

**Guildford Preliminary draft charging schedule :**

**Background document**

**January 2015**

## **What is the Community Infrastructure Levy**

1. The CIL is a non-negotiable tariff type levy which will be payable on new build development which creates net additional floorspace of more than 100 square metres gross. CIL is also payable on the net additional new build floorspace of a house or flat even where the home is under 100 square metres. The levy may also be payable on permitted development. The levy is charged in pounds per square metre (£/m<sup>2</sup>). Landowners are ultimately liable for the levy, but any relevant person involved in the development may take on the CIL liability.
2. Once adopted, the CIL is a non-negotiable tariff. However, certain developments are exempt, and there is scope for us to exempt certain developments if we wish to, to introduce an installments policy, or to decide to cease charging the CIL.

## **What are the benefits of CIL?**

3. The aim of the CIL is to ensure that more developments, particularly smaller ones contribute to the cost of infrastructure needed to support development in the area. It should therefore be more fair than planning obligations, which generally do not secure infrastructure contributions from small developments.
4. The process of introducing the CIL includes a two-stage consultation, followed by an independent examination. This process therefore provides greater transparency for all.
5. As a mechanism for securing contributions from developers towards the infrastructure needed to support development in the area, the CIL is intended to be more fair and transparent than planning obligations. Introducing the CIL will also benefit developers and landowners as it reduces the need for negotiations which can add delays to developments.
6. The CIL is intended to support new development by enabling the Council to ensure infrastructure. The change from using planning obligations to using CIL as the main method of securing development contributions will provide the Council with greater flexibility in funding its infrastructure priorities to support development, including the cumulative impact of small developments.
7. The CIL also provides for a portion of this funding to be passed to neighborhoods where development takes place, for local communities to spend on their priorities to support development in their area.

## **Process for introducing the CIL**

The process for putting a CIL charging schedule in place is:

- collect evidence
  - identify the infrastructure needed to support the relevant local plan (initial work is included in the draft Local Plan Infrastructure Schedule; this work is ongoing)
  - identify sources for funding for all infrastructure in the schedule, and the extent of any funding gap to deliver this infrastructure

- collect viability evidence of what typical developments in the area over the plan period can realistically afford to pay towards pooled infrastructure, taking account of other development and policy costs, in particular, affordable housing
- prepare a list of the infrastructure types and projects that we intend to fund at least in part using CIL receipts (referred to as a Regulation 123 list)
- use evidence to prepare PDSC, which sets out our initial CIL rate(s)
- consult on a PDSC (a draft for consultation is provided at Appendix 1)
- take comments into account, and updated evidence where relevant, and prepare a draft charging schedule
- publish a draft charging schedule for consultation
- submit draft charging schedule and supporting material for independent examination, including a regulation 123 list, details of how our S106 policy will be scaled back by the introduction of the CIL, and a statement of modifications (comments received on draft charging Schedule) if needed
- charging schedule examination
- examiner's report published
- approval of the charging schedule by a resolution of the Full Council of the charging authority.

You can keep updated on progress on Guildford borough's CIL at <http://www.guildford.gov.uk/cil>

### **How will the CIL be calculated and paid?**

8. Certain new development is exempt from CIL liability. These include :
  - buildings, or extensions to buildings, with less than 100 square metres gross internal area
  - buildings into which people do not normally go, or go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery
  - structures which are not buildings, such as pylons and wind turbines
  - buildings owned by charities used for a charitable purpose
  - affordable housing (which, in Guildford borough, currently make infrastructure provision by planning obligation)
  - vacant buildings brought back into the same use
  - mezzanine floors of less than 200sqm inserted into existing buildings, unless they form part of a wider planning permission
  - specified types of development which the charging authority decide should be subject to a "zero" rate, and are specified as such in their charging schedules
  - where the levy liability is less than £50, the chargeable amount is deemed to be zero, so no levy is due.
  
9. Builders of self-build homes, and household extensions and annexes can claim exemption provided they :
  - submit an exception certificate before work starts, and
  - live at the property for at least three years following completion of the development.

10. If the property is sold before three years, the CIL liability becomes due. The Council's Planning Service would need to monitor these developments to ensure that they are genuinely exempt.
11. With the Council's agreement, landowners may pay their CIL liability as a land transfer or as direct infrastructure provision equivalent to the CIL liability where liability is over £50,000. This CIL "payment" must be taken into account when calculating the neighbourhood portion. This means that if we accept a payment in kind, we will still need to pay the parish the 15 per cent portion from our CIL account.

### **Setting the CIL : Development viability**

12. In setting CIL rate(s) we :
  - must strike an appropriate balance between
    - (1) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and
    - (2) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.
  - may have regard to actual and expected administrative expenses in connection with CIL, up to 5% of the CIL receipts that we collect.
13. The wording (an appropriate balance) gives us some discretion in setting our rates. It recognises that there is no single correct answer. Achieving an appropriate balance is a matter of judgement.
14. As the charging authority, it is for us to suggest what we consider to be an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across the borough. We must have evidence to support this, and should make this available for scrutiny.
15. We do not need to set charging rates so low as to ensure that CIL does not make any individual developments unviable; there will be schemes that will be unviable with or without CIL. We do need to consider how our proposed rates would affect the delivery of the development plan as a whole.
16. We need to understand development viability in the borough and the extent that development can contribute to the cost of providing infrastructure to support development.
17. The CIL legislation and guidance tells us to use "appropriate available evidence" in considering viability in preparing our CIL.
18. In 2014 we commissioned a Development Viability Study to:
  - update the previous Affordable Housing Viability Studies (2008, 2009 and 2011) which informed the draft Local Plan 2014 affordable housing policy

- to inform our CIL rates, and
  - to check the viability of the draft Local Plan as a whole.
19. The study considered the viability of development for setting CIL rates in the context of the draft affordable housing policy, and other policy requirements in the draft Local Plan 2014. The study seeks to balance the requirements so that developments generally remain viable. For example, it recommends a moderate CIL rate for purpose-built student housing, with no affordable housing contribution.
  20. Guildford Development Viability Study 2014 is based on a range of theoretical developments, as the CIL guidance recommends. In line with guidance, the draft Local Plan strategic sites were considered individually. The study recommends CIL rates that the vast majority of developments could support.
  21. The Study was based on the government policy in place when it was prepared, and does not reflect changes to national planning policy regarding planning obligations introduced in November 2014. As the Study was based on the draft new Local Plan policies, significant changes to the draft new Local Plan will require development viability to be reassessed.
  22. Some planning permissions may be implemented in phases, in which case charges may be payable over an extended period of time. Any **instalment policy** that we set can be revised if needed. We are likely to include this with our draft CIL charging schedule.

### **Setting the CIL : Infrastructure needs and funding gap**

23. In setting our CIL rate(s) as well as considering the impact on development viability, we must also consider how development can fund the infrastructure that will have no other source of funding. The proposed CIL rates must take into account the infrastructure funding gap. Rates must be able to fund at least part of that gap but must not exceed it, except where required to provide for an additional 5 per cent for CIL administration costs.
24. We are continuing to progress the infrastructure schedule to identify and cost infrastructure needed to support the planned development. This will inform the next CIL consultation.

### **What will we use the CIL receipts for?**

25. We will use CIL receipts to fund infrastructure to support development in the area. For the purpose of CIL, "Infrastructure", includes open spaces, road and transport facilities, school and other educational facilities, flood defences, sporting and recreational facilities, and medical facilities. CIL guidance advises that infrastructure also includes cultural and sports facilities, district heating schemes, police stations and other community safety facilities.
26. The CIL guidance tells us as a charging authority to "think strategically in their use of the levy to ensure that key infrastructure priorities are delivered."

27. Once we have passed on the Neighbourhood Portion mentioned below, we must use the remaining CIL receipts to fund new infrastructure to support development in the area. We cannot use the funds to remedy pre-existing infrastructure deficiencies unless new development would make those deficiencies worse. We can use the levy to increase the capacity of existing infrastructure, or to repair failing existing infrastructure, if it is necessary to support development.
28. We can use the CIL receipts to fund various infrastructure projects. As there is no time limit on using the CIL receipts, we can save it up to be used at a later date.

### **What the CIL means for the parishes and for Guildford town**

29. As well as the potential for the CIL paying for strategic infrastructure in local area, we will pass on a 15 per cent of the CIL receipts raised in each area to that parish council or town (up to a cap of £100 per existing home). In areas with a Neighbourhood plan in place, we will pass on 25 per cent of CIL receipts generated in that area. This is the “neighbourhood portion”.
30. Parish Councils can spend this portion on their priorities arising from development. In Guildford town, and in any parishes without a parish council, different arrangements will be made to spend these neighbourhood portions.
31. As required by law, we will pass on a neighbourhood portion of our CIL receipts to each parish council at the end of every April and October, unless we agree alternative dates. This is at least 15 per cent, up to a maximum of £100 per existing dwelling, of the CIL originating in that parish. In parishes with a Neighbourhood Plan in place (following a successful referendum), the neighbourhood portion increases to 25 per cent, and has no annual limit.
32. This neighbourhood portion must be spent on supporting the development of the area, rather than being limited to being spent on the more restrictive “infrastructure”. Parish councils are not therefore limited to spending their CIL receipts on infrastructure. They may choose to fund local affordable homes, develop a neighbourhood plan, or by agreement with Guildford Borough Council, we may retain it and to spend on their behalf on their priorities. Specific requirements are set out in the CIL regulations and guidance regarding the auditing and reporting of parish councils neighbourhood portion CIL receipts.
33. In areas of the borough without a parish council, the Council Guildford Borough Council is required to retain the neighbourhood portion for the areas of the borough with no parish council; Guildford town and Wisley parish. The Council will work with existing community groups and neighbourhood forums to prioritise the neighbourhood CIL spending for that area. We will set out our approach to spending this neighbourhood portion on our council website and in newsletters.

### **Relationship between CIL and planning obligations**

34. Our future intended use of CIL receipts and of scaled back planning obligations is set out in the draft infrastructure / regulation 123 list.