

Taunton Deane Borough Council

Executive - 13 November 2013

Introduction of the Community Infrastructure Levy (CIL) in Taunton Deane – Examiner’s Report and Adoption

Report of the Policy Lead Officer

This matter is the responsibility of Executive Councillor Edwards

1.0 Executive Summary

The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and is intended to replace Section 106 as the main means of funding infrastructure associated with new development. The Council has previously prepared and submitted its proposals to an independent Examination, which was held on 24th July, and the Examiner has submitted his report. The Council now needs to formally adopt its CIL Charging Schedule with the amendments proposed by the Examiner. It also needs to adopt a policy for payment of CIL by instalments and establish governance mechanisms for spending and distribution of CIL receipts.

2.0 Background

- 2.1 The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008. It is intended to replace S106 agreements as the main means of securing funding from developers towards the cost of infrastructure. At its meeting on 20th June 2012, the Executive agreed to progress the introduction of the Community Infrastructure Levy (CIL) in Taunton Deane, and approved a Preliminary Draft Charging Schedule (PDCS) for consultation. The introduction of CIL is necessary in part because, from April 2015, the ability to pool S106 contributions to deliver larger items of infrastructure will be restricted.
- 2.2 Following consultation on the PDCS, a Draft Charging Schedule (DCS) was then prepared, taking account of the comments which had been received, and made available for representations between 1st February and 15th March, 2013. The DCS was then submitted for independent Examination, which was held on 24th July.
- 2.3 The Examiner has now submitted his report to the Council. He recommends a number of minor changes to the Charging Schedule, which need to be incorporated before the Council can adopt CIL and proceed to introduce the charges.

- 2.4 Respondents at the preliminary draft stage suggested that the Council include with the charging schedule a policy for payment of CIL by instalments. A draft instalment policy was therefore prepared, and was attached to the report approved by the Executive on 16th January 2013. Subsequently an amended version was approved by the Executive on 16th July 2013 and put forward for comments at the CIL Examination. A minor change to the instalment policy is now proposed in response to the comments received.
- 2.5 The Council also now needs to set up the organisational arrangements for introducing and managing CIL and the delivery of the infrastructure it is intended to fund. These are addressed in Sections 5.0 and 6.0 of this report.

3.0 Examiner's Report

3.1 It is gratifying that the Examiner has endorsed the Council's proposals for the levels of CIL within Taunton Deane and the zones within which they would apply. This includes the proposed zero rates for all development in Taunton and Wellington town centres and for the wider urban area of Wellington. He has recommended two relatively minor modifications that the Council will need to include in the Charging Schedule:

1. Clarification that the rate of CIL for the Taunton urban area will apply in the 'broad locations' for future growth at Taunton (Staplegrove and Comeytrove) identified in the Core Strategy and the Site Allocations (Preferred Options) planning documents.
2. Clarification that retail development includes uses within classes A1-A5 as defined in the Town and Country Planning (Uses Classes Order) 1987, as amended.

These modifications arise from matters discussed during the Examination.

- 3.2 Overall, the Examiner concludes that the Council's proposed Charging Schedule provides an appropriate basis for the collection of the levy and the charges are set at a level which would not put the overall development of the area at risk.
- 3.3 The Charging Schedule which it is recommended that the Council now adopts, including the modifications recommended by the Examiner, is included as Appendix 1.

4.0 Proposed Instalments Policy

- 4.1 Regulation 69B of the Community Infrastructure Levy (Amendment) Regulations 2011 allows a charging authority to accept payment of CIL by instalments, so long as it publishes on its website a policy to that effect.
- 4.2 A draft instalment policy was approved by the Executive in July 2013 so that it could be tabled at the Examination for consideration by the development industry. The policy takes account of the rate at which developments might be

completed, and thus the appropriate number of instalments and reasonable time periods for payment of each instalment.

4.3 In response to the comments made by developers, it is proposed to introduce an additional payment band for sums in excess of £1m. Otherwise, the instalment policy remains as approved in July 2013. The amended policy is attached to this report (Appendix 2).

4.4 It is important to note that, if there is no instalment policy in place, payment of CIL becomes due in full 60 days following commencement of development.

5.0 CIL Governance

5.1 It is important that systems are in place and functioning ahead of CIL implementation. It is therefore proposed to appoint a CIL administration officer early in 2014. Members have previously agreed to fund this post for two years on the basis that the costs will be recouped. This can be achieved using the provisions that allow up to 5% of CIL receipts to be 'top sliced' to cover the costs of administration.

5.2 Once CIL is in place, money will begin to come in, although receipts will take time to build up given that CIL will only apply to schemes that are granted planning permission after its introduction.

5.3 Under Regulation 62, the Council must publish an annual report on its website setting out the following:

- Total CIL receipts for the year;
- Total CIL expenditure for the year;
- Summary of CIL expenditure during the reported year including:
 - a. The items of infrastructure to which CIL has been applied;
 - b. The amount of CIL on each items;
 - c. The total amount of CIL receipts retained at the end of the reported year.

It is anticipated that this work would be carried out by the CIL administration officer referred to in 5.1.

6.0 Managing Infrastructure Delivery

6.1 Delivering infrastructure is one of the major challenges facing the Council in support of its growth agenda. Receipts from CIL and New Homes Bonus are likely to be the two largest sources of funding for this.

6.2 There will be a need for a process to determine how the CIL receipts should be spent, to agree on the timing of spend and to arrange the distribution of funds to partner organisations. It may also be necessary for the Council to

directly commission certain items of infrastructure that will be funded through CIL.

- 6.3 Under Regulation 123 of the CIL Regulations, the Council is required to publish a list of the projects that it intends to finance, in whole or in part, using CIL receipts. It will need to do this prior to the introduction of CIL. The Regulation 123 list can and will need to be reviewed on a regular basis and reported on annually. A separate report on the Regulation 123 list will be prepared and submitted early in 2014.
 - 6.4 The Council is statutorily required to pass 25% of CIL receipts to the parish council in areas where there is a neighbourhood plan in place, and where there is no neighbourhood plan in place, 15% of CIL receipts up to a maximum of £100 per extant dwelling.
 - 6.5 In areas with unitary local government, all decisions can be negotiated and agreed within one group of elected Members. In Taunton Deane, as well as Borough councillors it will also be reasonable to involve County Council Members, specifically those with responsibility for spending on transport and education, which will be major elements of infrastructure to be delivered using CIL receipts.
 - 6.6 Detailed arrangements for managing the delivery of infrastructure, and the involvement of Members in the decision-making process, will be the subject of a further report early in 2014.
- 7.0 Timescale for introducing CIL
- 7.1 The process of getting ready to introduce CIL will take some time – for example, owing to the need to install computer software to issue documents and process information, and to train staff in its use. It is therefore proposed that CIL be introduced in Taunton Deane with effect from 1st April 2014. An announcement to this effect will also provide the development industry with time to adapt to the change.
- 8.0 Links to Corporate Aims
- 8.1 The funding that will be obtained through the introduction of CIL is fundamental to delivering the Council's objectives for tackling deprivation and sustainability community development, regeneration and climate change. At present, under the Regulations, CIL cannot be spent on providing affordable housing. Affordable housing will remain the role of S106 agreements.
- 9.0 Environmental Implications
- 9.1 There are no direct environmental implications.
- 10.0 Community Safety Implications

10.1 There are no identified community safety implications.

11.0 Equalities Impact

11.1 No separate Equalities Impact Assessment has been carried out as CIL is essentially a mechanism, rather than a proposal in its own right.

12.0 Risk Management

12.1 The principal risks associated with failure to introduce CIL are that the infrastructure needed to deliver the growth in the Core Strategy cannot be provided. This would undermine the long-term strategy for Taunton Deane and the achievement of the Council's corporate objectives.

12.2 There is also a risk is that the decision process for the spending on infrastructure is no longer linked to the decision to allow development. Thus the delivery of infrastructure and the delivery of development could become disconnected. Great care will be needed to ensure that this does not happen.

13.0 Partnership Implications

13.1 The Council will need to work in partnership with a range of other organisations to deliver the proposals using CIL receipts.

14.0 Recommendations

14.1 The Executive are requested to approve:

1. The introduction of the Community Infrastructure Levy in Taunton Deane from 1st April 2014;
2. The Charging Schedule set out in Appendix 1, incorporating the modifications recommended by the Examiner;
3. The proposed Instalment Policy set out in Appendix 2.

15.0 Persons to Contact

Phil Bisatt, Policy Officer (Planning and Development)

Tel: (01823) 356305

E-mail: p.bisatt@tauntondeane.gov.uk

Taunton Deane Borough Council

Community Infrastructure Levy

Charging Schedule

April 2014

Community Infrastructure Levy (CIL) – Charging Schedule

Introduction

The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and is defined in the CIL Regulations 2010 (as amended 2011 and 2012). Local authorities in England and Wales can elect to charge CIL on new developments.

CIL takes the form of a charge per square metre of additional floorspace (new build or extensions) and can be charged on most new development. There are exemptions for charitable organisations and affordable housing, together with some size thresholds for non-residential uses. Domestic extensions, together with development resulting in the creation of less than 100 sq m of net additional floorspace, are not liable for CIL.

The introduction of CIL is seen as necessary in part because, from April 2015, the ability to pool planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), will be restricted. It will therefore become difficult to deliver larger scale items of infrastructure such as schools, built sports facilities and transport schemes, where pooling of numerous individual planning contributions is often necessary. Section 106 agreements will continue to be used to deliver some infrastructure (as will Section 278 for highways), but this will largely be restricted to site-specific mitigation and for providing affordable housing.

The money raised through CIL will be used to deliver infrastructure that is needed to support the proposals set out in the Council's Core Strategy and the Taunton Town Centre Area Action Plan.

Evidence to support the proposed levels of CIL

The evidence to support this Charging Schedule is available on the Council's website at www.tauntondeane.gov.uk/corestrategy/cil. Other links are given at the end of this document. The viability appraisal to support the proposed charges was prepared on behalf of the Council by Three Dragons and Peter Brett Associates.

The viability appraisal looks at notional and actual housing development sites in Taunton Deane, and also considers non-residential uses. It recommends rates of CIL that can be charged without putting the majority of development proposed at risk. The evidence indicates that for residential development, CIL would not render the majority of development unviable in most of Taunton Deane. For non-residential uses the only type of development which could support CIL and remain viable, at present, is retailing outside the town centres of Taunton and Wellington.

The Levy

The Charging Schedule attached has been prepared in accordance with Part 11 of the Town and Country Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended). The Council has sought to strike a balance between ensuring appropriate development comes forward and the impact of CIL on development viability. It has also sought to balance costs between aspects of site-specific infrastructure which will continue to be secured through Section 106 planning obligations and those that will be funded through CIL.

The CIL rates proposed are set out in the Charging Schedule and are derived from the assessment of the viability of development in different parts of the Borough carried out by the Council's consultants. The Regulations recognise that the CIL charge may make some development unviable and that CIL should not be set at such a low rate as to ensure that every development remains viable.

Viability evidence suggests that there is no scope to charge CIL on residential development within Taunton town centre and Wellington urban area, nor on retail development within Taunton and Wellington town centres in Taunton Deane. Employment development in the Borough is also not able to support CIL.

The rates in the Charging Schedule will be indexed to account for inflation using a nationally recognised index (BCIS). They will be regularly reviewed to take account of changes in viability, and any proposed changes to the Charging Schedule will be submitted for further examination.

CIL Relief

The CIL Regulations provide for full relief from the CIL charge for any part of a development which is affordable housing (and includes social and affordable rent and shared ownership). Charity landowners will also benefit from relief provided that the development is to be used for charitable purposes. If a development is initially granted CIL relief and then circumstances change, there is a claw-back period of 7 years within which the development will become liable for CIL.

Relief can also be given in exceptional circumstances, subject to the Council publishing a policy to this effect. Such exceptional circumstances will only apply where there is a Section 106 planning obligation in place that has costs greater than the chargeable amount and where the addition of CIL would make the development unviable; additionally the amount of relief granted must not be sufficient to qualify as notifiable state aid under EU law.¹ The fact that an application may be unviable is unlikely, in itself, to constitute an exceptional circumstance in terms of the CIL Regulations. At the time of adopting its CIL proposals, the Council decided not to offer exceptional circumstances relief, although it will review the position from time to time.

Payment of CIL

CIL is payable on commencement of development. However, the Council invited views at the Preliminary Draft stage as to whether there should be a policy to allow payment of CIL by instalments. As a result of views received, the Council has adopted an instalments policy, and this is published alongside this Charging Schedule.

Relationship between CIL and Section 106 agreements

Provision for Section 106 agreements remain, but from April 2015, under Regulation 123, the ability to pool contributions from developers via S106 to deliver larger items of infrastructure will be substantially curtailed. The Council's intention is that CIL will

¹ The current de minimis threshold is €200,000 (€100,000 for undertakings in the road transport sector) over a rolling three year fiscal period. Community Infrastructure Levy Relief Information document published by CLG.

be used to deliver larger strategic items with S106 retained only for direct mitigation of site-specific impacts.

Under Regulation 123, the Council is also required to prepare a list setting out the types of infrastructure that it intends to fund through CIL, prior to the adoption of its Charging Schedule. CIL cannot be used as well as Section 106 to deliver the same piece of infrastructure. The Regulation 123 list will be published in advance of the introduction of CIL, and will be periodically updated.

CIL for local communities

The Council is required to pass a 'meaningful' proportion of CIL receipts to parish councils for use on infrastructure identified as important by the local community. Under Regulation 59A, this involves:

- 25% of CIL receipts to the parish council in areas where there is a neighbourhood plan in place.
- Where there is no neighbourhood plan in place, 15% of CIL receipts up to a maximum of £100 per extant dwelling to the parish council.

Date of Commencement

This Charging Schedule takes effect from 1st April 2014 and will remain in force until further notice.

Links

Report to Executive 13th November 2013:

Report to Executive 16th January 2013:

Report to Executive 20th June 2012: www.tauntondeane.gov.uk/corestrategy/cil

CIL Viability Appraisal: www.tauntondeane.gov.uk/corestrategy/cil

Taunton Deane Borough Council Infrastructure Delivery Plan:

<http://www.tauntondeane.gov.uk/irj/go/km/docs/CouncilDocuments/TDBC/Documents/Forward%20Planning/Evidence%20Base/IDP.pdf>

Taunton Deane Community Infrastructure Levy Charging Schedule 2014

This charging schedule has been prepared in accordance with Part 11 of the Town and Country Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended by the 2011 and 2012 Regulations). It is supported by local evidence regarding infrastructure requirements and the impact of the levy on the viability of development, as set out in the consultants' reports. These can be found on the Council's website as part of the Core Strategy and CIL Evidence Base (see links on previous page).

Levy Rates

The rates below will be charged against the gross internal floor area of:

- All new dwellings
- All other development exceeding 100 sq m in size

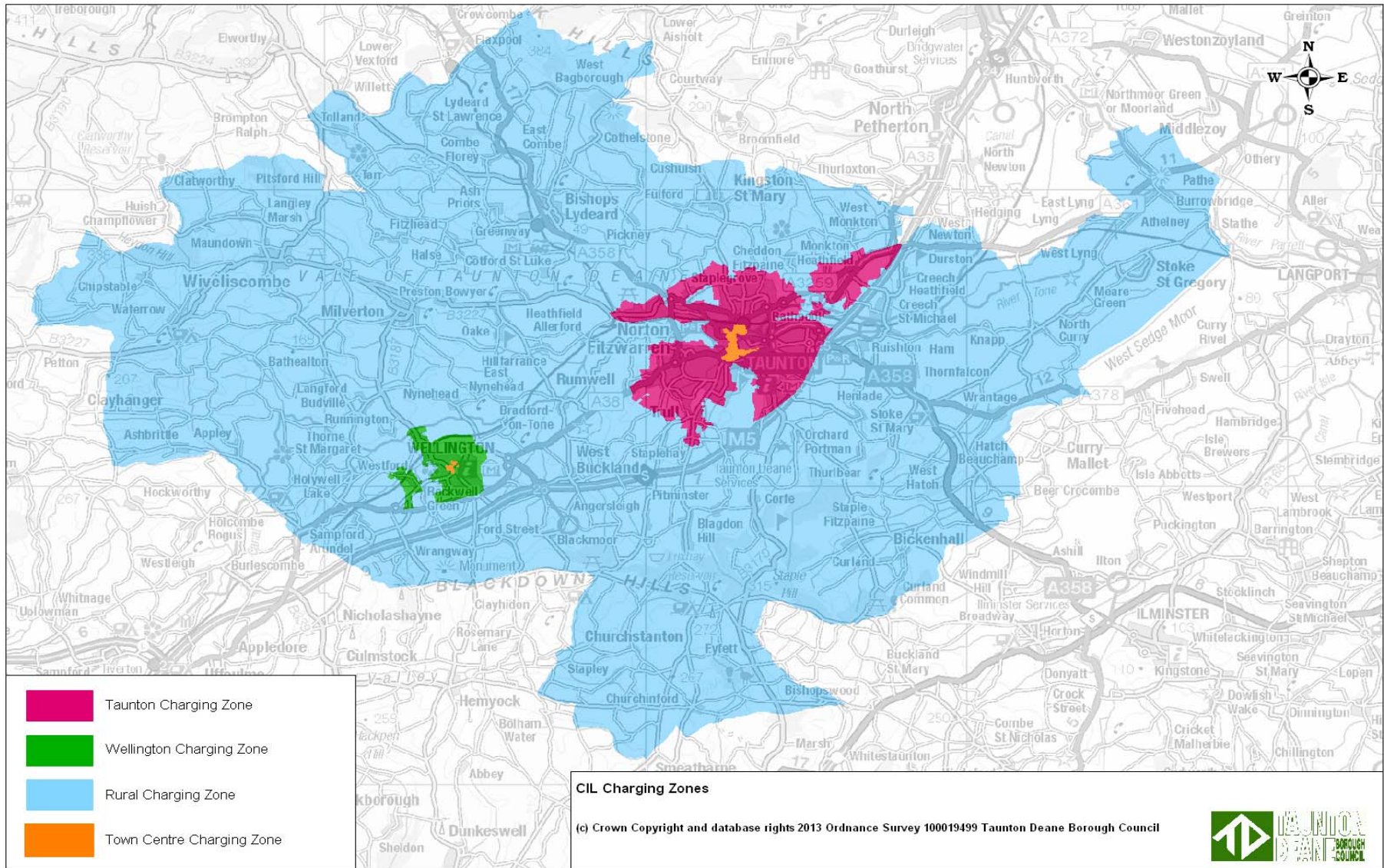
Development Uses	Levy (per sq m)
Residential Development in Taunton, including urban extensions	£70
Residential Development in Taunton town centre	£0
Residential Development within the settlement limit of Wellington	£0
Residential Development outside the settlement limits of Taunton and Wellington	£125
Retail development (classes A1 – A5) outside Taunton and Wellington town centres	£140
All other development	£0

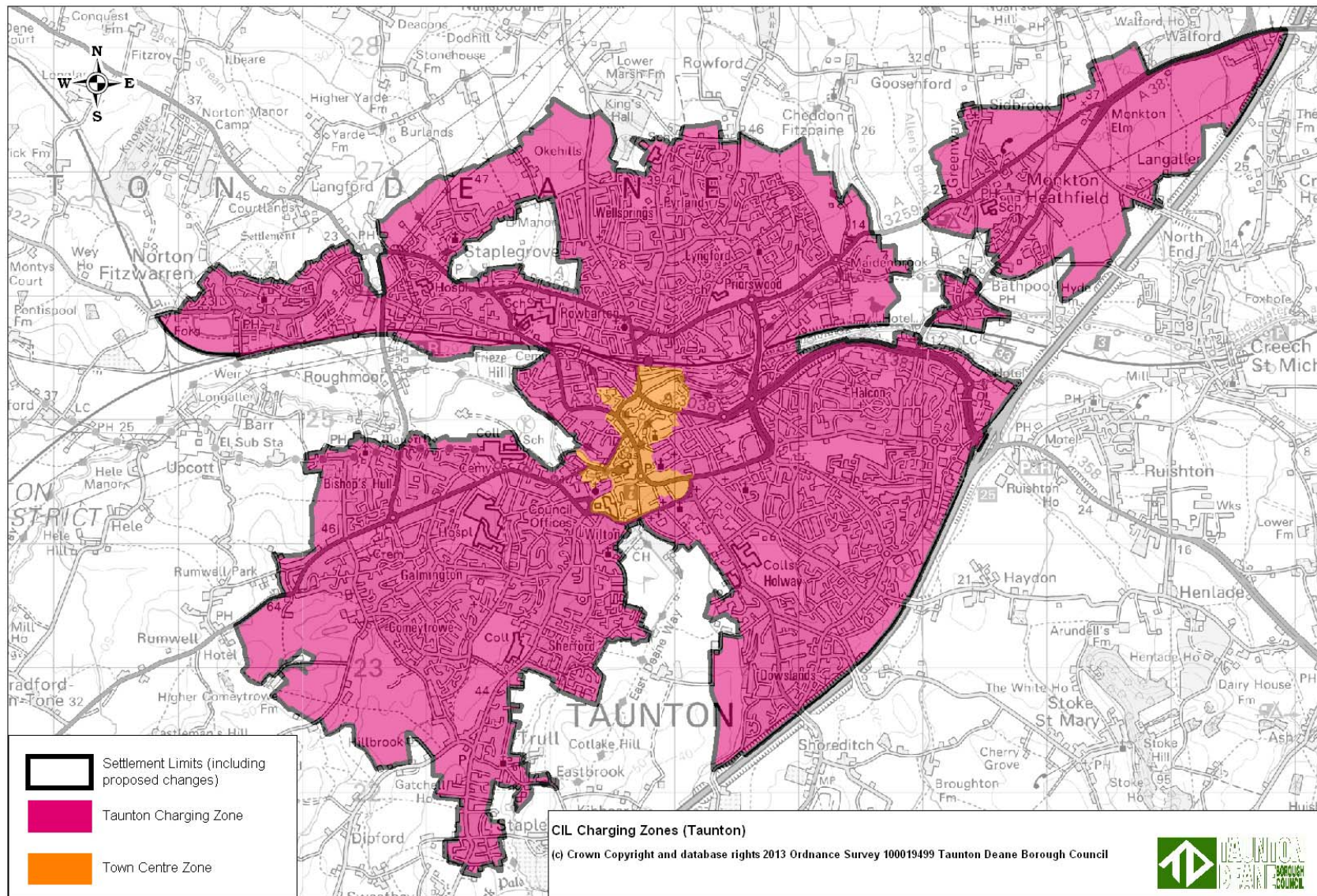
How the CIL charge will be calculated

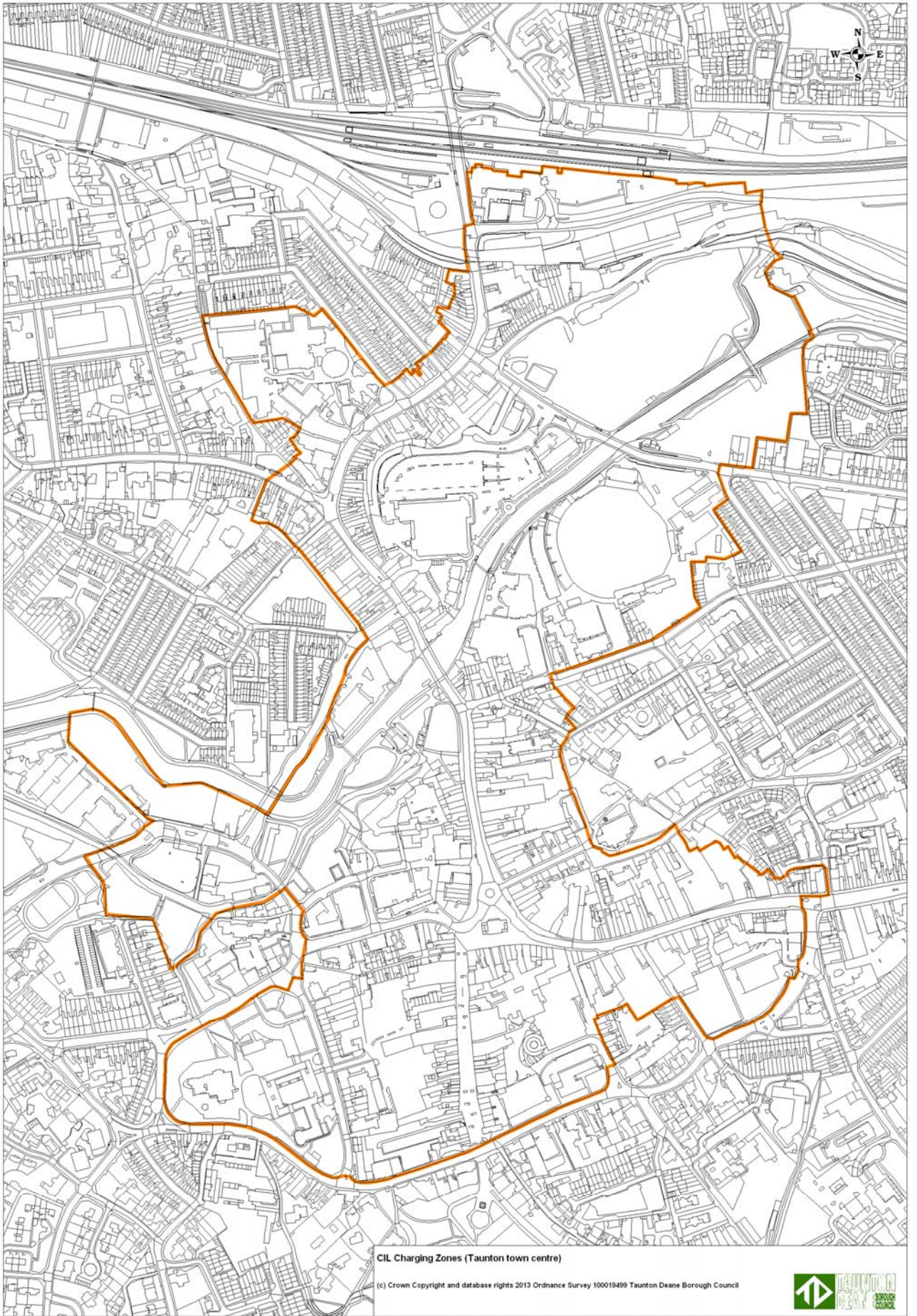
In accordance with the Regulations, where applicable the Council will issue a Liability Notice that states the chargeable amount on grant of planning permission or as soon as possible after the grant of planning permission. The Council will calculate the amount of CIL chargeable using the formulae set out in the Regulations.

Full details of the way in which CIL will be calculated, together with an overview of CIL and the full Regulations, can be found on the CLG website:

www.communities.gov.uk.



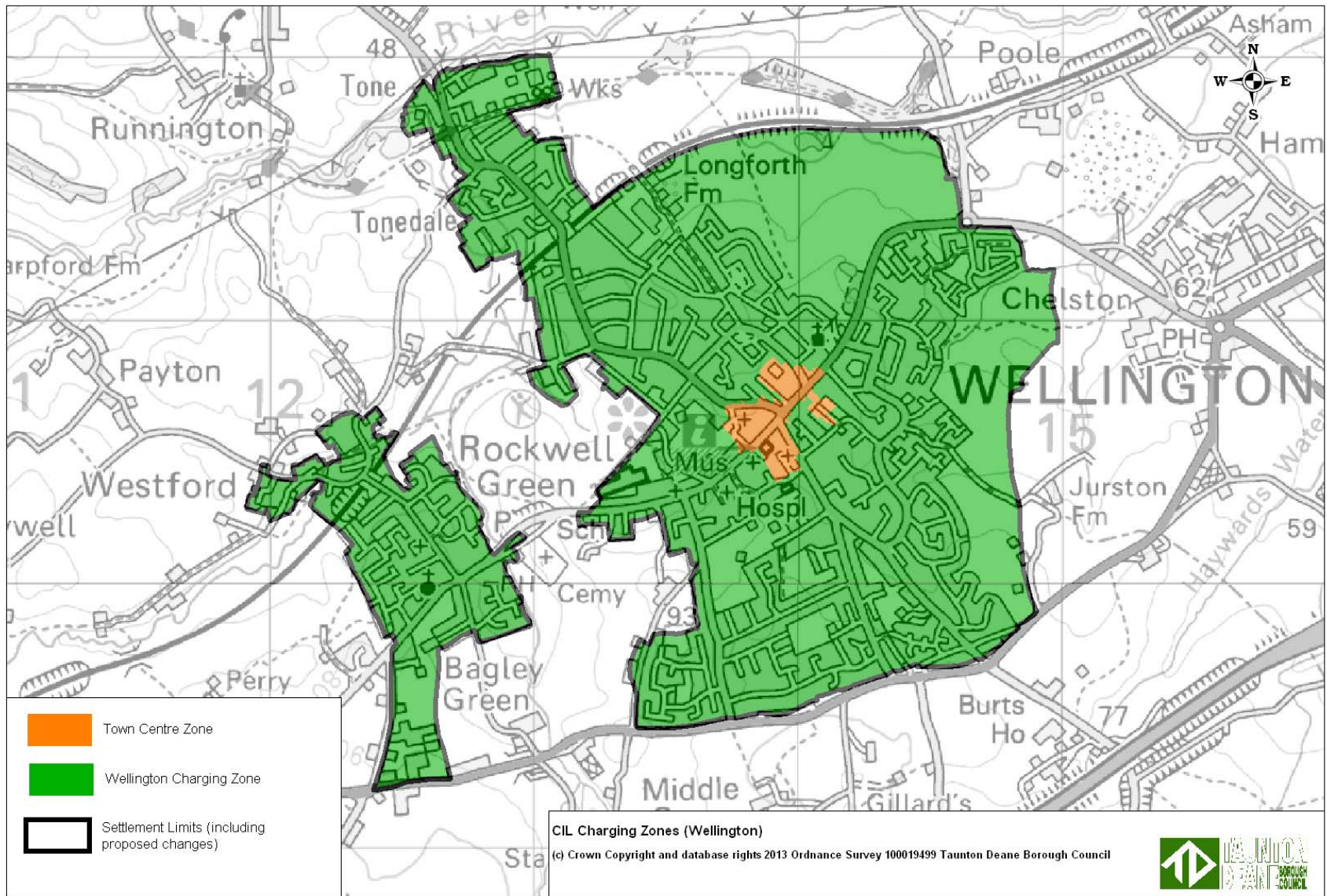




CIL Charging Zones (Taunton town centre)

(c) Crown Copyright and database rights 2013 Ordnance Survey 100019499 Taunton Deane Borough Council



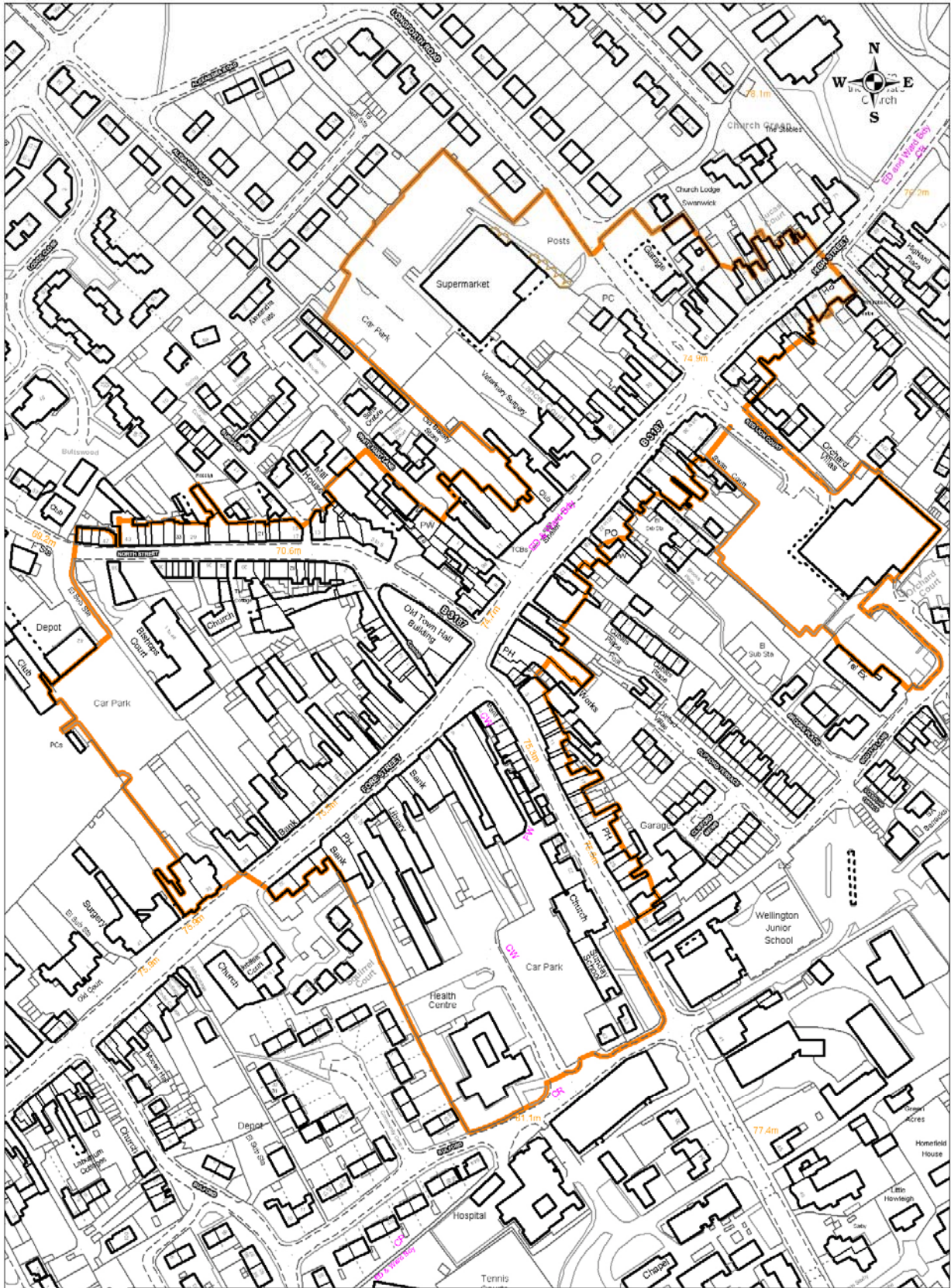


- Town Centre Zone
- Wellington Charging Zone
- Settlement Limits (including proposed changes)

CIL Charging Zones (Wellington)

(c) Crown Copyright and database rights 2013 Ordnance Survey 100019499 Taunton Deane Borough Council





CIL Charging Zones (Wellington town centre)

(c) Crown Copyright and database rights 2013 Ordnance Survey 100019499 Taunton Deane Borough Council



New Marina
Buildings

Taunton Deane Borough Council
Community Infrastructure Levy (CIL)
Instalment Policy

In accordance with Regulation 69B of the Community Infrastructure Levy (Amendment) Regulations 2011, Taunton Deane Borough Council will allow the payment of CIL by instalments.

As permitted under Regulation 9 (4) of the Community Infrastructure Levy Regulations 2010 (as amended), where outline planning permission has been granted which permits development to be implemented in phases, each phase of the development as agreed by Taunton Deane Borough Council is a separate chargeable development, and the instalment policy will therefore apply to each separate chargeable development and the associated separate chargeable amount.

This policy will not apply in the case of any one or more of the following:

- a. A Commencement Notice has not been submitted prior to commencement of the chargeable development, as required by Regulation 67 of the Community Infrastructure Levy Regulations 2010 (as amended);
- b. On the intended date of commencement
 - (i) No-one has assumed liability to pay CIL in respect of the chargeable development;
 - (ii) A Commencement Notice has been received by Taunton Deane Borough Council in respect of the chargeable development; and
 - (iii) Taunton Deane Borough Council has not determined a deemed commencement date for the chargeable development and payment is therefore required in full (as specified in Regulation 71 of the Community Infrastructure Levy Regulations 2010 (as amended));
- c. A person has failed to notify Taunton Deane Borough Council of a disqualifying event before the end of 14 days beginning with the day on which the disqualifying event occurs, as per the Community Infrastructure Levy Regulations 2010 (as amended);
- d. An instalment payment has not been made in full after the end of the period of 30 days beginning with the day on which the instalment payment was due, as per the Community Infrastructure Levy Regulations 2010 (as amended).

Where the instalment policy is not applicable, the amount must be paid in full at the end of the period of 60 days beginning with the notified or deemed commencement date of the chargeable development or the date of the disqualifying event, whichever is the earliest, unless specified otherwise within the Community Infrastructure Levy Regulations 2010 (as amended).

Once the development has commenced, all CIL payments must be made in accordance with the CIL Instalment Policy. Where a payment is not received in full on or before the day on which it is due, the total CIL liability becomes payable in full immediately (Regulation 70(8)(a) of the Community Infrastructure Levy Regulations 2010 (as amended)).

The Instalment Policy takes effect on 1st April 2014, the date of the introduction of the Taunton Deane Community Infrastructure Levy: Charging Schedule 2014.

Total CIL liability	Number of instalments and amount payable	Payment period
Amount less than £16,000 or the amount due in respect of a single dwelling	Payable in two instalments	1 st instalment of 50% payable within 60 days of the commencement date 2 nd instalment of 50% payable within 120 days of the commencement date
Amount between £16,000 and £50,000 in respect of two or more dwellings	Payable in three instalments	1 st instalment of 25% payable within 60 days of the commencement date 2 nd instalment of 25% payable within 120 days of the commencement date 3 rd instalment of 50% payable within 180 days of the commencement date
Amount between £50,000 and £500,000	Payable in three instalments	1 st instalment of 25% payable within 90 days of the commencement date 2 nd instalment of 25% payable within 225 days of the commencement date 3 rd instalment of 50% payable within 360 days of the commencement date
Amount between £500,000 and £1m	Payable in three instalments	1 st instalment of 25% payable within 90 days of the commencement date 2 nd instalment of 25% payable within 405 days of the commencement date 3 rd instalment of 50% payable within 720 days of the commencement date
Amount over £1m	Payable in three instalments	1 st instalment of 25% payable within 120 days of the commencement date 2 nd instalment of 25% payable within 720 days of the commencement date 3 rd instalment of 50% payable within 1440 days of the commencement date

Nothing in this policy prevents payments being made at earlier times than specified above.