



Watford Borough Council

Community Infrastructure Levy

**Draft Charging Schedule
Background Info**

February 2014

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1 How to get involved

The Draft Charging Schedule (DCS) is available for consultation between 17th February and 31st March 2014.

To comment on the Draft Charging Schedule document the Council would prefer you to respond electronically by using the following link to our planning consultation portal:

www.ldf.watford.gov.uk/portal/ldf/cil

but you may also comment via email to strategy@watford.gov.uk

Paper copies of the DCS are available to view at the Council Offices (Town Hall), Watford Central and North Watford libraries.

What happens next?

The council's timetable for progressing the CIL Charging Schedule to adoption is as follows:

Stage	Timetable
Consultation on Preliminary Draft CIL Charging Schedule	March 2013 – April 2013
Consultation on Draft CIL Charging Schedule	February- March 2014
Independent Examination and receipt of Inspector's report	Autumn 2014
Adoption of Charging Schedule	Spring 2015

What will the CIL consist of when adopted?

Upon adoption Watford Borough Council's Charging Schedule will comprise of the following documents;

- Charging schedule – document setting out the proposed levy rates for CIL in Watford
- Infrastructure (R123) List – infrastructure types or projects listed in this document will not be secured through planning obligations.
- CIL instalment policy – Document setting out Watford's policy for allowing the payment of CIL liabilities by instalments.

Supporting documents

The Draft Charging Schedule is supported by a number of documents as evidence base or supporting documents follows:

- Watford Borough Council Local Plan Core Strategy (adopted January 2013)
- CIL Viability assessment (February 2013 – prepared by consultants LSH)
- Infrastructure Delivery Plan , February 2013

- Refresh of Hertfordshire Infrastructure Investment Strategy (Jan, 2013)
- Infrastructure Funding Gap Assessment (Jan, 2013)

2 Introduction to CIL

What is the Community Infrastructure Levy (CIL)?

2.1 The Community Infrastructure Levy (CIL) is a new charge which developers will be required to pay to help fund the infrastructure that is needed to support development in the area. The CIL takes the form of a standard charge per m² of additional new floorspace and is based on the size, type and area of new development. CIL was introduced under the Planning Act 2008, and the CIL Regulations came into effect in April 2010. The Coalition Government, whilst retaining CIL, made some amendments to the Regulations in April 2011 and in November 2012 and October 2013.

Why is Watford Borough Council introducing a CIL?

2.2 Watford's population is increasing and household needs are changing, and so the council has, through the Core Strategy, agreed with the Government to plan for a minimum delivery of 6,500 new homes over the plan period 2006 to 2031. This will create a significant requirement for new and improved infrastructure across the town, ranging from new schools and improved parks through to major new transport schemes and rail links such as the Croxley Rail Link. These requirements are set out in the Watford Borough Council Local Plan (Core Strategy) and Infrastructure Delivery Plan, available on the Council's website at <http://www.watford.gov.uk/cil>

The CIL provides a new mechanism for collecting contributions from developers to help fund this infrastructure, without which development would not be sustainable.

Developer contributions towards infrastructure are currently collected using legal agreements pursuant to Section 106 of the Town and Country Planning Act. Under the CIL regime, Section 106 agreements will continue to be used for site specific issues, but their ability to deal with the cumulative effects of development and infrastructure needs over time is limited.

In particular, after the adoption of a local CIL Charging Schedule or on 6 April 2015 (whichever is the earlier), local authorities will only be able to pool infrastructure contributions arising from a maximum of five planning permissions. This is a key consideration of Watford Borough Council in introducing a CIL. CIL is intended to complement rather than replace other funding streams and is intended to help promote development rather than hinder it.

Responding to the CIL Draft Charging Schedule Consultation

2.3 Having taken the comments received on the PDCS into account, the Council considers that the Draft Charging Schedule (DCS) is ready to be submitted for independent examination and therefore publishes it in order to gather comments on it from interested stakeholders. The comments will be used by the independent examiner in their consideration of the Charging Schedule. The Council can make further changes to the Charging Schedule before submitting it for independent examination but it is not obliged to. Any further changes would require a further round of consultation.

3. Main Issues raised in the PDCS consultation and the Council's proposed way forward within the DCS

3.1 In total 23 representations were received on the PDCS and these covered a broad range of issues. The detailed representations and the Council's responses to the specific points raised are included in the PDCS Consultation Statement.

Suitability of infrastructure evidence

3.2 Several representations were made, mainly by Hertfordshire County Council in response to the Council's Infrastructure evidence. Concerns were raised that at present the current infrastructure planning work (relating to infrastructure provided by the County Council) may not satisfy the requirements of the new CIL guidance (amended CIL Regulation 2012). Hertfordshire County Council considered that further work will be required to; refine the list of schemes in the IDS and Infrastructure Funding Gap Assessment (to ensure that proposed schemes relate to the demand being generated by growth set out within the adopted Core Strategy); clarify the relationship between the use of CIL and S106 for infrastructure projects in the Borough; identify or make informed judgements as to the potential of alternative funding sources; and, prioritise projects that are to be funded via CIL monies.

3.3 The Council has sought Legal Advice as to the level of infrastructure evidence required to support the introduction of CIL, and is confident that the infrastructure evidence meets the requirements of the CIL Regulations 2010 (as amended 2013).

3.4 Paragraph 13 of the DCLG Guidance Note of December 2012 indicates that *"Information on the charging authority area's infrastructure needs should be directly related to the infrastructure assessment that underpins their relevant Plan, as that planning identifies the quantum and type of Infrastructure required to realise their local development and growth needs."* Watford Borough Council's Local Plan Core Strategy was found sound in January 2013, the Borough's infrastructure planning which underpinned the Core Strategy has continued to be developed, the Infrastructure Assessment which collates known infrastructure work is a 'live document' and is updated when details become available.

3.5 The Government recognises that available data is unlikely to be fully comprehensive or exhaustive and that "appropriate available evidence" is the requirement (paragraph 25 of the DCLG Guidance Note). Additionally, Paragraph 14 of the DCLG Guidance Note of December 2012 continues *"In*

determining the size of its total or aggregate infrastructure funding gap, the charging authority should consider known and expected Infrastructure costs and the other sources of possible funding available to meet those costs. This process will identify a Community Infrastructure Levy infrastructure funding target. This target should be informed by a selection of infrastructure projects or types (drawn from infrastructure planning for the area) which are identified as candidates to be funded by the levy in whole or in part in that area. The Government recognises that there will be uncertainty in pinpointing other infrastructure funding sources, particularly beyond the short term. The focus should be on providing evidence of an aggregate funding gap that demonstrates the need to levy the Community Infrastructure Levy.” The council has sought to work with Hertfordshire County Council (HCC) who has committed to support the production of a Watford Borough Council CIL. In addition, HCC produced parts of the Watford’s Infrastructure Assessment.

3.6 The infrastructure evidence used to support the local plan is the most appropriate evidence to support a CIL charge. This includes the Infrastructure Delivery Plan (IDP) and the Hertfordshire Infrastructure Investment Strategy (HIS) (2009, refreshed Jan 2013). This evidence was submitted to the examination of the Core Strategy, which has now been found sound and adopted by the council. Further details can be found in the document, ‘Infrastructure funding gap assessment’. The local authority must show that there is a ‘gap’ in the funding available to provide for the necessary infrastructure, and that therefore requires the use of CIL to help fill the gap.

Identification of infrastructure priorities for CIL spend

3.7 A series of representations were made in relation to infrastructure for CIL spend. The Council has produced a CIL Infrastructure (R123) List which outlines the types of infrastructure which will be secured through CIL. A CIL Governance structure is also being prepared by the Council in associated with Hertfordshire County Council.

Modelling of development scenarios

3.8 The Planning Bureau (on behalf of McCarthy & Stone) has stated that a CIL will prejudice the delivery of retirement housing within Watford. They have stated that only a handful of their proposed schemes can support policy compliant levels of affordable housing, and requested that a CIL be differentiate between property type.

3.9 The Viability Assessments have considered a range of density and types of schemes in their assessment including houses and flats to arrive at a single residential rate. Given the amount of potential McCarthy & Stone schemes which are anticipated in the plan period and the proportion of the overall development they deliver, it is considered that it would not be appropriate to break down the CIL rate charging schedule further.

3.10 McCarthy & Stone suggest that the approach to Care Homes (C2) within the PDCS is not applicable to private elderly housing. It is understood that McCarthy & Stone build a series of products including both assisted living and

later living. The Council will assess the use class (C2 and C3) of a development based on an assessment of the individual case. McCarthy & Stone compete on an open market currently and often outperform standard housing developers; therefore there is no indication that they would be any more affected by a CIL contribution than another developer. Furthermore CIL is anticipated to replace elements of Section 106 costs, and therefore its overall impact on land value variation is minimal (other than the contributions would be non-negotiable).

3.11 The Viability Assessment identifies that in general sufficient surpluses are generated within retirement housing to charge a CIL, this has been referred to as a 'Care Home' within the PDCS. It is acknowledged that extra care housing has significantly different viability considerations to retirement housing and standard residential dwellings and is unlikely to be sufficiently viable to absorb any CIL contributions. Neighbouring authority, Hertsmere, had the same objection and this was resolved through the examination.

3.12 Therefore, for consistency, clarity and to acknowledge the difference between these types of development, the Care Home rate will be renamed as 'specialist accommodation for the elderly and/or disabled' within the Draft Charging Schedule.

Retail rates and viability

3.13 Numerous representations were received regarding the viability of retail rates, that it would make marginal schemes unviable, discentivise schemes coming forward and there was unfair targeting of retail developments.

3.14 As a result of the representations and changes to the CIL Regulations,, Lambert Smith Hampton undertook further detailed testing on the Primary Shopping area, which included Charter Place. This considers the impact of CIL on marginally viable development in the central area, and provides a more robust evidence base prior to examination – reflecting the proposed CIL regulation amendments of Dec 12 and April 13.

3.15 The CIL would only be applied to the additional floor space and therefore it is not anticipated that a CIL of £55 psqm would prohibit the redevelopment of high street retail in the Primary Shopping Area of Watford, therefore enabling major retail investment / development opportunities to be delivered. Therefore, whilst LSH initially proposed that the Retail CIL charge in Watford could range between £84 and £167 psqm, and that £120 psqm was chosen based on the anticipated type of retail development to be delivered over the plan period; it would, on further analysis, not be unreasonable to reduce the rate to circa £55 psqm in the centrally located Primary Shopping Area to ensure the majority of retail development in this area would remain viable.

4. Approach to S106 and Affordable housing

4.1 Provision for Section 106 agreements will remain, but under the current Regulations 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 be used to deliver larger strategic items with S106 retained only for direct mitigation of site-specific impacts. As detailed and identified in the Draft Charging Schedule, infrastructure associated with the delivery of the Major Developed Areas will be secured through S106.

4.2 This Council currently seeks developer contributions on a formulaic basis to mitigate the impact of development, For clarification, it is intended that contributions currently sought on a formulaic basis under S106 will no longer be sought once a CIL charge is adopted, in accordance with Regulation 123. Of the HCC toolkit which is currently used the only parts which are still relevant are;

Open space/ play areas

Parking

And Affordable Housing

4.3 Under Regulation 123, the Council must 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 can be reviewed at any time and it is initially suggested that this would be on an annual basis linked to the publication of the Council's annual Monitoring Report that would identify progress on collecting and spending CIL. An **Infrastructure (R123) List** has been prepared and forms part of the Draft Charging Schedule.

5. Instalment Policy

5.1 A series of representations made reference to the need for the Charging Authority to adopt an Instalment Policy for the payment of CIL. Although not forming part of the Examination, an Instalment Policy has been drafted and representations are invited on the proposed payment stages. Further details of the Council's draft Instalment Policy is available for comment as part of the consultation on the draft charging schedule.

6. Development Liable for CIL

6.1 CIL is a charge on new development, and is charged per square metre on the net additional gross internal floorspace that the development provides on any given site, as set out in regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended),

7. Exemptions and exceptional circumstances

Exemptions

7.1 Development:

- within which the person resides or it is an extension/annex (subject to eligibility tests).
- The conversion of any building previously used as a dwellinghouse to two or more dwellings.
- The conversion of a building in lawful use, or the creation of additional floorspace within the existing structure of a building in lawful use.
- Development of buildings and structures which people do not normally go into (e.g. pylons and electricity sub-stations)
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7.2 Development entitled to mandatory relief from CIL includes:

- Development by registered charities for the delivery of their charitable purposes.
- Those parts of a development which are to be used as affordable housing.

Exceptional Circumstances

7.3 The regulations provide that charging authorities have the option to offer a process for giving relief from the levy in exceptional circumstances where a specific scheme would be unviable if it were to pay the levy. The guidance and regulations make clear that this would only apply in very exceptional circumstances where a s106 agreement was also in place and the value of this exceeds the cost of the CIL charge. Also relief must not constitute a notifiable state aid.

7.4 A charging authority wishing to offer exceptional circumstances relief in its area must first give notice publicly of its intention to have an exceptional circumstances policy. A charging authority can then consider claims for relief on chargeable developments from landowners on a case by case basis, provided the conditions are met. It is not anticipated that the council will adopt an exceptional circumstances policy, however this decision will be reviewed as part of the monitoring of CIL.

8. CIL for Local Communities

8.1 The Council will be required to pass a proportion of CIL receipts to local communities for use on infrastructure identified as important by the local community. If there is no parish plan the sum that is either passed to the parish or spent on behalf of the community is reduced to 15%. In addition this amount is capped 15% capped at £100 per existing dwelling.