

# Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

# Contents

## Draft Charging Schedule

<b>1 How to Respond</b> .....	<b>1</b>
How to Respond .....	1
<b>2 Introduction</b> .....	<b>1</b>
Introduction .....	1
<b>3 Draft Charging Schedule Evidence Base</b> .....	<b>2</b>
Draft Charging Schedule Evidence Base .....	2
Viability Study .....	2
Infrastructure Delivery Plan .....	2
Infrastructure Funding Gap .....	3
<b>4 Proposed Charging Schedule</b> .....	<b>4</b>
Proposed Charging Schedule .....	4
<b>5 CIL Instalments Policy</b> .....	<b>7</b>
CIL Instalments Policy .....	7
<b>6 CIL Liability and Exemptions</b> .....	<b>8</b>
CIL Liability and Exemptions .....	8
CIL Liable Development .....	8
CIL Exempt Development .....	8
<b>7 CIL and S106</b> .....	<b>8</b>
CIL and S106 .....	8
<b>8 CIL Collecting and Spending</b> .....	<b>9</b>
CIL Collecting and Spending .....	9
CIL Collecting .....	9
Spending of CIL .....	9

## Appendices

<b>Appendix A: CIL Charging Formula</b> .....	<b>11</b>
Appendix A: CIL Charging Formula .....	11

# Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

## How to Respond

- 1.1 Welwyn Hatfield Borough Council has published a revised Community Infrastructure Levy (CIL) Draft Charging Schedule for public consultation. The proposed CIL draft charging schedule, instalments policy and CIL Residential Zone Map are presented in this document.
- 1.2 Consultees are invited to submit comments on the Draft Charging Schedule and associated evidence.
- 1.3 The evidence required to formulate the Draft Charging Schedule is provided in the accompanying Community Infrastructure Levy Viability Study (October 2023).
- 1.4 This consultation is being undertaken in accordance with Regulation 16 of the latest CIL Regulations (as amended 2019). Following the consultation period, the Council will consider relevant comments and make any required amendments to the charging schedule.
- 1.5 Comments made on the proposed Draft Charging Schedule will be recorded, analysed, and considered before they are submitted as part of a Public Examination of the Council's Proposed CIL Charging Schedule. The examination will be conducted by an independent inspector, yet to be appointed by Welwyn Hatfield Borough Council.
- 1.6 The Draft Charging Schedule is available to comment on from Friday 2nd August 2024 to Monday 2nd September 2024. You can view and make comments on the document online at [www.welhat.gov.uk/CIL](http://www.welhat.gov.uk/CIL) or email your comments to us at [cil@welhat.gov.uk](mailto:cil@welhat.gov.uk).
- 1.7 The deadline for the receipt of all representations is 5pm on Monday 2nd September 2024. For further information please contact the Planning Policy Team on 01707 357500 or email us at [cil@welhat.gov.uk](mailto:cil@welhat.gov.uk).

## Introduction

- 2.1 The Community Infrastructure Levy (CIL) is a locally set planning charge, first implemented nationally in 2010, which local planning authorities can choose to implement to raise contributions from new development in their area towards the delivery of associated supporting infrastructure.
- 2.2 Welwyn Hatfield Borough Council must set CIL rates in a Charging Schedule and can implement these after consultation and an Examination in Public followed by adoption. Regulation 14 of the CIL regulations (as amended) state that when setting CIL rates, the Council must strike an appropriate balance between the desirability to fund infrastructure through CIL and the potential effect (taken as a whole) of the levy on the economic viability of development in the area where CIL charges apply.
- 2.3 This document sets out Welwyn Hatfield's (Charging Authority) Draft Charging Schedule (DCS) proposals (previously consulted on in January 2024) for the levy which were approved for public consultation by the Council's Cabinet and Planning and Parking Panel on the 16th July 2024. The evidence base has been fully updated to ensure the proposed CIL rates are as viable and robust as possible.
- 2.4 Following the consultation on the Draft Charging Schedule in January 2024 and consideration of representations received, it is deemed necessary to propose some changes to the DCS.

# Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

## Draft Charging Schedule Evidence Base

### Viability Study

- 3.1 The production of the Draft Charging Schedule has been informed by key evidence relating to infrastructure needs in the borough and economic viability of development to contribute to infrastructure through payment of CIL.
- 3.2 Work has been conducted to consider the level of CIL which could be applied to development without harming the economic viability of development across the area. To inform this, as mentioned above, specialist consultants: BNP Paribas Real Estate (BNPPRE) were commissioned to prepare a Viability Study and associated proposed CIL rates. BNPPRE have previously undertaken viability study work in September 2016 and February 2020. The updated CIL Viability Study (October 2023) is a background paper to this consultation document.
- 3.3 The updated viability report tests the ability of a range of development types throughout the borough of Welwyn Hatfield to accommodate contributions towards infrastructure through CIL using up to date data. Levels of CIL have been tested in combination with the cumulative impact on the Welwyn Hatfield Local Plan 2016 - 2036 document policy requirements.
- 3.4 Further to consideration of changes to the property market and local/national economy in recent years, BNPPRE reviewed development viability and CIL charge rates. As used in the previous studies, the methodology employed compares the residual land values of a range of development typologies on sites located throughout the borough to their value in current use (plus a premium), herein after referred to as 'benchmark land value'. If a development incorporating the Council's policy requirements including a given level of CIL generates a higher residual land value than the benchmark land value, then it can be concluded that the site is viable and deliverable.
- 3.5 The results of BNPPRE's appraisal show a range of potential maximum CIL rates. These calculations provide a recommendation to set certain CIL rates depending on geographical location, type of development and whether the proposed development is under the affordable housing threshold set by Local Plan policy.

### Infrastructure Delivery Plan

- 3.6 To implement CIL, there is a need to establish the infrastructure needs arising from planned development in the borough. The Draft Infrastructure Delivery Plan (IDP) (May 2017) identified the full range of infrastructure needs (physical, social, and green) which can clearly be attributed to growth proposed in the Draft Local Plan Proposed Submission (October 2016).
- 3.7 Since the submission of the Draft Infrastructure Delivery Plan (IDP) (2016), and the subsequent revision in May 2017, a significant period has elapsed whereby infrastructure needs/costs and provider's policies have in some cases changed. The examination of the Welwyn Hatfield Local Plan 2016 - 2036 concluded on 25th September 2023 following the receipt of the Inspector's Final Report, and the Local Plan adopted on 12th October 2023.



## Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

- 3.8** As the Local Plan has now been adopted, a Infrastructure Delivery Plan can be created to cater for the proposed development to occur during the plan period with more certainty. An updated Draft Infrastructure Delivery Plan (2024) will set out details of the known infrastructure projects required to support the Local Plan over the plan period (2016-2036). This document will provide evidence of the details and cost of infrastructure to be partially funded by the implementation of CIL, and will be submitted with the DCS for examination.

### Infrastructure Funding Gap

- 3.9** Following the production of an IDP in 2017, analysis was carried out to assess the funding available to deliver the necessary infrastructure having regard to actual and expected sources of funding. This exercise indicated a significant infrastructure funding gap over the plan period. In February 2017 officers reviewed the infrastructure funding gap estimating it at £155.6 million based upon the latest information available.
- 3.10** As aforementioned, a new Draft Infrastructure Delivery Plan will be created following the adoption of the Local Plan. As such, a new Infrastructure Funding Gap document is required to identify a funding gap which takes into account the current level and cost of infrastructure in 2024. An Infrastructure Funding Gap will be identified and submitted for examination.

# Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

## Proposed Charging Schedule

4.1 The Draft Charging Schedule is detailed below. The charges reflect the viability evidence which has been gathered and tested in compliance with the CIL Regulations 2010 (as amended).

Development type	CIL rate (per square metre)			
	Residential Zone 1	Residential Zone 2	Residential Zone 3	Identified sites
Residential at and above the Affordable Housing Threshold (excluding retirement housing and Extra Care housing)	£100	£140	£230	NIL
Residential below the Affordable Housing Threshold	£230			
All other uses	£20			
Development by a publicly funded or 'not for profit organisation' <sup>(1)</sup> comprising: <ul style="list-style-type: none"> <li>• medical, health and emergency services;</li> <li>• development used wholly or mainly for the provision of education as a school or college or as an institute of higher education; and</li> <li>• community, sport and leisure facilities</li> </ul>	NIL			
Change of use to a Main Town Centre Use <sup>(2)</sup> within Core Retail Zone as designated under Policy SADM 4 of the Welwyn Hatfield Local Plan	NIL			

**Table 1: Proposed CIL Charging Rates**

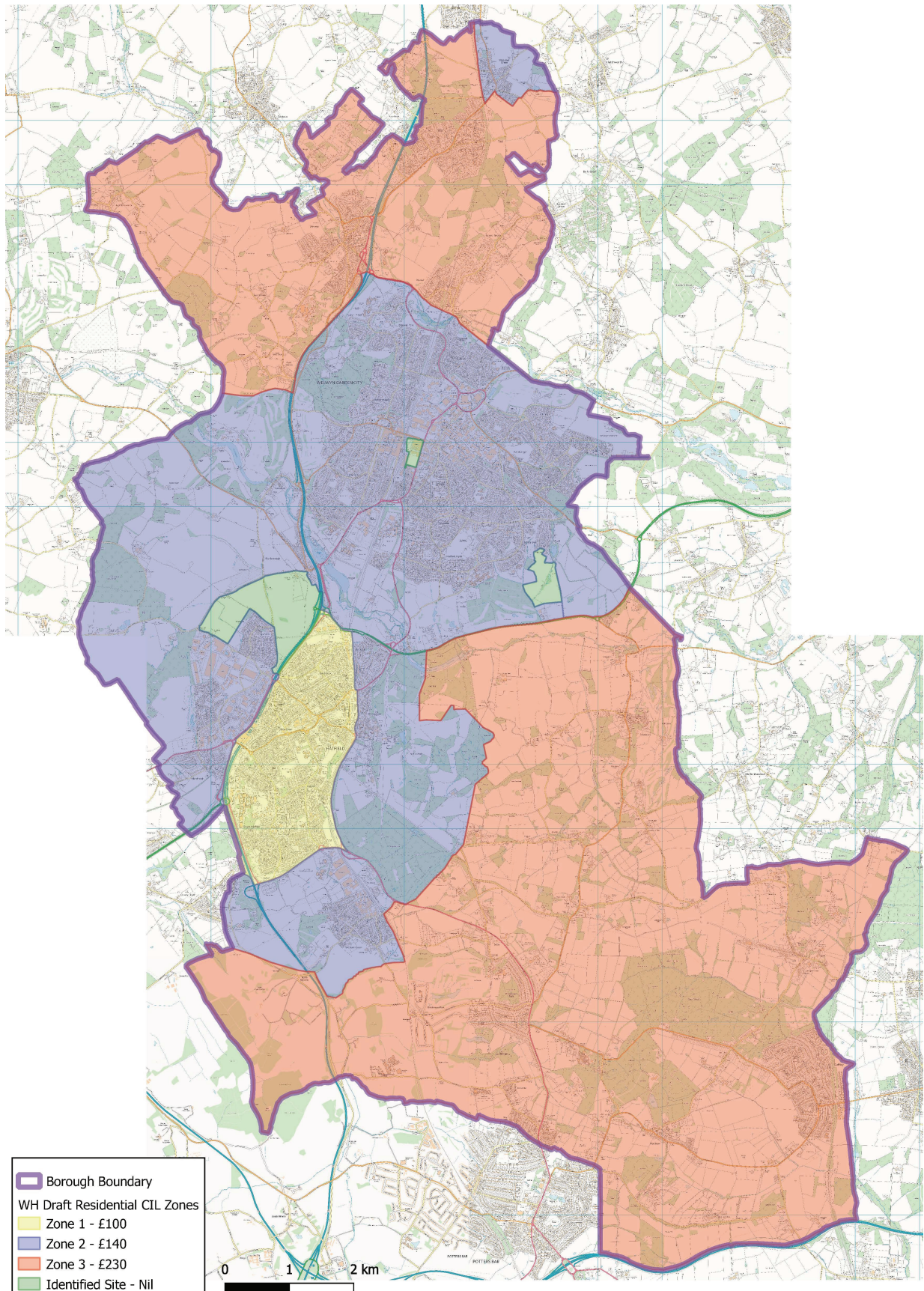
- 1 Not for profit organisation is defined as an organisation that conducts business for the benefit of the general public and all money earned by/donated to the organisation is used to pursue the organisation's objectives/causes.
- 2 Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).

# Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

- 4.2** Evidence within the CIL Viability Study identifies three zones where viability is materially different for residential uses. A map showing the boundaries of the proposed residential zones is shown in Figure 1. The schedule proposes three charging zones for residential development:
- Residential Zone 1 applies to much of Hatfield.
  - Residential Zone 2 applies to West Hatfield, Old Hatfield and The Ryde, Welwyn Garden City, Welham Green and Woolmer Green.
  - Residential Zone 3 applies to the rest of the borough including Welwyn, Oaklands, Mardley Heath, Digswell, Cuffley, Essendon, Brookmans Park and Little Heath.
- 4.3** Under Policy SP 7, residential developments of under 10 dwellings do not have to provide any affordable housing. As a result, the viability is significantly better than for residential developments of 10 or more dwellings. Therefore, small sites are to contribute the level of CIL proposed in the highest value residential zone (£230) across the whole borough.
- 4.4** The Viability Study concluded that Birchall Garden Suburb (SDS2), Broadwater Road West (SDS3) and North West Hatfield (SDS5) are more challenging to deliver than other strategic sites, given the extent of infrastructure required by policy. The three strategic sites also warrant the use of S106 agreements to ensure the sites are delivered conditionally to the provision of essential infrastructure. Therefore, the adoption of a 'nil' CIL rate for these three strategic sites is proposed.
- 4.5** The Viability Study identified that, currently, viability is challenging on offices, science park lab enabled office space, hotels, industrial and warehousing, 'all other retail', supermarkets/superstores, retail warehousing and student accommodation schemes in the Borough. Therefore, a nominal charge of £20 is proposed for all uses other than residential.
- 4.6** Following the January 2024 consultation, it was identified that charging CIL for developments proposed by 'not-for-profit' organisations may make development proposed for the benefit of the general public unviable. Similarly, charging CIL for changes of use that are accepted as town centre uses (and therefore require no additional infrastructure requirements due to their prominent location) may diminish the vitality of the two town centres. Therefore, a 'nil' CIL rate is proposed for these types of developments.



# Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)



# Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

## CIL Instalments Policy

- 5.1** The CIL Regulations set a default requiring full payment of the Levy charge within 60 days of the commencement of the chargeable development. However, under Regulation 69B of the Community Infrastructure Levy Regulations 2010 (as amended) it is permissible for a CIL Charging Authority to establish an Instalment Policy, offering developers more flexible payment arrangements.
- 5.2** Following member consideration at Cabinet Planning and Parking Panel and at Cabinet, the following Instalments Policy was approved (see table 2):

Total CIL Liability	Payment Period – all within numbered days of commencement
Up to £50,000	Full payment within 60 days (2 months)
£50,001 - £100,000	1 <sup>st</sup> instalment – 50% within 60 days (2 months) 2 <sup>nd</sup> instalment – 50% within 180 days (6 months)
£100,001+	1 <sup>st</sup> – 25% within 60 days (2 months) 2 <sup>nd</sup> – 25% within 180 days (6 months) 3 <sup>rd</sup> – 25% within 270 days (9 months) 4 <sup>th</sup> – 25% within 360 days (12 months)

**Table 2: Welwyn Hatfield CIL Instalment Policy**

- 5.3** Regulation 70 of the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy (Amendment Regulations 2011) sets out the requirements that must be complied with to benefit from the CIL Instalment Policy.
- 5.4** The CIL Instalment Policy will apply in the following circumstances:
- Where the Council has received a valid CIL form 2 - Assumption of Liability form prior to commencement of the development (Regulation 70(1)(a); and
  - Where the Council has received a valid CIL form 6 - Commencement Notice prior to commencement of the development (Regulation 70(1) (b)).
- 5.5** Where a phased planning permission is granted, Regulation 9.4 requires that each phase is treated as a separate chargeable development. Each separate phase is liable for its own CIL contribution and can pay in line with the instalments policy, where valid forms are received prior to commencement.
- 5.6** Once the development has commenced, the CIL payments must be made in accordance with the CIL instalment policy. Where instalments do not clear the Council’s bank account by the due date, the total CIL liability will become payable in full immediately.



# Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

## CIL Liability and Exemptions

**6.1** The CIL Regulations (as amended) provide definitions of development which is considered liable or exempt from payment.

## CIL Liable Development

**6.2** Development liable for CIL payment comprises:

- Development that creates 100m<sup>2</sup> or more of new build floor space measured as Gross Internal Floor Area (GIA).
- Development of less than 100m<sup>2</sup> new build GIA that results in the creation of one or more dwellings.
- The conversion of a building that is no longer in lawful use.

**6.3** Liability to pay CIL on qualifying developments applies whether development requires planning permission or is enabled through permitted development orders (General Permitted Development Order, Local Development Orders, Neighbourhood Development Orders, Enterprise Zones)

## CIL Exempt Development

**6.4** Development which is exempt from CIL charges comprises:

- Developments of less than 100 sq.m., unless it is a new house or flat. If it is a new house or flat, CIL is payable.
- Houses, flats, residential extensions or residential annexes which are built by self-builders
- Social housing
- Charitable development
- Buildings into which people do not normally go
- Buildings where people only go intermittently, for inspecting/maintaining fixed plant, machinery etc.
- Any structures which aren't buildings (such as pylons)
- Any development with a £0 charge as defined in this Draft Charging Schedule
- Vacant buildings brought back into the same use
- Mezzanine floors of less than 200 sq.m. unless they form part of a wider planning permission providing other works.

## CIL and S106

**7.1** Unlike Section 106 (S106), CIL contributions received by the Council must be spent on infrastructure. S106 is used to make individual planning applications acceptable in planning terms in a number of different aspects, which can include contributions to infrastructure. As CIL is a planning charge which, in this case, covers the whole borough, there is no link between a specific development and the provision of infrastructure. Therefore, this provides greater flexibility for the delivery of infrastructure when and where it is needed, including infrastructure listed on the Council's Infrastructure Delivery Plan.

# Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

- 7.2** A key advantage of CIL is that receipts can be used to help fund strategic infrastructure – these are “big” items such as major road improvements and other sustainable transport projects, such as those identified in the County’s Local Transport Plan, to deliver projects such as cycle ways and walking connectivity. These types of infrastructure are difficult to fund through multiple Section 106 contributions.
- 7.3** The 2019 amendments to CIL Regulations (2010) continue to set out policy tests that govern the use of Section 106 planning obligations. A Local Planning Authority can only lawfully seek an obligation in connection with a particular development where it is:
- i. necessary to make the development acceptable in planning terms,
  - ii. directly related to the development, and
  - iii. fairly and reasonably related in scale and kind to the development. In line with the CIL Regulations, the Council will continue to seek affordable housing through Section 106. Affordable housing is exempt from payment of any CIL charge.
- 7.4** Recent changes to CIL regulations now allow the collection and spend of both CIL and S106 for the same infrastructure items. Restrictions on pooling funds from more than five S106 obligations have also been removed. This allows greater flexibility for the allocation of developer contributions towards specific infrastructure items e.g. schools and leisure.

## CIL Collecting and Spending

### CIL Collecting

- 8.1** Welwyn Hatfield Borough Council, as the charging authority, is responsible for collecting payment of the levy.
- 8.2** Where development is CIL liable, CIL will be calculated in accordance with the CIL Regulations 2010 (as amended). The CIL charging formula is detailed in Regulation 40 and CIL will be indexed to account for inflation in line with provisions of Regulation 40. A summary of the CIL charging formula is available in Appendix A of this document.
- 8.3** When planning permission is granted, the council will issue a liability notice setting out the amount payable and the payment procedure.
- 8.4** In the case of development enabled through permitted development orders, the person(s) liable to pay should consider whether their proposed development is chargeable, and issue the council a notice of chargeable development if required.
- 8.5** The CIL charge becomes due when development commences. Responsibility for payment rests with the owner(s) of the development site, but a developer may assume liability instead.

### Spending of CIL

- 8.6** To ensure transparency and consistency of the implementation of CIL rates, it is the Council’s intention to apply inflation to the CIL rates within an adopted Charging Schedule annually through applying the most recent finalised figure on a specific date each year. Welwyn Hatfield Borough Council will publish an Infrastructure Funding Statement, giving information on infrastructure projects or types of infrastructure that have been funded or partly funded through CIL. The annual production of an Infrastructure Funding Statement is required by CIL Regulations.

## Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

- 8.7** When preparing infrastructure funding statements, CIL guidance states authorities should consider known and expected infrastructure costs taking into account other possible sources of funding to meet those costs. This process will help the charging authority to identify the infrastructure funding gap and a levy funding target.
- 8.8** The CIL regulations allow for a proportion of CIL to be passed to town/parish councils and neighbourhoods. The proportion of CIL that will go to these organisations is detailed in table 3.

Parish Council (Yes) Neighbourhood Plan (Yes) = 25% uncapped, paid to Parish	Parish Council (Yes) Neighbourhood Plan (No) = 15% capped at £100 per dwelling (indexed for inflation), paid to Parish
Parish Council (No) Neighbourhood Plan (Yes) = 25% uncapped, local authority consults with community	Parish Council (No) Neighbourhood Plan (No) = 15% capped at £100 per dwelling (indexed for inflation), local authority consults with community

**Table 3: Neighbourhood Proportion**

- 8.9** The Council intends to utilise the provision within the CIL Regulations (Regulation 61) to use 5% of the CIL receipts towards the administration and set up expenses incurred by the Council relating to the monitoring, operation and management of the levy.



# Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

## Appendix A: CIL Charging Formula

### *Extract from the Community Infrastructure Levy Regulations 2010 (as amended)*

#### PART 5 CHARGEABLE AMOUNT

##### Regulation 40 - Calculation of chargeable amounts

(1) The collecting authority must calculate the amount of CIL payable (“chargeable amount”) in respect of a chargeable development in accordance with this regulation.

(2) The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.

(3) But where that amount is less than £50 the chargeable amount is deemed to be zero.

(4) The relevant rates are the rates, taken from the relevant charging schedules, at which CIL is chargeable in respect of the chargeable development.

(5) The amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula—

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

where—

A = the deemed net area chargeable at rate R, calculated in accordance with paragraph

(7);

I<sub>p</sub> = the index figure for the year in which planning permission was granted; and

I<sub>c</sub> = the index figure for the year in which the charging schedule containing rate R took effect.

(6) In this regulation the index figure for a given year is—

(a) the figure for 1st November for the preceding year in the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors(a); or

(b) if the All-in Tender Price Index ceases to be published, the figure for 1st November for the preceding year in the retail prices index.

(7) The value of A must be calculated by applying the following formula—

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

## Welwyn Hatfield CIL Draft Charging Schedule January 2024 (Revised August 2024)

where—

G = the gross internal area of the chargeable development;

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

KR = the aggregate of the gross internal areas of the following—

(i) retained parts of in-use buildings, and

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

E = the aggregate of the following—

(i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development, and

(ii) for the second and subsequent phases of a phased planning permission, the value  $E_x$  (as determined under paragraph (8)), unless  $E_x$  is negative, provided that no part of any building may be taken into account under both of paragraphs (i) and (ii) above.

(8) The value  $E_x$  must be calculated by applying the following formula—

$$E_P - (G_P - K_{PR})$$

where—

$E_P$  = the value of E for the previously commenced phase of the planning permission;

$G_P$  = the value of G for the previously commenced phase of the planning permission;

and

$K_{PR}$  = the total of the values of KR for the previously commenced phase of the planning permission.



