

Report to	-	Cabinet
Date	-	30 June 2014
Report of the	-	Executive Director of Business Operations
Subject	-	Consultation on the Preliminary Draft Charging Schedule (PDCS)

Recommendation to COUNCIL: That following consideration of representations received, Cabinet be authorised to approve the Draft Charging Schedule for publication and submission in order to achieve an adopted Community Infrastructure Levy Charging Schedule by Spring 2015.

Recommendation: It be **RESOLVED:** That the Preliminary Draft Charging Schedule (PDCS) at Appendix 1 together with the Regulation 123 List at Appendix 3, be approved for consultation alongside the Infrastructure Funding Gap Analysis at Appendix 2, and the responses be reported back to a future Cabinet meeting.

Service Manager: Tim Hickling
Lead Cabinet Member: Councillor Osborne

Introduction

1. This report presents draft proposals that will duly lead to the introduction of a Community Infrastructure Levy (CIL) to secure financial contributions from development to fund infrastructure.
2. The programme for preparation of a CIL Charging Schedule is set out in the Council's Local Development Scheme for the preparation of planning policy documents. In line with that programme, a 'Preliminary Draft Charging Schedule' is put forward for consideration and public consultation at Appendix 1.
3. It is considered important to progress a CIL expeditiously, as legislative changes will make it more difficult for the Council to secure developer contributions to fund essential infrastructure and mitigate the impact of development through Section 106 Agreements (s106) after April 2015, by restricting the ability to pool s106 monies to fund infrastructure development. Hence, CIL receipts are necessary to help fund the infrastructure required to support the new development envisaged in the Local Plan Core Strategy.
4. CIL receipts can be used to fund a wide range of supporting infrastructure. Infrastructure may include (definition from Planning Act (2008)):
 - 1) roads and other transport facilities
 - 2) flood defences
 - 3) schools and other educational facilities
 - 4) medical facilities
 - 5) sporting and recreational facilities
 - 6) open spaces.

5. CIL is charged at a rate based on floorspace levels (net gain) and expressed as a rate per square metre on all new buildings and extensions to buildings that are over 100 square metres gross internal floor space. All new dwellings are liable to pay CIL regardless of size. Affordable housing and developments for charitable purposes are CIL exempt. The delivery of affordable housing will continue to be provided through s106 Agreements.
6. CIL will give developers and businesses more certainty at the start of the development process as to the overall amount of money a development will be required to contribute to mitigate impacts on infrastructure. This should assist in raising levels of developer confidence. It will also provide greater transparency for local communities on how new development in their community is contributing to the delivery of infrastructure.

The Funding Gap

7. To introduce a CIL charge, the Council has to demonstrate that there is a funding gap between the total cost of the infrastructure required to support the Local Plan and the total funding currently available to the Council and other infrastructure providers. At the same time, it is important to appreciate that the majority of infrastructure costs will need to be met by agencies' investment programmes.
8. Rother's infrastructure needs are set out in a document called the Infrastructure Delivery Plan (IDP), the most recent version of which is available in the Members' Room. The IDP provides a comprehensive but not exhaustive list of infrastructure necessary to support future development in the district up to 2028. However, this is based on continually updated information and is, hence, a "live" document.
9. It is evident from the IDP that there is an infrastructure funding gap, which provides the necessary justification for introducing a CIL Charge in Rother. The funding gap analysis, which needs to accompany a CIL Charging Schedule, is detailed in Appendix 2 of this report.

Viability Testing

10. To set a CIL rate, the Regulations require the Council to strike "an appropriate balance" between the desirability of funding infrastructure and the potential effect of the levy on economic viability of development across the district. Hence, the CIL rate must be informed by the findings of a viability assessment.
11. The Council has commissioned Peter Brett Associates (PBA) to undertake a robust financial viability assessment to support the introduction of a CIL in Rother and included an informal workshop with local development stakeholders in November 2013 which also contributed significantly to inform the study. The findings of the assessment undertaken by PBA are set out in their report. This report is also placed in the Members' Room. This provides the basis for the Council to propose a differentiated CIL rate, reflecting the fact that the viability evidence shows that different types of development or different geographical locations or zones can afford to pay different levels of CIL.

12. It should be noted that the Regulations advise that undue complexity should be avoided in terms of the permutations of different charges and that charging authorities are not permitted to exempt a particular zone or category of development or set a zero rate unless the evidence demonstrates that this is justifiable in economic viability terms. Similarly, Charging Schedules are not permitted to impact disproportionately on a particular sector or small group of developers.
13. The viability assessment concludes that only residential development (open market housing), some retail development and assisted living/extra care development are deemed capable of accommodating a CIL charge without affecting overall development viability. All other developments are deemed to have only marginal or negative viability and therefore would not be able to withstand a CIL charge.

Residential Rates

14. The viability assessment undertaken by PBA has recommended there is scope to introduce differential residential charging zones across four areas of Rother. The table below highlights the geographical areas attributed to each CIL zone and the appropriate CIL rate. A map of the CIL zone boundaries can be found in Appendix 1.

CIL Zone	CIL Charging Area	£ per sqm
1	Battle, Rural North and West	£240 per sqm
2	Rye and Rural East	£160 per sqm
3	Bexhill	£130 per sqm
4	Strategic Allocations	£100 per sqm

15. The zones reflect the varying abilities to fund CIL from development envisaged in these areas (taking full account of affordable housing policies). A separate “zone” is identified for strategic sites due the abnormal costs associated with bringing such urban extensions forward.
16. In terms of the levels of the proposed CIL charge, it is important to highlight that they provide “headroom” to ensure that development is not put at risk from coming forward in that particular zone.
17. Based on the projected housing completions anticipated in the Core Strategy, the potential level of CIL income from new residential development in the district could amount to £33-39 million of CIL receipts from residential development over the period to 2028.

Other Development Rates

18. The findings of the study with regard to business development shows that there is no scope to levy a CIL charge on office, light industrial, industrial or warehouse development where the market remains weak. The viability study has shown that there is scope for a CIL charge to be levied on some types of retail development and assisted living/extra care accommodation, but that there is no scope for a charge for other commercial development. Proposed non-residential CIL rates are as follows:

Development Type	CIL Rate
Retail: in centre convenience	£100 per sqm
Retail: out of centre convenience	£120 per sqm
Retail: out of centre comparsion	£250 per sqm
Assisted Living/Extra Care Housing	£250 per sqm (if no affordable housing)

Regulation 123 List

19. The Council is required to publish a list of those infrastructure projects that will be funded by CIL. This is called 'Regulation 123 List', Appendix 3. The purpose of the list is to ensure that there is no duplication between CIL and s106 contributions. This eradicates any perceived 'double dipping' in the eyes of developers, who may otherwise feel that they are being unreasonably asked to contribute to an item of infrastructure twice. The publication of a list provides clarity for all concerned, namely that CIL contributions will go towards the infrastructure items specified on the list and that any additional s106 contributions will not pay for the same items of infrastructure. It is good practice to consult on Regulation 123 list at this stage of the process. CIL can still be used alongside s106 payments, for example where the latter is used to fund site-specific infrastructure/mitigation not covered by CIL.

Parish Council receipts

20. The Localism Act 2011 has enabled that a "meaningful proportion" of CIL receipts can be passed to Parish Councils and Town Councils, to fund local infrastructure improvements. The Government has defined this "meaningful proportion" should be 15% of CIL receipts will go to Parish or Town Councils arising from development within their boundaries. This proportion increases to 25% for Parish and Town Councils with a made (adopted) Neighbourhood Plan.

Next Steps

21. If approved, the Preliminary Draft Charging Schedule and accompanying documents will be made available for public consultation for a period of 6 weeks as soon as is practicable. Consultation letters will be distributed to a range of statutory consultees, including developers, Parish and Town Councils. The Preliminary Draft Charging Schedule will be made available for inspection at the Council's offices and Help Points and on the Council's website in accordance with Regulation 15 of the CIL Regulations (as amended). The results of this consultation will be reported to Cabinet along with any recommended changes to the Preliminary Draft Charging Schedule arising from the consultation. The timetable for preparing and adopting the CIL Charging Schedule is outlined in the table below:

CIL Timetable	Key Milestones
Preliminary Draft Charging Schedule Consultation	July/August 2014
Cabinet approval to publish CIL Draft Charging Schedule	October 2014
Draft Charging Schedule Consultation	October/November 2014
Submission of CIL Draft Charging Schedule	December 2014
CIL Examination	February 2015
Receipt of Examiners Report	March 2015
Full Council Adoption of CIL	April 2015

22. In order to achieve this timescale and have an adopted CIL Charging Schedule in place by Spring 2015, it will be necessary to request full Council to delegate

Cabinet to approve the Draft Charging Schedule for publication and submission. It is envisaged that this request go forward to Council on 29 September (rather than 7 July), as the report and recommendations to Cabinet on 6 October will be available at that point and Council can consider whether there are any specific reasons why the decision should not be delegated.

Conclusion

23. The Council as well as other public bodies are facing the challenge of reducing financial settlements from Government whilst demand is growing for investment in essential infrastructure. Within this context, legislative changes have been made by Government to scale back the use of s106 Planning Obligations as a mechanism to secure contributions. This means that the timely adoption of CIL is essential to ensure that financial contributions from new development are maximised, thereby mitigating in-part against the reduction in s106 Planning Obligations.

Anthony Leonard
Executive Director of Business Operations

Risk Assessment Statement

The introduction of CIL is a decision to be taken by local authorities as its implementation is not compulsory. The Council could decide not to adopt CIL and continue to rely on negotiating individual s106 Agreements to deliver infrastructure. However, reductions in the ability to 'pool' s106 monies would result in diminishing returns meaning that the Council's ability to secure financial contributions to infrastructure from new development will be curtailed and essential infrastructure would not be delivered. Relying solely on s106 monies may also result in more legal challenges and will place a larger administrative burden on the Council in securing and managing legal agreements.

Becoming a CIL charging authority will require staff and resources to be put in place to ensuring the processes and procedures are in place for the CIL operation which will involve officer time from Planning (including registration, land charges, policy and development management), Legal (notices and enforcement) and Finance (collection, accounting, invoicing where necessary).

The Regulations permit up to 5% of CIL receipts to be used to implement and administer CIL. Costs in the preparation and implementation of the Rother CIL can therefore be recovered from future CIL receipts.

**Rother District Council
Community Infrastructure Levy (CIL)**

**Preliminary Draft Charging Schedule
June 2014**

Proposed CIL Charging Rates

The Council's proposed charging rates are set out in the tables below.

Table 1

Preliminary Draft Charging Schedule - Proposed Residential Charges (per sqm)

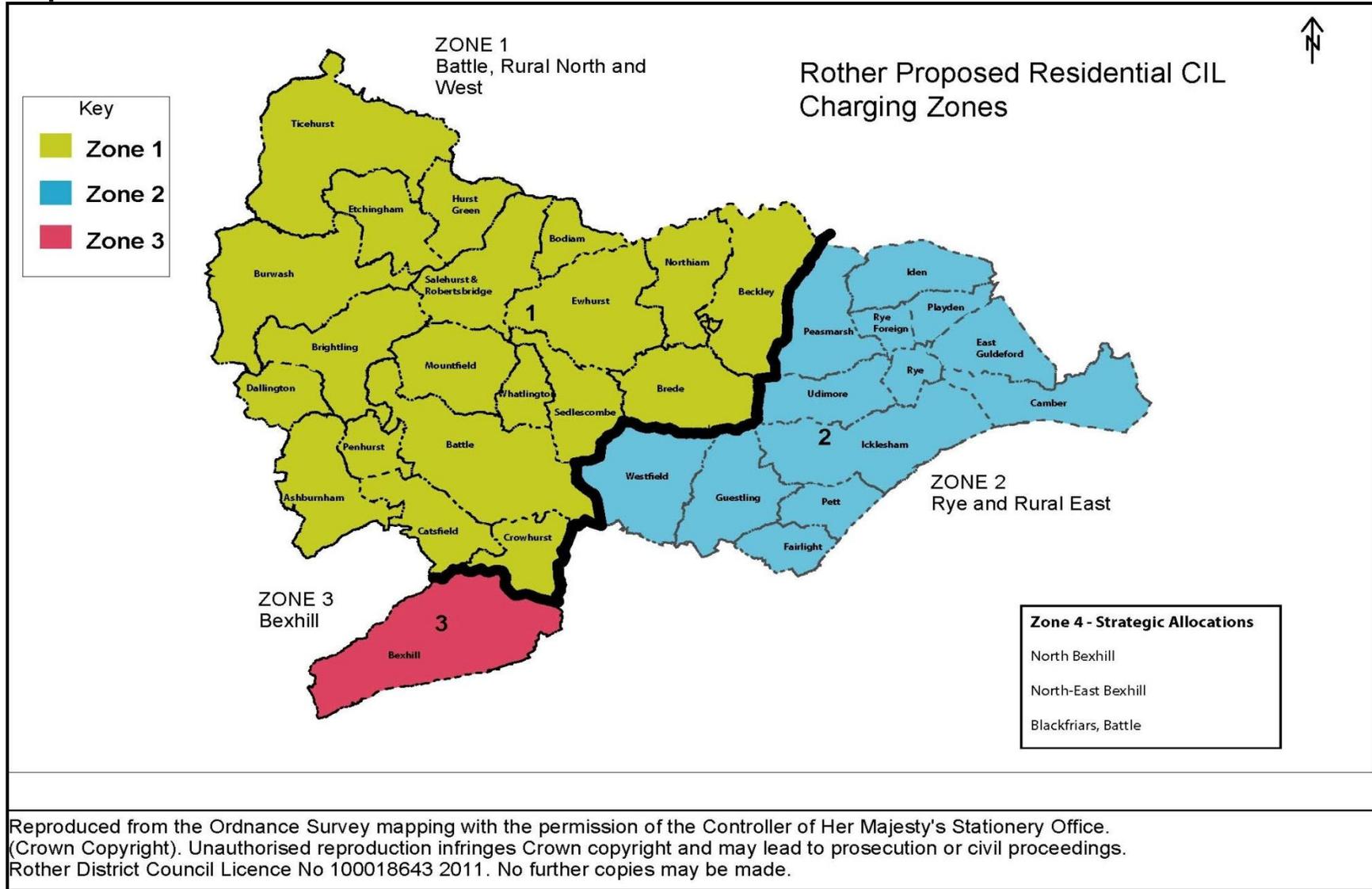
CIL Zone	CIL Charging Area	£ per sqm
1	Battle, Rural North and West	£240 per sqm
2	Rye and Rural East	£160 per sqm
3	Bexhill	£130 per sqm
4	Strategic Allocations	£100 per sqm

Table 2

Preliminary Draft Charging Schedule - Proposed Charges for other types of development (per sqm)

Development Type	CIL Rate (district wide)
Retail: in centre convenience	£100 per sqm
Retail: out of centre convenience	£120 per sqm
Retail: out of centre comparison	£250 per sqm
Assisted Living/Extra Care Housing	£250 per sqm (if no affordable housing)

Map of Residential CIL Zones



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Infrastructure Funding Gap Analysis

- 1.1 Rother District Council produced an Infrastructure Delivery Plan (IDP) to support the delivery of the Core Strategy's vision in 2011 (updated in 2012 and 2014). To be able to adopt a Community Infrastructure Levy (CIL) to support infrastructure delivery, a Charging Authority is required to demonstrate that a funding shortfall exists between the known and expected costs of infrastructure to support development in its area, having taken into consideration other sources of possible funding available to meet those costs. This is called the 'funding gap'.
- 1.2 CIL is not intended to replace mainstream funding for services. It is intended to reduce the gap between the cost of providing, operating and maintaining the infrastructure needed to support planned development and the amount of money available from other sources.
- 1.3 Officers will continue with informal consultation with infrastructure providers and will continue to update the IDP periodically when new information is made available. However, it is clear that continued uncertainty in public finances has continued to impact on funding streams and investment plans in the public sector.
- 1.4 In establishing the funding gap, an estimate has been made of the likely contribution from existing funding streams and programmes. The evidence used in this assessment comes from many sources and includes long term strategic delivery plans, such as:
- ESCC Local Transport Plan;
 - ESCC School Organisation Plan
 - Economic Growth Plan produced by SELEP
 - Financial forward plans of delivery agencies where possible; and,
 - Specific evidence provided by delivery agencies on spending plans.
- 1.5 The IDP sets out various types of infrastructure required to support development. This list, whilst extensive, is not exhaustive. However, the focus of identifying the funding gap is on key infrastructure required to deliver the Core Strategy spatial vision and meet the demands of a growing population, most notably in relation to:
- Education
 - Transport infrastructure and mitigation
 - Community Facilities, Open Space and Green Infrastructure

Education

- 1.6 The role of East Sussex County Council (ESCC) in provision of education is paramount. ESCC has a statutory duty to ensure there are sufficient school places in the county to meet present and future demand for school places. Following consultation with ESCC, Table 1 below indicates the education requirements for the district up to 2028 and their associated costs (estimate):

Table 1: Education

Education			
	Estimated cost	Funding Stream	Aggregate Funding Gap
Early Years & Primary	9.5m	20K (S106)	9.48m
Secondary	5m	40K (S106)	4.96m
Further Education	0.667m	-	0.667m
TOTAL	15,167,000	60,000	£15,107,000

- 1.7 There is a funding shortfall in delivering education in Rother up to 2028 equating to over £15m (see table 1). ESCC has identified possible funding sources that could contribute toward education provision including its Capital Programme. This will be reviewed regularly as the ESCC will bid for funding for infrastructure investment.

Transport

- 1.8 The provision of key transport infrastructure is considered critical to the spatial vision of the district. Where cross boundary infrastructure is required, the Council will work with its strategic partners to deliver infrastructure in a timely manner to support growth and development. Table 2 identifies the costs associated with the provision of critical transport infrastructure and includes the following schemes highlighted in the IDP: the Link Road, North Bexhill Access Road, Improved linkage to the A21 from The Ridge/Queensway, improvements to non-strategic road network and the development of walking and cycling infrastructure through Rother.

Table 2: Transport

Transport			
	Estimated cost	Funding Stream	Aggregate Funding Gap
Transport Schemes	222.5M	90M	132.5m

- 1.9 Various funding streams for critical transport infrastructure have been identified in the IDP and include ESCC Capital Programme, Local Sustainable Transport Fund, Highways Agency Investment Programme, SELEP Growth fund and Network Rail's Investment Programme. Officers will work with the relevant agencies to apply for funding however it is acknowledged that in this difficult climate funding is scarce and competition for money is fierce. For example the ESCC Capital Programme has only secured, committed funding for one year and the following three years indicative only.

Community Facilities, Open Space and Green Infrastructure

- 1.10 The IDP has identified other items of infrastructure considered important to secure development in the district, facilitate growth or meet a recognised shortfall in provision. Table 3 below highlights the costs attributed to particular key projects: the Bexhill leisure centre, the eastern tidal flood defence wall at Rye and Combe Valley Countryside Park.

Table 3: Key Community Facilities, Open Space and Green Infrastructure

Key Community Facilities, Open Space and Green Infrastructure			
	Estimated cost	Funding Stream	Aggregate Funding Gap
Eastern Tidal Wall Rye	11M	0	11M
Bexhill Leisure Centre	15M	800K	14.2M
Countryside Park ¹	TBC	407K	TBC
TOTAL (approx.)	26M	1.2M	25.2M

- 1.11 In addition, there will be a requirement for additional service provision, community, green infrastructure provision, and sports provision which are non-strategic and identified in the IDP as being desirable to ensure mixed and balanced sustainable communities, which cannot be assessed in detail at this stage. Further

¹ The management of the Countryside Park has been transferred over to Groundworks and is undergoing transitional arrangements. Overall final costs have yet to be confirmed future editions of the IDP will update costs attributed to the Countryside Park.

refinements of need and costs will be developed through the Development and Site Allocations Plan as individual sites are identified. It is expected these items will contribute towards the widening of infrastructure funding gap in the future. Further details will be outlined in the Development and Site Allocations Plan.

- 1.12 The IDP will continue to be updated on such matters as more information and clarity become available.

Total Funding Aggregate

- 1.13 As far as it has been possible, the infrastructure funding gap has been identified, by each type of critical infrastructure. This demonstrates that there is a total potential infrastructure gap of approximately £172 million.
- 1.14 Work will continue with infrastructure providers on progressing with the information in the IDP in order to clarify and confirm overall costs and funding arrangements during the plan period. However, it is clear that the infrastructure funding gap is so substantial and that, taking account of the viability assessment undertaken by Peter Brett Associates, justifies the introduction of a CIL Charging Schedule on development within the district.

Projected CIL Revenue

- 1.15 It has been possible to indicatively calculate CIL revenue by applying the CIL rates proposed in the Preliminary Draft Charging Schedule. This can only be an approximation as the actual CIL levied will depend on a number of factors such as the amount of existing floorspace to be offset and the size of buildings to be constructed.
- 1.16 Net CIL income is estimated to be in the region of £33-39 million during the plan period, which is approximately £133m short of the infrastructure funding required. This will still leave a significant funding gap and the need to raise further funds from other sources.
- 1.17 The infrastructure gap analysis does not directly relate to determining the rates at which CIL should be set locally. It purely provides the evidence that there is overall an infrastructure funding gap that could be filled through CIL. The rate setting of CIL is purely determined by financial viability analysis; in essence the rates at which development would remain viable and would not impact the development.
- 1.18 In addition to CIL, Section 106 planning obligations will continue to be secured - although this will be scaled back. Site-specific planning obligations will be sought where infrastructure:
- does not appear on the Regulation 123 list;
 - does not conflict with the Regulation 123 pooling restriction, that limits the pooling of s106 payments to no more than five planning obligations; and
 - fulfils the planning obligation tests set out in Regulation 122.

Other funding sources

- 1.19 This section considers some of the other funding sources that may contribute towards meeting the infrastructure funding gap. It is often the case that infrastructure is financed from a blend of several funding sources, including borrowing. Consequently, a lesson from around the country is that CIL is most

often used to part fund infrastructure, leveraging in additional funding. This is particularly the case in the early years of CIL charging as there is a lag between planning permission and the receipt of CIL income.

- 1.20 The principal sources of funding to meet the gap remaining even after CIL receipts are secured are expected to be the main capital programmes of the relevant agencies, as noted above.
- 1.21 In addition, funding may draw on monies received under the New Homes Bonus (NHB). With the payment received directly from the Government, NHB does not directly impact on a developer.
- 1.22 Similarly, the Business Rate Retention or National Non-Domestic Rates (NNDR) allows councils to retain a proportion of the business rate growth in their area. As with NHB, this does not directly impact on a developer.
- 1.23 The Growing Places Infrastructure Fund (GPIF) is a revolving capital infrastructure fund managed through the Local Enterprise Partnership (LEP) to bring forward projects that can deliver growth, jobs and new business opportunities. The fund invests repayable grants in schemes that meet the specified criteria. The intention being that the funds can be recycled to drive economic growth in a sustained way over the medium/ long term. Working with our strategic partners, the South East LEP has applied for additional monies to facilitate economic growth through the development of several key infrastructure projects locally.

Conclusions

- 1.24 The infrastructure funding gap of approximately £133m is considered significant enough to justify charging CIL on development within the district. With anticipated CIL revenue of approximately £33-39m, there will remain a significant shortfall in funding that will need to be found from other sources whose funding has yet to be determined.

Regulation 123 List

Regulation 123 of the Community Infrastructure Levy Regulations (as amended) requires charging authorities to set out a list of those projects or types of infrastructure that it intends to fund either wholly or partially through the CIL levy. This is to ensure that individual developments are not charged for the same infrastructure items through both planning obligations and the levy.

A CIL charging authority is expected to prepare a draft Regulation 123 list (Reg.123 list) for the examination of the CIL Charging Schedule.

The following types of infrastructure will be funded through CIL receipts by the charging authority. The order in the table below does not imply any order of preference for spend.

Infrastructure Type or Project eligible to be funded wholly or partially by CIL	Exclusion
<p>Transport</p> <p><u>Road:</u></p> <p>Improvements to road network capacity including the following schemes identified in the IDP:</p> <p>Improvements to A2036 Corridor Penland Rd north bound/ west bound</p> <p>Junction improvements at A269/Holliers Hill//A2036 Wrestwood Road / London Road</p> <p>Junction improvements at A269/ Watermill Lane</p> <p>A259 Little Common roundabout Junction improvements including Peartree Lane approach and A259 E. bound</p> <p>Town centre traffic management improvements B2098 Terminus Road / Buckhurst Place / Sackville Road</p> <p>Junction improvements along A259 corridor including A259 / B2095 approach and A259/ Sutherland Avenue</p>	<p>All other site specific transport improvements necessary to enable development in transport terms having regard to relevant policies and standards</p>

<p>New road from development access junction north to connect with Watermill Lane and A269 Ninfield Road known as the North Bexhill Access Road</p> <p><u>Rail:</u></p> <p>Upgrade the Marshlink rail line. Extend HS1 to Bexhill and Hastings and shorten journey times to London</p> <p>Access improvements to stations which may include additional car parking, cycle and pedestrian access and facilities based on findings of ESCC Station Audit and plans of train operating companies</p> <p><u>Bus, Cycling and Walking Infrastructure:</u></p> <p>Bus stop accessibility Bus shelters Passenger information and electronic ticketing Speed management measures Passenger and public security and safety Bus reliability measures Passenger access and information improvements to railway stations Cycle network improvements Public realm improvements Safety infrastructure outside schools Rights of way improvements</p> <p>Improvements to walking and cycling corridors to ensure connectivity and accessibility of new development into existing networks, communities, town and secondary centres, employment & social infrastructure</p> <p>More bus / transport services serving groups with access difficulties where commercial services are not appropriate or available</p> <p>Management of cross town traffic congestion in Battle. Improved traffic management. Implement measures to increase use of sustainable transport</p> <p>Introduce measures to tackle heavy congestion in Rye town centre during the summer. Increase sustainable transport provision in the town. Promote initiatives to improve strategic connectivity between Rye and the wider region</p> <p>Public car parks facilities</p>	
<p>Education</p> <p>The following education schemes:</p>	

<p><u>Early Years</u></p> <p>Bexhill 236 places (15 hour slots) for children eligible for funding</p> <p>Rye 40 places (15 hour slots) for children eligible for funding</p> <p>Battle 24 places (15 hour slots) for children eligible for funding</p> <p>Hurst Green 16 places (15 hour slots) for children eligible for funding</p> <p>Westfield 16 places (15 hour slots) for children eligible for funding</p> <p><u>Primary</u></p> <p>Rye Half a form of entry (105 places) through expansion of Rye Community Primary School</p> <p><u>Secondary</u></p> <p>Bexhill One form of entry (150 11-16 places) through expansion of an existing school</p> <p><u>Further Education</u></p> <p>Sussex Coast College, Hastings An additional 130 workplaces in total of which 30% (39 workplaces) attributed to Rother District IDP</p> <p>Plumpton College Additional 100 workplaces in total of which 10% (10 workplaces) attributed to Rother District IDP</p>	<p>Improvements or provision of new education facilities which are directly related to a development.</p>
<p>Leisure, sport, open space and green infrastructure</p> <p>New and improve leisure facilities and specifically Bexhill Leisure Centre</p> <p>Children’s and young people’s play areas</p> <p>Improvements to playing pitches</p> <p>Indoor and outdoor sports and leisure provision and associated facilities</p> <p>Improvements to open space in accordance with adopted standards</p>	<p>Provision of new sport, open space, green infrastructure and recreation facilities which are directly related to a specific development site and are required to ensure local plan policy compliance.</p>

<p>Provision and enhancement of the green infrastructure network particularly through projects in the identified Biodiversity Opportunity Areas highlighted within the Green Infrastructure Study for Rother (2012)</p> <p>Combe Valley Countryside Park</p>	
<p>Community facilities</p> <p>Libraries – improved provision in Bexhill, Battle and mobile services Built Community Space (village halls) Public conveniences</p>	<p>Facilities on allocated sites at NE Bexhill and Flimwell and future sites where such space is part of a mixed use allocation.</p>
<p>Healthcare</p> <p>Provision of facilities to address existing or future needs</p>	<p>Improvements which are directly related to a development.</p>
<p>Emergency Services</p> <p>Provision of facilities to address future needs.</p>	
<p>Flood Mitigation</p> <p>Maintaining and improve flood and coastal defences</p>	<p>All other site specific Sustainable Drainage System (SUDS) and on-site flood mitigation improvements as identified in a site specific assessment.</p>