

SURREY COUNTY COUNCIL
LOCAL COMMITTEE (GUILDFORD)



DATE: 26 November 2014

LEAD OFFICER: Tanya Mankoo-Flatt
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SUBJECT: Guildford Community Infrastructure Levy Preliminary draft
Charging Schedule

DIVISION: ALL

SUMMARY OF ISSUE:

Landowners and developers currently provide infrastructure directly or make financial contributions towards provision of infrastructure to support development in the area. These are currently secured using planning obligations under S106 of the Planning Act (as amended).

The Community Infrastructure Levy (CIL) is the government's preferred mechanism for securing pooled contributions from developers to fund infrastructure to support development in the area.

We will be asking the Executive of 6 January 2015 to agree the consultation material for Guildford's first stage in preparing its CIL. This includes our initially proposed CIL rates as set out in the PDCS.

RECOMMENDATIONS:

The Local Committee (Guildford) is asked to note:

- (i) the appended preliminary draft charging schedule (PDCS) and accompanying documents for six week consultation in January and February 2015, subject to agreement of Guildford Borough Council's Executive on 6 January.

REASONS FOR RECOMMENDATIONS:

The Community Infrastructure Levy (CIL) is the system introduced nationally in 2010 for collecting funds from developers towards the cost of infrastructure to support delivery of development. To a large extent it will replace use of Section 106 planning obligations.

The CIL is a significant corporate project which will provide an ongoing funding source, and will enable us to forward fund infrastructure. Guildford Borough Council will decide which infrastructure to fund. It has wide ranging implications for the funding of strategic infrastructure, including by other organisations.

1. INTRODUCTION AND BACKGROUND:

The aim of the CIL is to ensure that landowners or developers fund part of the cost of infrastructure needed to support development in the area. CIL is not intended to replace main public sector infrastructure funding.

- 1.1 Once CIL is introduced it is a non-negotiable tariff. The levy is charged in pounds per square metre, levied on the net additional new build floor space where the gross internal area is greater than 100m², and on the creation of a new dwelling regardless of size. The levy may also be payable on permitted development. Landowners are ultimately liable for the levy, but anyone involved in the development may take on the CIL liability. The levy is due to be paid on commencement of development (unless we choose to adopt an instalments policy).
- 1.2 The relevant regulations exempt certain new development from CIL liability :
- buildings, or extensions to buildings, with less than 100 square metres gross internal floor space
 - buildings into which people do not normally go, or 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
 - buildings owned by charities used for a charitable purpose
 - affordable housing
 - vacant buildings brought back into the same use,
 - mezzanine floors of less than 200sqm inserted into existing buildings, unless they form part of a wider planning permission
 - specified types of development which the charging authority decide should be subject to a “zero” rate and specified as such in their charging schedules
 - where the levy liability is less than £50, the chargeable amount is deemed to be zero, so no levy is due.
- 1.3 Self-build homes, and household extensions and annexes can claim exemption provided they :
- submit an exemption certificate before work starts, and
 - live at the property for at least three years following completion of the development.
- If the property is sold before three years, the CIL liability becomes due. The Council’s Planning Service would need to monitor these developments to ensure that they are genuinely exempt.

2. ANALYSIS:

Development viability

- 1.4 The CIL legislation and guidance tells us to use “appropriate available evidence” in considering viability in preparing our CIL. In 2014 we commissioned a Development Viability Study (“the Study”) to:
- update the previous Affordable Housing Viability Studies (2008, 2009 and 2011) which informed the Draft Local Plan affordable housing policy
 - to inform our CIL rates, and
 - to check the viability of the Draft Local Plan as a whole.

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This study is provided at Appendix 1.

- 1.5 The CIL regulations (regulation 14 as amended) require that, in setting CIL rate(s) we must strike an appropriate balance between the desirability of CIL funding the likely cost of infrastructure to support the development in our borough. In doing this we must take into account other sources of funding, and the potential effects (taken as a whole) of the CIL on the economic viability of development across our area.
- 1.6 This wording gives us some discretion in setting our rates. It recognises that there is no single correct answer. Achieving an appropriate balance is a matter of judgement.
- 1.7 As the charging authority, it is for us to suggest what we consider to be an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across the borough. We must have evidence to support this.
- 1.8 We do not need to set charging rates so low as to ensure that CIL does not make any individual developments unviable; there will be schemes that will be unviable with or without CIL. We do need to consider how our proposed rates would affect the delivery of the development plan as a whole.
- 1.9 The Study considered the viability of development for setting CIL rates in the context of the Affordable Housing policy, and other policy requirements in the Draft Local Plan 2014. The study seeks to balance the requirements so that developments generally remain viable. For example, it recommends a moderate CIL rate for purpose-built student housing, with no affordable housing contribution.
- 1.10 Guildford Development Viability Study 2014 is based on a range of theoretical developments, as the CIL guidance recommends. In line with guidance, the Draft Local Plan Strategic sites were considered individually. The study recommends CIL rates that the vast majority of developments could support.
- 1.11 CIL legislation permits us to set a single CIL rate, or differential rates if appropriate and based on economic viability evidence, with reference to:
 - geographical zones within the area
 - type of development, and/or
 - scale of development.

The types / use of development is not tied to the Use Classes Order 1987 (as amended).

Charging schedule

- 1.12 Differential rates can be set by reference to size of a development in m² or number of units / homes, where a distinction can be made based on economic viability evidence. Differential rates should not have a disproportionate impact on any particular sector or development.
- 1.13 The study used a residual land value assessment methodology for a sample range of theoretical sites. A “headroom” is given for each housing development scenario, which is the amount theoretically available to fund

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supporting infrastructure, once site opening up costs have been accounted for. The recommended CIL rate is then set slightly lower than the headroom level, to allow a margin to cover differing economic circumstances. This is as the CIL guidance recommends. The recommended CIL rate for Ash and Tongham is higher than its “headroom” figure for that development scenarios. This is due to one or two scenarios being of much lower viability than the general pattern. The recommended CIL rates have disregarded such atypical scenarios.

- 1.14 The study suggested rates for CIL in the borough that could be supported with development largely remaining economically viable. These take into account consideration of the cost to the developer of providing affordable housing and other Local Plan policy requirements and standards.
- 1.15 The study also suggests a few policy choices, mainly relating to balance between the affordable housing requirement and the CIL rate, for example for Slyfield regeneration site. In drawing up our PDCS, officers have concluded that the lower of the CIL rates recommended with the higher affordable housing contribution is preferable to assist in redeveloping the site.
- 1.16 The CIL guidance tells us that :
“A charging authority’s proposed rate or rates should be reasonable, given the available evidence, but there is no requirement for a proposed rate to exactly mirror the evidence...There is room for some pragmatism. It would be appropriate to ensure that a ‘buffer’ or margin is included, so that the levy rate is able to support development when economic circumstances adjust.”
- 1.17 The study recommends a rate of £400/ m² for strategic sites. We arrived at this recommended rate following meetings and discussions with the owners and promoters of these sites.
- 1.18 Full payment of CIL liability is due within 60 days of commencement of development, unless we publish a CIL instalment policy on our website. An instalment policy can assist the viability and delivery of development, and the independent examiner can consider it as part of the consideration of viability of proposed CIL. Some planning permissions may be implemented in phases, in which case charges may be payable over an extended period of time. Any instalment policy that we set can be revised. We are likely to include this with our submitted draft CIL charging schedule.
- 1.19 Our highest proposed rates are comparable to the highest of the CIL rates across the country so far, which predictably are in London. A recent Savills Spotlight report on land and sales values in Guildford and Elmbridge is included at Appendix 5. This confirms that the local market behaves more like London than the rest of the South East, and that the market for new build property in Surrey is very positive. The Study finds most of the borough to have relatively high values, and one of the best performing housing markets outside of London.
- 1.20 Wokingham’s proposed CIL rate was found “sound” in October 2014 following independent examination. Wokingham’s CIL rates are amongst the highest rates outside of London so far. With lower land and sales values than most of Guildford borough, this provides an indication of the rates Inspectors consider suitable provided the viability evidence and identified funding gap support this.

- 1.21 To enable comparison of our initial proposed CIL rates with other authorities' rates, we include at Appendix 6 a list of adopted and proposed CIL rates across the country by region, as well as at Appendix 7, a separate list of Surrey districts and boroughs.
- 1.22 Surrey districts and boroughs with a CIL in place all have Local Plans or Core Strategies prepared before the 2012 National Planning Policy (NPPF). These were based on South East Plan housing requirements. It is now widely accepted that these plans generally have lower housing and infrastructure needs, and often have lower funding gaps than Local Plans prepared under the NPPF.
- 1.23 Officers, including members of the CIL Board, have considered the development viability report. We are satisfied that the proposed rates included in the PDCS are suitable given the available evidence.

Infrastructure Schedule

- 1.24 This PDCS is based on the 2014 Draft Local Plan, including the level and location of development identified (Policy 2), and the infrastructure needed to support it (Draft Infrastructure Schedule at Appendix B). Work is ongoing on the Draft Local Plan, including the Infrastructure Schedule. At this stage we have chosen not to identify the funding gap, because infrastructure planning work, in particular for transport mitigation, is ongoing. We will include the infrastructure funding gap within our draft charging schedule consultation.
- 1.25 We are confident that our initially proposed CIL rates will generate funding to deliver the necessary infrastructure to fill at least some of the need, but that it will not generate an excess. The regulations also permit us to set rates slightly higher than levels required to meet our infrastructure funding gap in order to cover administration costs.

Delivering infrastructure

- 1.26 It is important to remember that CIL is only intended to fund or to contribute to funding the identified infrastructure funding gap. It is not intended as a main source of funding infrastructure. CIL receipts will be limited in the first few years after adoption, as CIL contributions are payable on commencement of development. In subsequent years, the CIL funds should grow to enable us to fund some infrastructure when it is needed.
- 1.27 The CIL regulations allow for site specific infrastructure and for affordable housing to continue to be secured by S106 planning obligations. Affordable housing is specifically excluded from the CIL definition of infrastructure. Mitigation not classed as infrastructure for the purposes of CIL, such as Strategic Access Management and Maintenance (SAMM) cannot be funded by CIL.

Spending CIL

- 2.1 The Council must use CIL receipts to fund infrastructure to support development in the area. "Infrastructure", for the purpose of CIL is defined in the CIL Regulations. This includes open space, road and transport facilities, school and other educational facilities, flood defences, sporting and recreational facilities, and medical facilities.

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- 2.2 Once introduced, Guildford Borough Council as the charging authority for this area, will decide what infrastructure the CIL receipts should be spent on. We may pass CIL receipts to Surrey County Council, or other infrastructure providers. In some circumstances we may decide that the developer themselves may provide infrastructure or land as the CIL contribution.
- 2.3 The PDCS is the first consultation towards introducing our CIL, and is appended to this report, along with other supporting documents for consultation. We will take all responses into account when we prepare the draft charging schedule (CS) for consultation prior to submission for independent examination.
- 2.4 Legislation allows us to recoup up to 5 per cent a year of all our CIL receipts to help with funding the set-up costs incurred in introducing the CIL, and with ongoing administration. Slightly different arrangements apply over the first three years to assist with contributing to CIL set up costs.
- 2.5 CIL receipts are to be used to provide new infrastructure to support development in the area. We cannot use the funds to remedy pre-existing infrastructure deficiencies unless those deficiencies will be made more severe by new development. The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development.
- 2.6 CIL guidance tells us as a charging authority to “think strategically in their use of the levy to ensure that key infrastructure priorities are delivered.” Spending CIL receipts is not linked to planning permission in the way the planning obligations are. We may therefore spend the CIL on infrastructure anywhere in the borough or even outside, for example for strategic road schemes or flood defences, if it supports development in our area.

Draft Regulation 123 list

- 1.28 A Draft regulation 123 list (“Draft 123 list”) is a list of infrastructure projects or types that we may fund from CIL. Once the CIL is adopted, we cannot then use planning obligations to secure delivery of this infrastructure.
- 1.29 Our Draft 123 list, at Appendix 2 identifies types of infrastructure and / or specific infrastructure projects that will be funded (at least partly) by the CIL. Whilst this list does not commit us to fund this infrastructure using the CIL, we cannot use planning obligations nor highways agreements to fund any of the infrastructure included in the Draft 123 list. Some infrastructure will continue to be secured by S106 planning obligations or 278 highways agreements. These include site specific infrastructure needed to make the development acceptable in planning terms, and affordable housing, as it is exempt from the CIL definition of infrastructure.
- 1.30 Our Draft 123 list is set in broad terms and does not prioritise infrastructure types or projects, other than provision of SANG. Provision of SANG is also prioritised in Policy 17 of the Draft Local Plan 2014. Without this infrastructure prioritisation, the Council (as competent authority) could risk being found in breach of the European Habitats Directive and the UK Conservation of Habitats and Species Regulations 2010.

- 1.31 It will be for us, as the charging authority, to decide what our infrastructure funding priorities are. The CIL Board will soon commence consideration of a formalised method of prioritising infrastructure funding. Closer to submission of our CIL, we will establish a working group of Guildford Borough Council officers and councillors to determine spending priorities and reporting spending for the CIL for each year. Our priority list may only include infrastructure projects and types included in our Regulation 123 list, which cannot be delivered by planning obligations. Top of the list will need to be SPA mitigation for both market and affordable homes (which do not pay CIL, but which tend to have fewer bedrooms than market housing), we will spend the remainder in accordance with our prioritised list.

3. OPTIONS:

- 3.1 Although we are not obliged to introduce the CIL locally, in September 2011, the Executive agreed to introduce the CIL for Guildford borough. Forthcoming restrictions on pooling (collecting together) of planning obligations increase the need to introduce CIL in the borough.
- 3.2 The CIL must be based on planned development in the borough, and must be used to support delivery of the local plan. The CIL cannot therefore be introduced before an up to date Local Plan has been examined.

4. CONSULTATIONS:

- 4.1 The Council's Executive will be asked to agree the PDCS and other material for six week consultation in January and February 2015.

5. FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:

- 5.1 We have identified the key financial implications at this stage, prior to introducing the CIL throughout this report. The introduction of the CIL in Guildford borough has implications for funding of infrastructure across the borough.
- 5.2 Other financial implications involved in establishing a CIL for Guildford, include staff time across council services, the cost of preparing evidence, IT software, two consultations, and independent examination. These costs are currently being absorbed into existing revenue and capital budgets. By recording staff time spent on preparing to introduce our CIL, we can claim up to 5 per cent of this back each year, once the CIL receipts begin being paid.
- 5.3 Once we have implemented CIL there will be various ongoing costs relating to collecting, monitoring, enforcing and spending the CIL, including ongoing liaison work with neighbourhood groups in Guildford town. These can be more clearly identified once we approach introduction of the CIL. Some council services, including Parks and Leisure Services and Cleansing and Recycling Services, may also benefit by receiving some of the CIL receipts.

6. EQUALITIES AND DIVERSITY IMPLICATIONS:

- 6.1 None undertaken as yet in the process of introducing the CIL.

7. LOCALISM:

- 7.1 As required by law, we will pass on a neighbourhood portion of our CIL receipts to each parish council at the end of every April and October, unless alternative dates are agreed. This is at least 15 per cent up to a maximum of £100 per existing council tax dwelling per year, of the CIL originating in that parish. In parishes with a Neighbourhood Plan in place (following a successful referendum), the neighbourhood proportion is increased to 25 per cent, and has no annual limit.
- 7.2 This neighbourhood portion must be spent on supporting the development of the area, rather than on the more restrictive “infrastructure”. Parish councils are not therefore limited to spending their CIL receipts on infrastructure. They may choose to fund local affordable homes, developing a neighbourhood plan, or by agreement with Guildford Borough Council, we may retain it and to spend on their behalf on their priorities. Specific requirements are set out in the CIL regulations and guidance regarding the auditing and reporting of parish councils neighbourhood portion CIL receipts.
- 7.3 Guildford Borough Council is required to retain the neighbourhood portion for the areas of the borough with no parish council; Guildford town and Wisley parish. Planning Policy Officers will lead an officer working group which will include ward councillors and existing community groups and neighbourhood forums to prioritise the neighbourhood CIL spending for that area. We will set out our approach to spending this neighbourhood portion on our council website and in newsletters.

8. OTHER IMPLICATIONS:

Area assessed:	Direct Implications:
Crime and Disorder	No significant implications arising from this report
Sustainability (including Climate Change and Carbon Emissions)	No significant implications arising from this report
Corporate Parenting/Looked After Children	No significant implications arising from this report
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report
Public Health	No significant implications arising from this report

9. CONCLUSION AND RECOMMENDATIONS:

- 9.1 Following agreement by the Executive, we will hold a consultation period of six weeks. During this time, we will invite comments on our initially proposed CIL rates set out in our PDCS.

10. WHAT HAPPENS NEXT:

- 10.1 There is no specified period for PDCS consultations. Based on experience of previous consultations as well as the content of the material we are seeking comments on, officers consider that a consultation period of six weeks is suitable.
- 10.2 The relevant regulations (Regulation 15) include a list of those that we must consult in preparing our CIL. This includes the County Council, authorities adjoining ours, parish councils, people living or carrying on business in the area, and those voluntary organisations, and other organisations representing the interests of persons carrying on business in the charging authority's area that we consider appropriate.
- 10.3 We will continue to involve local developers and residential and commercial agents in setting our CIL rate. Others have contacted us to ask that they be involved in setting our CIL rates, and we have added them to our online planning consultation database. We will also consult all those registered on our online planning consultation database. We will also make the consultation available to the public on our website.
- 10.4 The current dates for preparing our CIL are set out in Local Plan timetable, Guildford Local Development Scheme (LDS) 2014, and include submission to the Secretary of State in March 2015. However, our timetable has since changed, and we now aim to consult on a revised Draft Local Plan in summer 2015, followed by a pre-submission publication consultation in autumn 2015, with submission to the Secretary of State in late 2015/early 2016. This has implications for progression of our CIL, which the NPPF (paragraph 175) tells us to prepare alongside our new Local Plan if practical.
- 10.5 As the Local Plan timetable will be reviewed, officers propose that the CIL timeframe reflects that of the new Local Plan. This could include a second PDCS consultation if appropriate. Officers will aim to submit the Local Plan and CIL for examination at the same time. The decision to submit a charging schedule for independent examination, and subsequent adoption is a decision that must be made by the Full Council, as it is for the new Local Plan.

Contact Officer:

Tanya Mankoo-Flatt
Principal Policy Officer

Consulted:

Will intend to consult in January 2015.

Annexes:

Consultation documents (Appendices 1-4):

Appendix 1 - Preliminary draft charging schedule

Appendix 2 - Draft infrastructure list (the "regulation 123 list")

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Appendix 3 - Development Viability Study, September 2014
Appendix 4 - Draft Local Plan 2014, including at Appendix B, Draft
Infrastructure Schedule

Appendix 5 - Savills World Research, 2014, Spotlight Guildford and
Elmbridge Residential Development Sales

Appendix 6 - CIL: who's charging what?

Appendix 7 - Overview of Surrey borough / districts CIL rates

Sources/background papers:

- [Planning Act 2008](#), Part 11 (as amended by the Localism Act 2011, Part 6, Chapter 2, Sections 114 and 115).
 - [Community Infrastructure Levy Regulations 2010](#) (as amended April 2011, November 2012, April 2013 and February 2014)
 - DCLG, [National Planning Policy Framework](#) (NPPF) , March 2012 – in particular paragraphs 173 - 177
 - DCLG, [CIL online](#) Planning Practice Guidance, June 2014
 - [Draft Guildford and West Surrey Strategic Housing Market Assessment](#) (SHMA), May 2014
 - [Guildford Strategic Housing Land Availability Assessment](#) (SHLAA) 2013/4
 - [Draft Guildford Local Plan 2014](#)
-