

## Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule - Consultation Responses and Officer Comments

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<b>Q1 – Do you agree that the identified infrastructure needs demonstrate an infrastructure funding gap?</b>		
<p>Chobham Parish Council</p>	<p>Paragraph 3.2: A figure of £0 (zero) has been given for bus services, is this realistic?</p> <p>Paragraph 3.3: A figure of £14.06m is given as the amount of funding required for SANG. Are there any details available for what this amount of money will be spent on?</p>	<p>£0 is considered to be realistic given that Surrey County Council have reviewed bus services in Surrey Heath and are required to make budgetary savings on subsidised bus services. In terms of non-subsidised services, these are run by private bus companies and CIL would not be used to subsidise these.</p> <p>The figure of £14.06m for SANG is based on the overall costs of providing SANG in the Borough to avoid impact from 3,240 net additional dwellings. For any existing SANG revenue raised through S106 the details of what contributions will be spent on is contained within the individual management plans for each SANG. In terms of CIL funding no details can be given at this stage as this will depend on the requirements of the SANG and what is contained within its management plan i.e. each SANG will require different capital works/management and therefore different costs.</p>
<p>MGA Town Planning &amp; Development Consultants</p>	<p>From my reading of Table 3.1, Infrastructure Needs, a series of infrastructure requirements have been identified, with the costs of providing such infrastructure set out in Table 3.2. An infrastructure funding gap could perhaps better be described as a possible infrastructure funding requirement.</p>	<p>Noted.</p>
<b>Q2 – Has the Borough Council taken into account all other sources of funding?</b>		
<p>MGA Town Planning &amp; Development Consultants</p>	<p>Table 3.3 indicates a funding gap of £73.5m mindful of secured funding that in table 3.4 is reduced to a best case requirement of £28.2m. The majority of facilities, including libraries, sport facilities, buses, etc. are currently financed via the Council tax paid by</p>	<p>The infrastructure funding gap considered in table 3-3 is based on the costs of infrastructure to support development in the Core Strategy &amp; Development Management Policies DPD only and not the costs of supporting existing development. Therefore if</p>

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	<p>residents in Surrey Heath, together with funding from Central Government. In the past such funds have paid for infrastructure capital investment and subsequent maintenance; surely this should continue, albeit that the contribution from Central Government is reduced! Facilities to be provided that require funding will surely also be used by existing residents. The majority of visitors to a SANG will be the occupiers of existing properties in Surrey Heath Borough. The occupiers of new properties that might be erected within the plan period up to 2028 will be significant minority users of any facilities that require funding within the plan period. It is totally unreasonable to expect new development to fund new infrastructure.</p>	<p>additional infrastructure were funded through local taxation this would mean increases in the level of Council Tax at a time when central government advice is to limit Council Tax increases and funding from central to local government is being reduced. As such, funding additional infrastructure through Council Tax is unrealistic.</p>
<b>Q3 – Do you agree that the CIL charging rates would not put at serious risk the overall development of the area?</b>		
CgMs Ltd on behalf of Goldcrest Land (UK)	<p>The proposed Western Zone CIL figure for residential development does not reflect the CIL regulations, principally those within Regulation 14 which requires a Local Authority to make a balanced judgement between the desirability of using CIL to (part) fund infrastructure and the potential effects of CIL (taken as a whole) upon economic viability of development.</p> <p>The Viability Study (referred to in detail below) demonstrates that the majority of residential schemes tested within this zone show negative viability results, and the draft Charging Schedule (Paragraphs 5.8 and 5.9) acknowledge that housing delivery will be prejudiced through application of the proposed CIL rate (£140-£200) and that “this may place the delivery of some development at risk.” This level of impact on development delivery is unacceptable and conflicts with national guidance. The draft figures appear to be driven by the SANGS contribution requirement, rather than a true assessment of the likely impact upon deliverability of development.</p>	<p>The CIL Regulations state that it is for the charging authority to strike what appears to it to be a balance between economic viability and funding of infrastructure through CIL. The Borough Council's draft viability assessment sets out in table 4-1 the potential ranges of CIL that could be generated by residential development in different value point areas of the Borough. The viability assessment shows that development within VP2 for all sites barring single dwellings and sites of 10+ units in VP4 may struggle to reach a £200 per sqm charge. However, residential sites will have to avoid impact to the Thames Basin Heaths SPA and CIL must be set at a level which recognises this otherwise the Borough Council would not be meeting its obligations under the Habitats Regulations and would have to refuse permission. As such a balance has to be struck between the requirements of meeting the Habitat Regulations and scheme viability. Therefore the Borough Council has taken the view that in order to ensure the majority of development avoids impact to the SPA and is granted permission, some development will have to be put at risk. This balance is preferable to placing all residential development at risk. Further, in exceptional circumstances, paragraphs 4.14 - 4.19 of</p>

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	<p>In this regard, the proposed Charging Schedule does not comply with Paragraph 173 of the NPPF which states 'Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. ' It goes on to state 'To ensure viability, the costs of any requirements to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal costs of development and mitigation, provide competitive returns...to enable the development to be deliverable'.</p> <p>In order that the Charging Schedule can be considered sound with respect to development deliverability, a reduced charging rate for residential schemes in the western zone in particular is required. Reference is made below to specific impact upon housing delivery within areas of the Borough, and fully demonstrates that the proposed CIL rate is unviable. On balance it is considered that serious risk to overall housing delivery would occur should the current CIL rates be adopted. This situation is exaggerated where values are reduced by 10% (Output 'area' VP1). The proposed rates cannot be supported as they are unsound in that they conflict with the NPPF and Core Strategy (referred in further detail below) and do not allow sufficient flexibility in a worsening economic context.</p>	<p>the viability assessment set out that other factors can be negotiated to ensure development remains viable. Nevertheless, CIL charges may be adjusted after updates to the viability assessment.</p> <p>The Borough Council has had regard to economic viability when considering the proposed tariffs including the imposition of adopted affordable housing policies, open space standards and developers profit. As stated above it is considered preferable to place some development at risk rather than all development because it cannot avoid impact to the Thames Basin Heaths SPA. It should be noted that paragraph 119 of the NPPF states that 'The presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the birds or habitats directive is being considered, planned or determined'. This would apply to all net residential development within the Borough of Surrey Heath.</p> <p>Noted. An updated viability assessment will be required to support a draft charging schedule and this may include adjustments to proposed tariffs and whether any refinement to charging zones is are required.</p>
Gregory Gray Associates on behalf of Windlesham Garden Centre	The Draft Schedule states in paragraph 5.1 that, <i>"CIL should not make up the entire funding gap and neither should it push the margins of viability. Regulation 14(1) of the CIL Regulations (as amended) states that in setting rates an authority must aim to strike what appears to the charging authority to be an appropriate balance between the desirability of funding infrastructure from CIL and potential imposition of CIL on economic viability of development across its area."</i>	

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	<p>For the reasons set out above, the inclusion of Garden Centres and nurseries under the A1 charging schedule is considered to fail that balance, materially impacting upon viability and will bring into question further and new garden centre investment within the Borough. This will lead to less jobs and growth and thus fail to meet the economic requirements of the National Planning Policy Framework Mar 2012.</p> <p>Development at Garden Centres/Nurseries should be considered to fall under the 'All other uses' category and not be liable to pay any form of contribution under the CIL.</p>	<p>The CIL rate does not have to be set so that all development in the Borough is viable. Providing CIL charges do not place at serious risk the delivery of the majority of development across the Borough then the CIL Regulations allow a charging authority to strike a balance between economic viability and the desire to fund infrastructure through CIL. Nevertheless, no evidence of viability has been submitted which suggests the proposed garden centre charge is not viable.</p>
<p>Indigo Planning on behalf of Valad Europe Ltd</p>	<p>DCLG guidance from 2010 (Charge setting and charging schedule procedures) is clear in stating that charging authorities:</p> <p><i>'must aim to strike ...an appropriate balance between the desirability of funding infrastructure from CIL...and the potential effects of the imposition of CIL on the economic viability of development across its area'</i></p> <p>Significantly, the Council's draft consultation document at para 5.2 interprets this need to find a balance as follows:</p> <p><i>'the Borough Council can set CIL charges so that not all development within Surrey Heath is viable, however, this should not place the overall delivery of development at serious risk.'</i></p> <p>On the basis of evidence within the accompanying Draft Viability Assessment it is our contention that Section 27 of the DCLG guidance has not been fully considered. Section 27 requires a charging authority to use appropriate available evidence to inform the draft charging schedule and that the proposed CIL rate should appear reasonable given the available evidence.</p>	<p>The Borough Council's interpretation is taken from paragraph 7 of the CLG guidance which also notes that <i>'In view of the wide variation in local charging circumstances, it is for charging authorities to decide on the appropriate balance for their area and "how much" potential development they are willing to put at risk through the imposition of CIL'.</i></p> <p>It is noted that paragraph 27 of the CLG guidance also states that <i>'...there is no requirement for a proposed rate to exactly mirror the evidence...'</i>. Further, paragraph 10 of the CLG guidance states that <i>'In considering whether the Development Plan and its targets have been put at serious risk, the examiner should only be concerned with whether the proposed CIL rate will make a material or significant difference to the level of risk. It may be that the Development Plan and its targets would be at serious risk in the absence of CIL'</i>. As such, when setting rates the Borough Council has been mindful of the need to ensure avoidance</p>

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	<p>The Draft Viability Assessment at 4.14 in commenting on an appropriate residential charge states that:</p> <p><i>'Setting a charge in the west of the Borough (Value Point 2-Value Point 4) is slightly more problematic as these areas show more varied CIL results. VP3 could support a charge of £140 per square metre in the majority of development scenarios, although some developments at VP4 (Camberley Town Centre) may struggle to realise this.'</i></p> <p>The evidence document therefore clearly demonstrates that even a charge of £140 per square metre for residential development may not be viable in Camberley Town Centre.</p> <p>Camberley Town Centre is, as we highlight below, one of the areas within the Core Strategy identified for major residential development. The Council's Strategic Housing Land Availability Assessment (SHLAA) estimates around 427 dwellings within VP4 (15.5% of housing development) including 200 dwellings within Camberley Town Centre. The Draft Viability Assessment itself acknowledges that the Town Centre:</p> <p><i>'...is an area of the Borough expected to bring forward a reasonable level of development and its delivery should not be placed at risk.'</i></p> <p>We therefore contend that the proposed rate of £200 per square metre for Western Zone residential development is too high and will potentially jeopardise key objectives within the Local Plan. Paragraph 175 of the National Planning Policy Framework document (2012) states that:</p>	<p>measures for the Thames Basin Heaths SPA can be fully funded through CIL. Whilst this may place some development within the Borough at risk it is not considered to place the overall majority of development at serious risk. In coming to this conclusion the Borough Council has to consider the potential impact on the delivery of development should CIL not fully fund SANG i.e. all net residential development would have to be refused which in essence is placing all residential development at risk.</p> <p>The viability assessment also sets out in paragraphs 4.16 - 4.19 that whilst some developments in VP2 and VP4 may struggle there are other factors which could reduce development costs e.g. affordable housing or lower build costs for conversion of offices to residential. As such the Borough Council has considered the risk to development within areas VP2 and VP4. However, CIL charges may be adjusted depending on the outcome of an updated viability assessment.</p>

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	<p><i>'Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan. The Community Infrastructure Levy should support and incentivise new development...'</i></p> <p>We are mindful of the Council's desire to consolidate and build on the successful regeneration that has already occurred in Camberley Town Centre. The recently consulted exercise regarding the Town Centre Area Action Plan acknowledges that this will occur through an increased offer of shops, leisure facilities, high quality office premises and residential opportunities. We note that one of the key objectives in the Area Action Plan is to</p> <p><i>'...enhance Camberley Town Centre's role as a residential area including the provision of new homes.'</i></p> <p>With this in mind we reiterate our concern that the proposed levy for the Western Charging Zone, in addition to potential Section 106 obligations (even after April 2014), will be too onerous for developers and will materially affect delivery of residential development.</p>	
MGA Town Planning & Development Consultants	<p>There can be little doubt that the proposed CIL charging rates will put at serious risk the overall development of this area. In April this year I secured planning permission to demolish an existing bungalow and erect two detached five-bedroom houses on a site in Camberley. The applicant entered into a unilateral undertaking, requiring the payment of £30,782 to the Council. On the basis that the Council are proposing a CIL charge of £200 per sqm of net internal additional floor space and the approved development resulted in an additional 308.7sqm; the CIL charge would be £61740. Following discussions with my client he advised me that such a charge if applied now would make it commercially non-viable to demolish the existing bungalow. It is inevitable that a CIL charge of £200 per sqm would similarly make many potential development sites non-viable. On top of this affordable housing contributions required pursuant to Core Strategy Policies CP5 and CP6, together with significant increased building costs associated with a likely future requirement to construct dwellings to the Code for Sustainable Homes levels 4 &amp; 5 and later</p>	<p>The Borough Council's viability assessment indicates that a charge of £200 per sqm (in the west of the Borough) should be viable in the majority of circumstances. The viability assessment took into consideration the costs of applying Policies CP5 &amp; CP6 of the Core Strategy as well as future improvements in building sustainability. Whilst the scenario set out by the proponent may indicate non-viability for one particular site, the viability assessment takes a strategic level view of development viability across the Borough and cannot consider individual sites. As such the Borough Council consider that the level of charge set out would not put at serious risk the overall development of the area. Further, no evidence has been submitted in terms of land values, developer profit or build costs in relation to the example set out and no evidence has been submitted to support the view that a charge should not exceed £100psm. However, the Borough Council will need to update the viability assessment when it publishes its draft charging schedule. As such any change in</p>

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	<p>level 6 will add to development costs, making it less likely that a development will be viable.</p> <p>In a situation where potential home owners have a choice to purchase homes within a specified price range, only a significant minority of which will be new properties, they will not be prepared to pay more for a property simply because local authorities require the developer to make a totally disproportionate and unreasonable CIL contribution and provide subsidised affordable housing. Indeed, the inclusion of affordable and in particular social housing within a development could deter purchaser and will reduce the sale value of the open-market housing. In my view a CIL payment above £100 per sqm is unreasonable. Identified SANG costs in particular are ridiculous mindful that such green spaces, if provided, might be used by every resident of the borough as well as visitors!</p>	<p>viability may require adjustments to the final level of charge set.</p>
<p>Peacock and Smith Ltd on behalf of Wm Morrisons</p>	<p>We write on behalf of our client Wm Morrison Supermarkets Plc, to strongly object to the proposed Community Infrastructure Levy (CIL) preliminary draft charging schedule and its proposed Borough wide rate of £250/sqm for convenience retail development.</p> <p>Whilst we acknowledge that the preliminary draft charging schedule has been devised in light of the Council's Infrastructure Delivery Plan, and informed by a viability assessment, our client is concerned that the proposed charge will have a significant adverse impact on the deliverability and viability of retail development in the borough in the future. We do not believe that a fair balance has been found between infrastructure funding requirements and viability.</p> <p>The draft charge will put undue additional risk on the delivery of any such proposals and will be an 'unrealistic' financial burden. This in turn poses a significant threat to potential new investment and job creation in the local area at a time of economic recession and low levels of development activity.</p>	<p>The CIL Regulations (Reg 14(1)) state that in setting rates a charging authority must aim to strike what appears to the charging authority to be an appropriate balance between the desire to fund infrastructure through CIL and economic viability.</p> <p>The Borough Council's viability evidence supports a CIL tariff of £250psm which could raise £1.1m from convenience retailing over the Core Strategy period. This represents 1.5% of the overall funding gap or in the best case scenario 4% of the funding gap. As such this is not considered to be an unfair balance. Further, the Borough Council's draft viability study supports a tariff of £250psm within the area of the Borough which would see the highest land values for retail development (Camberley Town Centre). No viability evidence has been submitted to show that this level of tariff cannot be supported.</p> <p>Nevertheless, updates to the viability study will be required to</p>

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		support the draft charging schedule and as such tariffs may be adjusted.
Thomas Eggar LLP on behalf of Asda Stores Ltd	<p>Under Regulation 14 of the Community Infrastructure Levy Regulations 2010 ("CIL Regulations"), the Council's primary duty when setting the level of CIL charges is to strike an appropriate balance between the desirability of funding the cost of infrastructure required to support development from CIL and its potential effects on the economic viability of development.</p> <p>In our view, the approach taken to assessing the Charging Schedule does not achieve an appropriate balance between these two objectives.</p> <p>The Council's Core Strategy is underpinned by the need to promote sustainable development and support Surrey Heath's local economy.</p> <p>It is our view that if the charges set out in the Charging Schedule are adopted, there will inevitably be several consequences across the district, that will put the Council's ability to deliver these objectives at risk. For example:</p>	<p>Regulation 14 states that in setting rates the charging authority should strike what appears to the charging authority to be an appropriate balance between a) the desirability of funding from CIL and b) the potential effects on the economic viability of development across its area. It is considered that the Borough Council, as the charging authority, has struck a balance between economic viability and the desire to fund infrastructure through CIL. As is set out in the Technical Background Document the total funds estimated from CIL over the Core Strategy period are some £13m - £16m which account for around 50% of the best case infrastructure funding gap for that period. Estimated CIL funding from convenience retail over the Core Strategy period is £1.1m which equates to 1.5% of the overall funding gap or in the best case scenario 4% of the funding gap.</p> <p>In proposing CIL charges the Borough Council has taken into account the economic viability of development including convenience retailing. Economic viability is the only basis on which the Borough Council can consider setting CIL charges. Whilst it is appreciated that any charges set should not push the margins of viability, deliberately lowering charges or setting zero rates to encourage certain types of development could be tantamount to State aid. As such the Borough Council has proposed what it considers to be appropriate charges based on economic viability within Surrey Heath. However, the viability assessment will be updated prior to the consultation of the draft charging schedule and as such charges may be adjusted.</p> <p>It is not considered that raising CIL funds from convenience retail would subsidise other forms of development in the Borough neither is it considered that the charges proposed would act as a disincentive for development, if set at the right level.</p>

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	<p>a) all other forms of development will receive a massive subsidy at the expense of convenience retail; and</p> <p>b) there will be a corresponding disincentive (and market distortion accordingly) to investment in this sector of the economy.</p> <p>The Government is keen to encourage the creation of additional employment across the economy and the retail sector is one of the largest employers and the largest creator of new jobs at the present time as well as being one of the most dynamic and innovative sectors within the UK economy.</p> <p>ASDA has a proven track record of investing in local communities and of creating jobs within these areas. For example, of the colleagues recruited for the ASDA store in Tunbridge Wells, 76 colleagues live within 5 miles of the store and 87 colleagues were previously unemployed.</p> <p>The supporting papers do not acknowledge this trend, nor do they fully assess the role of convenience retail within the national economy, save for a reference that large format retail continues to be one of the best performing sectors in the UK and that operators within it have the capacity to pay potentially very large sums of Community Infrastructure Levy.</p> <p>The Council acknowledges the importance of retail-led regeneration schemes in its Charging Schedule and the Viability Report; and whilst we welcome the Council's admission that the factors affecting the viability of a large scale retail-led regeneration scheme are very different to those of other retail developments, it cannot justify applying them solely to comparison based retail.</p> <p>Asda stores regularly rejuvenate and regenerate existing centres, and the surrounding areas, and draw new shoppers to them, which benefits the existing retailers, and those who open stores in Asda-anchored centres in their wake. For example:</p>	<p>The Borough Council's adopted Core Strategy sets out in Policy CP10 the anticipated quantum of retail floor space to come forward over the Core Strategy period, specifically within Camberley Town Centre. Policy CP10 sets the principle for 39,500sqm of comparison retail floorspace to be delivered up to 2028 out of a total of 41,000sqm of retail floorspace overall. As such, when considering a notional major regeneration scheme in the viability assessment the Borough Council has based its appraisals on the direction given by Core Strategy Policy CP10 i.e. that the only location for major retail led regeneration will be Camberley Town Centre and that it will be comparison led. As such it is not accepted that the Borough Council should appraise</p>

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	<ul style="list-style-type: none"> <li>In 2006, Asda opened a store in Romford, transforming a derelict brownfield site through an extension of an existing retail mall and creating 347 jobs. This helped to propel Romford into the top 50 UK retailing cities. Indeed, due to the success of the store in attracting more footfall to that part of the town's Primary Shopping Area, the local authority redrew the town centre boundary to include the edge of centre Asda store into the heart of the Romford town centre.</li> </ul> <p>If the Council is going to take the viability of retail-led regeneration schemes into account when setting its CIL charges, the viability assessments need to include <u>both</u> comparison and convenience retail-led developments.</p> <p>For these reasons, we would ask that the Council undertakes a fundamental rethink of its position, and substantially alters its Charging Schedule in so far as it relates to retail development in general, and supermarket retailing in particular.</p> <p>And accordingly, we would request that the Council:</p> <ul style="list-style-type: none"> <li>Adopts a single flat rate levy across all development within its boundaries; and/or</li> <li>Reduces the CIL charges for convenience retail units to the same level proposed for comparison retail;</li> <li>Introduces exceptional circumstances relief; and</li> <li>Produces a draft staged payments policy that ensures that developers are not disadvantaged by submitting an application for full, rather than outline planning permission.</li> </ul>	<p>convenience led regeneration as this is not set out within the adopted Core Strategy. Further, the Borough Council cannot appraise every type or mix of developments within the viability study, but instead focuses on those types of development most likely to come forward over the Core Strategy period.</p> <p>CIL charges should be based on economic viability evidence. With variation in viability across the Borough it is considered appropriate to apply differential charges.</p> <p>The viability evidence may not support this.</p> <p>The Borough Council is considering its policy with respect to exceptional circumstances relief and a payment instalment policy.</p>
Woolf Bond Planning LLP on behalf of Taylor Wimpey UK Ltd	As the LPA are aware the development industry is presently suffering from depressed economic conditions and it is vital that an appropriate balance is struck when determining CIL requirements. All of the	The charging rates proposed are based on viability evidence specific to Surrey Heath. The Technical Background Document clearly sets out the costs of delivering avoidance measures for the

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	<p>above evidence, points towards the need for housing to get the economy moving, whilst this is yet more relevant to a Borough where a five year housing land supply shortfall exists and historic delivery is poor. Despite this, the proposed charging schedule constitutes a rate approximately two to two and a half times above the proposed tariff in other Local Planning Authorities. Clearly this will deter the development industry yet further from developing in the Borough and encourage developers to go elsewhere. Throughout the consultation and draft viability assessment documents reference is made to a range of charges within the western and eastern zones, yet there is limited explanation as to why the LPA have chosen charges at the higher end of each scale. For these reasons we do not consider that the proposed rates meet the legal requirements of Regulation 14 discussed above and will accentuate present under delivery against set housing requirements.</p> <p>As the LPA is aware the most up to date available SHMA shows an annual net shortfall of 632 affordable housing units within the Borough. This further highlights the importance of setting the tariff at a sufficiently viable rate so to not jeopardise an essential element of viability that will remain negotiable. It is therefore recommended that the rate is not only reduced but that the charging schedule also includes clear linkage to Policy CP5 (Affordable Housing) of the CSDMP such that where a scheme is not viable due to CIL rates, affordable housing can be reduced accordingly such that overall housing delivery within the Borough is not further restrained.</p>	<p>Thames Basin Heaths SPA in the form of SANG (Section 4). This estimates that £168 of the CIL charge will be required to fully fund SANG. This is the basis for setting higher charges as the Borough Council has to meet its obligations under the Habitats Regulations. Therefore the Borough Council has to strike a balance between the need to provide avoidance for the SPA and viability. Placing some development at risk to fully fund SANG is seen as preferable to setting an insufficient figure which places all residential development at risk as it account demonstrate it has avoided impact. It should also be noted that the eastern zone charge has not been set at the highest rate.</p> <p>Core Strategy Policy CP5 is already sufficiently flexible to deal with lower affordable expectations due to viability issues. The charging schedule does not have to cross refer to this policy.</p>
<b>Q4 – Is there justification for setting differential rates for residential development?</b>		
CgMs Ltd on behalf of Goldcrest Land (UK)	Representation response to Q3 above confirms that with particular regard to the area around Camberley town centre, the proposed CIL rate cannot be viably supported. The Draft Charging Schedule and supporting viability evidence confirm this position (paragraph 5.9 of the Charging Schedule and Table 4.1 of the viability evidence). It is therefore necessary to add a further Charging Zone for residential	The CIL Regulations do not state that CIL should be set at a level whereby all development is viable, but that the majority of development should not be placed at serious risk of delivery. The supporting viability evidence acknowledges that some developments in VP2 may not come forward as a result of the CIL charges, although it does set out that this is estimated at 72

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	<p>development within test areas VP2 and VP4 in particular – e.g. including large areas of Camberley – with a reduced Charging Rate, taking account of the specific viability issues within these areas.</p> <p>Mindful that the proposed CIL rate is unviable within these areas and that this will therefore prejudice overall housing delivery, the draft Charging Schedule is 'unsound'.</p>	<p> dwellings or some 2.5% of the Core Strategy target to 2025. Further, the viability assessment goes on to state in paragraphs 4.16 - 4.19 how it may be possible to negotiate other factors to improve development viability at the CIL charges proposed in areas of VP4 which may struggle. The Camberley area is also covered by VP6 which shows a high level of viability and it should be noted that the land values quoted for Camberley are not split into different value point areas and there will be areas of VP2 &amp; VP4 which will not display the high land values seen in other parts of Camberley. As such the Borough Council has considered the risk to delivering development within VP2/VP4 and considered that the charges proposed would not place the majority of this at serious risk. Further, by not setting CIL at a rate which would cover the costs of avoidance measures for the Thames Basin Heaths SPA, there is a risk to the delivery of all residential development.</p> <p>Further, paragraph 4.17 demonstrates that some developments within VP4 (primarily Camberley Town Centre) may see developments with reduced build costs given the potential conversion of offices to residential. It is this, coupled with potential reductions in affordable housing in some circumstances, which can improve viability in VP4.</p>
<p>Indigo Planning on behalf of Valad Europe Ltd</p>	<p>We note the recent draft charging schedule for neighbouring Bracknell Forest Council which ended in August. Although direct comparison between Bracknell and Camberley Town Centres can be seen as oversimplification there are clear similarities in terms of size, catchment, etc. Notably the draft schedule for Inner Bracknell proposes a nil charge for residential development. This nil charge reflects not only the likely costs for residential development in a built up area but also the desire of the Council to promote residential development and regeneration within the Town Centre. The disparity between the Bracknell Forest approach and that proposed by Surrey Heath is therefore marked with apparently no margins allowed in</p>	<p>Bracknell Town Centre is likely to have different dynamics and land values to Camberley Town Centre. It is also understood that Bracknell Forest can offer a nil rate on residential development in the town centre because the measures to avoid impact to the Thames Basin Heaths SPA i.e. SANG have already been set up and financed. This is not the case in Surrey Heath where all net additional residential dwellings will have to avoid impact. This pushes up the cost of CIL as in order to meet its obligations under the Habitats Regulations the Borough Council must ensure that development avoids impact to the SPA.</p>

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	<p>Camberley for site specific factors that may affect viability.</p> <p>We would therefore request that the Council consider adopting a more finessed charging schedule particularly with respect to current identified charge zones which are too large. Notwithstanding the DCLG's Guidance advice against setting complex rates Paragraph 173 of the NPPF in relation to 'Ensuring Viability and Deliverability' states:</p> <p><i>'Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.'</i></p>	<p>Noted. The Borough Council will consider whether charging zones require refinement.</p>
MGA Town Planning & Development Consultants	<p>Many of the infrastructure facilities it is proposed should be funded in whole or part through CIL will not necessarily be used by or mainly by those living in the immediate locality. On that basis, it would be more reasonable to have a uniform CIL tariff for residential development across the Borough.</p>	<p>Noted, however CIL raised from development in one area of the Borough can be used to fund infrastructure in another area of the Borough. Further, the CIL Regulations do not stipulate that any CIL tariffs should be based on where infrastructure may occur, only on the viability of development.</p>
Thomas Eggar LLP on behalf of Asda Stores Ltd	<p>A much fairer solution, accepting for the purpose of this argument the premise that the Community Infrastructure Levy is necessary for the purpose of funding district-wide infrastructure, would be to divide the council's estimate of total infrastructure costs over the charging period (and in this connection, it is important to remember that the Government's guidance as recorded in the National Planning Policy Framework is that only deliverable infrastructure should be included) by the total expected development floor space, and apply a flat rate levy across the district and across all forms of development. That will have the least possible adverse effect upon the market for land and for development, and yet the greatest possible opportunity for the economy to prosper and thrive, and for jobs to be created.</p> <p>The potential impact of a flat rate levy on the viability of those types of development which are not currently identified as viable, could be balanced by the council's implementation of Exceptional</p>	<p>CIL charges must be based on evidence of viability and differential rates are acceptable within the CIL Regulations. Charging a flat fee across the Borough and across all types of development does not take into account the variability in viability across different development sectors and areas of the Borough. Further, calculating CIL charges based on cost of infrastructure divided by floorspace would not be in accordance with the CIL Regulations.</p>

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	<p>Circumstances Relief, as mentioned above.</p> <p>It should be noted that within the borough over the planned period there is likely to be a limited number of large format retail developments. Consequently, reducing the levy proposed per square metre on this floor space would not result in a proportionate increase in the levy required on other forms of commercial or other development. However, applying the current proposed levy could run the risk of diminishing substantially the number of such stores built, with a consequential loss of employment opportunities and investment in district and local centres.</p> <p>For these reasons, we would ask that the Council undertakes a fundamental rethink of its position, and substantially alters its Charging Schedule in so far as it relates to retail development in general, and supermarket retailing in particular.</p> <p>And accordingly, we would request that the Council:</p> <ul style="list-style-type: none"> <li>• Adopts a single flat rate levy across all development within its boundaries; and/or</li> <li>• Reduces the CIL charges for convenience retail units to the same level proposed for comparison retail;</li> <li>• Introduces exceptional circumstances relief; and</li> <li>• Produces a draft staged payments policy that ensures that developers are not disadvantaged by submitting an application for full, rather than outline planning permission.</li> </ul>	<p>CIL charges must be based on viability evidence and therefore increasing CIL tariffs proportionately to make up for reduction in others types would not accord with the CIL Regulations anyway. The Borough Council's retail evidence base and policies within the adopted Core Strategy clearly set out the quantum of retail floorspace to come forward over the plan period and delivering this has been taken into account when proposing CIL charges.</p> <p>CIL charges should be based on economic viability evidence. With variation in viability across the Borough it is considered appropriate to apply differential charges.</p> <p>The viability evidence may not support this.</p> <p>The Borough Council is considering its policy with respect to exceptional circumstances relief and a payment instalment policy.</p>
<p>Woolf Bond Planning LLP on behalf of Taylor Wimpey UK Ltd</p>	<p>In addition, we object to the proposed differential rates provided within the draft schedule. First we consider that the evidence base is not sufficiently robust given it is the re-sales market rather than new build market that has been used to generate the value points of residential property set out within the viability assessment. This</p>	<p>The differential rates proposed are based on evidence of viability. The lack of new build housing in Surrey Heath, given the issues with the Thames Basin Heaths SPA, means that the Borough Council cannot rely on limited new build house price data to base a borough wide assessment. As such the Borough Council has</p>

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	<p>comprises fundamentally flawed and inaccurate information for the purpose of developing a CIL charging schedule. Equally this does not account for the fact that developers acquiring interests in a site will pay a premium for a site when acquiring it in a higher value area. On this basis a single tariff represents the most appropriate and justified method of charging.</p> <p>The viability exercise further provides no assessment of the characteristics of the sites that are to come forward within the two proposed zones. This of course is an exercise that is not possible with any level of certainty in the absence of even a draft Site Allocations Development Plan Document. Ultimately this is the outcome of the Borough not being in a position to comply with para 175 of the NPPF that states:</p> <p style="text-align: center;"><b>‘Where practical, Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan’.</b></p> <p>Given such uncertainty, the use of two zones is entirely unjustified and threatens to skew the location of development proposals into certain areas of the Borough and essentially threatens to prejudice future site allocation decisions. This of course is not the purpose of a CIL exercise and in the absence of a defined site allocations strategy; a single tariff offers the fairest and most robust method of bringing forward a sufficiently flexible CIL tariff.</p>	<p>used re-sale values and considers this as appropriate available evidence in the absence of new build data. Further, using re-sales values means that no new build premium has been added to house prices and therefore a more cautious approach to development value has been taken. In terms of premiums for site acquisition, the viability assessment has considered a range of land values based on those given by the Valuations Office Agency sense checked by market data for Surrey Heath. The range includes premiums added to land value.</p> <p>The viability assessment is strategic in nature and cannot consider the viability of every site likely to come forward in the Borough. Instead it has to take a view of viability across the whole Borough which has been informed by a range of notional developments. In terms of CIL being tested alongside the Local Plan, the CIL charge is being drawn up following the recent adoption of the Core Strategy. This document forms part of the Local Plan for Surrey Heath and includes the key policies with respect to affordable housing, housing mix, SANG and open space.</p> <p>The draft viability assessment justifies the use of two residential charging zones and it is not considered to prejudice future site allocation decisions.</p>
<b>Q5 – Are the different residential zone boundaries appropriate?</b>		
CgMs Ltd on behalf of Goldcrest Land (UK)	In order for the Charging Schedule to be considered sound, it must reflect relevant government guidance, i.e. that detailed within the NPPF. Paragraph 173 confirms that LPA’s must ensure policies are deliverable, with regard to scheme viability.	Noted. The Borough Council has undertaken an assessment of economic viability which will be updated at the draft charging schedule stage.

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	<p>The supporting viability evidence used to inform the draft charging schedule demonstrates that output areas VP2/VP4 (within the western residential zone) particularly for schemes of 10 units and above cannot viably support the proposed CIL rate. Mindful that VP2/VP4 comprise the Camberley area where 31% of the Council's identified Housing Land Supply is forecast in order to meet identified need, the introduction of CIL at this rate will prejudice housing delivery within this crucial part of the borough. This conflicts with Core Strategy Policy CP3 regarding Scale and Distribution of New Housing to meet identified housing need.</p> <p>As such, in order to ensure the Charging Schedule can be considered 'sound' further refinement of the residential zone boundaries is required, in order to introduce a viable CIL rate within the area of the borough including Camberley. This will ensure the introduction of CIL does not prejudice a significant element of housing delivery.</p>	<p>The supporting viability evidence acknowledges that some developments in VP2 may not come forward as a result of the CIL charges, although it does set out that this is estimated at 72 dwellings or some 2.5% of the Core Strategy target to 2025. Further, the viability assessment goes on to state in paragraphs 4.16 - 4.19 how it may be possible to negotiate other factors to improve development viability at the CIL charges proposed in areas of VP4 which may struggle. The Camberley area is also covered by VP6 and it should be noted that the land values quoted for Camberley are not split into different value point areas and there will be areas of VP2 &amp; VP4 which will not display the high land values seen in other parts of Camberley.</p> <p>Additional zones may complicate administration of CIL however this will be considered further in case proposed CIL charges can be refined further.</p>
MGA Town Planning & Development Consultants	<p>Different residential zone boundaries will only be appropriate if different CIL charges are going to be levied. For example, if there is no need to provide additional school places within the area, why should the CIL contribution in respect of education be required? From a practical standpoint, however, it is clearly beneficial to have a uniform CIL payment, not least because it would be simpler to calculate and thus allow a developer to establish CIL charges before making an offer to purchase the site.</p>	<p>Noted, however the type of infrastructure projects/types on which CIL will be collected or where in the Borough infrastructure will be provided is not a matter for the charging schedule.</p> <p>Point raised with respect of simplicity to calculate/administer on a single charge is noted.</p>
<b>Q6 – Is there justification for setting differential charges for different types of retail?</b>		
Gregory Gray Associates on behalf of Windlesham Garden Centre	<p>1. The specific nature of a Garden Centre means that whilst in Planning terms they are considered A1 Uses, the goods sold fall under a much narrower band than open A1 Use. Notwithstanding this it is noted that the Schedule Viability Assessment 2012 states in paragraph 3.19 that, "...these</p>	<p>Noted. Petrol filling stations and horticultural nurseries are not A1 retail development, as noted in paragraph 3.19 of the draft viability assessment, however, these uses do have quasi retail elements such as convenience floorspace in petrol filling station kiosks and sales areas within horticultural nurseries. Garden centres are</p>

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	<p><i>uses are not A1 retail...</i>"</p> <ol style="list-style-type: none"> <li>2. In addition most planning permissions restrict what can be sold in Garden Centres to related products and services, limiting the volume of A1 sales.</li> <li>3. Further, the goods sold follow a seasonal pattern, with fluctuation in sales at different times of the year.</li> <li>4. Also the specific nature of the goods sold from external retail plant areas means that the returns cannot realistically be compared to the level of sales of comparison goods within shops.</li> <li>5. These differences means that economic returns do not follow a similar pattern to unrestricted A1 sales, hence impact on viability is not the same. To charge the same amount per sqm is not considered economically justifiable as a consequence.</li> <li>6. The proposal to charge a flat rate of £100 per sqm is therefore flawed.</li> <li>7. Similarly the fact that the Draft document states that, <i>"...further guidance will be issued by the Borough Council on calculating gross internal floorspace for sales areas of garden centres/horticultural nurseries..."</i> indicates that the inclusion of Garden Centres/Nurseries appears to be an after thought. Given that the mechanism for determining it has not been published, it is difficult to see how an exact figure can be consulted on.</li> <li>8. Also, no thresholds are set down in the Schedule, so it is not clear whether it applies to brand new garden centres proposals only or additional smaller development within existing businesses.</li> <li>9. Extensions and ancillary new buildings within existing garden</li> </ol>	<p>considered to be A1 retail (comparison) in their own right.</p> <p>Noted, but conditions can be relaxed and many garden centres sell a range of products and items in addition to gardening products i.e. furniture, decorative items, limited convenience products etc...and therefore have a wider range of goods than just gardening products. Whilst it is noted that the bulk of sales items will be gardening related and therefore subject to seasonal patterns there is no evidence to suggest that garden centres operate differently to other A1 comparison uses or are any less viable.</p> <p>The CIL rate does not have to be set so that all development in the Borough is viable. Providing CIL charges do not place at serious risk the delivery of the majority of development across the Borough then the CIL Regulations allow a charging authority to strike a balance between economic viability and the desire to fund infrastructure through CIL. Nevertheless, no evidence of viability has been submitted which suggests the proposed garden centre charge is not viable.</p> <p>The threshold will be according to the CIL Regulations which is 100sqm or more of net additional floorspace. This would be applied to new developments and extensions to existing businesses alike.</p>

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	<p>centres are unlikely to generate additional infrastructure requirements to any material level and therefore it is difficult to see how their inclusion under this flat rate could be justified. The money charged will not reflect the impact of the development.</p> <p>10. Similarly the current lack of a threshold gives the impression that the Council intend to charge for any development in these areas no matter how small, which has implications for viability.</p>	<p>CIL is not based on the impact a development may have on infrastructure but on whether or not it is economically viable to set a charge.</p> <p>The threshold is set by the CIL Regulations.</p>
MGA Town Planning & Development Consultants	<p>It is noted from Table 5.3 that differential charges are proposed for comparison and convenience retail. How does one calculate the CIL contribution if the manner in which the retail floor space is to be used is uncertain? I note that the Council are suggesting a significant increase in retail floor space within the Camberley Town Centre. It is self-evident that there is presently far too much retail floor space within the town centre and bearing in mind changing retail patterns including the purchase of more good on-line, there is in my view little likelihood of the retail floor space within the town centre increasing to the extent as suggested by the Council. Imposing a high CIL charge will surely discourage future investment in retail floor space, a retail scheme perhaps only becoming viable if an equivalent amount of retail floor space is to be demolished.</p>	<p>It should be clear in the vast majority of retail or mixed developments whether a type of retail is either comparison or convenience. Where uncertainties arise the Borough Council would have to consider each case on its merits to determine the final use. Further, the Inspector for the Wycombe CIL charging schedule considered that it was possible to define different retail characteristics based on the nature of the retail use. The Inspector's report at paragraph 18 states 'I agree that the proposals quoted in the Council's evidence statement to refer to the weekly nature of most trips to supermarkets and the range of goods sold would provide clarity essential for the effective operation of the levy. Appendix A of the Inspectors report sets out the definition of different retail uses which are to be added to the charging schedule. It is considered that Surrey Heath would add similar footnotes to its charging schedule.</p> <p>The level of retail floorspace planned for Camberley Town Centre has been set out in the adopted Core Strategy and is not a matter for the CIL charging schedule. The viability assessment considers that the retail charges set out in the preliminary draft charging schedule are viable and no evidence has been submitted by the proponent to show this is not the case.</p>
Peacock and Smith Ltd on behalf of Wm Morrisons	<p>We note the Council is proposing a separate rate of £100/sqm for 'retail' development (A1 comparison), as well as a rate of £200/sqm for retail warehouse development. The Council should be mindful that the Borough of Poole, Mid Devon District Council and Elmbridge Borough Council have already dropped plans to charge differential</p>	<p>The Borough Council is aware of the Inspectors decision regarding the Poole Borough Council CIL proposals to charge differential rates of CIL on retail development and the objection from Sainsbury's Plc and is aware of the changes to Mid Devon and Elmbridge's draft charging schedules. However the changes</p>

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	<p>rates for different categories of retail development. At examination Sainsbury's objected to Poole's proposal to charge £200/sqm specifically for superstores, prompting the Inspector to adjourn the hearing to allow the Council to review its approach in relation to retail and applying separate rates for different subcategories of Class A1 development.</p> <p>The Sainsbury's representation stated that, while the CIL Regulations allow charging authorities to set differential rates for different geographical zones or for different uses of development, they do not permit differential rates within the same intended use of development. The Council's evidence was insufficient to justify their approach and they have subsequently accepted Sainsbury's position that there should be no differentiation within a particular type of use and that the same CIL rate must apply across all retail development.</p> <p>It should also be noted that the proposed £200/psm charge for superstores and convenience retail developments is significantly higher than the rates proposed by other local authorities:</p> <ul style="list-style-type: none"> <li>● Plymouth: £100/psm</li> <li>● Preston-South Ribble-Chorley: £160/sqm</li> <li>● Havant: £84/sqm</li> <li>● Bath and North East Somerset: £150/sqm</li> <li>● Fareham: £120/sqm</li> </ul> <p>While the CIL regulations do allow charging authorities to set differential rates for different geographical zones or for different uses of development, they do not permit differential rates within the same intended use of development. There should be no differentiation within a particular type of use; the same CIL rate should apply across all retail development.</p>	<p>made by these local authorities on differential rates for retail relate to the scale of retail development and not splitting retail into sub-categories by use. Surrey Heath Borough are not proposing to set tariffs based on different scales of retail development.</p> <p>Further, it is the Borough Council's contention that comparison and convenience retail are distinctive enough to allow differential rates. For example, if the Borough Council permits a convenience retail store it would place conditions restricting the use of that store on the sale of comparison goods i.e. the nature, trading and impact of convenience is distinctly different to comparison. Further, the examiner for the Wycombe CIL charging schedule states in his report (para 16) <i>'There is nothing in the CIL regulations to prevent differential rates for retail developments of different sizes, provided they are justified by the viability evidence and differing retail characteristics or zones.'</i>(our underlining). As such it would appear that examiners have accepted that CIL charges can be differentiated by different retail characteristics i.e. convenience and comparison.</p> <p>Different authorities have set different CIL charges for retail as viability (in terms of land values) will be different across other areas. Whilst the proposed convenience retail charge is higher in Surrey Heath than in other areas, this is based on viability evidence for the Surrey Heath area and as such is considered appropriate. Evidence which supports the view that the charge are not viable has not been submitted.</p>

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<p>Thomas Eggar LLP on behalf of Asda Stores Ltd</p>	<p>It is our view that the Council’s proposal to apply differing CIL rates to “comparison” and “convenience” retail falls outside of the scope of the rate differentials permitted in the CIL regulations (as amended).</p> <p>Clause 13(1) of the CIL Regulations states that a charging authority may set different rates for different zones in which development would be situated; and/or by reference to different intended uses of development within those zones.</p> <p>While the CIL regulations do not expressly define “use”, they regularly adopt definitions from the planning system and other planning legislation (in particular the Town and Country Planning Act 1990 (as amended) and the Planning Act 2008). As the Use Classes Order is widely accepted to be the starting point for definitions of Use within the planning system, it is reasonable to expect that the CIL Regulations reflects those definitions.</p> <p>It should be noted that Poole, Mid-Devon and Elmbridge Councils have withdrawn their proposals to charge large supermarkets a higher CIL rate than other retail development, on the grounds that this approach is potentially unlawful.</p> <p>In addition, the Council’s proposal to distinguish “comparison” and “convenience” retail also poses practical problems for retail developers and the Council themselves in assessing the charge, as most supermarkets and superstores contain a mix of convenience and comparison floorspace. The Council’s current proposals will potentially result in two different CIL rates being charged for floorspace within the same building or development. Such an approach adds undue complexity to the CIL calculations.</p> <p>A much fairer solution, accepting for the purpose of this argument the premise that the Community Infrastructure Levy is necessary for the purpose of funding district-wide infrastructure, would be to divide the council’s estimate of total infrastructure costs over the charging</p>	<p>The examiner for the Wycombe CIL charging schedule states in his report (para 16) <i>‘There is nothing in the CIL regulations to prevent differential rates for retail developments of different sizes, provided they are justified by the viability evidence and <u>differing retail characteristics or zones.</u></i>’(our underlining). As such it would appear that examiners have accepted that CIL charges can be differentiated by different retail characteristics i.e. convenience and comparison.</p> <p>The Inspector for the Wycombe CIL charging schedule considered that it was possible to define different retail characteristics based on the nature of the retail use. The Inspector’s report at paragraph 18 states <i>‘I agree that the proposals quoted in the Council’s evidence statement to refer to the weekly nature of most trips to supermarkets and the range of goods sold would provide clarity essential for the effective operation of the levy’</i>. Appendix A of the Inspectors report sets out the definition of different retail uses which are to be added to the charging schedule. It is considered that Surrey Heath would add similar footnotes to its charging schedule.</p> <p>CIL charges must be based on evidence of viability and differential rates are acceptable within the CIL Regulations. Charging a flat fee across the Borough and across all types of development does</p>

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	<p>period (and in this connection, it is important to remember that the Government's guidance as recorded in the National Planning Policy Framework is that only deliverable infrastructure should be included) by the total expected development floor space, and apply a flat rate levy across the district and across all forms of development. That will have the least possible adverse effect upon the market for land and for development, and yet the greatest possible opportunity for the economy to prosper and thrive, and for jobs to be created.</p> <p>The potential impact of a flat rate levy on the viability of those types of development which are not currently identified as viable, could be balanced by the council's implementation of Exceptional Circumstances Relief, as mentioned above.</p> <p>It should be noted that within the borough over the planned period there is likely to be a limited number of large format retail developments. Consequently, reducing the levy proposed per square metre on this floor space would not result in a proportionate increase in the levy required on other forms of commercial or other development. However, applying the current proposed levy could run the risk of diminishing substantially the number of such stores built, with a consequential loss of employment opportunities and investment in district and local centres.</p> <p>For these reasons, we would ask that the Council undertakes a fundamental rethink of its position, and substantially alters its Charging Schedule in so far as it relates to retail development in general, and supermarket retailing in particular.</p> <p>And accordingly, we would request that the Council:</p> <ul style="list-style-type: none"> <li>• Adopts a single flat rate levy across all development within its boundaries; and/or</li> <li>• Reduces the CIL charges for convenience retail units to the same level proposed for comparison retail;</li> </ul>	<p>not take into account the variability in viability across different development sectors and areas of the Borough. Further, calculating CIL charges based on cost of infrastructure divided by floorspace would not be in accordance with the CIL Regulations.</p> <p>CIL charges must be based on viability evidence and therefore increasing CIL tariffs proportionately to make up for reduction in others types would not accord with the CIL Regulations anyway. The Borough Council's retail evidence base and policies within the adopted Core Strategy clearly set out the quantum of retail floorspace to come forward over the plan period and delivering this has been taken into account when proposing CIL charges.</p> <p>CIL charges should be based on economic viability evidence. With variation in viability across the Borough it is considered appropriate to apply differential charges.</p> <p>The viability evidence may not support this.</p>

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	<ul style="list-style-type: none"> <li>• Introduces exceptional circumstances relief; and</li> <li>• Produces a draft staged payments policy that ensures that developers are not disadvantaged by submitting an application for full, rather than outline planning permission.</li> </ul>	<p>The Borough Council is considering its policy with respect to exceptional circumstances relief and a payment instalment policy.</p>
<p>White Young Green Planning on behalf of Sainsbury's Supermarkets Ltd</p>	<p>On behalf of our client, Sainsbury's Supermarkets Ltd, we write concerning the Surrey Heath District Council Preliminary Draft Charging Schedule, and wish to make the following representations.</p> <p><b>Differential Rates</b></p> <p>Section 13 (1) of the CIL Regulations 2010 states that:</p> <p>A charging schedule may set differential rates –</p> <p>a) for different zones in which development would be situated;</p> <p>b) by reference to different intended uses of development.</p> <p>Whilst the regulations do not refer specifically to 'Use Classes', we are of the opinion that the regulations do not allow Council's to set differential sub-rates for the same intended use – e.g. retail. There is no difference in the 'intended use of development' between convenience and comparison retail. Both are retail uses.</p> <p><b>Separate Charge for Convenience and Comparison Retail</b></p> <p>As one of the UK's largest Supermarket operators, Sainsbury's operate a wide range of retail stores which trade in various formats depending on the location and demand for a particular range of goods. This often means that the split between convenience and comparison goods can vary significantly between stores and indeed within the same store at different times of the year.</p>	<p>It is noted that the examiner for the Wycombe CIL charging schedule states in his report (para 16) 'There is nothing in the CIL regulations to prevent differential rates for retail developments of different sizes, provided they are justified by the viability evidence and differing retail characteristics or zones.'<u>(our underlining)</u>.</p> <p>As such it would appear that examiners have accepted that CIL charges can be differentiated by different retail characteristics i.e. convenience and comparison.</p> <p>Noted.</p>

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	<p>In line with Circular 11/95, all retail development is unrestricted use class A1 unless a circular compliant justification exists to restrict the use of the A1 facility. Unless such a justification exists, then there is no mechanism in the planning system to dictate or control the type of goods sold within the use permitted. Such control can only manifest from a thorough assessment of each planning application, based on the merits of the particular proposal. Conditions controlling the types of goods (and indeed any other factor of the development) should only be imposed in circumstances where not doing so would result in planning permission having to be being refused.</p> <p>In circumstances where it is found to be necessary to control the goods that can be sold by use of a planning condition, this is usually either through a minimum or maximum percentage of convenience /comparison sales area, or the specific exclusion of certain types of goods (e.g. clothing, bulky goods etc). It would rarely, if ever, be appropriate to seek to impose a rigid inflexible split of convenience and comparison floorspace, thereby making it impossible to assess a corresponding CIL charge.</p> <p>In addition, it must be remembered that large retail developments are accompanied by substantial 'back of house' floorspace areas such as colleague rest rooms, storage areas and offices. Typically this will take up between 35-50% of the total gross internal area of the store. All Sainsbury's stores, no matter what size, sell both convenience and comparisons goods. Accordingly, it would entirely unfeasible to disaggregate the proportion of these ancillary facilities devoted to a particular type of good.</p> <p>By creating this substantial uncertainty in the scenarios outlined above, there is a potential for the proposed CIL charge to render retail schemes unviable, particularly if the higher convenience rate is applied to all additional floorspace. This goes against the overriding theme of the NPPF which advocates a presumption in favour of sustainable development.</p>	<p>It is highly likely that Surrey Heath Borough Council would seek to restrict A1 convenience development by the use of conditions especially in any out of or edge of centre development in order to limit retail impacts to Camberley Town Centre. Further, even A1 retail convenience developments within Camberley Town Centre may require the use of conditions if the Borough Council considered that the potential loss of a convenience retail presence within the town centre were a reason for refusal.</p> <p>The Inspector for the Wycombe CIL charging schedule considered that it was possible to define different retail characteristics. based on the nature of the retail use. The Inspector's report at paragraph 18 states 'I agree that the proposals quoted in the Council's evidence statement to refer to the weekly nature of most trips to supermarkets and the range of goods sold would provide clarity essential for the effective operation of the levy. Appendix A of the Inspectors report sets out the definition of different retail uses which to be added to the charging schedule. It is considered that Surrey Heath would add similar footnotes to its charging schedule.</p> <p>The uses mentioned would all be ancillary to the main use of the retail store as A1 convenience. As such the note above regarding the Inspector for Wycombe's charging schedule with respect to defining uses is reiterated.</p> <p>Noted, however the viability assessment considers the proposed CIL charge on convenience retail to be appropriate. However, the proposed charges may be adjusted to take account of an updated viability study which will accompany the draft CIL charging schedule.</p>

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	For the reasons outlined above, our client strongly objects to a separate charge for convenience and comparison retail.	
<b>Q7 – Is a single Borough wide zone for retail appropriate?</b>		
MGA Town Planning & Development Consultants	A Borough wide CIL charge for retail development is probably appropriate, not least because it makes calculation easier.	Noted
<b>Q8 – Is there justification for setting a charge for nursing/care homes and HMO?</b>		
MGA Town Planning & Development Consultants	CIL charges for nursing/care homes and houses in multiple occupation should be significantly reduced. There is no possible justification for requiring care/nursing homes to make a SANG contribution. The occupiers of these homes or the staff employed rarely go out and are highly unlikely to visit a SANG site or an SPA. HMOs provide accommodation for those on the very first step of the housing ladder. A suggested CIL charge of £60 per sqm would surely make it non-viable to convert a dwelling into an HMO. No doubt the high charge would encourage the illegal conversion of residential and other accommodation into HMOs.	Advice from Natural England is that occupants of HMO & Care/Nursing homes are mobile (unless infirm/high dependency), and that effect to the SPA may arise and therefore development should avoid impact through the use of SANG.  Updates to the viability assessment will be considered and the HMO tariff may be adjusted.
<b>Q9 – Is there justification for setting a zero rate for all other development?</b>		
MGA Town Planning & Development Consultants	It is in my view fully appropriate to set a zero CIL rate for other developments including offices, industrial, leisure/hotels and community uses; to do otherwise would surely result in such development not taking place.	Noted
<b>Q10 – Additional comments on charging schedule, viability assessment or technical background document</b>		

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<p>CgMs Ltd on behalf of Goldcrest Land (UK)</p>	<p>The proposed Western Zone CIL figure for residential development does not reflect the CIL regulations, principally those within Regulation 14 which requires a Local Authority to make a balanced judgement between the desirability of using CIL to (part) fund infrastructure and the potential effects of CIL (taken as a whole) upon economic viability of development.</p> <p>Paragraphs 4.14 - 4.19 acknowledge the likely difficulty in delivery of housing particularly within the western charging zone. This is contrary to housing delivery objectives within the NPPF (Paragraph 11) where deliverable sites are defined, inter alia, as those which are viable. The Draft Charging Schedule is also contrary to Surrey Heath Core Strategy Policy CP3 which demonstrates the Borough are reliant upon Camberley to deliver in excess of 30% of housing land supply over the plan period. CIL Regulation 14 requires the Council to consider the balance between provision of housing to meet identified need and their obligation to raise sufficient funds for infrastructure through development. It is important to note that the Council are not obliged to introduce a CIL to cover infrastructure costs.</p> <p>Table 4.3 of the supporting Viability assessment confirms that the delivery of affordable housing in particular will be prejudiced through the introduction of CIL at the proposed rate. It is considered that this has a wider implication mindful that a reduced affordable element incurs a greater CIL charge (as affordable housing is CIL exempt,</p>	<p>The CIL Regulations do not state that CIL should be set at a level whereby all development is viable, but that the majority of development should not be placed at serious risk of delivery. The supporting viability evidence acknowledges that some developments in VP2 may not come forward as a result of the CIL charges, although it does set out that this is estimated at 72 dwellings or some 2.5% of the Core Strategy target to 2025. Further, the viability assessment goes on to state in paragraphs 4.16 - 4.19 how it may be possible to negotiate other factors to improve development viability at the CIL charges proposed in areas of VP4 which may struggle. The Camberley area is also covered by VP6 which shows a high level of viability and it should be noted that the land values quoted for Camberley are not split into different value point areas and there will be areas of VP2 &amp; VP4 which will not display the high land values seen in other parts of Camberley. As such the Borough Council has considered the risk to delivering development within VP2/VP4 and considered that the charges proposed would not place the majority of this at serious risk. Further, by not setting CIL at a rate which would cover the costs of avoidance measures for the Thames Basin Heaths SPA, there is a risk to the delivery of all residential development.</p> <p>Whilst the Borough Council may not be obliged to introduce CIL, this would mean that of the 1st April 2014 all infrastructure would be subject to the restriction on the pooling of S106 obligations. This would mean that there would be no mechanism for small and medium housing sites to deliver SANG (as shared SANG sites will already have 5 or more planning obligations attributed to them) and therefore permission for these developments would have to be refused. Therefore there is an even greater risk to delivering development should CIL not be implemented by 1st April 2014.</p> <p>The CIL charges may lead to reduced affordable housing delivery in limited areas of the Borough and as such it is not considered that the CIL charges put the overall delivery of 35% affordable housing at serious risk. Whilst the CIL charges may rise for reduced affordable provision, this is more than off-set by the</p>

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	<p>Paragraph 6.5 of Charging Schedule).</p> <p>Further, paragraph 4.17 of the viability evidence confirms that a significant decrease in development costs (i.e. construction cost decrease of 10%) would still only generate a minority of schemes where the proposed CIL rate is viable within the Camberley area. Such a reduction is considered unrealistic in the short/ medium term and therefore further demonstrates the extent to which the proposed Western Charging Zone CIL rate is unviable. This demonstrates the proposed CIL rate is unviable and therefore conflicts with CIL Regulation 14 (referred above) and with advice from the Planning Advisory Service which states proposed CIL rates should not push development to the margins of viability. In the Western Zone this would occur and resultantly prejudices housing delivery. As CIL receipts can be pooled and mindful of the viability position identified above, the Council are required to introduce flexibility within the proposed CIL rates.</p>	<p>reduction in affordable housing.</p> <p>Noted, however paragraph 4.17 is demonstrating that some developments within VP4 (primarily Camberley Town Centre) may see developments with reduced build costs given the potential conversion of offices to residential. It is this, coupled with potential reductions in affordable housing in some circumstances, which can improve viability in VP4. As such the Borough Council considers that the approach accords with Regulation 14 and that the proposed CIL charges do not push the margins of viability for the majority of development.</p>
English Heritage (South East Region)	<p>The Community Infrastructure Levy covers a wide definition of infrastructure in terms of what can be funded by the levy and is needed for supporting the development of an area. This can include:</p> <ul style="list-style-type: none"> <li>● Open space: as well as parks and green spaces, this might also include wider public realm improvements, possibly linked to a Heritage Lottery Fund scheme, conservation area appraisal and management plan, and green infrastructure;</li> <li>● 'In kind' payments, including land transfers: this could include the transfer of an 'at risk' building;</li> <li>● Repairs and improvements to and the maintenance of heritage assets where they are an infrastructure item as defined by the Planning Act 2008, such as cultural or recreational facilities.</li> </ul> <p>The Localism Act 2011 also allows CIL to be used for maintenance and ongoing costs, which may be relevant for a range of heritage assets, for example, transport infrastructure such as historic bridges or green and social infrastructure such as parks and gardens.</p> <p>The Borough Council should consider whether any heritage-related</p>	<p>Table 3-1 does not set out a list of infrastructure projects but</p>

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	<p>projects should be included in Table 3-1.</p> <p>The Council should also be aware of the implications of any CIL rate on the viability and effective conservation of the historic environment and heritage assets in development proposals. Where that conservation would be compromised by a requirement for a CIL payment the Council should consider an exemption from paying CIL. This circumstance should be considered in the section on Exemptions &amp; Relief.</p> <p>It should also be remembered that development specific planning obligations may still continue to offer further opportunities for funding improvements to and the mitigation of adverse impacts on the historic environment, such as archaeological investigations, access and interpretation, and the repair and reuse of buildings or other heritage assets.</p>	<p>demonstrates the type and amount of infrastructure required to support delivery of the Core Strategy. This is used in turn to demonstrate an infrastructure funding gap. As such, it is not necessary to add heritage projects to this list as none have been identified as an infrastructure need.</p> <p>However, this does not rule out adding heritage projects to the list of infrastructure projects/types that the Borough Council may wish to spend CIL on. However, the list of projects/types is not the subject of a CIL examination or consultation.</p> <p>In terms of the viability of CIL on heritage assets, the viability assessment can only consider viability at a strategic level and cannot consider the impact on individual heritage assets. However the Borough Council will be considering whether to make exceptional circumstances relief available at the next stage of consultation.</p> <p>Noted.</p>
GVA Grimley on behalf of Defence Infrastructure Organisation	<p>DIO acknowledge that the major residential-led development of the PRB site will generate infrastructure requirements to which the developer will need to contribute through a S106 Agreement and / or the Council's proposed CIL. However, DIO are concerned to ensure that the PRB development's contribution towards infrastructure is proportionate. In this respect, DIO wish to draw the Council's attention to four points for consideration in the preparation of their draft charging schedule:</p> <p>Point 1 The Preliminary Draft Charging Schedule Consultation Document</p>	<p>Noted.</p> <p>Noted. The figure of £35m is what the Borough Council consider</p>

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	<p>estimates that the PRB development will, via a S106 Agreement, deliver infrastructure costed at £35m. DIO consider it is too early in the outline planning application process to quantify what the S106 Agreement will deliver. The £35m figure is not agreed. Consideration of the application will establish what the development should deliver, taking account of CIL Regulation 122 and viability to ensure a deliverable scheme.</p> <p>Point 2 It is anticipated that outline planning consent will be granted before the Council's CIL is adopted. However, there may be subsequent S73 applications, or even free standing applications, post adoption of the CIL amendments, which may then be liable for the CIL.</p> <p>In addition, the outline planning application may, due to delay or appeal, not be determined until after the CIL is adopted. The Preliminary Draft Charging Schedule Consultation Document, at para. 3.7, suggests that in such instances developer provision of some on-site infrastructure would still be required (via a S106 Agreement) and acknowledges that the CIL charge would have to reflect the dual nature of contributions.</p> <p>DIO considers that the ongoing preparation of the draft charging schedule should clarify the Council's approach to determination of an application for the redevelopment of the PRB site post adoption of the CIL. DIO considers that a nil CIL rate, or at least lower CIL rate, should be applied to take account of the on-site provision that will be required and to prevent the development effectively making double contributions.</p> <p>Point 3 Related to Point 2, it is noted, from para. 6.11 of the Preliminary Draft Charging Schedule Consultation Document, that the Council is yet to prepare an Infrastructure Statement under CIL Regulation 123. DIO consider that this should accompany the draft charging schedule to provide greater certainty to developers of PRB, in the event of the development being liable to CIL payments, as to what can be considered as part of a S106 Agreement and what is to be funded via</p>	<p>the costs of infrastructure will be at the PRB based on infrastructure needs and costs. It is appreciated that this figure may change depending on the outcome of negotiation with respect to any planning permission granted, but for the purposes of demonstrating an infrastructure funding gap for CIL, the £35m figure has been used as this is the best estimate at this time in the absence of any evidence from DIO.</p> <p>Noted. However CIL does not allow the exclusion of individual sites or the setting of NIL/reduced rates unless evidence of viability supports this. The Borough Council will clarify its approach to the PRB site at the draft charging schedule consultation stage, however it is considered through the use of a Regulation 123 statement that double charging of contributions will not occur.</p> <p>The Regulation 123 statement does not have to be prepared in advance of a CIL charging schedule neither is it open to consultation. However, the Borough Council will consider publishing a draft Regulation 123 statement at the draft charging stage.</p>

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	<p>the CIL.</p> <p>Point 4 Related to Points 2 and 3, land transfers can count towards CIL payments. DIO consider the ongoing preparation of the draft charging schedule should set out the Council's approach to land transfers.</p> <p>[NB: There is an error at Table 2-2 – i.e. number of dwellings should total 780 not 821. In the latest position set out in the outline planning application.]</p>	<p>Noted.</p> <p>Noted. Table 2-2 will be updated for future documents.</p>
Indigo Planning on behalf of Valad Europe Ltd	<p>We note at 6.3 of the draft document that reference is made to the provisions of the CIL Regulations 2010 (as amended) for certain exemptions and relief from CIL. Reference is made to development less than 100 sqm, affordable housing and charitable purposes. Significantly there is no clear reference to the ability of local authorities, should they choose, to elect to offer an exemption on proven viability grounds. The exemption would be available for 12 months, after which time the viability of the scheme would need to be reviewed. The draft charging schedule which this consultation exercise will inform, should clearly refer to this important exemption which is allowed under section 55 of the CIL Regulations 2010.</p>	<p>The Borough Council is considering whether to make exceptional circumstances relief available and will make a decision in due course.</p>
MGA Town Planning & Development Consultants	<p>Unless the Council significantly reduces the suggested CIL charges, particularly in respect of residential development, this will inevitably have a major adverse impact upon development within the Borough. The CIL idea was dreamt up by a Labour Government at a time when the country was experiencing a housing boom, with the CIL legislation being introduced in 2008 at the start of the current financial crisis. The Government has at last woken up to the fact that affordable housing requirements can make a development non-viable. Unrealistic CIL requirements have a similar impact. By setting an unrealistic CIL requirement, as currently proposed, the Council will not only stop much needed housing being built, they will also stop potential homebuyers purchasing furniture, carpets and white goods, etc from local shops and local builders and tradesman being employed who will purchase building materials. As indicated in paragraph 1.7 of the preliminary draft charging schedule:</p> <p><i>“ the Borough Council should not set a rate which would put the</i></p>	<p>The Borough Council's viability assessment shows that the level of CIL tariff(s) set out in the preliminary draft charging schedule are viable in the majority of circumstances. The viability assessment has considered affordable housing costs as well as the cost of SANG and developer profit. Therefore the Borough Council has considered the economic impact of its CIL tariffs including in terms of the 'competitive returns' highlighted by paragraph 173 of the NPPF.</p> <p>Whilst it is acknowledged that some developments in the west of the Borough may not be able to tolerate the CIL tariffs proposed, the Borough Council considers that the level of development not coming forward would not put at serious risk the overall delivery of development within the Borough. Further, the Borough Council can negotiate other factors which may help to improve the viability of sites where CIL renders a development unviable.</p>

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	<p><i>delivery of the majority of development within the Borough at serious risk."</i></p> <p>Paragraph 173 of the National Planning Policy Framework indicates:</p> <p><i>"To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable".</i></p> <p>In the 12 months to the end of June this year, there were just 98,670 new housing starts in England, 10% down on the previous year. An additional 150,000 starts per year are required not only to attempt to avoid an impending housing crisis, but also to help kick-start the economy. CIL payments must not be treated as a cash cow by local councils. Unrealistic CIL requirements will damage the local and national economy and frustrate the aspirations of current and potential future home owners and occupiers to move or indeed climb the first step on the housing ladder.</p>	<p>However, the Borough Council will need to update the viability assessment when it publishes its draft charging schedule. As such any change in viability may require adjustments to the final level of charge set.</p>
<p>Thomas Eggar LLP on behalf of Asda Stores Ltd</p>	<p>The Viability Report contains retail development assumptions that in our view are inadequate as they do not make allowance for:</p> <ol style="list-style-type: none"> <li>1. .106 contributions which will need to be paid by developers in addition to the CIL payments; or</li> <li>2. The costs involved in obtaining planning permission for a development scheme.</li> </ol> <p>Furthermore the Viability Report states that failing to allow for these costs will enable it to "obtain a true value for CIL".</p> <p>By excluding the potentially large s.106 costs and the costs of obtaining planning permission (examples of which are set out at schedule 1 to this letter), the Council has underestimated the true cost of convenience retail developments and artificially inflated the</p>	<p>Noted, an allowance for S106 will be incorporated into an updated viability study to accompany the draft charging schedule. However such S106 contributions will be limited after the implementation of CIL given that if an infrastructure project or type is on the list published by a charging authority it can only be funded through CIL or if it is excluded only 5 S106 obligations can contribute. Therefore the opportunities for requesting large scale S106 contributions from individual applications will be limited.</p> <p>In terms of the costs involved with obtaining planning permission the viability assessment uses an assumption of 12% of construction costs for professional and other fees. It is noted on page 77 of the publication 'Development, Viability &amp; Planning'</p>

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	<p>relevant benchmark land values used for the financial viability models. This will, in turn, have inflated the amount of CIL proposed.</p> <p>Although the Council has taken the economics of regeneration projects into account when conducting its viability assessments for large-scale comparison-retail led schemes, it does not appear to have taken the same approach for any of the other types of development assessed.</p> <p>As you will be aware, Regulation 40 of the CIL Regulations only permits developers to deduct pre-existing floorspace from the CIL calculation if it is 'in lawful use'. 'Lawful use' is defined in Regulation 40 (10) and essentially requires part of a building to have been in use for a six month continuous period in the twelve months before the date of the planning permission permitting the development.</p> <p>However, many regeneration projects on brownfield land involve demolishing, converting or redeveloping buildings that have lain vacant for some time. This is particularly true of schemes which involve changes of use from Employment Land, where the fact that a unit has been vacant for a considerable time is often a key factor in the Council's decision to grant planning permission for the scheme.</p> <p>The Viability Report considered the impact of CIL on the viability of conversion/regeneration schemes for <u>all</u> types of development involving vacant units, however it does acknowledge that the economics of conversion schemes are very different to those of new build schemes. It is difficult to see how the Council can assess</p>	<p>(reference 10 in the viability assessment) an allowance for professional fees can be in the region of 12%-15%, with 12% used for simpler projects and 15% for large complex ones. The 12% assumption used in the viability assessment is considered to be within appropriate parameters for an assessment of viability at a strategic level although the updated viability assessment will allow 15% fees when considering the larger more complex notional developments (i.e. major regeneration, convenience/comparison/retail warehouse at 10,000sqm, office at 6,000sqm and industrial at 3,000sqm).</p> <p>The viability assessment is a strategic level assessment of economic viability and cannot consider every development permutation that may come forward over the Core Strategy period but should focus on those developments that are likely to arise. Major comparison retail led regeneration was considered in the study as this is included within Policy CP10 of the adopted Core Strategy.</p> <p>The viability assessment bases viability assumptions for non-residential development on the gross level of development coming forward not the net level. As such the possibility of vacant units has been taken into account.</p> <p>Aside from the consideration of office conversions to residential within Camberley Town Centre as an example of how some build costs could be reduced, the Borough Council is unaware of the viability assessment considering conversion/regeneration for all</p>

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	<p>whether the imposition of CIL will put the majority of these schemes at risk, without having considered its impact on their viability.</p> <p>For these reasons, we would ask that the Council undertakes a fundamental rethink of its position, and substantially alters its Charging Schedule in so far as it relates to retail development in general, and supermarket retailing in particular.</p> <p>And accordingly, we would request that the Council:</p> <ul style="list-style-type: none"> <li>• Adopts a single flat rate levy across all development within its boundaries; and/or</li> <li>• Reduces the CIL charges for convenience retail units to the same level proposed for comparison retail;</li> <li>• Introduces exceptional circumstances relief; and</li> <li>• Produces a draft staged payments policy that ensures that developers are not disadvantaged by submitting an application for full, rather than outline planning permission.</li> </ul>	<p>types of development. This is because considering all schemes as gross floorspace (i.e. replacing vacant units) is the worse case scenario in terms of viability and this is what has been considered in the viability assessment.</p> <p>The Borough Council will consider whether adjustments to the proposed CIL charges are required following an update of the viability assessment.</p> <p>CIL charges should be based on economic viability evidence. With variation in viability across the Borough it is considered appropriate to apply differential charges.</p> <p>The viability evidence may not support this.</p> <p>The Borough Council is considering its policy with respect to exceptional circumstances relief and a payment instalment policy.</p>
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Chobham Parish Council	<p>Paragraph 2.5: Is the number of anticipated units in table 2-1 likely to be affected by the Community Infrastructure Levy itself?</p> <p>Paragraph 2.8: On the numbers given, we make the total units 780, not 821 as table 2-2 states.</p>	<p>No. Some sites identified with the Borough Council's Strategic Housing Land Availability Assessment (SHLAA) may not come forward as a result of viability issues ( a small proportion of sites as set out in the draft viability assessment at paragraphs 4.10-4.19). However the Borough Council will still have to allocate sufficient sites in a Site Allocations LDD to meet the Core Strategy target of 3,240 net additional dwellings to 2028.</p> <p>Noted. Figure of 780 is correct and will be updated in future documents.</p>

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	<p>Paragraph 3.2: What are the arrangements for cross-borough CIL charging, for example on a redevelopment project such as the former DERA site in Longcross (largely under Runnymede Borough Council), where a neighbouring borough will be required to bear a proportion of the infrastructure requirements?</p> <p>Paragraph 3.13: If other boroughs and districts are to benefit from Enterprise M3 LEP funding, why is there no expectation that Surrey Heath will receive anything?</p> <p>Paragraph 4.1: If a development includes its own SANG within the curtilage, will it still be subject to CIL charges for SANG?</p> <p>Paragraph 5.12: Are there potential cases where the boundary of the eastern/western charging zone may divide one road? If so, could this lead to a 25% CIL charge disparity between adjacent properties? Similarly, has the Surrey Heath tariff been compared to that of adjacent boroughs?</p> <p>Paragraph 5.16: The figure of 1,254sqm net estimated floor space for East Zone residential (C3) in Table 5-3 seems far too low. Has an error been made with this figure?</p>	<p>Runnymede Borough Council will be the charging authority for development at the DERA site and as such Surrey Heath will not be in receipt of any CIL contributions arising from this development, should CIL be used to raise contributions instead of S106. However, Surrey Heath will continue to work with Runnymede to ensure that any development at the DERA site provides an appropriate and acceptable level of infrastructure whether through CIL or S106.</p> <p>Surrey Heath is not identified for major growth such as locations like Basingstoke and therefore the realistic expectation is that less LEP funding will be diverted to Surrey Heath. However, the Borough Council will continue to apply/lobby the LEP for fund when opportunities arise.</p> <p>Yes. Individual sites cannot be excluded from CIL and as such once implemented CIL will apply to all sites coming forward with contributions spent on identified infrastructure projects/types. However, there are mechanisms available to the Borough Council such as exceptional circumstances relief to ensure that the burdens of complying with CIL and any bespoke infrastructure requirements such as an on-site SANG can be reduced.</p> <p>This is a possibility and is allowed under the CIL Regulations providing that any charging zones are based on evidence of viability alone. The only area where a 25% difference in charges may be seen in residential areas immediately adjacent to one another is a very small area which lies within Deepcut and is surrounded by the Princess Royal Barracks allocation. This area sits within West End Parish and would be subject to a £250 charge not £200, however this area also lies within 400m of the SPA and is unlikely to be developed.</p> <p>No error. The figure is based on the number of dwellings expected to come forward in the east charging zone according to the Core Strategy (140 net additional) and is then further based on the net additional floorspace likely to come forward from these 140 dwellings.</p>

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	<p>Paragraph 5.5: what constitutes a "sales area" in garden centres, petrol stations etc.? Is it internal floor space or does it include outside areas as well?</p> <p>Paragraph 6.2: Will the Parishes be consulted in considerations for any arrangement of transferring a 'meaningful' proportion of CIL to them? Will there be a process for the Parishes to formally propose infrastructure projects in their area?</p>	<p>Sales areas would include internal floor area but not outside areas as this does not constitute 'floor area'.</p> <p>The CIL Regulations may set out a definition of 'meaningful proportion' and as such the Borough Council would be tied to this and therefore consultation would not be required. However, should the proportion not be defined the Borough Council will consult with the Parishes. If any CIL funds are transferred, it will be for the Parishes to determine on what infrastructure projects they spend CIL not the Borough Council. A formal procedure for this may be necessary but is not included in the CIL Regulations at this time.</p>
English Heritage (South East Region)	<p>Thank you for advising English Heritage of the consultation on these draft documents.</p> <p>English Heritage advises that CIL charging authorities identify the ways in which CIL, planning obligations and other funding streams can be used to implement the policies within the Local Development Framework aimed at and achieving the conservation and enhancement of the historic environment, heritage assets and their setting.</p>	<p>Noted, but this is not necessary for the purposes of a CIL charging schedule.</p>
Environment Agency South East	<p>We are pleased to see that the Council has recognised developer contribution as a way of raising funds for the provision of infrastructure which serves and benefits new developments within Surrey Heath.</p> <p><u>Flood risk</u></p> <p>Surrey Heath has known flood risk issues within the catchment area of the Hale and Addlestone Bourne. High rainfall events have resulted in the rivers overtopping their banks, notably in November 2000, October 1993, April 1990, and September 1968. These storms resulted in several houses being flooded and roads being blocked.</p> <p>In August 2006, many properties in Windlesham, Lightwater, West</p>	<p>Noted.</p> <p>Noted.</p>

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	<p>End and Chobham were flooded internally and externally. The principle flooding sources were a combination of fluvial, surface and sewer water. Areas within the catchment with known flooding problems include Bagshot, Chobham, West End, Windlesham and Lightwater.</p> <p>Community Infrastructure Levy (CIL) provides opportunities to provide further flood reduction measures that could help reduce flood risk issues highlighted in the Council's SFRA. There are a number of flood risk related activities which the Council will be undertaking in 2013 / 2014. The Council submitted bids to the Environment Agency for two Flood Defence Grant in Aid (FDGiA) schemes in May 2012. The bids were initially assessed in June and they have now progressed to the next stage for full high-level assessment. These schemes, when implemented will support proposed future developments in the areas in question by contributing towards minimising flood risk to people and property.</p> <p>The Council may choose to use the Community Infrastructure Levy to raise funds from developers to support any appropriate flood defence infrastructures which are recommended by studies.</p> <p>Contributions could also be made towards regional SuDS schemes such as large scale attenuation ponds, detention basins, etc. Not only would this provide benefits in terms of reducing surface water runoff from larger areas of Surrey Heath, thereby reducing existing surface water flooding issues in the Borough, but depending on the design could also provide amenity benefits.</p> <p>Contributions could also be made to providing off site floodplain compensation and/or flood storage schemes helping to increase/maintain fluvial flood plain storage in the Borough. The cumulative impact of smaller developments such as extensions etc can have a noticeable impact in terms of reducing floodplain storage, while at the same time are impractical to mitigate on a site by site basis. Given this, it may be worth considering whether contributions from such developments could go towards providing off site flood storage areas (where opportunities exist) to help counter the</p>	<p>Noted, this may be an infrastructure type the Borough Council places onto the Regulation 123 statement.</p> <p>Noted.</p>

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	<p>cumulative impact of smaller development.</p> <p><u>Biodiversity</u></p> <p>Costings have been estimated for SANGs; parks and gardens and amenity greenspace, but there is no mention of spending the funds on biodiversity specifically, or on creating new habitats. While this may be included within SANGs and amenity greenspace, the Local Authority may consider contributions towards biodiversity, which is in line with the local authority's biodiversity duty under the Natural Environment and Rural Communities (NERC) Act.</p>	<p>Noted, however this is rolled into SANG costs.</p>
<p>Highways Agency</p>	<p>The HA will be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN.</p> <p>We have reviewed the consultation and do not have any comment at this time.</p>	<p>Comments regarding the Strategic Road Network (SRN) are noted.</p>
<p>Indigo Planning on behalf of Valad Europe Ltd</p>	<p>VALAD Europe ('Valad') is the freeholder of Norwich House which is located within a strategic location in Camberley Town Centre. Valad are currently considering future options with regard to their holding given the existing difficulties in the commercial property market, specifically the oversupply of office accommodation in Camberley Town Centre.</p> <p>The implementation of CIL in Surrey Heath and its impacts on the viability of any future proposals is therefore of great interest to Valad who wish to ensure that the tariff is implemented fairly and appropriately.</p> <p>Valad are keen to consolidate their presence in Camberley but do not wish to see development opportunities adversely impacted by the imposition of an unreasonably high CIL levy. We trust that the above comments will be taken into consideration in the preparation of Surrey Heath's draft charging schedule which we look forward to reviewing in 2013.</p>	<p>Noted.</p>
<p>Natural England</p>	<p>Thank you for your consultation on the above dated 03 August 2012 which was received by Natural England on the same date. We have</p>	<p>Noted</p>

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	<p>chosen to respond via letter as our concerns relate solely to one issue, that of the Thames Basin Heaths Special Protection Area (TBH SPA).</p> <p><b>HRA Screening</b>  Natural England was consulted by your Authority on the requirement for the Community Infrastructure Levy (CIL) charging schedule to undergo a Habitats Regulations Assessment (HRA) back in September 2011. We responded on 14 October 2011 (Our ref:33158) concurring with your Authority's view that no HRA was required. This response was issued in error by a member of staff who did not fully understand the potential implications of CIL for the TBH SPA. Natural England hereby retracts this erroneous response and would like to apologise unreservedly for any confusion or difficulty caused. Since the issuing of this incorrect response Natural England's views on CIL have developed significantly and our current view as to the requirement for HRA is set out in Annex 1 of this letter. This is consistent with letters issued to other planning authorities affected by the TBH SPA in response to CIL HRA screening requests.</p> <p>Natural England welcomes the commitment of your Authority to ensuring that a mechanism is put in place which guarantees that sufficient CIL funds are directed to SPA avoidance measures (Paragraph 6.15 of Consultation document). The means to achieve this is a matter which Natural England will be addressing with all TBH SPA authorities in an upcoming meeting.</p> <p><b>SANG at Princess Royal Barracks, Deepcut</b>  Natural England has been working with your Authority and other stakeholders for a number of years on the bespoke Suitable Alternative Natural Greenspace (SANG) solution which will allow some 1,200 new dwellings to come forward at Deepcut. We would like to remind your Authority that due to the particular circumstances of this development the SANG requirement is significantly over and above the minimum standard set out in the TBH SPA Delivery Framework. We note your Authority's expectation that a planning application is likely to be agreed for the site prior to the implementation of a CIL charging schedule and therefore all on-site</p>	<p>Noted, however the Borough Council, as the competent authority, disagrees with the assertion that an HRA of a CIL charging schedule is required. The charging schedule is neither a plan nor project and as such there is no requirement or indeed mechanism within either the Habitats Directive or Habitats Regulations for the charging schedule to undergo HRA.</p> <p>Noted. The Borough Council remains committed to working with Natural England to ensure an appropriate mechanism is in place at the time of CIL implementation to ensure SPA measures are fully funded. However, even in the absence of such a mechanism the Borough Council is still of the opinion that an HRA of the charging schedule itself is not required.</p> <p>Noted, however it is the intention of the Borough Council to secure the SANG at the Princess Royal Barracks by S106. This SANG is likely to be excluded from a Regulation 123 statement to ensure this remains the case even after implementation of CIL.</p>

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	<p>infrastructure, including SANG, will be funded via a legal agreement. However, if for any reason this changes and the bespoke SANG is to be funded by CIL then you should ensure your estimated infrastructure costs are as accurate as possible based on the SANG designs which Natural England has commented on at the pre-application stage.</p> <p><b>SANG catchment and CIL contributions</b>  The Technical Background Document indicates that limited SANG capacity remains at Chobham Place Woods. However, it is the more recent SANG at Blackwater Valley / Hawley Meadows which will provide the majority of capacity in the Borough in the immediate future. The Blackwater Valley / Hawley Meadows SANG has a catchment area of 5km. This means once all capacity at Chobham Place Woods has been used up and assuming no other SANGs have been agreed in the interim that only developments of 9 houses or less will be permitted within that portion of the Borough outside the catchment area. It is not currently clear whether the implications of this for the funding of the Blackwater Valley / Hawley Meadows SANG through CIL have been fully considered.</p> <p><b>Annex 1 – Natural England’s view on the requirement for CIL charging schedules to undergo assessment under the Conservation of Habitats and Species Regulations 2010</b></p> <p>In light of the current draft Community Infrastructure Levy (CIL) legislation, under which planning obligations cannot be used to pool contributions from more than five separate developments, we welcome that the council are seeking Natural England’s opinion on whether this document would require a full Habitats Regulations Assessment.</p> <p>Surrey Heath Borough Council have an agreed approach which will need to continue to provide and maintain sufficient Suitable</p>	<p>The Chobham Place Woods SANG is now at capacity and as such all net additional residential development is being assigned to Blackwater Valley Park (aside from developments of 10+ units outside the 5km catchment). The Borough Council remains committed to implementing a suite of SANG across the Borough and continues to explore opportunities for new SANG which will be required to deliver the Borough’s housing target to 2028. The implications of fully funding the SANG at Blackwater Valley Park and any future SANG requirements have been considered in the Technical Background Document which accompanied the CIL pre-draft schedule consultation. The TBD considers the amount of revenue likely to be raised by CIL and shows that sufficient CIL funds will come forward to fully fund SANG.</p>

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	<p>Alternative Natural Greenspace (SANG) in perpetuity (in addition to Strategic Access Management and Monitoring), to avoid impacts from residential development within 5km of the Thames Basin Heaths Special Protection Area (TBHSPA). As competent authority, the council must satisfy itself that the proposed CIL approach is compliant with the Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').</p> <p>Natural England has concerns regarding the compliance of the proposed approach with the Habitats Regulations, namely regarding the lack of legal obligation on the local authority to deliver sufficient SANG in perpetuity. Whilst we fully appreciate the council's will and intention to use funds raised from CIL on SANG, we believe that without a mechanism in place which ensures adequate funds are spent on SANG, doubt could remain as to the long term funding of SANG.</p> <p>Natural England will need to see evidence within the CIL charging schedule produced by Surrey Heath Borough Council that they will still be able to collect the relevant amount of funding to maintain the SANGs in the borough, to the required size and quality for in perpetuity, to mitigate for the housing allocation.</p> <p><b>We consider that, without further evidence any future CIL schedule or SPD could lead to a likely significant effect on the SPA, and therefore that a full Habitats Regulations Assessment must be carried out.</b></p> <p>This concern is increased by the exemption of affordable housing from the requirement to contribute to CIL. Due to uncertainties in the level and timing of affordable housing coming forward within the 5km zone, there could be a deficit in SANGs funding collected via CIL to offset potential impacts. It is our opinion, and that of the TBH Delivery Framework and Surrey Heath Borough Council's sound Core Strategy, that affordable housing has equal potential to increase recreational pressures on the SPA.</p> <p>The challenges that Surrey Heath faces are shared by the other</p>	

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	<p>Thames Basin Heaths local authorities, who are also trying to secure a solution which satisfies both the new CIL Regulations and Habitats Regulations. We therefore urge the Council to continue to work with the other Thames Basin Heaths authorities (and Natural England) to develop an agreed approach.</p>	
RSPB (South East Office)	<p>The RSPB does not question Surrey Heath's firm commitment to the protection of the Thames Basin Heaths SPA, nevertheless we do have serious concerns regarding the implications of the introduction of the Community Infrastructure Levy (CIL) for the delivery of Suitable Alternative Nature Greenspace (SANGs) in the Borough.</p> <p>As the Council knows, it is agreed that SANGs are required (in addition to Strategic Access Management and Monitoring) in line with all net new housing within 5km of the SPA (in Surrey Heath's case, across the whole of the Borough) in order to avoid a likely significant effect on the Annex I ground-nesting bird populations for which the SPA is designated. Without certainty of the delivery of SANGs at the required <b>level, location and timing</b>, net new housing development within the SPA zone of influence will not meet the requirements of the Habitats Regulations and must undergo individual Appropriate Assessment.</p> <p>The collection of contributions towards SANGs via CIL (as proposed by the Council's CIL Preliminary Draft Charging Schedule) will remove the critical link between new housing within the Borough and the delivery of SANGs. This creates serious questions as to how the Council will be able to demonstrate that SANGs are delivered:</p> <p>i) at the necessary level to mitigate recreational pressure from all net new housing within the 5km zone of influence;</p>	<p>Noted.</p> <p>The Borough Council is aware of the potential break in the link between development and SANG funding through the CIL Regulations. The Borough Council notes that the Inspector at the Poole Borough Council CIL examination considered this issue and concluded that <i>'The fact that the introduction of the CIL will sever the direct link between development and strategic infrastructure does not undermine the capability of the Council to meet its obligations under the Habitats Regulations'</i>. As such the Borough Council considers that SANG can be delivered through CIL and allows the Borough Council to meet its obligations under the Habitats Regulations.</p> <p>The estimated level of SANG required to avoid impact from residential development over the Core Strategy period i.e. 3,240 net additional dwellings has been calculated in an Infrastructure Needs Assessment and is reproduced in Table 3-1 of the</p>

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	<p>ii) within the required proximity of otherwise damaging development, and;</p> <p>iii) in time to ensure that the necessary SANGs are up and running ahead of occupancy of the new housing within the 5km zone of influence.</p> <p><b>Without this important linkage between new housing and the necessary SPA mitigation measures, we are unable to see how the Council, as competent authority under the Habitats Regulations, will be able to determine the potential impacts of increased recreational pressure arising from new housing within the Borough will be avoided, either at the development plan level or the individual application level.</b></p> <p>This concern is amplified by the exemption of affordable housing from the requirement to contribute to CIL1. We appreciate that the Council proposes to make up the resulting shortfall in SANG funding by increasing the contribution made by market housing, and has calculated the SANG infrastructure tariff on the basis of the proportion of affordable and market housing that is currently predicted to come forward in the Borough over the Core Strategy period (2011-2028). However, there are inevitable uncertainties in such predictions, which we consider exposes the delivery of SANGs to an unacceptable level of risk.</p> <p>A further matter of significant concern is raised by the Council's</p>	<p>Technical Background Document. As such the level of SANG required to avoid impact from 3,240 net dwellings has been considered.</p> <p>The Borough Council continues to work towards a suite of SANG which will avoid impacts wherever development occurs within the Borough and at whatever scale. If suitable SANG are unavailable at the time an application is made then the Borough Council as the competent authority still retains the power to refuse permission if development cannot avoid impact to the SPA.</p> <p>The Borough Council can introduce an instalments policy and this may be able to ensure that SANG funding from CIL still comes forward upon commencement of development. Further, there is nothing in the CIL regulations which stop the Borough Council from entering into a planning obligation to restrict occupation until a SANG is up and running.</p> <p>Noted, but for the reasons given above the Borough Council disagrees with this assertion. Further, the Borough Council is considering producing an Infrastructure DPD which will include a hierarchy of infrastructure funded by CIL. This could include avoidance measures for European sites.</p> <p>Noted. However, the Borough Council considers that it has taken a precautionary approach when calculating how much revenue will be required from CIL to fully fund SANG including making allowances for affordable housing and the net level of development. As such the CIL charges proposed for residential development are considered to be robust.</p> <p>The Technical Background Document is simply stating that at the</p>

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	<p>suggestion (Section 4) that, in the first 3 years of the adoption of CIL in the Borough, SANGs contributions will only be collected towards the Blackwater Valley/Hawley Meadows SANG. As we understand, with the exception of developments of less than 10 units, the catchment for this SANG extends only to 5km, therefore only covering the western part of the Borough. There is no indication in the Consultation Document whether affordable or market housing developments (greater than 9 units) beyond this zone will be refused on the basis of a lack of SANGs within an appropriate distance, nor indeed whether this matter has been factored into the calculations for determining the SANG infrastructure tariff to be collected via CIL.</p> <p>The Technical Background Document does suggest that some limited additional capacity may still exist in Chobham Place Woods SANG. However, while this may extend the overall SANG catchment coverage across the Borough, we note that the per person cost of delivering the Chobham Place Woods SANG is considerably higher than that of the Blackwater Valley/Hawley Meadows SANG, on which the SANG infrastructure tariff has been based, raising further serious questions about the delivery of SANGs in the Borough via the proposed CIL Charging Schedule.</p> <p>We note that a Habitats Regulations Assessment (HRA) screening has been undertaken in respect of the draft Charging Schedule, which concluded that a full Appropriate Assessment is not required. However, given the uncertainties set out above, we consider that the collection of SANGs contributions via CIL could lead to a <i>likely significant effect</i> on the SPA, and therefore that a full Appropriate Assessment is necessary. We understand that this is also Natural England's current advice to the Council, despite the suggestion in the screening report that Natural England support the HRA screening conclusions.</p> <p>We acknowledge that there is a clear commitment on behalf of the Council to address the challenges that the introduction of CIL places on the delivery of SANG in the Borough. However, these challenges extend beyond simply ensuring that sufficient funding is directed to SPA avoidance measures, and include a number of potentially</p>	<p>time of writing the Blackwater Valley Park SANG was the only SANG in operation for the purposes of calculating CIL. The Borough Council continues to work towards a suite of SANG and therefore it is not the case that SANG contributions will only be collected towards Blackwater Valley Park in the first 3 years. Nevertheless, should no further SANG come forward, the Borough Council as competent authority still retains the power to refuse permission if development does not avoid impact.</p> <p>The assertion that the Chobham Place Woods SANG is more expensive per person than Blackwater Valley Park is wrong. Blackwater Valley Park costs £2,600 per person, whilst Chobham Place Woods was £3,500 per dwelling. As such a low occupancy unit such as a 1-bed flat (occupancy of 1.5 persons) equates to £2,333 per person.</p> <p>The Borough Council maintains the assertion that a CIL charging schedule is not a plan, programme or project and is merely a financial tool. As such there is no mechanism to undertake HRA.</p> <p>Noted</p>

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	<p>complex issues, examples of which we have highlighted in this response. If not very carefully managed, the introduction of CIL could threaten to unravel the many years of work undertaken to establish a robust approach to the protection of the Thames Basin Heaths SPA. We therefore urge the Council to work with the other Thames Basin Heaths authorities and Natural England to ensure a legally sound approach is taken to the adoption of CIL across the Thames Basin Heaths.</p>	
Sport England	<p>Sport England has considered the CIL draft charging schedule in the light of Sport England's 'Spatial Planning for Sport and Active Recreation: Development Control Guidance Note (2009) Appendix 2'.</p> <p>The overall thrust of the statement is that a planned approach to the provision of facilities and opportunities for sport is necessary in order to ensure the sport and recreational needs of local communities are met.</p> <p>The National Planning Policy Framework (NPPF) requires each local planning authority to produce a Local Plan for its area. Local Plans should address the spatial implications of economic, social and environmental change. Local Plans should be based on an adequate, up-to-date and relevant evidence base. In addition, para 73 of the NPPF requires that:</p> <p><i>"Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessment should identify specific needs and quantitative deficits or surpluses of open space, sports and recreational facilities in the local area."</i></p> <p>Paragraph 175 of the NPPF states:</p> <p><i>"Where practical, Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan."</i></p> <p>Sport England advocates that new developments should contribute to the sporting and recreational needs of the locality made necessary by</p>	<p>This will be taken into account for the Regulation 123 Statement but is not necessary for the Charging Schedule.</p>

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	<p>their development.</p> <p>Sport England is encouraged that the Council has an Open Space and Recreation Study 2007 in place. However, to ensure that developer contributions are not challenged at the planning application stage, Sport England would advise the Council to update its evidence base more regularly.</p> <p>Sport England supports the use of planning obligations/community infrastructure levy as a way of securing the provision of new or enhanced places for sport and a contribution towards their future maintenance, to meet the needs arising from new development. This does need to be based on a robust evidence base. This includes indoor sports facilities (swimming pools, sports halls, etc) as well as playing fields and multi-use games courts.</p> <p>All new dwellings in Surrey Heath in the local plan period should provide for new or enhance existing sport and recreation facilities to help create opportunities for physical activity whilst having a major positive impact on health and mental wellbeing.</p> <p>Planning, leisure and sports officers should:</p> <ul style="list-style-type: none"> <li>- Assess existing information on the need and demand for sport and recreation provision in terms of how it will assist in creating a CIL charging schedule</li> <li>- Look at the potential for adapting any existing standard charge approaches to sport, currently used for section 106 agreements, into CIL charges</li> <li>- Ensure liaison between sport and planning officers results in built sports facilities, as well as outdoor facilities such as playing fields, being included in CIL charging schedules</li> <li>- Consider how lists of appropriate projects, in areas affected by development, can be established and prioritised for implementation</li> </ul>	<p>Noted</p> <p>Noted</p> <p>This is a matter for the Regulation 123 Statement not the charging schedule.</p> <p>Noted</p>

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	<p>For information regarding planning obligations for sport:  <a href="http://www.sportengland.org/facilities__planning/planning_tools_and_guidance/planning_contributions.aspx">http://www.sportengland.org/facilities__planning/planning_tools_and_guidance/planning_contributions.aspx</a></p> <p>For more information re: sport and CIL:  <a href="http://www.sportengland.org/facilities__planning/planning_tools_and_guidance/planning_contributions_-_what/community_infrastructure_levy.aspx">http://www.sportengland.org/facilities__planning/planning_tools_and_guidance/planning_contributions_-_what/community_infrastructure_levy.aspx</a></p>	
Surrey County Council - Planning Implementation Team	<p>We have only one comment to make with regard to paragraph 3.8. This paragraph, headed “sources of funding,” needs to be revised to reflect the fact the Department of Transport allocates the funding referred to, and it is not fixed to either integrated transport or maintenance as implied in the current paragraph. The text should therefore be amended as follows:</p> <p><u>The third Surrey Local Transport Plan (LTP3) identifies the level of transport capital funding which the Department of Transport has allocated to Surrey. This amounts to of £13m for integrated transport and £31.6m for highways capital maintenance up to £44.6 million for 2011/12 and 2012/13, with indicative funding of a further £16.1m for integrated transport and £29.6m highways capital funding from £ 45.7 million for 2013/14 to and 2014/15. The funding allocation is for integrated transport and maintenance, although it is not ring fenced for transport.</u></p>	Noted
Thomas Eggar LLP on behalf of Asda Stores Ltd	<p>We wish fundamentally to object to the approach taken to assessing the Charging Schedule, and to the disproportionate loading of the Community Infrastructure Levy (“CIL”) upon retail development, on the following grounds:-</p> <ol style="list-style-type: none"> <li>3. The Impact on policy’s promoting economic growth and employment opportunities;</li> <li>4. The approach taken to retail-led regeneration schemes;</li> <li>5. The proposal to split “convenience” and “comparison” retail;</li> <li>6. The financial assumptions and viability assessments contained in the Council’s Viability Report.</li> </ol>	

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	<p>We have also raised a few more general concerns and made some suggestions, which we hope you will consider.</p> <p>The stated purpose of CIL is to raise revenue for infrastructure necessary to serve development. CIL is intended to address the imbalance of raising funds for infrastructure under the s.106 route, where larger schemes have effectively subsidised minor developments. However, CIL does not replace the s.106 revenue stream, it will simply provide additional revenue for infrastructure.</p> <p>In light of this, we have some further concerns:-</p> <p>The Charging Schedule, as drawn, does not make the connection between the CIL charges proposed and the infrastructure requirements of the particular developments upon which they are being levied. By way of example, using the CIL figures proposed in the Charging Schedules (£250.00 per square metre) the proposed charge would add £1,000,000 to the cost of a generic 4,000 square metre, supermarket development. There is no evidence that this is necessarily the appropriate figure in terms of the related infrastructure costs that a retail development should be expected to carry, but rather it appears to be a high level calculation based on the sector's assumed ability to pay.</p> <p>We accept that some superstores may individually necessitate the provision of specific local infrastructure, but it could be argued that given the proliferation of modern supermarkets infrastructure requirements have reduced, for example, it is frequently the case that journey times fall as new supermarkets are opened. The inevitable consequence of this is that most existing infrastructure is used less, not more, as a result of such developments. There is a concern that as local authorities will still seek site-specific commitments under the Section 106 regime as well as CIL, then the two charges represent an unreasonable double levy for infrastructure, which is being placed onto a very limited category of development.</p>	<p>If an infrastructure type or project is included in the list of infrastructure types/projects set out by the charging authority then it will be funded through CIL and cannot be funded through S106. If projects are excluded from CIL or there is no statement setting out a list of types/projects than up to 5 planning obligations can contribute towards a single item of infrastructure or infrastructure type. As such it is not agreed that CIL is simply additional revenue on top of S106.</p> <p>The charging schedule does not have to make a connection between the CIL charges and the infrastructure requirements normally associated with a particular type of development. CIL charges are based on the economic viability of development and not whether a development should pay towards certain items of infrastructure. As such CIL is flexible in terms of how funds are spent, which is one of the fundamental purposes of its introduction.</p> <p>If an infrastructure type or project is listed in a Regulation 123 statement then it will be funded through CIL and cannot be funded through S106. If infrastructure projects or types are excluded from CIL than up to 5 planning obligations can contribute towards a single item of infrastructure or infrastructure type. As such CIL Regulation 123 was written to specifically avoid the double charging of both S106 and CIL from individual developments. There may be instances where bespoke infrastructure is required through S278 agreements and potentially non-infrastructure S106 contributions and this will be factored into the updated viability assessment.</p>

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	<p>There is also a risk that some of the infrastructure projects identified by the Council to be funded by CIL will already have been funded by undelivered projects funded by existing s.106 commitments. At present, s.106 contributions paid to the Council are repaid to the developer if the infrastructure has not been delivered within a certain period of time. These delivery periods are long, usually between five and ten years, and the onus is on the developer to check that the Council has carried out the works and to request a refund if not. As you will be aware, there is no similar mechanism to allow developers to reclaim unspent CIL contributions.</p> <p>The charges appear disproportionately high, when compared to those proposed by other councils for convenience retail. As you can see from the table at Schedule 2, Surrey Heath is proposing one of the highest levels of CIL for convenience retail in the country so far.</p> <p>Whilst the Council has not stated whether it intends to adopt exceptional circumstances relief, we would strongly encourage it to do so.</p> <p>The Viability Report makes it clear that the viability of any particular development scheme is finely balanced, and will fluctuate dramatically depending on the costs involved in the development and the state of the economy when the development comes forward. It identifies a number of housing or commercial schemes, which are on the borders of viability, which will not come forward as a result of CIL being imposed on them.</p> <p>By adopting 'exceptional circumstances' relief the Council would have the flexibility, if it so wished, to allow strategic or desirable but unprofitable development schemes to come forward by exempting them from the CIL charge or reducing it in certain circumstances.</p> <p>Simply exempting schemes from certain Section 106 obligations is unlikely to be sufficient to counteract the negative impact of the CIL charge, particularly as not all schemes (in particular retail developments) would attract an affordable housing requirement which</p>	<p>Noted, however the Borough Council is required to publish an annual report which sets out the amount of CIL receipts received and the amount of CIL spent including details of spending on individual infrastructure projects. The Borough Council also monitors on which projects it spends S106 monies. As such with monitoring in place it should be transparent as to which projects have been funded by which mechanism.</p> <p>Economic viability will vary across different areas of the country given varying land values. The viability assessment takes this into account which is why there is a difference between the tariffs proposed in Surrey Heath and the tariffs in other areas.</p> <p>The Borough Council will make a decision on whether to introduce exceptional circumstances relief in due course.</p>

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	<p>could be waived. Further, the types of strategic development which are most likely to be of concern to the Council, such as large regeneration or housing schemes, are precisely the types of development which are likely to carry heavy site specific infrastructure costs, which will be funded under s.106, and are most likely to qualify for “exceptional circumstances” relief.</p> <p>We note that the Council does not propose to consult on a staged payments policy at this stage. When considering a staged payments policy, we should be grateful if the Council would take into account the fact that many major development projects are implemented in phases and ensure that developers are not disadvantaged by submitting an application for full, rather than outline, planning permission.</p> <p>Large scale developments are phased for a number of reasons, most commonly because the revenue generated by the early phases of the development needs to be realised in order to fund the remainder of the scheme.</p> <p>As planning authorities have often expressed a preference for determining full planning applications where all of the relevant information is available to them, large scale developments are often submitted to the Council as full planning applications, rather than applications for outline permission. If this trend is to continue, allowances will need to be made for the phasing of large scale developments which have been granted full, rather than outline, planning permission.</p> <p>At present the CIL Regulations allow for staged payments to be linked to the period of time that has passed since commencement, rather than the phase of development achieved. This means that any one staged payment could fall due before the earlier phases of the scheme have started to generate the revenue required to fund it, rendering the project economically unviable. This puts developers who have applied for full planning permission at a disadvantage,</p>	<p>Noted. The Borough Council will make a decision on whether to introduce an instalments policy in due course.</p>

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	<p>compared to those who have an outline permission, as the charging regime for outline planning permissions makes specific allowances for phased development.</p> <p>Under the CIL Regulations, developers are required to serve a notice of commencement of development on the Charging Authority, but are not required to notify them of the commencement of individual phases of development. This could, however, be easily addressed through the use of planning conditions or, alternatively, planning obligations requested through a Section 106 agreement.</p> <p>For these reasons, we would ask that the Council undertakes a fundamental rethink of its position, and substantially alters its Charging Schedule in so far as it relates to retail development in general, and supermarket retailing in particular.</p> <p>And accordingly, we would request that the Council:</p> <ul style="list-style-type: none"> <li>• Adopts a single flat rate levy across all development within its boundaries; and/or</li> <li>• Reduces the CIL charges for convenience retail units to the same level proposed for comparison retail;</li> <li>• Introduces exceptional circumstances relief; and</li> <li>• Produces a draft staged payments policy that ensures that developers are not disadvantaged by submitting an application for full, rather than outline planning permission.</li> </ul> <p style="text-align: center;"><b>Schedule 1</b></p> <p><b>s.106 Agreements</b></p> <p>The types of contribution that could still feasibly be sought from a retail developer once the charging schedule has been adopted</p>	<p>CIL charges should be based on economic viability evidence. With variation in viability across the Borough it is considered appropriate to apply differential charges.</p> <p>The viability evidence may not support this.</p> <p>The Borough Council is considering its policy with respect to exceptional circumstances relief and a payment instalment policy.</p>

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	<p>include:</p> <ul style="list-style-type: none"> <li>• Cost of site-specific highways works; including junction improvements, road widening schemes, new access roads; diversion orders and other highways works;</li> <li>• Cost of extending the Council's CCTV Network or Public Transport Network to include the scheme (including the costs of creating new bus stops, real time information and providing new bus services to serve the site);</li> <li>• Monitoring costs of compliance with employment/ apprenticeship schemes and travel plans;</li> <li>• Environmental off-set contributions, to mitigate the loss of habitat or greenery caused by the scheme;</li> <li>• The cost of any remediation and decontamination works to be carried out by the Council on the Developer's behalf;</li> <li>• Payments for town centre improvements intended to mitigate the impact of the development on the town centre or neighbouring areas; and</li> <li>• The costs incurred by the Council of maintaining any site specific infrastructure required by the development.</li> </ul> <p><b>Planning Costs</b></p> <p>The cost of obtaining planning permission from the Council a development scheme can be significant. These are not limited to the Council's own fees for submitting an application and obtaining pre-application advice, but also include:</p> <ul style="list-style-type: none"> <li>• The professional costs involved in appointing consultants to prepare the application;</li> <li>• Legal costs involved in negotiating the underlying legal agreements;</li> <li>• Costs of negotiating appropriate planning conditions and obligations with the Council;</li> <li>• Consultation costs, particularly for larger schemes which will</li> </ul>	

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	<p>need to show evidence of early community engagement; and</p> <ul style="list-style-type: none"> <li>If permission is refused, or challenged by an aggrieved third party, the costs of an appeal to the planning inspector or a judicial review challenge in the High Court.</li> </ul>													
<b>Schedule 2</b>														
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<p>Woolf Bond Planning LLP on behalf of Taylor Wimpey UK Ltd</p>	<p>We refer to the above consultation exercise and enclose representations submitted on behalf of our clients Messrs Taylor Wimpey (Strategic) Ltd.</p> <p><i>i. The National Planning Policy Framework (NPPF) (CLG, 2012)</i></p> <p>The NPPF provides for a presumption in favour of sustainable development that is to become the basis for every plan and sets out the Government's requirements for the planning system. The NPPF at para 175 is clear that CIL should provide a pro development focus in terms of its implementation:</p> <p><b>'Community Infrastructure Levy should support and incentivise new development, particularly by placing control over a meaningful proportion of the funds raised with the neighbourhoods where development takes place'.</b></p> <p>In regard specifically to the issue of viability the NPPF states:</p> <p><b>'To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable' (para 173).</b></p> <p>Further in regard to overall infrastructure planning, the NPPF states:</p> <p><b>'To facilitate this, it is important that local planning authorities understand district-wide development costs at the time Local Plans are drawn up. For this reason, infrastructure and development policies should be planned at the same time, in the Local Plan' (para 177).</b></p> <p><i>ii. CLG Written Ministerial Statement (23<sup>rd</sup> March 2011)</i></p>	<p>The NPPF also states at paragraph 119 that 'The presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitat Directives is being considered, planned or determined'. This applies to all net additional dwellings in Surrey Heath.</p> <p>The Borough Council has recently adopted its Core Strategy which includes affordable housing policies which were the subject of examination and were based on evidence of viability. As such district wide development costs were considered at the time of the Core Strategy and the draft viability assessment for CIL takes this forward and builds on it.</p>

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	<p>In regard to Section 106 matters, the Local Authority is reminded that Greg Clarke's Decentralisation Written Ministerial Statement dated 23 March 2011 set out a number of objectives from the 2011 Budget that are to inform the decisions Local Planning Authorities are taking now. This includes the following requirement:</p> <p style="text-align: center;"><b>'To further ensure that development can go ahead, all local authorities should reconsider, at developers' request, existing section 106 agreements that currently render schemes unviable, and where possible modify those obligations to allow development to proceed; provided this continues to ensure that the development remains acceptable in planning terms'.</b></p> <p>The above is further supported by the Chief Planning Officers letter to Local Planning Authorities dated 31st March 2011:</p> <p style="text-align: center;"><b>'Understanding the impact of planning obligations on the viability of development will be an important consideration when obligations are reviewed, particularly where they were reached in different economic circumstances. An appropriate review of obligations, which takes account of local planning priorities, could allow development to proceed on stalled schemes'. (Annex B)</b></p> <p>The above provides a clear indication that the Government is taking seriously the Country's continued depressed economic state and the need to kick start the development industry by ensuring that unduly onerous section 106 or for that matter CIL requirements do not stifle prospective development.</p> <p style="text-align: center;"><i>iii. CLG Written Statement: Housing and Growth (6<sup>th</sup> September 2012)</i></p> <p>The Secretary of State's Written Statement on 'Housing and Growth' (dated 6th September 2012) provides a further relevant update to the</p>	<p>The Borough Council is aware of the latest government announcements with respect to S106 negotiations and notes the comments raised.</p>

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	<p>Government's latest position regarding viability. This statement sets out that the Government's number one priority is to get the economy growing and that there is a need to get Britain building again, acknowledging the present need for housing set against supply constraints:</p> <p style="text-align: center;"><b><u>'The need for new homes is acute, and supply remains constrained. There are many large housing schemes in areas of high housing demand that could provide real benefit to local communities once delivered. But, large schemes are complicated and raise a wide range of complex issues that can be difficult to resolve' (page 2). (Our underlining)</u></b></p> <p>The Surrey Heath Core Strategy and Development Management Policies (CSDMP) Document (2012) requires the provision of a total 3,240 dwellings over the plan period – equivalent to 191 dwellings per annum. It is of relevance to the emerging CIL that housing delivery over the past three monitoring years are as follows:</p> <ul style="list-style-type: none"> <li>● 2009/10 – 34 completions</li> <li>● 2010/11 – 44 completions</li> <li>● 2011/12 – 179 completions.</li> </ul> <p>It is apparent from the above that the Borough has significantly under delivered against the policy requirement over the past three years, whilst it is accepted at para 5.16 of the CSDMP that the Borough can only presently demonstrate a 2.37 year supply (including soft commitments). These findings highlight that Surrey Heath comprises a Borough whereby supply is consistently constrained when set against pressing needs akin to that referred to in the Ministers statement.</p> <p>The Secretary of State's Statement goes onto acknowledge that a key constraint upon housing delivery is affordable housing provision:</p> <p style="text-align: center;"><b>'It is vital that the affordable housing element of Section 106 agreements negotiated during different economic</b></p>	<p>Completions in previous years were seriously affected by the Thames Basin Heaths SPA and the lack of avoidance measures in the form of SANG. However, planning permissions and housing completions are beginning to recover, hence the rise from 34 completions in 2009/10 to 179 in 2011/12.</p> <p>The Inspector for the Core Strategy noted the lack of a 5 year supply and took this into consideration when finding the Core Strategy sound. The presence of the Thames Basin Heaths SPA and the effect this had on completions was seen by the Inspector as justification for the lack of a 5 year supply. Since the supporting text to CP3 (para 5.16) was written supply has increased to 4.5 years as is evidenced in the latest SHLAA document (2012).</p> <p>The Borough Council is unaware of any requests for re-negotiating existing S106 agreements in Surrey Heath or of any S106 agreements which might be appealed in early 2013 where they include affordable housing. For future negotiations the Borough Council's affordable housing policy (CP5) is flexibly</p>

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	<p>conditions is not allowed to undermine the viability of sites and prevent any construction of new housing. This results in <u>no development, no regeneration and no community benefits at all when agreements are no longer economically viable.</u></p> <p>The Government estimates that up to 75,000 new homes are currently stalled due to site viability. S106 is an important tool to provide affordable housing and we welcome the flexible approach that many councils have already taken to renegotiating these agreements where necessary.</p> <p>...</p> <p>The Government will now introduce legislation, to be effective in early 2013, <u>which will allow any developer of sites which are unviable because of the number of affordable homes, to appeal with immediate effect.</u> The Planning Inspectorate will be instructed to assess how many affordable homes would need to be removed from the Section 106 agreement for the site to be viable in current economic conditions. The Planning Inspectorate would then, as necessary, set aside the existing Section 106 agreement for a three year period, in favour of a new agreement with fewer affordable homes. We would encourage councils to take the opportunity before legislation comes into effect to seek negotiated solutions where possible.</p> <p>Alongside this, the Government is also consulting on legislation that would allow developers to renegotiate non-viable Section 106 agreements entered into prior to April 2010' (page 3). <u>(Our underlining)</u></p> <p>The above is clear in setting out that affordable housing provision provides a substantive constraint to housing delivery and in turn</p>	<p>worded to allow considerations of viability.</p> <p>The draft viability assessment accompanying the proposed charges takes into account the adopted affordable housing policy</p>

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	<p>measures such as the right to appeal defined requirements with immediate effect are being introduced. The Borough of course now have a set CSDMP Policy in regard to affordable housing provision. It is therefore vital that the proposed CIL rate reflects this undeniable constraint to the viability of schemes. If not developments will continue to be delayed by re-negotiations/appeals as referred to by the Secretary of State and under delivery within the Borough will persist indefinitely.</p> <p><i>iv. Community Infrastructure Levy Guidance (CLG, 2010)</i></p> <p>This CLG document provides an overview of the Community Infrastructure Levy (CIL); a new planning charge that came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010 (now amended by the Community Infrastructure Levy (Amendment) Regulations 2011). As required by Regulation 14 of the Act it is essential that charging authorities in setting CIL rates strike what appears to the charging authority to be an appropriate balance between the desirability of funding infrastructure from CIL and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area. Accordingly the guidance notes that in the event that the above is not achieved the examiner will <i>'modify or reject the draft charging schedule if it puts at serious risk the overall development of the area. In considering whether the overall development of the area has been put at serious risk, the examiner will want to consider the implications for the priorities that the authority has identified in its Development Plan (for example planned targets for housing supply and affordable housing), or in the case of the Mayor's CIL, the implications for the London Plan'</i> (para 10).</p> <p>The guidance goes onto state that this balance will depend upon the characteristics within individual Local Planning Authorities:</p> <p><b><u>'For example, some charging authorities may place a high premium on funding infrastructure if they see this as important to future economic growth in their area, or if they consider that they have flexibility to identify alternative development sites, or that some sites can be</u></b></p>	<p>in the Core Strategy (Policy CP5).</p> <p>The viability assessment sets out how much potential development may be placed at risk by the CIL charges proposed. It considers that overall 126 dwellings may be put at risk which equates to 4.5% of the Core Strategy target to 2025 or 3.8% to 2028. Irrespective of these sites not coming forward the Borough Council will have to meet its Core Strategy target and sites will have to be found elsewhere. The 2012 SHLAA shows a surplus of sites against the Core Strategy housing target and as such some flexibility to identify alternative sites does exist.</p>

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	<p>redesigned to make them viable. These charging authorities may be comfortable in putting a higher percentage of potential development at risk, as they anticipate an overall benefit' (para 7). <b>(Our underlining)</b></p> <p>It is our strong view that such flexibility to deliver alternative development sites does not exist within the Borough. This is evident from the Boroughs respective constraints (including Special Protection Areas and Green Belt designations) and the under delivery of housing over the past three years and the absence of a five year housing land supply. Accordingly and with the Governments objectives in mind, the delivery of housing and associated economic growth benefits is the paramount consideration in determining a suitable CIL charging schedule.</p> <p>The guidance goes onto state that '<i>charging authorities can set differential CIL rates for different geographical zones in their area, provided that those zones are created and defined by reference to the economic viability of development within them</i>' (para 35). It further states that there is '<i>no requirement on charging authorities to set differential rates and some charging authorities may prefer to set uniform rates, because they are simpler</i>' (para 34). The below table sets out the proposed residential charging rates within LPAs within reasonable proximity to the Borough who are in the process of developing rates:</p> <table border="1" data-bbox="472 1054 1283 1281"> <thead> <tr> <th>LPA</th> <th>Residential Charges (per square metre)</th> </tr> </thead> <tbody> <tr> <td>Wycombe District</td> <td>£125 and £150</td> </tr> <tr> <td>Elmbridge Borough</td> <td>£125</td> </tr> <tr> <td>Bracknell Forest Borough</td> <td>£0, £25, £150 and £220</td> </tr> <tr> <td>Oxford City</td> <td>£100</td> </tr> <tr> <td>Reigate &amp; Banstead Borough</td> <td>£125</td> </tr> </tbody> </table> <p>Whilst clearly all subject to different characteristics and infrastructural requirements it is of relevance that the proposed charges in all cases are below that proposed in the Borough and generally a single tariff</p>	LPA	Residential Charges (per square metre)	Wycombe District	£125 and £150	Elmbridge Borough	£125	Bracknell Forest Borough	£0, £25, £150 and £220	Oxford City	£100	Reigate & Banstead Borough	£125	<p>Different local authority areas will exhibit different viability patterns, hence the difference in CIL charges proposed. Further, the differential CIL charges proposed in Surrey Heath are based on viability evidence. The Borough Council will update the draft viability study for the draft charging schedule and this may make adjustments to the proposed charges.</p>
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	<p>has been assessed as appropriate in these LPAs. In addition recent research by property consultancy GL Hearn identified that 15 of 24 Councils surveyed when releasing their second draft charging schedule reduced the charging rate in some respect following consultation on their preliminary proposals.</p> <p>In summary, support remains from Central Government for Local Planning Authorities to reconsider agreements where they are no longer viable given continued depressed market conditions. We do not consider the levy as presently proposed will meet this requirement or that of Regulation 14 of the CIL Regulations. Further the levy must be assessed on a Borough wide basis. This approach is supported by para 177 of the NPPF and is necessary in order to ensure that the costs of infrastructure are appropriately accounted for throughout the Borough and do not stifle development at a time where site allocation decisions are yet to be made. We therefore consider a reduced and single flat rate is necessary so to ensure much needed housing delivery remains viable and Borough wide needs are met in a Borough wide manner. Of course on-site requirements directly related to a proposed application will remain subject to the usual Section 106 procedures.</p> <p>We trust the enclosures are of assistance in the preparation of the emerging CIL Charging Schedule.</p>	<p>The Borough Council has taken Regulation 14 into account when considering proposed CIL charges. The CIL charges have also been assessed against viability evidence across the whole Borough. Any Infrastructure set out in a Regulation 123 Statement must be funded through CIL not S106. If projects are excluded from CIL then there is a restriction of up to 5 planning obligations and any one infrastructure project/type.</p>