

the CIL Charging Schedule, please tick here (please ensure your details have been entered clearly above)

<b>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 &amp; Development?</b>	Yes	<input type="checkbox"/>
	No	<input checked="" type="checkbox"/>

It is considered that the rates are suitably informed by the work undertaken for the updated Viability Study but only up to a point, as they do not cover other inevitable costs, as set out below. Even with these omissions the funding gap, as currently presented, is high at a quoted £78m, of which MDC believe they can secure £12.6m through CIL charges.

**Highway Considerations**

The work undertaken by Peter Brett Associates (PBA) within their Infrastructure Delivery Plan (IDP) document dated December 2013 and which has informed the updated HDH Viability Study, states that all costs presented for the delivery of the highway infrastructure exclude:

- Land Acquisition
- ECC commissioning and Administration Fees
- Drainage Attenuation

The prices are also based on 2013 costs and assume no special geotechnical requirements.

Utility diversions can represent a notable cost in terms of amending existing junctions or where new roads joins existing highway. A sensible allowance would be 10% to 20% of the capital cost but it is not stated what percentage has been assumed or, on what basis estimates have been made. In some urban areas it is not uncommon for utility costs to be 100% of the capital cost of an improvement if, for instance, strategic fibre optic or power supply cables have to be moved.

Land Acquisition is unknown but we understand that some land that is required for delivery of certain items or key infrastructure to secure allocations is outside the control of some promoters and may require compulsory purchase unless agreement is reached with other parties.

ECC fees: assuming all highway works would be undertaken under S278 and S38 agreements, then an allowance of an 8% on cost would be applicable to the capital cost of the works.

Given the flood mitigation issues associated with developing the proposed north allocation sites, it is inevitable that surface water attenuation of the highway drainage would be required. An allowance of 3-5% of the cost of the road works should be set aside for physical open storage or underground storage of storm flows.

Given the above, the more certain on-costs (excluding utility company service diversions and land requirements) would result in an 11% to 13% uplift.

An allowance for land acquisition should be made, and at least a notional 5% should be budgeted for to deliver the infrastructure.

The ground conditions are not expected to be good in this area of Maldon and the CBR values to determine the roads foundation requirements are expected to be below 5% generally. On this premise, a capping layer for the road pavement is an expectation for much of the new road and junction improvement construction. This could add another circa 2% to the cost.

Moreover, the costs are based upon 2013 prices and this is not representative of what the costs could escalate to over the plan period, assuming some sort of phased highway strategy is implemented. In the 18 year period from 1995 the ROADCON tender price index has risen from the base 100 (1995 figure) to 195 in the 1/3<sup>rd</sup> quarter of 2013. In the latest BIS bulletin it is quoted that 'the BIS Tender Price Index of Road Construction (ROADCON) 3<sup>rd</sup> Quarter 2013 increased by 1.0% on the previous quarter and by 8.9% year-on-year.'

These commitments could amount to an 18% to 20% increase in the cost of delivering the highway infrastructure and this is important when making S106/CIL decisions and determining funding gap requirements. This estimate of on-cost does not even take into account contract price escalation over the plan period, where even in the shorter term, say the 5 year build programme, prices could rise significantly.

Hence, the basic highway civil engineering works required to deliver the plan would increase the current £22.6m estimate of construction costs to a figure between £26.7m and £27.1m as a minimum, excluding inflation.

To ignore these costs is a serious oversight as these additional costs will have to be borne by the developers as part of the proposed S106 pooled contributions.

## **Sewerage and Flooding Considerations**

### **1. Sewerage**

Firstly the capital costs from the Infrastructure Delivery Plan have been carried forward. However, for sewerage drainage developers have the right to requisition under section 98 of the Water Industry Act for off-site connections and existing sewerage system improvements. For the scale of scheme under consideration, depending on size, this can mean that the developer only contributes between 30 and 60% of the capital cost.

The requisition process requires the water company, in this instance Anglian Water, to fund part of the capital construction cost through the income they will derive over 12 years from the new property connection annual sewerage charges from the development. The developer contribution is known as the 'relevant deficit'.

Anglian Water have their own approach to requisition which entails a commercial offer to the developer which gives certainty over a relevant deficit calculation, which is otherwise based on an assumed construction programme.

The point is therefore, that without clarification that the cost used to assess the infrastructure burden is the developer contribution only, then the cost taken forward for CIL/s106 calculation is significantly overstated.

Secondly, Para 7.19 bullet a) highlights that the developer valuation of the sewerage constraint is far higher than Anglian Water's in the case of Site S2 (d).

The reason for this cost differential is not explained, rather it is ignored. If it is simply that this is the difference between capital cost and developer contribution then this should be highlighted.

If it is because the developer is seeking for normal site sewerage costs to be included as Strategic Infrastructure then this should be discounted.

At present this is an area of concern given that sewerage is rightly stated as being a concerning constraint of the district.

2. Flooding

Para 7.19 bullet d) highlights the fact that the costs for the flood alleviation in North Heybridge include land acquisition costs.

In the Infrastructure Delivery Plan Update para 15.42 it advises that this cost of £8,700,000 would, if this is delivered on site, reduce considerably.

As it stands there is no evidence whatsoever as to the form that flood alleviation would take in North Heybridge and no publically available justification for the cost of £8.7 million.

This is a major flaw in the whole LDP process but one where it is our contention that the most sustainable solution with greatest benefit to Heybridge can be delivered by expansion of the strategic allocation to include Land East of Broad Street Green Road. This would negate the need for land acquisition and provide a scheme which reduces peak flood flows in the affected catchment by 76% for a capital cost of the order of £3.5 million. This costing is provided in full in our separate representations on the LDP and in summary in 2 below.

<b>2. Do you believe the evidence on viability is correct? If not, please set out alternative evidence to support your view.</b>	Yes	<input type="checkbox"/>
	No	<input checked="" type="checkbox"/>

For the same reasons as given above the costs for sewerage and flood alleviation are unnecessarily high.

For sewerage because the capital cost and not the requisition cost has been used; and for flood alleviation because there is no scheme identified and yet there is a significant allowance for third party land acquisition.

The actual construction cost based on similar Project Appraisal Reports for Defra/EA Grant in Aid funding in the South-East of England can be summarised as below:

On-Line Flood Alleviation Option			
Item	Quantity	Unit Price (£k)	Price (£k)
Basin/Storage (m <sup>3</sup> )	110,000	0.03	3,300
Control Structure (No.)	5	20	100
General site clearance (ha)	12	4	48
			<b>Total Capital Cost £3,448,000</b>

Or, and more beneficially

Eastern Flood Alleviation Option via LEBSGR			
Item	Quantity	Unit Price (£k)	Price (£k)
Basin/Storage (m <sup>3</sup> )	110,000	0.03	3,300
Control Structure	1	20	20
Culverts (No.)	1	30	30
RR Culvert saving	5	-30	- 150
Ditch connection to lake (m)	200	0.03	6
Deculverting Catchpole Brook (m)	400	0.16	64
New wetland (m3)	1,000	0.075	75
Site clearance (ha)	15	4	60
			<b>Total Capital Cost £3,405,000</b>

The difference between the current, unsubstantiated cost of £8.7M and £3.4M would bring about a saving of £5.3M to the overall infrastructure burden.

Furthermore, the same reasons as given above, and in relation to the CIL returns, a number of other issues arise.

It is stated by MDC that CIL is expected to deliver £12.6m of the funding gap. Taking on board only the highway related additional costs identified above, then the total funding gap could stand at somewhere around £83m excluding price index factoring. Taking out the S106 contributions and the Council's estimate of CIL returns, this means that some £44m would need to be secured from other sources.

We would also question the Council's compliance with the regulations dealing with planning gain and CIL. All contributions, if via the S106 pooled mechanism, should be delivered on the basis of fair and proportional impact. Indeed we would concur with the statement made by PBA in the IDP at paragraph 15.12 that an 'infrastructure item is required to directly address the needs arising from the growth on those sites'. The suggestion of exonerating two allocation sites from having to pay CIL charges, because their infrastructure costs are higher in relative terms is, we submit, not permissible. Clearly, the need for the new link road to the north of Maldon is required to facilitate the development in the north of the Town and based upon our review of the traffic distributions that are likely to take place in and around Maldon, only a small percentage of the southern allocation sites are likely to use this link. Conversely, a larger proportion of the northern sites would have a desire to migrate to the A414 corridor and thus use the new infrastructure being provided to the south west of the Town.

The regulations are clear and should be impartial in relation to development impacts per se. Hence, we submit that the northern sites should not only pick up the cost of the northern link road but should have to pay the CIL charge also, given that a high proportion of the CIL funds are for other community benefits deemed necessary to facilitate new development within the District.

If the Planning Inspectorate does not accept that the proposed CIL exceptions can be justified, then the viability of delivery of housing to the north of Maldon surely has to be brought into question. The only other alternative would be to apply a much higher CIL charge across the board which could sweep up all highway infrastructure costs. This could add another £70 to £80 per sq. m to the charge; given the draft CIL levy is proposed at £70 per sq. m then a CIL charge of £140 to £150 per sq. m for residential would have to be set.

MDC indicate that £12.6m could be raised from CIL Levies and yet there is no evidence as to how this figure has been derived. It is therefore imperative that the calculations for deriving this figure are available for inspection before the public and developers are asked to comment upon the appropriate levy that should be attached to the various development categories in the draft CIL schedule.

Although we have presented a high level overview, there does seem to be some discrepancy with achievable CIL funding adopting MDC's current charge schedule.

The fact that MDC have reallocated some housing from the south of the Town to the north since October 2013, is a clear indication that they recognise more housing to the north is essential to provide the necessary economies of scale to provide the infrastructure and to ensure the plan is deliverable. The exemption of sites S2 (d) and (e) from paying CIL is further evidence that the viability of the northern allocation sites to deliver the necessary infrastructure, without subsidy, is questionable. Clearly more housing allocated to the north of the Town would greatly help to resolve these issues. Furthermore, by adopting a different and more beneficial drainage strategy that discharges in a more efficient and functional manner, would result in considerable cost savings as described above, which would equate to a reduction in costs equivalent to c.£3,000 per

dwelling.

It is also noted that there is a contradiction and inconsistency in the Preliminary Draft Charging Schedule Consultation document relating to the effective 'exceptional circumstances' being given to Strategic Sites S2(d) and S2(e) on grounds of economic viability, yet the Council states in paragraph 2.5.3 that it does not propose to make discretionary relief available. This is misleading and inequitable where similar circumstances may arise on other sites.

**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?**

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

The CIL rates are considered reasonable, provided all infrastructure costs are met from pooled S106 contributions.

There is a danger that if CIL rates are increased, developer's outwith the immediate Maldon Town area may be deterred from building.

**4. Do you think the Council should introduce an instalments policy?**

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

In terms of highway infrastructure delivery, phased development is logical given the impacts of traffic on the highway network would not be immediate and would progressively increase to accord with the measured build rate over the plan period. At some milestone points, the key infrastructure to provide the northern link road and the Wycke Hill local bypass would need to be triggered. This, in part, can be decided to accord within a defined quantum of housing provision or, as in the case of the northern link road, is more likely to be a function of gaining physical access to the development site for construction.

**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?**

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

The funding gap is high, even after CIL and S106 payments and desirably needs to be further narrowed, given that external funding sources for the shortfall are uncertain and would have to be secured.

It is noted that there is a contradiction and inconsistency in the Preliminary Draft Charging Schedule Consultation document relating to the provisions for discretionary relief from CIL and the proposed Strategic Sites S2(d) and S2(e) that are not to be the subject of CIL. Paragraph 2.5.2 of the document states that the discretionary relief can be made available in 'exceptional circumstances' and where the stated eligibility criteria are fulfilled. One of these is where the charging authority considers that the cost of complying with the s106 agreement is greater than the charge from the levy payable, or where requiring payment would have an unacceptable impact on economic viability. However, paragraph 2.5.3 states that the Council does not propose to make discretionary relief available for exceptional circumstances, which is clearly the case in respect of Strategic Sites S2(d) and S2(e). Therefore the current draft Charging Schedule document is ambiguous and inconsistent in this respect.

**6. Do you have any other comments on the Preliminary Draft**

Yes	<input checked="" type="checkbox"/>
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**Charging Schedule or supporting evidence?**

No

Either the CIL levies need to be increased, or more housing needs to be located to the north of Maldon to provide greater economies of scale and a more uniform and transparent delivery cost per dwelling in the Maldon Town area. In this regard we would submit:

- i) that to increase CIL charges, may be sensitive to market values/returns and could discourage some development, particularly to the east of the District
- ii) that a further reallocation should take place between the south and north Maldon, or, as presented in on behalf of the clients in Intermodal Transportation Limited's *'Further Highway Representations in relation to the updated 'evidence based' information provided for the Maldon District Council's Local Development Plan Pre Submission Consultation'* document dated March 2014, most of the Burnham on Crouch and some of the rural allocations should be clawed back to North Heybridge. This readjustment (say a claw-back of 500 to 600 dwellings) can be justified on sound sustainability grounds and would help to offset the high S106 pooled infrastructure costs to the north of Maldon Town to help further underpin the viability/deliverability of the core plan.