

# **Tamworth Borough Council**

## **Community Infrastructure Levy**

### **Preliminary Draft Charging Schedule For Public Consultation**

October 2014

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# 1. Introduction

- 1.1 The Community Infrastructure Levy (CIL) is a tariff upon development which Local Authorities can charge in order to raise funds to contribute to the delivery of new infrastructure which arises as a result of development in an area. This could be expanded schools, flood defences, sports and recreation facilities and improvements to the transport network. It is important to understand that the amount of CIL raised will not cover all of the funding required to pay for new infrastructure, but will be part of a wider package of finance measures which will come from a range of sources.
- 1.2 The CIL regulations were introduced in 2010. Prior to the introduction of the Regulations, funding of infrastructure has largely been delivered from a small number of major schemes where planning obligations (Section 106 agreements) have been completed prior to the grant of planning permission. However, this particular mechanism is more restrictive than CIL and, from April 2015 onwards no single piece of infrastructure will be able to be funded from more than five S106 obligations. This has particular implications for infrastructure requirements which arise as a result of the cumulative effects of development such as the provision of secondary education or the capacity of the road network for instance. CIL has no such restrictions and can be pooled to address these needs.
- 1.3 CIL applies to all eligible development involving a net increase of 100 square metres and above of floor space, whereas S106 tends to be subject to higher thresholds in terms of the size of development. This means that even the smallest eligible developments will pay a contribution to deliver infrastructure across Tamworth.
- 1.4 In order to introduce CIL the Council needs to have
- An up-to-date Local Plan setting the planning policy context for the amount and location of new development proposed within Tamworth (anticipated to be in place 2015)
  - Evidence from the Infrastructure Delivery Plan (IDP), which accompanies the Local Plan that there is a need for funding for the necessary infrastructure to be provided from CIL.
  - Approval of the proposed charging rates following an independent examination where the main issue to address, other than the need for CIL funding is impact on viability of development.
- 1.5 The CIL works by charging a set rate per square metre of eligible development involving a net increase of 100 square metres and above of floor space. This Preliminary Draft Charging schedule (PDCS) sets out the proposals in relation to which types of development will be chargeable, and the amounts which will be charged in relation to these. Full details are set out in the Community Infrastructure Levy Regulations 2010 (as amended) as to how a CIL works.

1.6 This consultation on a PDCS provides the first opportunity for persons to comments on the Council's proposals for setting CIL charging rates.

## **2. Stages in producing the Community Infrastructure Levy charging schedule**

2.1 The CIL Regulations set out the processes and evidence that authorities must follow and have before a Charging Schedule can be adopted. These are:

- An up-to-date Local Plan
- Appropriate viability evidence to support the economic viability test
- Consult on a PDCS
- Assess comments made during the PDCS consultation and make amendments to the charging schedule
- Consult on a Draft Charging Schedule (DCS)
- Submit the DCS together with the representations made on it for independent examination, which may include a public hearing
- The Examiner produces a report which may recommend that the Charging Schedule can be approved, approved with modifications or rejected.
- Provided that the Council is able to move the Charging Schedule forward, with or without modifications raised in the report, it can be then adopted by a resolution of Tamworth Council.

## **3. Regulations, guidance and evidence base**

3.1 The economic viability test is set out in Regulation 14 of the 2010 Regulations:

*“In setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike what appears to the charging authority to be an appropriate balance between –*  
*(a) 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*  
*(b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.”*

3.2 The National Planning Policy Framework (NPPF) states at paragraph 175 that CIL should support and incentives new development.

3.3 The latest CIL Guidance (DCLG April 2013) advises that in setting levy rates charging authorities should take into account other development costs, “including those relating to policies on planning obligations in the Local Plan (in particular those for affordable housing and policies for major

strategic sites)”. Charging rates should not be set “right up to the margin of economic viability across the vast majority of sites in their area”.

- 3.4 The latest version of the Local Plan is the pre-submission Local Plan, which is out for public consultation alongside the PDCS. The Local Plan sets the amount of development for different land uses up to 2031. Within the Local Plan is the IDP, which will be used to inform the Regulation 123 List.
- 3.5 The IDP can be found at [LINK](#). This sets out a range of strategic and local infrastructure needs which support the Local Plan and also highlights key infrastructure which potentially could be funded in part by CIL.
- 3.6 The Regulation 123 List is a list of infrastructure that can be funded whole or in part by money collected under CIL. The list also ensures that double counting does not occur between CIL and Section 106 contributions and developers only pay once towards an item of infrastructure. A named item on the Regulation 123 List can therefore not be included in a Section 106 agreement.
- 3.7 The Council has produced a single report (Whole Plan Viability, Affordable Housing and CIL Study, 2014 WPV) which establishes the impact of the Local Plan on development viability, recommends a range of appropriate levels of affordable housing as to not impact on development viability and demonstrates a range of potential CIL charging rates on different types of development. The three aspects of the report were all produced together and therefore the cumulative viability impacts each issue may have on development have been assessed together. The report can be viewed [HERE](#).
- 3.8 The WPV assessment (Chapter 5) sets out the Local Plan policies which impact on development viability. Each policy was systematically assessed and the findings were used to inform the viability assessment. The policies were split into two layers:
  - Layer One: Affordable housing
  - Layer Two: Infrastructure
- 3.9 Together the Local Plan with the IDP and Whole Plan Viability Assessment form the basis of the CIL evidence base. It is these documents which will shape the Charging Schedule and the regulation 123 list.

## 4. Preliminary draft charging schedule

4.1 Based on the evidence provided, the following CIL rates are proposed in the table below. Commercial development is split by type and residential development is split by size. Charges have only been applied where the viability evidence indicates that the charges would not make the majority of schemes unviable and allowing a buffer for changing market conditions.

Land Use	Criteria	CIL Rate per square meter
Residential	One or two unit residential schemes of 210 sqm gross floor space exempt from CIL charge	£35
Out of Centre retail	Out of centre is defined as comparison and convenience retail development located outside of Tamworth Town Centre, local centres and neighbourhood centres as defined in the policies map and town centre inset map of the Tamworth Local Plan 2006- 2031	£200
All other development	None	£0

4.2 The regulations set out the main types of relief from CIL, these are:

- Charitable relief: if the charity owns part of the land and the development will be used wholly or mainly for charitable purposes
- Social housing relief: a mandatory exemption for social housing
- Residential extensions and annexes and self build properties – subject to eligibility testing.

4.3 CIL liability is calculated in £s per square metre applied to the gross internal floorspace created minus the gross internal floorspace of any existing buildings to be demolished provided that these buildings have been in continuous use for at least 6 of the previous 3 years.

4.4 The chargeable rate is also subject to an annually updated index of inflation using the national All-In Tender Price Index of Construction Costs published by the Royal Institute of Chartered Surveyors.

4.5 Payment is due when development commences for which permission was granted after adoption of the Charging Schedule. Full payment is normally due within 60 days but the Council has the discretion to offer the option of paying by instalments.

4.6 An alternative to cash payment can be offered in the form of land, where the Council considers this to be an appropriate means of supporting delivery of infrastructure. This process involves obtaining an independent valuation to ensure that the land value is equivalent to the alternative cash payment.

## **5. How will CIL be spent?**

5.1 Separate from the charging schedule the Council produce, maintain and update a list of infrastructure projects that it intends to fund from CIL receipts. The contents of the list will be drawn from the IDP. Appendix A of this document sets out a draft R123 list.

5.2 Regulations require that a proportion of CIL receipts are required to be passed to Parish or Town Councils where development is taking place. Tamworth is an unparished and therefore this would need to be spent in the neighbourhoods in which development is taking place. The regulations set this amount at 15%, which then rises to 25% where a group has an adopted Neighbourhood Plan

5.3 The Council can use CIL receipts for the purposes of providing, improving, replacing, operating and maintaining infrastructure. It can also pass funds onto other bodies, such as Staffordshire County Council, for the same purposes.

## **6. Planning obligations**

6.1 There will continue to be a role for planning obligations (S106s), particularly to deliver infrastructure required to enable major developments to be carried out in a sustainable way e.g. highway/transport infrastructure on or near to sites, provision of open space, sport and recreation facilities on large scale housing developments. Affordable Housing, which under the Regulations is exempt from CIL charges, will continue to be delivered via S106 agreements.

6.2 There will be a more limited role for “pooled contributions” to a specific item of infrastructure, as the Regulations place a limit of no more than five S106 agreements to be used in these circumstances from the date a charging schedule is adopted or from a nationally applicable default date of April 2015. If five or more obligations have been entered into for a specific item of infrastructure since April 2010 and before the appropriate date then no more can be completed. If less than five have been completed prior to the date then the overall limit is a maximum of five.

6.3 Infrastructure which it is intended to fund partially or entirely from CIL needs to be identified in the R123 list. No item of infrastructure included on the list can be funded from planning obligations in the form of Section 106 agreements or Section 278 agreements (under the Highways Act 1980).

Section 278 agreements however, are not subject to the same pooling restrictions as Section 106 agreements.

## 7. How to respond to this consultation

7.1 All comments should be made by **5pm on 10 December** to:

- [developmentplan@tamworth.gov.uk](mailto:developmentplan@tamworth.gov.uk)

or

- PDCS Consultation  
Development Plan Team  
Marmion House  
Tamworth  
B79 7BZ

7.2 In submitting your response you may wish to consider and provide feedback on the following key issues:

- Do you have any comments regarding the viability evidence prepared to support the Preliminary Draft Charging Schedule?
- Do you have any comments regarding the Infrastructure Delivery Plan evidence used to support the Preliminary Draft Charging Schedule?
- Do you have any comments on the broad categories of infrastructure proposed to be funded by CIL?
- Do you have any views on whether or not the Council should have an 'instalments policy' for the payment of CIL charges i.e. larger schemes being able to phase payments alongside the phasing plans of the development?
- Do you have any views on whether or not the Council should have a 'discretionary relief policy'?

7.3 Following consideration of all comments received by the deadline the Council will work towards publishing a Draft Charging Schedule. This will be subject to further consultation before being submitted for examination by an Independent Inspector in 2015. It is the Council's intention to hold the Local Plan and CIL examinations together.