London Borough of Hounslow

Preliminary Draft Charging Schedule

June 2019
1. Introduction

1.1 The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and is defined in the CIL Regulations 2010 (as amended). Local authorities in England and Wales can elect to prepare and adopt a CIL to assist in funding the infrastructure needed to support planned growth. CIL is a charge, expressed in pounds sterling (£) per square metre, that is levied on the net additional floorspace created by most new development.

1.2 The Council introduced its Community Infrastructure Levy (CIL) on 24th July 2015. The current Hounslow CIL rates were based on development viability evidence prepared in 2014. The Council is also in the process of producing the Great West Corridor and West of Borough Local Plan reviews, it is therefore prudent to review the Charging Schedule at the current time so that it can be demonstrated how the Charging Schedule and associated Regulation 123 list will support delivery of the Local Plan reviews.

1.3 The Council is a charging authority under CIL legislation and is undertaking consultation on this Preliminary Draft Charging Schedule (PDCS) to seek views on the proposed rates of CIL prior to the preparation of the Draft Charging Schedule document (DCS). The DCS will then be consulted upon before the schedule being subject to independent examination in public.

1.4 Alongside the review of Hounslow CIL Charging Schedule, the Council is also inviting comments on its revised CIL Regulation 123 List (i.e. the list of projects or types of infrastructure that the Council intends to fund, or may fund, through the levy)

2. Consultation period

2.1 Consultation on the Preliminary Draft Charing Schedule and Appendix 1: Regulation 123 List runs from 2nd July – 14th Aug 2019.

Where to find the documents

2.2 Copies of this document are available at:
   - our website
   - at all local libraries:
     https://www.hounslow.gov.uk/directory/17/find_your_local_library

2.3 Following the conclusion of this consultation, comments will be analysed, and a Draft Charging Schedule will be produced, which will be consulted upon prior being submitted to a suitably qualified body for Examination in Public. Timelines for these next steps are:
### Table 1: indicative CIL Timetable

<table>
<thead>
<tr>
<th>Key milestones</th>
<th>Action</th>
<th>Indicative timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Draft Charging Schedule Consultation</td>
<td>Six-week consultation period on proposed CIL rates.</td>
<td>July – August 2019</td>
</tr>
<tr>
<td>Draft Charging Schedule Consultation</td>
<td>Four-week consultation period on proposed CIL rates, as amended following first consultation.</td>
<td>October 2019</td>
</tr>
<tr>
<td>Submission of document to Secretary of State</td>
<td>Soundness of charging schedule and supporting evidence tested either in public or through written representations.</td>
<td>Winter 2019</td>
</tr>
<tr>
<td>Charging Schedule Examination</td>
<td>Charging schedule adopted by Borough Council and transition period completed to begin charging the Hounslow CIL.</td>
<td>Summer 2020</td>
</tr>
<tr>
<td>Adoption of document and commencement of charging</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 3. The Community Infrastructure Levy

3.1 The London Borough of Hounslow is a Charging Authority for the purposes of Part 11 of the Planning Act 2008 and may therefore charge the Community Infrastructure Levy (CIL) in respect of development in its Charging Authority area.

3.2 The Community Infrastructure Levy is a tariff in the form of a standard charge on new development, which is set by Hounslow Council to help the funding of infrastructure. It is intended to supplement, or top up, other sources of funding to widen infrastructure delivery.

3.3 Most development has some impact on infrastructure and should contribute to the cost of providing or improving infrastructure. The principle behind CIL is for those who benefit financially from a planning permission to pay towards the cost of funding the infrastructure needed to support development.

3.4 CIL will improve Hounslow Council’s ability to mitigate the cumulative impacts on infrastructure from most developments; unlike the former system of planning obligations which tended to affect mainly larger developments. Being charged on a per square metre basis, CIL charges are proportional to the scale of the development.
4. Evidence to support the proposed CIL rates

4.1 The development of the PDCS has been informed by appropriate evidence which includes:
- Hounslow Local Plan and Draft Local Plan reviews
- Viability Assessment for Local Plan Review and CIL Charging Review
- Hounslow Infrastructure Delivery Plan (IDP)

4.2 The council is required to strike an appropriate balance between funding infrastructure to support development through CIL and the impact of CIL on the economic viability across its area. Hounslow Infrastructure Delivery Plan (IDP) has been updated to provide the infrastructure planning evidence as required when setting new CIL rates and to support the areas review of the Local Plan. The IDP identifies the infrastructure needed to meet the growth arising from development in at least the first five years of the proposed update to the Local Plan. The IDP also considers whether funding is available to deliver that infrastructure and establishes the funding gap.

4.3 The Viability assessment demonstrates that the revised CIL rates proposed will contribute to the delivery of the Local Plan and reviews and support the planned development in the area by providing part of the infrastructure funding needed, while setting rates which do not threaten that development overall. The Viability assessment tested generic development types that are expected to come forward across the borough as well as a number of selected ‘Strategic Sites’ which are considered important in delivering the plans. It took account of all of the policy costs and requirements in the adopted Local Plan and emerging Local Plan reviews and concluded that changes could be accommodated to the CIL rate without significantly adversely impacting on viability. The assessment methodology also includes buffer levels of 23% - 90 % which supports the proposed CIL rates for the different locations and prevents the proposed CIL being set to the margins of viability.

5. Hounslow CIL

5.1 Hounslow adopted CIL Charging Schedule (2015) rates are set out below. The current charging zone boundaries are as set out in the map below (Figure 1).

**Table 2: Existing CIL rates**

<table>
<thead>
<tr>
<th>Area (defined in figure 1)</th>
<th>Proposed CIL rates (£/m²)</th>
<th>All other uses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Residential</td>
<td>Convenience based retail with net retailing space of over 280 m²</td>
</tr>
<tr>
<td>CIL Zone 1</td>
<td>£200</td>
<td>£155</td>
</tr>
<tr>
<td>CIL Zone 2</td>
<td>£110</td>
<td></td>
</tr>
<tr>
<td>CIL Zone 3</td>
<td>£70</td>
<td></td>
</tr>
</tbody>
</table>
Hounslow proposed CIL Rates

3.1 The Council proposes to charge different rates of CIL by the land use of a proposed development (expressed as pounds per square metre) and by an amended area/zone where a proposed development is situated, as set out in the Table 2 and Figure 2.

Table 2: Hounslow Proposed CIL rates

<table>
<thead>
<tr>
<th>Area (defined in figure 2)</th>
<th>Proposed CIL rates (£/m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Residential</td>
</tr>
<tr>
<td>CIL Zone 1 (Eastern Area)</td>
<td>£320</td>
</tr>
<tr>
<td>CIL Zone 2 (Central Area)</td>
<td>£160</td>
</tr>
<tr>
<td>CIL Zone 3 (Western Area)</td>
<td>£75</td>
</tr>
</tbody>
</table>

$^{1}$ Includes undercroft and roof top car parking but excludes below ground car parks.
6. CIL liability

6.1 Development liable for CIL payment comprises:

- Development that creates 100m² or more of new build floor space measured as Gross Internal Floor Area (GIA).
- Development of less than 100m² new build GIA that results in the creation of one or more dwellings.
- The conversion of a building that is no longer in lawful use.
- Liability to pay CIL on qualifying developments applies whether development requires planning permission or is enabled through permitted development orders (General Permitted Development Order, Local Development Orders, Neighbourhood Development Orders, Enterprise Zones)

7. CIL exemptions

7.1 CIL charges will not be levied on:

- Development that creates less than 100m² of new build floor space measured as GIA and does not result in the creation of one or more dwellings;
- Buildings into which people do not normally go, or a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery;
- Buildings for which planning permission was granted for a limited period.
7. Affordable housing, subject to an application by a landowner for CIL relief (CIL regulation 49);
7. Development by charities for charitable purposes subject to an application by a charity landowner for CIL relief (CIL regulation 43) (mandatory charitable relief);
7. Self-build (CIL regulation 42A and 54A).

7.2 A charging authority can choose to offer discretionary relief to a charity landowner where the greater part of the chargeable development will be held as an investment, from which the profits are applied for charitable purposes (CIL regulation 44).

7.3 It can also choose to offer exceptional circumstances relief (CIL regulation 55) on the basis of an unacceptable impact on the economic viability of a development, and where the exemption of a charitable institution from liability to pay CIL would constitute State aid (CIL regulation 45) and would otherwise be exempt from liability under regulation 43.

8. Calculating the chargeable amount

8.1 The Council will calculate the amount of CIL chargeable in accordance with regulation 40 of the Community Infrastructure Levy (Amendment) Regulations 2014.

8.2 The relevant rate (R) for each development type is shown in the Charging Schedule above and the Gross Internal Area (GIA) is measured and calculated in accordance with the Royal Institute of Chartered Surveyors (RICS) Code of Measuring Practice.

8.3 The chargeable amount will reflect inflation by being index linked to RICS’ Building Cost Information Service ‘All-in Tender Price Index’.

8.4 Amended CIL Regulations mean that for Section 73 applications to vary an existing planning condition, CIL will only be payable upon any increase in chargeable floorspace from the section 73 application/permission.

Netting off existing floor space

8.5 In certain circumstances, where a development includes the demolition of an existing building, the existing Gross Internal Area (GIA) can be deducted from the proposed floorspace. These deductions in respect of demolition or change of use will only apply where the existing building has been in continuous lawful use for at least six months in the 3 years prior to the development being permitted and is still in situ on the day planning permission is granted.

8.6 Hounslow Council may deem the Gross Internal Area (GIA) of a building to be zero where there is not sufficient information, or no information of sufficient quality, regarding the GIA of an existing building or whether it is in lawful use.
9. Liability and Payment of CIL

9.1 Once planning permission is granted, CIL regulations encourage any party, (such as a developer submitting a planning application, or a landowner), to take liability to pay the CIL charge. CIL liability runs with the land. If no party assumes liability to pay before development commences, land owners will be liable to pay the levy.

9.2 The default position is that CIL payment is due within 60 days of the commencement of development, however in some cases CIL is due immediately.

9.3 For some developments, instalments may be permitted in accordance with the Council’s Instalments policy.

**Instalment Policy**

9.4 The Mayor of London’s instalment policy will apply in Hounslow borough. This is set out below.

<table>
<thead>
<tr>
<th>Amount of CIL liability</th>
<th>Number of Instalment Payments</th>
<th>Amount or proportion of CIL payable in any instalment/time at which payments are due</th>
</tr>
</thead>
<tbody>
<tr>
<td>£100,000 or less</td>
<td>No instalments</td>
<td>Total amount payable within 60 days of commencement of development</td>
</tr>
<tr>
<td>£100,001 or more</td>
<td>Two</td>
<td>The greater of £100,000 or half the value of the total amount payable within 60 days of commencement of development The remainder within 240 days of commencement of development</td>
</tr>
</tbody>
</table>

**Payment in kind**

9.5 Under the Regulations charging authorities may, at their own discretion, consider accepting land as payment in kind in lieu of CIL. This will only normally be considered for land in excess of that needed to deliver infrastructure required as a direct result of the permitted development (e.g. if the development permitted requires the provision of a children’s play area on-site, that land will not be accepted as payment in lieu of CIL). The value of land for in lieu payment will be determined by an independent valuer.
10. Collection of CIL

10.1 Hounslow Council is the collecting authority for the purpose of Part 11 of the Planning Act 2008 and CIL Regulations 2010 (as amended).

10.2 When planning permission is granted, Hounslow Council will issue a liability notice setting out the amount payable, and the payment procedure.

10.3 In the case of development enabled through permitted development orders, the person(s) liable to pay will need to consider whether their proposed development is chargeable, and to issue Hounslow Council a notice of chargeable development. The diagram below illustrates a summarised version of the collection process.

**Figure 3: CIL Collection process**

<table>
<thead>
<tr>
<th>Stage</th>
<th>Developer/Landowner</th>
<th>Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-application discussions</td>
<td>Discussion of CIL charges with Hounslow Council</td>
<td>Advice on CIL charges</td>
</tr>
<tr>
<td>Planning application</td>
<td>CIL forms for CIL liable development</td>
<td>Processing forms and issue liability notice</td>
</tr>
<tr>
<td>Planning permission</td>
<td>Submit Commencement Notice</td>
<td>Issue Demand Notice</td>
</tr>
<tr>
<td>Commencement of development</td>
<td></td>
<td>CIL payment</td>
</tr>
</tbody>
</table>

**Appeals**

10.4 A liable person can request a review of the chargeable amount by the charging authority within 28 days from the issue of the liability notice. CIL Regulations allow for appeals on:

- the calculation of the chargeable amount following a review of the calculation by the Council.
- disagreement with the Hounslow Council’s apportioned liability to pay the charge.
- any surcharges incurred on the basis that they were calculated incorrectly, that a liability notice was not served, or the breach did not occur.
- a deemed commencement date if considered that the date has been determined incorrectly.
- against a stop notice if a warning notice was not issued or the development has not yet commenced.

40 A person aggrieved by the levy (or attempt to levy) of a distress can appeal to the Magistrates Court.
11. Mayoral CIL

11.1 The Council is designated as the ‘Collecting Authority’ for the CIL of the Mayor of London.

11.2 Hounslow falls within Band 2 of the Mayor’s Charging Schedule which means that Hounslow is required to collect £60/m² on behalf of the Mayor for all development that falls within scope of the regulations, with the exception of education and health facilities, which carry a zero charge.

11.3 This requires a Mayor of London CIL to be charged in addition to Hounslow rates described in the table 2 and 3 above.

12. Spending the CIL

13.1 CIL receipts are split into three portions. 80% of the CIL receipts must be used for funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of the area which is mainly set out in the Council Infrastructure Delivery Plan (IDP). It is important to note that the CIL is not meant to replace mainstream sources of funding for infrastructure and will not cover the full costs of all of the infrastructure projects identified in the IDP. The Council will work closely with the relevant infrastructure and service providers to discuss and deliver the funding for infrastructure projects.

13.2 The Regulations also allow up to 5% of the CIL collected each year to be used to pay for the administrative expenses incurred by the charging authority. The Council anticipates that it is likely to cover the costs associated with collection, implementation and monitoring of the CIL. This will be accounted for in the Council’s monitoring of the expenditure of the CIL.

13.3 The remaining 15% is known as the Neighbourhood Portion. Where the CIL receipt derives from a development within the area covered by a ‘made’ neighbourhood plan, that proportion increases up to 25%. There is a cap of £100 (indexed) per dwelling within the Parish or Town Council area per financial year.

13.4 The CIL Regulations allow for the Neighbourhood Portion of levy receipts to be used for a slightly wider range of things than the rest of the levy, namely:

- the provision, improvement, replacement, operation or maintenance of infrastructure; or
- anything else that is concerned with addressing the demands that development places on an area.
13. Reporting

13.1 Following adoption of CIL the Council will publish a CIL Annual Monitoring Report on the operation of the levy over each financial year and will include the following information:

- How much CIL monies have been collected;
- How much of that money has been spent; Information on how CIL monies have been spent, including on which infrastructure projects, and how much has been used to cover administrative costs;
- and, the amount of CIL retained at the end of the reporting year.

14. Monitoring and review of the CIL rate.

14.1 The Council recognises the need to closely monitor the proposed CIL charges, given that changes in the property market, construction costs and changes in local or national policy over time can impact on development viability. Following the adoption of the CIL Charging Schedule in 2020, the Council intends to review the CIL every three years or earlier, if necessary, in response to significant changes in local development viability.

15. CIL and Section 106 agreements

15.1 Unlike Section 106 (S106), the levy is to provide infrastructure to support the development of an area, not to make individual planning applications acceptable in planning terms. It breaks the link between a specific development site and the provision of infrastructure and thus provides greater flexibility for delivery of infrastructure when and where it is needed.

15.2 Section 106 agreements and Section 278 Highways Agreements will continue to be used to secure site-specific mitigation and affordable housing. In some instances, S106 agreements may be used in strategic development sites needing the provision of their own specific infrastructure for which delivery may be more suitably dealt with through S106s.

15.3 The new National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) made changes to the viability sections and to the implementation of CIL and future workings of the s106 regime. The most important of these changes is the relaxation of the s106 pooling restrictions but only where an authority has CIL in place. This makes it necessary for Hounslow Council to consider the implementation of CIL. It is important to add however that even with CIL in place, there will continue to be an important
role for planning obligations in mitigating the site-specific impacts of a development and in providing affordable housing and Employment & Training.

15.4 The Council will not be able to secure Section 106 contributions for infrastructure that they propose to fund through CIL (those projects set out in the Regulation 123 list). This is to avoid double charging and provide confidence on infrastructure funding to the community, developers, investors and infrastructure providers. The council has published a draft Regulation S123 list alongside the Preliminary Draft Charging Schedule to help inform representation made on the schedule. This list can be viewed in Appendix 1.

15.5 Hounslow Planning Obligations and CIL SPD will be reviewed upon adoption of this new Charging Schedule. The SPD will make it clear what infrastructure is to be covered by CIL (in line with the Regulation 123 list) and what will still be required through planning obligations.

16. Further Information

16.1 Further information on the Community Infrastructure Levy is available on the Council’s website.

https://www.hounslow.gov.uk/info/20010/planning_and_building/1094/community_infrastructure_levy
Appendix 1: Draft Regulation 123 List

The following list identifies infrastructure projects and types of infrastructure which are eligible to be funded in whole or part through the Community Infrastructure Levy.

The inclusion of either an item or type of infrastructure in this list does not signify a commitment from the Council to fully or partially fund all the items or types of infrastructure listed through the Community Infrastructure Levy. The order of the list does not imply any preference or priority:

- **Strategic Public spaces***
- **Heritage assets***
- **Strategic Green and blue infrastructure (including open space, play space and flood risk mitigation, excluding riverside walkways)**
- **Education facilities**
- **Health facilities**
- **Community halls**
- **Leisure and Cultural Facilities**
- **Strategic Air and noise quality mitigation***
- **Strategic Transport and connectivity (excluding site specific highways, transport and associated public realm matters needed to make a site acceptable in planning terms, as well as of-site work as identified in a transport assessment and bus route agreements)** * +

* Excluding site specific mitigation measures needed to make a development acceptable in planning terms. This will also be subject to statutory tests set out under Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), which stipulates the following:

A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is –

a) necessary to make the development acceptable in planning terms

b) directly related to the development; and

c) fairly and reasonably related in scale and kind to the development”.

+ The Council will seek to ringfence CIL contributions received in the catchment of the Great West Corridor Opportunity Area to delivery strategic infrastructure needed to unlock growth.