



*Regulation 19(1)(b) Statement*

**Representations made in accordance with  
Regulation 17 of the Community Infrastructure Regulations 2010**

Portsmouth City Council consulted on its Community Infrastructure Levy Draft Charging Schedule from 8 July 2011 to 8 August 2011.

During that time, ten representations were received. A summary by topic is attached.

No requests were made to be heard by the examiner.

<b>Regulation 17 comments received on Preliminary Draft Charging Schedule</b>	
<b>No Comment</b>	
Highways Agency, letter dated 19.7.2011	The Highways Agency has no comments at this stage in respect of the Draft Charging Schedule
The Theatres Trust, email 3.8.2011	We have no particular comment to make on the draft charging schedule
<b>General Support</b>	
The Portsmouth Society, email 20.7.2011	At its meeting held on 19 July, the Portsmouth Society Executive Committee unanimously endorsed the Draft Charging Schedule as set out in the Consultation document.
Environment Agency, letter /email 25.7.2011	Welcome work on CIL; appreciate benefits it will bring, particularly for funding flood risk management measures and green infrastructure; appreciate acknowledgment that priorities change over time and new projects will need to be identified
Defence Infrastructure Organisation, email 26.7.2011	The Defence Infrastructure Organisation supports the principle of the Community Infrastructure Levy
Albert Road Traders Association, email 3.8.2011	In principles we are in favour of the CIL and support the levy...We hope the overall results of the consultation will help make the future of Portsmouth and Southsea sustainable.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	SSE welcomes in principle the proposal for Portsmouth City Council (PCC) to adopt a Community Infrastructure Levy (CIL) Charging Schedule, as this measure will potentially speed up the planning process and provide far greater certainty over the likely infrastructure costs for development over and above the present arguably 'ad hoc' nature of Section 106. It will also potentially act to release development sites for regeneration, notably those which are at-risk from long term flooding, or require broad enhancements to the transport network.
<b>Proposed Rate of CIL &amp; Development Viability</b>	
Shaping the Future of Portsmouth - Development Group, letter by email 8.8.2011	Some members of the Group had expressed doubts about the basis of calculating the cost of the shopping list and the estimated value of tax to be collected on development.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	We note that within the Viability Appraisal assumptions over build cost, developer profit has been made and explained in a thorough and methodological way.
Planning Perspectives, email 8.8.2011	The Dixon and Searle report quite rightly acknowledges the limitations of such a high level assessment, noting that every scheme is different and that the study cannot account for all of the variances. In this regard, although clarification is sought on some of the assumptions, the precise level of the CIL is not something that we are in a position to scrutinise in detail.
Planning Perspectives, email 8.8.2011	Given that there are inevitably some question marks over the assumptions made in the Dixon and Searle assessment, it would appear sensible to take a more cautious approach to the level of CIL proposed. Based on the assumptions made, the assessment concludes in paragraph 3.3.1 that a £105 per square metre charge could be supported for residential development but that they recommend the Council do not go beyond this in considering the draft schedule. As the figures show that development would not be viable in the lower to medium value areas at the proposed CIL rate, it would appear that the charge is up to and in many cases beyond the margins of viability.

Planning Perspectives, email 8.8.2011	It is our overall opinion that the level proposed is likely to be too high and will result in less development and less affordable housing being brought forwards.
Defence Infrastructure Organisation, email 26.7.2011	The magnitude of the charging in respect of residential development is questionable. A flat-rate of £105/sq m in a city with relatively low house-prices might deter development and slow down the release of potential sites for development. In the case of the potentially surplus MoD land in the historical part of HM Naval Base such a flat-rate will affect its financial viability and compromise the opportunity for release.
Planning Perspectives, email 8.8.2011	In general, we question whether a single level of CIL can be legitimately applied across the City, given that each development must account for its own impact and not for existing shortfalls, or for the impacts resulting from other developments. We are also concerned that having a single charge across the City would appear to discourage the development of lower value brownfield sites in favour of sites with lower costs associated.
Shaping the Future of Portsmouth - Development Group, letter by email 8.8.2011	While appreciating and supporting the zero rating for office development, the Group were unanimous in believing that, as currently proposed, the rates would act as a significant deterrent to development in certain areas of the City and this is of particular concern to the Group.
Shaping the Future of Portsmouth - Development Group, letter by email 8.8.2011	The proposed 'one size fits all' policy will inevitably make it less likely that development will happen in those areas where regeneration is most needed and where residual land values are most fragile. The Group believe that the rates should either be adjusted or simply not applied in areas where development would be at risk. Further analysis by geographic location within Portsmouth should be considered.
Defence Infrastructure Organisation, email 26.7.2011	It is inappropriate for the DIO as a public body to challenge another public authority on the findings of the Viability Assessment suffice to say that it is surprising that £105/sq m is viable for residential but any charging rate for commercial offices and warehousing is not.
Sport England, letter dated 27 July 2011	Support the proposed CIL levy rate of £105 per square metre of new development. From the information provided this appears to be set at a level that will enable significant contributions to infrastructure to be made whilst also ensuring that developments do not become unviable due to the CIL charge being set too high.
Defence Infrastructure Organisation, email 26.7.2011	The application of a nil charging rate for offices and industrial premises on the grounds that it is not viable misses the point because these commercial developments also benefit from infrastructure improvements.
Sport England, letter dated 27 July 2011	Agree that the rate for Community Uses should be £ zero. Many sporting uses are run by not-for-profit organisations, and levying a rate in sports development is likely to have a detrimental impact on the Council's health and wellbeing objectives.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	The level assessed for retail also could acknowledge the potential for greater receipts from larger scale retail proposals, notably owing to the higher values associated with such uses.
Planning Perspectives, email 8.8.2011	The Council should be aware that it may take a long time for landowners to accept that values are being driven down by CIL, which as a consequence, could lead to a stall in the development market.
Shaping the Future of Portsmouth - Development Group, letter by email 8.8.2011	While it might be argued that land values will adjust to reflect the CIL, minimising the impact on development viability, it will take some time for the market to adjust. There is a risk, for instance, that recently acquired projects will be rendered unviable; thus the Group would advocate, at the very least, some phased introduction of the levy.

Planning Perspectives, email 8.8.2011	The impact of the CIL could cause development to stall and will reduce the amount of affordable housing many sites can achieve. Regardless of what level is set, the levy will be a fixed cost on development and will be added into a developers overall costs. From a developer's point of view, the variables that must change to accommodate this cost will therefore be land value, and affordable housing. In order to make a development work in such circumstances, the level of affordable housing that a scheme can afford may reduce. In the current market there needs to be an acceptance that the imposition of CIL is likely to reduce the amount of affordable housing that a proposal can provide.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	Affordable Housing remains a cost to development, and hence an impact on viability/ deliverability. The Council must therefore consider its priorities of delivery, possible relief, and instalments policy in requesting affordable housing, the process of which should be outlined for transparency.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	The fundamental premise is that to enable delivery sites must achieve a credible land value and developers a reasonable return on investment, otherwise development will be stifled. The evidence base assists with demonstrating this at a hypothetical level, the key test will be the actual application of CIL based on the available accompanying guidance to the Charging Schedule. The statement made in the consultation document on the Charging Schedule at paragraph 2.24 is therefore supported in recognising this.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	We note that the DSP Viability Appraisal assumes a notional £500 per dwelling in Section 106; to put this in context, this equates to £75,000 for a 150 dwelling scheme, a sum which we would judge to be normally insufficient to cover major highways access works.
<b>Method of Charging</b>	
Planning Perspectives, email 8.8.2011	If the Council decide to adopt this level of charge, then a flexible approach must be taken to ensure that regeneration of lower value land is viable.
Planning Perspectives, email 8.8.2011	As recommended by Dixon and Searle and suggested in the consultation document, the Council will need to remain flexible to allow redevelopment particularly in areas with low values which are most in need of regeneration. We strongly support this. In such areas we would go further to state that the Council should consider waving the CIL in order to encourage investment. The Dixon Searle report recommends as much in paragraph 3.3.4.
Planning Perspectives, email 8.8.2011	To assist in providing the right conditions for development to occur, flexibility in the timing of payments is also an absolute necessity. The requirement to pay on commencement of development rather than occupation adds an additional financial burden at the front end of a development project during which the developer will incur interest charges and will not be generating revenue.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	We are not clear whether the viability analysis has factored long term cash flow or assumed upfront CIL payments or (as we hope) spread payments. The risk of an 'upfront' charge, if set too high, will very likely hinder most developments from the outset. In contrast, a charge prosecuted over time could actually attract a greater overall contribution and maintain viability. It is essential that the instalments policy and intended payment deadlines are outlined by the City Council. The Council should be realistic in the timeframe it expects CIL to be paid (based on further viability evidence) and monitor accordingly based on a clear and transparent collection policy.

<b>Relationship with S106</b>	
Planning Perspectives, email 8.8.2011	The consultation document and the Dixon and Searle viability assessment needs to be clearer on the future of the Planning Obligations SPD and on what items CIL replaces. Clarification is needed as to whether the currently adopted Planning Obligations SPD would be revised or withdrawn. As it stands, in accordance with the Planning Obligations SPD, the S106 cost per dwelling would be significantly above £500 assumed in the viability assessment, and there is no clear indication which of these costs would be replaced by the CIL.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	Clear and stated regard should be had for the levy of obligation also sought through any parallel Section 106 related to the land. Otherwise an 'ad – hoc' approach is risked, which will not act to aid developer confidence. The CIL Charging Schedule should be clear that 'double counting' of Section 106 contributions and CIL is not permitted by law. It is suggested that the key tests of CIL Regulation 122 be outlined within the supporting documentation.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	The accompanying guidance to the CIL Charging Schedule must recognise relevant site specific factors: the level of Section 106 being requested, site characteristics/ development costs, notably the actual 'net gain' of floorspace where a site is previously developed/ or constitutes existing or derelict floorspace to be demolished as part of a development proposal.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	The accompanying guidance to the CIL Charging Schedule must take account of the procedure in balancing the potential competing demands of both Section 106 and CIL on development. In cases of marginal viability a process of prioritisation needs to be outlined.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	It is not clear whether the Council is proposing to stop the collection of education contributions on adoption of the Charging Schedule or whether it proposes a case by case basis. The situation with regard to Education funding needs to be clarified.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	Table 1 refers to 'developers' as alternative sources of funding ; this is potentially contrary to the CIL Regulations and guidance if the developer is to contribute via Section 106 (owing to the CIL Regulation 123 presumption that no infrastructure on the stated list be contributed via Section 106).This requires footnote clarification. The reference to 'developers' also requires footnote clarification.
<b>Spending CIL</b>	
Sport England, letter dated 27.7.2011	Welcome inclusion of indoor sports facilities and green infrastructure in table 1:CIL Infrastructure Needs. However, Sport England notes that whilst initially it is envisaged that funds collected will go towards projects listed in that table, over time infrastructure needs and priorities may change. Sport England would welcome the opportunity of commenting further on the Regulation 123 list when this is published in due coourse.
The Theatres Trust, email 3.8.2011	Note at para.1.16 that the Council will publish a regulation 123 list regarding future projects that may not be subject to Section 106 Agreements, and we also note and thank you for including cultural and leisure facilities in the list of additional types of infrastructure at para.3.7 on page 12. We are concerned that theatre buildings do not benefit appropriately under the terms of S106 and other agreements, and that it will increasingly be necessary to unlock new sources of funding to help pay for significant improvements to them. Theatres always need improvements to keep pace with public expectations and the needs of performers and producers.

Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	It is important that the new infrastructure benefits the delivery of the Portsmouth Plan (and hence new development)). We therefore consider that there needs to be a focus on transport and flood risk infrastructure. The Council needs to prioritise the infrastructure needs more clearly. Owing to competing priorities the City Council should consider whether it is prudent to have a focused Regulation 123 list, for example one that is concentrated on only flood risk and transport.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	Some measures could be forward funded by the City Council, otherwise certain infrastructure may attract CIL funding receipts which remain unspent for significant periods – potentially hindering development. The supporting document to the CIL consultation does not fully recognise this (paragraph 3.10). The Council must be more committed to actual delivery to enable CIL to be of benefit.
Albert Road Traders Association, email 3.8.2011	Park and Ride from Tipner should be for the benefit of all shopping areas. We would like to see Albert Road Southsea included in the schedule.
<b>Clarifications</b>	
Albert Road Traders Association, email 3.8.2011	As Portsmouth is taking the lead on CIL what will happen if other areas follow suit but at a lower level? Will this make Portsmouth and Southsea less attractive?
Albert Road Traders Association, email 3.8.2011	How will the money raised be divided up and would organisations have the opportunity to bid for grants from this levy? Is there any provision for Art Work being considered?
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	Paragraph 2.25 of the consultation document on the Charging Schedule refers to 'exceptional circumstances' where relief from CIL is available, however no details of this or the principle of phased payments of CIL is provided.
<b>Other Comments</b>	
Defence Infrastructure Organisation, email 26.7.2011	The MOD sites at most risk are Tipner and Horsea Island and your Infrastructure Delivery Plan proposes that developer contributions will be the key mechanism for securing funding but that landowners will also be required to pay directly for some defences. In respect of Horsea Island, it is appropriate that the land released for housing will attract CIL but it is not correct to assume that the MoD will fund other than urgent repairs to its sea-defences on the retained Establishment. Indeed it would be more equitable if there was a direct link between the redevelopment, the CIL and an upgrade of the sea-defences along the lines of the S106 contributions.
Albert Road Traders Association, email 3.8.2011	Will quality control be put in place to make sure builders will not compromise standards of build and aesthetic quality?
Shaping the Future of Portsmouth - Development Group, letter by email 8.8.2011	The group is concerned that the CIL will lead to a significant down grading of quality as an alternative to abandoning a project altogether. We believe that the City should take steps to assess this risk to safeguard investment in creating a high quality built environment.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	We note that the proposed rate has taken account of the planned growth; we ask however what contingencies are in place should growth falter? There needs to be a clearer review mechanism established.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	The CIL Charging Schedule and supporting documentation must outline the positive actions proposed from the City Council to enable the actual delivery of major infrastructure. The present documentation for consultation is notably lacking in this regard which is surprising.

Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	Details of how the Council intends to address 'payment in kind' need to be considered.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	The Council should be added to the list of potential sources of funding in table 1 of the consultation document.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	SSE requests that the City Council outlines its intended monitoring, collection and administration process and costs, based on achieving development delivery/ swift negotiation through the planning process.
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	SSE strongly encourages the City Council to proactively outline a review mechanism for CIL as part of annual monitoring
<b>Requests to be notified upon submission</b>	
Planning Perspectives, email 8.8.2011	
Savills on behalf of Scottish & Southern Energy, letter by email 8.8.2011	
<b>Requests to be heard by Inspector</b>	
none	