

NOTICE
OF
MEETING



PLANNING & HOUSING OVERVIEW & SCRUTINY PANEL

will meet on

MONDAY, 16TH NOVEMBER, 2015

At 7.00 pm

in the

COUNCIL CHAMBER - TOWN HALL, MAIDENHEAD

TO: MEMBERS OF THE PLANNING & HOUSING OVERVIEW & SCRUTINY PANEL

COUNCILLORS LEO WALTERS (CHAIRMAN), MALCOLM ALEXANDER (VICE-CHAIRMAN), GERRY CLARK, DAVID EVANS, DAVID HILTON, SAMANTHA RAYNER AND MALCOLM BEER

SUBSTITUTE MEMBERS

COUNCILLORS MICHAEL AIREY, CLIVE BULLOCK, SAYONARA LUXTON, MJ SAUNDERS, ADAM SMITH, LYNDA YONG, LYNNE JONES AND SIMON WERNER

Karen Shepherd - Democratic Services Manager - Issued: Friday, 6 November 2015

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at www.rbwm.gov.uk or contact the Panel Administrator **Tanya Leftwich** 01628 796345

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AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
1.	<u>APOLOGIES FOR ABSENCE</u> To receive any apologies for absence.	
2.	<u>DECLARATIONS OF INTEREST</u> To receive any declarations of interest.	5 - 6
3.	<u>MINUTES</u> To confirm the Part I minutes of the meeting of 21 September 2015.	7 - 12
4.	<u>CIL – APPROVAL OF RATES AND AGREEMENT TO SUBMIT FOR EXAMINATION</u> To comment on the report to be considered by Cabinet on the 26 November 2015.	13 - 38
5.	<u>REVIEW AND REVISION OF THE S106 EDUCATION CONTRIBUTIONS</u> To comment on the report to be considered by Cabinet on the 26 November 2015.	39 - 66
6.	<u>COUNCIL STRATEGIC PLAN 2016-2020</u> To comment on the report to be considered by Cabinet on the 26 November 2015.	(to follow)
7.	<u>DATES OF FUTURE MEETINGS</u> (7pm start in Maidenhead): <ul style="list-style-type: none">• December date - tbc• Tuesday 26 January 2016• Monday 18 April 2016	
8.	<u>LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC</u> To consider passing the following resolution:- "That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on item 7 on the grounds that it involves the likely disclosure of exempt information as defined in in Paragraphs 1-7 of part I of Schedule 12A of the Act"	

PRIVATE MEETING

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE</u>
		<u>NO</u>
9.	<u>SENIOR LEADERSHIP TEAM STRUCTURE</u> <i>(Not for publication by virtue of Paragraph 1, 4 of Part 1 of Schedule 12A of the Local Government Act 1972)</i>	<i>Urgent item</i>

MEMBERS' GUIDANCE NOTE

DECLARING INTERESTS IN MEETINGS

DISCLOSABLE PECUNIARY INTERESTS (DPIs)

DPIs include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any license to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where
 - a) that body has a piece of business or land in the area of the relevant authority, and
 - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

PREJUDICIAL INTERESTS

This is an interest which a reasonable fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs your ability to judge the public interest. That is, your decision making is influenced by your interest that you are not able to impartially consider only relevant issues.

DECLARING INTERESTS

If you have not disclosed your interest in the register, you **must make** the declaration of interest at the beginning of the meeting, or as soon as you are aware that you have a DPI or Prejudicial Interest. If you have already disclosed the interest in your Register of Interests you are still required to disclose this in the meeting if it relates to the matter being discussed. A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in discussion or vote at a meeting.** The term 'discussion' has been taken to mean a discussion by the members of the committee or other body determining the issue. You should notify Democratic Services before the meeting of your intention to speak. In order to avoid any accusations of taking part in the discussion or vote, you must move to the public area, having made your representations.

If you have any queries then you should obtain advice from the Legal or Democratic Services Officer before participating in the meeting.

If the interest declared has not been entered on to your Register of Interests, you must notify the Monitoring Officer in writing within the next 28 days following the meeting.

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PLANNING AND HOUSING OVERVIEW AND SCRUTINY PANEL

21 SEPTEMBER 2015

PRESENT: Councillors Leo Walters (Chairman), Malcolm Alexander (Vice Chair), Malcolm Beer, David Evans, David Hilton, Samantha Rayner and MJ Saunders (sub for Gerry Clark).

Also Present: Councillors Christine Bateson and Derek Wilson.

Officers: Chris Hilton, Mark Lampard, Tanya Leftwich and Hilary Oliver.

PART I

09/15 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Gerry Clark.

The Chairman informed everyone present that the meeting was being recorded.

10/15 DECLARATIONS OF INTEREST

None.

11/15 MINUTES

The minutes from the meeting held on the 23 July 2015 were agreed as a correct record subject to it being recorded on page i that Councillor MJ Saunders had abstained from voting when Councillor Leo Walters had been appointed Chairman.

It was agreed that on page iv under 'Public Consultation for Windsor' that a suggestion that a bond be used to other railway stations be added and 'Old Windsor' be added to the last bullet point and corresponding section of the resolution.

12/15 S106 INCOME / EXPENDITURE REPORT 2014-2015

Members considered the report that was being submitted to the 24 September 2015 Cabinet.

The S106 Special Projects Officer, Hilary Oliver, referred Members to the report which gave details of the S106 income of £6,664,806 and expenditure of £4,504,285 during 2014-2015 and projected spend in 2015/2016. Members were informed that details of the income sources and specific projects could be found in Appendix 1.

It was noted that of the balances of unspent funds the highest amounts were held by Education (£6,129,354), Highways (£4,405,872), Affordable Housing (£2,380,161), Open Space (£1,977,884) and Libraries (£1,049,225). Members were informed that plans existed for the utilisation of 34% of held funds.

The S106 Special Projects Officer explained that the Supplementary Planning Document was not included with the report this time.

In the ensuing discussion the following points / questions were noted:

- That projects for capital spend were identified in the capital programme.
- That Developer Contributions identified for particular services (e.g. affordable housing) would be used strategically across the Royal Borough.
- That the £508,375.36 White Waltham Developer Contributions for Highways was considered a very large amount.
- That the Council needed to be able to demonstrate that contributions from developers were needed either for strategic projects or directly related to a development (e.g. Chapel Arches required improvements to the Waitrose junction).
- That the CIL 123 list (the list of infrastructure that the Council will partly or wholly fund from CIL receipts) could be changed subject to the Council going out to consultation.
- That it would be a challenge to explain to residents why the Maidenhead Area Action Plan area had zero viability.
- That parishes did pay revenue costs and had had the legal agreements explained to them with regard to devolution to parishes.
- That para 5.2.6 in Appendix 1 should read Eton rather than Windsor.
- That there needed to be a clear policy on how projects were put forward that could be funded from S106 receipts, especially for education and highway.
- That education papers referred to regular demographic trends, rather than emerging trends from the Local Plan.
- How many dwellings were likely to be built with the approximate £1million affordable housing funds?
- That no elected Members sat on the S106 Project Board although it was expressed that conflicts of interest could arise.
- That a methodology was needed to inform all Members what funds were available and a monitoring mechanism for officers reporting to Cabinet.
- That Housing Solutions would look at affordable housing within the Royal Borough across the board.
- The S106 Special Projects Officer hoped to do training sessions with Parish Council on the CIL.
- That a presentation about the CIL be brought to a future meeting.

RESOLVED UNANIMOUSLY: The Planning & Housing Overview & Scrutiny Panel unanimously agreed to recommend the following:

- a) **The financial report in Appendix 1 is noted.**
- b) **The relevant Strategic Directors are responsible for ensuring that S106 income received is utilised in a timely manner to ensure the infrastructure required to support new development is provided**
- c) **The relevant Strategic Directors will ensure that funds are utilised in compliance with the purpose of the legal agreement and in support of the council's priority infrastructure projects where appropriate**

13/15 BUDGET 2016-17 INITIAL SAVINGS PROPOSALS

Members considered the report that was being submitted to the 24 September 2015 Cabinet.

The Finance Partner - Corporate Services & Operations, Mark Lampard, referred Members to the report on pages 1-8 in the agenda which explained that the Medium Term Financial Plan presented to Council in February 2015 identified the need to make budget savings of £7.2m in 2016-17. Work carried out on the budget to date had reduced the target for services to £5.7m. The targets for the Comprehensive Spending Review 2015 announced by the Chancellor of the Exchequer in July 2015 indicated further spending reductions would be required over the next three years.

Members were informed that the funding settlement for 2016-17 would be the first of the current Parliament. The new national Administration clearly had a number of important policy decisions to work through. Whilst some forecasters indicated that the 2016-17 settlement might not be as challenging as feared, significant uncertainty remained. It was noted that the Council was continuing, therefore, to work to the grant reduction assumptions that were included in the published MTFP until more clarity emerges with the provisional settlement, which was expected in December 2015.

It was noted that the report recommended that managers were authorised to implement the proposals as soon as practicable so that measures were in place by 1st April or earlier. Early implementation would help mitigate some of the service overspends currently being projected.

Members were informed that the report also recommended to Council that these proposals were included in the Budget for 2016-17 when it was discussed in February 2016.

In the ensuing discussion the following points / questions were noted:

Appendix A – 2016-17 Savings

- 1. Adults & Community Services
 - a. Housing
 - Line number 6, 'Restructure of Housing options functions' – whether by blending the services expertise from the Housing Options team with the CSC to provide a Maidenhead presence would dilute and undermine the service to the public?

- It was requested that information about what was planned and the expected outcome be emailed to the Panel via the Clerk.
- Line number 7, 'Continuation of policy to meet homelessness obligations by use of private rented accommodation' – further detail was requested particularly with regard to efficiencies.
- Line number 8, 'Review Supporting People contracts' – what is the current amount of the Government 'Supporting People' grant provided for people in supported living, and how much of £1.525m budget is funded corporately?

2. Corporate Services

a. Development & Regeneration

- Line number 29 'Savings to Revenue arising from the restructure of the team' – Discussion of the Planning team; how a resolution could be found for residents who were finding it difficult to get hold of the service, particularly in the mornings. It was noted that the team was felt to have enough staff subject to the outcome of the process review being undertaken by the Interim Borough Planning Manager, Simon Rowbury.
- That since these restructure savings had arisen from an appropriate capitalisation of relevant staff salaries, the borough should move to provide full development accounting, including a development balance sheet. This is needed to clearly show the difference between revenue and capital accounting.
- Leisure Services: Line number 33 'Joint procurement of grounds maintenance contract with Wokingham BC' – it was questioned whether Wokingham were getting the same savings as the Royal Borough?

General - It was noted that where savings were proposed the Panel had expected to see the rationale behind them.

The Finance Partner - Corporate Services & Operations agreed to request the above information from the relevant Heads of Service and distribute it to the Panel with the assistance of the Clerk.

RESOLVED UNANIMOUSLY: The Planning & Housing Overview & Scrutiny Panel unanimously agreed to recommend the following:

- (i) Recommends the savings listed in Appendix A to Council for inclusion in the 2016-17 budgets.**
- (ii) Authorises Directors to implement savings plans as soon as possible.**

14/15 DATE OF FUTURE MEETINGS

Members noted the following future meeting dates (7pm in Maidenhead):

- Monday 19 October 2015.
- Monday 16 November 2015.

- Tuesday 26 January 2016.
- Monday 18 April 2016.

LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC

To consider passing the following resolution:-

“That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on item 7 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of part I of Schedule 12A of the Act”.

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Report for: ACTION
Item Number:

Contains Confidential or Exempt Information	Report & Appendix 1 – Part I
Title	CIL Approval of Rates and Submission for Examination
Responsible Officer(s)	Andrew Brooker, Interim Strategic Director of Corporate Services Chris Hilton, Director of Development and Regeneration
Contact officer, job title and phone number	Hilary Oliver – S106 Special Projects Officer, 01628 796363
Member reporting	Cllr Wilson – Lead Member for Planning
For Consideration By	Cabinet
Date to be Considered	26 November 2015
Implementation Date if Not Called In	Immediate
Affected Wards	All
Keywords/Index	Community Infrastructure Levy, CIL, S106

<p>Report Summary</p> <p>The Community Infrastructure Levy (CIL) is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010 and largely replaces the ability of the council to seek developer contributions under section 106 of the Town & Country Planning Act (1990) as amended.</p> <p>This report seeks approval of the CIL Draft Charging Schedule (DCS) rates (Appendix 1) and to submit the DCS for public examination.</p>

If recommendations are adopted, how will residents benefit?	
Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
1. The Council will have the ability to secure contributions from developers to help fund the infrastructure needed to support new development.	May 2016 and ongoing

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That

- a) The Draft Charging Schedule rates are approved.
- b) The Draft Charging Schedule and accompanying evidence be submitted for public examination

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

2.1 Introduction

2.1.1 The Community Infrastructure Levy (CIL) regulations came into force in 2010 with amendments in 2011, 2012, 2013, 2014 and 2015.

CIL allows local authorities to raise funds from developers to contribute to the infrastructure that is needed to support the delivery of development. It is the Government's preferred method of authorities raising funds from developers and considerably reduces the use of S106 legal agreements.

2.1.2 In order to set a CIL rate the Community Infrastructure Levy Regulations 2010 require:

"14. (1) In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between –

- 1. The desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and*
- 2. The potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area."*

The Council needs to produce evidence to show how they have arrived at this appropriate balance.

2.2 Evidence

2.2.1 The Council commissioned external consultants (AECOM) to produce the key evidence to support the proposed CIL rates:

- Viability Report – Viability testing in the context of CIL assesses the 'effects' on development viability of the imposition of CIL
- Infrastructure Delivery Plan (IDP). The IDP is part of the evidence base required for the Borough Local Plan. In the context of CIL it assesses the funding required to provide the infrastructure to support new development and compares this with the funding available to the council to prove there is a gap between the two.

2.2 Consultation

2.2.1 The Council undertook consultation as follows:

- Developers were engaged in the process of setting the rates with two workshops to discuss the results of the viability work and seek feedback

- Preliminary Draft Charging Schedule between 19 June and 20 July 2015. Responses were received from 30 consultees. These responses and the evidence provided were considered and required further viability testing to be undertaken to ensure the evidence was robust. The comments made and responses from the Council are detailed in Appendix 2. As a result of this additional work some alternations were made to the boundary of the zones included in Appendix 1 and the proposed rates.
- The Draft Charging Schedule consultation took place between 23 October 2015 and 23 November 2015. The results of responses will be assessed, however it is not expected that any significant new issues will be raised. If, following the end of the consultation, issues are raised in the consultation responses that would affect a successful examination further consideration may be necessary.

2.3 Submitting the DCS for Examination

2.3.1 The DCS will be submitted for examination and an Inspector appointed. The Inspector will assess the evidence provided and set a hearing date. If there has been no request from interested parties to attend the inspection the Inspector can decide that a public hearing is not required. In this case a determination will be made based on the written evidence submitted

Option	Comments
Accept the recommendations of this report Recommended	Maximises the ability of the council to collect funds from developers to offset the impact of development
Do not accept the recommendations of the report	Limited funds will be collected to help offset the impact of development

3. KEY IMPLICATIONS

3.1 It should be noted that the timescales have slipped from originally reported in the [May cabinet report](#). This was as a result of the issues raised and evidence submitted during the Preliminary Draft Charging Schedule consultation which resulted in additional viability work being necessary. The results of this work have been reflected in the updated viability report. This work was required to ensure that the Inspector would have the evidence required to assess the proposed rates.

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered
CIL in operation	After 30/04/2016	by 30/04/2016	by 01/03/2016	by 01/02/2016	April 2016
Contributions collected from developers to help fund the infrastructure needed to support new development.	>£1.5M	£1.5m-2.5m	£2.6m-£3m	<£3m	31/03/2017

4. Financial Details

a) Financial impact on the budget (mandatory)

If the rates agreed are accepted by the independent examiner then contributions towards the cost of infrastructure can be collected.

	2015/2016	2016/2017	2017/2018
	Capital	Capital	Capital
Addition	£0	£2m	£3m*
Reduction	£0	£0	£0

*Rising in subsequent years

5. Legal Implications

The Council continues to have the ability to collect infrastructure mitigation contributions from Developers that satisfies the requirements of the Community Infrastructure Regulations 2010 (as Amended).

6. Value for Money

Infrastructure can be provided with the funds raised from developers.

7. Sustainability Impact Appraisal

N/A

8. Risk Management

Risks	Uncontrolled Risk	Controls
CIL is not successful at inspection stage and thus not implemented	High	Ensure that all robust evidence is provided at Inquiry Commence work on an "updated" CIL in line with BLP timetable

9. Links to Strategic Objectives

Our Strategic Objectives are:

Residents First

- Support Children and Young People
- Encourage Healthy People and Lifestyles
- Improve the Environment, Economy and Transport
- Work for safer and stronger communities

Value for Money

- Invest in the future

Delivering Together

- Deliver Effective Services
- Strengthen Partnerships

Equipping Ourselves for the Future

- Developing Our systems and Structures
- Changing Our Culture

10. Equalities, Human Rights and Community Cohesion

N/A.

11. Staffing/Workforce and Accommodation implications:

None

12. Property and Assets

Developers' contributions will be used to provide and improve the Council's infrastructure and services in response to the additional impacts of new development in the borough.

13. Any other implications:

None.

14. Consultation

Public consultation has been undertaken on the Preliminary Draft Charging Schedule and Draft Charging Schedule.

15. Timetable for Implementation

Submit for examination December 2015.

16. Appendices

Appendix 1 – CIL Draft Charging Schedule including boundary maps

Appendix 2 – Responses to Consultation

18. Background Information

Community Infrastructure Levy Regulations (2010) as amended.

National Planning Practice Guidance

19. Consultation (Mandatory)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Cllr Burbage	Leader of the Council	29/10/2015	02/11/2012	
Cllr D Wilson	Lead Member for Planning	19/10/2015	30/10/2015	
Alison Alexander	Managing Director	29/10/2015	02/11/2015	
Andrew Brooker	Interim Strategic Director of Corporate Services	29/10/2015		
Sean O'Conner	SLS	29/10/2015		
Mark Lampard/ Zarqa Raja	Finance partner	29/10/2015		
Barbara Story Ben Smith	S106 Project Board	29/10/2015		

Ben Wright Feliciano Cirimele Gordon Oliver Jan Balfour Joanne Horton Jonathan Howe Kaye Periam Kevin Mist Margaret Kirby Mark Taylor Nick Davies Paul Roach Philip Gill Satnam Bahra Steph James Stephen Pimley Sue Fox				
External				

Report History

Decision type:	Urgency item?
Non key decision	No

Full name of report author	Job title	Full contact no:
Hilary Oliver	S106 Special Projects Officer	01628 796363



THE ROYAL BOROUGH OF
**WINDSOR AND
MAIDENHEAD**

Royal Borough of Windsor & Maidenhead

Community Infrastructure Levy

Draft Charging Schedule

Planning Policy Unit
Royal Borough of Windsor and Maidenhead
Town Hall
St Ives Road
Maidenhead
SL6 1RF

Planning.Policy@rbwm.gov.uk

1. Introduction

- 1.1. This document is The Royal Borough of Windsor & Maidenhead Borough Council's Community Infrastructure Levy Draft Charging Schedule (DCS). The DCS sets out the proposed rates that will be applied to new development within the borough. The rates vary by the location of and type of development. The funds raised will be used to secure the provision of infrastructure.
- 1.2. The purpose of this document is to enable the Council to consult on the approach it has taken in establishing its proposed rates. This is a statutory step towards the adoption of a Community Infrastructure Levy (CIL) and is prepared in accordance with the CIL Regulations 2010 (as Amended).
- 1.3. The Council consulted on its Preliminary Draft Charging Schedule (PDCS) in June/July 2015. The Council received 30 representations. These comments were carefully considered for the preparation of the DCS. A separate document containing a schedule of consultation comments and the Council's response was prepared. The Council also prepared another document which shows how consultation comments about viability testing were used for further testing in preparation for the DCS.
- 1.4. This DCS is supported by the following documents:
 - The Infrastructure Delivery Plan (IDP)
 - The CIL Viability Study
 - CIL Viability Study Post PDCS Update
 - Draft Regulation 123 List
 - Draft Instalment Policy
- 1.5. These documents are available on the Council's website:

http://www3.rbwm.gov.uk/info/200209/planning_policy
- 1.6. The DCS consultation will run for four weeks from 9:00 am on 23 October 2015 to 5:00 pm on 23 November 2015.

Comments on the DCS can be submitted in writing or email. Comments can also be submitted online using the Council's consultation system.

To make a representation please send your comments:

By email to: Planning.Policy@rbwm.gov.uk

By post to: Planning Policy Unit – DCS Consultation
Royal Borough of Windsor and Maidenhead
Town Hall
St Ives Road
Maidenhead
SL6 1RF

To submit comments online, please go to the webpage outlined below and follow the instructions.

Consultation web page: <http://consult.rbwm.gov.uk/portal/cil/dcs/dcs>

2. What is CIL, who pays it, and how is the payment calculated?

- 2.1. CIL is a levy which will enable local authorities to apply a charge to new development. The money raised by the levy will be used to fund infrastructure such as transport schemes, schools, health and social care facilities, parks, green spaces and leisure facilities that are required to ensure that the Borough grows sustainably.
- 2.2. CIL is non-negotiable which means there is certainty about how much applicants are required to pay. As per the CIL Regulations 2010 (as Amended) it will be levied on net additional floor space of development that exceeds 100 square metres. It will also be levied on development that creates at least one residential dwelling even if that dwelling is less than 100 square metres. CIL is charged on a per square metre basis.
- 2.3. There are a range of statutory exemptions from CIL including but not limited to affordable Housing and development for charitable purposes. The CIL Regulations 2010 (as Amended) set out a full list of exemptions.
- 2.4. CIL is payable within 60 days of the commencement of development although the CIL Regulations 2010 (as Amended) allow for an instalments policy to be adopted alongside CIL. The Council has published its proposed instalments policy.
- 2.5. The responsibility to pay the levy lies with the owner of the land unless liability is assumed by another party as set out in the CIL Regulations.
- 2.6. CIL rates will be index linked using the national All-in Tender Price Index published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors.
- 2.7. The CIL rates for the Council's DCS vary by use (residential, retail, and offices) and location. In the case of residential development the Council is proposing three geographic zones. For retail and office development there is a Borough-wide zone. For offices, there are differential rates associated with the size of the development.
- 2.8. Some development types such as small offices (less than 2,000 square metres) and industrial will not be charged because the CIL Viability Study found that these uses did not have the financial capacity to pay a CIL.
- 2.9. CIL liabilities will be calculated in accordance with Regulation 40.

3. CIL and Infrastructure Required for the Local Plan

- 3.1. The Council's Local Plan was originally adopted in 1999 with alterations adopted in 2003. Until it is replaced it remains the principal document of the Development Plan for the borough. In preparing its evidence base for the CIL the Council has considered the growth envisaged in the adopted Local Plan. It has also taken account of the National Planning Policy Framework.
- 3.2. The Council is preparing a new Local Plan. It is expected that the Local Plan will be adopted in 2017. The Council intends to adopt CIL in advance of the new Local Plan

as it must ensure there are funds available to support infrastructure provision and sustainable growth. Consequently the Council is focused on developing a robust evidence base for its CIL and, as far as is practical, aligning the CIL evidence with that of the emerging Local Plan.

- 3.3. The IDP is a critical part of the evidence base for the CIL and sets out the required infrastructure and associated costs which meet the growth envisaged in the existing Local Plan and that of the emerging Local Plan options.
- 3.4. As part of that planning process, and for purposes of transparency, the IDP provides costs and funding gaps for all the emerging Local Plan growth options. This analysis shows that the amount of funding currently available to meet the Council's infrastructure requirements (without a CIL) is insufficient. Therefore the Council considers a CIL Charging Schedule as a positive tool to support sustainable growth.
- 3.5. The DCS has been developed with consideration of a range of market conditions and in this regard it has been mindful of future growth scenarios. As part of good planning the Council intends to revisit the CIL Charging Schedule upon adoption of the emerging Local Plan to ensure it remains suitable.
- 3.6. The CIL Regulations require the Council to allocate a 'meaningful proportion' of CIL to the neighbourhood from which funds are raised. In 2013 the Government defined 'meaningful proportion' to be a minimum of 15% of CIL income arising in a parish or town council and 25% in areas with a Neighbourhood Plan.

4. CIL and S106

- 4.1. The Council collects financial contributions for infrastructure from new development through S106 agreements.
- 4.2. In 2010 CIL Regulation 123 introduced 'pooling restrictions' which limited the Council's ability to use S106 to fund infrastructure from 6 April 2015. Specifically the Regulation limited S106 obligations where five or more have been entered into after 6 April 2010 in respect of a specific infrastructure project or type. Prior to 6 April 2015 the Council was able to secure as many contributions as it could justify for an infrastructure project or type.
- 4.3. As a result of Regulation 123 the Council is now generally limited to using S106 obligations for the purpose of securing infrastructure that mitigates site-specific impacts arising from development such as access roads for example. In some limited cases the Council may use S106 to secure a strategic infrastructure project or type from several sites.
- 4.4. Regulation 122 was another limitation on the Council's ability to use S106 to fund infrastructure. It contains three tests which a S106 obligation is required to meet. The obligation must be (a) necessary, (b) directly related, and (c) related in scale and kind to the proposed development. These tests reduced the Council's ability to apply tariff-style S106 obligations which it had done according to its Planning Obligations and Developer Contributions Supplementary Planning Document (SPD).

- 4.5. As a result of the CIL Regulations, CIL is a more effective means for securing infrastructure funding than S106. It enables local authorities to pool as many developer contributions as it wishes for the purpose of funding infrastructure.
- 4.6. The Council has published a draft list of infrastructure it will fund through CIL. This is known as a draft Regulation 123 list and it accompanies the DCS. One purpose of the list is to ensure that councils do not double-charge applicants for infrastructure through both CIL and S106 agreement. Once CIL is adopted and the list is in use it will be updated periodically as infrastructure projects are completed and new needs arise.

5. CIL Viability Testing and Rate-Setting

- 5.1. In setting its proposed CIL rates the Council has had regard to a range of considerations but principally the following:
 - CIL Viability Study
 - CIL Viability Study Post PDCS Update
 - Representations provided during consultation on the PDCS
 - Input from stakeholders during consultation events
 - The Infrastructure Delivery Plan
 - Anticipated development as per the Council's baseline growth option being assessed for the Local Plan
- 5.2. The Council initially commissioned the CIL Viability Study to determine if CIL rates would be viable in the Borough and to provide recommendations for a proposed set of rates. This report was provided with the PDCS.
- 5.3. The CIL Viability Study analysed both residential and non-residential property development in the Borough. It applied financial appraisal models to a sample of different types of development schemes which are anticipated in the baseline growth option being considered for the Local Plan.
- 5.4. To ensure that the appraisal models realistically portrayed property development in the Borough, there were allowances for all the Council's policies (including affordable housing) which are consequential to the viability of property development. The models also reflected market assumptions related to the revenue and costs of development in the Borough. Two consultation events were held with developers to ensure that the assumptions in the CIL Viability Study were robust and reflective of market realities.
- 5.5. In light of the 30 representations submitted to the Council and comments made at the public consultation event for the PDCS, the Council revisited the assumptions that were used in the CIL Viability Study. Where appropriate, the Council adjusted its assumptions and re-ran the appraisals. The rationale for revisiting the assumptions in the CIL Viability Study and the methodology applied are contained in the CIL Viability Study Post PDCS Update report.
- 5.6. The Update report indicates that CIL charges remain viable for three development types: residential, retail and offices. For residential development the rates remain the same. However there have been changes to retail and offices. These changes are explained and justified in the Update report.

- 5.7. CIL Regulation 14 states that the Council (as Charging Authority) must strike what appears to be an appropriate balance between the desirability of funding infrastructure and the potential effects that CIL could have on development viability. In other words, the DCS is not strictly based on a mechanistic approach to rate-setting. Indeed, even though some of the results of the appraisals have changed, the Council believes that in some cases the original CIL rates remain appropriate and that the Council has established the appropriate balance.

6. Draft Charging Schedule

- 6.1. The table below contains the proposed CIL rates. The maps showing the corresponding residential CIL zones are included in Appendix A.

Development Type	CIL Charging Zone	Rate (per square metre)
Residential including retirement (C3) and extra care homes (including C2)	Maidenhead town centre (AAP area)	£0
	Maidenhead urban area	£100
	Rest of the borough	£240
Retail	Borough Wide Retail Warehouses ¹	£100
	Borough Wide Other Retail ¹	£0
Offices	Borough Wide ¹ - 2,000 m ² or larger	£150
	Borough Wide ¹ – less than 2,000 m ²	£0
All other uses		£0

- 6.2. The development types in the table above are self-explanatory with the exception of retail warehouses. Retail warehouses are large stores specialising in the sale of comparison goods, DIY items and other ranges of goods catering mainly for car borne customers.

7. Next Steps

- 7.1. The purpose of this document is to consult on the DCS. This stage of the process precedes submission to the independent examination.
- 7.2. All comments received for this consultation will be taken into account. In the event that modifications are required to the DCS Draft Charging Schedule or Regulation 123 list as a result of consultation, the Council will make the changes available in a Statement of Modifications. Those providing comments at this stage can ask to be heard by the examiner.
- 7.3. Alongside the process for adopting CIL, the Council will review its current Planning Obligations SPD with a view towards replacing it with a document which reflects how S106 will be used alongside CIL.

¹ Applicable within the Maidenhead town centre (AAP area), the Maidenhead urban area and the Rest of the borough charging zones.

Community Infrastructure Levy Charging Zones

- A Maidenhead town centre
- B Maidenhead urban
- C Rest of the borough
- RBWM boundary

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

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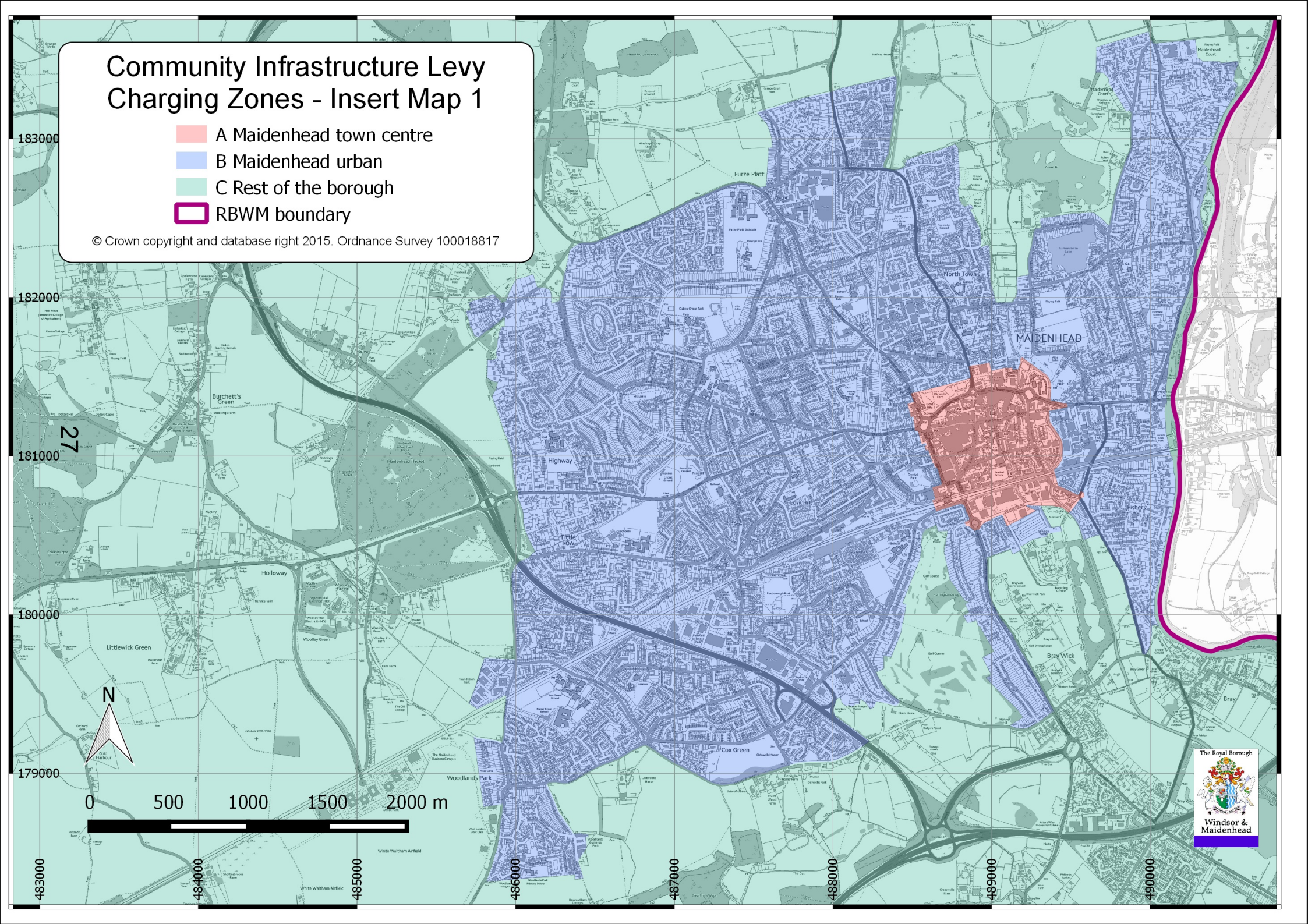
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Community Infrastructure Levy Charging Zones - Insert Map 1

-  A Maidenhead town centre
-  B Maidenhead urban
-  C Rest of the borough
-  RBWM boundary

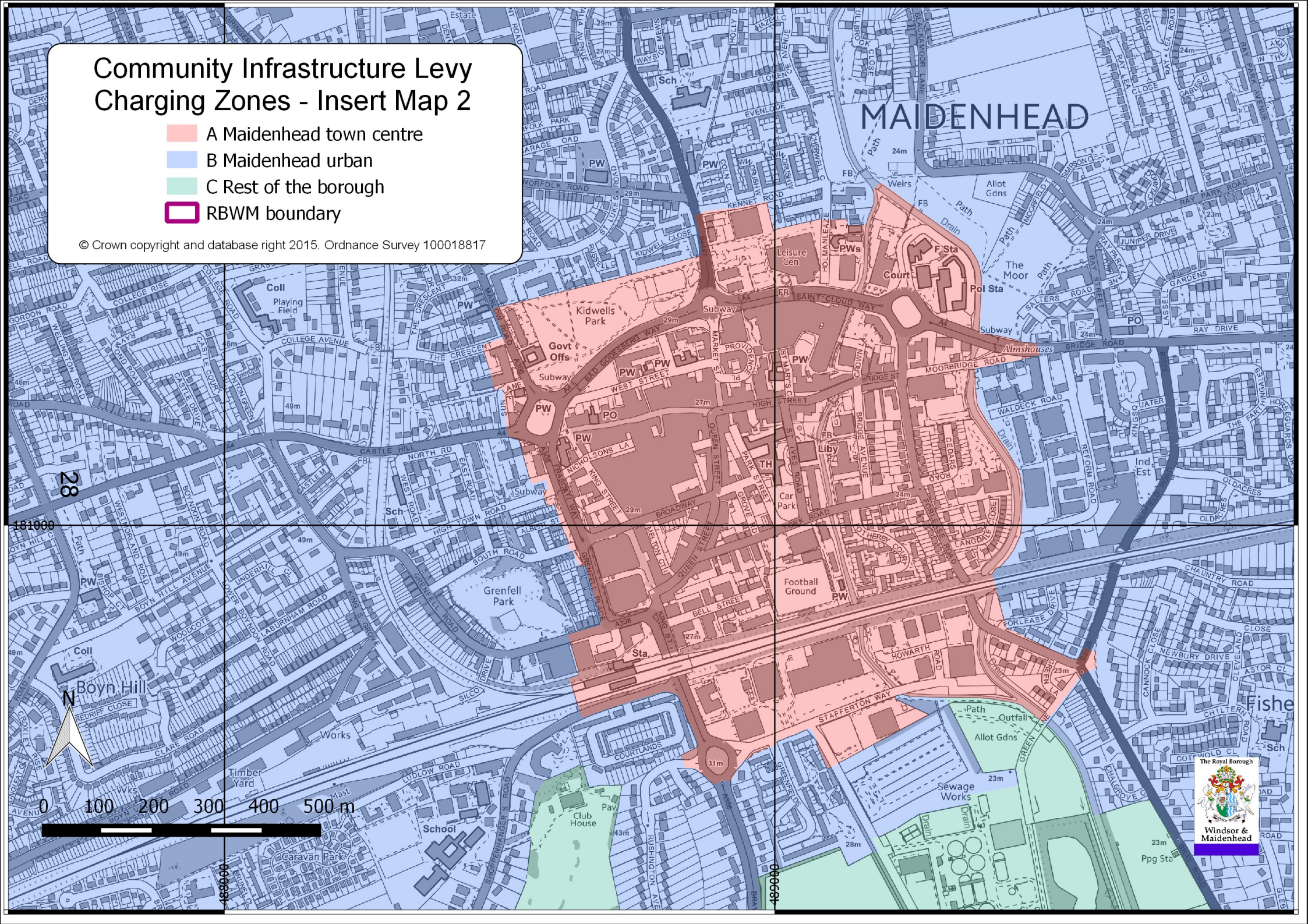
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Community Infrastructure Levy Charging Zones - Insert Map 2

- A Maidenhead town centre
- B Maidenhead urban
- C Rest of the borough
- RBWM boundary

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ID	Organisation	Respondent	Issue ref	Issue	Respondent comment	Council Response
1	The Theatres Trust	Anthony Ross	1.1	Charging schedule	Re Table 7.1 'Preliminary Draft Charging Schedule', while implied by its absence, for clarity it would be useful to add an additional row to the table noting 'All other uses - 'A nil charge'. We support the nil rate for 'all other uses'.	The Council will include a category of all other uses for the sake of clarity.
2		Chris Sale	2.1	General support	I have looked into it briefly and while I don't feel qualified to give an opinion on the detail my overall view is that it is good for RBWM and its residents and I therefore support it.	The Council welcomes the support.
3	Amberleigh Homes	Jeff Parton	3.1	Rate too high	The proposed charge of £240 per square metre across the borough outside of the defined urban area of Maidenhead is excessive in our view and will mean that the prospect of securing residential land at realistic values is very significantly reduced. Market values for land with planning permission are at a rate of circa 40% of the achievable sale price of the completed unit.	In light of representations from yourself and other respondents the recommended CIL charge of £240 per square metre will be revisited. This means that the appraisal assumptions which were used will be checked and if required the appraisals re-run. The draft charging schedule (DCS) will include a report which provides the results of this additional work. No evidence has been provided to support the assertion that land values equate to 40% of GDV.
3	Amberleigh Homes	Jeff Parton	3.2	CIL will cause landowners to reduce expectations	The introduction of CIL at the proposed levels would mean in real terms persuading land owners to accept a large reduction in the sale price of the land as it cannot come out of the sale proceeds or construction costs and the net result would be that landowners would not be prepared to sell at anything other than what they perceive to be the market rate.	CIL guidance and examiners reports have stated that land values will inevitably reflect the cost of CIL charges. This means that landowners should expect a level of reduction in the sales prices of land. As a result it should be expected that landowners won't achieve values at "market rate" as understood by Amberleigh Homes. As an example, in the Inspector's Report to the Greater Norwich Development Partnership - for Broadland District Council, Norwich City Council and South Norfolk Council for their CIL, the inspector wrote that "it is reasonable to see a 25% reduction in benchmark values as the maximum that should be used in calculating a threshold land value".
3	Amberleigh Homes	Jeff Parton	3.3	Impact on supply of housing	There is an urgent requirement for new house building that has been widely debated in the media and which the new conservative government is anxious to encourage. We can only provide comment as a small local housebuilder, and much as the community aims of CIL are laudable, this will in our view, if introduced, have a significant detrimental impact on the supply of sites for housing for the foreseeable future	The Council welcomes comments from small housebuilders. The preliminary draft charging schedule (PDCS) has been tested to ensure that the proposed charges do not cause development to be unviable. The Council does not believe that CIL will have a detrimental impact on new housing supply.
4	The Woodland Trust	Ellie Henderson	4.1	Infrastructure list amendment	We are pleased to see Green Infrastructure listed in the draft Regulation 123 list. However we would like to see tree planting and woodland creation listed specifically as a separate bullet point under Green Infrastructure. This is because of the unique ability of woodland to deliver across a wide range of benefits. Woodland is also relatively inexpensive to manage when compared to other forms of urban greenspace, such as short mown grass. Woodlands have value across many sectors of the economy and society. English woodlands already play an important part in the growth of the UK forest carbon market and in groundbreaking projects that use land management to improve water quality, reduce flood risk, enhance biodiversity and adapt to impacts of climate change.	The Council wishes to support a range of projects within the Green Infrastructure category and currently prefers to have sufficient flexibility to allocate funds to Green Infrastructure and the most pressing needs arise. The Council acknowledges the importance of tree planting and woodland creation as an important element of Green Infrastructure and is reflected by the Councils Manifesto commitment 4.14 Continue planting trees which is being actioned by a Launch of free Trees for Residents scheme in Autumn 2015, Tree planting season on highways and parks commence in November 2015. Planning new open spaces in Eton Wick & Sherlock Row
5	Royal Berkshire Fire and Rescue Service	Peter Gray	5.1	Relationship between S106 and CIL	Currently RBFRS ask for Fire Hydrants on new developments or areas that are being re-developed and we do ask that these are paid for through the S106 scheme although this is rare. With the new CIL being introduced into your area I would like to adopt the same procedure that West Berkshire have in place for us with regards the installation of F/H's for new developments/sites. Where we ask for F/H's on such developments the builders will pay the Water Co to install at the points we request. RBFRS have no dealings with the monies as the builders and Water Co's deal with each other directly but work to our requirements.	The Council acknowledges the need to secure fire hydrants through the planning process and specifically through Section 106 agreements. The Council maintains that this is the most effective means for securing fire hydrants instead of by funding it through CIL.
6		Jeremy Greenhalgh	6.1	Regulation 123 list	Appendix B - Draft Regulations 123 List: Please explain what the exceptions at Maidenhead Golf Course relating to Education (New Primary School) and Social & Community Facilities (New Community Facilities) mean as there are currently no such developments proposed.	It is anticipated that the golf course will be safeguarded in the emerging local plan and therefore will not come forward in this plan period. Therefore reference to the golf course is not included in the draft Regulation 123 list.
7		J Powell	7.1		Agreed a) Used appropriate available evidence and b) struck an appropriate balance between i) the funding of infrastructure and ii) the potential effects on the economic viability of development?	The council appreciates the support.

8	Windsor Link Railway Ltd	George Bathurst	8.1	Regulation 123 list	There is no reference to Windsor Link Railway (WLR) in the CIL charging schedule. This will make it more difficult for the council to contribute to the scheme if there is a shortfall from the site specific development. WLR suggests that the "integrated scheme" is added to the schedule to give the council the flexibility to support the scheme in this way should it choose to do so. It may be necessary for development in the WLR area to contribute to the rail and other proposed infrastructure in that same area. The CIL viability testing (Appendix C) appears to assume that the infrastructure is off-site and paid to the council. Whilst this is a good assumption normally, it may interfere in the delivery of the Windsor Link Railway as a privately-led integrated scheme. The charging rate for the property in the WLR area should therefore be identified separately and flexibility be added to accept infrastructure enabled or contributed to as part of a scheme in lieu of payment.	This project is not a Council-led initiative and it is not anticipated that the Council will elect to support it with CIL revenue. If this position changes the Council would seek to amend the 123 list following a consultation exercise.
9	Runnymede Borough Council	Cheryl Brunton	9.1	PDCS text	The way paragraph 3.3 as worded implies that CIL funds will cover the funding gap in its entirety. Perhaps it could say '...help reduce the funding gap'. It may be useful to confirm in the PDCS table at paragraph 7.2 that other uses are proposed to be £0 rated.	The Council appreciates the advice and will make the document clearer.
10	Country Land and Business Association	Megan Cameron	10.1	Commercial development in rural areas	The CLA advises not to impose a CIL rating on agricultural or forestry, employment and commercial development, as these are important areas for rural landowners and farmers to diversify into in order to support their farming and forestry enterprise. CIL charges would make these developments unviable; regeneration would be stifled and sustainability of the rural areas would be adversely affected, by making them less economically viable; particularly in the current climate where rural workshops and offices are difficult to let especially where broadband connection is poor.	The viability evidence will be reviewed prior to the DCS and an update report will be published.
10	Country Land and Business Association	Megan Cameron	10.2	Upgrading rural buildings	Farmers and landowners are often forced to upgrade their buildings and infrastructure due to legislation with no commercial gain to the enterprise. If CIL is imposed on these types of enterprise it would have had a major impact on the farming and rural business community, who would have been unable to afford the increased cost of the development due to the CIL.	CIL is only imposed on floor area that is a net increase to existing qualifying development. CIL is not charged on upgraded buildings or on new or upgraded infrastructure. There is no proposal to include agricultural buildings in the CIL charging schedule.
10	Country Land and Business Association	Megan Cameron	10.3	Retail development in rural areas	The CLA advises RBWM not to impose a CIL rating on retail developments in the rural areas, as farm shops would have to pay CIL charges as they would fall under the Food Retail use type. Farm shops are a diversification from agricultural and should not be treated the same as large supermarkets as a charge of £100 m2 would make these diversification potentially unviable.	The Council intends to re-visit the assumptions for retail development and also look again at a variety of retail formats it modelled. However, CIL would be charged on <u>newly</u> built retail buildings in rural areas. As the Viability Study states, the Council did not explicitly test new-build farm shops in RBWM because it was appropriate to maintain a high level approach to retail development. The viability evidence will be reviewed prior to the DCS and an update report published.
10	Country Land and Business Association	Megan Cameron	10.4	Leisure uses	The CLA would like clarification that the CIL charges for farm diversification for example Clay Pigeon Shooting grounds and sui generis uses are exempt from CIL as they fall under Leisure.	The Council is not proposing to impose CIL for the uses mentioned. In particular, for leisure or sui generis uses. CIL only applies to new buildings.
10	Country Land and Business Association	Megan Cameron	10.5	Level of residential CIL charges	It is our view that charges from £100 m2 to £240 m2 contributions will act as a significant disincentive for development in rural areas.	The viability evidence will be reviewed prior to the DCS and an update report published.
10	Country Land and Business Association	Megan Cameron	10.6	Level of residential CIL charges	The CLA feels strongly that all developments being requested to contribute to infrastructure should have the opportunity to negotiate the level of payment depending on what a community/area needs.	CIL was introduced to reduce the uncertainty around negotiations on infrastructure contribution that were historically been done on a case-by-case basis. CIL was introduced to meet the needs of the community and the area where development happens.
11	Highways England	Patrick Blake	11.1	Impacts of CIL on Strategic Road Network	The Strategic Road Network (SRN) is a critical national asset and as such works to ensure that it operates and is managed in the public interest. We will be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN, which in this case relates to the M4, A308(M), A404(M) and A404. We would be keen to have early discussions with the Royal Borough regarding any transport interventions identified in the Infrastructure Delivery Plan that CIL might contribute towards that could impact on the SRN.	The Council notes the comments and will seek to engage with Highways England at the earliest instances in which the Strategic Road Network is impacted.
12	Surrey County Council	Maureen Prescott	12.1	Support	We have no comments on this document.	Noted by Council. No response required.
13	Redrow Homes Ltd.	Anna Gillings, Turley	13.1	CIL boundary change	The boundary is incorrectly drawn for the "Maidenhead Urban Area". The boundary should recognise that the recent grant of planning permission at the Former Park and Ride Car Park Land at Stafferton Way lies within the Urban Area (ref 14/03765). There is no justifiable reason to consider that this site lies within the "Rest of the Borough". The committee report for this application recognises that the development will provide residential development in close proximity to the town centre and that the site has a strong visual link to the town centre. Further the report confirms the site's location so close to the town centre with "high sustainability credential" on "previously developed land". On this basis, the site clearly lies within the Urban Area. In viability terms, this site should clearly be considered part of the built up area. On this basis, the boundary of the Urban Area should be amended to reflect the boundary of the planning permission, as shown on the attached plan.	The Council has considered this in light of the extant planning permission on the site and agrees that the boundary should be moved to incorporate the site at the Former Park and Ride Care Park Land at Stafferton Way into the Maidenhead Urban Area. As part of this change, the Council will consider whether moving the boundary would have implications for the CIL charges within the two zones which are affected. If there needs to be changes resulting from the boundary change then this will be clearly explained and reflected in the Draft Charging Schedule (DCS).

14	Historic England	Martin Small	14.1	Historic assets	Historic England advises tht CIL charging authorities identify the ways in which CIL, planning obligations and other funding streams can be used to implement the policies with the Local Plan aimed at and achieving the conservation and enhancement of the historic environment, heritage asses and their setting. RBWM should consider whether any heritage related projects within the Royal Borough would be appropriate for CIL funding. RBWM should be aware of the implications of any CIL rate on the viability and effective conservation of the historic environment and heritage asses in development proposals. The rates proposed in areas where there are groups of heritage assets at risk are not such as would be likely to discourage schemes for their re use or associated heritage led regeneration Encouraging local authorities to offer exceptional circumstances relief where development which benefits heritage assests and their settings may become unviable if it was subject to CIL. Encourage that conservation staff be involved in process.	The comments are noted by Council. The Council puts a high value on the historic environment and heritage assets in the Borough. The Council has not included projects for enhancing the historic environment or heritage assets in the draft Regulation 123 list because oftentimes it is more effective for them to be safeguarded through the development management process and Section 106 obligations. The Council would welcome and consider any specific recommendation by Historic England that could potentially be funded through CIL.
15		Kate Sheehan	15.1	Meaningful contribution	3.5 meaningful contribution to town and parish not acceptable	The meaningful contribution is set out in the Regulation 59A of the CIL Regulations 2010 (as amended). These amounts will be passed directly to the Parish Councils to determine how it should be spent. Other funds collected will be spent by the Council in support of the needs that increased development in the borough creates either locally or strategically as priority dictates.
15		Kate Sheehan	15.2	Stakeholder consultation	6.1 which stakeholders will be consulted?	All statutory consultees including adjoining local authorities and parish councils, local and significant developers, and those who are listed on the Planning Policy database who have responded to any of our previous planning consultations.
		Kate Sheehan	15.3		7.1 Why is central maidenhead exempt, lots of development going on here in the near future which would bring in considerable funding for schools and other projects B2 Education - need to include improvements as well as this will benefit education as well	The CIL charged for the Maidenhead Town Centre is based on the current viability of development in the area. Based on evidence of the <u>current</u> values and costs of development in the Town Centre, the Viability Study concluded that a CIL charge would put development in the Town Centre at risk. Despite the expectation of development in the future, CIL is based on an assessment of current values and costs. Nonetheless the Council will re-visit all the viability appraisals to re-confirm whether the recommended CIL rates are still supported by up-to-date evidence. The results of this additional work will be in a report that accompanies the draft charging schedule (DCS). It is also worth noting that the Council intends to re-visit the CIL charging schedule once it adopts a new Local Plan.
16		Roger Panton	16.1	Car parks	Maidenhead is a prosperous area where the number of cars per household listed by ONS often exceeds the numbers ALLOCATED to each dwelling. To encourage developers to both include ALLOCATED car parking space and even possibly included underground parking in their development plans. The CIL should reflect this, where parking is NOT provided and ALLOCATED the CIL contribution should increase by the same amount as the cost of an underground parking space	The comments are noted by Council. CIL cannot be used as a means to incentivise or disincentivise development based on the provision of parking. In other words, CIL can not be used as a policy tool. The Council believes that the best way to secure adequate parking provision is through planning policy and the development management process.
17		Rachel Cook	17.1	Nil CIL rate in Maidenhead Town Centre	I'm very surprised that central maidenhead (that within the AAP) is not considered viable to support any CIL. I think that it is assumed by much of the public that Crossrail will generate investment to Maidenhead (certainly this is what the publicity has stated) If more housing is to be built in the town centre then it is imperative that the developer contributes to new school places and improvements to schools for the new children as well as the infrastructure supporting the new developments. Can there be a clearer explanation given as to why exactly a nil rate will be adopted? Please clearly list all the policy requirements which mean that developers are unable to afford CIL in the area covered by the Area Action Plan? Please reconsider this £0 rate.	The nil CIL charge for residential development in the Maidenhead Town Centre AAP area is based on current viability of development in the area. Based on robust evidence of the <u>current</u> values and costs of development in the Town Centre, the analysis concludes that a CIL charge would put development in the Town Centre at risk. One of the challenges of development in the AAP area is the higher costs associated with the development of flats. This is evidenced through the fact that the Council has not secured affordable housing in this area on grounds of viability. The viability evidence will be reviewed prior to the DCS and an update report published.
18		Gareth Ebenezer	18.1	Payment in kind	How is this determined? Will the 'payment in kind' v 'land value' tariff be openly published?	The payment in kind in the place of a monetary CIL payment is determined on a case-by-case basis based on independent assessment. There is no set formula to arrive at the value of the land for the purposes of CIL. Details of the payment in kind can be found in CIL Regulation 73.
18		Gareth Ebenezer	18.2	Nil CIL charge for development of industrial use	What exemption application process will be available only for industrial land-use projects? How will safeguards be applied?	There is no exemption application process required for the development of industrial land.
18		Gareth Ebenezer	18.3	Review of CIL charge	How often will the CIL Charging Schedule by reviewed ?	The CIL Charging Schedule will be regularly reviewed through assessments of the viability of development. The Council intends to formally review the Charging Schedule once the new Local Plan has been adopted.

18		Gareth Ebenezer	18.4	Meaningful proportion of CIL for local use	Surely a 'meaningful proportion' of CIL to be used within an impacted neighbourhood constitutes >50% rather than the proposed 15-25%, to avoid spurious investments being made in less or non-affected areas.	The meaningful contribution is set out in the Regulation 59A of the CIL Regulations 2010 (as amended). These amounts will be passed directly to the Parish Councils to determine how it should be spent. Other funds collected will be spent by the Council in support of the needs that increased development in the borough creates either locally or strategically as priority dictates.
18		Gareth Ebenezer	18.5	Timeframe for the introduction of CIL	If CIL (introduced 2010) is 'a more effective means for securing infrastructure funding than S106', why is it only being considered by RBWM in 2015? Moreover, it is incumbent on the Borough to ensure the best possible framework to achieve future infrastructural challenges, including the detailed study of existing 'best practice' boroughs where CIL superseded S106 some time ago - there appears to be limited or no evidence of this in the proposal.	The timeframe for adopting a CIL has been considered by the Council for some time but needed to ensure that there was sufficient robust evidence to support the rates as required for a successful examination. With the work on the emerging Local Plan it is now considered that the Council has the robust evidence needed. The pooling restrictions introduced by the CIL regulations which took effect in April 2015 means that the adoption of CIL is the most effective means of securing infrastructure funding than relying solely on Section 106 agreements.
18		Gareth Ebenezer	18.6	Regulation 123 list	When and how will the Regulation 123 list be published? How frequently will it be reviewed? How will minutes & notes for CIL funding decisions be published to residents? How will potential conflicts of interest and discretion be highlighted & clearly shown?	The Council will publish another version of its Regulation 123 list as it will form part of the supporting evidence for the Draft Charging Schedule (as stated in CIL Regulation 19e.) The Council continuously reviews its infrastructure requirements and will amend the Regulation 123 list when it is deemed necessary to add new infrastructure schemes and eliminate schemes which have been delivered. The process of allocating funds has not yet been agreed. Recommendations on the process will be made to Cabinet prior to implementation of CIL. An annual monitoring report will be published on the Council's website detailing how CIL receipts have been utilised.
18		Gareth Ebenezer	18.7	Regulation 123 list	Enhancements and improvements to existing schools in order to ensure appropriate flexibility of CIL utilisation in the area/neighbourhood most directly affected by the development, keeping school places local to expansion.	The Council welcomes the respondent's comments on CIL flexibility for the funding of school places.
18		Gareth Ebenezer	18.8	Nil CIL rate in Maidenhead Town Centre	Why has a £0 rating been given to central Maidenhead? Surely any residential development (including notable proposed sites) will have infrastructural effects in and around the town centre.	Please see the Council's response to Issue reference 17.1 above. The viability evidence will be reviewed prior to the DCS and an update report published.
19	Berkeley Strategic Land Ltd.	Elizabeth Burt	19.1	Need for up-to-date Local Plan	Given that the Council's Second Preferred Options Local Plan agreed at Cabinet on 26th February 2015 has not been consulted on and the evidence base to inform the new Local Plan is not fully complete and published, Berkeley considers that the Council does not have an up to date relevant plan as required by guidance. Therefore in accordance with paragraph reference ID: 25-010-20140612 of the PPG Berkeley considers that the Council should delay further consultations on the Charging Schedule until the further evidence has been published and the Local Plan has advanced. This would be consistent with the Government recommendation that Councils work up their Charging Schedules with their Local Plans (National Planning Policy Framework paragraph 175) to ensure that they do incentivise the types of development set out in the Plan. In addition Berkeley considers the Council should be seeking to meet its objectively assessed need for housing over the new plan period and as such should be allocating sufficient sites to meet this need including the release of strategic greenfield green belt sites. The preparation of the CIL should therefore consider a range of site scenarios including strategic greenfield sites.	See separate Progressing CIL Statement which explains the council's position
19	Berkeley Strategic Land Ltd.	Elizabeth Burt	19.2	Infrastructure requirements and the testing of greenfield sites/release of greenfield sites	The Council has produced a draft Infrastructure Delivery Plan which tests a range of scenarios based on the Council's housing strategy set out in the draft Second Preferred Options presented to Cabinet. As previously stated Berkeley considers the Council should be seeking to meet its objectively assessed need for housing and as a consequence should be releasing strategic greenfield sites. These types of sites generate specific infrastructure needs. Berkeley considers that to produce a sound Local Plan the Council should be identifying strategic greenfield sites for development and should assess these in its CIL preparation to identify and plan for the infrastructure required to deliver these. In addition the Council is currently producing Transport Modelling which will provide information on the amount, location and cost of infrastructure required to support planned growth in the Borough. As this evidence is not complete the CIL Charging Schedule cannot take account of it. The Council should therefore await the outcome of this work and use its findings when preparing the next stage of the CIL.	See separate Progressing CIL Statement which explains the council's position
19	Berkeley Strategic Land Ltd.	Elizabeth Burt	19.3	Golf course site	The Charging Zones Plan shows the golf course as falling within the urban area of Maidenhead.	The Council agrees that the boundary between the Maidenhead Urban Area CIL zone and the Rest of the Borough CIL zone should be moved so that the golf course site is in the Rest of the Borough. The Council notes that the golf course site is not anticipated to come forward under the existing Local Plan and its future will be explored through public consultation and the preparation of the new Local Plan. Once the new Local Plan has been adopted the Council intends to revisit the CIL charging schedule.

19	Berkeley Strategic Land Ltd.	Elizabeth Burt	19.4	CIL charge level	While each CIL Charging Schedule needs to be locally evidenced, the proposed CIL rate of £240 per sqm covers the significant majority of the District, and is higher than the highest rate charged (or proposed to be charged) in the surrounding authorities of Wycombe, South Oxfordshire, Spelthorne, Runnymede and Surrey Heath. In addition the Charging Zones Plan shows the golf course as falling within the urban area of Maidenhead and therefore any development here would be liable to a much lower CIL rate of £100 per sqm. There is no justification for this approach. As currently proposed any other strategic extensions would be liable to a charge of £240 per sqm.	The Council has tested development in the CIL zone where £240 per sqm is proposed. The Council's believes its evidence to be robust and representative of development in this zone. The viability evidence will be reviewed prior to the DCS and an update report published. You will note that the Council has moved the boundary of the CIL charging zone to that the golf course is no longer in the Maidenhead Urban Area.
19	Berkeley Strategic Land Ltd.	Elizabeth Burt	19.5	S106 assumptions	With regard to the allowances for S106 and abnormal costs Berkeley considers these are too low for greenfield strategic sites as these sites have higher costs due to on site infrastructure requirements. This points to the need for greenfield strategic sites to have a separate CIL rate or nil CIL rate.	As stated in the CIL viability study no strategic greenfield sites have been tested because it is not anticipated that they will come forward before the new Local Plan is in place. The viability evidence will be reviewed prior to the DCS and an update report published.
19	Berkeley Strategic Land Ltd.	Elizabeth Burt	19.6	Regulation 123 list	Berkeley notes that the draft list includes a number of generic headings such as "Improvements to healthcare" and "Strategic road network improvements". Berkeley advises that the Council should ensure that it identifies any site specific infrastructure required to deliver sites, through an assessment of each site, and that this is made publically available so landowners and developers can understand the likely obligations required and respond effectively to this.	The Council has prepared a draft 123 list based on the known requirements for infrastructure and in the context of CIL regulations 122 and 123. The SANG and some limited S106 contributions are expected to continue outside CIL and have been reflected in the viability study.
19	Berkeley Strategic Land Ltd.	Elizabeth Burt	19.7	Payments in kind	Paragraph 2.22 of the Council's Viability Study confirms that a local authority can accept CIL 'in kind' which includes the transfer of land and the transfer of infrastructure. Berkeley is of the view that the Council should allow for such relief and include this in the next draft of the CIL.	This is not relief but is part of the CIL Regulations 2010 (as amended). Payment in Kind is covered in CIL Regulation 73. In accordance with Reg 73A a Charging Authority are able to make this provision available in accordance with the notification requirements set out in Reg 73B. RBWM do not currently intend to make this provision available, but will review its availability periodically. Assessment of the value of any 'in kind' transfer of is assessed by independent valuers.
20	Berwick Hill Properties (Leatherhead) Ltd	Asher Ross, Boyer Planning	20.1	IDP and testing of emerging Local Plan	There seems to be a disparity between the Schedule which seeks to address the 1999 Local Plan and the Gap Analysis and Infrastructure Delivery Plan which seeks to address the forthcoming Borough Local Plan. The Infrastructure Delivery Plan seeks to set out growth scenarios for development up to 2030. However, these scenarios are based on general assumptions and have no policy basis whatsoever. It is the role of the Royal Borough, through proper planning in their Borough Local Plan to provide the details of growth in population and employment. It is not the role of consultants employed on behalf of the Royal Borough to do this instead of them. Therefore, the entire premise of the IDP is questionable	The Infrastructure Delivery Plan reflects development which is consistent with the <u>existing</u> Local Plan. The scenarios are based on development which is expected to come forward through the existing Local Plan.
20	Berwick Hill Properties (Leatherhead) Ltd	Asher Ross, Boyer Planning	20.2	CIL charge for offices	<p>The Schedule proposes a charge of £150 per sqm for office development across the entire Royal Borough. Whilst the Schedule provides differentiation between different zones for residential, this does exist for office development. We question this approach, based on the viability of schemes and the level of S106 that has been secured to date.</p> <p>In terms of the £150 per sqm office rate we are of the view this rate is far too high and will severely restrict office development coming forward. Paragraph 12.30 of the Viability Report compares the CIL Charging rate of nearby authorities. A summary of the office rates presented is included below –</p> <ul style="list-style-type: none"> • Elmbridge – nil rate for offices; • Bracknell Forest – nil rate for offices; • Reading - £30 per sqm for offices in the Central Core; nil rate elsewhere; • Runnymede – nil rate for offices; • Spelthorne – nil rate for offices; • Surrey Heath – nil rate for offices; • West Berkshire – nil rate for offices; • Wokingham – nil rate for offices; and • Wycombe – nil rate for offices. <p>The above represents compelling evidence as to the mismatch of the RBWM's approach to offices compared to other areas. In fact the proposed charge of £150 per sqm is higher than London Borough's covered by the Central Activities Zone (CAZ) / City Fringe area as defined in the London Plan which is an office area of international significance. The office rate for areas covered by this zone include –</p> <ul style="list-style-type: none"> • Hackney (adopted) - £50 per sqm for offices in the City Fringe; nil rate elsewhere; • Tower Hamlets (adopted) - £90 per sqm for offices in the City Fringe; nil rate elsewhere; • City of London (adopted) - £75 per sqm for offices; and • Southwark (adopted) - £70 per sqm of offices in Zone 1; nil rate elsewhere <p>Given these areas are some of most expensive office locations in the country with rents well in excess of £50 per sqft in some locations; it again highlights the questionable nature of RBWM's proposed CIL with respect to offices.</p>	The proposed CIL charge for offices is based on a robust assessment of the viability. However the evidence base for offices will be re-visited in light of this representation. The viability evidence will be reviewed prior to the DCS and an update report published.

20	Berwick Hill Properties (Leatherhead) Ltd	Asher Ross, Boyer Planning	20.3	Appraisal assumptions	<p>We consider many of the assumptions used in the appraisals to be unrealistic which may explain the high CIL rate for offices. The main appraisal assumptions of concern include –</p> <ul style="list-style-type: none"> • Fees: paragraph 7.28 states the 8% has been used for professional fees. We think the original 10% is more appropriate and has been accepted in Hackney's Charging Schedule and is being used by South Oxfordshire; • S106: paragraph 7.31 confirms the s106 assumptions for residential development is £2,500 per unit but is seemingly silent with respect to offices. Fifteen per cent is used for infrastructure costs but it is unclear if this meant to cover residual s106 requirements, s278 requirements or both; or alternatively is an additional cost. If it is meant to cover s106 / s278 what is the basis for 15% of costs? The NPPG states a charging authorities approach to s106 should be based on local evidence. This evidence is absent from the Viability Study. Table 7.3 appears to summarise the likely s106 obligations based on the Planning Obligations and Developer Contributions SPD. For offices this table concludes £206 per sqm for s106. This appears to be nothing more than a theoretical exercise given the final s106 sums secured must be linked to the specific impacts of a scheme and are based on negotiation. Instead we would expect to see analysis of what RBWM has actually successfully secured in terms of s106 with respect to office development. From here we would expect to see some scaling back of the s106 payment in acknowledgement that some payments will now be made under the CIL regime rather than s106. This evidenced figure, with clearly explained assumptions, should then be used in the appraisals. Calculating what was previously negotiated under s106 is also useful for comparison against the proposed CIL charge to help ascertain any additional financial impact CIL will have on development in comparison to historically achieved s106 payments; • Void and rent free periods: paragraph 7.51 states only 3 month is used in the appraisals and claim very little speculative commercial development is taking place in the area. We would like to see evidence that nearly all office development in the RBWM is pre-let before construction starts. We believe 2 years is a more appropriate assumption and has been accepted as part of the Hackney CIL Charging Schedule and within the South Oxfordshire DCS. What is the basis for the different assumptions used here? • Acquisition costs: other Charging Schedules use 5.8% to cover acquisition costs including agent fees, legal fees and stamp duty. Again assuming 4% has been used for 	The evidence base for offices will be re-visited in light of this representation. The Council proposes to do further testing to assure itself that it has tested an appropriately wide and representative sample of offices across the borough. It will also re-visit the assumptions that have gone into the development appraisals. The Council will look more closely at the distinctions between the different areas of the borough and also look at up-to-date rental data to ensure that the original assumptions are still robust.
20	Berwick Hill Properties (Leatherhead) Ltd	Asher Ross, Boyer Planning	20.4	Viability buffer	<p>The CIL regulations state that in setting a charge, local authorities must “aim to strike what appears to the charging authority to be an appropriate balance” between revenue maximisation on the one hand and the potentially adverse impact of CIL upon the viability of development across the whole area on the other. In essence we believe this to mean that local authorities should not set their CIL rates at the limits of viability. They should leave a margin or contingency to allow for change and site specific viability issues. To address this issue many CIL Charging Schedules, such as Hackney, Tower Hamlets and South Oxfordshire to name a few, have included a buffer or discount from the maximum possible CIL Charge to ensure CIL is not at the margins of viability. Fifty per cent has typically been applied to office development in acknowledgment of it having a higher risk profile than residential development. Applying a 50% discount to the proposed charge would reduce the office rate to £75 per sqm. This is still significantly higher than surrounding areas and for office development in central London. We strongly believe after addressing our issues around the appraisal assumptions and BLV described above, and then applying a discount, the final CIL rate that can be accommodated by office development would be considerably lower than £150 per sqm and may even result in a nil charge.</p>	The Viability Study ensures there is an adequate viability buffer by testing the impact of CIL as a % of residual value and as a % of gross development value. These two tests are common ways of ascertaining whether there is an adequate viability buffer. In addition, the Viability Study contains sensitivity analysis both on development cost and value. These various tests have been used for the proposed CIL charging schedule. Nonetheless the Council will re-visit all the viability appraisals to re-confirm whether the recommended CIL rates are still supported by up-to-date evidence. The results of this additional work will be in a report that accompanies the draft charging schedule (DCS).
20	Berwick Hill Properties (Leatherhead) Ltd	Asher Ross, Boyer Planning	20.5	Lack of modelling sites likely to come forward	<p>Finally it appears no effort has been made to model development scenarios which are representative of the schemes which may come forward in the area. Appendix 10 only appears to run an appraisal on a typical office unit rather than a complete development. This again is at odds with many other CIL Charging Schedules which model a range of generic schemes which differ in floorspace size, floorspace type, density, site coverage, location and subsequent BLV assumption etc. By running a number of different development scenarios you are better able to sensitivity test the impact CIL is likely to have on viability.</p>	There is limited new office development which is expected to come forward in the near term in the borough. This is why the testing of offices was limited to two typologies. However the Council believes that the typologies which have been tested are suitably high level and generic. The viability evidence will be reviewed prior to the DCS and an update report published.
21	Summerleaze	Neville Surtees, Barton Willmore	21.1	Alignment with an up-to-date local plan	<p>RBWM has not yet commenced its latest round consultation on a new Borough Local Plan, and no up-to-date SHMA is available to provide evidence of housing need. As such, the Plan is not sufficiently advanced to determine an accurate infrastructure funding gap, which is required for a LPA to consider introducing CIL. RBWM will need to consider delaying the advancement to DCS stage until the Local Plan takes shape. This position was taken by the Inspector examining both the local plan and CIL for Maldon (see appendix 1).</p>	
21	Summerleaze	Neville Surtees, Barton Willmore	21.2	Strike a balance between securing required investment for infrastructure and ensuring the Local Plan can be delivered viably	<p>Notwithstanding concerns surrounding some of the assumptions made within the viability study, analysis shown in section 3 of this report shows that CIL at the proposed rates are significantly higher than the level required to meet the funding gap identified by the Infrastructure Delivery Plan, with CIL receipts being potentially double what is required. By charging such a high rate, the Council is putting development at risk when there is no need to do so to meet infrastructure funding requirements, and is likely to have a particularly significant adverse effect in Maidenhead where viability is marginal.</p>	The Council has conducted its own analysis of CIL income which shows that there is the potential for CIL to contribute towards a significant closing of the funding gap.

21	Summerleaze	Neville Surtees, Barton Willmore	21.3	Accounting for costs of meeting regulatory requirements, including affordable housing provision and site-specific requirements	The viability appraisal makes broadly reasonable assumptions of costs. However, little local evidence is used; where such information is provided as part of the consultation exercise, the viability appraisal should be amended as appropriate. Furthermore, sensitivity testing scenarios should be provided to model the effects of lower sales values and higher construction costs, as these assumptions may not fully account for local characteristics.	The viability evidence will be reviewed prior to the DCS and an update report published.
21	Summerleaze	Neville Surtees, Barton Willmore	21.4	Variable rates where certain development types would not be viable under a flat rate of CIL	Taking the appraisal results as read, the majority of development scenarios would comfortably be able to absorb the rates of CIL proposed. However, as stated above, further refinement of the viability appraisal is required to better reflect local characteristics. In particular, care needs to be taken with regard to sales values, as the presence of large houses in very desirable parts of the Borough is likely to have skewed the data analysed by HDH.	The Council has indeed introduced differential rates based on a range of house values found in the borough. The Viability Study uses a wide range of sources to establish its assumptions on house prices based on a wide range of locations throughout the borough. The Study looks at both existing and new stock. The viability evidence will be reviewed prior to the DCS and an update report published.
21	Summerleaze	Neville Surtees, Barton Willmore	21.5	Incorporating a buffer of sufficient size to ensure that changes in the wider economy do not threaten the viability of developments	Further sensitivity testing and the incorporation of local information provided by the development industry would help to provide evidence that the rates of CIL suggested would not act as a brake on much-needed housing supply.	The Viability Study conducts ample sensitivity testing to ensure that the CIL rates would not put development at risk. It uses a range of tests to do so, including CIL as a percentage of residual values and CIL as a percentage of GDV.
21	Summerleaze	Neville Surtees, Barton Willmore	21.6	Clearly define which items of infrastructure are to be funded through CIL and which are to be funded through planning obligations	The Council needs to provide further clarity on the infrastructure to be funded through planning obligations (such as S106) and through CIL by producing a Regulation 123 list. On the basis of the evidence provided in the Infrastructure Delivery Plan, CIL receipts would far outweigh the identified infrastructure funding gap	The Council has provided a Draft Regulation 123 List in Appendix B of the PDCS which seeks to provide clarity on how strategic infrastructure will be funded. The list will be refined for the DCS. The Council has also published guidance on how it will use S106 to fund infrastructure. Commentary pertaining to this is included in the PDCS. The Council disputes that potential CIL receipts 'far outweigh' the identified funding gap. It addressed this issue in Issue reference 21.2.
22	Royal London Asset Management	Christopher Tennant, WYG	22.1	Interim CIL	We suggest the Council should not "rush-through" an interim CIL, but properly prepare a robust and transparent CIL based on the policies and proposals contained in the forthcoming Borough Local Plan.	The Council believes it has prepared a robust and transparent evidence base that reflects its current policies and proposals. As the PDCS explains in section 5, CIL is currently the most effective means for the Council to secure infrastructure funding and therefore wishes to adopt a charging schedule as soon as possible. The PDCS also states that the Council intends to revisit its CIL charging schedule once the new Local Plan is in place.
22	Royal London Asset Management	Christopher Tennant, WYG	22.2	CIL rate too high in Maidenhead Urban Area	We are supportive of the differential rates proposed concerning residential development within Maidenhead and the wider borough, however, we consider that the CIL charging rate proposed concerning the "Maidenhead Urban Area" is too high, and as a result, may compromise the delivery of the delivery of sustainable housing locally. Many of the sites within this charging zone are also brownfield, and will also be impacted by similarly high redevelopment costs. Doing so will help maximise the development potential of sites within this area, and will ultimately help ensure the effective delivery of local housing, and also, would not threaten the delivery of the emerging development plan.	The Viability Study modelled brownfield sites and previously developed land throughout RBWM and provided an allowance of 5% of base build costs for such sites. The Council considers this a reasonable allowance given that some sites will not have these costs. In addition, the Viability Study says that land values for brownfield sites (for which development costs will be higher) will often be lower to reflect the higher development costs. The viability evidence will be reviewed prior to the DCS and an update report published.
22	Royal London Asset Management	Christopher Tennant, WYG	22.3	Build costs	With regard to the Build Costs, HDH Planning has based cost assumptions on the Building Cost Information Service (BCIS) data. Generally we agree with this approach, however, not enough evidence has been provided to justify the proposed levels. Ideally we would like to see input and analysis from a list of developers to justify specific schemes in Maidenhead. The BCIS data is more general and may not reflect the actual build cost of sites in Maidenhead, and liaison with local developers may better inform this approach.	The viability evidence will be reviewed prior to the DCS and an update report published.
22	Royal London Asset Management	Christopher Tennant, WYG	22.4	CIL rate too high in Maidenhead Urban Area	Residential development within the "Maidenhead Urban Area" would already be supported by long-established, effective transport infrastructure. This further supports the assertion that a lower CIL rate would be appropriate concerning residential proposals within the "Maidenhead Urban Area" Charging Zone.	The viability evidence will be reviewed prior to the DCS and an update report published.
22	Royal London Asset Management	Christopher Tennant, WYG	22.5	CIL rate too high in Maidenhead Urban Area	We further assert that the charging rate concerning "Maidenhead Urban Area" should be lowered, as a means of incentivising residential within the town, and ultimately, to help in the delivery of quality homes within the Borough.	The CIL charge should not be used as a means of incentivising development or any other policy-related goals.
22	Royal London Asset Management	Christopher Tennant, WYG	22.6	CIL boundaries	We are supportive of the proposed boundary concerning the 'Maidenhead Urban Area' Charging Zone. This boundary mirrors the urban form of the town, and in part, follows the town's green belt boundary.	The Council welcomes the support.
22	Royal London Asset Management	Christopher Tennant, WYG	22.7	Regulation 123 list	We consider that there is a lack of transparency concerning the specific projects which developers' CIL contributions will inevitably fund and the list should be revised.	The respondent's comments are noted but the Council believe that flexibility is required at this stage to allow it to be responsive to need as development occurs.

22	Royal London Asset Management	Christopher Tennant, WYG	22.8	Inclusion of Stafferton Way Link Road on Regulation 123 list	We would like clarification concerning the Stafferton Way Link Road. Works concerning this project are currently underway (as approved via planning permission 14/00167/FUL), and works have been funded via a mixture of local S106 contributions and Government funding. However, we understand that a requirement for various 'ancillary works' associated with this project has arisen during the course of construction, and these works are not currently covered by the scope of the existing planning permission. The Stafferton Way Link Road is of a strategic importance to the local area, and enhances Maidenhead town centre's connectivity with the wider Borough. As a result, we consider that 'works associated with delivery of the Stafferton Way Link Road' would be a suitable addition to RBWM's Regulation 123 List.	The cost of delivering this link road have been budgeted for and it is anticipated the road will be complete by the time a CIL is introduced and funds start to be received.
23	National Grid	Karen Charles, DTZ	23.1	CIL rate too high outside of the Maidenhead Urban Area	The Preliminary Draft Charging Schedule sets a 'blanket' charge of £240 / sq m for residential development outside the Maidenhead urban area. This fails to take into consideration the significant abnormal costs associated with the redevelopment of some brownfield sites. To that end, the size and type of sites assessed in the CIL Viability Study (a key part of the evidence base informing the Preliminary Draft Charging Schedule consultation) do not fully reflect those which the Council are proposing to allocate and see developed for housing – as set out in the Second Preferred Options Borough Local Plan consultation. It is essential that an appropriate range of sites are tested, having regard for the Council's revised housing need assessment as necessary, in order to ensure a sound CIL Charging Schedule.	The Viability Study modelled brownfield sites and previously developed land throughout RBWM and provided an allowance of 5% of base build costs for such sites. The Council considers this a reasonable allowance given that some sites will not carry abnormal costs. In addition, the Viability Study says that land values for brownfield sites (for which development costs will be higher) will often be lower to reflect the higher development costs. The viability evidence will be reviewed prior to the DCS and an update report published.
23	National Grid	Karen Charles, DTZ	23.2	The site at Bridge Road, Sunninghill	The National Grid site at Bridge Road, Sunninghill is a substantial brownfield site in a sustainable location. The Council have supported the principle of redevelopment of this site for housing in the Ascot, Sunninghill and Sunningdale Neighbourhood Plan (2014). In addition, the Preferred Options of the emerging Local Plan contains a specific commentary on the site that identifies the site as having the potential to deliver: "a mix of larger and smaller houses, reflecting the housing types on Bridge Road and on Cavendish Meads, with the possible addition of some flatted element. Safe and appropriate access to the site will need to be demonstrated to be deliverable, either through acceptable solutions to access from Bridge Road or through the two entrances onto the adjacent Cavendish Meads, or through another acceptable option." The draft Local Plan proposes a capacity of 80 dwellings, and the availability of the land between 2020 and 2024. More recently, National Grid have advised the Council that the site has potential for around 100 units which could be delivered in the next 5 years. In order for the site to be redeveloped for housing, substantial abnormal costs have been and will continue to be incurred to remove constraints to enable redevelopment of the site, such as the gas holder, remediation and other enabling costs associated with brownfield land. This financial burden is significant and much higher than would normally be expected on a typical brownfield site and other sites in the borough where the CIL will also apply. As such, in order for this important sustainable brownfield site to be delivered for housing in the short term, as supported by the Council, it is essential that the viability of the development is not threatened by the cost of CIL.	The CIL rates are based on testing the viability of a <u>sample</u> of development sites in the borough. The development viability models reflect a broad consideration of development in the area, including brownfield sites with abnormal costs. As stated in the Council's response to Issue ref. 23.1, abnormal costs will often be reflected in a lower land value. To be clear, the proposed CIL charging schedule has been drafted in a manner so as not to jeopardise the viability of development.
24	National Grid	Karen Charles, DTZ	23.3	Abnormal costs and viability testing	It is noted that the CIL Viability Study assumes an additional allowance of 5% of the BCIS costs for abnormal development costs (paragraph 7.22) and states that such costs will be reflected in land value (paragraph 7.25). When considering viability matters in plan making, the National Planning Practice Guidance provides guidance. The Guidance points to the importance of the Council in correctly identifying and taking into account abnormal costs when evidencing the CIL Charging Schedule. Failure to do so could result in unwilling developers and land owners to the detriment of the Council's housing strategy and development plan.	The Council believes that it has adequately and appropriately accounted for abnormal costs in its viability testing for CIL charges. The Council welcomes any evidence that could help develop its view of the impact of abnormal costs of development viability. As stated in Council responses above, the development viability modelling has included an allowance for abnormal costs associated with brownfield land.
25	National Grid	Karen Charles, DTZ	23.4	Timetable for CIL preparation	The Preliminary Draft Charging Schedule refers to the publication of the Draft Charging Schedule in July / August 2015 and the Examination in October 2015. This seems unrealistic and clarify is sought on the future timetable for the preparation of the CIL.	The Council will shortly be updating the timetable for its preparation of the CIL.
24	Thames Water	David Wilson, Savills	24.1	CIL exemption for infrastructure	Thames Water consider that water and wastewater infrastructure buildings should be exempt from payment of the Community Infrastructure Levy and this appears to be the case in the draft schedule where only residential, retail and office development types are charged which is supported by Thames Water.	The Council welcomes Thames Water's support of the CIL charging schedule.
24	Thames Water	David Wilson, Savills	24.2	Infrastructure list amendment	The Council may however wish to consider using CIL contributions for enhancements to the sewerage network beyond that covered by the Water Industry Act and sewerage undertakers, for example by proving greater levels of protection for surface water flooding schemes. Sewerage undertakers are currently only funded to a circa 1:30 flood event.	Water companies pay for infrastructure improvements and recover the costs from consumers. The Council is not aware of any other local authorities who have included this infrastructure category on the CIL Regulation 123 List. At this time the Council believes that the current list is satisfactory in this regard and that it does not wish to use CIL for this purpose.

25	Oakfield Homes	Paul Thomas, WYG	25.1	Prematurity of CIL	There are some serious drawbacks from introducing CIL before the Local Plan has been tested at Examination and been adopted. As the housing figure for RBWM has yet to be determined, we would argue that the CIL Preliminary Draft Charging Schedule is premature. This is because the evidence base, which includes the CIL Viability Study and the Infrastructure Delivery Plan, would not have tested the final OAN for the Borough and all of the potential site allocations.	The Council disputes that the proposed CIL is premature. The proposed CIL charging schedule reflects the existing Development Plan and development which is anticipated to come forward through this Plan. The process for the adoption of a new Local Plan is underway. This process will incorporate a range of inputs including new housing targets. Once the new Local Plan is adopted, the Council intends to revisit the CIL charging schedule.
25	Oakfield Homes	Paul Thomas, WYG	25.2	Duty to cooperate	The Duty to Co-operate issues have not been explored as yet through a Local Plan Examination. The Government has recently announced as part of the 'Fixing the Foundations' budgetary document (July 2015) that stronger guidance would be published on the Duty to Co-operate to "improve the operation of the duty to cooperate on key housing and planning issues, to ensure that housing and infrastructure needs are identified and planned for." Therefore, hypothetically RBWM may be in a position to take housing numbers from neighbouring authorities, which would potentially have a significant impact on housing delivery and infrastructure requirements. At the current time, this has yet to be fully explored and therefore the Council's Infrastructure Delivery Plan is likely to be subject to change.	The Council notes the issue regarding Duty to Cooperate. However the proposed CIL charging schedule reflects the existing Development Plan. As the new Plan emerges the issue of Duty to Cooperate will be addressed through the plan preparation process.
25	Oakfield Homes	Paul Thomas, WYG	25.3	Prematurity of CIL and the implications of CIL funds collected	The collection of CIL payments from developments prior to the adoption of the Local Plan, especially at the higher rate of £240 per m2 could be significantly lower or higher than the rate eventually approved once the Local Plan is adopted after Examination, without the recourse for developers or indeed the Council to claw back any funds.	The Council accepts that once the Local Plan is adopted and it revisits the CIL charging schedule that the rates could be higher or lower. However the currently proposed rates reflect current development viability. CIL will be reviewed alongside the preparation for the new Local Plan.
26	Orbit Developments (Southern) Limited	Matthew Dugdale, Emerson Group	26.1	Viability buffer and sensitivity testing	The proposed CIL rates chosen in the PDCS for each development type (residential, office development and retail) match the maximum theoretical levels of viability identified in Table 12.4 of the Viability Study (April 2015) without having applied any viability "buffer" or sensitivity testing.	The proposed rates <u>do not</u> match the maximum theoretical levels of viability. The Council welcomes any analysis which suggests that this is the case. The Viability Study ensures there is an adequate viability buffer by testing the impact of CIL as a % of residual value and as a % of gross development value. These two tests are commonly accepted as being appropriate for ascertaining whether there is an adequate viability buffer. In addition, the Viability Study contains sensitivity analysis both on development cost and value. These various tests have been used for the proposed CIL charging schedule. The viability evidence will be reviewed prior to the DCS and an update report published.
26	Orbit Developments (Southern) Limited	Matthew Dugdale, Emerson Group	26.2	Viability testing of residential development	The proposed residential rate of £240/sqm is disproportionately high, particularly when compared against neighbouring authority residential charges in Berkshire/ Buckinghamshire (e.g. Reading - £120/sqm; West Berkshire – £125/sqm; Wycombe – £150/sqm). This will place a significant proportion of new residential development at risk and may force developers into neighbouring areas. Having considered the Viability Study, there is a greater variance in residential property values across the Borough than those that have been assessed. For example, a detached house in Ascot can vary from £350,000 to £4.5 million, which is lower than the assumed house price of £5000/sqm. In addition, no appraisal of the viability of apartments has been undertaken for Sunninghill and Ascot. In addition, it is not clear what size, type and mix of dwellings have specifically been tested in the Viability Study. This is a key variable, which has a significant bearing on construction costs and values, and hence viability. Furthermore, no assessment of the viability of converting existing buildings to residential use has been conducted. Therefore, the Council should address these concerns by undertaking further work.	The Council believes that it has arrived at the proposed CIL charge for development outside of the Maidenhead Urban Area based on a sound assessment of development viability. Paragraphs 9.7 and 9.8 of the Viability Study address the issue of mix of dwellings. The typologies which have been modelled implicitly include flats as well as a broad mix of unit sizes and types. The viability evidence will be reviewed prior to the DCS and an update report published.
26	Orbit Developments (Southern) Limited	Matthew Dugdale, Emerson Group	26.3	Viability testing of office development	The proposed rate for offices of £150/sqm appears disproportionately high, especially when compared against neighbouring authority office charges in Berkshire/ Buckinghamshire (e.g. Bracknell Forest – nil; Reading - £30/sqm; West Berkshire – nil; Wokingham – nil; Wycombe – nil). It should be noted that there are distinct variations in office viability across the region, which is reflective the level of demand in those areas. The Viability Study assumed rents of £325/sqm for large offices and £275/sqm for small offices, with respective yields of 6.5% and 7% (Table 5.1). In the Group's view, these are overinflated for assessing the Borough as a whole and are actually more reflective of prime rents for new build Grade 'A' offices within Maidenhead or Windsor town centre, which as you will be aware, are very strong office markets. Elsewhere in RBWM, for example in Ascot and Sunninghill, the demand for offices and hence values is proportionately lower. In the Group's experience, the actual rents are more in the region of £200-250/sqm with equivalent yields of around 7.5-8%, which is significantly lower than the Viability Study's assumptions. If the Council were to charge the proposed rate of £150/sqm, then this would render new office schemes outside Maidenhead and Windsor unviable and, in turn, hamper the ability to provide additional employment opportunities elsewhere in RBWM. The Group recommend that the Council undertake further work to establish the variations of office viability	The proposed CIL charge for offices is based on a robust assessment of the viability. However in light of this representation the Council proposes to do further testing to assure itself that it has tested an appropriately wide and representative sample of offices across the borough. The results of the reexamination of all of the inputs (including rents and yields across the market) for the office development appraisals will be in a report which will accompany the draft charging schedule (DCS).

26	Orbit Developments (Southern) Limited	Matthew Dugdale, Emerson Group	26.4	Viability testing of retail development	<p>The Viability Study is not fully reflective of the form of new retail development likely to come forward and the resulting differences in rental values and yields. Therefore, the Group request that the following amendments are made to the viability assumptions. Firstly, it should be recognised that the 'big four' supermarkets (Asda, Morrisons, Sainsburys and Tesco) have scaled back their development programmes as a result of changing retail patterns and reduced consumer spending. Therefore, it is unlikely that any supermarket stores of 4,000 sqm will be delivered due to viability concerns.</p> <p>Secondly, whilst the Group are supportive that smaller format supermarkets for budget operators (Aldi and Lidl) have been identified, it has been assumed that these are 1,200 sqm in size. However, in the Group's experience, these are more likely to be larger stores of 1,300-1,800 sqm. In addition, no allowance seems to have been taken for the growth in high value supermarkets (Waitrose and M&S Food), which are similar in size to their budget counterparts. Therefore, these schemes should be tested.</p> <p>Thirdly, no account has been taken of the growth of neighbourhood convenience stores (Co-op, M-Local, Sainsburys Local, Tesco Express/Metro). These stores differ in size, but are typically no larger than 500 sqm. Therefore, these schemes should be tested.</p> <p>Finally, the assumption that a retail warehouse will comprise 4,000 sqm of floorspace is too simplistic. In the Group's experience, individual units can vary greatly in size between 100 sqm (e.g. Carphone Warehouse) to 8,000 sqm (e.g. a Next flagship store) and can either be developed in a parade or as standalone units. Therefore, these schemes should be tested.</p>	The viability evidence will be reviewed prior to the DCS and an update report published.
27	Orbit Developments (Southern) Limited	Matthew Dugdale, Emerson Group	26.5	Need for up-to-date Local Plan	<p>The Group are concerned that RBWM intend to adopt CIL in advance of their emerging Local Plan, as stated at paragraph 3.2 of the PDCS. The Council clearly leaves itself at risk of challenge should the Local Plan not progress as envisaged and the supporting evidence be found 'unsound'.</p> <p>In particular, the supporting CIL Viability Study (April 2015) appraisal is based upon current planning policies set out in the 1999 Local Plan (as amended in 2003) and not the emerging new Local Plan. Arguably, as 'best practice' and guidance dictates, the Council should be testing the viability of CIL alongside its emerging Local Plan policies. Clearly, if new policies introduce higher burdens on new development (in addition to CIL) than existing policies, then this could stifle new development. This is a key failing of the proposed RBWM approach.</p>	See separate Progressing CIL Statement which explains the council's position

Report for: ACTION



Contains Confidential or Exempt Information	No – Part I
Title	Review and Revision of the S106 Education Contributions
Responsible Officer(s)	Chris Hilton, Director of Development and Regeneration Alison Alexander, Managing Director and Strategic Director of Children’s Services
Contact officer, job title and phone no.	David Scott, Head of Education
Member reporting	Cllr Derek Wilson Lead Member for Planning Cllr Phillip Bicknell Lead Member for Education
For Consideration By	Cabinet
Date to be Considered	26 November 2015
Implementation Date if Not Called In	1 December 2015
Affected Wards	All wards
Keywords/Index	S106, developer contributions, education, schools

REPORT SUMMARY

1. Provisions made in the Community Infrastructure Levy Regulations 2010 (as amended) came into effect on 6th April 2015. These provisions restrict the use of S106 contributions. This has resulted in a need to change the way in which Education S106 contributions are allocated. . These contributions are used to offset the impact of new housing on school capacity..
2. This report recommends approval of an interim methodology to of justifying and allocating developer contributions for education as set out in Appendix A, with implementation from 1st December 2015. The interim methodology includes updates to the level of contribution sought, these being amended in accordance with prior delegation from Council.
3. Appendix A sets out when contributions are required from developers for education projects and the justification for the amount sought. It also sets out the process for prioritising specific projects to offset the impact of a particular development.
4. The Royal Borough will continue to negotiate for developer contributions in this way until Community Infrastructure Levy (CIL) has been implemented.

If recommendations are adopted, how will residents benefit?	
Benefits to residents and reasons why they will benefit	Dates by which they can expect to notice difference
Continued collection of education S106 developer contributions to offset impact of new housing on schools.	December 2015

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATIONS: That Cabinet:

- i) Approves the interim education S106 developer contributions methodology attached at Appendix A to be used as the basis for negotiations with developers. This includes revisions to the level of contribution sought per dwelling, in accordance with prior delegation from Council.
- ii) Requests that schools submit updated Asset Management Plans.
- iii) Delegates authority to the Strategic Director of Children’s Services to agree future updates to the level of contribution sought per dwelling.

2. BACKGROUND

- 2.1 The Royal Borough has been collecting education S106 developer contributions since 2002, to offset the impact of new housing developments on local schools. Over £10m has been collected, helping schools in all parts of the borough to expand their facilities to accommodate the additional children from new housing.
- 2.2 The existing framework was agreed by the Royal Borough’s full Council in November 2005, and published as the *Planning Obligations and Developer Contributions Supplementary Planning Document – A Developers’ Guide* in December 2005. An annual update, published under delegated authority from Council, set out revised costs and lists of projects eligible for funding.
- 2.3 The Community Infrastructure Levy Regulations 2010 (as amended) now restricts the use of S106 contributions, with the result that the existing arrangements for collecting and utilising education S106 developer contributions can no longer be applied.
- 2.4 The borough is currently working towards implementing CIL in 2016. This report recommends adoption of an interim education S106 developer contributions methodology so that residents, schools and developers are aware of the basis for negotiating education contributions is. The CIL will replace S106 contributions for education.
- 2.5 Appendix A sets out the methodology and is briefly outlined as:
 - Education S106 developer contributions will now only be collected from a relatively small number of developments, due to restrictions on combining, or ‘pooling’, contributions from more than five developments towards any single piece of infrastructure.

- Contributions will be sought where there are less than 10% surplus places at any tier of education in the area local to the development.
- Contributions will not usually be sought on developments that generate a net pupil yield of less than three children.
- The amount sought will be based on the cost of providing additional school infrastructure for the number of pupils that a new development is expected to yield.
- The proposed per m² build rate is based on the build costs of recent projects in the borough. The space required per pupil is based on government guidance.
- Contributions from any single development will usually only be used to fund or part-fund a scheme at one school. The contributions will not, as has previously been the case, be split across a number of schools or across primary/secondary schools. This is to ensure that the sums collected can be used effectively and that the project can be delivered.
- Only certain schemes are compliant with the CIL regulations – e.g. new schools, extensions to existing schools, internal remodelling of existing schools and disabled access improvements. It makes clear that certain types of work, such as repairs and maintenance, are not eligible for education S106 developer contributions.
- There will be a number of schools with potential projects. These will be prioritised as follows:
 - Priority 1 – school expansion schemes that are already approved by Cabinet.
 - Priority 2 – other compliant schemes.

Revisions to the contributions sought are made under authority delegated by Council, in November 2005.

- 2.6 Within Priority 2, potential schemes will be derived from the current School Asset Management Plans (AMP). Schools are asked each summer to update their AMPs¹, and this report recommends that schools are asked for an updated AMP following Cabinet. Schools will be asked to rank their projects and estimate the size of the scheme (m²).
- 2.7 This approach ensures that the administrative impact on schools is kept to a minimum and that planning applications can be determined within statutory timeframes, whilst still preserving direct school involvement.
- 2.8 Schemes within Priority 2 will be scored on the basis of best addressing local demand for places; whether they result in an increased school Published Admission Number (PAN); the current balance between the number of places at the school and available workplaces; and cost.

3. OPTIONS

Recommendation 1 - Approves the Interim Education S106 Developer Contributions Methodology attached at Appendix A to be used as the basis for negotiations with developers. This includes revisions to the level of contribution sought per dwelling, in accordance with prior delegation from Council.	
Approve	Recommended. This will provide a robust framework for the negotiation of education S106 developer contributions that is clear to residents, schools and developers.
Reject	Not recommended. The borough will still be able to negotiate education S106 developer contributions, but there could be less clarity about process or the grounds for negotiation.

¹ Except in Summer 2014.

Recommendation 2 - Requests that schools submit updated Asset Management Plans (AMPs).	
Approve	Recommended. Although schools are asked on an annual basis for their AMPs, many schools do not respond. A reminder may encourage more schools to provide an update, which, in turn, will ensure that the borough's information is up-to-date.
Reject	Not recommended. This will mean that the borough's AMP information will be more out-of-date than otherwise.
Alternative	Not recommended. The consideration of schools as being eligible for consideration for S106 funds could be made contingent on them having submitted an updated AMP list in 2015. This may help ensure that the borough's AMP information is more up-to-date. It is likely, however, that significant numbers of schools will still fail to provide up-to-date AMPs.
Options	Note
Recommendation 3 - Delegates authority to the Managing Director And Strategic Director of Children's Services to agree future updates to the level of contribution sought per dwelling.	
Approve	Recommended. Children's Services are currently running an exercise to update the 'pupil yield' figures (i.e. the number of children a new house is expected to generate), which won't be complete until 2016. Government guidance on school accommodation and local build costs also change. Delegated authority to amend these figures will allow the Royal Borough to use the most up-to-date figures and make prompt decisions accordingly.
Reject	Not recommended. It would be necessary to return to Cabinet to amend the figures used in the policy creating extra levels of bureaucracy and significantly impeding timeliness of decisions.

4. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Proportion of qualifying planning applications with agreed S106 developer contributions secured during operation of the interim methodology.	<10%	10%	11-14%	>15%	01/12/2016

- 4.1 This methodology will be used until such time as it is superseded by the Community Infrastructure Levy, expected in 2016.

5. FINANCIAL DETAILS

Financial impact on the budget

Capital

- 5.1 The borough received over £2m of education S106 developer contributions in each of the 2012/13, 2013/14 and 2014/15 financial years. These funds were generated by the old, pre-6th April 2015, education S106 policy, when at least 80 new agreements were signed each year.
- 5.2 In the 2015/16 financial year, monies from legal agreements that were signed prior to 6th April 2015 are still coming in, but receipts this year are expected to be significantly

reduced on previous years. To date, less than £300k has been received. This is partly because a Ministerial statement in November 2014 stated that S106 contributions should not be sought on developments of ten dwellings or less. This was overturned by the High Court², but by this point CIL restrictions on pooling were in force.

- 5.3 Whilst the borough is currently moving towards implementing a CIL locally, it cannot currently collect the levy until the charging schedule has been examined by an independent examiner. Two S106 legal agreements, totalling just over £700k, have been signed since 6th April 2015. By adopting an interim S106 methodology the borough will have a transparent and compliant basis for negotiation with developers, and will therefore be able to offset some of the impact of new housing on schools.
- 5.4 The interim methodology on education S106 developer contributions states that the borough will not usually seek contributions on developments that generate a net pupil yield of less than 2 children. This means that the minimum contribution sought will be around £30k. Historically, 87% of education S106 contributions have been for less than this amount. It follows, therefore, that the proportion of planning applications for which education S106 developer contributions will be sought under the new policy will be in the region of 10-20%.
- 5.5 The number of education S106 developer contributions agreed under this policy will be dependent on the type and size of planning applications coming forward.

Revenue

- 5.6 There are no direct impacts on revenue funding.

6. LEGAL

- 1.1 The Community Infrastructure Levy Regulations 2010 (as amended) set out three tests that must be met to justify requests for contributions. They must be:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 1.2 The CIL regulations also introduced a restriction in the use of S106 developer contributions on any determination of a planning application after 6th April 2015. Regulation 123 states:
- (3) *Other than through requiring a highway agreement to be entered into, a planning obligation (“obligation A”) may not constitute a reason for granting planning permission to the extent that*
- (a) *obligation A provides for the funding or provision of an infrastructure project or provides for the funding or a provision of a type of infrastructure; and*
- (b) *five or more separate planning obligations that—*
- (i) *relate to planning permissions granted for development within the area of the charging authority; and*
 - (ii) *which provide for the funding or provision of that project, or provide for the funding or provision of that type of infrastructure, have been entered into on or after 6th April 2010.*

² The Secretary of State is currently appealing the decision.

1.3 This means that any single school project can only be funded or part-funded by S106 developer contributions from up to five developments, including any arising from legal agreements signed since 6th April 2010³. This limit on the ‘pooling’ of contributions is a significant change from the previous S106 arrangements.

7. VALUE FOR MONEY

1.4 By increasing the proportion of planning applications for which education S106 developer contributions are agreed, the borough will maximise the funds available to offset the impact of new development on local schools.

8. SUSTAINABILITY IMPACT APPRAISAL

1.1 There are no sustainability impacts arising from the recommendations in this report.

9. RISK MANAGEMENT

Risks	Uncontrolled Risk	Controls	Controlled Risk
Unrealistic expectations from schools about the availability of S106.	High	Offer schools an update on S106 funding via Bursar Support meetings.	Low
Perceptions of unfairness arising from allocation of S106 funds to schools.	High	Record and retain prioritisation and scoring information for each application.	Low

10. LINKS TO STRATEGIC OBJECTIVES

1.1 Residents First - Adopting this new methodology will help secure developer contributions towards education, and these contributions will be used to support improved education outcomes for our children and young people.

1.2 Value for Money – securing developer contributions will enable the Borough to secure additional education infrastructure capacity in a cost effective manner.

1.3 Equipping ourselves for the future – securing the best educational infrastructure for our children and young people will support them achieving the best possible educational outcomes to be economically independent citizens of the future.

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

1.2 There are no staffing/workforce or accommodation implications arising from the recommendations in this report.

12. PROPERTY AND ASSETS

1.3 There are no property and assets implications arising from the recommendations in this report.

13. ANY OTHER IMPLICATIONS

5.1 There are no other implications at this stage.

³ This applies only where one or more of the five contributions are from a development approved after 6th April 2015. If all the contributions for a single project are from developments approved prior to 6th April 2015, then there is no limit on pooling.

14. CONSULTATION

5.2 Representatives from the Fairer Funding For All Borough Schools group were invited by the Chair of the Children's Services Overview and Scrutiny Panel to the meeting of that panel on Tuesday 20th October 2015. The Chair invited the representatives to answer three questions:

- How do we strike balance between the need to respond to planning applications quickly and involving schools in any decisions?
- How do we strike a balance between treating schools fairly and ensuring that education S106 contributions are spent in accordance with regulations?
- How do we decide between competing school projects?

14.2 A summary of the Fairer Funding suggestions and the borough's responses to those is included as Appendix B.

15. TIMETABLE FOR IMPLEMENTATION

15.1 Subject to call-in, this policy will be implemented on 1st December 2015 and will remain in place until the borough implements the CIL locally.

16. APPENDICES

Appendix A: Interim Education S106 Policy
Appendix B: Consultation with Fairer Funding

17. BACKGROUND INFORMATION

Legislation and Guidance

1.5 The legislation that sets out the circumstances in which local authorities can seek developer contributions are contained in the following:

- The Planning Action 2008.
- The Community Infrastructure Levy Regulations 2010 (as Amended).
- Localism Act 2011.
- The National Planning Policy Framework 2012.
- The Growth & Infrastructure Act 2013.

1.6 Guidance is set out in the National Planning Practice Guidance.

Cabinet papers

1.7 None.

Previous policies

1.8 None.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Cllr Burbage	Leader of the Council	30/10/2015	02/11/2015	
Michaela Rizou	Cabinet Policy Assistant	23/10/2015	27/10/2015	
Cllr Bicknell	Lead Member for Children's Services	26/10/2015	26/10/2015	
Sean O'Connor	Head of Legal Services/SLS	26/10/2015	28/10/2015	
Edmund Bradley	Finance partner	26/10/2015	29/10/2015	
Andrew Brooker	Head of Service			
Alison Alexander	Managing Director	23/10/2015	29/10/2015	
External				

Report History

Decision type:	Urgency item?
Key decision	No

Full name of report author	Job title	Full contact no:
Ben Wright	Education Planning Officer	01628 796572
Hilary Oliver	S106 Special Projects Officer	01628 796363

INTERIM EDUCATION S106 METHODOLOGY

This interim Education S106 developer contributions methodology applies for the period from 1st December 2015 until the point at which the Community Infrastructure Levy (CIL) is implemented in the Royal Borough.

1. LEGAL CONTEXT

1.1 The legislation that sets out the circumstances in which local authorities can seek developer contributions are contained in the following:

- The Planning Action 2008.
- The Community Infrastructure Levy Regulations 2010 (as Amended).
- Localism Act 2011.
- The National Planning Policy Framework 2012.
- The Growth & Infrastructure Act 2013.

1.2 Guidance is set out in the National Planning Practice Guidance.

1.3 The CIL regulations set out three tests that must be met to justify requests for contributions. They must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

1.4 The regulations also introduced a restriction on the use of S106 developer contributions. Regulation 123 states:

- (3) *Other than through requiring a highway agreement to be entered into, a planning obligation (“obligation A”) may not constitute a reason for granting planning permission to the extent that*
- (a) *obligation A provides for the funding or provision of an infrastructure project or provides for the funding or a provision of a type of infrastructure; and*
- (b) *five or more separate planning obligations that—*
- (i) *relate to planning permissions granted for development within the area of the charging authority; and*
- (ii) *which provide for the funding or provision of that project, or provide for the funding or provision of that type of infrastructure,*
- have been entered into on or after 6th April 2010.*

1.5 This means that any single school project can only be funded or part-funded by S106 developer contributions from up to five developments. ‘Pooling’ of six or more contributions towards a single project is not permitted¹.

¹ This applies to all new developments where developer contributions have been agreed since 6th April 2015. Developer contributions agreed prior to this date can be pooled towards a single project without limit, except where one or more of the contributions is from 6th April 2015 or after. In those cases the limit on pooling contributions applies.

- 1.6 As has always been the case S106 contributions can only be spent on projects that are needed to offset or 'mitigate' the effect of the development. For education, the effect of a new housing development will usually be to increase the number of school age children resident locally and so increasing the demand for school places. Mitigating the effect of the development, therefore, means increasing the capacity of the local schools to admit additional children.

2. DETERMINING EDUCATION S106 DEVELOPER CONTRIBUTIONS

Pooling contributions

- 2.1 As set out above, the CIL regulations place a limit on the pooling of S106 developer contributions. New education provision in the borough costs on average £2,000 per m². It will not, therefore, usually be effective to collect minor amounts as even pooled with four other contributions they are unlikely to generate sufficient funding to deliver new capital schemes at schools.
- 2.2 In order to ensure that sums collected are of sufficient size to fund or part-fund schemes, within the pooling limit, the borough will not usually consider seeking contributions on schemes that generate a net pupil yield of less than 3 children. Table 1 in Section 4 sets out the current expected pupil yields arising from new dwellings. On this basis, contributions would not usually be sought on a development of less than four houses, or eighteen two bedroom flats.

Surplus places and local schools

- 2.3 The Royal Borough has two separate school systems, with a three-tier system in Windsor, Eton and Old Windsor, made up of first, middle and upper schools. The rest of the borough has a two-tier system of primary and secondary schools.
- 2.4 Under this methodology the borough will usually seek developer contributions for primary, secondary and special educational needs provision.
- 2.5 For the purposes of school place planning, the borough is split geographically into four areas for secondary sector schools and fourteen subareas for primary sector schools. Each new development will be located in one area and one subarea.
- 2.6 Contributions will usually be sought where the subarea or area in which the development is sited have either less than 10% surplus places, or fewer than 6 surplus places at any tier of education. This assessment will consider the longer term balance between supply and demand for school places locally, with reference to the level of surplus places in the intake years and the projections of future pupil numbers locally. Where the surplus of places is above the thresholds given for all tiers of education, and is likely to remain above that threshold for the subsequent five year period, the borough will not usually seek any contributions.
- 2.7 The Royal Borough submits a return to the DfE annually, called the School Capacity (SCAP) survey, which provides information about surplus places and forecast demand. This document will form the basis of all assessments of supply and demand of school places.
- 2.8 Section A of the Annexe to this methodology sets out where the borough's schools are located with regard to areas and subareas.

3. DETERMINING THE LEVEL OF CONTRIBUTIONS

3.1 The Royal Borough will usually determine the level of S106 developer contributions sought for education on the basis of a per dwelling cost. This cost is calculated by multiplying the expected number of pupils arising from a residential development by the cost of providing fixed education infrastructure for each pupil, via the following formula:

$$\text{Per Dwelling Pupil Yield} \times \text{Per Pupil Space Requirement} \times \text{Building Cost per m}^2$$

3.2 More details about the elements of this formula are given in the following sections.

4. PER DWELLING PUPIL YIELD

What are the per pupil yield figures?

4.1 The pupil yield figures are set out in Table 1. These figures vary according to the number of bedrooms in the dwelling and are expressed per dwelling. The pupil yields for two-bedroom properties have been split between flats and houses.

Table 1: Pupil Yield figures per new dwelling

Dwelling size	2 bed flat	2 bed house	3 bed house	4 bed house	5 bed house
Pupil Yield	0.168	0.810	0.747	0.846	0.966

What are the figures based on?

4.2 The pupil yield figures are derived from the efeedback Pupil Product Ratio Research Study, 2005. Efeedback carried out a survey of new properties to establish the number of children resident in dwellings of different sizes and types.

When will these figures be updated?

4.3 The Royal Borough is currently carrying out work on establishing new pupil yield figures for use in preparing forecasts of future pupil demand. This work is expected to be completed in the first half of 2016. The pupil yield figures in Table 1 will be updated once that exercise is complete.

5. PER PUPIL SPACE REQUIREMENT

What is the per pupil space figure?

5.1 The per pupil space requirement figure is **7.56m²**.

What is the figure based on?

5.2 The figures are based on the following government guidance:

- *Building Bulletin 103: Area Guidelines for Mainstream Schools*, DfE/EFA, June 2014.
- *Building Bulletin 102: Designing for disabled children and children with special educational need*, DfE/EFA, March 2014.

How was the figure calculated?

- 5.3 The Building Bulletins set out expected ranges for space requirements for both primary and secondary schools. To calculate the figure used in this methodology, the borough has taken the middle of those ranges for both primary and secondary schools, and then averaged them to provide an overall figure. A small adjustment has then been made to reflect the 1.1 children per 100 (i.e. 1.1%) having Special Educational Needs (SEN) and requiring placement either in special school provision or a Resourced Unit, where there is a much greater per pupil space requirement.
- 5.4 The full calculations are set out in Section C of the Annexe.

When will this figure be updated?

- 5.5 The figures will be updated if government area guidelines are changed. New sixth form staying-on rates, calculated annually, may also result in slight changes to the secondary school per pupil space requirement.

6. BUILDING COST PER M²

What is the building cost per m² figure?

- 6.1 The building cost per m² is **£1,808.50**.

What is the figure based on?

- 6.2 The Royal Borough has based its per m² build cost on Department for Education publications, with inflation factors from the Building Cost Information Service (BCIS) applied. The Education Building Projects: Information on Costs and Performance Data April 2003, gives basic costs per m² for new primary and secondary school extensions. Following various DfE and inflation updates, the figure was £1,624.54 in March 2014, rising to £1,786.99 with the location factor of 1.1 (to take account of higher than average construction costs locally).

How was the figure calculated?

- 6.3 BCIS Construction Briefings note that tender prices rose by 0.6% between the Quarter 1 2013 and Quarter 1 2014, and again by 0.6% to Quarter 2 2015. Applying this to the previous figure of £1,786.99 gives a new figure of £1,808.50.

When will this figure be updated?

- 6.4 This figure will be updated in November 2016 to take account of inflation, or earlier if new information becomes available.

7. PER DWELLING COSTS

- 7.1 Table 2 provides the maximum education S106 developer contribution that would usually be sought.

Table 2: Maximum education S106 developer contributions for 1 new dwelling, by dwelling size

Dwelling size	two bed flat	two bed house	five bed house	four bed house	five bed house
Contribution	£2,296.94	£11,074.53 ²	£10,213.18	£11,566.73	£13,207.40

² The contribution for a two-bedroom house is higher than that of a three-bed house, which reflects the higher number of children living in those dwellings, based on the Pupil Product Ratio Research Study, 2005.

7.2 Where new dwellings are proposed that are of a size or type not in the table above, a pragmatic approach will be taken to calculate an appropriate level of contributions. For example:

- Three bedroom flats will usually be calculated as 1.5x a two bedroom flat.
- Houses with more than five bedrooms will usually be counted as five bedroom houses.
- Bungalows will usually be counted as flats, with the relevant number of bedrooms.

Demolitions

7.3 Some developments can only occur once existing dwellings have been demolished. It is likely that these properties will previously have had children in them and so the pupil yield from the demolitions will usually be offset against the yield expected from the new dwellings. This offset will usually result in lower contributions.

8. LARGE DEVELOPMENTS

8.1 For larger developments that result in the need for a new school, the developer(s) may in the first instance have the option of providing this directly, together with the required land and access arrangements. In these circumstances the local authority will provide a detailed specification for the school building and site, with reference to Building Bulletin 103: Area Guidelines for Mainstream Schools (or later version if changed).

8.2 The Royal Borough will also prepare a specific cost estimate for the provision of a new school or schools, which will form the basis of negotiations for education S106 developer contributions for large developments.

9. SCHEMES TO BE FUNDED BY EDUCATION S106 DEVELOPER CONTRIBUTIONS

S106 compliant schemes

9.1 Education S106 developer contributions must be spent on schemes that increase the capacity of local schools to admit additional children. Compliant schemes include:

- New schools, including land purchase.
- Extensions to existing schools.
- Remodelling of existing schools to provide additional space.
- Disabled access improvements.

9.2 Schools are made up of a mixture of accommodation types, including general classrooms and more specialist teaching areas, as well as ancillary, administrative and staffing areas. Each type of accommodation contributes to the overall capacity of a school and is necessary for the school to operate. These accommodation needs are set out in Building Bulletins 102 and 103. Schemes funded by education S106 developer contributions may therefore include, for example, new, extended or remodelled:

- General classrooms.
- Specialist teaching classrooms (e.g. science labs, art rooms and ICT rooms).
- Small group teaching rooms.
- Large spaces (e.g. the hall, drama studio).
- Library.
- Sports spaces (e.g. gym, sports hall, changing rooms)

- Circulation space (e.g. corridors, reception).
- Staff areas (e.g. offices, staffroom).
- Toilets (e.g. pupil, staff, disabled access, medical room).
- Disabled access improvements (e.g. ramps, lifts, acoustic treatment)
- Catering (e.g. kitchen, dining room).

9.3 A percentage of children from new developments are likely to have medical or physical difficulties that may or may not be associated with learning difficulties. Whilst some of these children will be educated in special school provision, the majority will be taught in their local schools. Disabled access improvements will increase the capacity of the local schools to meet that specific demand that could arise from the new development.

9.4 Education S106 developer contributions cannot be used to remedy existing deficiencies, i.e. maintenance, repair or upgrade works to the fabric of school buildings. In addition, education contributions will not be used to fund improvements to external works such as play areas, lighting, car-parking or fencing. The list below provides some examples of works that would not, therefore, be funded through education S106 developer contributions:

- Roof repair or replacement.
- Window repair or replacement.
- New boiler/heating repairs or upgrade.
- Electrical works, including re-wiring.
- Playground resurfacing.
- New car-parking.

9.5 Education S106 developer contributions can pay for these works, however, if they are necessary to enable an extension to be built. An older building might, for example, require an upgrade to its electrical system to allow an extension to be built.

Eligible schools

9.6 A school will usually be considered eligible to have a scheme part or fully funded by education S106 developer contributions if:

- The school is a primary, first, infant or junior school and serves all or part of the 'subarea' that the development is located in.
- The school is a secondary, middle or upper school and serves all or part of the 'area' that the development is located in.
- The school offers specialist SEN provision and is located anywhere in the borough.

9.7 In some circumstances, schools outside the subarea or area may also be considered eligible. This is most likely to be the case where school provision is being re-organised, e.g. a new school.

9.8 Section A of the Annexe sets out where the borough's schools are located with regard to areas and subareas.

Determining which scheme should be funded

- 9.9 Education S106 developer contributions from any single development will only usually be used to fund or part-fund a scheme at one school. The contribution will not usually be divided between several schools, because the resulting sums will normally be too small to fund a compliant project in its entirety. More than one project may be identified, however, if the development is a large one.
- 9.10 Following the assessment of the longer term balance between supply and demand of school places locally (as set out in paragraph 2.7), there may be several eligible schools with compliant schemes. A prioritisation process is, therefore, needed to determine which project is chosen. This prioritisation is as follows:
- **Priority 1 – school expansion scheme agreed by Cabinet**
If a school located in the development's area or subarea has had its expansion agreed by Cabinet³ and that expansion is being funded or part-funded by fewer than five other education S106 developer contributions, then that scheme will take automatic priority. Where there is more than one such scheme, priority will be given to the scheme that is closest (as a straight line distance measurement) to the development.
- 9.11 Priority 1 ensures that, where possible, education S106 developer contributions are used on projects already considered and approved by Cabinet. These schemes will be addressing a demand that has already been identified, which may or may not include the additional demand arising from the new development. In either case, any new development will either be part of the identified demand or be exacerbating that demand, hence the need for mitigation through education S106 developer contributions.
- 9.12 Identified potential Priority 1 projects are listed in Section D of the Annexe.
- 9.13 Priority 2 schemes are then considered if there are no appropriate Priority 1 schemes.
- **Priority 2 - other compliant schemes**
The borough will prioritise the projects listed on the Asset Management Plans (AMPs) of the schools located in the development's area or subarea. The prioritisation model is set out in full at Section C in the Annexe. Schools are asked to submit their updated AMPs annually.
- 9.14 The borough needs an efficient mechanism for quickly identifying and prioritising eligible projects at schools. This is because the statutory time limits for making a decision on a planning application are short:
- 1 to 9 dwellings on a site having an area of less than one hectare: 8 weeks.
 - 10+ dwellings on a site, or a site of one hectare or more: 13 weeks.
- 9.15 This includes the time for agreeing and signing a legal agreement to cover S106 developer contributions. At the same time, the borough needs to base decisions on up-to-date information with necessary school involvement.

³ This includes decisions made under powers delegated to officers from Cabinet following Cabinet consideration of a report on school expansions.

- 9.16 Priority 2 projects, therefore, will be identified from school AMPs. The borough already asks schools for these each summer, but upon approval of this interim methodology, will request updated versions, asking for:
- S106 compliant projects.
 - A ranking of the projects.
 - Any information on potential solutions, costings and size of project (m²).
- 9.17 Where no response is received from a school the borough will make its own judgement about rankings, costings and the size of a project.
- 9.18 For priority 2 projects, the borough reserves the right to add additional projects not identified by schools or on the AMPs. This is of particular relevance where a housing development, either by itself or in conjunction with other schemes, triggers the need for a new school or for a substantial extension of an existing one.
- 9.19 Schools are able to update their AMPs at any time, and the borough will discuss projects with schools as necessary.
- 9.20 All decisions on Priority 1 and Priority 2 projects will be recorded.

10. ADDITIONAL INFORMATION

- 10.1 No distinction is made between different types of state funded schools when determining eligibility for education S106 developer contribution, whether they are: academies, free schools, community, voluntary aided or voluntary controlled schools.
- 10.2 The borough will continue to collect Asset Management Plan and Net Capacity information for all types of state schools, including academies and free schools.

ANNEXE

A. SCHOOLS BY AREA AND SUBAREA

- 1.1 The tables below show the Royal Borough schools by their subareas (primary sector) and areas (secondary sector). These boundaries have been drawn up with reference to school designated area borders.

Table B: Primary and first schools in RBWM by subarea

Ascot

Ascot	Cheapside CE Primary School Holy Trinity Church of England Primary School, Sunningdale St Francis Catholic Primary School St Michael's C of E Primary School, Sunninghill South Ascot Village School
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Datchet and Wraysbury

Datchet and Wraysbury	Datchet St Mary's C of E Primary Academy Wraysbury Primary School
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Maidenhead

Bisham and Cookham	Bisham School Cookham Dean CE Aided Primary School Cookham Rise Primary School Holy Trinity C of E Primary School, Cookham
Central Maidenhead	All Saints Church of England Junior School Boyne Hill C of E Infant and Nursery School Larchfield Primary and Nursery School
Maidenhead Villages	Burchetts Green CE Infant School Knowl Hill CE Primary School Waltham St Lawrence Primary School White Waltham C of E Academy
North East Maidenhead	Riverside Primary School and Nursery St Luke's Church of England Primary School
North West Maidenhead	Alwyn Infant School Courthouse Junior School Furze Platt Infant School Furze Platt Junior School
South East Maidenhead	Braywick Court Holyport C of E (Aided) Primary School & Foundation Unit Oldfield Primary School
South West Maidenhead	Lowbrook Academy Wessex Primary School Woodlands Park Primary School

Windsor

East Windsor	Oakfield First School The Queen Anne Royal Free CE First School Trinity St Stephen Church of England First School
Eton	Eton Porny C of E First School Eton Wick C of E First School
Old Windsor and Park	Kings Court First School The Royal School (Crown Aided)
Windsor North	Dedworth Green First School Homer First School and Nursery St Edward's Catholic First School
Windsor South	Alexander First School Clewer Green CE (Aided) First School Hilltop First School
Windsor Villages	Braywood CE First School

Table C: Secondary, middle and upper schools in RBWM by area

Ascot	Charters School
Datchet and Wraysbury	Churchmead Church of England School
Maidenhead	Altwood Church of England School Cox Green School Desborough College Furze Platt Senior School Holyport College (Year 7)

Windsor	Newlands Girls' School Dedworth Middle School Holyport College (Year 9) St Edward's Royal Free Ecumenical Middle School St Peter's CE Middle School The Windsor Boys' School Trevelyan Middle School Windsor Girls' School
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Table D: Special Educational Needs schools in RBWM

RBWM	Forest Bridge School* Manor Green School
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*Forest Bridge School will be considered for projects once it moves to a permanent site.

B. PER PUPIL SPACE REQUIREMENT CALCULATIONS

2.1 For mainstream education in primary and secondary school provision, the guidance gives expected ranges for space requirements, as set out at Annex A, page 42, of Building Bulletin 103. The minimum, maximum and average per space requirements are shown in Table D below, with the average figure used by the borough as the basis for its per pupil space requirement.

Table D: Per pupil space requirement calculations for mainstream schools

	Base m ²			Per pupil m ²			Pupils	Calculation
	Min	Max	Avg	Min	Max	Avg		
Primary	350	400	375	4.1	4.5	4.3	210	$4.3 \times 210 = 903\text{m}^2$ $375\text{m}^2 + 903\text{m}^2 = 1,278\text{m}^2$ $1,278\text{m}^2 / 210 = \mathbf{6.08\text{m}^2 \text{ (A)}}$
Secondary (11-16)	1,050	1,270	1,160	6.3	7.1	6.7	750	$6.7 \times 750 = 5,025\text{m}^2$ $5,025\text{m}^2 + 1,160\text{m}^2 = 6,185\text{m}^2$ $6,185\text{m}^2 / 750 = 8.25\text{m}^2$ $(750/924) \times 8.25\text{m}^2 = 6.70\text{m}^2$
(16+)	350	430	390	7	7.85	7.425	174 (based on average RBWM staying-on rates)	$7.425 \times 174 = 1,292\text{m}^2$ $1,292\text{m}^2 + 350\text{m}^2 = 1,642\text{m}^2$ $1,642\text{m}^2 / 174 = 9.43\text{m}^2$ $(174/924) \times 9.43\text{m}^2 = 1.78\text{m}^2$
Secondary (all)	-	-	-	-	-	-	924	$6.697\text{m}^2 + 1.776\text{m}^2 = \mathbf{8.47\text{m}^2 \text{ (B)}}$

2.2 The guidelines for special education accommodation are for different types of Special Educational Needs (SEN) provision. The borough is adopting an average of these figures, as set out in Annex F, pages 192 to 196 of Building Bulletin 102.

Table E: Per pupil space requirement calculations for special educational needs accommodation

	Pupils	Total Gross Area (m ²)	Per pupil m ²
School type A (primary)	56	1,879	33.55
School type B (primary)	112	3,199	28.56
School type C (primary)	88	3,307	37.58
School type A (secondary)	88	3,532	40.14
School type B (secondary)	136	4,416	32.47
School type C (secondary)	88	4,079	46.35
Average	-	-	36.44 (C)

2.3 The calculations in Tables D and E provide the per pupil space requirement figures for:

- **(A)** Primary pupils: 6.08m²
- **(B)** Secondary pupils: 8.47m²
- **(C)** SEN pupils: 36.44m²

2.4 These figures are combined to provide an overall per pupil space requirement figure covering primary, secondary and SEN provision as follows:

$$(((A + B)/2) \times 98.9) + C)/100 = 7.56m^2$$

- 2.5 This calculation takes the average of the primary and secondary pupil space requirement figures, and adjusts it so that the higher floor space needed for the 1.1% of children needing placement in either special school provision or a resourced unit is accounted for.

C. PRIORITISATION MODEL

- 3.1 When there are two or more schemes that could be funded using an education S106 developer contribution, the following prioritisation model will be used. The project achieving the most points will usually be the prioritised scheme.

S106 compliant

- 3.2 All projects must contribute to increasing the capacity of a school to admit additional pupils. Any project not meeting this criterion will automatically be excluded.

Table F: S106 compliant project

Project is S106 Compliant	Further action
Yes	Include in prioritisation
No	Don't include in prioritisation.

Local demand

- 3.3 This criterion awards a project five points if it provides additional capacity where there is the greatest need. This will be assessed by identifying which tier of education locally, i.e. primary, secondary, first, middle or upper, has the largest projected percentage imbalance between supply and demand of school places. The calculation will be based on the full forecast figures as at the last forecast year provided for each area and tier.

Table G: Scoring for local demand

Location of project	Points
Project is located in a school in the tier of education with largest projected percentage imbalance.	5
Project is <u>not</u> located in a school in the tier of education with largest projected percentage imbalance	0

A project increasing capacity and/or accessibility to a Special Educational Needs school will automatically be awarded the five points under this criterion.

Increase in Published Admissions Number

- 3.4 All schools have a Published Admission Number (PAN), referring to the number of children to be admitted to each of the school's year groups. Where a scheme is directly linked to an increase to a school's PAN, then it will be awarded five points.

Table H: Scoring for increase in PAN

Location of project	Points
Project leads to an increase in a school's PAN	5
Project does not lead to an increase in a school's PAN	0

Increase in workplaces

- 3.5 Under this criterion, schools with eligible schemes will be scored according to the ratio of total workplaces in the school to pupil places, compared to the borough average for the type of school.
- 3.6 The Net Capacity calculation for each school assesses the number of basic workplaces and resource workplaces in each school, based on the types and sizes of the rooms. Adding the Basic and Resource Workplace figures together provides the total workplaces figure.
- 3.7 This will be assessed on the basis of the borough's latest Net Capacity and floor plans information. Schools carrying out their own changes to accommodation need already inform the borough of alterations made, so that information is up-to-date.
- 3.8 The Total Workplaces figure will then be divided by the total number of places in the school based on its current PAN. Where a school has a sixth form, the number of places will be calculated based on the school's historic sixth form staying-on rate. Where a school has a sixth form that is not yet operational, the number of places will be calculated based on the borough's historic sixth form staying-on rate.
- 3.9 The resulting workplaces per pupil place will then be scored against the borough averages for the school type, as set out in Table F.

Table I: Scoring for workspaces

	RBWM average workplaces per pupil	Comparison to average workplaces m ²	Points
Primary Including first, primary, infant and junior schools	1.96	>10% below	5
		>7% to 10% below	4
		>4% to 7% below	3
Middle	2.40	>0% to 4% below	2
Secondary Including upper	2.54	0% to 4% above	1
		>4% above	0

- 3.10 This approach is necessarily simple, and does not take account of the challenges that schools face in delivering the national curriculum. Carrying out a full curriculum and accommodation analysis for each school at the time of application is not, however, feasible.
- 3.11 A project increasing accessibility to any school for children with Special Educational Needs will automatically be awarded the full five points under this criterion.

Cost

- 3.12 The borough does not currently cost all projects that are currently on school Asset Management Plans, as there are hundreds of schemes listed. All eligible schemes will have an estimated cost prepared at the time of application, based on the likely additional floor space and the per m² cost of £1,808.50 (as set out in Section 6 of this methodology).

- 3.13 If an eligible scheme can be wholly funded by the education S106 developer contributions arising from the development, or part funded by these funds together with any other available monies (including other S106 contributions within the pooling limit) then it will be awarded five points.
- 3.14 If an eligible scheme requires additional funds that are not yet available, including S106 contributions from future housing developments in the local area, then the scheme will be awarded between two and four points based on the likelihood of additional funds becoming available within three years. If the funds to cover any shortfall are ‘unlikely’ or ‘very unlikely’ to be forthcoming within three years the project will automatically be excluded from further consideration. This judgement will be made in consultation with the application’s case officer.

Table J: Scoring for cost

Location of project	Points
Project can be fully funded using these S106 contributions and other already available monies	5
Project can be only be funded using additional monies that are <u>certain</u> to become available in the next three years.	4
Project can be only be funded using additional monies that are <u>very likely</u> to become available in the next three years.	3
Project can be only be funded using additional monies that are <u>likely</u> to become available in the next three years.	2
Project can be only be funded using additional monies that are <u>unlikely</u> to become available in the next three years.	Project automatically excluded.
Project can be only be funded using additional monies that are <u>very unlikely</u> to become available in the next three years.	Project automatically excluded.

Tiebreak 1

- 3.15 If two or more projects at different schools achieve the same score then the tiebreak will be proximity to the proposed development, using straight line distance. The project at the closest school will be prioritised.

Tiebreak 2

- 3.16 If two or more projects at the same school achieve the same score then the tiebreak will be the school’s ranking of the project, with the higher ranking project securing the monies.

D. EXAMPLES OF PROJECTS

4.1 This section gives non-exhaustive lists of the projects that could be funded or part-funded by education S106 developer contributions under this methodology.

Potential Priority 1 schemes

4.2 The following school expansion schemes have been approved by Cabinet and may result in S106 compliant projects:

- Expansion of The Windsor Boys School (Windsor)
- Expansion of Windsor Girls School (Windsor)
- Expansion of Dedworth Middle School (Windsor)
- Expansion of Cox Green School (Maidenhead)
- Expansion of Furze Platt Senior School (Maidenhead)
- Expansion of Charters School (Ascot)
- Expansion of Manor Green School (Maidenhead)

Potential Priority 2 schemes

4.3 These schemes will be assessed following further updates to school Asset Management Plans.

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Comments from Fairer Funding Group

- 1.1 This appendix summarises the suggestions made by the Fairer Funding For All Borough Schools group in relation to the allocation of education S106 developer contributions. These comments were made in response to three questions posed by the Chair of Children’s Services Overview and Scrutiny Panel. This appendix also provides the borough’s comments on those suggestions.

Table 1

A. How do we strike balance between the need to respond to planning applications quickly and involving schools in any decisions?	
1.	<p>Planning applications should not be a surprise to the borough as they are weeks, months and years in the making. The borough should be able to consider new developments in a timely fashion.</p>
	<p>Most Planning Application are received without prior notice in many cases, and dependent upon the size of the application may have a statutory time line to be determined which is either eight or thirteen weeks.</p>
2.	<p>School Chairs of Governors and School Business Managers should be briefed on developer contributions, including CIL and the interim S106 arrangements, and particularly on what they might be required to deliver at short notice in terms of information about projects. The criteria for prioritising schemes should be explained, with an opportunity to suggest improvements.</p>
	<p>It is proposed that an update on S106 is provided to schools via the next School Bursars’ Meeting, with academy and free school representatives invited for that section of the meeting. A written explanation will also be sent to schools alongside the request for an updated AMP following approval of the interim methodology.</p>
3.	<p>Schools should have the responsibility for updating school Asset Management Plans, with Governor oversight. The borough should call in Asset Management Plan data regularly (half-yearly).</p>
	<p>It is for individual schools to determine how best to oversee their Asset Management Plans. The borough already asks all schools to update their Asset Management Plans on an annual basis. Schools are also able to update their AMPs at any time. It is proposed that this arrangement continues, with an update from schools requested by the borough following any Cabinet approval of the interim policy. A half yearly update is not required, given that AMPs do not change frequently.</p>
4.	<p>Put together email templates and receiver lists so that schools can be contacted quickly for each application.</p>
	<p>It is not proposed that schools are contacted in relation to each application. See ‘5’ below.</p>

B. How do we strike a balance between treating schools fairly and ensuring that education S106 contributions are spent in accordance with regulations?

5.	Email all schools in the borough for every development, asking for confirmation of receipt and requiring Nil Returns. Outline the location, scale and likely award from the development, re-iterating the success criteria, and giving a deadline to respond. Non-responders should be chased.
	<p>It is proposed that schools are asked by the borough to update their Asset Management Plan list of S106 compliant projects following any Cabinet approval of the interim methodology. This will include an explanation of the methodology and the prioritisation criteria. A deadline will be set, nil returns requested and non-responders chased. An update to the Asset Management Plans will then be sought via the usual annual process in the summer term.</p> <p>It is not proposed to email schools in relation to every development. Children's Services were consulted on 170 planning applications in 2013 and 160 in 2014. Whilst the number of applications meeting the new threshold under the interim policy will be lower, there is still the potential for in the region of 30 applications annually. Emailing schools repeatedly is:</p> <ul style="list-style-type: none"> • Unnecessary if up-to-date information is collected initially. • Inefficient for both schools and officers, as the same information will sought/collected each time. • Likely to lead to confusion amongst schools. • Not possible during holiday periods, particularly the summer holiday.
6.	<p>Inform schools of the results, including weighting against the criteria, allowing them to improve their chances next time. Review the criteria if the same schools are always coming on top.</p> <p>The borough will consider how the decisions on each planning application for S106 education developer contributions can be made public. The proposed criteria in the interim methodology do not, however, offer much opportunity for schools to "improve their chances". This is because the criteria focus on things that are not likely to change – e.g. school location, the balance of space per pupil within the school, project cost relative to the S106 available and local demand for places. The element that can change – whether a project will lead to an increased Published Admission Number, is something that the school should identify at the outset.</p>
7.	<p>Consult with other stakeholders on the prioritisation criteria, including schools.</p> <p>The draft Interim Education S106 Education Developer Contribution methodology has been circulated to schools ahead of Cabinet. The context of changes to S106 have also been discussed at the October 2015 Schools Forum meeting.</p>

C. How do we decide between competing school projects?	
8.	By applying clear, objective and unambiguous criteria, consistently and transparently.
	The interim S106 education developer contributions methodology sets out a clear set of objective criteria that will be applied to each planning application. The workings for each application will be recorded.
9.	Proximity to development should be a high priority, but balanced against the chances of a child at the development getting into the school. So for example a single-sex school might win on proximity but can only serve half the 11-18 children.
	It is proposed that schools be considered eligible for consideration if they are located in the same area or subarea as the development. For the purposes of school place planning the borough has been split into geographical areas/subareas, taking account of school designated area boundaries where available. This ensures that schools being considered are ones that give priority to residents living in the proposed development on the basis of designated area and/or proximity. The area/subarea groupings of schools are given in the interim methodology.
10.	Oversubscription, but should be a simple subtraction of applications minus number of places to give a clearer indication of the number of places needed. Number of 1st preferences should be given a higher weighting than Ofsted.
	It is not proposed that oversubscription is used directly as a criterion for prioritisation of S106 funding. However, priority for S106 funding is proposed for schools that have expansion projects already agreed by Cabinet. For secondary sector schools, these expansions will have been assessed against a different set of secondary school expansion criteria, agreed at Cabinet in September 2015. This does include oversubscription, calculated on the total number of 1 st preferences, minus the number of places available, as a proportion of the places available. Ofsted rankings are given a higher weighting than 1 st preferences in the secondary school expansion criteria. The secondary school expansion criteria were agreed following consultation with head teachers.
12.	There should be some weighting according to need, i.e. a school with no drama/music facilities, for example, should be given preference over a school with some.
	It is proposed that the criteria for S106 funding includes an assessment of the balance between the overall number of places available in a school and the number of workplaces in that schools accommodation. Projects at schools with a worse ratio (i.e. fewer workplaces per pupil place) will be scored more highly. This is based on the government's Net Capacity formula. This approach gives priority to schools that are more overcrowded, and so need more space to cope with additional pupils.
13.	If Ofsted ratings are used then the usage needs to be clearly defined – e.g. what is the position on 'No Ofsted available'.
	It is not proposed that oversubscription is used directly as a criterion for prioritisation of S106 funding. However, priority for S106 funding is proposed for schools that have expansion projects already agreed by Cabinet. For secondary sector schools, these expansions will have been assessed against a different set of secondary school expansion criteria, agreed at Cabinet in September 2015. This includes Ofsted gradings. The calculation of points for Ofsted is worked so that a 'No Ofsted' judgement has a neutral impact on a school's ranking.
14.	The existence of costed plans would indicate commitment to the development.
	Detailed costing of building works is expensive and time-consuming, and is usually only carried out where there is a clear expectation of funding being available. It is not proposed, therefore, to make the existence of costed plans a criterion. An estimated cost of projects will be taken into account, based on the borough's published per m ² building rate, so that an assessment can be made on whether a scheme is affordable given the funding available.
15.	The ability of the school to expand in terms of available land and/or planning restrictions should be considered.

	The borough already considers planning and land restrictions in relation to AMP projects.
16.	Criteria should be analysed and reviewed annually.
	It is not expected that the interim arrangements will apply for more than a year, as they will be superseded once the Community Infrastructure Levy (CIL) is implemented. If the CIL is delayed significantly, then this policy will be reviewed in November 2016.

Agenda Item 9

By virtue of paragraph(s) 1, 4 of Part 1 of Schedule 12A of the Local Government Act 1972.

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