SHEFFIELD CITY COUNCIL
Cabinet Report

Report of:	Simon Green, Executive Director, Place
Date:	12 December 2012
Subject:	Implementing the Community Infrastructure Levy in Sheffield
Author of Report:	Richard Holmes (2053387)

Summary:

The Community Infrastructure Levy (CIL) is a new way of securing contributions from developers towards infrastructure provision through the planning system. Cabinet agreed in September 2011 that the Council should work towards implementing a CIL, to ensure that major new development contributes to the provision of infrastructure improvements where viable. To a large degree the CIL will replace previous payments negotiated individually as planning obligations.

The first stage is to produce a *Preliminary Draft Charging Schedule* setting out the proposed rates that will be charged on new development, and this will be subject to a period of public consultation.

Reasons for Recommendations:

The CIL will help to deliver the City's strategic priorities for infrastructure provision, will be generated by economic growth and reinvested into economic growth and infrastructure. Successful implementation and investment of CIL funds will make the city more competitive.

The first stage in adopting a CIL is to produce a *Preliminary Draft Charging Schedule* setting out the proposed rates that will be charged on new development, and this will be subject to a period of public consultation.

The recommended CIL rates are based on the ability of development to pay. A Viability Study has provided evidence that some development in the city can afford to pay a CIL charge to help meet identified needs for infrastructure.

The CIL rates proposed represent a cautious approach to viability through the assumptions used and the inclusion of a 50% margin below the potential maximum affordable charge.

Recommendations:

It is recommended that Cabinet:

- Agrees to publish a Preliminary Draft Charging Schedule for public consultation;
- Agrees that the Council proposes a multiple rate CIL, to include a 'buffer', to deal with uncertainties in assessing future viability equating to 50% of the calculated 'margin' that could make a CIL contribution. The proposed rates are as set out in the Table in paragraph 7.2 of the report;
- includes an option in the Charging Schedule to allow for relief to be offered in exceptional circumstances;
- offers payment of CIL in instalments as a matter of course, as assumed in the viability study.

Background Papers:	Community Infrastructure Levy Viability Study 2012 Community Infrastructure Levy: Overview. CLG, May 2011
Category of Report:	OPEN

Statutory and Council Policy Checklist

Financial Implications
YES Cleared by Paul Schofield (see paragraphs 4.25 and 4.26)
Legal Implications
YES Cleared by Nadine Wynter (see paragraph 4.24)
Equality of Opportunity Implications
YES Cleared by Ian Oldershaw (see paragraph 4.29)
Tackling Health Inequalities Implications
NO
Human rights Implications
NO
Environmental and Sustainability implications
YES (Section 3)
Economic impact
YES (Section 4)
Community safety implications
YES (See paragraph 2.1)
Human resources implications
YES (See paragraph 4.26)
Property implications
YES Cleared by Nalin Seneviratne (see paragraphs 4.27 and 4.28)
Area(s) affected
All (see Section 2 and paragraph 4.10)
Relevant Cabinet Portfolio Leader
Leigh Bramall
Relevant Scrutiny and Policy Development Committee if decision called in
Economic and Environmental Well-being
Is the item a matter which is reserved for approval by the City Council?
NO
Press release
NO

REPORT OF THE EXECUTIVE DIRECTOR OF PLACE

REPORT TO CABINET
12 DECEMBER 2012

IMPLEMENTING THE COMMUNITY INFRASTRUCTURE LEVY IN SHEFFIELD

1 SUMMARY

1.1 The Community Infrastructure Levy (CIL) is a new way of securing contributions from developers towards infrastructure provision through the planning system. Cabinet agreed in September 2011 that the Council should work towards implementing a CIL, to ensure that major new development contributes to the provision of infrastructure improvements where viable. To a large degree the CIL will replace previous payments negotiated individually as planning obligations.

1.2 The CIL will help to deliver the City's strategic priorities for infrastructure provision, will be generated by economic growth and reinvested into economic growth and infrastructure. It will be a key funding element of the Sheffield City Region Investment Fund (SCRIF). Successful implementation and investment of CIL funds will make the city more competitive.

1.3 The first stage is to produce a *Preliminary Draft Charging Schedule* setting out the proposed rates that will be charged on new development, and this will be subject to a period of public consultation. The Council then has an opportunity to consider issues raised by respondents before issuing a *Draft Charging Schedule*. This would be subject to a further public consultation with an opportunity for the Council to consider any additional matters raised. Finally, the Draft Charging Schedule must be submitted for independent examination (typically by a Planning Inspector).

1.4 The CIL rates must be based on the ability of development to pay. A Viability Study by independent consultants has provided evidence that some development in the city can afford to pay a CIL charge to help meet identified needs for infrastructure.

1.5 The CIL rates proposed represent a cautious approach to viability through the assumptions used and the inclusion of a 50% margin below the potential maximum affordable charge. There is, however, likely to be a trade-off between the delivery of affordable housing that is not included in the CIL charge and raising income through CIL. High rates of CIL could reduce the amount of affordable housing that developments can provide.

1.6 Cabinet is asked to note the recommendations of the Viability Study and agree that these potential CIL rates are reasonable as a basis for the initial consultation exercise. It is also asked to agree to offer phased CIL payments and CIL relief in exceptional circumstances.

2 WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE

2.1 The Community infrastructure Levy (CIL):

"allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. The money can be used to fund a wide range of infrastructure that is needed as a result of development. This includes new or safer road schemes, flood defences, schools, hospitals and other health and social care facilities, park improvements, green spaces and leisure centres"[1]

2.2 In the medium to long term, CIL will generate more funds for infrastructure than the current situation where contributions are negotiated on an individual basis as developments come forward (through Planning Section 106 (S.106) agreements). From April 2014, the Government is planning to restrict how local authorities use S.106 agreements to secure funding for community infrastructure. If the Council does not have a CIL in place by that time, the projects that can be secured through S.106 will become much more limited. This would affect the Council's ability to raise money for essential infrastructure to support growth.

2.3 The money can be spent where it is most needed though some will be allocated directly to the neighbourhoods where the new development takes place. If the money is not raised it will mean gaps in infrastructure provision that could cause delays in providing for new homes and jobs. The new system would be fairer because all developments would contribute and there is more scope to use the money for strategic schemes, or where it will have the biggest impact.

3 OUTCOME AND SUSTAINABILITY

3.1 The CIL will provide funds that will be used to help deliver infrastructure priorities in Sheffield. These priority projects will help to ensure that the new development the city needs is sustainable by addressing the additional demand that new development places on infrastructure.

4 THE COMMUNITY INFRASTRUCTURE LEVY

Background to the CIL

4.1 Government guidance explains that the purpose of the CIL is to support growth and the money raised can be used to fund the infrastructure needed to serve new development. The levy will be paid by most new development, although it will only be charged on new net additional floorspace and on larger schemes (100 square metres of net additional floorspace or single individual dwellings).

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[1] CIL Overview – Communities and Local Government, 2011
http://www.communities.gov.uk/publications/planningandbuilding/communityinfrastructurelevymay11

4.2 The CIL will largely replace off-site S.106 financial contributions that have previously been negotiated on a site-by-site basis (for example, for open space improvements off-site but in the local area). S.106 will still be used to secure affordable housing, where appropriate, and for on-site mitigation. An amount of CIL will also be required to deliver a 'meaningful proportion' of infrastructure improvements locally but the Government has still to clarify how much this is.

4.3 The Government is committed to CIL – the CLG website states:

"The levy is designed to be fairer, faster and more transparent than the previous system of agreeing planning obligations between local councils and developers under section 106 of the Town and Country Planning Act 1990.

The community infrastructure levy:

- *gives local authorities the freedom to set their own priorities for what the money should be spent on*
- *gives local authorities a predictable funding stream that allows them to plan ahead more effectively*
- *gives developers much more certainty from the start about how much money they will be expected to contribute*
- *makes the system more transparent for local people, as local authorities have to report what they have spent the levy on each year"*[2]

4.4 Many in the development industry have recognised the potential benefits of a CIL - the advantages to developers are:

- less negotiation on planning applications so quicker decisions;
- more certainty on obligations for developers – CIL liabilities can be factored in to development appraisals;
- CIL is a common approach across all authorities;
- CIL payments are proportionate to the scale of development so are fairer and more related to the ability to pay.

4.5 Cabinet have previously agreed in principle to the setting of a CIL.[3] A key stage in the process is to determine whether development would still be viable if it had to pay a CIL charge.

The CIL Viability Study

4.6 The key to deciding the level of CIL is the overall impact on the viability of development, i.e. what can reasonably be afforded without making schemes unviable. A report by independent consultants indicates that development on certain types of sites and in certain parts of the city would be sufficiently viable to justify a CIL charge for some uses.

[2] GOV.UK Website - https://www.gov.uk/government/policies/giving-communities-more-power-in-planning-local-development/supporting-pages/community-infrastructure-levy
[3] Sheffield City Council Cabinet Meeting 28 September 2011 - http://meetings.sheffield.gov.uk/council-meetings/cabinet/agendas-2011/agenda-28th-september-2011

Assumptions Used to Assess Viability

4.7 Some consultation on a potential CIL has already taken place. A stakeholder workshop session was held where local landowners, developers and agents were invited to contribute to the assumptions used as inputs to the appraisal model. This enabled them have an input to the viability work and to 'reality-check' the assumptions and the resulting proposed CIL rates. Members of the Development Forum, Agents Forum and other businesses registered as statutory planning consultees were all invited to this event.

4.8 The viability report has found that the potential for residential schemes to make CIL contributions varies particularly depending on the location and the current use of the site. The viability of non-residential schemes depends mainly on the value of the end use proposed. Government guidance requires that charging authorities do not set their CIL at the margins of viability, so a 50% buffer was applied to the maximum potential rates to give discounted rates that we are proposing to consult on.

4.9 The recommended rates allow for the provision of other planning policy requirements. As well as CIL, housing developers will still be expected to contribute to affordable housing. This has been factored in to the appraisals used in the viability assessments.

Results of the Viability Study

4.10 CIL rates have to be set based on the viability of development. The proposal is to adopt multiple rates that vary by housing market area and end use, rather than a single rate across all development in all areas. This is in line with the recommendations of the Viability Study and other evidence. There would be nil rates for some commercial uses but all housing areas would pay at least a nominal rate.

4.11 The broad findings for uses are:

- Residential uses are viable to pay a CIL charge in all areas (albeit marginally in some areas). Rates would be highest in the south-west of the city, with lower rates in the north-west, south-east, south and City Centre. The lowest rates would be in the north and east of the city, areas that are more marginal at the current time;
- Student housing is sufficiently viable in all areas;
- Hotels are sufficiently viable in all areas;
- Offices and Industry are not sufficiently viable in any areas;
- Certain types of retail and leisure uses in certain locations are sufficiently viable;
- Community buildings are not sufficiently viable.

4.12 The recommended rates for consultation are shown in the table in paragraph 7.2.

The Likely Impact of CIL on Development

4.13 The Viability Study suggests that the proposed CIL rates would typically amount to between one and two percent of the total costs of any new development, and our own research supports this conclusion. Our evidence also suggests that these proposed rates would generally be lower on major schemes than current S.106 payments. This is because CIL will be paid by more developments so the cost will be spread around (smaller schemes below the affordable housing and open space contribution thresholds do not normally make any financial contribution at all, due to the cost and time involved in drafting a S.106 agreement). Currently, less than 2% of planning applications involve a S.106 payment – this proportion will be many times higher under CIL.

4.14 The rates represent a cautious approach to ensuring the right balance between achieving a reasonable CIL income and not putting overall viability at risk. The inclusion of a 50% margin below maximum potential rates, plus a cautious approach to assumptions will ensure this is the case.

4.15 We have compared our proposed rates with other local authorities, including Leeds and Newcastle, and concluded that they are consistent. No competitive disadvantage would result although, as stated earlier, proposed CIL rates have to be based only on the viability evidence available, not on comparisons with other areas.

Potential Scale of CIL Income

4.16 Using the suggested rates in paragraph 7.2 could give an income of up to £4 million per year once the system is effectively up and running and CIL income is routinely collected (2017 onwards). This assumes that the market recovers and all the sites identified do come forward.

What will be Different? - Comparison with Section 106 Funding

4.17 The ability to negotiate planning obligations under S.106 has been limited as part of the CIL legislation. They may be negotiated only where the infrastructure would be:

- necessary to make the development acceptable in policy terms
- directly related to the development
- fairly and reasonably related in kind and scale to the development.

4.18 From April 2014 S.106 will be further restricted, limiting to five the number of contributions that may be pooled to pay for an infrastructure project. In other words, S106 may be used for infrastructure relating to the development itself but not for making contributions towards infrastructure that is less directly related to the contributing developments, as this is what the CIL has been introduced for.

4.19 S.106 payments have to be related to the development taking place, so they are more restricted in what they can be spent on. The majority of an individual CIL payment can be spent in any location and on any scheme that is a priority, so it can be pooled without restriction and investment targeted on strategic priorities and outcomes.

4.20 Over the period since 1994, S.106 receipts have averaged around £1 million a year. The annual receipts rose steadily to a peak of £3m in 2006, so that over the last 10 years the average has been £1.5m/year. By far the largest share of the money was open space contributions.

4.21 CIL has the potential to exceed S.106 due to more development paying and the fact that it will not be discretionary. In the long term, once a CIL has become established, the charge will result in a modest reduction in land values and individual developments will be more able to absorb the charge.

The Need for CIL to Fund Infrastructure

4.22 Work by the Corporate Infrastructure Working Group has identified significant infrastructure needs, as there are substantial gaps in provision for new development that are not otherwise funded.

4.23 We are not required at this stage to produce any great detail on infrastructure needs other than to demonstrate a funding gap in general terms. Work on the Infrastructure Delivery Plan will focus on the specific projects that are likely to be priorities for future CIL funding. These will be the types of schemes set out in paragraph 2.1. An Infrastructure Needs Assessment has already identified a list of schemes that have funding gaps totalling many millions of pounds.

Legal Implications and the Timetable for Implementing CIL

4.24 Setting up a CIL has to be done through legislation that was made in 2010[4], amended in 2011[5] and will be subject to some further amendments. Once the Preliminary Draft Charging Schedule has been approved by Cabinet and published for consultation, the next stage will be to prepare the Draft Charging Schedule, which will be submitted for public examination. Future stages are:

- Amendments in response to consultation on the Preliminary Draft Charging Schedule
- Revised documentation - a Draft Charging Schedule and supporting evidence
- Report to Cabinet and, if necessary, Full Council
- Submission to an independent Examiner
- Hearings (likely to be up to 1 day) or examination through written representations (i.e. no hearing)
- A Final Report
- Report to Cabinet
- Adoption (April 2014).

[4] http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents
[5] http://www.legislation.gov.uk/uksi/2011/987/made

Financial Implications

4.25 It is expected that, once established, there will be additional income from a CIL when compared with the current S.106 process (see paragraphs 4.16 to 4.21 above).

4.26 The Council has already incurred costs relating to CIL through officer time and commissioning the Viability Study. These operating costs will continue to be incurred as we work towards implementation of the CIL and we will also likely to incur operational costs once CIL is adopted. However, the CIL regulations allow for up to 5% of CIL revenue to be claimed by the Council to cover these costs. We will seek to reduce the amount of CIL revenue used to cover the administration costs as far as possible in order to direct funding at infrastructure provision. Allocation of funding, revenue recovery and prioritisation of schemes will be undertaken through the Council's capital approval governance arrangements.

Property Implications

4.27 The CIL would be chargeable on all new development, including buildings funded or constructed by or on behalf of the Council.

4.28 CIL receipts could be eligible to be spent by the Council on new buildings or structures where they are defined as infrastructure and are identified as a priority for CIL spending.

Equality of Opportunity Implications

4.29 The main benefits of CIL have been set out previously in Section 2. Many of the infrastructure projects that a CIL would help to deliver would benefit those reliant on public services such as state schools and public transport, as well as those living in areas where air quality is poor, for example. For this reason, CIL is considered to offer potential benefits to poorer residents and communities in Sheffield, so will have a positive equality impact.

5 ALTERNATIVE OPTIONS CONSIDERED

5.1 One option is not to implement a CIL, as it is not compulsory. Wolverhampton and Doncaster have decided not to implement a CIL at present. But most councils are working on a CIL because funding for essential infrastructure is not otherwise available (60 authorities have already published a Preliminary Draft Charging Schedule).

5.2 If implemented, the Council has the option to set either a single or multiple rate CIL. A single rate would be where all development in all areas pays the same amount per square metre. This would have the advantage of simplicity. However, as the rate has to be based on viability, multiple rates may be appropriate to reflect variations in the viability of different types of development and different locations. The Viability Study has recommended multiple rates due to significant variations in viability across different uses and areas. A multiple rate is likely to raise more total CIL revenue and better reflects the actual viability of individual developments.

6 REASONS FOR RECOMMENDATIONS

6.1 The CIL will help to deliver the City's strategic priorities for infrastructure provision, will be generated by economic growth and reinvested into economic growth and infrastructure. It will be a key funding element of the Sheffield City Region Investment Fund (SCRIF). Successful implementation and investment of CIL funds will make the city more competitive.

6.2 The first stage in adopting a CIL is to produce a *Preliminary Draft Charging Schedule* setting out the proposed rates that will be charged on new development, and this will be subject to a period of public consultation.

6.3 The recommended CIL rates are based on the ability of development to pay. The Viability Study has provided evidence that some development in the city can afford to pay a CIL charge to help meet identified needs for infrastructure.

6.4 The CIL rates proposed represent a cautious approach to viability through the assumptions used and the inclusion of a 50% margin below the potential maximum affordable charge.

7 RECOMMENDATIONS

CIL Rates

It is recommended that Cabinet:

7.1 Agrees to publish a Preliminary Draft Charging Schedule for public consultation;

7.2 Agrees that the Council proposes a multiple rate CIL, to include a 'buffer', to deal with uncertainties in assessing future viability equating to 50% of the calculated 'margin' that could make a CIL contribution. The proposed rates are:

Proposed CIL Rates

Development type	Suggested CIL rates (£/sq.m.)			
Residential	North and East HMR Areas,	North-west urban, South-east, Stocksbridge & Deepcar	South HMR Area, City Centre West, North, North-west rural and City Centre	South-west
	£20	£30	£50	£100
Student Housing	£50			
Hotel	£45			
Prime Retail Area (City Centre and Meadowhall)	£60			
Retail warehouse/ superstores, car showrooms and out-of-town D2 leisure	£60			
All other uses	Nil			

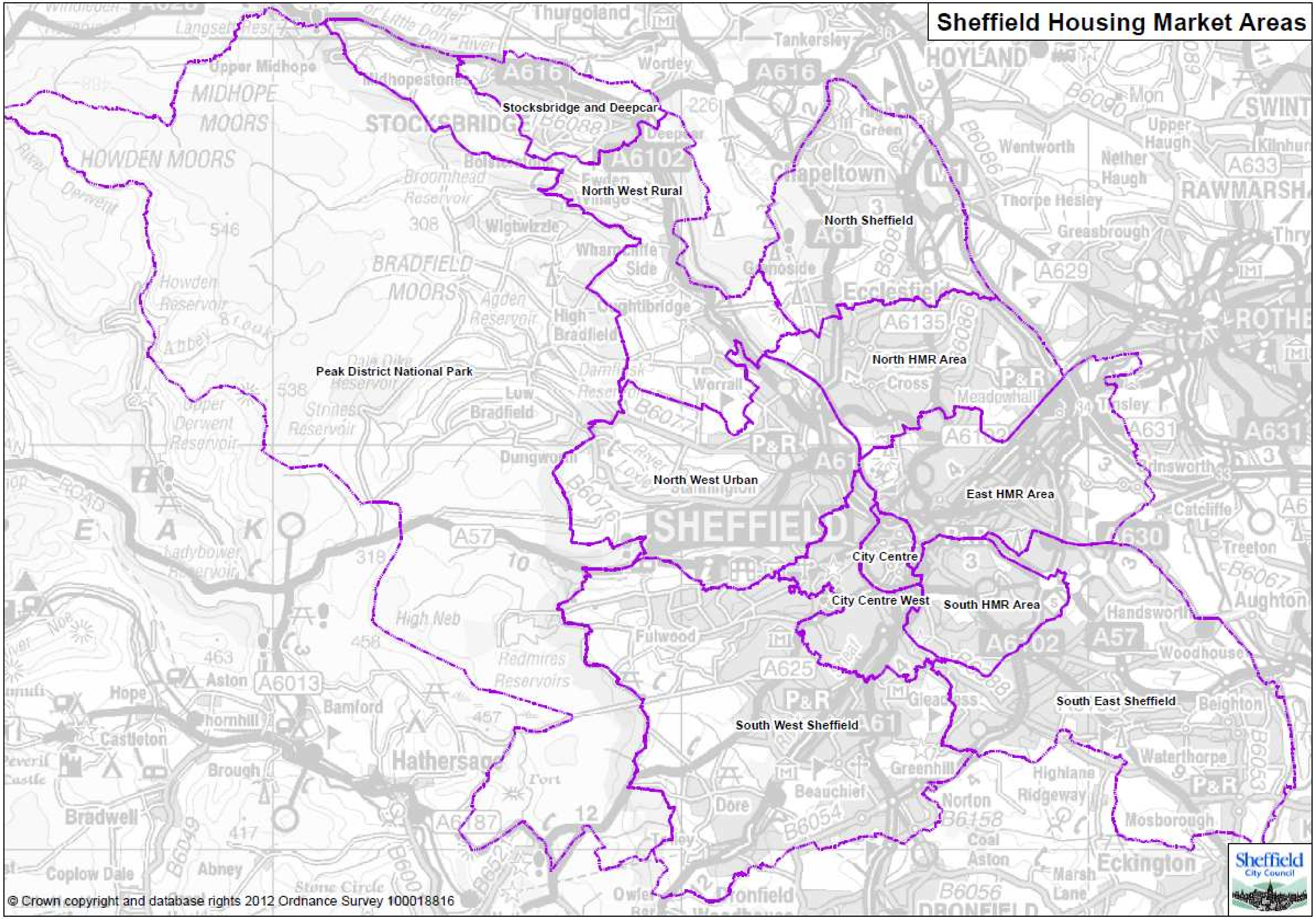
CIL Implementation

It is also recommended that Cabinet agrees that the Council:

7.3 includes an option in the Charging Schedule to allow for relief to be offered in exceptional circumstances;

7.4 offers payment of CIL in instalments as a matter of course, as assumed in the viability study.

APPENDIX 1 - SHEFFIELD HOUSING MARKET AREAS



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