

Community Infrastructure Levy Draft Charging Schedule Consultation Response Form

DCS33



MALDON DISTRICT
COUNCIL

The Community Infrastructure Levy (CIL) is a mechanism that local authorities can use to raise funds from new development to provide infrastructure. The proposed rates that developers would be required to pay are outlined in the Maldon District Draft Charging Schedule. This is the second consultation on the Maldon District CIL Charging Schedule, as required under Regulation 16 of the CIL Regulations 2010 (as amended).

Comments should be made by completing this questionnaire and returning it to the Council
by email to policy@maldon.gov.uk or
by post to Planning Policy, Maldon District Council, Princes Road, Maldon, Essex CM9 5DL.

All responses must be received by 5pm Wednesday 23 July 2014 (late or anonymous responses may not be considered).

Please Note: All information submitted during the Draft Charging Schedule consultation will be published on the Council's website and submitted to the Secretary of State for Examination-in-Public; by submitting representations on the Maldon District Draft Charging Schedule you confirm that you agree to this.

Personal Details

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Client Details (if applicable)

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Future Notification / Attendance at Examination-in-Public Hearings

Would you like to be added to the Community Infrastructure Levy **mailing list** to receive updates?

(delete as appropriate and ensure your details have been entered clearly above)

Yes / No

Do you consider it necessary to **attend and give evidence at the Examination in Public?**

Please note that by selecting **no** you are clarifying that you wish to communicate through written representations only.

(delete as appropriate)

Yes / No

Your Views

Maldon District Council would like your views on the Draft Charging Schedule and in particular the following areas:

- The proposed rates set out in the Draft Charging Schedule (Annex A of the consultation document);
- The inclusion of the proposed Draft Discretionary Relief Policy (Annex B of the consultation document); and
- The inclusion of the proposed Draft Instalments Policy (Annex C of the consultation document).

Please provide your comments in the space below; which will expand to fit your comment. Any supplementary sheets or information are welcome, please label them suitably.

Lambert Smith Hampton, on behalf of Persimmon Homes, submitted representations to the first round of public consultation concerning the Draft Charging Schedule. It was highlighted that there had been confusion between the assumptions applied to the various sites – most notably S2(F) and S2(G). It would appear that whilst the proposals map is wrongly labelled when compared to the CIL report; the reports have been clarified as being accurate. However, some issues remain:

- 1) The NPPF states that an individual development can be said to be viable if, after taking account of all costs, including central and local government policy and regulatory costs and the costs and availability of finance, the scheme provides a competitive return to ensure that the development takes place and generates a land value sufficient to persuade the land owner to sell the land for the development proposed. Taking this into account it seems reasonable to anticipate that this land value would vary between anticipated development and location.

It is notable that whilst the residual value varies across the Authority, reflecting market fluctuations, the chosen land value benchmark does not vary across the Authority. It seems reasonable to conclude that like sales values, the land value benchmark should vary across the Authority to reflect market differences. Further explanation is therefore required to explain why market fluctuations have not similarly been applied to the land value benchmark to ensure that the NPPF assessment of viability can be met and that the cumulative impact of the Council's policies, including Section 106, Affordable Housing and CIL, do not put the implementation of the plan at serious risk.

There is also concern that the proposed single land value used to assess the entire authority is significantly below the residual values presented in the viability reports before CIL is included. Therefore, it would suggest that if CIL was not introduced, the appropriate land value which would be sufficient to persuade the land owner to sell the land for the development proposed is higher in a number of circumstances than that chosen to justify a rate of £70 psm as reasonable.

It may be that the Council at this stage do not wish to go back through the CIL assessment and compare to market transactions in the authority to ensure the evidence base is robust. However, to ensure some level of balance is given to the inevitability of fluctuations in land value across the authority and variance in economic circumstances over the plan period, I propose that a buffer is applied to the proposed residential CIL rates.

The CIL Guidance highlights the importance of a charging authority recognising the need for an appropriate balance when determining CIL rates - ***“The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance...between the need to fund infrastructure and the potential implication for the economic viability of development across their area.”***

It is therefore important when setting rates that the Council applies an appropriate viability ‘buffer’ as discussed in the CIL Guidance: ***“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.”*** It is for the Council to determine the appropriate buffer, however Bristol, for example chose 50% and in the case of Hertsmere District Council the Examiner adjusted the Council's proposed rate of a zoned CIL by 23%. Having analysed the Economic Viability Assessment, a viability buffer does not appear to have been included and it is felt that the impact of CIL on marginal developments has not been sufficiently considered. Given the approach of a single CIL rate based on a single land value benchmark across the authority, we would therefore ask that the CIL charges are reviewed to include an appropriate viability buffer, It is proposed it would be reasonable for such a buffer to be in the order of 20%.

- 2) In the initial representations on behalf of Persimmon Homes to the CIL charging schedule, the primary area of concern was focused upon the Heybridge Masterplan. The other sites which make up the Masterplan have been deemed as unable to support a CIL and the anticipated Section 106 costs. However S2 (F) or "additional land"- as it appears to be described in the CIL viability commentary - is required to pay £70 psqm in addition to significant S106 contributions totalling circa £2m. This site is therefore anticipated to support a Section 106 of over £20,000 per unit as well as a CIL of £70 psqm. This Section 106 is significantly higher than the average anticipated over the authority where the same CIL rate is proposed. Clearly all of the sites in the Heybridge Masterplan are inextricably linked and delivery of the Masterplan will be reliant on delivery of the infrastructure identified in the Viability Assessment. My concerns relating to separating sites from the masterplan are:
- 1) No reasonable direct Stakeholder engagement has taken place with Persimmon Homes to the anticipated infrastructure identified in the Heybridge Masterplan. It is important given the marginality of this particular scheme that they should be reasonably consulted with to ensure infrastructure and Section 106 requirements are reasonable and that no further potential costs may be later included with the application.
 - 2) The Additional Land is anticipated to support the infrastructure costs associated with the remaining part of the Heybridge Masterplan – if the additional land became unviable due to the cumulative impact of planning policies it may inhibit the delivery of the overall Masterplan. Furthermore, as a result of separating out the CIL charge, the CIL will be enforced before any remaining required costs for local infrastructure.
 - 3) There also remains a lack of uncertainty to impact on viability of the Additional Land's expected contribution to Heybridge infrastructure as the Council has not yet published its obligations SPD. This may mean that imposing the proposed CIL charge on this site could result in the site not being able to contribute to 5 year housing land supply on viability grounds.
 - 4) It is unclear in the public consultation material whether a realistic delivery time of the infrastructure costs has been factored into the assessment of the "additional land" and wider Heybridge masterplan which will affect its viability.
 - 5) The latest viability assessment has seen the residual value of the additional land drop by £57,654 to £452,715. This leaves the site achieving only £122,715 over the proposed land value threshold of £330,000. At this value the scheme viability is marginal. It is quite possible any additional costs or wrongly estimated costs for this scheme could lead to the proposed CIL charge rendering the scheme unviable. This marginality in viability again highlights the need for some buffer to be considered to ensure that the scheme can be delivered if the assumptions proposed are inaccurate.

Gerald Eve, on behalf of Persimmon Homes, kindly request with the following:

- That Maldon District Council demonstrates why it is not reasonable to vary land value benchmark by location and by use class.
- That Maldon District Council explain why the land value benchmark chosen is significantly below the residual value assessments for the schemes which exclude CIL and therefore reflect the current value taking into account existing policies.
- That Maldon District Council considers demonstrating the impact on overall viability of including the additional land in the Heybridge Masterplan.
- That the Council meets with the Heybridge Masterplan stakeholders; including Persimmon Homes to ensure Section 106 and CIL are set evenly and that there is no ambiguity about what will be anticipated at the time of an application submission potential double counting is avoided.
- That Maldon District Council applies a discount buffer to their proposed CIL rates to demonstrate that an appropriate balance has been met between a reasonable CIL rate and viability for sites on the marginality of viability (such as that identified by the Examiner in the case of Hertsmere's CIL).
- That the Council reassure Persimmon that no additional S106 costs to that identified will be included with consent for development of the additional land if the CIL remains at £70psqm.