obligations and in accordance with the councils currently adopted 'Developer Contributions Technical Guidance' (March 2017).</p> <p>Should it become apparent that a planning permission will not be issued before CIL implementation, then developer contributions through S.106 obligations would need to be re-assessed.</p> <p>The Draft Charging Schedule Consultation (March 2018) document indicated those areas of S.106 proposed to be scaled back and those which would remain. A revised version of the Developer Contributions Technical Guidance will be published to provide further clarification.</p> <p>Under CIL regulations (amended September 2019), in future, an Infrastructure Funding Statement will be prepared, in accordance with CIL regulations and guidance, to monitor and report on all developer contributions collected and spent within the monitoring period.</p>

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<p>Turner Morum LLP on behalf of Toads Hole Valley (11.09.19)</p>	<p>Maintains prior objection as put to the CIL Examination Public Hearing 2 April 2019.</p> <p>Drawing on the results of further viability assessment (re. the proposed application for the development of Toads Hole Valley, currently under consideration by BHCC) shared with council's viability consultants Dixon Searle Partnership (DSP) 10 May on a 'private and confidential basis' such that:</p> <ul style="list-style-type: none"> a) CIL rate proposed for the residential element of THV scheme of £150/sqm is inappropriate and would pose a risk to viability and deliverability of the scheme currently under consideration; b) A reduced, lower rate of £75/sqm would indicate a viable scheme; and c) Concern, that upon implementation of CIL, S.106 contributions would not be scaled back appropriately or at all – continued concerns around 'double counting'. <p>Suggest further engagement with DSP for a more detailed response to their viability assessment and state that updated evidence could be made available to the Examiner when the examination is re-opened.</p>	<p>This representation does not address a proposed modification.</p> <p>Following the closure of the CIL Examination Public Hearing on 2 April, and in accordance with the CIL Examiner's request for further work to be undertaken and submitted, BHCC formally invited TM to submit further viability assessment information, within the deadlines set for this further formal stage of work (25 May, extended to 7 June 2019).</p> <p>As detailed in the councils Further Matters Statement (June 2019, paragraphs 1.21 – 1.23 and 3.3.), the representor did not give their consent for their further viability assessment information to be made publically available as part of this stage of further work. The council's viability consultants DSP did however review the TM viability assessment (on a private and confidential basis as specifically requested by TM) and did respond by email to TM. DSP's view (as set out in their email dated 2 June 2019, made available as second attachment to TM representation) was that a detailed review was not considered necessary; particularly because the (TM) reported viability deficit would be offset by</p>

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		<p>necessary adjustments to S.106 liability.</p> <p>TM made no response to DSP following this email despite DSP clearly reminding TM that the Examiner's deadline was 7 June 2019.</p> <p>Consultation at both the Preliminary and Draft Charging Schedule stages of the CIL preparation has identified that S.106 obligations will be appropriately scaled back upon CIL implementation. It is welcome that TM have now made their viability assessment publically available. However, the council maintains its position that there is no justification for a change to the CIL Charging Schedule.</p>
<p>Montagu Evans on behalf of JTC Fund Solutions (Jersey) Limited (JTC)</p>	<p>JTC request that the strategic allocation for the Brighton Centre and Churchill Square (as set out in Policy DA1, City Plan Part One) is nil CIL rated.</p> <p>They suggest that BHCC should change its approach to CIL rates to ensure the strategic development opportunity of the Brighton Centre and Churchill Square is not prejudiced.</p> <p>JTC remain concerned that the burden of CIL rates (for planned retail development and any other viable uses e.g. residential development) on development at the Brighton Centre and Churchill Square site in viability terms will threaten the ability to deliver the wider 'Waterfront Project'</p>	<p>This representation does not address a proposed modification.</p> <p>Representations submitted at the Preliminary and Draft Charging Schedule stages of CIL preparation challenged the proposed CIL rates for retail development asserting that it would affect development at the Brighton Centre and Churchill Square (Policy DA1, City Plan Part One). These matters have been addressed in the Council's statement submitted to the Examination (BHCC Statement, 2 April, Part 5) and did not conclude any</p>

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	<p>which considers the provision of conference facilities alongside planned leisure facilities at Black Rock.</p>	<p>reason to change the proposed approach. The representor did not request the right to be heard at the CIL Examination.</p> <p>City Plan Part 1 does not identify a specific link between Churchill Square (DA1) and Black Rock (DA2). It is acknowledged that options for the delivery of replacement Conference Centre are still being explored but are not concluded.</p> <p>It should be noted that proposed modifications to the charging schedule propose that the Black Rock site is nil CIL rated. Should the conference centre be re-provided at the Brighton Centre/Churchill Square site, the conference facility itself would not incur any CIL charge. The proposed DA1 Brighton Centre and Churchill Square strategic allocation does not include any policy requirement for residential development. Should residential development form part of any proposal, then that would provide further value uplift albeit that any residential element would incur a CIL charge.</p> <p>The council does not consider that there is sufficient reason or justification to nil rate the Brighton Centre and Churchill Square strategic site allocation.</p>

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Surdi C.I.C	Representation refers to supporting a reduction in retail rental charges for small not-for-profit organisations.	This representation does not address a proposed modification. For clarification, the CIL charge for retail relates to the charge to the developer per square metre of retail floorspace delivered; it is not related to any subsequent rental charges associated with this type of development.
Surdi C.I.C	Representation refers to renting low-cost space to enable networking with older community within care-homes.	This representation does not address a proposed modification. For clarification, the CIL charge for C2 housing relates to the charge to the developer per square metre of C2 housing floorspace delivered; it is not related to any subsequent rental charges associated with this type of development.
Sport England	No comments to make on the Modifications consultation. Would encourage BHCC to consider sporting needs arising from development as well as those set in the IDP when directing monies to deliver sports facilities.	Comment noted. Sports provision is considered as part of the preparation of CPP1 and CPP2, and will continue to be considered as part of any future CPP1 review. Implementation of CIL will contribute towards citywide sports provision.
Brighton Marina Neighbourhood Forum	BMNF would like involvement in determination of S.106 agreements for future developments in the Marina.	The Section 106 agreement process is a negotiation between the LPA and the Applicant; third parties are not involved in this process.
	BMNF would like to be made a consultee for future proposals and applications within the DA2 area.	Neighbourhood Planning Regulations require Neighbourhood Forums to be notified of planning applications. The Weekly List detailing all citywide

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		<p>planning applications is sent to BMNF on a weekly basis, however unfortunately it is not possible to only send details of applications within the DA2 area.</p> <p>BMNF is also a consultee on the Planning Policy, Projects and Heritage database and therefore will be sent details of consultations relating to this team, such as the City Plan, CIL and SPDs.</p>
Natural England	No comments to make	Noted
Historic England	No comments to make	Noted
Southern Water	No comments to make	Noted
Environment Agency	No comments to make	Noted

Additional Modifications

Reference	Representor name/organisation
AM1	No representations received
AM2	No representations received
AM3	No representations received
AM4	No representations received
AM5	No representations received
AM6	No representations received
AM7	No representations received
AM8	No representations received

