



Draft Community Infrastructure Levy Charging Schedule

Consultation

Information Booklet

Brentwood Borough Council

September 2022

1. Introduction

Brentwood Borough Council (BBC) are consulting on the Community Infrastructure Levy (CIL) Draft Charging Schedule. This consultation information booklet presents the draft Charging Schedule, and provides further information on the CIL, the evidence base which has been used to establish proposed levy rates, and how the levy will be implemented in the area.

It is important that developers contribute towards providing for the infrastructure needs that development creates. The introduction of the Community Infrastructure Levy Regulations in 2010 established a mechanism for Councils in England and Wales to raise funds from developers to achieve this.

Local authorities who wish to charge the levy must produce a draft charging schedule setting out CIL rates for their area. There are several stages to the production of a CIL charging schedule. The Council is currently undertaking Regulation 16 public consultation, seeking comments on the draft CIL Charging Schedule.

The Council, as the CIL charging authority, is required to consult with residents, local communities, businesses and stakeholders on the proposed levy rates. The consultation will be followed by an Examination-in-Public of the draft Charging Schedule which will be conducted by an independent examiner prior to the proposed adoption of the CIL Charging Schedule.

2. Responding to the Consultation

Consultation on the Draft Charging Schedule ends at 5pm on 9th November 2022.

Please provide comments on the draft Charging Schedule using the Council's online consultation portal <https://brentwood.oc2.uk/>

Alternatively, a Word copy of the consultation response form is available for completion upon request, for further details please email planning.policy@brentwood.gov.uk

The draft Charging Schedule and all supporting consultation material and evidence base documents are available to view on the Council website and at the Council Offices on request.

For further information, contact the Planning Policy Team directly on 01277312500 or email planning.policy@brentwood.gov.uk

3. What is the Community Infrastructure Levy?

The Community Infrastructure Levy (CIL) is a locally set charge on new development that authorities can choose to introduce across their area. It is based on the size and type of development and once set is mandatory to pay and non-negotiable. The funds raised must be used to provide infrastructure¹ which is required to support new development across the area. Levy rates are set out within a CIL Charging Schedule.

Currently when new development proposals are approved by the Council, it is common for an agreement to be made (known as a planning obligation, section 106 agreement or developer contribution) for developers to either provide new or improved infrastructure, or financial contributions towards the provision of new or improved infrastructure in the area. This could include highways improvements, new or improved parks and play facilities, and services and facilities such as new or improved schools and health facilities.

The CIL will not replace the Council's current methods of obtaining infrastructure and funding through planning obligations. The CIL provides an additional mechanism to obtain financial contributions towards new and improved infrastructure.

The requirements of a local authority, or 'charging authority', in producing a CIL Charging Schedule are set out in the:

- [Planning Act 2008](#) (as amended by the Localism Act 2011)
- [CIL Regulations 2010](#), as amended in 2011, 2012, 2013, 2014, 2015, 2018, 2019, 2020, and 2021
- [Planning Practice Guidance](#)

4. What are the benefits of the CIL?

In comparison to the current approach of collecting developer contributions towards new infrastructure through Section 106 agreements, the CIL provides a simpler and more transparent process to collect funds. There are a range of benefits to an area provided by the introduction of a levy, which are summarised below:

- The CIL collects contributions from a wide range of developments, providing additional funding to allow local authorities to carry out a

¹ For the purposes of CIL, infrastructure is defined at section 216 of the Planning Act 2008 to include roads and other transport facilities, flood defences, schools and other education facilities, medical facilities, sporting and recreation facilities, and open spaces.

range of infrastructure projects that support growth and benefit the local community.

- The CIL gives local authorities greater flexibility to set their own priorities on projects benefitting the wider community affected by development, unlike Section 106 funds which require a direct link between a contributing development and an infrastructure project.
- The CIL provides developers with clarity about the level of contributions which are required from any development and provides transparency for local people.
- The CIL is non-negotiable and therefore does not require the production of complex agreements.
- The CIL is fair, as it relates the contribution required to the size of the development in terms of new floorspace.

5. What development will be liable to pay the levy?

Most buildings that people normally use are liable to pay the levy, whether the proposal is for a new building or an extension which results in 100 sqm or more of net increase in gross internal floor space. Development which is less than 100 sqm but which involves the creation of an additional dwelling will also be liable. The conversion of a building that has not been in use for some time will also be liable for the levy.

The following types of development are not required to pay the levy:

- development of less than 100 square metres, unless this consists of one or more dwelling and does not meet the Government's self-build criteria (see regulation 42 for further details);
- buildings into which people do not normally go;
- buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery;
- structures which are not buildings, such as pylons and wind turbines;
- specified types of development which local authorities have decided should be subject to a 'zero' rate as outlined in the Draft Charging Schedule.

6. CIL exemptions and discretionary relief

The CIL Regulations outline that where relevant criteria are met, the following types of development can be subject to an exemption or relief from paying the levy:

- residential annexes and extensions;
- 'self-build' houses and flats, which are built by 'self-builders';
- social housing that meets the relief criteria set out in regulation 49 or 49A (as amended by the 2014 Regulations);
- charitable development that meets the relief criteria set out in regulations 43 to 48.

The CIL Regulations state that discretionary relief can be made available for 'exceptional circumstances' for specific schemes which cannot afford to pay the levy. The Council can offer this relief through the publication of a notice.

No types of development have currently been identified which should be provided specific relief or exemptions in the Borough beyond the compulsory exemptions identified by Government. The Council does not therefore propose to make Borough specific relief or exemptions within the draft Charging Schedule.

7. How the levy works alongside Section 106 contributions

In September 2019, the restrictions on using five or more section 106 contributions to fund a single infrastructure project was lifted, and greater flexibility was provided in relation to how CIL funding could be used alongside S106 contributions. Charging authorities can now use both CIL and S106 contributions to fund the same infrastructure item.

The Infrastructure Delivery Plan (IDP, see the evidence base documents section below) sets out the key infrastructure projects required in the Borough, and outlines how funding sources will be used to deliver new infrastructure.

It is likely that essential infrastructure items which are directly related to supporting the delivery of new development proposals will continue to be funded through S106 agreements. The CIL will therefore be used in combination with S106 agreements and other funding sources to deliver community infrastructure projects throughout the Borough, and to obtain infrastructure funding from smaller developments where S106 agreements may not usually be produced.

8. How the CIL will be collected

Liability to pay the CIL is triggered by the commencement of the development. Following the adoption of a CIL Charging Schedule, planning applications in the area will be expected to include a completed CIL Information and Liability Form, which will help the Council calculate the CIL liability associated with the development and issue a CIL Demand Notice. The notice will be issued upon the commencement of development

The levy should usually be paid within 60 days of the commencement of development, however to support the financial viability of new development in the area an instalments policy is proposed. An instalments policy allows levy charges over an identified amount to be paid in instalments over a set period of time. The Council is considering introducing an instalments policy and is seeking views on the proposed approach set out below.

Proposed CIL Instalments Policy

Overall CIL liability	Payment instalments
£20,000 or less	Payment in full within 240 days
£20,000 - £50,000	50% paid within 360 days Further 50% paid within 540 days
£100,000 - £500,000	10% paid within 270 days Further 15% paid within 540 days Further 25% paid within 720 days Remaining 50% paid within 900 days
£500,000 or more	Agreement of project specific payment schedule

9. Evidence base documents

CIL Viability Assessment Update (August 2022)

To inform the production of the CIL Charging Schedule, the Council commissioned HDH Planning and Development to conduct a CIL Viability Assessment. The assessment considers the impact of a CIL charge, in addition to normal development costs and policy and infrastructure requirements outlined within the adopted Brentwood Local Plan 2016-2033, on the financial viability of new development in the area.

The CIL rates proposed in the draft Charging Schedule are based on the conclusions of the CIL Viability Assessment Update. The Assessment tested different

development types and CIL rate scenarios. Evidence was collected from a variety of sources including questionnaire surveys with local, regional and national housing developers and registered providers operating within the Brentwood area. Stakeholder consultation sought views on the assumptions used within the CIL Viability Assessment. The testing examined the effects of different CIL rates and took account of the impact on development viability of other policy costs faced by development, including other planning obligation costs and the cumulative impact of emerging Local Plan policies.

Infrastructure Delivery Plan

The Infrastructure Delivery Plan (IDP) version 3 was produced in 2019 and considers the key infrastructure requirements necessary to support the proposed development and growth across the Borough. It covers a wide range of infrastructure types, outlining the baseline position of infrastructure provision in the Borough. The IDP helps to identify the need for new and improved infrastructure in the Borough, and sets out the extent of the infrastructure funding gap in the area.

10. The need for a CIL

The Planning Practice Guidance² states that a Council intending to introduce a CIL *'should focus on providing evidence of an aggregate funding gap that demonstrates the need to put in place the levy. Any significant funding gap should be considered sufficient evidence of the desirability of CIL funding, where other funding sources are not confirmed'*.

The IDP identified a significant infrastructure funding gap in the area. Based on the assessment of infrastructure needs, costs and funding, there is currently an infrastructure funding gap in the Borough of around £50.4 million³.

Revenue from CIL is not expected to bridge the funding gap entirely, but it is expected to have a significant impact on available finances to enable Brentwood Borough Council to support the delivery of new and improved infrastructure.

² PPG Paragraph: 017 Reference ID: 25-017-20190901

³ See IDP section B - Schedule

11. Proposed CIL rates

The draft Charging Schedule for Brentwood Borough Council proposes the following levy rates:

Development type		CIL rate per m ²
Residential	Brentwood Local Plan ⁽¹⁾ Strategic Residential-led and Mixed Use Allocations ⁽²⁾ : R01, Dunton Hills Garden Village R02, Land at West Horndon Industrial Estate R03, Land North of Shenfield ⁽³⁾	£0 £25 £150
	All other areas	£250
	Older people's housing ⁽⁴⁾	£220
Retail	General ⁽⁵⁾ retail: In Brentwood Town Centre High Street ⁽⁶⁾ In all other areas	£340 £80
	Supermarket ⁽⁷⁾	£260
	Retail warehouse ⁽⁸⁾	£160
	Industrial	Located on: Greenfield land Brownfield land
Distribution and logistics ⁽⁹⁾		£140
All other development		£0

Notes

- (1) Brentwood Local Plan 2016-2033, adopted March 2022.
- (2) The location and boundary of the sites are presented in the CIL Variable Rates Map 1 below.
- (3) Site referred to within the CIL Viability Assessment Update (August 2022) as Officer's Meadows.
- (4) Older people's housing is defined as:
 - Retirement living or sheltered housing: This usually consists of purpose-built flats or bungalows with limited communal facilities such as a lounge, laundry room and guest room. It does not generally provide care services, but provides some support to enable residents to live independently. This can include 24 hour on-site assistance (alarm) and a warden or house manager.
 - Extra care housing or housing-with-care: This usually consists of purpose-built or adapted flats or bungalows with a medium to high level of care available if required, through an onsite care agency registered through the Care Quality Commission (CQC). Residents are able to live independently with 24 hour access to support services and staff, and meals are also available. There are often extensive communal areas, such as space to socialise or a wellbeing centre. In some cases, these developments are known as retirement communities or villages – the intention is for residents to benefit from varying levels of care as time progresses.

- (5) All retail development which is not a supermarket or retail warehouse as defined below.
- (6) Retail within the areas of the Brentwood Town Centre High Street Primary Shopping Area identified in the CIL Variable Rates Map 2 below.
- (7) Defined as retail selling predominantly convenience goods in premises of 1,000m² or more, offering a shopping destination in their own right where weekly food shopping needs are met. Supermarkets can also include non-food floorspace as part of the overall mix.
- (8) Defined as retail selling predominantly comparison goods (such as carpets, furniture, electrical goods, DIY items) in large premises of 2,000m² or more.
- (9) Uses within the Use Classes Order Class B8 storage and distribution.

12. Determining the proposed rates

The CIL Viability Assessment Update uses the Residual Value methodology as set out in the Harman Guidance⁴ to determine the levy rates which could be applied to new development in the area without putting at risk the financial viability of new development. The residual value is calculated by removing the development costs (including profit, construction, fees, finance etc) from the gross development value. The Viability Assessment considers additional profits which could be achievable from development in the area, the inclusion of a 'buffer' or margin to account for changing economic circumstances, the potential for land prices to depress following the imposition of a CIL rate, and the potential extent of levy payments as a proportion of the gross development value of a scheme.

Based on the identified development costs and gross development value of strategic residential-led and mixed use allocations within the Brentwood Local Plan, these sites were recommended alternative CIL rates to residential development in all other areas of the Borough. The draft CIL Charging Schedule presents a range of other development types where the development costs and gross development values tested within the Viability Assessment resulted in alternative CIL rates being proposed. The differing rates therefore ensure that new development in the Borough remains financially viable following the imposition of a levy.

⁴ Viability Testing in Local Plans – Advice for planning practitioners, LGA/HBF, Sir John Harman, June 2012

13. Next steps

Following the conclusion of this Regulation 16 consultation, the Council will review consultation representations and amend the draft Charging Schedule and supporting evidence base documents where necessary. The Council then intends to submit the revised draft Charging Schedule for an Examination in Public.

An Independent Examiner will be appointed to conduct the examination process. During the examination, members of the public can offer their views through hearings or written representations. The examiner will place their recommendations in a report, and will recommend either approval, rejection, or approval with specified modifications to the Charging Schedule.

Following the approval of the Charging Schedule, Levy rates on new development will apply once the Council has formally published the adopted Charging Schedule.

