



Welwyn Hatfield Borough Council

Community Infrastructure Levy (CIL) Charging Schedule



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Welwyn Hatfield Community Infrastructure Levy Charging Schedule (Adopted [date to be inserted])

Date of Commencement

- 1.1 This is Welwyn Hatfield Borough Council's first Community Infrastructure Levy (CIL) Charging Schedule and following an examination, including a hearing on 09 December 2024, was adopted by the Council on [date to be inserted].
- 1.2 This CIL Charging Schedule will take effect on [date to be inserted].

Welwyn Hatfield Community Infrastructure Levy Charging Schedule (Adopted [date to be inserted])

Introduction

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

Charging Schedule Evidence Base

Viability Study

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

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- 3.5** The results of BNPPRE's appraisal show a range of potential maximum CIL rates. These calculations provide a recommendation to set certain CIL rates depending on geographical location, type of development and whether the proposed development is under the affordable housing threshold set by Local Plan policy.

Infrastructure Delivery Plan

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

Infrastructure Funding Gap

- 3.8** To inform the Community Infrastructure Levy examination, a partial review of the costs identified in the IDP was undertaken and this identified that a significant funding gap was present. This Infrastructure Funding Gap Assessment is available on the Council's website.
- 3.9** The Council is working on a new Local Plan and intends to submit this for examination by October 2026. A revised Infrastructure Delivery Plan will be produced to support this submission.

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Charging Schedule

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

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

Table 1: CIL Charging Rates

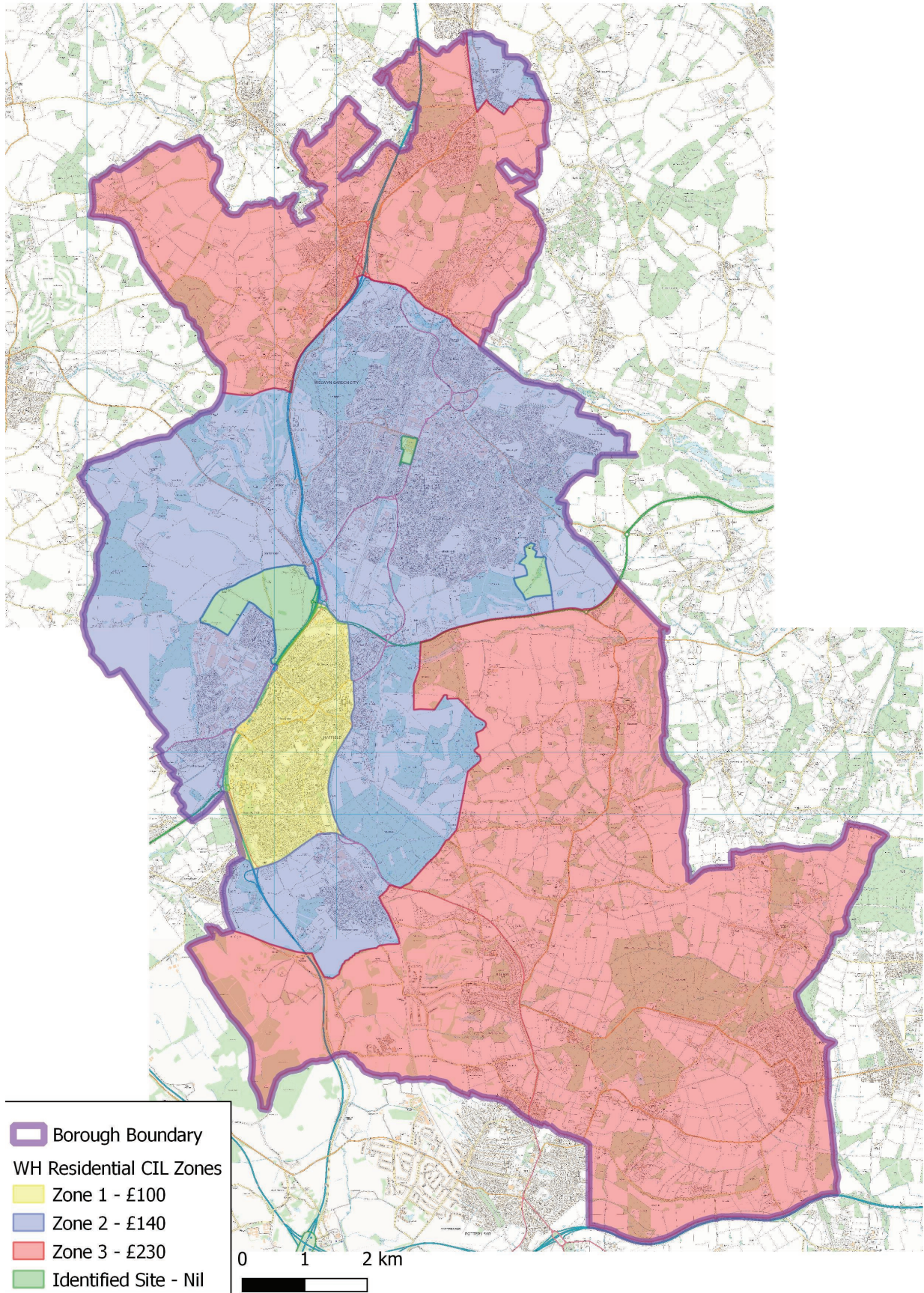
1 Not for profit organisation is defined as an organisation that conducts business for the benefit of the general public and all money earned by/donated to the organisation is used to pursue the organisation's objectives/causes.

2 Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).

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

Welwyn Hatfield Community Infrastructure Levy Charging Schedule (Adopted [date to be inserted])



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CIL Liability and Exemptions

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

CIL Liable Development

- 5.2** Development liable for CIL payment comprises:

- Development that creates 100m² or more of new build floor space measured as Gross Internal Floor Area (GIA).
- Development of less than 100m² new build GIA that results in the creation of one or more dwellings.
- The conversion of a building that is no longer in lawful use.

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

CIL Exempt Development

- 5.4** Development which is exempt from CIL charges comprises:

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

CIL and S106

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

Welwyn Hatfield Community Infrastructure Levy Charging Schedule (Adopted [date to be inserted])

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

CIL Collecting and Spending

CIL Collecting

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

Spending of CIL

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

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

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

Table 3: Neighbourhood Proportion

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

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Appendix A: CIL Charging Formula

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

PART 5 CHARGEABLE AMOUNT

Regulation 40 - Calculation of chargeable amounts

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

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

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

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

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

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

where—

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

(7);

I_p = the index figure for the year in which planning permission was granted; and

I_c = the index figure for the year in which the charging schedule containing rate R took effect.

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

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

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

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

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

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where—

G = the gross internal area of the chargeable development;

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

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

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

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

E = the aggregate of the following—

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

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

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

$$E_p - (G_p - K_{PR})$$

where—

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

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

and

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

