WATFORD COMMUNITY INFRASTRUCTURE LEVY

GUIDANCE NOTES FOR APPLICANTS

April 2015

Contents

Watford Community Infrastructure Levy Guidance Notes for Applicants

Introduction

1.1 After approval by an independent Examiner and Full Council the Watford Community Infrastructure Levy (CIL) Charging Schedule was approved on the 19th November 2014, to be implemented on the 1st April 2015. Planning applications **determined** on or after the 1st April 2015 may therefore be subject to CIL.

1.2 This Guide provides information on a range of issues relating to the Watford CIL including what development will be liable/exempt, how payment will be calculated and when and how it will be collected.

What is CIL?

2.1 The Community Infrastructure Levy is a new levy that local authorities can choose to charge on new developments in their area. The money received from the levy can be used to support and manage the impacts of development by funding infrastructure that the Council, local community and neighbourhoods want - for example road improvement schemes, open space improvements or new schools.

2.2 The document setting out the rates at which a levy will be charged and the associated arrangements is called the "Charging Schedule". In developing the Charging Schedule the Council has produced evidence of infrastructure needs across the district and the viability of various types and sizes of development. The rates proposed and the evidence underpinning these have been subject to two rounds of public consultation and a public examination by an independent government inspector, held in July 2014, with the Charging Schedule being subsequently approved by Full Council in November 2014.

Development will potentially be liable for CIL if it:

- Involves new build of at least 100m^2 gross internal area (GIA) floorspace; or

- Involves new build of less than 100m^2 GIA floorspace and the creation of one or more dwellings.

- Involves change of use to residential where the existing floorspace has not been in continuous use for at least 6 months in the previous 3 years on the day planning permission is granted

- Involves development permitted by a 'general consent' (including permitted development) commenced on or after 1st April 2015.

Development will potentially not be liable for CIL or not be charged if it:

- Is for a use which has a nil charge (£0/m^2) set out in the Watford Borough Council CIL Charging Schedule.

- Involves only change of use, conversion or subdivision of, or creation of mezzanine floors, to non residential use.

- Is for a building into which people do not normally go, or go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

- Is for social housing and a claim for social housing relief is made and accepted before development commences.

- Is for and occupied by a charity for charitable purposes and a claim for charitable relief is made and accepted before development commences;

- Is for a self-build new home, extension or residential annexe and a relief claim is submitted and accepted before development commences.

2.3 Please see the Watford CIL Charging Schedule on the Council's website for details of the proposed charges in the Borough – http://www.watford.gov.uk/cil

2.4 Relevant information including the Regulations and DCLG information documents are available via the below links

CIL Regulations 2010 (as amended).

CIL Regulations 2011

CIL Regulations 2012

CIL Regulations 2013

CIL Regulations 2014

DCLG CIL Guidance on the Planning Practice Guidance website

CIL Forms on the Planning Portal website

When will developments be liable to pay CIL?

Will a development be liable to pay CIL if planning permission is granted before a CIL Charging Schedule is published?

No. There is no CIL liability for a planning permission if that planning permission was granted before the 1st April 2015

Will a development be liable to pay CIL if there was a resolution to grant planning permission (e.g. subject to a S106 agreement or call-in) before, but the formal 1st April 2015 grant of planning permission is made after 1st April 2015?

Yes. If a resolution to grant planning permission (e.g. subject to a S106 agreement or call-in) before 1st April 2015, but the formal grant of permission was made after 1st April 2015, it would be liable to pay CIL.

This is because any resolution to grant planning permission by the Council does not formally grant planning permission as a decision notice cannot be issued until, for example, a S106 agreement has been signed, where required.

CIL Regulation 123 prevents s106 planning obligations being entered into for infrastructure being funded by CIL after the Charging Schedule takes effect (1st April 2015). Consequently, permissions granted subject to signing a satisfactory section 106 agreement and continuing section 106 negotiations on undetermined applications will be overtaken by CIL if they are not concluded and the planning permission issued before 1st April 2015. Section 106 agreements that contain obligations for affordable housing or other infrastructure projects that the Council has stated it will not be funding through CIL will be concluded/secured alongside CIL.

Will a development be liable to pay CIL if there was an outline planning permission before 1st April 2015, but the approval of reserved matters / phases is made after 1st April 2015?

No. If outline planning permission is granted before 1st April 2015, but the approval of reserved matters / phases is made after 1st April 2015, the approval of reserved matters / phases does not trigger a liability to pay CIL.

However, if the outline planning permission is granted after 1st April 2015, followed by the approval of reserved matters / phases at a later date, the approval of reserved matters / phases does trigger a new liability to pay CIL.

Will a development be liable to pay CIL if there was a full planning permission before 1st April 2015, but the approval of pre-commencement conditions is made after 1st April 2015.

No. If full planning permission is granted before 1st April 2015 but the approval of pre-commencement conditions is made after 1st April 2015, the approval of pre-commencement conditions does not trigger a liability to pay CIL.

Will a development be liable to pay CIL if there was a refusal of planning permission before 1st April 2015, but an approval of planning permission on appeal is made after 1st April 2015?

Yes. If planning permission was refused before 1st April 2015, but a grant of planning permission was made on appeal after 1st April 2015, the development granted planning permission on appeal is liable to pay CIL.

Will a development be liable to pay CIL if there was a planning permission before 1st April 2015, but an approval of a S73 application to vary or remove conditions of that planning permission is made after 1st April 2015?

Yes. If full planning permission is granted before publication of a CIL Charging Schedule, but an approval of a S73 application to vary or remove conditions is made after publication of the CIL Charging Schedule, the approval does trigger a liability to pay CIL because it results in a new planning permission.

However the CIL (Amendment) Regulations 2012 confirm that although a new CIL liability is triggered, the new additional chargeable amount is equal only to the net increase in the chargeable amount arising from the original planning permission, so as to avoid double counting of liability.

How will CIL be charged?

3.1 Any new build – that is a new building or an extension – is only liable for CIL if it has 100 square metres, or more, of gross internal floor space, or involves the creation of additional dwellings, even when that is below 100 square metres.

3.2 Whilst any new build over this size will be subject to CIL, the gross floorspace of any existing buildings on the site that are going to be demolished or re-used will be deducted from the final liability. After these deductions the net additional floorspace will be chargeable (even if this totals under 100sqm).

3.3 A change of use to one or more residential units will be liable for CIL if the floorspace involved has not been in lawful use for continuous period of 6 months in the previous 3 years on the day planning permission is granted.

3.4 Developments which only include mezzanine floor developments (inserting a new floor in an existing building), subdivision of a dwelling into two or more dwellings and changes of use that do not involve additional new build floorspace (apart from residential) are not liable for the Levy, as clarified by Regulations 4 and 7 in the CIL (Amendment) Regulations 2011.

3.5 Applicants must complete CIL Form 0 ‘Planning Application Additional Information Requirement’ to provide the necessary declaration that existing buildings on the site are “in use” and therefore eligible to be deducted from their liability. Please note if we do not receive a completed form, under CIL Regulation 40(9) we will assume that any existing buildings on the site have zero floorspace deductable for CIL purposes.

3.6 Where there are eligible existing buildings, the Chargeable Development (A) is calculated using the CIL formula (Regulation 40). This formula apportions the floorspace that is being demolished between the different levy rates.

3.7 Buildings that have not been in continuous use for at least 6 months in the previous 3 years prior to the date the planning permission first permits the chargeable development cannot be taken into account.

Example CIL Scenarios

Current site	Proposed Development	CIL Liable	Chargeable area
Cleared building site	90 sq m new residential dwelling	✓	90 sq m
Single dwelling – in use	Single dwelling with a 25 sq m extension	✗	Not liable as under 100 sq m new build and does not create a new dwelling
Single dwelling – in use	Single dwelling (currently 100 sq m) with a 125 sq m extension	✓	125 sq m
Cleared building site	2000 sq m residential, including 40% affordable housing (800 sq m)	✓	1200 sq m NB: the affordable housing relief (800 sq m) must be applied for and meet certain criteria to be granted
Single dwelling – in use but to be demolished	125 sq m new development 90 sq m original dwelling demolished	✓	35 sq m NB: not exempt as development comprises of one or more dwellings but charge reduced due to original building to be demolished being in use
Single dwelling – not in use and to be demolished	125 sq m new development 90 sq m original dwelling demolished	✓	125 sq m NB: not exempt as development comprises of one or more dwellings and no reduction in charge as original building not in use
Single dwelling – not in use but to be retained	35 sq m new development 90 sq m original retained	✗	Not liable as under 100 sq m new build and does not create a new dwelling (but extends an existing one). NB: Original building not included in calculation as not change of use or to be demolished so does not need permission.
Shop unit – not in use	90 sq m conversion /change of use of unit to residential	✓	90 sq m NB: No exemption even though under 100 sq m as creating new dwelling. As the unit has not been in use, the floorspace is chargeable.
Shop unit – in use	90 sq m conversion /change of use of unit to residential	✓	0 sq m so no charge NB: No exemption even though under 100 sq m as creating new dwelling. However, as the unit has been in use, the floorspace is deductable and so there is no charge in this scenario.

Single dwelling – not in use	90 sq m conversion /change of use of unit to retail unit	✗	Not liable as change of use to non-residential and under 100sqm new development so minor exemption applies. The fact it has not been in use is not relevant in this scenario
4000 sq m offices – in use	4000 sq m conversion of offices to flats	✗	Not liable as existing floorspace converted
3500 sq m business development in use but to be demolished	15000 sq m new residential 5000 sq m new business 3500 sq m original business use demolished	✓	12375 sqm residential 4125 sqm business but as zero rate no charge N.B the demolished amount is apportioned across the whole development e.g. ¾ development residential, ¼ business; therefore, of the 3500 sqm demolished floorspace, 2625 sqm is deducted from residential floorspace and 875 sqm from business

3.8 The CIL Chargeable Area

Floorspace within the chargeable development is measured as gross internal floorspace (GIA) in square metres. This could include:

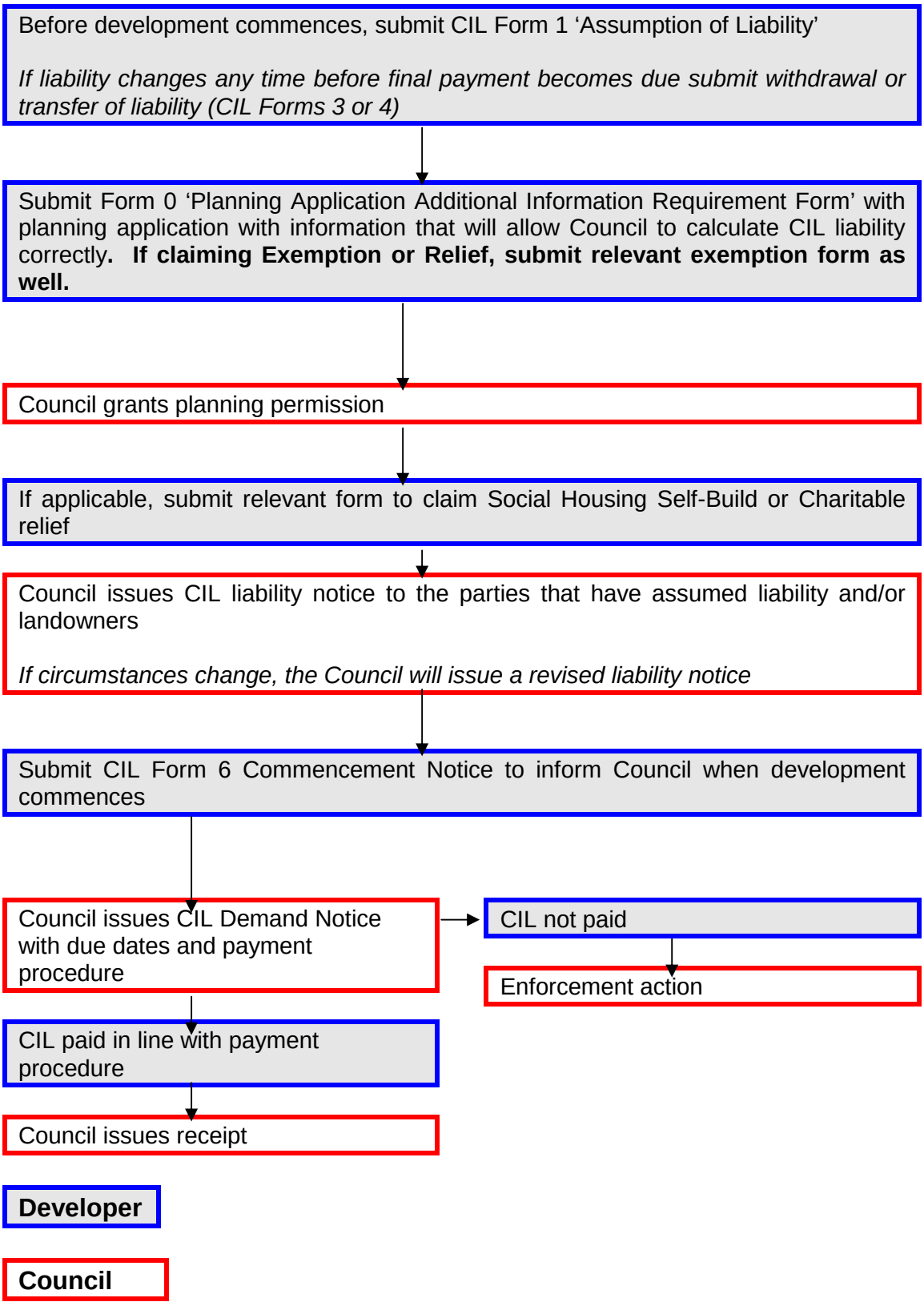
- Areas occupied by internal walls and partitions (e.g. a roof and 3+ walls)
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like
- Atria and entrance halls, with clear height above, measured at base level only
- Internal open-sided balconies, walkways, and the like
- Structural, raked or stepped floors are property to be treated as a level floor measured horizontally
- Horizontal floors, with permanent access, below structural, raked or stepped floors
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies, storage, toilets, lifts)
- Mezzanine floor areas with permanent access (subject to exclusion provided see paragraph 3.4)
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaner's rooms, and the like
- Voids over stairwell
- Loading bays
- Pavement vaults
- Garages and conservatories

When measuring the GIA the following is excluded:

- Perimeter wall thicknesses and external projections
- External open-sided balconies, covered ways and fire escapes
- Canopies and voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores, and the like in residential
- Areas with a headroom of less than 1.5m, except under stairways

3.9 Planning Application and CIL Process

Summary of process (where development is granted planning permission)



Submission of Planning Application (Developer)

4.1 All planning applications involving the construction of new floor space must provide sufficient information to allow the Council to determine whether CIL is liable and, if so, the amount of the charge.

4.2 Therefore when submitting a planning application for a development that may be CIL liable you should submit Form 0 "Planning Application Additional Information Requirement' , to ensure that your CIL liability is calculated accurately. If claiming Exemption or Relief, you also need to submit relevant exemption form.

4.3 These forms as well as all other relevant forms are available to download from the Council's website, at http;//www.watford.gov.uk/cil or from the Planning Portal website, at http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

Assumption of liability (Developer)

4.4 The responsibility to pay CIL runs with the ownership of land on which the liable developer will be situated. However, the Regulations recognise that others involved in a development may wish to pay. To allow this, anyone can come forward and assume liability for the payment.

4.5 It is the responsibility of the person(s) who will pay CIL to serve an Assumption of Liability Notice (CIL Form 1) on the Council prior to the commencement of the development. However the Council recommends that the assumption of liability notice is submitted during the planning application process.

Consequences of not following this procedure

4.7 **Where no one has assumed liability to pay CIL prior to the commencement of the development, the liability will automatically default to the landowners of the relevant land.**

4.8 **The Council has adopted an Instalments Policy which allows payment of CIL liabilities over a longer time period to assist with development cash-flow. Failure by any parties to assume liability prior to commencement will mean the payments become due immediately upon commencement of the development and the instalments policy will not apply.**

4.9 **In addition a surcharge of £50 may be imposed upon each landowner found to be liable and where collecting authorities have to apportion liability between one or more owners of the land a further surcharge of £500 per owner may be imposed.**

Liability Notice (Council) (CIL Reg. 80 and 81)

4.10 When planning permission is granted for a CIL liable development, the Council will issue a Liability Notice alongside the planning Decision Notice. The Liability Notice will specify how much CIL is to be paid and when it is to be paid. The Liability Notice is not a demand for payment. It will be sent to the applicant/owner or other parties that have already assumed liability and copied to planning agents working on applicants/owners behalf.

Commencement Notice (Developer)

4.11 Prior to the development commencing, the Council must be served with a Commencement Notice (CIL Form 6) stating the date when the development will commence.

Consequences of not following this procedure

4.12 **Failure to submit a valid Commencement Notice before development commences may result in the collecting authority imposing a surcharge of 20% of the CIL amount due, up to a maximum of £2,500. In addition payments will not be permitted to be made in line with the Instalments Policy and full payment will be payable immediately.**

Demand Notice (Council)

4.13 The Council will serve a Demand Notice following receipt of a Commencement Notice, or a decision by the collecting authority to deem that the development has commenced. The Demand Notice will set out precise details of payment arrangements including instalment options, which will be payable from the date upon which development commences.

4.14 However if a valid Commencement Notice has not been submitted before development commences, payment will be due in full on the day that the Council believes the development to have commenced.

4.15 If a development takes place in phases, each phase is a separate chargeable development and the payments can be made in line with the Watford CIL Instalments Policy.

Enforcement

Late payment interest

5.1 Failure to pay CIL on time will result in the imposition of late payment interest by the CIL Collecting Authority at 2.5% above the Bank of England base rate.

Late payment surcharge

5.2 Continued failure to pay CIL may result in the CIL Collecting Authority imposing one or more late payment surcharge. Such surcharges will be imposed in the following manner:

- Five per cent of the outstanding amount where payment is still overdue after 30 days, subject to a £200 minimum
- Further five per cent of the outstanding amount where payment is still overdue after six months, subject to a £200 minimum
- Further five per cent of the outstanding amount where payment is still overdue after 12 months, subject to a £200 minimum

The CIL stop notice

5.3 If the Council considers that interest and late payment surcharges will be ineffective in securing payment of the overdue CIL, it may decide to serve a CIL stop notice on the development in question. A CIL stop notice prohibits development from continuing until payment is made. Continuing to develop in the presence of such a notice is a criminal offence, punishable by potentially unlimited fines.

5.4 Before serving a CIL stop notice however, the Council will first issue a warning to the person liable to pay the amount, the land's owners, occupiers and all those who the Council consider will be affected by the notice. It will also post a warning on the site itself. This warning will state that continued non-payment may result in a CIL stop notice being issued. It will also set out the amount overdue and the number of days after which a CIL stop notice may be served if payment continues not to be made. If payment is not made by the end of this period, the Council may serve a stop notice which will prohibit development with immediate effect until payment of the outstanding amount is made.

Distraint on goods (asset seizure)

5.5 The Council may seek a court's consent to seize and sell the assets to recover the money due. These assets may include any land of a liable party held. The Council must send you notice of its intention to do so beforehand.

Committal to prison

5.6 Where a liable party continues to evade paying CIL, the Council can ask a magistrates' court to commit the relevant person(s) to prison for no more than three months. To do this, the Council must be able to demonstrate to the court that it has been unable to recover the CIL amount due by seizing and selling the assets and land of the liable party.

Applications for Charitable Relief or for Social Housing Relief

6.1 Mandatory relief from CIL is available in a number of specific instances

- A charity landowner will benefit from full relief from their portion of the liability where the chargeable development will be used wholly, or mainly for charitable purposes.

- The development is a self-build new home, extension or residential annexe.

- If the chargeable development comprises or is to comprise qualifying social housing (in whole or in part), the social housing element is eligible for relief from liability to pay CIL subject to conditions.

6.2 Claims for relief cannot be made after the development has commenced and are void if the development commences and no **Commencement Notice** has been provided.

6.3 In each case, the claim for relief must be made on the appropriate form and the person making the claim must have assumed liability to pay CIL and be an owner of the land. Claims can be made at any time up to the point where development commences. If no claim has been made, the Council will issue the Liability and Demand Notices showing the full CIL liability in the usual way.

6.4 As soon as possible after receiving the claim, the Council will assess it and notify the claimant of its decision and reasons and the amount of relief they qualify for. DCLG has published guidance *CIL Relief Information Document* to assist. Both the application for relief and the Council's decision and reasons need to be registered/recorded. When the Demand Notice is issued, the amount of relief is shown on the notice.

6.5 If relief is granted and a reduced CIL paid, but within 7 years the development ceases to be used for affordable housing or charitable purposes, the relief is disqualified and the outstanding CIL must be paid.

Reviews and Appeals

7.1 Once a Charging Schedule is adopted, the rate of the levy is non-negotiable and the Council is not required to justify its application on a case-by-case basis. Appeals under the CIL Regulations are overwhelmingly about matters of fact (e.g. did the Council make a

mistake in calculating the liability? Did the development actually commence on such and such a date?).

7.2 The process allows a liable person to request a review of the chargeable amount, which must be done within 28 days from the date on which the liability notice (that outlines the chargeable amount) has been issued. The collecting authority is required to review the calculation and it must be carried out by someone who is senior to the person who made the original calculation, and who had no involvement in that original calculation. A decision must be issued within 14 days, and this decision cannot be reviewed again.

7.3 All appeals must be made using the forms that are published by the Secretary of State available on the Planning Portal.

7.4 The full range of appeals is shown in the table below:

Type of appeal	**Who should appellants contact?**	**Who may appeal, and on what grounds?**	**What time restrictions apply?**
Calculation of chargeable amount (Regulation 114)	First: ask the levy collecting authority for a review, in accordance with the procedures in Regulation 113 Second: appeal to the Valuation Office Agency	The Valuation Office Agency can only accept an appeal from the person who asked the collecting authority to review the chargeable amount under Regulation 113. An appeal to the Valuation Office Agency can only be made on the ground that the chargeable amount has been calculated incorrectly.	Development must not have commenced. The first review to the charging authority must be made within 28 days A subsequent appeal to the Valuation Office Agency must be made within 60 days of the date when the original liability notice was issued. An appeal to the Valuation Office Agency cannot be made until at least 14 days after the collecting authority has been asked for a review.
Apportionment of	First: ask the levy collecting	The appeal can only be made by the 'owner of a	Within 28 days of the date when the demand notice

Type of appeal	Who should appellants contact?	Who may appeal, and on what grounds?	What time restrictions apply?
liability (Regulation 115)	authority for a review Second: appeal to the Valuation Office Agency	material interest' (defined in Regulation 4(2)) in the 'relevant land' (defined in Regulation 2). An appeal to the Valuation Office Agency can only be made against an apportionment of the liability made under Regulation 34.	stating the amount payable by the appellant was issued.
Charitable relief (Regulation 116)	First: ask the levy collecting authority for a review Second: appeal to the Valuation Office Agency	The appeal can only be made by an 'interested person' (defined in Regulation 112(2)(b)). An appeal can be made to the Valuation Office Agency only if it is considered that the collecting authority has incorrectly determined the value of the interest in land used in an apportionment assessment.	Within 28 days of the collecting authority's decision on the claim for charitable relief. Development must not have commenced (see Regulation 7, and section 56(4) of the Town and Country Planning Act 1990, for the definition of 'commencement of development').
Residential annexe exemption (Regulation 116A, inserted by the 2014 Regulations)	Appeals can be lodged directly with the Valuation Office Agency	The appeal can only be made by the person who was granted the exemption. An appeal can be made to the Valuation Office Agency only if it is considered that the collecting authority has incorrectly determined that the annexe is not wholly	Within 28 days of the collecting authority's decision on the claim for an exemption. Development must not have commenced (see Regulation 7, and section 56(4) of the Town and Country Planning

Type of appeal	Who should appellants contact?	Who may appeal, and on what grounds?	What time restrictions apply?
		within the grounds of the main dwelling.	Act 1990, for the definition of 'commencement of development').
Self build exemption (Regulation 116B, inserted by the 2014 Regulations)	Appeals can be lodged directly with the Valuation Office Agency	The appeal can only be made by the person who was granted the exemption for self-build housing , on the grounds that the collecting authority has incorrectly determined the value of the exemption allowed	Within 28 days of the collecting authority's decision on the claim for an exemption. Development must not have commenced (see Regulation 7, and section 56(4) of the Town and Country Planning Act 1990, for the definition of 'commencement of development')
Surcharges (Regulation 117)	Planning Inspectorate	The appeal can be made by a person who is aggrieved at a decision of a collecting authority to impose a surcharge	Within 28 days of the surcharge being imposed
Commencement of development (Regulation 118)	Planning Inspectorate	The appeal can be made by a person on whom a demand notice is served, on the grounds that the date of commencement has been wrongly determined	Within 28 days of the date the demand notice was issued
Issuing of a stop notice (Regulation	Planning Inspectorate	The appeal can be made by a person who is aggrieved at a decision of a collecting	Within 60 days of the date when the stop notice takes

Type of appeal	Who should appellants contact?	Who may appeal, and on what grounds?	What time restrictions apply?
119)		authority to impose a levy stop notice	effect

Calculating the chargeable amount

8.1 The initial Liability Notice will include a calculation of the exact CIL liability at that time. This is done by multiplying the rate of the charge by the net increase in gross internal floor area after allowing for any demolition and adjusting for inflation.

The formula from CIL Regulation 40 is as follows:

$$\text{CIL liability} = \frac{R \times A \times I_p}{I_c}$$

Where:
R = CIL rate for that area / use
A = the net increase in gross internal floor area
I_p = index figure for the year in which planning permission was granted
I_c = index figure for the year in which the Charging Schedule containing rate R took effect

Where any floorspace will be demolished or change of uses will occur, figure A in the above formula for each type of proposed developed is calculated by:

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

Where:
G = the gross internal area of the chargeable development
$\mathbf{G_R}$ = the gross internal area of the part of the chargeable development chargeable at rate R
E = an amount equal to the aggregate of the gross internal areas of all buildings which:
(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
(b) are to be demolished before completion of the chargeable development
$\mathbf{K_R}$ = an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which:

(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use;
(b) will be part of the chargeable development upon completion; and
(c) will be chargeable at rate R.

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

A building is in use if a part of that building has been in use for a continuous period of at least 6 months within the period of 36 months ending on the day planning permission first permits the chargeable development.

9. 1 Worked Examples

Watford Charging Schedule

Type of Development	CIL Rate
Residential	£120 per sqm
Hotel	£120 per sqm
Specialist accommodations for the elderly and/or disabled including Sheltered and Retirement Housing and Nursing homes, Residential Care Homes and Extra Care Accommodation. (This does not include registered, not for profit care homes')(within Use Class C2 and C3).	£120 per sqm
Retail (Class A1 – A5)	£120 per sqm
Retail – Within the Primary Shopping Area (Class A1 – A5)	£55 per sqm
Office	£0 per sqm
Industrial	£0 per sqm
Other uses	£0 per sqm
Major Developed Areas (MDAs)	£0 per sqm

Sui Generis akin to retail includes petrol filling stations; shops selling and/or displaying motor vehicles; retail warehouse clubs.

For these examples it is assumed the RICS 'All-in Tender Price Index' is 219 as at 1st April 2015 and rises to 220 STET, and by 2016 it has risen to 230.

Example 1
Planning permission is granted for 3 new flats with a total GIA of 210sqm. An existing dwelling which is in lawful use of 120sqm will be demolished. The development is not located in an MDA.

After allowing for the demolition, the net increase in floor area is only 90sqm, but as this development is creating new residential dwellings the 100sqm

threshold does not apply. Therefore the CIL liability is £10,800 (90sqm x £120)

The applicants have been unable to implement their permission within the time period and in 2016 a new application is submitted and a new permission is granted.

The floorspace calculation is the same as previously as the plans have not changed. However as several years have passed the rate of CIL will need to be updated to take account of inflation by applying the RICS "all in tender price index".

$$\text{CIL liability} = \frac{R \times A \times Ip}{I_c}$$

Ip is 230
Ic is 219

120 x 90 x 230/219 = £11,342

The new Liability Notice thus shows a liability of £11,342

Example 2
A planning application is submitted for change of use of a small industrial unit to a hot food takeaway (use class A5). No new floorspace is proposed.

In this case there is no CIL liability because only applications which create new floor area may be liable; on its own a change of use does not create a liability nor do shop fronts, advertisements etc. unless a new residential unit is proposed and the floorspace has not been in use for a continuous period of at least 6 months within the previous 36 months

Example 3
Planning application is submitted proposing a development of 5,287 sqm of residential use and 2,531 sqm of B1 office use in the year after the charging Schedule is adopted. (The total floorspace of 3,100sqm is used for figure E in the calculation below).

A total of 1,850 sqm of the residential use will be used as affordable housing

1,800 sqm of existing in use business development will be demolished as well as 1,300 of leisure use.

$$\text{CIL liability} = \frac{R \times A \times Ip}{I_c}$$

Where:
R = CIL rate for that area / use
A = the net increase in gross internal floor area
I_p = index figure for the year in which planning permission was granted

I_c = index figure for the year in which the Charging Schedule containing rate R took effect

CIL rate for residential is £120/sqm

The floorspace that is lost must be apportioned equally between the two proposed uses.

A is calculated by $G_R - K_R - \frac{(G_R \times E)}{G}$

Where:
G = the gross internal area of the chargeable development
G_R = the gross internal area of the part of the chargeable development chargeable at rate R
E = an amount equal to the aggregate of the gross internal areas of all buildings which:
(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
(b) are to be demolished before completion of the chargeable development
K_R = an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which:
(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use;
(b) will be part of the chargeable development upon completion; and
(c) will be chargeable at rate R.

So the residential charge is calculated as follows, where:

G_R =5,287sqm
K_R =0 (all buildings are demolished)
E = 3,100sqm
G = 7,818 sqm

A= 5,287 – 0 – { 5,287 x 3,100 / 7,818 }

= 5,287 – 2,096.40

= 3,190.60sqm

Therefore the CIL liability for the residential element of the proposed development is as follows:

120 x 3,190.6 x 220/219

= £384,620

As B uses have a zero rate in the Watford Charging Schedule there is no liability for that element of the development so the total liability is £384,620.

Social Housing Relief:
Note that even though 1,850 sqm will be used for social housing the full amount of CIL will be shown on the initial Liability Notice when planning permission is granted. Relief can only be granted in response to an application for relief made on the appropriate form – CIL Form 2: Claiming Exemption or Relief.

Following the issuing of planning permission and the Liability Notice (but before the development commences) the developer applies for social housing relief. Their application is assessed and relief is approved for all the social housing units.

The qualifying amount at a given relevant rate (R) must be calculated by applying the following formula

$$\frac{R \times N_R \times I_P}{I_C}$$

where
N_R = the deemed net area chargeable at rate R;
I_P = the index figure for the year in which planning permission was granted; and
I_C = the index figure for the year in which the charging schedule containing rate R took effect.

Where demolition of existing floorspace occurs, this produces a pro rata reduction in the amount of social housing relief. Therefore it is not the case that we simply multiply the floor area of the social housing units (1,850sqm) by the rate of CIL charge (£120sqm) to determine the amount of relief and then deduct this from the total viability calculated before relief was considered to obtain the final liability.

When calculating the amount of relief the net GIA of the social housing units after allowing for demolition is used, just as you can only calculate the total potential liability based on net GIA after allowing for demolition.

The Formula in Regulation 50 is used:

$$Q_R - K_{QR} - \left(\frac{Q_R \times E}{G} \right)$$

Where:
Q_R = the gross internal area of the part of the chargeable development which will comprise the qualifying dwellings, and in respect of which, but for social housing relief, CIL would be chargeable at rate R;
K_{QR} = an amount equal to the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which—

(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use;
(b) will be part of the chargeable development upon completion; and
(c) will be chargeable at rate R but for social housing relief;
E = an amount equal to the aggregate of the gross internal area of all buildings which—
(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
(b) are to be demolished before completion of the chargeable development; and
G = the gross internal area of the chargeable development.";

The calculation of the social housing chargeable area is therefore as follows, where:
Q_R = 1,850 sqm
K_{QR} = 0
E = 3,100sqm
G = 7,818 sqm

1,850 – 0 – (1,850 x 3,100/7,818) = 1,117sqm

The calculation of the relief amount is as follows:
120 x 1,117 x 220 / 219 = £134,652

Subtracting that from the total (pre-relief) amount calculated of £384,620 gives a final liability of £249,968.

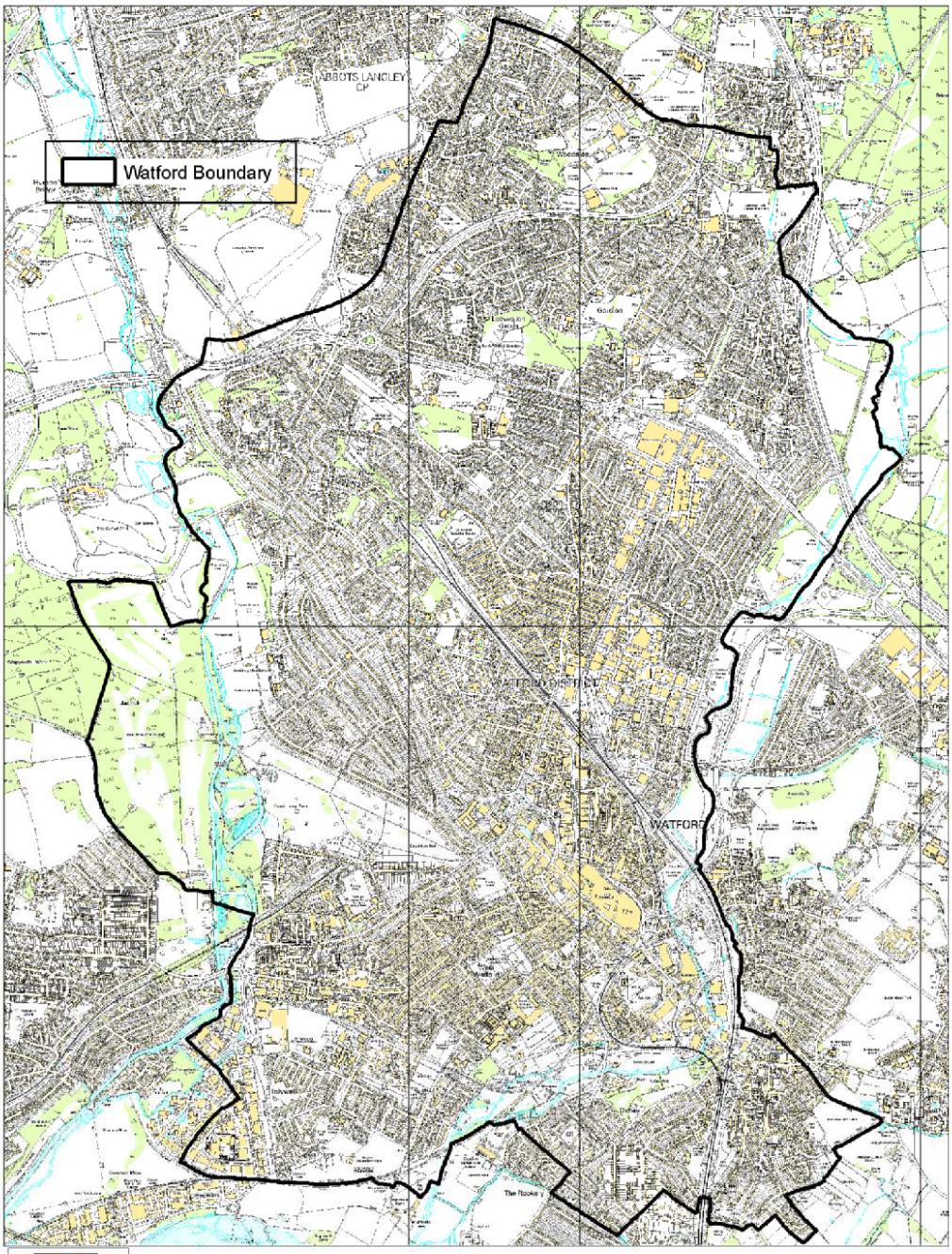
Commencement and Instalments Policy
A Commencement Notice is subsequently received showing commencement on 1st April 2015 and a Demand Notice is issued for £249,968.

The development is subsequently commenced on the nominated date and the CIL is paid in accordance with the Council's Instalments Policy.

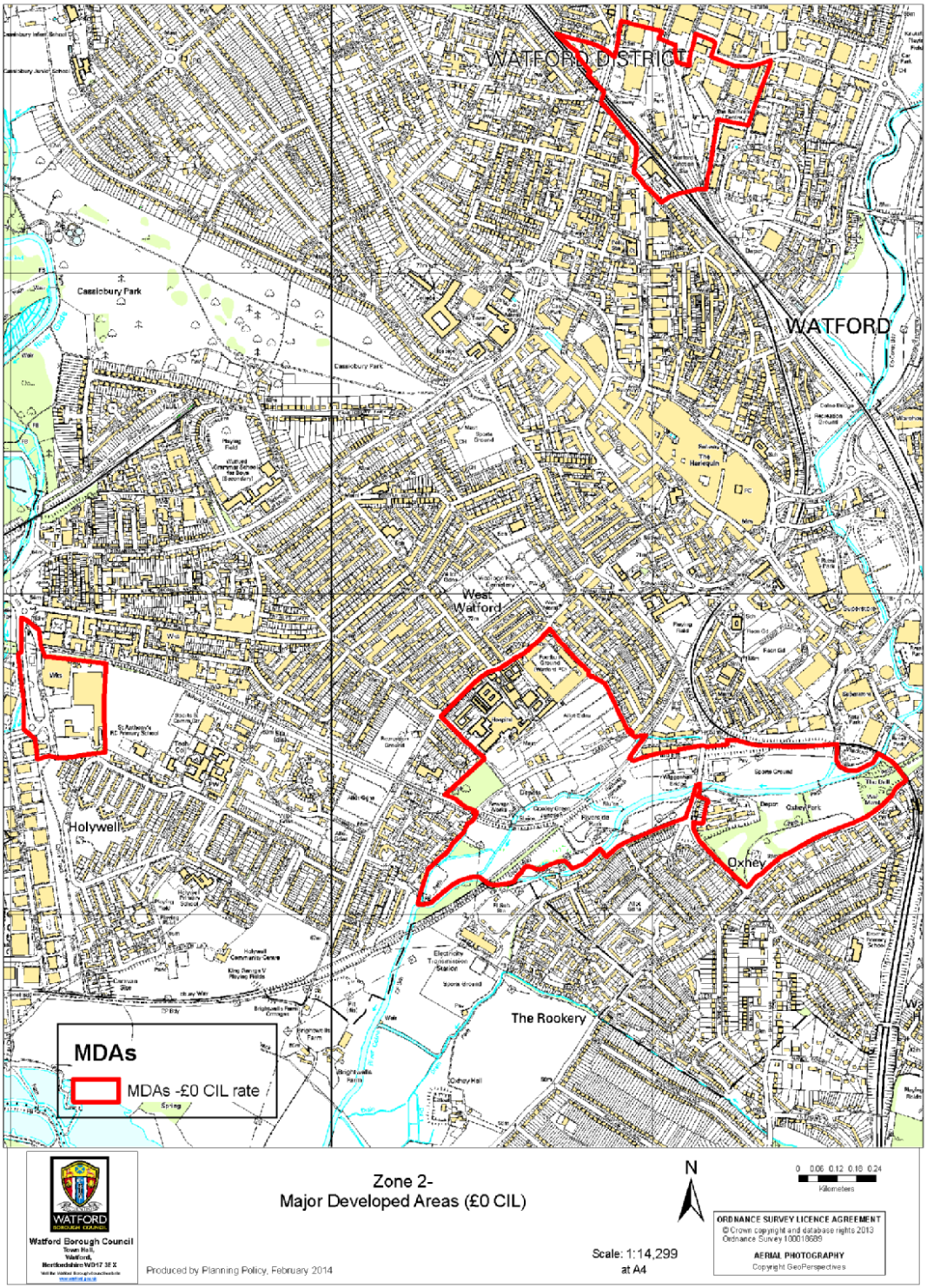
Amount of CIL Liability	**Number of Instalments**	**Payment periods and amount**
Any amount less than £35,000	No Instalments	• 100% payable within 60 days of commencement
Amounts from £35,000 to £100,000	Two Instalments	• 25% payable within 60 days of commencement • 100% payable within 120 days of commencement
Amounts greater than £100,000	Three Instalments	• 25% payable within 60 days of commencement • 50% payable within 120 days of commencement • 100% payable within 360 days of commencement

Annex 1

Community Infrastructure Levy Charging Areas
Zone 1



Zone 2


WATFORD DISTRICT
WATFORD
Cassiobury Park
West Watford
Holywell
Oxhey
The Rookery
MDAs
MDAs -£0 CIL rate
Zone 2-
Major Developed Areas (£0 CIL)
N
Scale: 1:14,299
at A4
Watford Borough Council
Town Hall,
Watford,
Hertfordshire WD17 3EX
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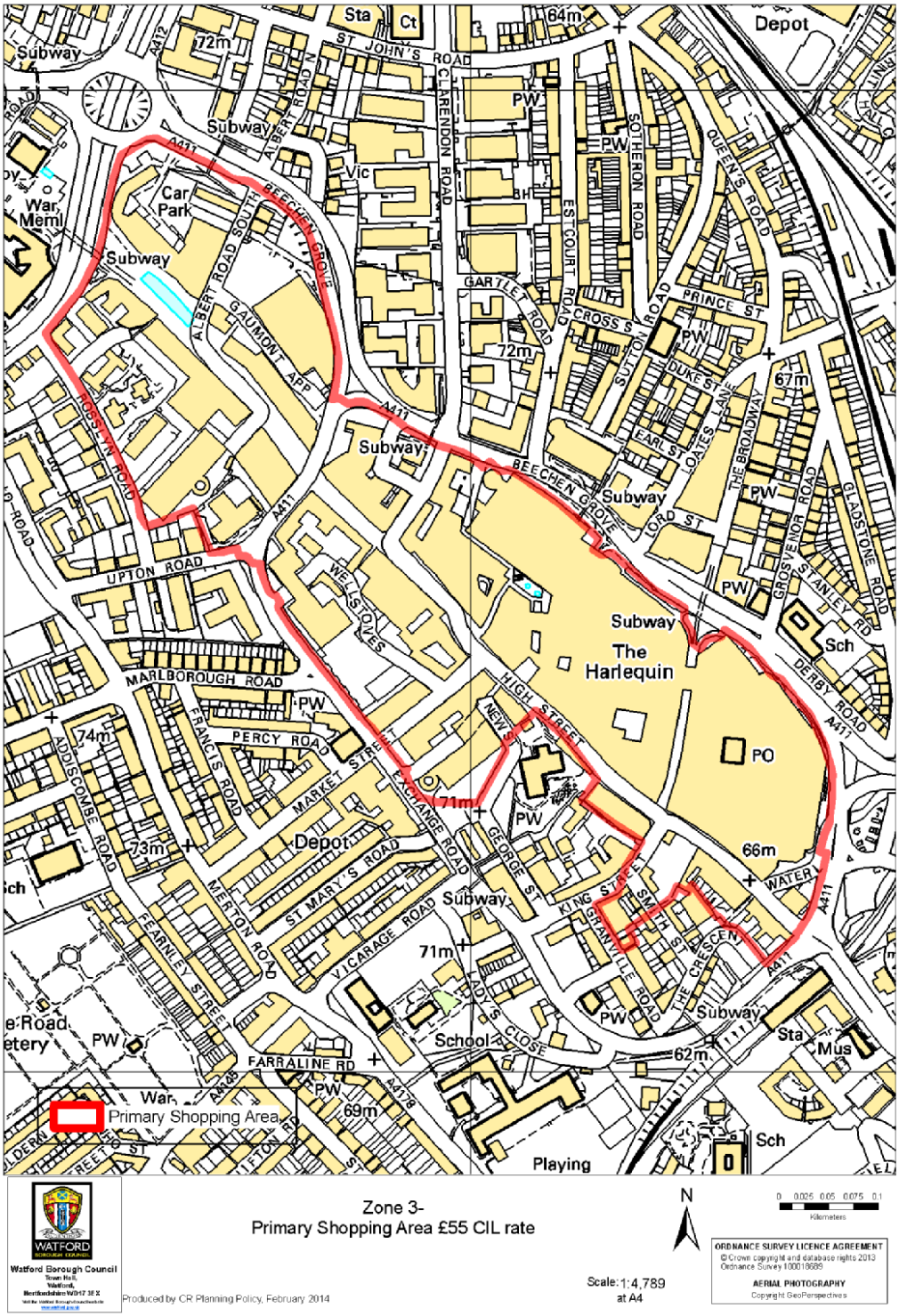
Zone 3


Sta
Ct
64m
Depot
Subway
ST JOHN'S ROAD
72m
A412
CLARENDON ROAD
PW
SOTHERON ROAD
QUEEN'S ROAD
Vic
BH
War Meml
Car Park
ESTCOURT ROAD
GARTLET ROAD
CROSS ST
SUTTON ROAD
PRINCE ST
DUKE ST
67m
ALBERT ROAD SOUTH
BEECHEN GROVE
GAUMONT APP
A411
ROSSLYN ROAD
EARL ST
LOATES LANE
THE BROADWAY
GROSVENOR ROAD
GLADSTONE ROAD
LORD ST
STANLEY RD
UPTON ROAD
WELLSTONES
The Harlequin
Sch
MARLBOROUGH ROAD
HIGH STREET
DERBY ROAD
PO
74m
PERCY ROAD
FRANCIS ROAD
MARKET STREET
EXCHANGE ROAD
71m
ADDISCOMBE ROAD
73m
Depot
ST MARY'S ROAD
GEORGE ST
66m
WATER
KING STREET
SMITH ST
MERTON ROAD
VICARAGE ROAD
THE CRESCENT
FEARNLEY STREET
LADY ST
CLOSE
School
62m
FARRALINE RD
A4008
A4178
69m
Primary Shopping Area
Playing
Mus
Zone 3-
Primary Shopping Area £55 CIL rate
Watford Borough Council
Town Hall,
Watford,
Hertfordshire WD17 3EX
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N
Scale: 1:4,789
at A4
Kilometers
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