



London Borough of Havering

**Community Infrastructure Levy Preliminary Draft Charging
Schedule**

**SUMMARY OF PUBLIC CONSULTATION RESPONSES
AND RESPONSES FROM THE COUNCIL**

Public Consultation Period: 23 March 2015 to April 10 2015

Prepared for Draft Charging Schedule August 2018

**Public Consultation
Summer 2018**

| Respondent | Comments | Recommended LBH Response |
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| <p>Adam Kemeny / Carl Dyer of Thomas Eggar LLP</p> <p>(On behalf of Asda Stores Limited)</p> | <p>In summary, Asda Stores objects to the Havering Community Infrastructure levy because it considers that the proposal does not strike a balance between the desirability of funding the cost of infrastructure required to support development from CIL and its potential impacts on the economic viability of development.</p> <p>It identifies specific concerns ;</p> <ul style="list-style-type: none"> • The consultation fails to reflect the latest CIL Regulations in regard to the balance to be struck between funding infrastructure and economic viability. • The impact on policies enhancing economic performance • The financial assumptions and viability assessments contained in the CIL Viability Assessment • The proposal to split charges for small and large retail development • Issues relating to State Aid • Concerns about the Council’s approach to setting CIL charges generally | <p>The PDCS and viability assessment <u>has taken</u> account of the latest CIL regulations and in particular Regulation 14 as an appropriate balance has been struck between the desirability of funding the total cost of infrastructure required to support development and the potential effects of the imposition of CIL on the economic viability of development based on a robust viability appraisal.</p> <p>As Thomas Eggar highlight, rates should be set based on the consideration of CIL Regulation 14 and in this regard it is highlighted that CIL rates cannot be set based on policy aspirations, therefore Thomas Eggar’s comments that “an appropriate CIL charge will encourage new development and promote redevelopment to create employment and ensure a range of shopping choices..... The Proposed large scale retail CIL would discourage large scale retail developments” are not suitable reasons as to why a charging authority should consider charging a lower rate of CIL and could in fact be considered to be State Aid. CIL rates are required by the regulations to be set based on appropriate available viability evidence.</p> <p>The viability evidence prepared in support of the DCS <u>takes</u> account of the latest evidence on the performance of the retail sector. The contents of the DCS will be compliant with the regulations and Mayoral CIL requirements.</p> <p>The viability evidence and the CIL rates for retail development have been set at rates that strike an appropriate balance as required by the regulations.</p> |

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| | | <p>The distinction between the two different retail CIL levels is based on relevant retail typologies for the borough and the viability evidence demonstrates that larger retail developments have a greater degree of viability than other forms of retail development.</p> <p>The Wycombe District Council CIL Charging Schedule, which was formally introduced from 1 November 2012, includes CIL charges for: Convenience based supermarkets and superstores and retail warehousing (Over 2080 square metres); and All other retail A1 – A5 and sui generis uses akin to retail.</p> <ul style="list-style-type: none"> ▪ Superstores/supermarkets are defined as shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit; and ▪ Retail warehouses are defined as large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering for mainly car-borne customers. <p>The inspector’s report for the Wycombe CIL examination (10/09/12) explicitly stated that ‘There is nothing in the CIL regulations to prevent differential rates for retail developments of different sizes, provided they are justified by the viability evidence and differing retail characteristics or zones.’</p> <p>It is acknowledged that size does not necessarily result in the higher values generated by convenience based supermarkets and superstores and retail warehousing uses. Rather, is it a combination of factors including:</p> <ul style="list-style-type: none"> ▪ The availability of car parking; |

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| | | <ul style="list-style-type: none"> ▪ The operational economics of supermarkets/superstores (these uses are known to be efficient at generating volume sales whilst having low operating costs); ▪ The rents that retailers are willing to pay to occupy these units tend to be high (particularly with regard to comparison retailing as these locations will command prime rents in the borough); ▪ The value which the investment market ascribe to such units is high, this is due to such units being occupied by operators with greater covenant strength, which results in lower yields being applied; and ▪ Such large developments are also likely to come forward on sites which have lower existing use values i.e. a large majority of large retail units have historically been developed on former industrial sites and as a result a lower benchmark land value is achieved, which results in a higher surplus and consequently a potential for a higher CIL rate. <p>It is further noted that since the PDCS was published a number of Charging Authorities have adopted differential rates on retail including but not limited to LB Bexley, RB Kingston Upon Thames, LB Tower Hamlets, RB Greenwich, LB Hackney, London Legacy Development Corporation.</p> <p>In addition, it is noted that as of June 2014 the Government's CIL Guidance explicitly sets out that differential rates can be set based on scales of development.</p> <p>The PDCS already contains a statement that LB Havering proposes, at its discretion, to allow the value of infrastructure provided to be offset against the chargeable amount of CIL.</p> |

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| | | <p>The Council may enter into agreements to receive infrastructure as payment.</p> <p>The differential rates have been set in such a way that they do not constitute a notifiable State Aid under European Commission regulations through conferring selective advantage to any 'undertaking'. The differential rates are supported by robust viability evidence which justifies this approach.</p> <p>An 'instalment policy' containing details of the number of instalments permitted, the timing and dates of payments, the amount payable in any instalment and a minimum monetary threshold is included in the Draft Charging Schedule.</p> |
| <p>Ian White (Epping Forest District Council)</p> | <p>Epping Forest District Council has no specific comments.</p> <p>Epping Forest District Council want to be kept informed as to the progress with the Havering CIL particularly in the light of the significant shortfall expected from CIL rates and the options that Havering will consider to try to satisfy the gap in funding for infrastructure.</p> | <p>LB Havering to confirm that Epping Forest District Council will be kept updated on CIL process through consultation that will be undertaken on the Draft Charging Schedule.</p> |
| <p>Ross Anthony (On behalf of The Theatres Trust)</p> | <p>The Theatres Trust supports the setting of a 'nil' rate for 'All other development' which it assumes includes all Use Classes D1, D2, and some sui generis uses (eg theatres) which do not justify sufficient income streams to cover their costs.</p> | <p>No technical response required.</p> |
| <p>Natural England</p> | <p>Natural England has no specific comments to make on the draft CIL charges.</p> <p>Natural England makes general point that it sees CIL as playing an important role in delivering a strategic approach in their local</p> | <p>The current PDCS identifies green infrastructure as being likely to be one of the types of infrastructure will be funded by CIL. The DCS contains a draft Regulation 123 List which indicates the approach towards funding of infrastructure including green infrastructure.</p> |

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| | <p>plans for the creation, enhancement and management of networks of biodiversity and green infrastructure (in line with the National Planning Policy Framework – para. 114)</p> <p>It identifies potential infrastructure requirements such as :</p> <ul style="list-style-type: none"> • Access to green space • Allotment provision • Infrastructure identified in the local Public Rights of Way Improvement Plan • Infrastructure identified by Local Nature Partnerships / BAP projects • Infrastructure identified by any Green Infrastructure Projects • Other community infrastructure aspirations • Infrastructure identified to deliver climate change mitigation and adaption • Infrastructure needed to ensure the Local Plan is compliant with the Habitats Regulation Assessment | |
| <p>Daniel Pope (London Borough of Barking and Dagenham)</p> | <p>London Borough of Barking and Dagenham thank Havering Council for the opportunity to comment.</p> <p>London Borough of Barking and Dagenham :</p> <ul style="list-style-type: none"> • has no issue with the proposed charges in the Havering CIL. • notes that it will formally introduce its own CIL in | <p>In updating the viability evidence and drafting the DCS consideration has been given to the parity of CIL levels of neighbouring authorities.</p> |

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| | <p>April 2015 and will review its charges as part of its future Local Plan work because it knows that viability has improved recently.</p> | |
| <p>Mel Barlow - Graham of Dron and Wright Property Consultants</p> <p>(On behalf of London Fire and Emergency Planning Authority)</p> | <p>Note that the draft PDCS includes a 'nil' levy for 'all other development' which they assume would encompass community safety facilities including fire stations.</p> <p>Note that all four of Havering's fire stations will need refurbishment (at a likely cost of approximately £1.3m) within the lifespan of the Infrastructure Delivery Plan and want to see fire-fighting facilities be added to the CIL Regulation 123 List.</p> <p>The respondent wishes to be kept informed as to the progress with the Havering CIL including the formal stages such as the Draft Charging Schedule, the Examination and adoption.</p> | <p>Community safety facilities are covered by the 'nil' levy under all other development.</p> <p>In developing the Regulation 123 list to form part of the DCS consideration will be given to the inclusion of firefighting facilities.</p> <p>LB Havering to confirm that LFEPA will be kept updated on CIL process through the consultation that will be undertaken on the Draft Charging Schedule.</p> |
| <p>Chris Moore of Savills</p> <p>(On behalf of Ellandi LLP owners of the Mercury Shopping Centre in Romford)</p> | <p>Ellandi own the Mercury Shopping Mall in Romford and have concerns about :</p> <ul style="list-style-type: none"> • Greater clarity is needed on the definition of chargeable retail development • The evidence and key assumptions used to test the proposed rates for retail development • the ability of high density town centre development to support the level of CIL | <p>The distinction between the two different retail CIL levels is based on relevant retail typologies for the borough and the viability evidence demonstrates that larger format retail developments (such as supermarkets and retail warehouses) have different viability characteristics which result in a greater degree of viability than other forms of retail development. This will be reviewed as part of the update to the viability evidence. The DCS includes clear definitions of the differential types of chargeable retail development. The viability evidence and the CIL rates levied on retail developments have been reviewed and will ensure that rates are set at levels</p> |

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| | <p>proposed and the approach to affordable housing within the viability modelling</p> <ul style="list-style-type: none"> the scenario testing underpinning the CIL and the relevance to the emerging draft Havering Local Plan the absence of a draft Regulation 123 list (as they say is required by latest CIL Regulations) | <p>which strike an appropriate balance between funding necessary infrastructure to support the development coming forward and not putting development envisaged by the Local Plan at risk, as required by the CIL regulations. All assumptions and inputs to the viability evidence are being reviewed and updated where necessary to reflect current conditions. The DCS contains a draft Regulation 123 List.</p> |
| <p>Peter Heath (Greater London Authority)</p> | <p>The London Mayor is pleased that the Mayor's CIL has been taken into account in bringing forward the Havering CIL (in line with CIL Regulations).</p> <p>The London Mayor is satisfied that the Havering CIL will not put at risk objectives and detailed policies in the London Plan.</p> <p>The London Mayor wants to be kept advised about further progress with the Havering CIL including the Examination stage.</p> | <p>No technical response required.</p> <p>LB Havering to confirm that GLA will be kept updated on CIL process through the consultation that will be undertaken on the Draft Charging Schedule.</p> |
| <p>Neil Lees (Transport for London)</p> | <p>Transport for London supports the views of the GLA (above). It :</p> <ul style="list-style-type: none"> welcomes the reference to Crossrail and Mayoral CIL and suggests that the Draft Charging Schedule should reference the obligation requirements to the Mayor's Crossrail Supplementary Planning Guidance. | <p>The DCS includes reference to the requirements under the Crossrail SPG in relation to current Mayoral CIL and MCIL2.</p> <p>Noted and agreed. No technical response required.</p> <p>No technical response required.</p> |

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| | <ul style="list-style-type: none"> • notes that the residual infrastructure funding gap is identified as £317m and that the anticipated level of development / CIL will make only a modest contribution to this need. • is pleased to see that the need for transport infrastructure is recognised and note the alignment between its own transport aspirations and those of the Council (as set out in the concurrent local plan consultation). • would like to work closely with the Council on developing transport proposals including those to be set out in the draft Regulation 123 list. • wants to be kept informed of the further progress with the Havering CIL. | <p>LB Havering will continue to work closely with the Mayor London on planning and transport matters affecting Havering including strategic transport improvements (as identified in the Havering Local Plan and the Infrastructure Delivery Plan).</p> <p>LB Havering to confirm that TfL will be kept updated on CIL process through the consultation that will be undertaken on the Draft Charging Schedule.</p> |
| <p>Joe Coogan (On behalf of Kisharon)</p> | <p>The respondent supports the principle of the CIL proposals and that there is a differential between the areas either side of the A1306 road to reflect lower land value and property costs on the south side of the road.</p> | <p>Noted. No technical response required</p> <p>The PDCS clearly states that LB Havering proposes, at its discretion, to allow the value of land, where the land is transferred to the Council, to be offset against the chargeable amount of CIL. The Council proposes, at its discretion, to enter into agreements for a land payment to discharge part or all of a levy</p> |

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| | <p>The respondent supports the option for discretion in the implementation of the Havering CIL and suggests that the transfer of land to the Council to offset CIL charges may assist the Council in fulfilling its statutory duties and meeting local needs.</p> | <p>liability. The value of land acquired and infrastructure provided as ‘payment in kind’ will be determined by the District Valuer (at the cost of the developer).</p> |
| <p>Ziyad Thomas The Planning Bureau (On behalf of McCarthy and Stone)</p> | <p>The Planning Bureau provides evidence on the viability of retirement housing, both extracare and sheltered housing to assist with viability appraisal where no locally specific information is available.</p> <p>The PB supports bespoke viability appraisals of residential development, specifically retirement housing.</p> <p>The viability appraisal should include specific case studies of retirement housing in order to justify any specific CIL rates. CIL has a more significant impact on retirement housing than on general housing.</p> | <p>The update of the viability evidence has taken these comments into consideration and accordingly include additional testing in relation to the proposed CIL rates for private care/retirement housing development.</p> |
| <p>Shumana Rahman of Highways England</p> | <p>Highways England do not agree with the Evidence Base Report (Table 1.1) that funding for motorways and trunk roads comes from Central Government and is, therefore, excluded from the CIL assessment.</p> | <p>The IDP and CIL infrastructure evidence reflects the division of responsibilities between London Highways England who are responsible for motorways and TfL for other strategic roads, ie. trunk, roads.</p> <p>There is no effect on the CIL assessment as LBH’s CIL would not be expected to pay for strategic roads.</p> <p>No relevance to CIL.</p> |

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| | <p>Highways England wants Havering to prepare an evidence based transport assessment that considers the cumulative impact of the Local Plan on the Strategic Road Network.</p> | |
| Comments from individuals | Comments | |
| | <p>The resident cites the example of Oldchurch Hospital redevelopment where he says there has been no investment in infrastructure to support new residents. Access to the town centre is highlighted as a particular problem.</p> <p>The proposals fill the resident with no confidence as to the Council's ability to provide new infrastructure.</p> | <p>The specific purpose of CIL is to help fund a wide range of infrastructure to support development. The development of the <u>Regulation 123</u> list as part of the DCS will allow LB Havering to ahead for infrastructure delivery more effectively and will help ensure that scarce resources are used effectively and efficiently.</p> <p>The Council is currently (2018) progressing work with Transport for London which is aimed at improving access into the Town Centre and this is reflected in the Infrastructure Delivery Plan.</p> |
| | <p>The resident supports the introduction of CIL to replace pooling contributions from several developments by means of Section 106 agreements.</p> | <p>No technical response required.</p> |
| | <p>The resident supports the proposed CIL.</p> <p>He also comments that a new crossing is needed at Waterloo Road linked to the new build at the former Oldchurch Hospital site.</p> | <p>No technical response required.</p> <p>As highlighted above, the Council is currently working with Transport for London on proposals to improve access into the Town Centre from the residential development at the former Oldchurch Hospital site and beyond that to the west of Romford.</p> |

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| | The resident commented that he thought that his rates already paid for all infrastructure and did not wish to incur any further payments. | The resident would not incur any CIL charges unless he undertook a development that incurred CIL charges. No technical response required. |