

COMMUNITY INFRASTRUCTURE LEVY

Prepared in line with the CIL regulations, a Preliminary Draft Charging Schedule along with the CIL Charging Zone Map setting out the Council's initial proposals for the levy, for the purposes of public consultation.

*PRELIMINARY
DRAFT CHARGING
SCHEDULE*

FEBRUARY 2017



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1 Introduction

1.1 The Community Infrastructure Levy is a planning charge used as a tool for Local Authorities, in England and Wales, to help deliver infrastructure to support development in their area. It was introduced under the Planning Act 2008 (as amended by the Localism Act 2011) and came into force under the 2010 Community Infrastructure Levy Regulations ("CIL Regs") (and subsequent amendments).

1.2 Cheshire East Cabinet resolved on the 9 February 2016 to undertake all the work necessary for the preparation and approval of a CIL Charging Schedule administered by Cheshire East Council.

1.3 In line with the CIL regulations, the Council has prepared a Preliminary Draft Charging Schedule (appendix A) for consultation along with the CIL Charging Zone Map (appendix B). This sets out the Council's initial proposals for the levy, for public consultation and is accompanied by appropriate and available evidence. The accompanying documents to the consultation include an initial draft of the Council's Regulation 123 list and a viability study, prepared by consultants Keppie Massie.

1.4 A wide range of stakeholders were consulted throughout the evidence gathering process. The Infrastructure Delivery Plan is a supporting document to the emerging Local Plan Strategy, which is currently being examined. In addition, a meeting was held with the Housing Market Partnership and wider development stakeholders on the 27th September 2016, on the methodology and assumptions proposed to be used in establishing a CIL charge.

1.5 The Council and its consultants, Keppie Massie, recognise the need for early and ongoing engagement regarding the CIL charges proposed in this document. To that end, the Preliminary Draft Charging Schedule and associated viability evidence set out a starting position for the Council in line with the CIL regulations.

1.6 The Preliminary Draft Charging Schedule consultation stage is part of a 'conversation' on a future CIL charge in the Borough. The Council is anticipating to receive through the consultation 'appropriate and available' evidence to test the initial position set out in the Preliminary Draft Charging Schedule to ensure the most appropriate and robust draft CIL Charging Position is achieved.

1.7 It should also be noted that alongside the consultation on CIL there will be ongoing engagement with individual site promoters for those sites contained within in the Local Plan Strategy.

2 Your Views and How to Respond

2.1 The Preliminary Draft Charging Schedule and accompanying documents are available for public comment for a six week period, between..X and X

2.2 The accompanying documents are:

- Preliminary Draft Charging Schedule Economic Viability Study - prepared by Keppie Massie
- Initial Draft Regulation 123 List



2.3 The Infrastructure Delivery Plan Update (July 2016) prepared to support the emerging Local Plan Strategy has been used as a basis of the infrastructure evidence used to justify a future CIL Charge in the Borough. This document can be viewed on the [Local Plan Strategy examination library](#).⁽¹⁾

2.4 Following the consideration of comments received to the Preliminary Draft Charging Schedule, the Council and its consultants will prepare and publish a Draft Charging Schedule for public consultation, followed by public examination of the Council's CIL proposals.

Making Comments

2.5 Comments on the Preliminary Draft Charging Schedule should be made using the online consultation portal which can be accessed using the following website link - www.cheshireeast.gov.uk/localplan. You can also pick up a paper comments form from customer service centres at Macclesfield and Crewe and return it to the Council's Headquarters at Westfields, Middlewich Road, Sandbach, CW11 1HZ.

2.6 Only comments received during the consultation period will be considered. Anonymous comments cannot be accepted. The Council asks that comments are made electronically where possible, to save time and money. However, comments made using the paper forms will be accepted.

2.7 Contacting the Spatial Planning Team:

You can contact the Spatial Planning Team via:

- E-mail: cil@cheshireeast.gov.uk
- Telephone: 01270 685893
- Post: Spatial Planning, Cheshire East Council, Westfields, Middlewich Road, C/O Earle Street, Crewe, CW1 2BJ

¹ <http://cheshireeast-consult.limehouse.co.uk/portal/planning/cs/library> (Ref PC B033)



Consultation Questions

Consultation Questions

The Council would like you to consider the following questions when responding to the Preliminary Draft Charging Schedule and related evidence.

1. Do you agree with the assumptions and methodology used in the Preliminary Draft Charging Schedule Viability Assessment ? If not, please provide appropriate and available evidence to support your view
2. Do the proposed rates strike an appropriate balance between funding infrastructure and any potential effects on the viability of development ? If not, please provide alternative appropriate evidence to support your view ?
3. What approach should be taken to strategic sites identified in the Local Plan Strategy, when considering the delivery of infrastructure, CIL payments and / or S.106 agreements ?
4. Do you agree that the Council should introduce an instalments policy to stagger payments ? If so, do you have any suggestions that the Council should take to such a policy ?
5. Do you think the Council should offer relief for any of the following discretionary criteria (please include appropriate and available evidence to support the view) ?
 - Land and infrastructure in kind
 - Relief for exceptional circumstances
 - Relief for charitable investment activities
 - Any other discretionary relief
6. Do you have any views on the content of the Council's Initial Draft Regulation 123 list and the proposed balance between CIL and S106 ? If so, please give reasoning with your answer ?
7. Do you have any other comments on the Preliminary Draft Charging Schedule ?
8. Do you have any other comments on the evidence base which supports the Preliminary Draft Charging Schedule ?



3 CIL Overview

What is Community Infrastructure Levy ("CIL")?

3.1 CIL is a planning charge on new development to help fund infrastructure. It is based on the size and type of development and once a CIL Charging Schedule is set in an area, is mandatory to pay and non-negotiable. The funds raised must be used to provide infrastructure which is required to support new development across the area.

What development is liable for CIL

3.2 The levy may be payable on development which creates net additional floor space, where the gross internal area of new build exceeds 100 square metres. That limit does not apply to new houses or flats, and a charge can be levied on a single house or flat of any size, unless it is built by a self builder.

3.3 The following forms of development do not pay CIL;

- Development of less than 100 square metres unless a whole house, in which case the levy is payable
- Houses, flats, residential annexes and residential extensions which are built by 'self builders'
- Social housing that meets relief criteria
- Charitable development that meets relief criteria
- Buildings into which people do not normally go
- Buildings into which people go intermittently for the purpose of inspecting or maintaining fixed plant or machinery
- Structures that are not buildings, such as pylons and wind turbines
- Specified types of development which local authorities have decided should be subject to a zero rate and specified as such in the charging schedule
- Vacant buildings brought back into the same use
- Where the levy liability is calculated to be less than £50, the chargeable amount is deemed to be zero so no levy is due
- Mezzanine floors inserted into an existing building are not liable for the levy unless they form part of a wider planning permission that seeks to provide other works as well.

3.4 Further guidance and definitions of the above are set out in the relevant sections of the Planning Practice Guidance and CIL regulations 2010 (and as subsequently amended).

Who is liable to pay CIL

3.5 Landowners are liable to pay CIL. Developers may take liability to pay the CIL charge on behalf of the landowner.

What are the benefits of CIL

3.6 The benefits of CIL include:



- CIL provides a clearer mechanism for funding infrastructure in a given area, and provides clarity, certainty and transparency from the outset about how much money a scheme will be expected to contribute to infrastructure provision
- CIL collects contributions from a wider range of developments
- CIL provides local authorities with greater flexibility to set their own priorities and spending on infrastructure projects
- CIL is non-negotiable and therefore should save time by reducing the overall need for full negotiations on the levels of contributions certain schemes should pay

Neighbourhood portion of the Levy

3.7 Parishes where development takes places will receive their own portion of CIL to spend on infrastructure. In areas where there is no Neighbourhood Plan this will be 15%, capped at £100 per existing dwelling to be spent on local priorities. Where a Neighbourhood Plan is in place the portion increases to 25% uncapped as a government incentive to prepare a Neighbourhood Plan.

3.8 There are currently some 40 Neighbourhood Development Plans in preparation across the Borough, with 5 'made' neighbourhood plans and a number reaching key stages in their development. The Council offers support packages for those groups preparing Neighbourhood Plans in the Borough. Further information is available on the Council's approach to neighbourhood planning at www.cheshireeast.gov.uk/localplan

Relationship to S106 / S278 agreements

3.9 The Council currently focuses financial contributions for infrastructure from new development through S106 agreements. The purpose of such agreements are to help secure infrastructure required to mitigate site-specific impacts arising from development. S.106 agreement(s) include three key tests in that it must be (a) necessary, (b) directly related, and (c) related in scale and kind to the proposed development.

3.10 The existing Section 106 (S106) system in Cheshire East will remain in place and will continue to be used for affordable housing and for site specific measures, not identified to be collected via CIL to make a development acceptable in planning terms.

3.11 CIL Regulation 123 introduced 'pooling restrictions' which limited the Council's ability to use S106 to fund infrastructure from 6 April 2015. Specifically, the Regulation limits S106 obligations where five or more contributions have been entered into on or after the 6 April 2010 in respect of a specific infrastructure project or type.

3.12 A section 278 agreement (or S278) is a section of the Highways Act that allows developers to enter into a legal agreement with the council to make alterations or improvements to a public highway, as part of a planning application. Section 278 agreements will remain in place and will continue to be used by the Council.

Regulation 123 List

3.13 CIL regulations asks the Council to set out a draft list of the projects and types of infrastructure that are to be funded in whole or part by the CIL. Following adoption of a future CIL Charging Schedule, this draft list will form the basis of the Council's 'Regulation 123 List'



of projects wholly or partly funded by CIL receipts for which S.106 planning obligations cannot be sought. This requirement is specifically designed to prevent 'double charging' of developers. The list has to be published and any revisions to it are subject to appropriate consultation.

3.14 During the consultation and adoption of a future CIL Charge, the Council will continue to review infrastructure provision best funded through CIL and included on the regulation 123 list and which, being site-specific measures, should remain for negotiation through S.106.

4 Background Evidence

4.1 In order to set a CIL Charge, the authority, in line with the regulations, must have:

- An up to date development plan (in this case the emerging Local Plan Strategy);
- Evidence of infrastructure funding gap (to justify a future CIL Charge and Regulation 123 list);
- Evidence on viability and the need to strike an appropriate balance between the desire to fund infrastructure and the effects on economic viability.

Local Plan Strategy ("LPS")

4.2 The Cheshire East Local Plan Strategy is currently being examined. Further examination hearing sessions were held in September / October 2016 with a consultation on the Main Modifications stage of the examination process and adoption of the Plan in 2017. The Local Plan Strategy Examination Library provides regular updates relating to the progress of the examination and can be viewed [here](#).⁽²⁾

4.3 Policy IN1 (Infrastructure) of the emerging Local Plan Strategy sets out that infrastructure delivery will take place in a phased, co-ordinated manner guided by the Infrastructure Delivery Plan. The policy states that the CIL Charging Schedule will be used to pool developer contributions towards local and strategic infrastructure. Policy IN2 (Developer Contributions) includes reference to the suite of funding mechanisms the Council will use towards funding the necessary and required infrastructure in the Borough, including a future CIL Charging Schedule.

Infrastructure Delivery Plan ("IDP")

4.4 Statutory guidance requires a CIL Charging authority to identify the total cost of infrastructure that it desires to fund in whole or in part from the Levy.

4.5 The Council has prepared a Infrastructure Delivery Plan (July 2016 Update)⁽³⁾ to support the proposals in the emerging Local Plan Strategy, updated in July 2016. This consultation document on the Preliminary Draft Charging Schedule should be read in conjunction with the Infrastructure Delivery Plan. The Infrastructure Delivery Plan sets out what additional infrastructure is considered to be needed in the Borough to support development and the funding sources based on appropriate available evidence.

² <http://cheshireeast-consult.limehouse.co.uk/portal/planning/cs/sub1>

³ <http://cheshireeast-consult.limehouse.co.uk/portal/planning/cs/library> (Ref PC B033)



4.6 The Infrastructure Delivery Plan notes a current total funding gap of between £372,763,650 to £450,645,650. This justifies the creation and implementation of a CIL Charging Schedule, alongside other funding sources, to deliver appropriate infrastructure in the Borough to support the proposals contained within the emerging Local Plan Strategy.

4.7 It should be noted that CIL will form one funding stream, which will be used to reduce any funding gap to support the proposals in the emerging Local Plan Strategy and will be used alongside other funding sources including that from central government, the Local Authority's own capital receipts or other mechanisms such as S.106 agreements / S.278 agreements.

Evidence of Viability

4.8 Keppie Massie have been appointed by the Council to assist with the preparation of viability evidence to support a future CIL charge in the Borough

4.9 The Preliminary Draft Charging Schedule Viability Assessment report prepared by Keppie Massie sets out recommendations based on high level scenario testing and consideration of evidence on CIL rates that could reasonably be supported in the Borough. The evidence base work provides the basis for preparing a CIL Charging Schedule for the Borough and has been produced to be robust to support the Council through a future CIL Charge.

5 Implementation of CIL

Collecting the Levy

5.1 Cheshire East Council as the charging authority will be responsible for collecting CIL payments.

5.2 The levy becomes payable once development has started and is the responsibility of the landowner in normal circumstances, although the developer may assume liability instead.

5.3 The CIL regulations are clear on how CIL is calculated including approaches to indexation to take account of inflation. Part 8 of the Community Infrastructure Levy Regulations 2010 (as amended) sets out the legal framework for calculating and collecting the Levy.

5.4 The Council will monitor the effectiveness of the CIL Charging Schedule, once adopted, and will review on the basis of changed economic conditions or when there is clear evidence of the balance of infrastructure delivery and viability are threatened. In addition, monitoring indicators contained in the Local Plan Strategy and the introduction of future development plan documents may provide triggers for future review of the CIL Charging Schedule as would changes to national guidance / regulations on such matters.

5.5 Viability is a key consideration of the CIL Charging Schedule and as such the Council intends, at draft CIL Charging Schedule stage, to set out its approach to deferred payment of financial contributions through an instalment policy. The Preliminary Draft Charging Schedule Viability Assessment by Keppie Massie consider that the introduction of an instalments policy does increase the development surplus available to a scheme. The Council anticipates introducing a instalments policy in line with the CIL regulations and will detail the



timing and level of payments alongside the rationale for the policy at CIL Draft Charging Schedule stage. Views are sought at this stage on the appropriateness and approach the Council should take to an instalments policy.

5.6 The CIL regulations also provide a procedure for discretionary exceptional circumstances relief, should the charging authority make this available and subject to defined criteria. As this can be provided and advertised separately to the publication of the a Charging Schedule, the Council is seeking views at this time on whether to introduce such a policy and will consider the introduction of an exceptional circumstances relief policy as the CIL Charging Schedule is being developed. In addition, the Council will consider setting out further detail of the relief criteria for social housing / charitable development noted above.

5.7 In line with the CIL regulations, the Council can also consider CIL payments via land transfers and / or direct infrastructure provision as payment for the whole or part of the levy, subject to the regulations and further checks and balances. Again, the Council is seeking views on the need for a CIL Payment in Kind policy and their appropriateness for the Borough and implementation of CIL as a whole

6 Preliminary Draft Charging Schedule

6.1 The Community Infrastructure Levy Preliminary Draft Charging rates for development across the Cheshire East Council area are proposed as follows:

Development Type	Zone	Initial Proposed Rate of CIL
Residential (Use Class C3)	Zone 1 - Built up areas of Crewe, Macclesfield, Alsager, Congleton, Handforth, Middlewich, Nantwich, Sandbach, Audlem, Bunbury, Bollington, Chelford, Disley, Goostrey, Haslington, Holmes Chapel, Shavington and Wrenbury	£0
Residential (Use Class C3)	Zone 2 - Crewe Rural Hinterland	£35
Residential (Use Class C3)	Zone 3 - Built up areas of Knutsford, Alderley Edge, Mobberley, Prestbury, Poynton and Wilmslow	£88
Residential (Use Class C3)	Zone 4 - Greenfield areas to the south and central areas of Cheshire East	£112
Residential (Use Class C3)	Zone 5 - Greenfield areas to the north of the Borough	£168



Development Type	Zone	Initial Proposed Rate of CIL
Apartments (Use Class C3)	Zone 3 + 5 - Built up and Greenfield Areas to the north of the Borough	£60
Hotels (Use Class C1)	Whole Borough	£0
Retail Uses	Retail Zone 1 - Retail Parks at Grand Junction in Crewe and Handforth Dean in Handforth	£66
Retail Uses	Outside of Retail Zone 1	£0
Offices (Use Class B1)	Whole Borough	£0
General Industrial (Use Class B2)	Whole Borough	£0
Storage and Distribution (Use Class B8)	Whole Borough	£0
All Other Uses (Whole Borough)	Whole Borough	£0

Table 6.1 Proposed CIL Rates

7 Next Steps

7.1 Following this consultation, the Council will review the comments received alongside any other relevant evidence which emerges and use the findings to inform the next stage of preparing CIL, the Draft Charging Schedule for consultation.

7.2 In November 2015, the Government announced an independent group to conduct a review of the Community Infrastructure Levy and the extent to which it is meeting its objectives. The CIL advisory groups report has been submitted to Government. The Housing White Paper, published on the 7th February 2017 notes that Government is currently exploring longer term reforms to the system of developer contributions (S.106 and CIL) and intends to announce any changes to its current operation at the 2017 Autumn Budget Statement. The Council will keep its position on CIL under review and will respond to any future changes in its operation as and if appropriate.

7.3 Once the Council considers that the Draft Charging Schedule is ready for an examination-in public and is approved for consultation, we will publish the document for consultation in line with the appropriate regulations. During this period, representations can be made and any person making a representation has the right to be heard at a future CIL



Examination in Public. Following the examination, the independent Inspector who will examine the CIL Charging Schedule will produce a report recommending adoption or changes.

8 Glossary

Charging Authority	A charging authority is the collecting authority for CIL charged in its area. The charging authority prepare relevant CIL proposals for their area including an assessment of the infrastructure needs for which the levy may be collected.
Charging Schedule	The charging schedule is a document that sets out community infrastructure levy rates of a charging area
Community Infrastructure Levy (CIL)	A levy on development allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area.
Development Plan	This includes adopted Local Plans and Neighbourhood Plans and is defined in Section 38 of the Planning and Compulsory Purchase Act 2004.
Draft Charging Schedule	This is the document prepared for the second stage of statutory consultation required in the production of charging schedule. This document will be consulted upon before being examined by an independent examiner.
Infrastructure	Basic services necessary for development to take place, for example, roads, electricity, sewerage, water, education, sport/recreation and health facilities.
Infrastructure Development Plan	National planning policy formally requires Local Authorities to demonstrate sufficient infrastructure exists, or will be provided, to support their strategies for new development as set out in their Local Plan documents. The Infrastructure Development Plan is a supporting document to the Local Plan
Local Plan	The plan (which can comprise one or more documents) for the future development of the local area, drawn up by the Council in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. The term includes old policies which have been saved under the 2004 Act.
Local Plan Strategy	A development plan document and the first part of the Council's Local Plan. It sets out the overall planning framework for the area. It includes strategic policies and allocations to achieve sustainable development.
Preliminary Draft Charging Schedule	This is the document prepared for the first statutory consultation required in the production of the Charging Schedule.



- Planning obligation** A legally enforceable obligation entered into to mitigate the impacts of a development proposal.
- Regulation 123 list** The Regulation 123 List provides for charging authorities to set out a list of those projects or types of infrastructure that it intends to fund, or may fund, through the levy. This list should be based on the draft list that the charging authority prepared for the examination of their draft charging schedule.
- Section 106 agreement** Section 106 (S106) of the Town and Country Planning Act 1990 allows a local planning authority to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. The obligation is termed a Section 106 Agreement and is a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms.
- Section 278 agreement** A Section 278 Agreement is a legally binding document between the Local Highway Authority
- and the developer to ensure that the work to be carried out on the highway is completed to the standards and satisfaction of the Local Highway Authority.



9 Preliminary Draft Charging Schedule

The Charging Authority

9.1 The Charging Authority is Cheshire East Council

Date of Approval

9.2 The CIL Preliminary Draft Charging Schedule was approved by the Council for consultation on XX

Statutory Compliance

9.3 The CIL Preliminary Draft Charging Schedule has been issued, approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (and as subsequently amended) and part 11 of the Planning Act 2008 (as amended by part 6 of the Localism Act 2011).

9.4 In setting the Levy rates, the Council considers that it has struck an appropriate balance between;

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

CIL Rates

9.5 The Community Infrastructure Levy preliminary draft charging rates for development across Cheshire East Council area are as follows:

Development Type	Zone	Initial Proposed Rate of CIL
Residential (Use Class C3)	Zone 1 - Built up areas of Crewe, Macclesfield, Alsager, Congleton, Handforth, Middlewich, Nantwich, Sandbach, Audlem, Bunbury, Bollington, Chelford, Disley, Goostrey, Haslington, Holmes Chapel, Shavington and Wrenbury	£0
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Residential (Use Class C3)	Zone 3 - Built up areas of Knutsford, Alderley Edge, Mobberley, Prestbury, Poynton and Wilmslow	£88



Development Type	Zone	Initial Proposed Rate of CIL
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Residential (Use Class C3)	Zone 5 - Greenfield areas to the north of the Borough	£168
Apartments (Use Class C3)	Zone 3 + 5 - Built up and Greenfield Areas to the north of the Borough	£60
Hotels (Use Class C1)	Whole Borough	£0
Retail Uses	Retail Zone 1 - Retail Parks at Grand Junction in Crewe and Handforth Dean in Handforth	£66
Retail Uses	Outside of Retail Zone 1	£0
Offices (Use Class B1)	Whole Borough	£0
General Industrial (Use Class B2)	Whole Borough	£0
Storage and Distribution (Use Class B8)	Whole Borough	£0
All Other Uses (Whole Borough)	Whole Borough	£0

Table 9.1 Proposed CIL Rates

10 Charging Zone Map

Residential CIL Rates

10.1 Figure 10.1 represents the proposed residential CIL charging areas based on the outcomes of the Keppie Massie Preliminary Draft Charging Schedule Viability Assessment. The Borough has been considered on a Town and Parish basis and the urban areas are defined by the boundaries (settlement boundary and / or green belt boundary) in the legacy Crewe and Nantwich, Congleton and Macclesfield Local Plan documents.

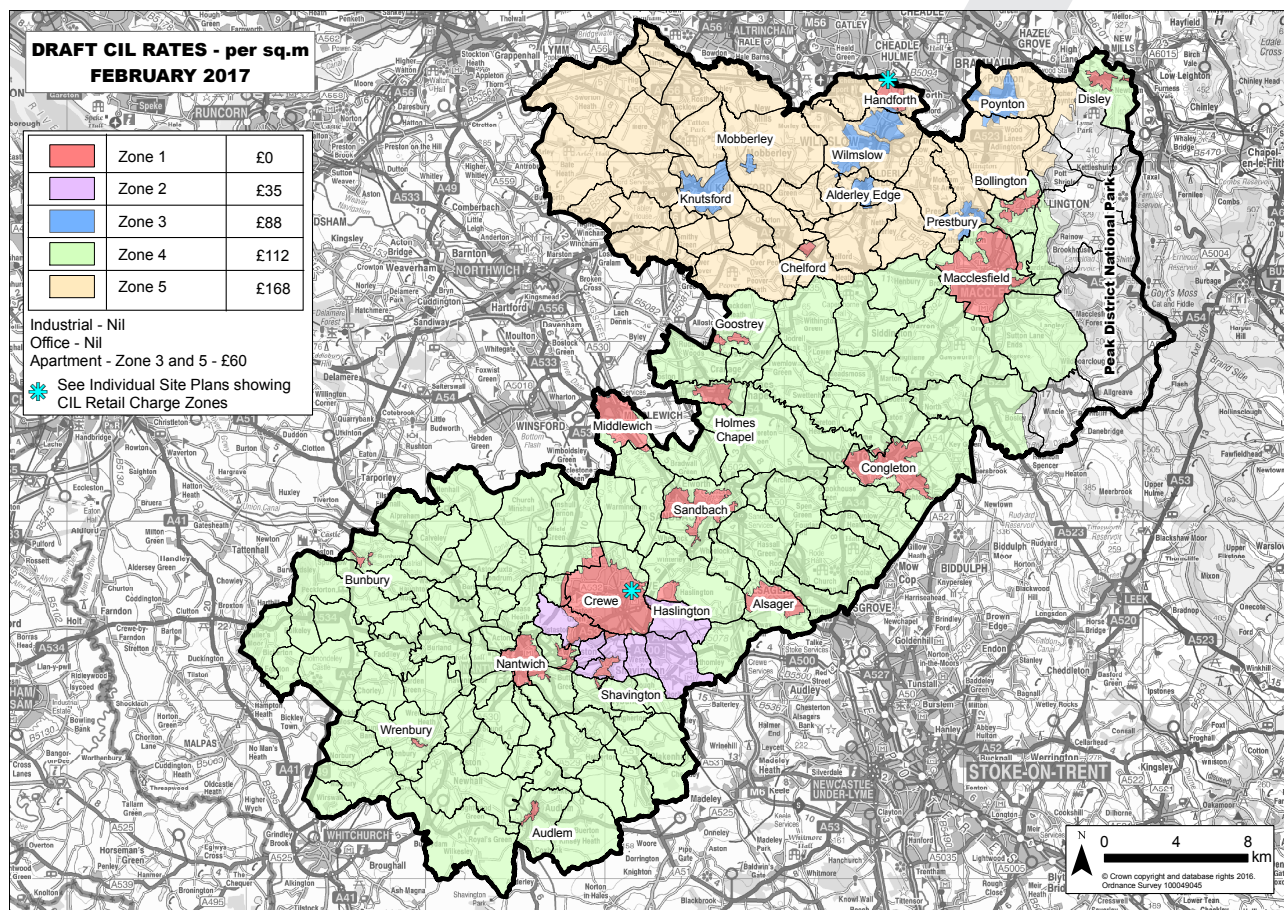


Figure 10.1 Charging Zone Map

Retail CIL Rates

10.2 Figures 10.2 and 10.3 set out the proposed Retail CIL rates for the areas of Handforth Dean in Handforth and Grand Junction Retail Park in Crewe as evidenced by the Keppie Massie Preliminary Draft Charging Schedule Viability Assessment.

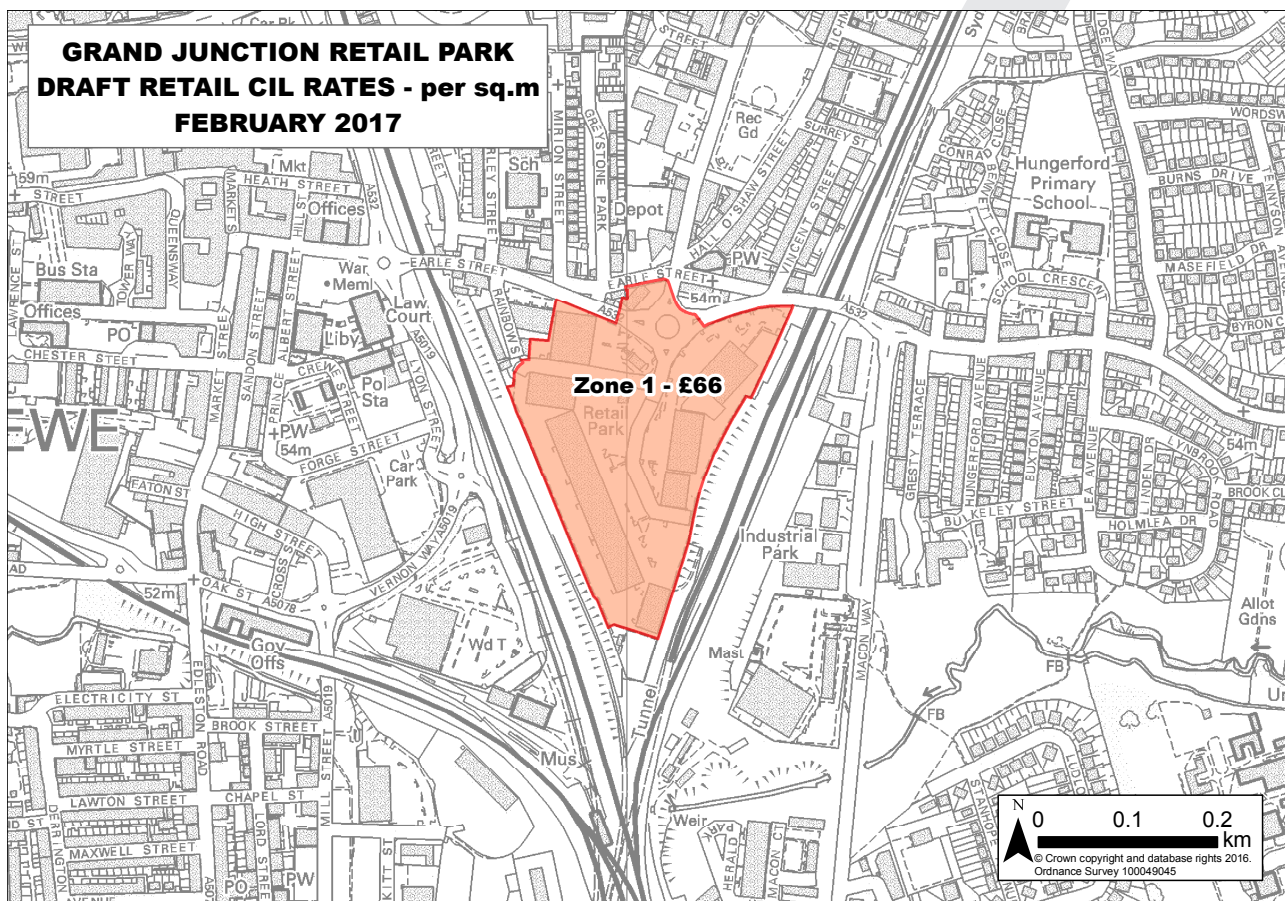


Figure 10.2 Grand Junction Crewe CIL Rates

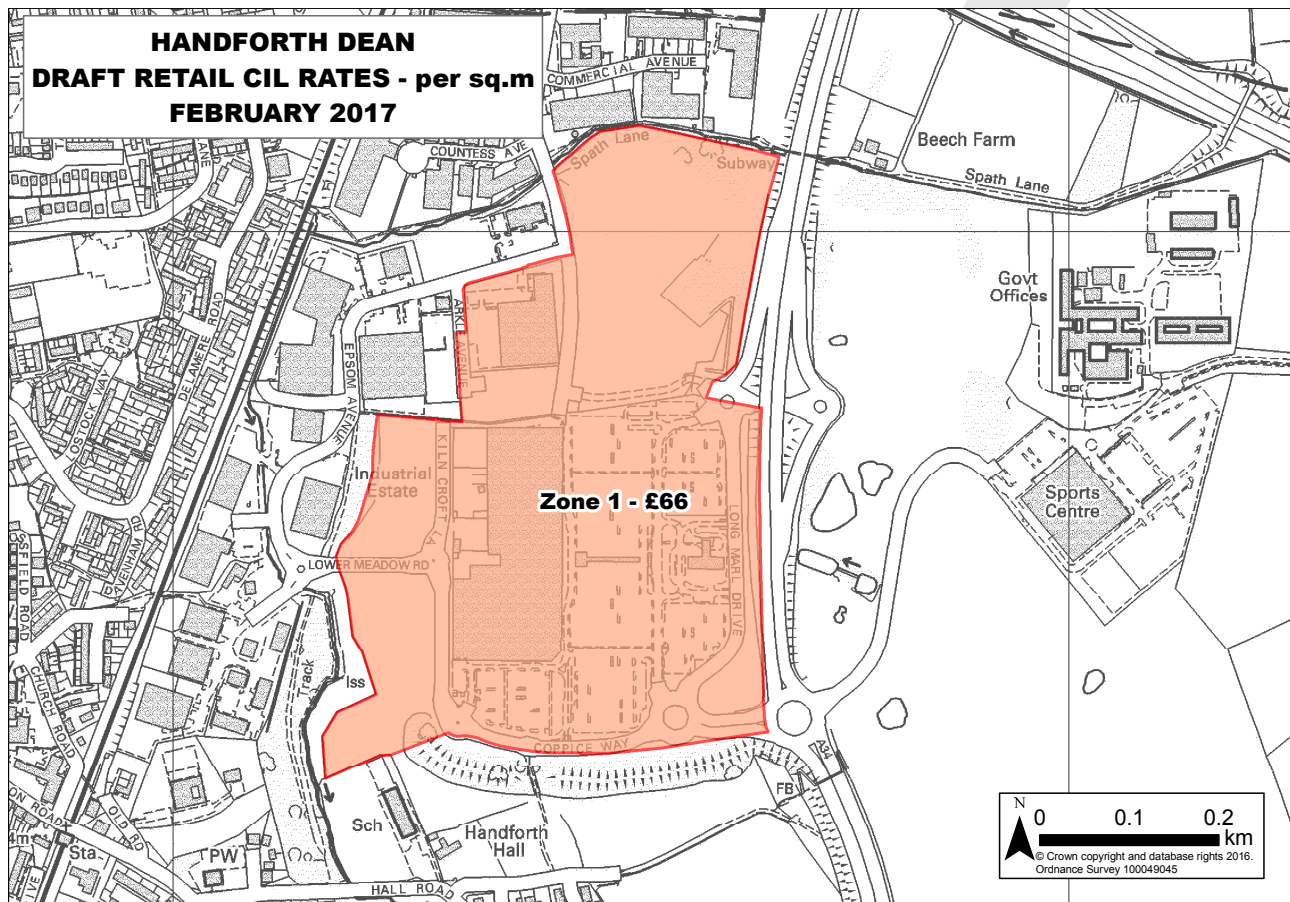


Figure 10.3 Handforth Dean CIL Retail Charging Area