

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

22ND JANUARY, 2014

REPORT OF THE DIRECTOR OF REGENERATION & PLANNING

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COMMUNITY INFRASTRUCTURE LEVY

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to seek Cabinet approval to proceed to the next stages of the CIL process and to agree the contents of the Community Infrastructure Levy (CIL) Draft Charging Schedule Comments and Responses Report and the Statement of Modifications. A glossary of terms is included at the end of the report.

2. RECOMMENDATIONS

- 2.1 It is recommended that Cabinet:
- a) Agree the contents of Statement of Modifications (Appendix A) and the CIL Draft Charging Schedule Report of Comments and Responses and note and endorse the Draft Regulation 212 Declaration (Appendix B)
 - b) Authorise the Director of Regeneration & Planning to agree the contents of any procedural / evidence base documents necessary to support the CIL process;
 - c) Authorise the Director Regeneration & Planning to submit the CIL documentation for Examination;
 - d) Authorise the Director of Regeneration & Planning to negotiate and agree amendments to the CIL as part of the examination process; and
 - e) Authorise the Director of Regeneration & Planning to report the CIL (Draft Charging Schedule, Infrastructure Background Paper and Draft Regulation 123 List) to Council on 26th February 2014 for Members consideration.

3. EXECUTIVE SUMMARY

- The Community Infrastructure Levy (CIL) is being introduced by the UK Government as a new way of collecting financial contributions from developments for the provision of infrastructure required to support growth.
- Cabinet resolved to start work on CIL in November 2012, and agreed to go out to consultation on the latest stage in the CIL process (the Draft CIL Charging Schedule) at its meeting on 20th May 2013. Consultation on the Draft Schedule took place between 27th June and 7th August 2013.
- The Draft Charging Schedule proposed 3 charging zones for residential development in Rhondda Cynon Taf. A 'high' viability area (Zone 3) in the South (£100 per square metre), a 'low' viability area (Zone 1) in the North (no charge at all) and a 'medium' viability area (Zone 2) around Pontypridd (£40 per square metre). The schedule also proposed flat charges across RCT for retail and healthcare development.
- As a result of the consultation process representations were received from 20 organisations. The main issues raised were, that the proposed £100 per square metre charge in the South of Rhondda Cynon Taf will make the majority of sites in that area unviable, and that the viability characteristics of Tonyrefail were more aligned to the 'medium' viability area than the 'high' zone in which it is currently located
- As a result of the representations changes are proposed to the CIL Charging Schedule. These are changes to the boundary of Zone 2 to move the Tonyrefail area into the 'medium' charging zone, lowering the charge for residential development in Zone 3 and lowering the charge for Primary Health Care development.
- The next stages in the CIL process will be the submission of the CIL Charging schedule for examination in March 2014, with an Examination in Public likely to be held in May / June 2014. Approval from Council will be needed to submit our CIL for examination.

4. BACKGROUND

- 4.1 Cabinet approved the Draft CIL Charging Schedule on 20th May 2013. The Draft Charging Schedule was consulted on for a 6 week period from 27th June and 7th August 2013.
- 4.2. In addition on 25th October 2013 the Department of Communities and Local Government published draft amendments to the CIL Regulations. These amendments will come into effect by the end of January 2014. The amendments include:
- The date that CIL needs to be implemented by has been put back a year from April 2014 to April 2015
 - House extensions and self build dwellings will now be exempt from CIL and rules around vacant buildings have been relaxed. The Regulations are also expected to clarify when development is deemed to have started which in turn defines when CIL must be paid.
 - Other changes proposed to the charge itself do not apply to us as we have already published our Charging Schedule
- 4.3. None of the changes suggest that we need to amend our approach to CIL and in fact bring greater clarity to how the process will work in practice.

5. REPRESENTATIONS RECEIVED IN RESPECT OF THE DRAFT CIL CHARGING SCHEDULE

- 5.1 Representations were received from 20 respondents including the Housebuilders Consortium, Sainsbury's PLC, Talbot Green Developments and the Country Land Owners Association.
- 5.2 In addition to the public consultation exercise, separate meetings have been held with representatives of the house building and health sectors to discuss in detail the issues that they have raised.

Summary of the main issues raised

- 5.3 A number of concerns were raised through the consultation process. These include:
- The impact the introduction CIL could have on the economy of the County Borough if the charge is set too high;
 - Development in Tonyrefail will not be viable if it remains in the 'high' charging area.
 - The need for residual S106 contributions, abnormal costs, fire sprinklers and a 30% 'viability buffer' to be taken into account when setting the level of the residential CIL charge;

- If the CIL charge is set too high it will prejudice the delivery of affordable housing and private sheltered housing
- The impact of the CIL charge on the delivery of health provision , and
- The need to avoid double counting between S106 requirements and CIL

5.4 A detailed response to each of the representations is contained in the *Draft Charging Schedule - Report of Comments and Responses*. A copy of the report is available in the Cabinet Office and will be made available for Members during the next stages of the CIL Process.

6. PROPOSED CHANGES TO THE CIL CHARGING SCHEDULE

6.1 There was sufficient evidence submitted as part of the consultation exercise for the Council to consider making changes to the CIL Charging Schedule. The proposed changes are as follows:

1. The redefinition of the boundaries of Residential Zone 2:

Representations received from the Housebuilder's Consortium ask for the settlement of Tonyrefail to be moved from the 'high' viability area to the 'medium' area (ie. Zone 3 to Zone 2). In support of this request the Consortium has provided detailed evidence of market conditions in Tonyrefail, compared to other areas in the South of Rhondda Cynon Taf and recent developments in the 'medium viability' area. The evidence is based on recent sales transactions and includes comparative prices achieved per square foot in Tonyrefail, compared to elsewhere in Zones 2 and 3; the high rate of part exchanges involved in selling properties in Tonyrefail, and the relatively slow rate of sales in Tonyrefail compared to Zone 3. The Consortium argue that this evidence demonstrates that the housing market in Tonyrefail is clearly more aligned with developments in Zone 2 (ie the Pontypridd area) than Zone 3 (the South of Rhondda Cynon Taf).

The evidence has been considered by the District Valuer and following further consultation with the DV it is considered appropriate to redefine the boundary of Zone 2 to include Tonyrefail in the 'medium' viability area. It is concluded that if Tonyrefail was to stay in the high charging zone then it may be a barrier to housing development coming forward in that area for the foreseeable future and prejudice the delivery of a number of important housing allocations. The financial implications of this proposal are outlined later in the report.

2. The reduction in the CIL charge for Residential Zone 3:

The Housebuilders Consortium have challenged the methodology used by the District Valuer in his Viability Appraisal which has been used as the basis for setting the CIL rate for residential development. Furthermore they argue that if the levy is not reduced it will deter new investment and significantly reduce the delivery of new housing in Rhondda Cynon Taf. As part of their representation the Consortium produced detailed evidence to support their argument.

Representations were also received from a number of Housing Associations, who are concerned that a charge set at the level proposed may adversely impact on the delivery of affordable housing in the County Borough.

The Housebuilder's argument centres around some of the assumptions that are made in the methodology the District Valuer has used to calculate the residential CIL charge in Rhondda Cynon Taf. They argue that even in the high viability zone there are significant variances in site viability and how much they can sell houses for depending on which particular town or village they are building in.

This variance is recognised in the methodology for calculating CIL by using what is referred to as a 'viability buffer'. This is similar to a margin for error factor that is used to strike a balance between sites of differing viability levels within a charging zone. The net result should be that the majority of allocated sites in the zone come out as viable, whilst recognising that the sites with the highest viability will make higher than average profits.

The housebuilders consider that the 'viability buffer' applied is not sufficiently high enough to account for these variances and the risks involved in developing any particular site.

The evidence submitted by the Housebuilders Consortium has been useful in highlighting the issues they are currently facing in the area. The issues the evidence has raised have been fully considered in consultation with the District Valuer. The Council could consider keeping the CIL charge at £100 per square metre in the South of Rhondda Cynon Taff. However, in doing so it would risk making Rhondda Cynon Taf unattractive to inward investment from the housing industry and prejudice the delivery of new housing in the area.

The District Valuer suggests that a balanced way forward would be to increase the viability buffer used to the level suggested in the evidence submitted by the housebuilders. The net effect would be to reduce the charge in the high charging zone from £100 per square metre to £85 but leaving the charge in the other zones unchanged. The financial implications of this proposal are outlined later in the report

There is a fine balance to be achieved between ensuring that we collect enough CIL to deliver the infrastructure that is needed to deal with the impact of new development but at the same time making Rhondda Cynon Taf an attractive proposition for investment and development. If we set the CIL charge too high then we will receive little or no income from CIL as development will not be taking place. It is considered that the changes outlined above strike the appropriate balance.

3. The reduction in the CIL charge for Primary Health Care:

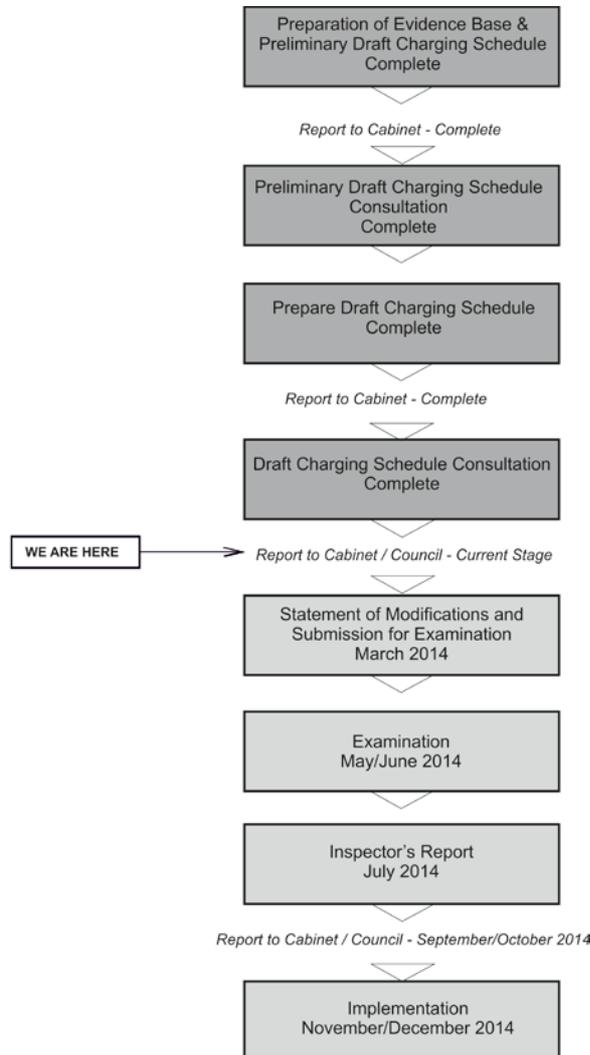
Representations received from the Local Health Board have expressed concern about the impact the CIL would have on the provision of new health services in Rhondda Cynon Taf. As a result of these representations the District Valuer was asked to review his original analysis. The findings of this review indicate whilst private health care development will remain viable at the £60 per square metre charge the ability of NHS capital projects to come forward would be put at risk.

Both private and public health care developments fall within the same planning use class and the CIL Regulations do not allow for different CIL rates to be charged against uses within the same class. The approach that should be taken is to set a CIL low enough to make the majority of developments viable and therefore it proposed reduce the CIL charge for primary health care facilities from £60 per square metre to £10 per square metre.

- 6.2 A Statement of Modifications outlining each of the proposed changes is attached as Appendix 1.

7. NEXT STAGES IN THE CIL PROCESS

7.1 The CIL process and timetable are outlined below.



7.2 The Planning Inspectorate has recently advised that it is good practice to give consultees the opportunity to see and comment on the Statement of Modifications prior to the Examination. This means that the timescale shown above for the Examination is a month later than shown in previous reports to Cabinet.

7.3. Attached at Appendix B is a draft Regulation 212 Declaration which is a requirement of the Town and Country Planning Act (2008) and has to be submitted to the Planning Inspectorate prior to the examination. Cabinet is asked to note and endorse the Declaration which then must be approved by Council.

8. LEGAL IMPLICATIONS

8.1 There is no statutory requirement for the Council to prepare or implement a CIL Charging Schedule. However, it should be noted that the implementation of CIL will change the way in which planning obligations are formulated and managed. If the Council chooses not to implement CIL, our ability to use Section 106 planning contributions to fund strategic infrastructure projects will be limited from April 2015 onwards.

9. FINANCIAL IMPLICATIONS

9.1 The estimated cost of the development of the CIL process is approximately £130,000 over the period 2012-14. The total expenditure can be met from the existing Divisional budget.

9.2 The potential revenue from CIL is wholly dependent upon the nature and scale of development taking place in the County Borough. It is therefore difficult to predict future levels precisely. An indication of the scale of potential income can be provided by reviewing past development rates and applying the CIL charge to relevant development. Using this methodology, during 2012-13 CIL revenue (derived from residential development charged at £100 per sqm and including Tonyrefail in Zone 3) would have been approximately £2.02m. Applying the revised charge for Zone 3 and the amendments to Zone 2 to these figures, income from CIL in 2012-13 would be £1.73m

9.3. Outlined below are indications of the effect the proposed amendment to the charge in Zone 3 and the re-designation of Tonyrefail from Zone 3 to Zone 2 will have on the income from CIL.

Example 1 –Zone 3 Site: Southern area, Rhondda Cynon Taf Proposal: 60 dwellings		
	CIL @ £100 with S106	CIL @ £85 with S106
CIL	£480k	£408k

Example 2 Zone 2 Site: Tonyrefail area, Rhondda Cynon Taf Proposal: 60 dwellings		
	CIL @ £85 with S106	CIL @ £40 with S106
CIL	£408k	£192k

10. EQUALITY IMPACT ASSESSMENT

10.1. An equality impact assessment has been undertaken for the CIL process. No significant adverse impacts have been identified and therefore no further action is required.

11. CONCLUSIONS

11.1 It is recommended that Cabinet agree the contents of this report as the basis for taking CIL forward in Rhondda Cynon Taf.

GLOSSARY OF TERMS

CIL Regulations	The CIL Regulations 2010 The CIL (Amendment) Regulations 2011 The CIL (Amendment) Regulations 2013
Planning Obligations or S106 agreements	Refers S106 of the Town and Country Planning Act 1990
Economic Viability Study	Study Into the Economic Viability of Charging Community Infrastructure Levy in Caerphilly, Merthyr & Rhondda Cynon Taf County Borough Councils
Draft Infrastructure List	Required by Regulation 123 of the Community Infrastructure Regulations 2010. The list identifies infrastructure that will be funded through CIL revenue.
Infrastructure Assessment Background Paper	The report outlines the infrastructure required to support development in Rhondda Cynon Taf.
Charging Authority	In this instance Rhondda Cynon Taf CBC
Mandatory Relief	CIL Regulations give relief from CIL for affordable housing developments and development by charitable institutions
Discretionary Relief	CIL Regulations allow Charging Authorities the discretion to offer relief from CIL in exceptional circumstances
Installments Policy	The CIL Regulations allow the Charging Authority to seek a specific percentage of the total CIL charge payable over a prescribed number of installments.
Viability Buffer	The viability buffer is the gap between the maximum charge that can be applied to a site and the actual charge that is being applied. The buffer allows for unforeseen and / or non standard costs to applied to a site without effecting the viability of the development.
Private Market Sheltered Housing	Modern purpose built accommodation for the over 60's available for sale on the open market

APPENDIX A

**Statement of Modifications to Rhondda Cynon Taf CBC's
 Community Infrastructure Levy Draft Charging Schedule**

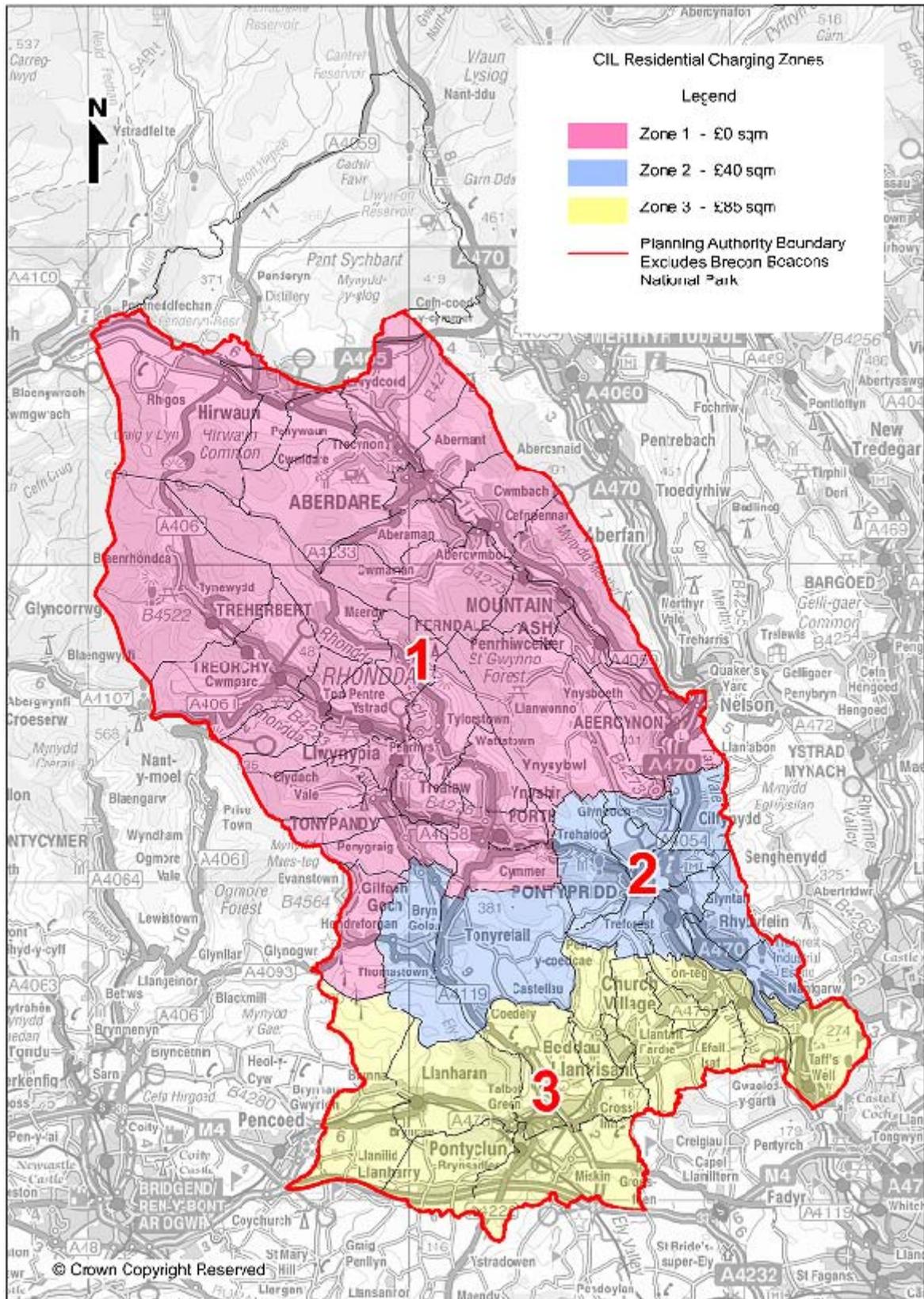
Scope of Statement of Modifications

This Statement of Modifications sets out the modifications which Rhondda Cynon Taf has made to its Draft Charging Schedule since it was published in June 2013 in accordance with Regulation 16 of the Community Infrastructure Levy Regulations 2010 (as amended).

Proposed Modifications

Section	Modification	Reason
CIL Rates in Rhondda Cynon Taf Paragraph 4.5	Residential Zone 3 rate reduced to £85 per sqm	To ensure the delivery of housing
CIL Rates in Rhondda Cynon Taf Paragraph 4.5	Primary Healthcare Development (D1) rate reduced to £10 per sqm	To ensure the delivery of healthcare developments
CIL Rates in Rhondda Cynon Taf Map 1 – Residential Charging Zones	Amend Zone 2 to include Tonyrefail area.	To ensure the delivery of housing

Map 1 – Residential Charging Zones



Submission of Draft Charging Schedule for Examination

The Council is submitting its Draft Charging Schedule for Examination on **XX XXXXX 20XX**. This Statement of Modifications has been duly sent to all consultation bodies invited to make representations under Regulation 15 of the Community Infrastructure Levy Regulations 2010 (as amended). Further information in relation to the Examination is available on the Council's website at:

www.rctcbc.gov.uk/en/environmentplanningandwaste/planning/developmentplans/communityinfrastructurelevy/communityinfrastructurelevy.aspx

Requests to be Heard

Any person may request to be heard by the Examiner in relation to the modifications as set out in this Statement of Modifications. Requests to be heard must include details of the modifications on which the person wishes to be heard (by reference to the Statement of Modifications). Additional detail is also sought in relation to whether those requesting to be heard support or oppose the modifications and why. The Council will submit a copy of each request it receives to the Examiner. Requests to be heard may be withdrawn at any time by giving notice in writing to the Council.

Requests to be heard by the Examiner must be made in writing within 4 weeks of submission (by **XX XXXXX 20XX**) to

Simon Gale
Service Director, Planning
Rhondda Cynon Taf CBC
Sardis House
Sardis Road
Pontypridd
CF37 1DU

Or by email to:
ldp@rctcbc.gov.uk

APPENDIX B

**COMMUNITY INFRASTRUCTURE LEVY – DRAFT CHARGING
SCHEDULE**

PLANNING ACT 2008 – SECTION 211 AND 212 DECLARATION

1. INTRODUCTION

1.1 In accordance with Section 212 of the Planning Act 2008, this declaration confirms that Rhondda Cynon Taf Council has complied with the appropriate statutory requirements and has used appropriate available evidence to inform the preparation of its Community Infrastructure Levy (CIL) Draft Charging Schedule.

2. DECLARATION

2.1 Rhondda Cynon Taf Council declares that:

- a) the Charging Authority it has complied with the requirements of Part 11 of the Planning Act and the Community Infrastructure Levy Regulations 2010 as amended by the CIL Amendment Regulations 2011, 2012 and 2013 (including the requirements to have regard to the matters listed in section 211(2) and (4) of the Planning Act 2008);
- b) the Charging Authority has used appropriate available evidence to inform the Draft Charging Schedule;
- c) any other matters prescribed by the CIL Regulations 2010 as amended have been dealt with.

2.2 This declaration has been approved by the appointed members Full Council following a meeting of the Committee on **XXXXXXX**.

2.3 The Council will provide a detailed Examination Statement demonstrating how the Council has complied with the appropriate Legislation and Regulations.

3. AVAILABLE APPROPRIATE EVIDENCE

Development Plan

3.1 Rhondda Cynon Taf Council has an Adopted Local Development Plan covering the period to 2021. The relevant documents are:

3.2 The adopted Local Development Plan provides the quantum and location of new development proposed in the period to 2021. The Plan sets out the key infrastructure needed to support and mitigate the identified new development.

3.3 The remaining documents provide more detailed and updated infrastructure requirements. In addition the Council's adopted Planning Obligations SPG (2011), adopted Affordable Housing SPG (2011) and draft Planning Obligations SPGs (2013) provide more detail.

Infrastructure Assessments

3.4 Through the preparation and Examination of the Council's development plan a thorough understanding of infrastructure needs has have been established and independently tested. This information has been brought together and updated through the preparation of the CIL Charging Schedule. The Infrastructure Assessment Background Paper (Revised 2013) sets out the infrastructure required to support the delivery of the LDP, the costs of the identified infrastructure and the funding gap.

Viability Assessment

3.5 The Council has undertaken detailed viability analysis undertaken by Council Officers and consultants District Valuer services. These assessments have examined the impact of a range of CIL rates on the types of development expected to come forward in the Council's area in the period up to 2021. The viability assessments have used up-to-date market information and established viability methodologies using industry standard sources of information such as the Valuation Office Agency, Land Registry and Building Cost Information Service (BCIS) and as such are considered robust evidence.