



## **The East Hampshire District Local Plan**

# **Consultation Draft 'Planning Contributions and Community Infrastructure Levy' Supplementary Planning Document**

**December 2015**

# Contents

<b>Consultation</b>	<b>3</b>
<b>Section 1: Introduction</b>	<b>4</b>
<b>Section 2: Context</b>	<b>5</b>
<b>Section 3: The interaction between S106 planning obligations and CIL</b>	<b>9</b>
Table 1: Guide to funding mechanisms for different infrastructure types in East Hampshire District	10
<b>Section 4: Planning Obligations</b>	<b>12</b>
Affordable Housing on Residential Development Sites	12
Table 2: Affordable Housing Commuted Sums	15
Affordable Housing for Rural Communities	18
Community Project Workers	19
Education	20
Internationally Designated Sites	21
Loss of Local Employment	23
Local Employment and Training Agreements	27
Flood Protection and Water Management	30
Green Infrastructure	31
Social Infrastructure	32
Transport	32
<b>Section 5: Charging CIL</b>	<b>34</b>
The East Hampshire District Charging Schedule	34
Who is liable to pay CIL?	36
When is CIL Charged?	36
How much CIL will be charged?	38
How will CIL funding be spent and prioritised?	39
The Neighbourhood Portion of the Levy	39
<b>Section 6 – Demolition, Change of Use and Permitted Development</b>	<b>40</b>
Permitted Development	40
Section 73 Applications	41
<b>Section 7: The CIL Process</b>	<b>42</b>
Calculating the Chargeable Amount	44
Relief for Social Housing or Charitable Purposes	47
Exemptions for Self Build	47
East Hampshire District Council CIL Instalments Policy	49
CIL Appeals	51
<b>Appendices</b>	<b>54</b>
Appendix 1 – 5.6km Special Protection Area Buffer	54
Appendix 2 – CIL Charging Area Maps	56

## Consultation

The adopted East Hampshire District Local Plan Part 1: Joint Core Strategy sets out the development strategy for East Hampshire District (including the areas in the South Downs National Park Authority) up until 2028. The Submission East Hampshire District Local Plan: Housing and Employment Allocations identifies specific sites to meet the housing and employment targets set out in the Joint Core Strategy (JCS) and sets guidance for the development of these sites. It is important to note that this document only relates to those parts of East Hampshire District located outside of the South Downs National Park Authority Area.

New development in the District will need to be supported by infrastructure and there are a number of ways in which infrastructure can be provided, but the main ways relating to planning applications are through the Community Infrastructure Levy and through planning obligations.

The Council will be adopting a Community Infrastructure Levy (CIL) Charging Schedule in the near future to collect the levy and spend it on infrastructure. The infrastructure that the Council intends to fund through CIL receipts is set out in the Regulation 123 list. CIL will not be able to fully replace planning obligations and there is still a need for them to provide affordable housing and other types of infrastructure to support some planning applications.

This Draft Planning Contributions and Community Infrastructure Levy Supplementary Planning Document (SPD) has been produced to set out the approach that East Hampshire District Council will take in securing planning obligations once the Council introduces its CIL Charging Schedule on the 1<sup>st</sup> April 2016.

This Consultation Draft Planning Obligations SPD is available for public consultation commencing Monday 21<sup>st</sup> December 2015 and closing at 5pm Monday 1<sup>st</sup> February 2016.

Comments can be submitted:

**By email:** [localplan@easthants.gov.uk](mailto:localplan@easthants.gov.uk)

**By writing in person to:** Planning Policy  
East Hampshire District Council,  
Penns Place,  
Petersfield,  
Hampshire, GU31 4EX

**Please note:** the comments received during this consultation cannot be treated as confidential so please do not include any personal information within your comments. Responses will be published on the District Council's website, together with the name and/or organization name of the respondent.

## **Section 1: Introduction**

- 1.1 The purpose of this document is to provide information about developer contributions in East Hampshire District. It provides detail on the Council's Community Infrastructure Levy and also identifies cases where contributions through Section 106 (S106) planning obligations and Section 278 highway agreements will be sought.
- 1.2 The SPD sets out the likely scope and scale of planning obligations applicable to different types of development. It identifies topic areas where planning obligations may be applicable and outlines the Council's general approach to securing them. It is a general guide and development proposals will continue to be assessed on a case-by-case basis with the individual circumstances of each site being taken into consideration
- 1.3 This SPD alongside the CIL Charging Schedule aims to provide a clear guide to developers, landowners and stakeholders, on which mechanism will be employed to deliver different types of infrastructure in the District. This will help to ensure that planning obligations are not sought for infrastructure that it is intended to be funded through CIL.
- 1.4 This SPD will supersede the Guide to Developers' Contributions: May 2014 (amended September 2014) once the Council introduces its CIL Charging Schedule on the 1<sup>st</sup> April 2016.

## Section 2: Context

- 2.1 Legislation and national planning policy provide the tools for local authorities to secure developer contributions through the planning system for infrastructure and affordable housing to meet the needs of their area. The main ways of doing this are through the use of planning conditions, planning obligations or Community Infrastructure Levy.
- 2.2 The National Planning Policy Framework states in paragraph 203 that *“Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.”* In contrast, the collection of Community Infrastructure Levy from a development could not make an unacceptable development become acceptable.

### Planning Conditions

- 2.3 Sections 70 and 72 of the Town and Country Planning Act 1990 allow local planning authorities to attach conditions to the granting of planning permission. The National Planning Practice Guidance states that *“conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development.”*
- 2.4 When imposing planning conditions, local planning authorities are required to ensure that they meet the six tests as set out in paragraph 206 of the NPPF:
- necessary;
  - relevant to planning;
  - relevant to the development to be permitted;
  - enforceable;
  - precise; and
  - reasonable in all other respects
- 2.5 Planning conditions cannot be used to secure financial contributions.

### Planning Obligations

- 2.6 The statutory framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990, as amended by Section 12 of the Planning and Compensation Act 1991. This is why planning obligations are commonly called Section 106 agreements. Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and

paragraphs 203 to 205 of the National Planning Policy Framework (NPPF) March 2012 set out the Government's policy on planning obligations.

- 2.7 Planning obligations are legally binding. They enable the local authority to secure the provision of infrastructure or services, or contributions towards them, in order to support the new development.
- 2.8 The NPPF advises that planning authorities should consider the use of planning obligations where they could make an otherwise unacceptable development acceptable. They should only be used where it is not possible to address unacceptable impacts through planning conditions. Paragraph 204 states that planning obligations should only be sought where they meet all of the following tests:
- They are necessary to make a development acceptable in planning terms;
  - They are directly related to a development;
  - They are fairly and reasonably related in scale and kind to a development.
- 2.9 Paragraph 205 advises that where obligations are being sought or revised *“local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.”*

### Community Infrastructure Levy

- 2.10 The Community Infrastructure Levy will partially replace Section 106 planning obligations in the way that infrastructure is funded. CIL enables local authorities to set a charge rate on new development and the money that is collected can be spent on infrastructure needed to support the development of their area. The Council must list the infrastructure that it intends to fund through CIL on its website and this list is called a 'Regulation 123 list'.
- 2.11 CIL and Section 106 cannot be used for the same item of infrastructure so the planning authority cannot seek planning obligations for any item that is placed on the Regulation 123 list.
- 2.12 The CIL Regulations place restrictions on the use of planning obligations. As well as reiterating the tests above (paragraph 2.8) in regulation 122; regulation 123 places a limit on the number of S106 planning obligations that can be collected to fund a specific infrastructure project or type of infrastructure. The Council is required to use CIL to pool contributions from

more than five developments to pay for an infrastructure item. Unlike Section 106 planning obligations, CIL receipts can be pooled into one fund and used for any infrastructure needed to support the development of the area.

- 2.13 Further details about CIL charging rates can be found in Section 5 of this document.

#### Section 278 Agreements

- 2.14 Section 278 agreements enable the funding or undertaking of works on the public highway network that are necessary to mitigate the impact of development. They are made between site landowners or developers and the Highway Authority under the Highways Act 1980. The developer can either undertake the work themselves or pay the Highway Authority to do it.
- 2.15 Hampshire County Council is the Highway Authority for the East Hampshire District administrative area. The works would need to be secured by planning condition or Section 106 agreements.
- 2.16 The pooling restriction on planning obligations does not apply to Section 278 agreements which means that S278 agreements will continue to be made for highways works and they will not be replaced by CIL. As any number of S278 agreements can contribute towards a particular highway improvement scheme, there is unlikely to be any change in the way in which they are employed.
- 2.17 However the CIL Amendment Regulations 2014 have brought S278 agreements within the restrictions imposed by Regulation 123 which means that CIL cannot be spent on a highway scheme for which a S278 agreement has been made.
- 2.18 This ensures that there is no overlap between the highway infrastructure funded through CIL and that funded by Section 278. This means that where a highways improvement scheme is listed on the Regulation 123 list, it will not be possible to enter into a S278 agreement for that scheme.

## East Hampshire Joint Core Strategy

- 2.19 The Council has an adopted Joint Core Strategy (JCS) and a series of saved Local Plan policies. The Council is also well advanced in preparing its Local Plan: Housing and Employment Allocations.
- 2.20 This SPD supports and supplements the Joint Core Strategy and is an important material planning consideration in the decision making process of planning applications.
- 2.21 Policy 'CP32 – Infrastructure' of the JCS provides the local policy context for the guidance in this document.

### **CP32 Infrastructure**

Where the provision or improvement of infrastructure is necessary, to meet community or environmental needs associated with new development or to mitigate the impact of development on the environment, such works or facilities should be provided either on or off-site, or the payment of financial contributions will be required through planning obligations and/or the Community Infrastructure Levy (CIL) to ensure that all such development makes an appropriate and reasonable contribution to the costs of provision.

The provision of infrastructure will be linked directly to the phasing of development to ensure that planned infrastructure is delivered in a timely fashion. This infrastructure will be co-ordinated and delivered in partnership with developers, public agencies, such as Hampshire County Council, and other authorities. Infrastructure requirements in order to meet the growth proposals contained in this Local Plan: Joint Core Strategy are set out in the Infrastructure Delivery Plan.

- 2.22 A number of other policies within the JCS also provide specific and detailed justification for various types of planning obligations that will be required and these are summarised below:

- CP4: Existing Employment Land
- CP5: Employment and workforce skills
- CP13: Affordable Housing on Residential Development Sites
- CP14: Affordable Housing for Rural Communities
- CP16: Protection and Provision of Social Infrastructure
- CP21: Biodiversity
- CP22: Internationally Designated Sites
- CP28: Green Infrastructure
- CP31: Transport

## **Section 3 -The interaction between S106 planning obligations and CIL**

- 3.1 Community Infrastructure Levy (CIL) is the main source of infrastructure funding through the grant of planning permissions, beyond the immediate needs of the development site. Planning obligations will continue to operate alongside CIL and will be collected for affordable housing provision, which is outside the remit of CIL, and for site specific infrastructure requirements as set out in this SPD. Each planning obligation must meet the tests set out in the NPPF and CIL Regulation 122.
- 3.2 The Council adopted its CIL Charging Schedule on (to be confirmed) and has published a Regulation 123 list that sets out the infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL receipts. It is important to note that any infrastructure detailed on the Regulation 123 list will not be permitted to be funded through planning obligations. This is to avoid any developer or land owner contributing towards the same infrastructure through both CIL and a planning obligation.
- 3.3 There will be occasions when a development will be liable for CIL as well as there being the requirement for the completion of a planning obligation. Such obligations will relate to site specific requirements that are necessary to make the proposed development acceptable in planning terms while adhering to the provisions of Regulations 122 and 123 of the CIL Regulations.
- 3.4 Table 1 overleaf offers a guide to what infrastructure types will be secured by CIL and those that will be secured by Section 106 agreements. It should be noted that this is an indicative guide only.
- 3.5 The East Hampshire District CIL Regulation 123 List (as amended) gives further details on the projects to be funded by CIL and any specific exclusions, which in most cases will be sought as planning obligations.

**Table 1: Guide to funding mechanisms for different infrastructure types in East Hampshire District (outside of the National Park Authority Area)**

<b>Infrastructure Type</b>	<b>Section 106</b>	<b>CIL</b>
<b>Affordable Housing</b>		
On site affordable housing provision	<b>X</b>	
Commuted Sum towards off site affordable housing provision	<b>X</b>	
Community Project Worker	<b>X</b>	
<b>Education</b>		
Primary school places at existing schools		<b>X</b>
Secondary school places at existing schools		<b>X</b>
Financial contributions or provision of land to enable the delivery of new schools at large development sites	<b>X</b>	
<b>Employment</b>		
Economic Contribution to mitigate the loss of employment land	<b>X</b>	
Skills and Training Initiatives	<b>X</b>	
<b>Flood Protection and Water Management</b>		
Site related flood and water management	<b>X</b>	
Strategic off-site flood and water management		<b>X</b>
Strategic water quality improvement projects		<b>X</b>
<b>Green Infrastructure</b>		
Provision and improvements to strategic open space (including strategic and neighbourhood parks and green spaces, strategic and neighbourhood play areas and strategic allotments)		<b>X</b>
Provision and enhancement of local multifunctional green space, local equipped play areas and local allotments directly serving the development	<b>X</b>	
Strategic habitat creation and restoration		<b>X</b>
On-site or off-site habitat creation, restoration and management to mitigate or compensate biodiversity impacts	<b>X</b>	
<b>Social Infrastructure</b>		
Cemeteries		<b>X</b>
Community Buildings		<b>X</b>
Health Facilities		<b>X</b>
Library improvements		<b>X</b>
Land for Community Infrastructure	<b>X</b>	

Infrastructure Type	Section 106	CIL
<b>Sport and recreation</b>		
Provision, improvements and management of sports and recreational facilities that directly serve a development	X	
Provision, improvements and management of strategic and local sports and recreational facilities		X
<b>European (Natura 2000) Site Mitigation</b>		
Solent SPA Mitigation in accordance with the Interim Solent Recreation Mitigation Strategy (as amended)	X	
<b>Transport</b>		
Strategic transport improvements		X
Site related transport improvements	X	
Travel plan measures	X	

## Section 4 – Planning Obligations

- 4.1 As detailed in Section 3, the Council will continue to secure certain types of infrastructure using Planning Obligations. This Chapter provides further guidance these contributions and the circumstances under which they would be payable.

### Affordable Housing on Residential Development Sites

- 4.2 The policy for the provision of affordable housing on residential development sites is set out in Joint Core Strategy (JCS) Policy CP13 which states that:

*In order to meet affordable housing needs, all residential development, which results in 1 or more additional dwellings (net), should contribute towards the provision of affordable housing. New residential development will be required to:*

- a) provide affordable housing to meet a range of requirements of the local community, including the elderly and those with special or supported needs; and*
- b) provide a range of affordable housing types and sizes.*

*The target is for 40% of all new dwellings to be provided as affordable housing. In Whitehill & Bordon the target will be 35% (see JCS Policy CSWB4).*

*Affordable housing will normally be provided on-site. On smaller sites (4 dwellings or less (net)), where on-site provision is likely to be unsuitable, a financial contribution or off-site provision will be required.*

*The target number and tenure split of affordable housing will be negotiated on a site-by-site basis, depending on individual site circumstances (e.g. development viability, site surroundings) and affordable housing needs.*

*The type and size of dwellings, in terms of bedroom numbers, habitable rooms or floorspace will be determined on a site-by-site basis using the most appropriate basis that helps deliver the type and size of affordable units needed, as identified by the Council.*

*The affordable housing should be fully integrated within the residential development by being dispersed amongst, and indistinguishable from, the market housing. It should be spread randomly throughout the development and be genuinely ‘pepper-potted’ and not in blocks.*

*In the South Downs National Park new residential development will be required to maintain a focus on affordable housing provision, and any affordable housing provided should meet the needs of the local communities in the National Park area.*

*The affordable housing provision will be secured by a planning obligation/legal agreement.*

### **Satisfying the policy requirements**

- 4.3 On site affordable housing provision in accordance with JCS Policy CP13 will be secured by a Planning Obligation (S106 Legal Agreement) unless the developer can demonstrate that the development would be made unviable as a result of the policy requirements, or, the developer is unable to secure a registered provider willing to procure the affordable dwellings. Further guidance is provided below on the evidence that would be required to support a departure from JCS Policy CP13 under either of these scenarios.
- 4.4 In addition, in instances where the affordable housing requirement would result in a requirement that isn't a round number (e.g. 2.4 dwellings), the Council will expect two units to be provided on site and the remaining 0.4 of a unit to be secured through a commuted sum. Further detail, including a worked example is provided in Case Study 3 (paragraph 4.20 onwards).

### Viability

- 4.5 The Council recognises that there will on occasion be developments where abnormal site costs, and other factors may mean that the affordable housing requirements cannot be met on a particular site. Where developers advise that their scheme is unviable with provision of the required proportion of affordable housing, an open book approach to development appraisal of scheme viability will be considered. This development appraisal would need to include all other CIL and planning obligation requirements and identify what level of affordable housing could be supported by the development. It is important to note that in addition to the submission of a viability assessment, the Council will require the developer to pay the Council's costs so that the submitted viability assessment can be independently assessed by a development viability consultant.
- 4.6 It is important to note that following the submission of the developer's viability assessment, there may be a need for the findings of the study to be discussed by Councillors at a 'closed session'. The use of closed sessions is to ensure that commercially sensitive information submitted by the applicant is not released into the public domain.
- 4.7 A lower level of provision may be acceptable if, following the independent review of the viability assessment by an appropriately qualified expert, the

Council accepts that meeting the full affordable housing requirement makes the scheme unviable.

- 4.8 Whilst the Council does not have a preferred approach for undertaking viability appraisals, developers may wish to use the Homes and Communities Agency Toolkit.

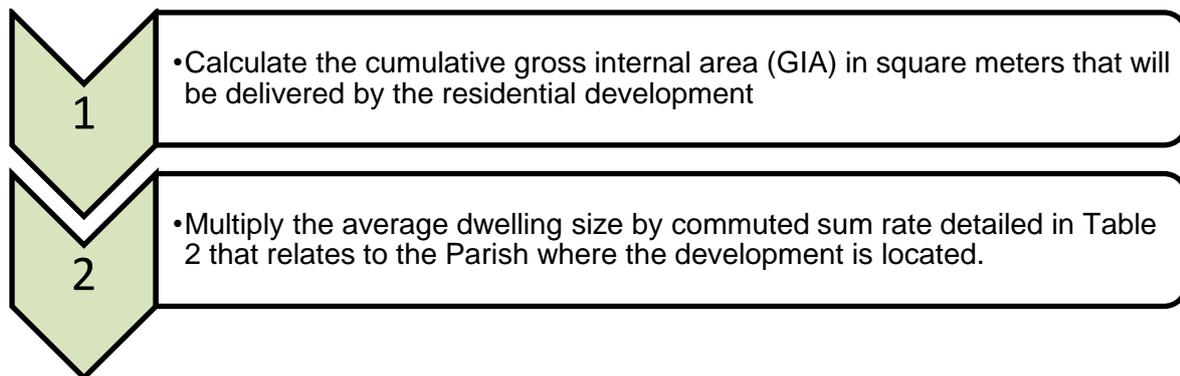
#### Difficulty procuring a Registered Provider

- 4.9 The Council recognise that for some developments, particularly on smaller sites, a situation may arise where the developer is unable to fulfil the affordable housing obligations as, despite all reasonable efforts, no Registered Provider (RP) is willing to procure the affordable dwellings. This may be due to a number of factors, such as; the site location falls outside of the RP's core investment area; the tenure proposed does not fit the RP's business model or the financial offer submitted by the RP may not cover the developer's reasonable build costs. Other reasons are also likely to arise which may be specific to that individual site.
- 4.10 In these circumstances and where provision has been made within the s106 agreement the developer may apply to the Council to commute the onsite provision of affordable housing to a financial sum. The Council will need to be satisfied that the developer has made all reasonable efforts to dispose of the affordable housing to an RP and they will be expected to evidence details of any offers received from RP's or correspondence with RP's. This may also include financial information on the sum the developer is seeking for the affordable dwellings to ensure that cost is not the overriding factor that the affordable housing obligations cannot be satisfied.
- 4.11 If the Council agrees that the affordable housing obligations may be commuted to a financial payment then this sum will be calculated in accordance with the tariff detailed in Table 2 overleaf.
- 4.12 It is important to note that the Council's priority remains the provision of affordable housing on the application site and so this cascade to a financial sum is the last resort. Before considering requests under this provision the Council will first explore with the developer whether an amended affordable housing scheme, including changes to the number, type, tenure and location within the site, will make onsite provision possible.

Table 2: Affordable Housing Commuted Sums				
	Group 1	Group 2	Group 3	Group 4
Parish	Whitehill and Bordon	Clanfield	Alton	Beech
		Headley	Bramshott and Liphook	Bentley
		Horndean	Four Marks	Bentworth
		Rowlands Castle	Froyle	Kingsley
			Grayshott	Wield
			Lasham	Worldham
			Medstead	
			Ropley	
			Shalden	
Commuted sum (£) per square metre (GIA)	£160	£270	£355	£450

**Note:** The commuted sum rates will increase with market inflation over time to ensure their effectiveness at delivering infrastructure. They are linked to the All-in Tender Price Index published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors.

4.13 In circumstances where a developer is providing commuted sums to fund off site affordable housing provision, the following method should be followed for calculating the commuted sum payable.



4.14 If a developer considers that the commuted sum required to support off site affordable housing provision would make the development unviable, the process set out in the viability section above (paragraphs 4.5 to 4.8) would need to be followed to determine a commuted sum that would make the development viable.

- 4.15 Case studies one and two overleaf demonstrate the calculation process for schemes where the affordable housing requirement will be delivered in its entirety by commuted sums. In contrast, case study three provides an example of where to meet the policy requirements on site provision is required and a commuted sum to make up the shortfall (see para 4.4).

### **Case Study 1 –Development of four residential dwellings in Four Marks**

- 4.16 The proposed development will deliver one 4 bedroom property and three 5 bedroom properties within the Parish of Four Marks. The development schedule below provides information on the units proposed.

<b>Unit</b>	<b>Type</b>	<b>Floor area (GIA) sqm</b>
1	4 bed house	150
2	5 bed house	200
3	5 bed house	200
4	5 bed house	250
<b>Total</b>		<b>800</b>

- 4.17 From the above, we have been able to calculate the total floor area provided (800sqm) by the 4 dwellings. To calculate the Commuted Sum Payable by the developer we will multiply the total floor area (800sqm) by the rate for Parish Group 3 set out in Table 2 (£355). The commuted sum payable by this development would therefore be £284,000.

### **Case Study 2 – Development of three residential dwellings in Rowlands Castle**

- 4.18 The proposed development will deliver one 2 bedroom property and two 3 bedroom properties within the Parish of Rowlands Castle. The development schedule below provides information on the units proposed.

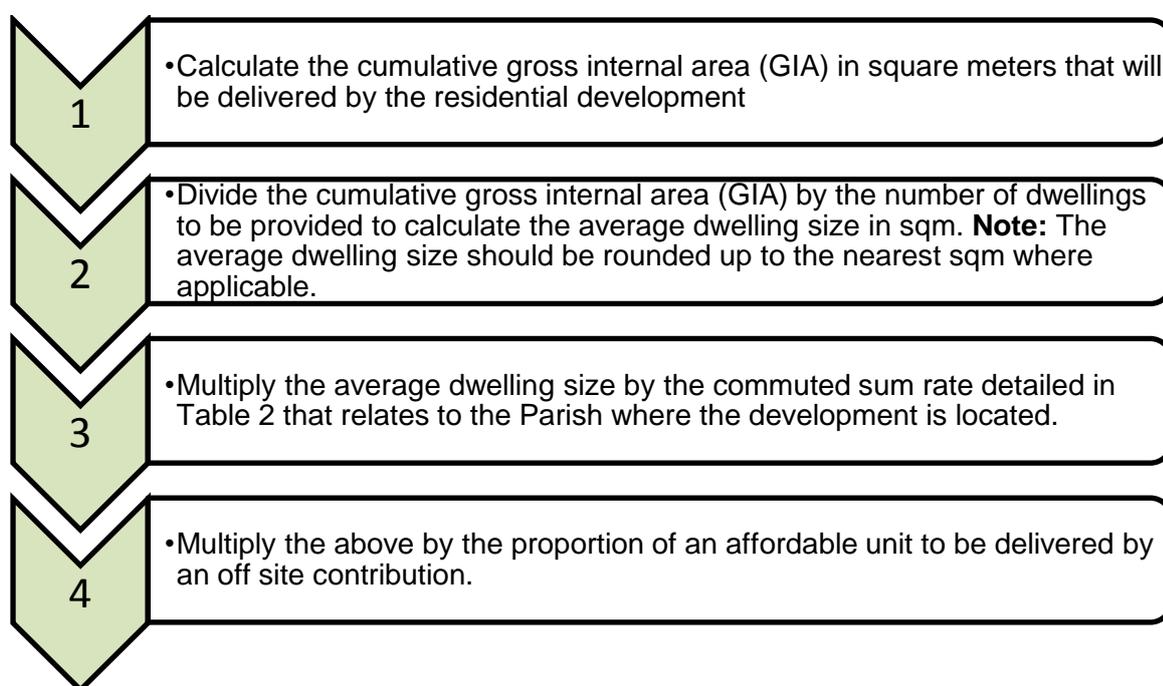
<b>Unit</b>	<b>Type</b>	<b>Floor area (GIA) sqm</b>
1	2 bed house	80
2	3 bed house	90
3	3 bed house	100
<b>Total floor area</b>		<b>270</b>

- 4.19 From the above, we have been able to calculate the total floor area provided (270sqm) by the 3 dwellings. To calculate the Commuted Sum payable by the developer we will multiply the total floor area (270sqm) by the rate for Parish Group 2 set out in Table 2 (£270). The commuted sum payable by this development would therefore be £72,900.

### Case Study 3 – Development of seven residential dwellings in Alton

4.20 The proposed development will deliver seven residential dwellings within Alton Parish. The JCS affordable housing requirement for Alton is 40% and a development of this size is expected to provide on site provision. Therefore the affordable housing required from the development is 2.8 units to comply with the policy. The developer has agreed to provide 2 affordable units on site, and therefore to make up the ‘short fall’ of 0.8 of an affordable dwelling, the Council will require a commuted sum to fund this difference.

4.21 The methodology for calculating the commuted sum required in such cases is detailed below.



4.22 The following table provides a worked example of how to calculate steps one and two as detailed in the methodology above.

Unit	Type	Floor area (GIA) sqm
1	2 bed house	80
2	2 bed house	80
3	3 bed house	105
4	3 bed house	105
5	3 bed house	105
6	4 bed house	130
7	4 bed house	130
Total floor area		735
Average unit (dwelling) size		105

4.23 To complete step 3, we multiply the average dwelling size (105sqm) by the appropriate Commuted Sum (£) per square metre charge for the parish of Alton as set out in Table 2 (£355). This gives a total of £37,275. In order to complete step 4 we multiply the output of step 3 (£37,275) by 0.8. Therefore in this case study we can determine that to make up 0.8 of an affordable dwelling, the developer would need to pay a commuted sum of £28,290 to the Council.

## **Affordable Housing for Rural Communities**

4.24 The Policy for the provision of affordable housing for rural communities is set out in Joint Core Strategy Policy CP14 which states that:

*Outside settlement policy boundaries, residential development will only be permitted if:*

- a) it provides affordable housing for local people who are unable to obtain accommodation on the open market;*
- b) there is a proven local affordable housing need;*
- c) the need cannot be met within the settlement to which that need relates;*
- d) the settlement provides a range of local services and facilities, or has accessibility to larger settlements nearby which provide a wider range of services and facilities;*
- e) the site is modest in scale and relates well, in terms of location and in size, to the existing settlement;*
- f) it provides dwellings which will be available as affordable housing for local people in perpetuity; and*
- g) within the South Downs National Park, there is no conflict with National Park purposes.*

*In order to meet identified affordable housing needs the Local Planning Authorities may allocate sites specifically for affordable housing at those settlements with a settlement policy boundary that have a specific local need.*

*For those settlements with a settlement policy boundary, an element of market housing (which should normally be low cost market housing, such as starter homes) may be permitted, but will make up no more than 30% of the total dwellings on the site. The intention on such sites is to maximise the percentage of affordable housing provided.*

*For sites adjacent to other settlements, the development will be required to provide 100% affordable housing, unless exceptional circumstances can be proven.*

## **Satisfying the policy requirements**

- 4.25 As detailed above, Policy CP14 enables further housing to come forward where a proven affordable housing need is identified in settlements with a settlement policy boundary. The policy allows for a proportion (up to 30%) of market housing to be included for those settlements with a settlement policy boundary to assist in bringing these sites forward.
- 4.26 However, it is important to note that the intention on such sites is to maximise the percentage of affordable housing provided. For sites adjacent to settlements without a settlement policy boundary the development will be required to provide 100% affordable housing, unless exceptional circumstances can be proven.
- 4.27 In circumstances where a fraction of an affordable housing dwelling is generated in the calculation, the quantum of affordable housing must be rounded up to the nearest whole unit. Financial contributions will not be permissible under policy CP14 for either whole or fractions of affordable housing units, as the purpose of this policy is to maximise affordable housing delivery in rural areas.
- 4.28 Affordable housing delivered through CP14, will be subject to strict occupancy criteria to ensure that priority is given first to those people in housing need, with a strong connection to the settlement to which that site relates. Occupancy criteria will usually be agreed in liaison with the Parish Council and will be secured in through a Section 106 legal agreement.

## **Community Project Worker**

- 4.29 The Local Planning Authorities' work with Housing Associations to ensure that affordable housing is fully integrated with the market housing and that larger developments are integrated with the wider community. Housing associations have employed community project workers to work on a number of large sites in the District. The project worker schemes have proved to be very successful.
- 4.30 The costs of employing the community project workers are currently met solely by the housing associations. This is inequitable as the project workers work across all occupiers, including owner occupiers and private rented tenants. Private developers should meet some of the costs. For this reason developer contributions of £250 per dwelling will be sought to fund a community project worker on all sites of 20 units or more.

## Education

- 4.31 The majority of contributions towards the improvement of educational infrastructure will be secured through CIL as set out in the East Hampshire District Regulation 123 List.
- 4.32 However, where a proposed development generates the need for a new school to be provided on site, the land and provision of a school will be secured through a Section 106 Legal Agreement.
- 4.33 The County Council has published a guidance document on '[Developer Contributions towards Children's Services Facilities](#)<sup>1</sup> (October 2015) which highlights that the Council is expected to consult Hampshire Children's Services Department on any planning proposals relating to a development of 10 or more dwellings.
- 4.34 The Guidance also provides guidance on the minimum usable areas required for new primary school sites which are summarised below:
- 1 Form entry primary (210 places): 1.2 hectares
  - 2 Form entry primary (420 places): 2.0 hectares
  - 3 Form entry primary (630 places): 2.8 hectares

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<sup>1</sup> <http://www3.hants.gov.uk/education/schools/school-places.htm>

## Internationally Designated Sites

- 4.35 Residential development in parts of the District has the potential to impact upon internationally designated sites both within and located outside of the District.

### Wealden Heaths Phase II Special Protection Area

- 4.36 With respect to the Wealden Heaths Phase II Special Protection Area (SPA), Policy CP22 states:

*“Any new housing that is proposed to be located within 400m of the boundary of the Wealden Heaths Phase II Special Protection Area (SPA) will be required to undertake a project-specific Habitats Regulations Assessment (HRA). This must form a part of the planning application process to demonstrate that either no adverse effect on the ecological integrity of the SPA will occur or that adequate measures will be put in place to avoid or (as a secondary solution) adequately mitigate any adverse effects. Such measures must be agreed with Natural England and the planning authority. In order to undertake such an assessment, it is likely that information on the distribution of birds for which the SPA is designated would be required.”*

- 4.37 In addition, if housing proposals are capable of affecting the SPA no matter how distant from the site, they will be considered on a case-by-case basis as to whether a project-specific HRA is required (this should be assessed at the HRA Screening Assessment stage). The requirement is likely to vary depending on the size of the site, the ‘in combination’ effects and its distance from the SPA. Advice on this should be sought from Natural England at the earliest opportunity.

### Solent Natura 2000 Sites

- 4.38 The Solent coastline provides feeding grounds for internationally protected populations of overwintering waders and wildfowl, and is also extensively used for recreation. In response to concerns over the impact of recreational pressure on birds within protected areas in the Solent, the Solent Forum initiated the Solent Disturbance and Mitigation Project to determine visitor access patterns around the coast and how their activities may influence the birds.
- 4.39 The project has been divided into four phases. Phase 1 collated and reviewed information on housing, human activities and birds around the Solent, and

reviewed the potential impact of disturbance on birds. Phase 2 involved a programme of major new data collection and Phase 3 sets out an avoidance and mitigation Plan. For the final phase, the SDMP project group is working with Natural England towards implementation.

- 4.40 Contributions will be sought from new development in order to implement the measures set out in the Solent Special Protection Area (SPA) Interim Planning Framework. Measures include the provision of dog wardens and rangers to educate the public about the impacts of recreational disturbance on protected species. Natural England has advised that a contribution of £174 per dwelling will be required. The Solent Contribution is subject to Retail Price Index (RPI) adjustment annually.
- 4.41 The contribution will affect all net new dwellings in the District located within 5.6km of the Solent Natura 2000 sites and is payable in addition to any CIL liability and any other S106 or S278 contributions. Appendix 1 contains maps showing the parts of the District that fall within the 5.6km buffer.
- 4.42 The above does not preclude the possibility that some residential schemes, due to their size and/or location, may require individual assessment under the Habitats Regulations on advice from Natural England and additional site specific avoidance or mitigation measures.
- 4.43 The District Council will continue to engage with other local authorities, Natural England and the Environment Agency to develop the appropriate means of reducing the impact of recreational pressure from new housing on these coastal Natura 2000 sites.

## Loss of Local Employment

- 4.44 The Policy for the loss of existing employment land is set out in Joint Core Strategy Policy CP4 which states that:

*“The use of employment land for alternative uses will be permitted where the site can be shown to be no longer suitable for employment use of some form and the alternative use is in conformity and consistent with other policies and strategies of the Local Plan: Joint Core Strategy.”*

*“Where development is proposed which would result in the loss of an existing industrial or business site, a planning obligation may be negotiated with the applicant to offset the loss of employment on the site and mitigate the economic impact.”*

- 4.45 In addition, Saved Local Plan Policy IB4 (Paragraph 6.56) states that:

*“...in certain circumstances, where development is proposed which would result in the loss of an existing industrial or business site and where such a proposal might otherwise be refused, a planning obligation may be negotiated with the developer which provides a compensatory provision to offset the loss of the site...”*

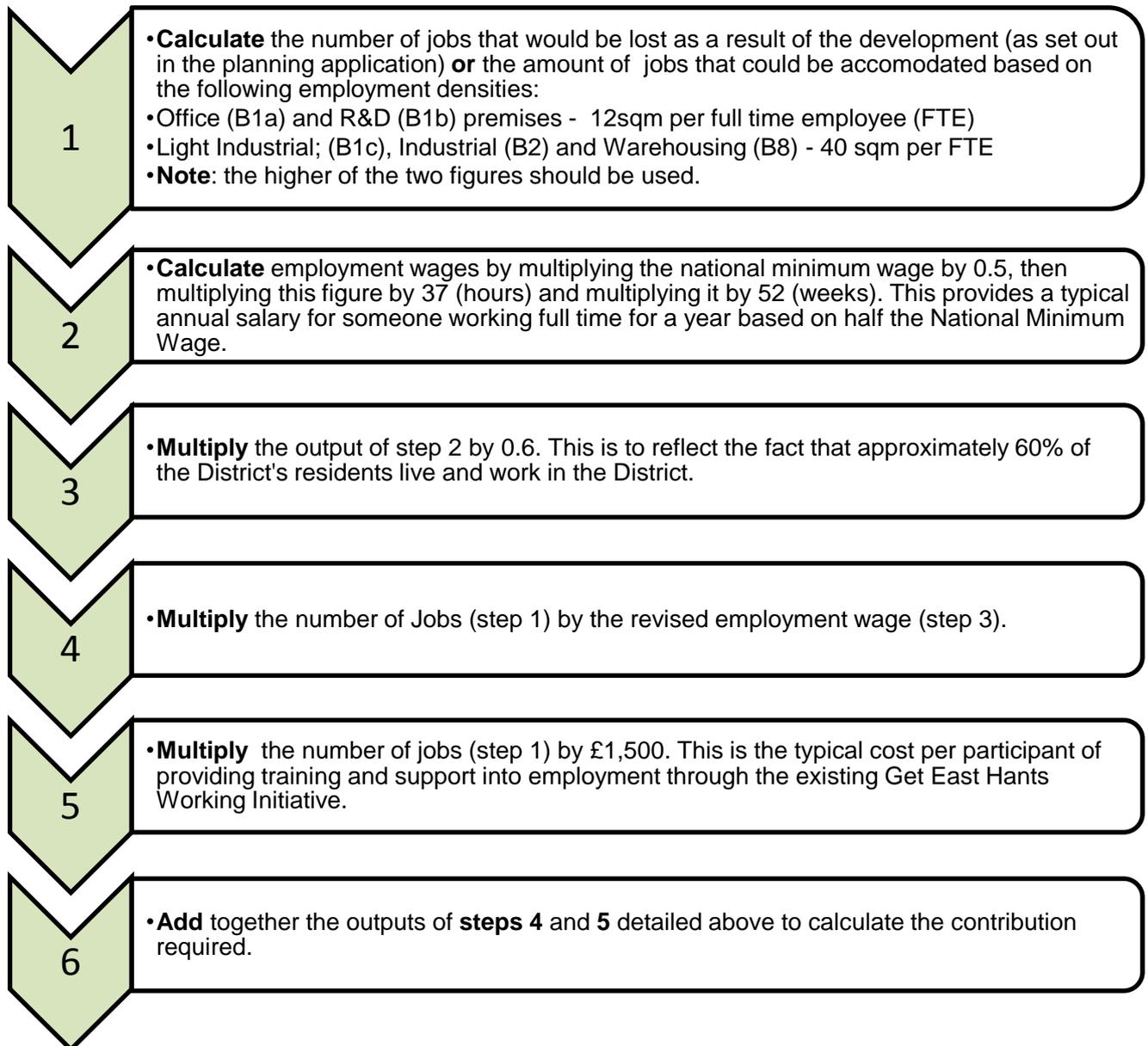
- 4.46 The National Planning Policy Framework (NPPF) requires a net gain in all aspects of sustainable development. In order to achieve sustainable economic growth, East Hampshire has to tackle key issues and challenges such as skills, training and employment, alongside provision of housing and commercial floorspace.

- 4.47 In addition, the NPPF (paragraph 152) states that:

*“...significant adverse impacts on any of these dimensions should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where adverse impacts are unavoidable, measures to mitigate the impact should be considered. Where adverse mitigation measures are not possible, compensatory measures may be appropriate”.*

- 4.48 The Council will therefore secure an economic contribution aimed at mitigating the impact of loss of employment land and enabling the unemployed to get into local jobs. The contributions can support existing or new programmes carried out by the Council, the developer or others as agreed by the Council and the developer.

4.49 The method for calculating the economic contribution to mitigate the loss of employment premises in the District is set out in the flow diagram below. In addition two case studies provide worked examples of how to calculate the appropriate contribution.



### Case Study 1 - Loss of Office accommodation

4.50 A proposal for the loss of 120sqm of office (B1a) accommodation in Alton Town Centre to enable the building to be redeveloped to provide residential accommodation. The premises were vacant at the time of the application and therefore no jobs figures were available. To complete step one we use an employment density of 12sqm per full time employee (FTE) for office premises. Therefore if we divide the floorspace to be lost by the employment

density, we can determine that 10 FTE jobs could be accommodated by the office premises proposed to be redeveloped.

- 4.51 To calculate Step 2, we multiply the [National Minimum Wage<sup>2</sup>](#) rate (as amended) for those aged 21 and over (currently £6.70) by 0.5 which gives us an hourly rate of £3.35. We then multiply this amended hourly rate by 37 hours which gives us a weekly salary of £123.95. To calculate the annual salary, we then multiply the calculated weekly wage by 52 to calculate an annual salary of £6,445.40 per worker.
- 4.52 To calculate Step 3, we multiply the output of Step 2 by 0.6 to reflect the fact that approximately 60% of the District's residents live and work in the District. This gives us a revised annual salary per worker of £3,867.24
- 4.53 To calculate Step 4 we multiply the revised annual salary per worker calculated in Step 3, by the number of FTE jobs that could be accommodated at the site (10). This totals £38,672.40.
- 4.54 To calculate Step 5, we multiply the typical cost per participant of providing training and support into employment through the existing Get East Hants Working Initiative (£1,500) by the number of FTE jobs that could be accommodated at the site (10). This totals £15,000.
- 4.55 Finally, to calculate the total contribution required, we add the output of step 4 (£38,672.40) to that of step 5 (£15,000). Therefore, in this instance a contribution of **£53,672.40** would be payable.

## Case Study 2 - Loss of Light Industrial accommodation

- 4.56 A proposal for the loss of 160sqm of Light Industrial (B1c) unit in Bentley to enable the building to be redeveloped to provide residential accommodation. The premises were vacant at the time of the application and therefore no jobs figures are available. To complete step one we use an employment density of 40sqm per full time employee (FTE) for light industrial premises. Therefore if we divide the floorspace to be lost by the employment density, we can determine that 4 FTE jobs could be accommodated by the light industrial unit proposed to be redeveloped.
- 4.57 To calculate Step 2, we multiply the [National Minimum Wage<sup>3</sup>](#) rate for 21 and over (currently £6.70) by 0.5 which gives us an hourly rate of £3.35. We then

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<sup>2</sup> <https://www.gov.uk/national-minimum-wage-rates>

<sup>3</sup> <https://www.gov.uk/national-minimum-wage-rates>

multiply this amended hourly rate by 37 hours which gives us a weekly salary of £123.95. To calculate the annual salary, we then multiply the calculated weekly wage by 52 to calculate an annual salary of £6,445.40 per worker.

- 4.58 To calculate Step 3, we multiply the output of Step 2 by 0.6 to reflect the fact that approximately 60% of the District's residents live and work in the District. This gives us a revised annual salary per worker of £3,867.24
- 4.59 To calculate Step 4 we multiply the revised annual salary per worker calculated in Step 3, by the number of FTE jobs that could be accommodated at the site (4). This totals £15,468.96.
- 4.60 To calculate Step 5, we multiply the typical cost per participant of providing training and support into employment through the existing Get East Hants Working Initiative (£1,500) by the number of FTE jobs that could be accommodated at the site (4). This totals £6,000.
- 4.61 Finally, to calculate the total contribution required, we add the output of step 4 (£15,468.96) to that of step 5 (£6,000). Therefore, in this instance a contribution of **£21,468.96** would be payable.

### **Loss of allocated employment sites that are currently undeveloped**

- 4.62 In instances where the council receives a planning application that would result in the development of an allocated employment site for non employment uses, in the first instance the Council will request additional information from the applicant to demonstrate marketing and viability of the site in accordance with the [East Hampshire District Council Guidance on the loss of Industrial or Business Uses](#)<sup>4</sup> (September 2015).
- 4.63 However, if such a scheme were considered to be acceptable in planning terms, the developer would be required to provide a developer contribution based upon the employment floorspace that the site could potentially accommodate. If your development falls within this category it is recommended that you contact the Council's Economic Development Service for further information about the contribution that would be required from your scheme.

### Viability

- 4.64 The Council recognise that in some instances there may be an issue with viability as a result of the contributions detailed above. Where there is an

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<sup>4</sup> <http://www.easthants.gov.uk/guidance-loss-industrial-or-business-uses-pdf-261-kb>

issue with viability, the Council will seek further information from the applicant that will need to be independently examined. Following receipt of the independent review there will be negotiation on the contribution.

## **Local Employment and Training Agreements**

4.65 The Policy for Employment and Workforce Skills is set out in Joint Core Strategy Policy CP5 which states that:

*Planning Permission will be granted for development that:*

- a) Improves workforce skills and employability*
- b) Promotes and supports skills and employment provision in existing business clusters and high growth sectors;*
- c) Secures local skills and training provision and employment on significant development, particularly with regard to construction skills and employment;*
- d) Addresses barriers to employment for the unemployed people of East Hampshire*

4.66 To deliver the above policy requirement the Council will require developers proposing residential schemes of 50 units or more or schemes that will provide a net increase of 1,500 square metres or more of business and commercial floorspace to enter into a Legal Agreement to support Local Employment and Training in the District.

### Local Employment and Training Plan

4.67 In order to mitigate the economic impact of developments on the area, the Council seeks to secure opportunities for local residents to receive training and access employment opportunities during construction phase and at occupation phase (end-user).

4.68 The Council requires applicants to enter a S106 Local Employment and Training Agreement to mitigate for skills shortages, increase apprenticeship opportunities, reduce unemployment and provide career opportunities for residents.

4.69 Local Employment and Training Plans typically cover the following outcomes (both construction and end user phases):

- Number of opportunities for unemployed residents
- Number of apprenticeships

- Training and work experience for younger people
- Educational and workforce training opportunities

4.70 As part of this process the developer is required to submit an Employment & Training Strategy to the Council's Economic Development service prior to the implementation or commencement of the development. The Strategy states how the developer or owner intends to achieve the employment and training opportunities as stated in the S106 Legal Agreement.

Project Cost

4.71 As part of the Local Employment and Training Agreement the developer shall be required to provide financial contributions to the Council to cover specific costs incurred by the Council in the implementation and delivery of the Employment and Training Plan.

4.72 The project cost payable to the Council is determined on a case by case basis, but in general a fee of £80 per training week and £50 per employment week is payable by the developer or owner. The fee is intended to cover the cost of providing support including training, recruitment and placements during the construction phase. It also contributes towards project support and evaluation costs of local delivery of the Employment and Training Plan and Employment and Training Strategy. The fee will be held by the Council and paid to a Workplace Coordinator appointed by the Council.

Economic contribution

4.73 Following the granting of planning permission, if the developer does not provide the jobs and training as set out in the Section 106 Legal Agreement, the developer will be required to make a financial contribution towards a local employment and skills initiative.

4.74 The financial contribution is calculated using the following formula:

<p><b>Economic Contribution</b></p>	<ul style="list-style-type: none"> <li>•The number of jobs is derived by dividing the total number of employment and training weeks (as set out in the S106 Legal Agreement) by 52 weeks</li> <li>•Multiply the number of jobs (as set out in the S106 Legal Agreement) by the cost of the Council delivering an apprenticeship (wages, training and transport) in East Hampshire as demonstrated through the Get East Hants Working Initiative.</li> <li>•<b>Note:</b> The current cost (2015) is £8,519 per apprentice. These figures will be reviewed annually.</li> </ul>
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4.75 Commuted sums in Lieu of Local Employment Agreements will be sought in exceptional circumstances where a developer is unable to deliver local access to jobs through the Local Employment and Training Agreement to enable the Council to generate alternative employment opportunities. In such circumstances the following formula will be applied in calculation of the commuted sums.

<b>Commuted Sums</b>	<ul style="list-style-type: none"><li>•The number of jobs is derived by dividing the total number of employment and training weeks (as set out in the S106 Legal Agreement) by 52 weeks</li><li>•Multiply the number of jobs (based on the total project employment) by the cost of the Council delivering an apprenticeship (wages, training and transport) in East Hampshire as demonstrated through the Get East Hants Working Initiative.</li><li>•<b>Note:</b> the current cost (2015) is £8,519 per apprentice. These figures will be reviewed annually.</li></ul>
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4.76 The Council consider that the initial occupants of the development can benefit from any economic contribution secured through the scheme as the funds will be available to them for two years from the date of completion of the development. After a two-year period any remaining funds will be made available to other residents within East Hampshire to develop skills through apprenticeships and enable them to access local employment.

## **Flood Protection and Water Management**

- 4.77 It is expected that the majority of contributions towards flood defence in the District will be made through CIL. However, in certain situations, it will be necessary to provide site specific flood protection measures and these may be secured through a Section 106.
- 4.78 There may be circumstances when measures will be required in order to make a development safe. Measures will normally be identified by the Environment Agency and will usually be secured by planning conditions. However, where the measures involve off-site improvements, the need for a S106 agreement, negotiated on a case-by-case basis, will be considered.
- 4.79 Where on site measures are required, the type and location of the works should be justified and agreed with the Council and/or the Environment Agency prior to any works or funding being implemented. In some cases, it may be more appropriate to consider on-site mitigation measures such as the positioning of electrical sockets at a higher level or using more water resistant materials. The use of such measures will normally be secured through planning conditions rather than a legal agreement.
- 4.80 It is expected that developers will enter into a Section 106 which agrees either a level of appropriate funding or the provision of appropriate flood defence works or mitigation measures.

## Green Infrastructure

- 4.81 The standards for the provision of public open space and built recreation facilities on new residential development sites are set out in Joint Core Strategy Policy CP18
- 4.82 Green infrastructure can take many forms including:
- multifunctional green space (i.e. parks, amenity space, accessible natural green space)
  - equipped play areas
  - allotments
  - habitats infrastructure to support biodiversity
- 4.83 The Council will continue to use Section 106 legal agreements or conditions to secure the provision of local multi-functional green space, locally equipped play areas and allotments that directly serve a proposed development site, where the site is suitable.
- 4.84 Contributions for strategic Green Infrastructure that would, include public open space will largely be replaced by CIL and it is not expected that S106 obligations will be routinely used. However, where there is a quantitative deficiency in a type of open space or related facility and the proposed development is suitable, then on-site provision will still be sought using S106 legal agreements.
- 4.85 The Council's adopted green space standards require new residential developments to provide, as a minimum, 3.45ha of public open space per 1,000 population to serve the needs generated by the new development. This requirement is broken down to set out what a development must provide in respect of multi-functional green space, equipped play areas and allotments, as set out in Table 3 below.

Open Space Type	Requirement per 1,000 population (ha)
Parks, sports and recreation grounds	1
Natural green space	1
Informal green space	1
Equipped children's and young people's space	0.25
Allotments	0.2

- 4.86 There are no standards for habitat creation as each site is assessed on a case by case basis. It is recognised however, that the provision of other forms of green infrastructure can contribute towards conserving and enhancing biodiversity.

4.87 Where a proposal requires off-site planting, a S106 agreement must be entered in to. This should cover the cost of any site purchase required for the new planting, the cost of the plants, any associated management and maintenance where the Council will not be adopting the land and sufficient funding for replacements for a period of five years. The costs will be calculated on a site-by-site basis and be based on current prices at the time of the application.

### **Social Infrastructure**

4.88 The provision of new and improvement of existing social infrastructure will be funded through CIL. However, in some instances developers may be required to provide land to enable the delivery of additional social infrastructure to serve the site. In such instances the provision of land will be secured through a Section 106 Legal Agreement

### **Transport**

4.89 Funding for transport infrastructure required as a result of incremental growth will normally be provided by CIL and other mainstream funding programmes. Alterations to the local highway network which are necessary to promote a safe, efficient or sustainable relationship between development and the public highway may be secured through planning (Section 106) and/or highway legal agreements (Section 278). Improvements could include the provision, removal or relocation of street furniture, dropped kerbs, crossovers, pedestrian crossings, bus stops and links to the cycle network.

4.90 Where a development is required to make specific contributions towards improvements, amendments or additions to public transport services (which are not identified or expected to be met by CIL) contributions may be secured through a S106 legal agreement.

4.91 The CIL Regulations 2010 (as amended 2014) introduced a further restriction in respect of Section 278 highway agreements. This prevents S278 agreements from being used to fund infrastructure for which CIL is also earmarked. However, highway agreements which are drawn up by the Highways Agency relating to the trunk road network will still be exempt. Where S278 agreements are used, there is no restriction on the number of contributions that can be pooled.

## Travel Plans

- 4.92 Contributions towards revenue items are still permitted under S106 and are not restricted by the CIL regulations. Where development exceeds the threshold for a Travel Plan, a Travel Plan will be secured through a S106. This will have the objective of reducing adverse transport impacts. A fee is charged for approval of a travel plan and for ongoing monitoring.
- 4.93 Travel Plans will set out, as far as possible, how development proposes to mitigate its adverse transport impacts and promote sustainable travel, and may include measures relating to encouraging sustainable transport behaviour and infrastructure provision. Travel Plans will include provision for financial penalties to fund the promotion or provision of sustainable transport until travel plan objectives are met.

## Section 5: Charging CIL

### The East Hampshire District Charging Schedule

- 5.1 The CIL charging rates that are set out below are supported by evidence of development viability. The CIL charging rates apply to development within East Hampshire District that is located outside of the South Downs National Park Authority Area. The Council will introduce its CIL Charging Schedule on the 1<sup>st</sup> April 2016 and it will be non-negotiable.
- 5.2 The ‘chargeable amount’ of CIL for any new development is calculated in accordance with Part 5 of the CIL Regulations (2010, as amended). The locally set rates detailed below are multiplied by the ‘gross internal area’<sup>5</sup> of new buildings and enlargements to existing buildings, taking demolished floorspace into account and subject to the exemptions listed in Part 6 of the CIL Regulations.
- 5.3 The District Council’s CIL Draft Charging Schedule sets out the levy rates for residential developments and other uses (non-residential developments) in the District (outside of the National Park).

Residential Use <sup>6</sup>	CIL in £/sq m
Residential other than class C2, C2A uses, Extra Care Housing and C3A sheltered housing <sup>7</sup>	Whitehill and Bordon (excluding Regeneration Project CIL Zone) - <b>£65</b>
	Southern parishes of Clanfield, Horndean and Rowlands Castle- <b>£110</b>
	Alton CIL Zone Location <b>£150</b>
	Northern parishes (excluding Whitehill/Bordon and Alton) <b>£180</b>
Residential C3A sheltered housing in self contained houses and flats with communal facilities and an age restriction	Whitehill and Bordon Regeneration Project CIL Zone - <b>£0</b>
	Rest of the Charging Area - <b>£40</b>

<sup>5</sup> The Authority will use the HMRC Valuation Office Agency’s definition of gross internal area.

<sup>6</sup> The proposed ‘Residential’ levy rates are based on an interim assumption of 40 per cent affordable housing policy in the Local Plan with the exception of a 35% target at Whitehill & Bordon. See the Viability Assessment for further information.

<sup>7</sup> Where C3A sheltered housing is defined as housing in self contained houses and flats with communal facilities and an age restriction.

Other Uses	CIL in £/sq m
Offices	£0
Hotels in all areas (excluding the Whitehill & Bordon Regeneration Project Zone)	£70
Hotels in the Whitehill & Bordon Regeneration Project Zone	£0
Retail development <sup>8</sup> in all areas (excluding the Whitehill and Bordon Regeneration Project CIL Zone)	£100
Retail development <sup>9</sup> in the Whitehill and Bordon Regeneration Project CIL Zone	£0
Industrial and warehousing	£0
Student accommodation	£0
All class C2, C2A, C3B, C3C and extra care housing use	£0
Any other development	£0

**Note:** The CIL rates will increase with market inflation over time to ensure their effectiveness at delivering infrastructure. They are linked to the All-in Tender Price Index published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors.

- 5.4 The rates in the Charging Schedule are based on evidence produced by Adams Integra, notably the CIL Addendum Economic Viability Assessment (January 2015). The Viability Assessment looked at the rates which can be charged on different types of development in different parts of the District, while still allowing development to come forward. The Viability Assessments and the CIL charging rates have been subject to public consultation. An independent examination was held in June 2015 and the [Examiner's report](#)<sup>10</sup> was published on 19 October 2015.
- 5.5 The Inspector's Report concludes that the East Hampshire Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area, subject to a number of modifications being made. The report also notes that the Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of the area at risk.

<sup>8</sup> Use Classes A1–A5

<sup>9</sup> Use Classes A1–A5

<sup>10</sup> <http://www.easthants.gov.uk/planning-policy/community-infrastructure-levy-cil-examination>

## Who is liable to pay CIL?

- 5.6 Landowners are ultimately liable for the levy, but anyone involved in a development may take on the CIL liability. Where no one has assumed liability, it will automatically default to the landowners and payment becomes due as soon as the development commences. In these circumstances, the landowner will not benefit from the Council's instalment policy.
- 5.7 The Council will require the submission of an [Assumption of Liability Notice](#)<sup>11</sup> at the earliest opportunity and before development commences.

## When is CIL Charged?

CIL will be charged on planning permissions granted on or after the adoption of the CIL Charging Schedule.

CIL will not be charged if planning permission was granted before the Charging Schedule came into effect.

CIL will not be charged in the case of outline planning permissions which were granted approval before the adoption of the CIL Charging Schedule.

CIL will be payable where there is a resolution to grant planning permission (subject to a S106 agreement) but permission is not formally granted until after adoption of the CIL Charging Schedule.

- 5.8 The following table illustrates some of the more common development scenarios and lists whether or not the proposal will be CIL liable:

Existing Use	Proposed Use	Potential Liability	
Development site	Dwelling (self build)	CIL is not charged on self build development	Not liable
Development site	Dwelling	CIL charged on all <b>new</b> floorspace Charge is based on total new floorspace (no minimum)	CIL liable

<sup>11</sup> [http://www.planningportal.gov.uk/uploads/1app/forms/form\\_1\\_assumption\\_of\\_liability.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_1_assumption_of_liability.pdf)

<b>Development site</b>	<b>Affordable housing</b>	CIL is not charged on dwellings that are categorised as affordable housing	Not liable
<b>Development site</b>	<b>Offices</b>	Office development is <b>not</b> CIL liable	Not liable
<b>Office in use</b>	<b>Change of use to dwelling</b>	CIL liable and chargeable for any <b>additional</b> floorspace (no minimum)  For example, if existing office is 100sqm and in use, then only additional floorspace above 100sqm is chargeable	Liable and potentially chargeable
<b>Office</b>	<b>Affordable housing</b>	CIL is not charged on dwellings that are categorised as affordable housing	Not liable
<b>Office</b>	<b>Office extension</b>	Office development is <b>not</b> CIL liable or chargeable  This is irrespective of size	Not liable
<b>Demolished dwelling</b>	<b>Replacement new dwelling</b>	A credit is given for the demolished floorspace so CIL is only payable on the <b>net additional</b> floorspace	CIL liable
<b>Dwelling</b>	<b>Extension less than 100 sqm</b>	CIL is only chargeable for extensions over 100sqm (not counting the original dwelling)  Therefore, any extension of <b>less than</b> 100sqm is <b>not</b> chargeable	Not liable
<b>Dwelling</b>	<b>Extension more than 100sqm</b>	CIL is charged for the <b>entire new</b> floorspace where an extension is <b>greater than</b> 100sqm (not counting the original dwelling)  Chargeable as extension is <b>greater than</b> 100sqm	Liable and chargeable
<b>Dwelling</b>	<b>Sub division into two dwellings</b>	The sub-division of a dwelling is <b>not</b> CIL liable  If proposals also involve extension(s), CIL is only chargeable for extensions <b>over</b> 100sqm, calculated <b>prior</b> to deducting existing 'in use' floorspace	Not liable

		If any existing buildings/ floorspace is currently in use and to be demolished/converted it can be <b>deducted</b> from the <b>chargeable</b> floorspace of the new building (not counting the original dwelling)	
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### How much CIL will be charged?

- 5.9 The 'chargeable amount' of CIL for any new development is calculated in accordance with Part 5 of the CIL Regulations (2010, as amended). The locally set rates above are multiplied by the 'gross internal area' of new buildings and enlargements to existing buildings, taking demolished floorspace into account and subject to the exemptions listed in Part 6 of the Regulations.
- 5.10 Part 6 of the CIL Regulations 2010 (as amended) exempts the following types of development from CIL liability:
- Social (affordable) housing
  - Domestic residential extensions
  - Self-build development
  - Development by charitable institutions
  - Changes of use that do not increase floor space
  - Buildings into which people do not normally go or go only intermittently for the purpose of maintaining or inspecting machinery, and
  - Buildings with temporary planning permission.
- 5.11 Zero rates have been set for Affordable Housing, Offices, Industrial, Warehousing and Hotels in Whitehill and Bordon Regeneration Project Zone. New development falling into these categories will not pay CIL, based on the viability considerations set out in the Economic Viability Assessment.

**Please Note:** Applicants will be expected to complete an [Additional Information Form](#) listing the gross internal area (GIA) of existing and proposed development. This is the internal area of the building and should include room, circulation and service space, and, corridors, toilets, and ancillary floorspace such as underground parking.

## How will CIL funding be spent and prioritised?

- 5.12 East Hampshire District Council is responsible for making the final decisions on the allocation of funding raised through the Community Infrastructure Levy (CIL). This will be done through an annual process that includes consultation with stakeholders and aligns and concludes with the Council's annual capital spending programme. The aim is to identify and agree priorities for the use of CIL (and S106 planning obligations funds) over a three year programme, and to agree the release of funds on an annual basis.
- 5.13 The Council will prepare a CIL Funding Decision Protocol to set out the process by which infrastructure providers can bid for CIL funding, the consultation involved and the process by which the spending programme is agreed.
- 5.14 The Council has published Regulation 123 List. This sets out the types of infrastructure which may be funded or part funded by CIL.
- 5.15 The Council will publish details of CIL spending each year in the Authority Monitoring Report, which will be published on the Council's website.

## The Neighbourhood Portion of the Levy

- 5.16 Local authorities are required to allocate 15% of levy receipts to spend on priorities that should be agreed with the local community in areas where development is taking place. However, for those communities with an adopted Neighbourhood Plan in place, local authorities are required to allocate 25% of levy receipts in the area. The table below provides further information about the relationship between the levy and Neighbourhood Plans.

Parish Council ✓ Neighbourhood Plan ✓ = <b>25%</b> uncapped, paid to Parish	Parish Council ✓ Neighbourhood Plan ✗ = <b>15% capped</b> at £100/dwelling, paid to Parish
Parish Council ✗ Neighbourhood Plan ✓ = <b>25%</b> uncapped, local authority consults with community	Parish Council ✗ Neighbourhood Plan ✗ = <b>15% capped</b> at £100/dwelling, local authority consults with community

## Section 6 – Demolition, Change of Use and Permitted Development

- 6.1 Where buildings are demolished to allow for new development, CIL is only payable on the net **additional** floorspace. A credit is given for the demolished floorspace (provided the buildings were in lawful use prior to demolition). If the floorspace of the demolished building is greater than the new building, there will be no CIL liability.
- 6.2 Where the proposal involves a change of use and there is no additional floorspace, there will be no CIL liability. CIL is only payable on **additional** floorspace. The existing use must have been in continuous lawful use for at least six months in the previous three years prior to the development being permitted. It will be for the applicant to demonstrate lawful use by using appropriate evidence such as Council Tax records or Business Rates.
- 6.3 The CIL Regulations provide guidance where only a small part of a building to be demolished has been in use over the last six months. The Regulations state that a building is in use if **a part** of the building is in use for a continuous period of at least six months within the period of three years, ending on the day planning permission first permits the development. Therefore, all the floorspace in the building would be deductible from the floorspace of the new buildings, even if only a small part of the original building was in lawful use.
- 6.4 If there is no CIL payable in the case of demolition or a change of use, applicants should be aware that S106 obligations or works under S278 of the Highways Act may still be sought to address site specific issues such as a new access (refer to Section 2 for more information).

### Permitted Development

- 6.5 It is important to note that some development proposals that are classed as permitted development rights will be CIL liable. If you are unsure as to whether your development would be CIL liable we recommend that you contact the Council. In addition, it is the responsibility of the applicant to notify the Council that works are being carried out under permitted development rights.
- 6.6 Where a CIL liable development is being carried out under permitted development, the applicant must submit a [Notice of Chargeable Development](#)<sup>12</sup> to the Council and the notice must include all the relevant floor area details. The Council will treat the information in exactly the same way as

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<sup>12</sup> [http://www.planningportal.gov.uk/uploads/1app/forms/form\\_5\\_notice\\_of\\_chargeable\\_development.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_5_notice_of_chargeable_development.pdf)

if a planning permission has been granted. The notice is registered and acknowledged, the CIL liability is calculated and a Liability Notice is issued to the applicant. The applicant must then submit a Commencement Notice (when development commences) and the Council will issue a Demand Notice, informing the applicant of payment details.

- 6.7 If the development is subject to the Prior Notification Procedure, applicants are encouraged to submit a [Notice of Chargeable Development](#) at the same time as the Prior Notification details.
- 6.8 A Lawful Development Certificate is often sought to confirm permitted development rights. In itself, it does not trigger a levy payment because it is not a planning permission as defined in Regulation 5. It simply confirms that no further application for planning permission is required for that development. Therefore, the normal levy provisions in respect of permitted development rights apply.

### **Section 73 Applications**

- 6.9 Where planning permission is granted for a development before a CIL Charging Schedule is in place, but a further permission is granted in relation to the same development by way of a S73 application (i.e. to vary or remove a condition) after a charging schedule comes into effect, CIL will only be payable upon any increase in chargeable floorspace from the Section 73 application. Therefore, the original consented floor area will fall outside of the scope of CIL. If the S73 consent does not result in an increased floorspace compared to the original consent, no CIL will be payable.

## Section 7: The CIL Process

- 7.1 This section provides detailed information on how the Council will administer the CIL process and the information that will be required from developers.
- 7.2 The following information summarises the documentation that will need to be submitted for different types of development that will occur in the District, including permitted development. Forms the applicant must submit are underlined whilst the forms or actions that the Council will issue are double underlined.

### 1. No planning application but development is liable to CIL

If there is no planning application but development is liable to CIL (i.e. permitted development over 100sqm):

- The applicant must submit a [Notice of Chargeable Development](#)<sup>13</sup>. If a Prior Approval Notice is required, the applicant should submit the Notice of Chargeable Development together with the Prior Approval Notice
- If no Prior Approval Notice is required, it is the responsibility of the applicant to submit the Notice of Chargeable Development before commencement
- The Council must record and acknowledge receipt of Notice of Chargeable Development and issue a Liability Notice

### 2. When a planning application is liable to CIL

#### Step 1 – Receipt of Planning application

When a planning application is received and is liable to CIL:

- The applicant must submit an [Additional Information](#)<sup>14</sup> form with the application
- The Council must calculate the CIL liability based on the floorspace figures indicated on this form

#### Social housing and Charities relief

- Exemptions can only be made if a claim for relief is made on the [CIL Claiming Exemption or Relief form](#)<sup>15</sup>
- Claim must be assessed by the Council and claimant must be notified of decision
- Full details about claiming such exemptions are set out in sections 41 – 54 of the [Community Infrastructure Levy Regulations](#)<sup>16</sup>

<sup>13</sup> [http://www.planningportal.gov.uk/uploads/1app/forms/form\\_5\\_notice\\_of\\_chargeable\\_development.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_5_notice_of_chargeable_development.pdf)

<sup>14</sup> [http://www.planningportal.gov.uk/uploads/1app/forms/cil\\_questions.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/cil_questions.pdf)

<sup>15</sup> [http://www.planningportal.gov.uk/uploads/1app/forms/form\\_2\\_claiming\\_exemption\\_and\\_or\\_relief.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_2_claiming_exemption_and_or_relief.pdf)

## Step 2 – When planning permission is granted

- The Council must send out a Decision Notice and issue a Liability Notice to:
  - The applicant
  - Anyone who has already assumed liability
  - Each person known to be an owner of the land (where leasehold, owner is assumed to be anyone with a leasehold of over 7 years left to run)
- The person assuming liability must submit an Assumption of Liability Notice<sup>17</sup> (or Transfer of Liability Notice<sup>18</sup>)
- The Council must record and acknowledge receipt of the Assumption of Liability Notice
- If there is no assumption of liability, the Council must apportion liability to the owners before development commences.

## Step 3 – Pre-development commencement<sup>19</sup> requirements

- Applicants must send the Commencement Notice<sup>20</sup> to the Council (this must be received by the Council at least one day before development is due to commence. Failure to comply with this may result in the loss of an ability to pay by instalments)
- The Council must scan and register/record this notice
- If there is no Commencement Notice<sup>21</sup> or it contains incorrect dates, the Council can calculate the deemed commencement date before issuing a Demand Notice
- Receipt of a Commencement Notice from the applicant triggers the Council to send a Demand Notice to each liable person, based on the details in the Liability Notice
- Based on the deemed commencement date, the Council can re-calculate CIL liability to include inflation or add applicable surcharges before issuing the Demand Notice
- CIL liability should then be paid in accordance with the Council's instalments policy
- If CIL is not paid, the recovery process should commence

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<sup>16</sup> <http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>

<sup>17</sup> [http://www.planningportal.gov.uk/uploads/1app/forms/form\\_1\\_assumption\\_of\\_liability.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_1_assumption_of_liability.pdf)

<sup>18</sup> [http://www.planningportal.gov.uk/uploads/1app/forms/form\\_4\\_transfer\\_of\\_assumed\\_liability.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_4_transfer_of_assumed_liability.pdf)

<sup>19</sup> Commencement of development is defined in Section 7 (2) of the Community Infrastructure Levy Regulations 2010 (as amended) as: "Development is to be treated as commencing on the earliest date on which any material operation begins to be carried out to the relevant land."

<sup>20</sup> [http://www.planningportal.gov.uk/uploads/1app/forms/form\\_6\\_commencement\\_notice.pdf](http://www.planningportal.gov.uk/uploads/1app/forms/form_6_commencement_notice.pdf)

- 7.3 Where a development has a party who has assumed liability, the development will be entitled to payment through instalments, provided other CIL procedures such as the Commencement Notice are followed. Where no-one assumes liability to pay CIL, the liability will automatically default to the owners of the relevant land and payment becomes due immediately upon commencement of development.
- 7.4 It should be noted that the details above outline the basic CIL process, but do not include every possible scenario. If you are in doubt about any of the steps, please speak to your Development Management Case Officer.

### Calculating the Chargeable Amount

- 7.5 The CIL regulations set out the formula for calculating the chargeable amount at Regulation 40 of the CIL Regulations 2010 (as amended 2014) and this will be used to calculate the charge set out in the Liability Notice:

$$\frac{R \times A \times Ip}{Ic}$$

R = relevant CIL rate (see the East Hampshire District CIL Charging Schedule in Section 5)

A = chargeable area

Ip = index figure for year of permission

Ic = index figure for year Charging Schedule took effect

The index (I) is the national All-in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors; and the figure for a given year is the figure for 1st November for the preceding year.

- 7.6 If the proposed development is a single use development, CIL liability will be calculated using the formula above. If you have a mixed use development, the formula will be applied for each use, and the results added up to get the total CIL liability. Worked examples of how to calculate CIL liability are provided overleaf.
- 7.7 A CIL calculator will be made available on the Council's website when the Council adopts its CIL Charging Schedule. The calculator will provide an estimate of what will be charged for each type of development. The calculator will not provide the final charge as set out in the Liability Notice which will be calculated by the Council once a planning application has been submitted.

7.8 A building is in use if a part of that building has been in use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development.

7.9 Full details of the formula and calculations can be found at: [www.legislation.gov.uk/ukxi/2010/948/regulation/40/made](http://www.legislation.gov.uk/ukxi/2010/948/regulation/40/made)

#### **CIL Worked Example 1**

Three houses are proposed with a total floorspace of 250 sqm (Gross Internal Area) on a cleared site in Alton. As the site is clear the chargeable area does not need to be calculated as it is 250 sqm.

The residential CIL rate in Alton is shown in the East Hampshire District CIL Charging Schedule (£150 per sqm). The CIL liability for the development is therefore calculated as follows:

£150 multiplied by 250sqm equals a CIL liability of **£37,500**

#### **CIL Worked Example 2**

The demolition of an existing dwelling in lawful use in Horndean and the construction of an apartment block in its place. The existing dwelling is 120sqm and the apartment block is 620sqm and all of the units will be market housing.

The development of the apartment block results in the creation of new dwellings and therefore CIL applies. However, because the existing dwelling is in lawful use, its floorspace is deducted when calculating CIL liability.

The CIL charge for residential development in Horndean is £110 per sqm. The CIL liability is calculated as follows

Stage 1: Calculate the net increase in floorspace by deducting the existing floorspace from the new floorspace

The chargeable area is  $620\text{sqm} - 120\text{sqm} = 500\text{sqm}$

Stage 2: Calculate the CIL liability based on the net increase in floorspace  
500sqm multiplied by £110 equals a CIL liability of **£55,000**

### **CIL Worked Example 3**

The demolition of a building of 2,000sqm, 1,200sqm of which is in lawful use and its replacement with a 8,000sqm mixed use development comprising 1,500sqm hotel, 1,000sqm of office, 500sqm of retail and 5,000sqm of residential. The development is located in Whitehill Bordon but outside of the Regeneration Zone.

The key issue here is that the existing building is in lawful use. As the development comprises a mix of uses, the deduction of the existing floorspace is applied on a pro rata basis across the new uses.

The East Hampshire District CIL Charging Schedule sets out the following charging rates for the mix of uses:

- Hotel development is £70 per sqm
- Office development is £0 per sqm
- Retail development is £100 per sqm
- Residential development is £65 per sqm

The CIL liability is calculated as follows:

Stage 1: Calculate the deduction factor for the existing floorspace (2,000sqm) by dividing the existing floorspace by the new floorspace (8,000sqm) = 0.25

Stage 2: Calculate the Hotel liability  
 $1,500 \times £70 \text{ per sqm} \times 0.75 = £78,750$

Stage 3: Calculate the office liability  
 $1,000 \times £0 \text{ per sqm} \times 0.75 = £0$

Stage 4: Calculate the retail liability  
 $500 \times 100 \text{ per sqm} \times 0.75 = £37,500$

Stage 5: Calculate the residential liability  
 $5,000 \times £65 \text{ per sqm} \times 0.75 = £243,750$

6: Calculate the total liability  
Hotel (£78,850) + Office (£0) + Retail (£37,500) + Residential (243,750) = CIL liability of **£360,100**

**Note:** In the above case study no relief has been applied for social housing provision which would be required from such a development in accordance with Joint Core Strategy Policy CP13. Further details on social housing relief are provided overleaf.

## Relief for Social Housing or Charitable Purposes

- 7.10 If part of the development includes social housing or is for charitable purposes, it will not be necessary to pay CIL on this part of the development, provided exemption is claimed prior to commencement of development. To claim social housing relief or charitable relief, a [Claiming Exemption or Relief Form](#)<sup>22</sup> must be completed.
- 7.11 Social housing relief applies where social housing is to be provided by a registered social landlord, a registered provider of social housing or a local housing authority and meets all of the conditions set out in Regulation 49 of the CIL Regulations 2010 (as amended 2014 and 2015).
- 7.12 Charitable relief applies where the development will be mainly or wholly used for charitable purposes and is under the control of a charity.
- 7.13 It is important to note that an application for social housing or charitable relief must demonstrate that it meets the criteria for that relief, as set out in Part 6 of the CIL Regulations 2010 (as amended 2014 and 2015). If development commences without social housing relief or charitable relief having been granted, the applicant may be liable to the full CIL liability.
- 7.14 The amount of social housing relief will be calculated using the following formula as set out in Regulation 50 of [The Community Infrastructure Levy Regulations 2010](#):
- 7.15 Further guidance on social housing and charitable relief is contained in [National Planning Practice Guidance](#).

## Exemptions for Self Build

- 7.16 The CIL Regulations 2010 (as amended 2014) allow people who are building their own home (to live in themselves), extending their own home or building an annexe, to apply for exemption from CIL. CIL [Regulation 42a](#)<sup>23</sup> provides further detail.
- 7.17 The exemption will apply to anybody who is building their own home or has commissioned a home from a contractor, house builder or sub-contractor. Individuals claiming the exemption must own the property and occupy it as their principle residence for a minimum of three years after the work is

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<sup>22</sup> [http://www.planningportal.gov.uk/uploads/lapp/forms/form\\_2\\_claiming\\_exemption\\_and\\_or\\_relief.pdf](http://www.planningportal.gov.uk/uploads/lapp/forms/form_2_claiming_exemption_and_or_relief.pdf)

<sup>23</sup> <http://www.legislation.gov.uk/ukdsi/2014/9780111106761/regulation/7>

completed. Community group self build projects also qualify for the exemption where they meet the required criteria.

- 7.18 In order for an application for self build exemption to be considered, the applicant must complete the [Self Build Exemption Form Part 1](#) , which must be received by the Council **before commencement of the chargeable development begins**. A claim will lapse if the development is commenced before the Council has notified the claimant of its decision.
- 7.19 Within six months of completing the home, the applicant must submit additional supporting evidence to confirm that the project is self build. **If this is not submitted within the six month time period, the levy becomes payable in full**. Evidence must be submitted together with the [Self Build Exemption Claim Form Part 2](#).
- 7.20 In the case of a self build extension or annexe, the applicant must submit a [Self Build Annex Form](#) or [Extension Claim Form](#).

## East Hampshire District Council CIL Instalments Policy

7.21 On the (to be added), East Hampshire District Council adopted a CIL Instalments Policy in accordance with the CIL Regulations 2010 (as amended 2014). The policy will come into effect on the 1<sup>st</sup> April 2016. The policy allows CIL liability to be paid in phases, depending on the amount of liability. The policy is shown below:

Band	Amount of CIL liability	Number of instalments	Payment periods and amounts
1	Less than £20,000	0	<ul style="list-style-type: none"> <li>100% within 120 days of commencement of development</li> </ul>
2	Equal to or greater than £20,000 and less than £100,000	3	<ul style="list-style-type: none"> <li>25% within 60 days of commencement of development</li> <li>Additional 25% within 180 days</li> <li>Final 50% within 240 days</li> </ul>
3	Equal to or greater than £100,000 and less than £250,000	3	<ul style="list-style-type: none"> <li>25% within 60 days of commencement of development</li> <li>Additional 25% payable within 180 days of commencement of development</li> <li>Final 50% within 360 days of commencement of development</li> </ul>
4	Equal to or greater than £250,000 and less than £750,000	4	<ul style="list-style-type: none"> <li>25% payable within 60 days of commencement of development</li> <li>Additional 25% payable within 180 days of commencement of development</li> <li>Additional 25% payable within 240 days of commencement of development</li> <li>Final 25% payable within 360 days of commencement of development</li> </ul>
5	Equal to or greater than £750,000	4	<ul style="list-style-type: none"> <li>25% payable within 90 days of commencement of development</li> <li>Additional 25% payable within 180 days of commencement of development</li> <li>Additional 25% payable within 360 days of commencement of development</li> <li>Final 25% payable within 540 days of commencement of development</li> </ul>

- 7.22 Where there is agreement amongst all parties, the regulations allow for a planning application to be subdivided into phases for the purposes of the levy. This is expected to be particularly helpful for large scale developments. The principle of phased delivery must be apparent from the planning permission. Developers are advised to contact the Council at the earliest opportunity to discuss requirements for a phased approach.
- 7.23 It is important to note that if a Commencement Notice is not received before the development commences or if a Commencement Notice was received but the Council believes the development was commenced earlier, the Council will determine the Deemed Commencement Date. In these circumstances, the Instalment Policy does not apply and full payment is due immediately. The Council can also apply a surcharge equal to 20% of the applicable CIL charge up to a maximum of £2500.

### **Phasing**

- 7.24 The CIL Regulations 2010 (as amended 2014) also make provision for the phasing of levy payments to all types of planning permission (including hybrid) to deal fairly with more complex developments. While this will not affect the total amount of CIL payable for a development, it will have a positive impact on cash flow for developers, who previously had to pay the entire levy on commencement of development (see CIL Regulation 2010 8(3A) (as amended 2014)).
- 7.25 Phasing differs from instalments. Each phase is a separate chargeable development for the purposes of paying CIL and the instalments policy applies to each phase. Therefore, it is likely to apply to larger schemes which can easily be divided into a series of distinct phases and which may be delivered over a number of years. Applicants are advised to speak to their case officer at an early stage to agree any phasing details and how they will affect payments.

### **Surcharges and Interest**

- 7.26 Part 9 of the CIL Regulations allow the Council to apply surcharges and/or interest in respect of a chargeable development, under certain circumstances, including:
- Where nobody has assumed liability
  - Where the Council is required to apportion liability
  - Where a notice of chargeable development has not been submitted

- Where a chargeable development is commenced before the Council has received a commencement notice
- Where a payment is late
- Where there is a failure to comply with an information notice

7.27 Where it is considered appropriate to apply surcharges or interest, the Council will have regard to the calculations provided by Regulations 80 to 88 of the CIL Regulations 2010 (as amended 2014) when applying charges.

### **How will the payment of the levy be enforced?**

7.28 When planning permission is granted, the Council will send out a CIL Liability Notice, setting out the expected CIL liability. This will be based on the floorspace details submitted by the applicant. On receipt of a Commencement Notice from the applicant, the Council will then send out a Demand Notice, indicating that CIL is now payable. However, where the levy is not paid in accordance with the Demand Notice, the regulations provide for a range of proportionate enforcement measures, such as surcharges and interest on late payments.

7.29 In most cases, these measures should be sufficient. However, in cases of persistent non-compliance, the regulations also enable collecting authorities to take more direct action to recover the amount due. One such measure is the Community Infrastructure Levy Stop Notice, which prohibits development from continuing until payment is made. Another is the ability to seek a court's consent to seize and sell assets of the liable party. In the very small number of cases where a Collecting Authority can demonstrate that recovery measures have been unsuccessful, a court may be asked to commit the liable party to a short prison sentence.

7.30 If a developer goes out of business during the life of a development, the CIL liability defers to the landowner.

7.31 Full details of enforcement procedures can be found in Part 9 of the CIL Regulations 2010 (as amended 2014)

### **Community Infrastructure Levy Appeals**

7.32 An adopted CIL rate is non negotiable and the Council is not required to justify its application of CIL on a case by case basis. However, the CIL regulations do allow appeals about matters of fact, such as a mistake in the calculation of the CIL liability or the date on which development commenced.

7.33 Appeals may be made in the following circumstances:

1. Review of the chargeable amount
2. Chargeable amount appeal
3. Apportionment of liability
4. Charitable relief appeal
5. Surcharge Appeal
6. Deemed Consent Appeal
7. CIL Stop Notice Appeal.

7.34 Further information about each of the seven different appeal types is provided below:

### **1. Review of the chargeable amount**

7.35 A person may ask the Council to review the calculation of the chargeable amount set out in the liability notice. The appeal must be made in writing to the collecting authority no more than 28 days after the Liability Notice was issued. A review may be requested after the relevant development has been commenced only if planning permission was granted after the development was commenced.

### **2. Chargeable amount appeal**

7.36 Where a person is not satisfied with the outcome of their review of the chargeable amount, or has not received a reply from the Council within 14 days, they may appeal. The appeal must be made no more than 60 days after the Liability Notice was issued and an appeal cannot be made if the development has commenced. The appeal will be heard by a valuer. If they allow the appeal, they must calculate the revised charge. Only one appeal is allowed.

### **3. Apportionment of liability**

7.37 A person who is an owner of the land may appeal against the apportionment of liability within 28 days of the Demand Notice being issued. This type of appeal is also heard by the valuer and if they allow the appeal they may quash a surcharge and/or reapportion liability between the owners of the land.

### **4. Charitable relief appeal**

7.38 A person may appeal the Council's decision to grant charitable relief on the ground that it incorrectly determined the value of the interest in land in respect of which the claim was allowed. This sort of appeal is also heard by a valuer and must be made no more than 28 days after the Council has made its decision to grant charitable relief. It will lapse if the development is commenced before the appeal is decided. If the appeal is allowed the valuer can amend the amount of charitable relief granted.

## **5. Surcharge Appeal**

7.39 A person may appeal against a surcharge imposed by the Council on any of the following grounds:

1. That the claimed breach which led to the imposition of the surcharge did not occur;
2. That the Council did not serve a Liability Notice in respect of the chargeable development to which the surcharge relates; or
3. That the surcharge has been calculated incorrectly.

7.40 The appeal must be made no more than 28 days after the surcharge is imposed. This type of Appeal is likely be heard by a Planning Inspector. If the appeal is allowed the inspector may quash or recalculate the surcharge.

## **6. Deemed Commencement Appeal**

7.41 A person who is served with a Demand Notice that states a 'deemed commencement' date may appeal on the ground that the date is wrong. The appeal must be made no later than 28 days after the Demand Notice is issued and is likely be heard by a Planning Inspector. If the appeal is allowed the inspector may revise the deemed commencement date and quash any surcharge.

## **7. CIL Stop Notice Appeal**

7.42 A person may appeal against a CIL Stop Notice on the grounds that the Council did not serve a warning notice or that the development has not commenced. The appeal must be made no more than 60 days after the Stop Notice takes effect. The person who hears this type of appeal is likely be a Planning Inspector and the Stop Notice continues to have effect while the appeal is outstanding. The inspector may correct, vary or quash the Stop Notice.

## **Cost of Appeals**

7.43 Regulation 121 states that the appointed person may make orders regarding the cost of appeals. An appointed person is a valuation officer, a district valuer, the secretary of state or a person appointed by the secretary of state; depending on the type of appeal.

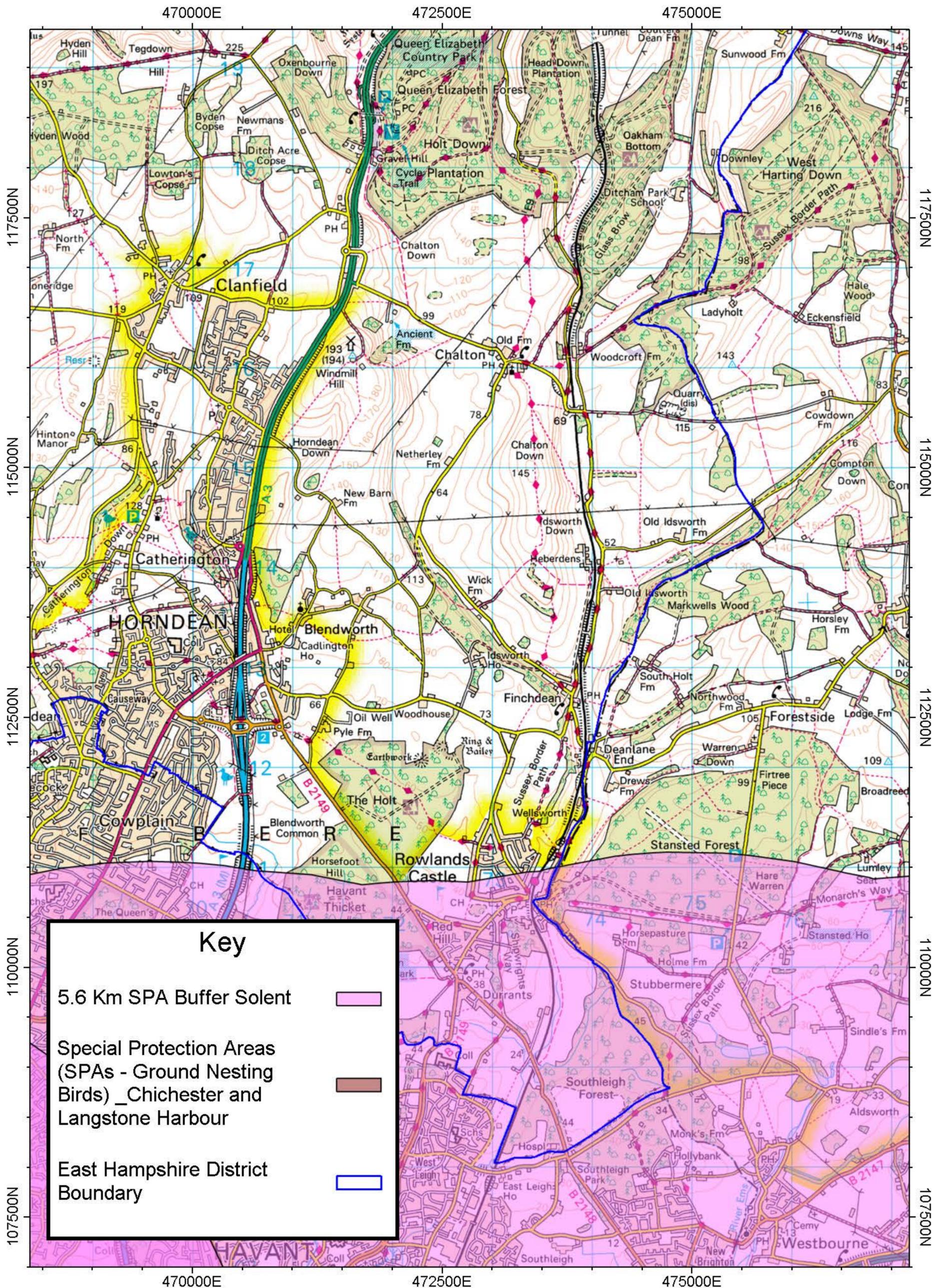
7.44 For full information about the CIL appeals process please refer [to Part 10 of the CIL Regulations 2010](#) (as amended 2014).<sup>24</sup>

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<sup>24</sup> <http://www.legislation.gov.uk/uksi/2010/948/part/10/made>

## **Appendix 1 – 5.6km Special Protection Area Buffer**

# 5.6 Km Special Protection Area Buffer - Chichester and Langstone Harbour SPA

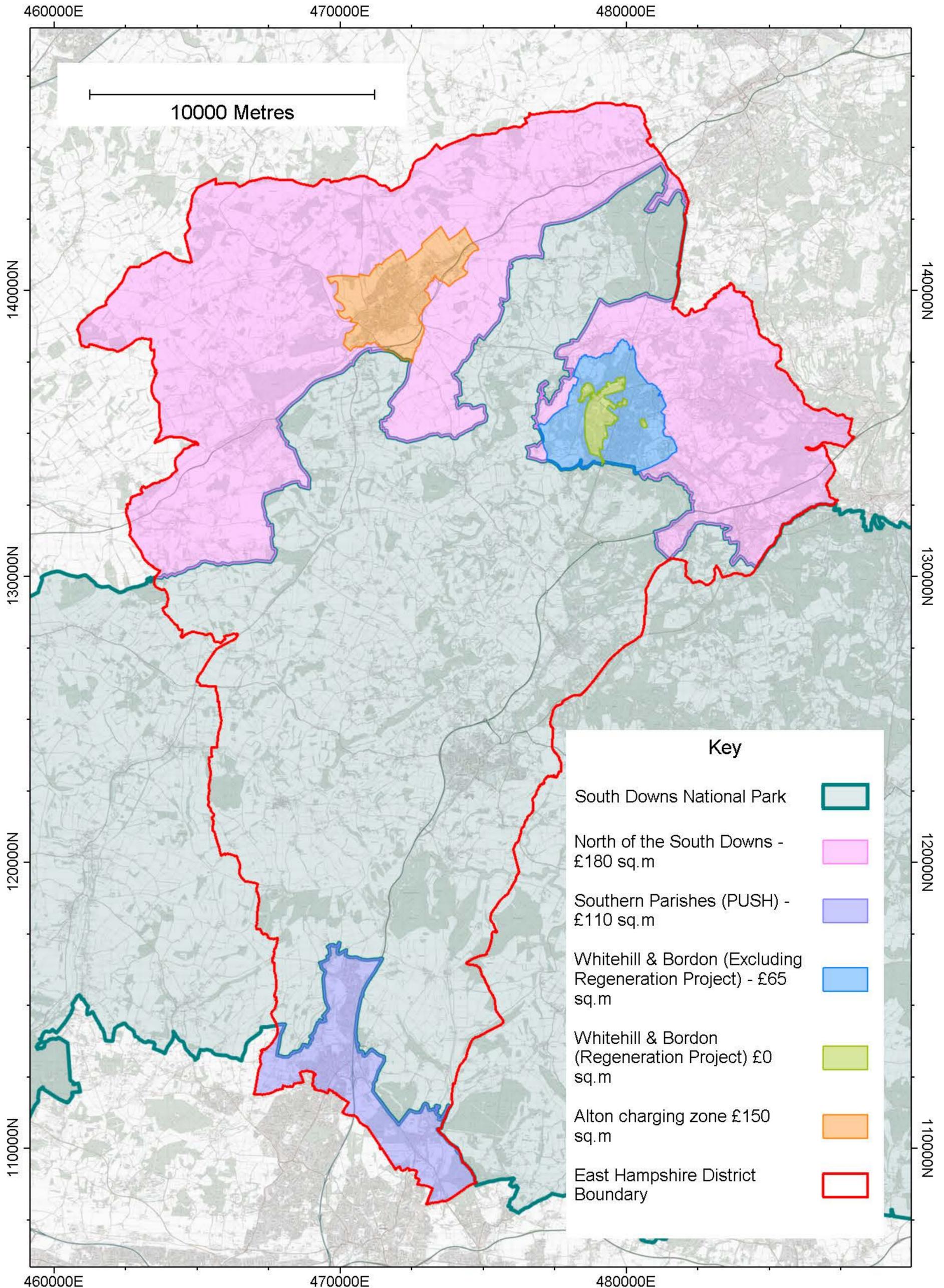


**Key**

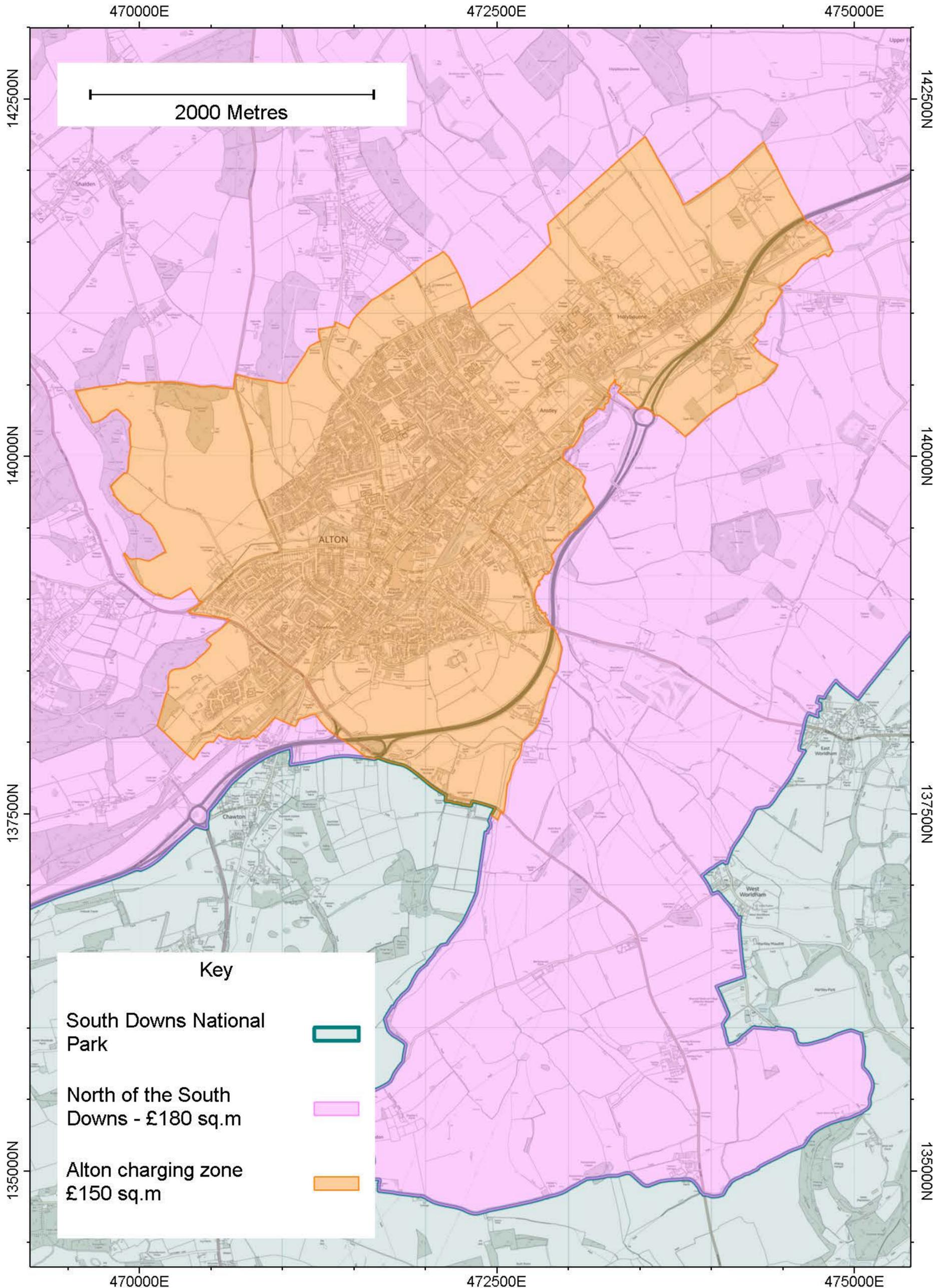
- 5.6 Km SPA Buffer Solent
- Special Protection Areas (SPAs - Ground Nesting Birds) \_Chichester and Langstone Harbour
- East Hampshire District Boundary

## **Appendix 2 – CIL Charging Area Maps**

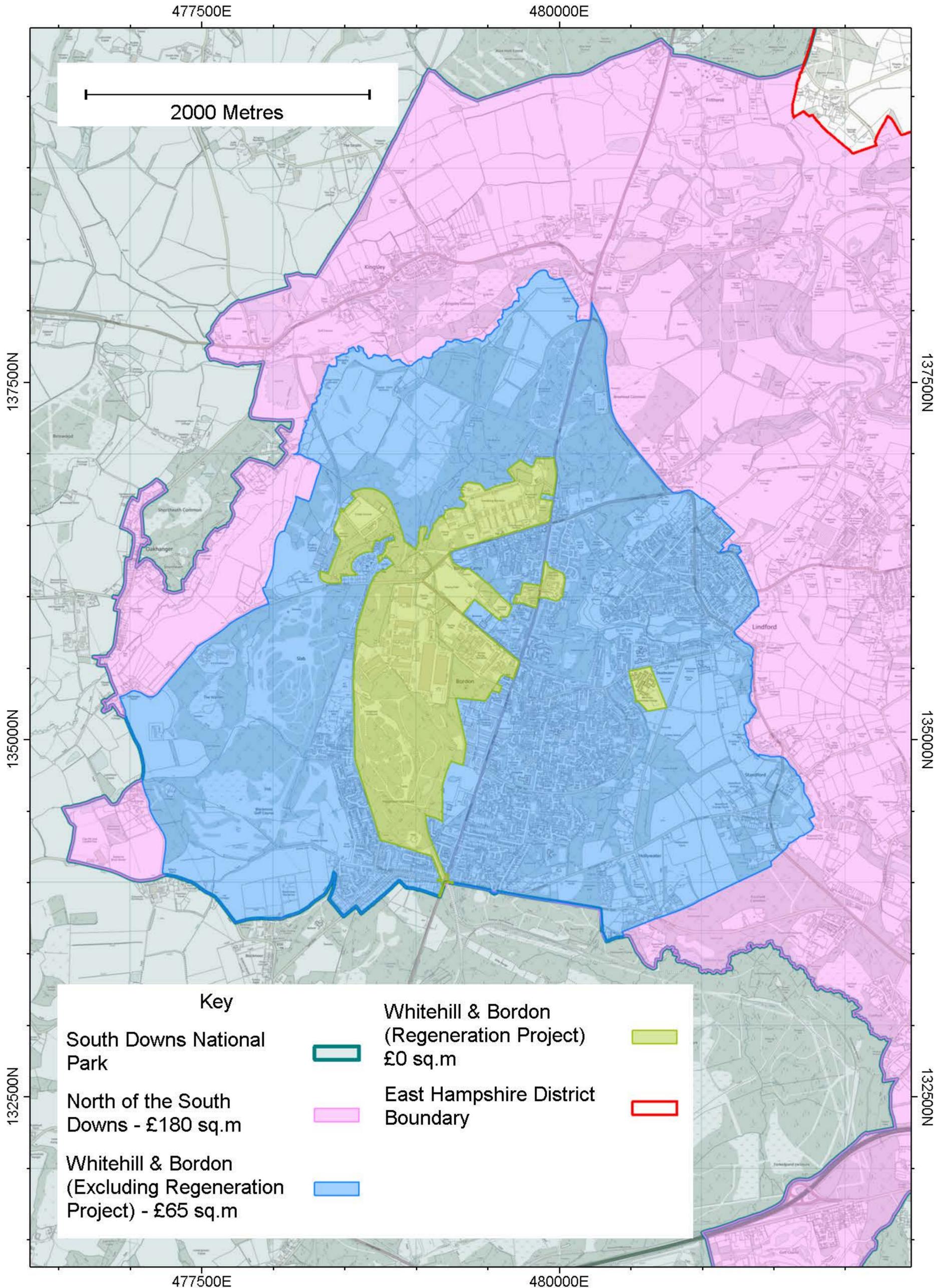
# East Hampshire District Council CIL Levels



# Inset Map - CIL Levels Alton charging zone



# Inset Map - CIL Levels Whitehill & Bordon



Key	
South Downs National Park	
North of the South Downs - £180 sq.m	
Whitehill & Bordon (Excluding Regeneration Project) - £65 sq.m	
Whitehill & Bordon (Regeneration Project) £0 sq.m	
East Hampshire District Boundary	