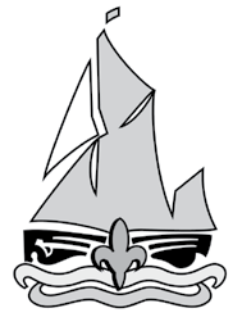


MALDON DISTRICT
**Community
Infrastructure Levy
Preliminary Draft
Charging Schedule
Consultation**

JANUARY 2014



MALDON DISTRICT
COUNCIL

1.0 Introduction

- 1.1 This consultation document sets out the Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule for Maldon District Council. The consultation will be carried out in accordance with Regulation 15 of the CIL Regulations 2010 (as amended).
- 1.2 The Pre-Submission Maldon District Local Development Plan (LDP) proposes growth for the District in the form of new homes and jobs. To ensure that this growth is sustainable, infrastructure such as roads, public transport, school places, health facilities and open space needs to be provided. An assessment of the infrastructure required to support the development envisaged by the LDP is set out in the Maldon District Infrastructure Delivery Plan (IDP) Update (December 2013).
- 1.3 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 new way for district councils and unitary authorities in England and Wales to raise funds from developers to achieve this.
- 1.4 Local authorities who wish to charge the levy must produce a draft charging schedule setting out CIL rates for their areas. CIL is levied on the internal floorspace of most new-build development so the rates are expressed as pounds per square metre. Before it is approved by the Council, the draft schedule has to be approved by an independent examiner.
- 1.5 As well as setting out the Preliminary Draft Charging Schedule for consultation, this document gives a brief summary of CIL, the key requirements for setting the levy and the evidence base which has been used to inform the proposed charging schedule.
- 1.6 The Council, as the CIL charging authority, is required to consult with residents, local communities, businesses and stakeholders on the proposed levy rates.
- 1.7 This consultation on the Preliminary Draft Charging Schedule is the first of two consultations which are required under the Regulations. They will be followed by an Examination-in-Public of the Draft Charging Schedule which will be conducted by an independent examiner appointed by the Council prior to the proposed adoption of CIL towards the end of 2014.

2.0 General principles of CIL

2.1 What is CIL?

- 2.1.1 The Community Infrastructure Levy (CIL) was introduced in the Planning Act 2008 and defined in the CIL Regulations 2010 (as amended). This legislation also restricts the use of planning obligations, sometimes known as 'Section 106 agreements'.
- 2.1.2 It 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 in an area is mandatory to pay and non-negotiable. The funds raised must be used to provide infrastructure which is required to support new development across the area.
- 2.1.3 The requirements which a local authority, or 'charging authority', setting a CIL charging schedule has to meet are set out in:
- The Planning Act 2008 (as amended by the Localism Act 2011);
 - The CIL Regulations 2010, as amended in 2011 and 2012 and 2013;
 - The CIL Guidance issued under S221 of the Planning Act 2008, which is statutory guidance.

2.2 What are the benefits of CIL?

- 2.2.1 CIL provides a simpler and more transparent process than the collection of funds and provision of infrastructure under the Section 106 procedures. The Government suggests there are a range of benefits when local authorities introduce the levy. These include:
- CIL collects contributions from a wider range of developments, providing additional funding to allow local authorities to carry out a range of infrastructure projects that not only support growth but benefit the local community;
 - CIL gives 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;
 - CIL provides developers with clarity about the level of contributions which are required from any development and provides transparency for local people;

- CIL is non-negotiable and therefore should save time by removing the need for negotiations between the local authority and developers as occurs on S106;
- CIL is fair as it relates the contribution to the size of the development in terms of new floorspace;
- Parishes where development takes place will receive their own portion of the CIL to spend on the infrastructure they want. In areas where there is no neighbourhood plan this will be 15%, capped at £100 per existing dwelling. Where a neighbourhood plan is in place the portion is an uncapped 25%.

2.3 What development will be liable for CIL?

2.3.1 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 sq. m or more of net increase in gross internal floor space. Development which is less than 100 sq.m 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.

2.4 Are there any exemptions from CIL?

2.4.1 The CIL Regulations outline that some development will not be subject to a charge:

- Development by registered charities for the delivery of charitable purposes;
- Those parts of a development which are to be used as affordable housing;
- The conversion of any building previously used as a dwelling to two or more dwellings providing there is no increase in floor area;
- Buildings into which people do not normally go, buildings which people only enter intermittently for the purposes of inspection or maintenance, and structures which are not buildings, such as pylons;
- Changes of use which do not involve an increase in floorspace.

2.5 Discretionary relief from CIL

2.5.1 The CIL Regulations state that discretionary relief can be made available for charitable investment if the charging authority chooses to make it available in its area and publishes a local policy. To be considered for relief, the whole or greater part of the chargeable development must be held as an investment from which the profits will be applied for charitable purposes.

2.5.2 The CIL Regulations also state that discretionary relief can be made available for 'exceptional circumstances' however relief can only be given where the following eligibility criteria set out in the Regulations are fulfilled:

- The claimant owns a material interest in the land;
- A Section 106 Planning Obligation has been entered into in respect of the planning permission which permits the chargeable development; and

The charging authority considers that:

- The cost of complying with the Section 106 agreement is greater than the charge from the levy payable on the chargeable development;
- Requiring payment of the charge would have an unacceptable impact on the economic viability of the chargeable development; and
- Granting relief would not constitute a notifiable State Aid.

2.5.3 Maldon District Council has sought to use the evidence it has commissioned on the viability of development envisaged by the Pre-Submission LDP in order to set CIL rates which will be affordable for the development needed to deliver the Pre-Submission LDP. Accordingly, the Council does not propose to make discretionary relief available for exceptional circumstances.

2.6 What is the relationship between CIL and other planning obligations?

- 2.6.1 The use of 'Section 106' planning obligations has been scaled back by the Government to ensure there is no overlap between obligations and CIL. Pooling of obligations from more than five schemes is restricted after April 2014 (Government is currently proposing to extend this to April 2015). This is because CIL is intended to take over the collection and pooling of funds to deal with the cumulative demands on infrastructure caused by development across a district.
- 2.6.2 However, there may be some site-specific infrastructure requirements without which planning permission should not be granted. Some of these needs may be provided with levy funds but some may be very local or specific, perhaps arising only from one or a small group of major developments in an area, such as the proposed Garden Suburbs at Maldon and Heybridge allocated in the Pre-Submission LDP. For this reason, while planning obligations have been scaled back, they have not been abolished.
- 2.6.3 To safeguard developers, authorities cannot charge for the same items through both planning obligations and CIL. Under CIL Regulation 123, they should show which items or types will not be subject to planning obligations by publishing a list of infrastructure projects or types they intend will be or may be funded by CIL. The 'Regulation 123 list' is presented as supporting evidence when the CIL charging schedule is examined, but it is not part of the charging schedule as it can be reviewed and changed independently of it.

2.6.4 The Council is making its draft Regulation 123 list available alongside this consultation within the Infrastructure Delivery Plan Update (IDP), together with policy for the continued use of planning obligations within Policy I1 of the Pre-Submission LDP. This will provide transparency over the way it is intended the two methods will work together to help provide the infrastructure our communities need.

2.7 When is CIL payable?

2.7.1 Liability to pay CIL is triggered by commencement of the development. By default it must be paid within 60 days, but for schemes with phased outline permission payment will be triggered separately for each phase. In addition, authorities can set their own policies allowing all large liabilities to be paid by instalments. To implement this, the Council would be required to publish an instalment policy on its website. Such a policy would not be part of the charging schedule and could be changed independently of it. By law, an instalment policy would apply to all developments and could contain only the following:

- The number of instalment payments;
- The amount or proportion of CIL payable in any instalment;
- The time from commencement by which the first and subsequent instalments must be paid;
- Any minimum amount of CIL below which CIL may not be paid by instalment.

2.7.2 The Council is considering introducing an instalment policy and is seeking views on the above points.

2.8 Want to know more?

2.8.1 Links to the Government's CIL webpages and the legislation giving more detailed information on the Community Infrastructure Levy can be found in the Maldon District Council website at: www.maldon.gov.uk.

2.9 The evidence base

2.9.1 To set a CIL charge, an authority must first show there is an overall need for infrastructure funding to support the LDP, and that there is a funding gap because other sources of funding will not be sufficient to provide all that is necessary.

2.9.2 Having established a funding gap, the law requires a charging authority to strike an appropriate balance between raising funds from developers towards infrastructure to support the development envisaged in the LDP, and the effect

of taking those funds on the viability, and so deliverability of that development. In other words, the proposed CIL must have a positive effect and support, not threaten, delivery of the LDP. The authority will be required to explain that balance at the CIL Examination-in-Public.

2.9.3 To help strike and explain that balance, the CIL charging schedule must be informed by appropriate available evidence, which includes the LDP (to show the development envisaged), the Infrastructure Delivery Plan Update (to demonstrate broad need for infrastructure and a funding gap), and the LDP Viability Study to assess the likely impact of CIL on the viability of development envisaged in the LDP. Full details of these evidence base documents are as follows:

- Maldon District Pre-Submission Local Development Plan 2014-2029 (MDC, January 2014)
- Maldon District Infrastructure Delivery Plan Update (MDC / Peter Brett Associates, December 2013)
- Local Plan and Community Infrastructure Levy Viability Study (August 2013)
- Local Plan and Community Infrastructure Levy Viability Study Post Consultation Update (November 2013)

2.9.4 The evidence which supports the Preliminary Draft Charging Schedule is available on the Councils' website at www.maldon.gov.uk.

2.10 Maldon Local Development Plan 2014-2029

2.10.1 The Maldon District Council LDP aims to improve the quality of life for those who live and work in and visit the District, to the benefit of existing and future generations. It sets out the development needed to meet local housing needs and requirements, to protect local services and deliver new affordable homes and infrastructure. Once in place, the Plan will guide, manage and control development across the District over the next 15 years, ensuring development proposals are focussed on sustainable and appropriate locations. The LDP will be submitted to the Secretary of State early in 2014 with an intended adoption date of late-2014.

2.11 Infrastructure Delivery Plan

2.11.1 The IDP identifies the infrastructure requirements necessary to support the anticipated development and growth across the District and so demonstrate that the policies and proposals contained within the LDP will be delivered in accordance with the principle of sustainable development.

2.11.2 The IDP was updated in December 2013, and identifies the lead organisations to deliver and manage infrastructure. In addition, it identifies the infrastructure

costs arising as a result of development put forward in the LDP and where feasible aligns with the aims and objectives of other local and sub-regional strategies. It outlines how costs may be met in order to ensure necessary infrastructure can be delivered and informs policy on the continued use of planning obligations, particularly on major sites such as the proposed Garden Suburbs, which informs the assessment of the viability of the LDP and proposed CIL rates.

- 2.11.3 To provide transparency over the way Maldon District Council intends to use CIL and planning obligations together in a complementary way to help provide infrastructure, the Council is making its draft 'Regulation 123 list' available alongside this consultation, together with proposals for the continued use of planning obligations once CIL is introduced. This information will be included in the IDP.

2.12 Funding Gap

- 2.12.1 In assessing likely funding sources, the IDP will provide evidence for an aggregate funding gap over the plan period. The IDP is therefore a key part of the evidence base to inform the justification of the Council's CIL Preliminary Draft Charging Schedule, as well as forming part of the LDP's evidence base.
- 2.12.2 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 Maldon District Council to bring forward infrastructure.
- 2.12.3 It is not possible at this stage to be definitive about the total cost of infrastructure or about the funding gap. Indeed, this position will change over time. As such, the funding gap position is subject to change.
- 2.12.4 Based on the current assessment of infrastructure needs, costs and funding, there is currently a funding gap totalling £78,733,452.
- 2.12.5 As the plan does not contain targets for the quantity of development of non-residential uses which viability evidence shows could bear a CIL charge, the CIL income generated from non-residential development has not been estimated. For residential development, based on the proposed growth allocated in the Pre-Submission LDP and the charges proposed in the Annex A, we estimate CIL could raise in the region of £12.6m over the plan period to help address the funding gap and contribute to local infrastructure needs. This takes into account the Council's policy for major strategic sites to contribute to infrastructure needs they create separately via planning obligations, and so represents a significant contribution towards delivering sustainable development in Maldon District.

2.13 Viability assessment

- 2.13.1 The Council commissioned HDH Planning & Development to assess the viability of the delivery of the Draft LDP in August 2013 and the emerging Pre-Submission LDP in November 2013. The two assessments considered the Plans policy requirements, including for the provision of affordable housing and infrastructure contributions via planning obligations. The study also considered the viability of a selection of strategic development sites, and assessed the effect which the introduction of CIL may have on development viability.
- 2.13.2 The CIL rates proposed in the preliminary draft charging schedule have been based on the results of these assessments of viability across the District. The consultants tested different development types and scenarios. Evidence was collected from a variety of sources including discussions with local landowners, agents and developers for information on property sales and values and to inform assumptions on the costs of development. The testing examined the effects of different levels of affordable housing contribution and took account of the impact on development viability of other policy costs faced by development, including other planning obligation costs.
- 2.13.3 Events were held in June and November 2013 with promoters of the key development sites within the District and the representatives of the main developers, development site landowners and housing providers. The meetings were used to set out the methodology, test the assumptions used in the report and to put the report in context of the emerging LDP, requirements of National Planning Policy, and CIL.
- 2.13.4 The assessment found that all residential development was sufficiently viable to pay CIL except the allocation North Heybridge strategic sites S2d 'North of Heybridge' and S2e 'North of Holloway Road'. These sites have high infrastructure costs associated with development, which would render development unviable if a CIL rate was required in addition to policy requirements in the LDP. Supermarkets and retail warehouses, hotels, sheltered housing, and extra care facilities were found to be viable based on a higher rate of CIL.

3.0 The Preliminary Draft Charging Schedule

3.1 Your Views

3.1.1 Maldon District Council's Preliminary Draft Charging Schedule is set out in Annex A.

3.1.2 The Preliminary Draft Charging Schedule is available for consultation from Wednesday 22 January to Wednesday 5 March 2014.

3.1.3 Maldon District Council would like your views on the Preliminary Draft Charging Schedule and in particular responses on the following questions:

1. Do you feel that the proposed rates are suitably informed by the viability evidence provided in the Local Plan and Community Infrastructure Levy Viability Study (August 2013) and Viability Study Post Consultation Update (November 2013) produced by HDH Planning & Development?
2. Do you believe the evidence on viability is correct? If not, please set out alternative evidence to support your view.
3. Do you think the rates proposed strike an appropriate balance between helping to fund infrastructure through CIL and the potential effects of imposing CIL on the viability of development needed to deliver the aspirations of the Local Development Plan?
4. Do you think the Council should introduce an instalments policy?
5. Do you think the Council should include discretionary relief from CIL for charitable investment or 'exceptional circumstances' as outlined in section 2.5 of the CIL Preliminary Draft Charging Schedule consultation document?
6. Do you have any other comments on the Preliminary Draft Charging Schedule or supporting evidence?

3.1.4 Copies of this document, including the Preliminary Draft Charging Schedule, are available for inspection online at www.maldon.gov.uk and at Maldon District Council Offices, parish and town council offices and public libraries. All evidence base documents are available online and from the Maldon District Council Offices.

- 3.1.5 Comments should be made by completing the response form, which is also available as a separate document at www.maldon.gov.uk, and emailing it to the Council at policy@maldon.gov.uk. Alternatively it can be posted to

Planning Policy,
Maldon District Council,
Princes Road,
Maldon,
Essex CM9 5DL.

- 3.1.6 All comments must be received by 12 noon on Friday 7 March 2014.

3.2 Next Steps

- 3.2.1 Following this consultation, the Council will review the comments received together with any other evidence that emerges and use the findings to inform the next stage, which is the preparation of a draft charging schedule.
- 3.2.2 Once the Council considers that the draft charging schedule is ready for an Examination-in-Public, it will publish the document for consultation. During this period, representations can be made and any person making a representation has the right to be heard at the CIL Examination-in-Public.

ANNEX A

Maldon District Council Community Infrastructure Levy (CIL) Charging Schedule Preliminary Draft for Consultation

The Charging Authority

The Charging authority is Maldon District Council.

Date of Approval

This Preliminary Draft Charging Schedule was approved by the Council on 11th December 2013.

Date of Effect

This Preliminary Draft Charging Schedule takes effect on the 22nd January 2014.

Statutory Compliance

This CIL Preliminary Draft Charging Schedule has been issued, approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended) and Part 11 of the Planning Act 2008.

Calculation of the CIL Charge

Calculation

The chargeable amount will be calculated using the rates set out in this Preliminary Draft Charging Schedule in accordance with Part 5 of the Community Infrastructure Levy Regulations 2010 (as amended).

In accordance with Part 5 of the Community Infrastructure Levy Regulations 2010 (as amended), the calculation will take account of inflation by index-linking to 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. If the BCIS Index ceases to be made available, the Retail Prices Index will be used instead.

Exemptions and Reliefs

The chargeable amount will be subject to any exemptions or reliefs which may be due in accordance with Part 6 of the Community Infrastructure Levy Regulations 2010 (as amended) and, where applicable, Maldon District Council policy.

Maldon District Council policies

Maldon Council has set out its policies on payment by instalments, discretionary charitable relief and exceptional circumstances relief on its website at www.maldon.gov.uk

CIL Rates

The Community Infrastructure Levy charging rates for development across Maldon District Council's area are as follows:

Development Type	Maximum Rate of CIL
Residential All areas except Local Development Plan Heybridge Strategic Sites S2(d) North of Heybridge and S2(e) North of Holloway Road:	£70 /sq. m
Local Development Plan Heybridge Strategic Sites S2(d) North of Heybridge and S2(e) North of Holloway Road:	£0 /sq. m
Supermarkets and Retail Warehouse	£150 /sq. m
Hotels	£150 /sq. m
Sheltered Housing	£150 /sq. m
Extra Care	£150 /sq. m
All other development	£0 /sq. m

Further Information

More Information on CIL and its application in Maldon District is available on the Council's website at www.maldon.gov.uk.