

Report for: Cabinet 12 November 2019

Title: Community Infrastructure Levy (CIL) Partial Review: Draft Charging Schedule (DCS) consultation

Report

Authorised by: Dan Hawthorn, Director of Housing, Regeneration & Planning

Lead Officer: Rob Krzyszowski, Head of Planning Policy, Transport & Infrastructure

Ward(s) affected: All

Report for Key/

Non Key Decision: Key

1 Describe the issue under consideration

- 1.1. The Community Infrastructure Levy (CIL) is a charge based on the floorspace of new buildings to help fund infrastructure needs arising from new development. When deciding CIL rates, an appropriate balance must be struck between additional investment to support development and the potential effect on the financial viability of developments. The rate proposed by the Council must therefore be based on robust evidence which examines the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area. This means that CIL rates vary across different areas of the borough to reflect the different financial value of development across the borough – but it should be noted that CIL raised in any part of the borough can generally be spent in any part of the borough based on infrastructure need. Proposed rates are subject to approval by an independent examiner.
- 1.2. Haringey Council started charging the Mayor of London's Community Infrastructure Levy (Mayoral CIL) in April 2012, for which the money collected is passed to Transport for London to help fund Crossrail 1 'the Elizabeth Line'. The Council approved the introduction of its own CIL in July 2014 and started charging it on 1 November 2014, for which the money collected may be spent on 'infrastructure' and a proportion on neighbourhood projects.
- 1.3. In 2016 a review of Haringey's CIL rates was initiated. The Council commissioned updated viability evidence which indicated that there was potential to increase CIL rates in the south east of the borough. Cabinet subsequently endorsed a partial review of the Council's CIL Charging Schedule and a Preliminary Draft Charging Schedule (PDCS) was published for consultation in March 2017. This proposed an increase to the Council's adopted (2014) CIL rate for residential development in the south-eastern part of the borough. The rest of the Charging Schedule remained unchanged.

- 1.4. One of the representations received through the consultation identified that the imposition of a higher CIL rate would significantly impact on three strategic development sites in Tottenham Hale that had outline planning permission and would undermine the delivery of affordable housing that had been agreed on the sites. As a result, Cabinet agreed in October 2017 to defer consultation on the Draft Charging Schedule (DCS) until such time as its publication would not put known development within Tottenham Hale at viability risk.
- 1.5. The Council has now determined reserved matters applications on the three strategic development sites in Tottenham Hale and issued CIL liability notices based on the adopted (2014) CIL rates. As the viability risk has now been mitigated it is considered appropriate to move forward with a partial review of the Council's CIL Charging Schedule.
- 1.6. In early 2019 the Council commissioned specialist consultants BNP Paribas Real Estate to update viability evidence in relation to the CIL rates in the east of the borough. This work took account of the update to Appendix C 'Affordable and Specialist/Supported Housing Guidance' of the Council's Housing Strategy which was approved in February 2019. The Council's adopted planning policy sets out that the Council's preferred types of affordable housing will be set out in its Housing Strategy so the change to Appendix C therefore represents a change to the Council's policy. The update alters the Council's preferences for lower-rent affordable housing tenures and affects the financial viability of developments so must therefore be taken into consideration in the assessment of how much CIL can viably be charged.
- 1.7. Having regard to the updated viability evidence, a Draft Charging Schedule has been prepared for public consultation. This sets out the proposed changes to the Council's CIL rates in the east of the borough. The key change is an increase in the residential CIL rate from £15 per square metre to £50 per square metre. The increased CIL rate of £50 per square is considered to strike an appropriate balance between raising additional investment to support development and the potential effect on the viability of developments. Increasing the rate beyond £50 per square metre would potentially threaten the ability of the Council to secure its preferred affordable housing tenures while a lesser increase would not maximise financial contributions from development towards infrastructure. The Draft Charging Schedule also proposes an increase in the CIL rate for student accommodation from £15 per square metre to £85 per square metre. In addition, it introduces CIL charges for two new specialist housing uses which are Build to Rent at a rate of £100 per square metre and warehouse living at £130 per square metre.
- 1.8. This report provides an update on the Haringey CIL; sets out the next steps for the partial review of the Council's CIL Charging Schedule; and seeks Cabinet's approval to: publish the Draft Charging Schedule and associated evidence base documents for public consultation; give delegated authority to the Director for Housing, Regeneration and Planning to finalise and approve the proposed Submission documents, in consultation with Cabinet Member for Climate Change and Sustainability, including any proposed modifications to the Submission documents arising from consultation; and submit the Draft Charging Schedule, the Council's responses to the representations submitted, and the necessary procedural and evidence base documentation for examination.

2 Cabinet Member Introduction

- 2.1 The Community Infrastructure Levy (CIL) is a charge based on the floorspace of new buildings to help fund infrastructure needs arising from new development. CIL can generally be spent in any part of the borough.
- 2.2 CIL rates are calculated based on financial viability of development. As financial values of development are different across Haringey CIL rates vary geographically to reflect this. Financial values are also why affordable housing has a big impact on CIL rates. While a private home and a social rented home cost broadly the same amount for a developer to build, a developer can sell a private home for a greater price than a social rent home. This means that the more affordable housing the council seeks and the more affordable the tenures are for residents, the lower the financial value of development to a developer and the less money that is available to contribute towards CIL.
- 2.3 This report proposes to increase CIL rates levied by the Council in the east of the borough for residential development, build to rent and student accommodation. It also proposes to introduce a new rate for warehouse living. Until now, the CIL rate for residential development in the east of the borough has been extremely low at £15 per square metre. This report proposes increasing it to £50.
- 2.4 In setting CIL rates the Council is required by national guidance to strike a balance between investment to support development and the potential effect on the financial viability of developments. A comprehensive review has been carried out to decide how much to increase CIL rates in the east of the borough. The proposed rates maximise financial contributions from development towards infrastructure whilst ensuring the economic viability of development and protecting the Council's ability to secure its preferred affordable housing tenures as part of new development.
- 2.5 The proposed rates are set out in a Draft Charging Schedule for consultation. They are subject to approval by an independent examiner.

3 Recommendations

- 3.1 That Cabinet:
- 1) Notes that following the clarifications set out in Section 8 the proposals were endorsed by Regulatory Committee for approval by Cabinet without any changes for consideration
 - 2) Notes the update on the Haringey CIL;
 - 3) Notes the next steps outlined in the report for the partial review of the Council's CIL Charging Schedule;

- 4) Approves for public consultation, in accordance with Regulation 16 of the CIL Regulations 2010, the following Proposed Submission documents, prior to their submission for examination:
 - the Haringey CIL Draft Charging Schedule (Appendix B) as revised and updated from the Preliminary Draft Charging Schedule;
 - Community Infrastructure Levy: Eastern Haringey Viability Update Study prepared by BNP Paribas (October 2019) (Appendix C)
- 5) Delegates authority to the Director for Housing, Regeneration and Planning, following consultation with the Cabinet Member for Climate Change and Sustainability, to finalise and approve the Proposed Submission documents (as set out in recommendation 4), in accordance with section 212 of the Planning Act 2008 and Regulation 19 of the CIL Regulations 2010 (as amended) for submission for examination, including to:
 - (i) make modifications to the Submission documents arising from consultation and throughout the examination, including undertaking any necessary further consultation, to ensure the legal requirements are met;
 - (ii) submit the Draft Charging Schedule, the Council's responses to the representations submitted to the Draft Charging Schedule, and the necessary procedural and evidence base documentation, together with any proposed modifications;

4 Reasons for decision

- 4.1 In October 2017 Cabinet agreed to pause a partial review of the Council's CIL Charging Schedule to ensure that known development within Tottenham Hale was not put at viability risk. The known developments have now been issued with CIL liability notices and consequently the viability risk to them from a change in CIL rates has been mitigated. It is therefore considered appropriate to move forward with a partial review of the Council's CIL Charging Schedule. Specialist consultants BNP Paribas were commissioned to update the Council's viability evidence in relation to CIL rates in the east of the borough. Having regard to the updated viability evidence and BNP Paribas' consequent recommendations, a Draft Charging Schedule has been prepared for consultation setting out the proposed changes to CIL rates in the Eastern Charging Zone. Following consultation, the next step towards implementation of the revised rates will be to submit the Draft Charging Schedule and associated documentation for examination.

5 Alternative options considered

- 5.1 The alternative options considered are:
 - Option 1 – To cancel the partial review. The advantage of this is it would not prejudice or restrict new affordable housing planning policies for the emerging new Local Plan and lower-rent tenures could be maximised. The disadvantage would be that CIL rates and therefore the amount of financial contributions from

developers for infrastructure would remain the same and may not be maximised.

- Option 2 – To publish a Draft Charging Schedule not taking into account the new Appendix C of the Council’s Housing Strategy. The advantage of this is that CIL rates and therefore the amount of financial contributions from developers for infrastructure would be higher than if the new Appendix C were taken into consideration. The disadvantage would be that the CIL rates would not be set in accordance with the latest Council preferences for lower-rent affordable housing tenures, there would be a risk that the Draft Charging Schedule would be found unsound at examination, and the increased CIL rates would prejudice and restrict new affordable housing planning policies for the emerging new Local Plan.
- Option 3 – To publish a Draft Charging Schedule, taking into account the new Appendix C of the Council’s Housing Strategy. The advantage of this is that CIL rates and therefore the amount of financial contributions from developers would be increased but not to a level that would be incompatible with the latest Council preferences for lower-rent affordable housing tenures or that would significantly prejudice and restrict new affordable housing planning policies for the emerging new Local Plan. The disadvantage would be that CIL rates and therefore the amount of financial contributions from developers would not be as high as for Option 2.

5.2 Option 3 is being recommended as it will set an appropriate balance between the rates of CIL to pay for infrastructure required to support the development of the borough and the economic viability of development proposals with the same.

6 Background information

Haringey Local Plan

6.1 Haringey’s Local Plan makes provision for a minimum of 19,802 homes and an additional 23,800m² employment floorspace over the period 2013 to 2026. This growth will result in increased pressure on local infrastructure, services and facilities, creating demand for new or enhanced provision. The Council and developers have a responsibility through the planning process to manage the impact of this growth, ensuring that any harm caused by development is mitigated and that the necessary infrastructure is provided.

6.2 The Infrastructure required to support this growth has been identified in the Council’s Infrastructure Delivery Plan (April 2016) (the ‘2016 IDP’). The Council expects new development to contribute to site related and wider infrastructure needs through a combination of the following mechanisms:

- Planning conditions (site/development related)
- Planning obligations to secure developer contributions or works in kind e.g. Section 106 agreements / planning obligations (site/development related)
- CIL (strategic and borough-wide infrastructure)

Community Infrastructure Levy (CIL)

- 6.3 CIL is a levy introduced under the Planning Act 2008 that local authorities can choose to charge on new developments in their area for the purpose of raising funds for the wide range of community infrastructure projects required to support area development¹. It provides local authorities with an additional means of securing infrastructure contributions from developers. As set out in paragraph 5.2, new development is already required to contribute to site related and wider infrastructure needs through a combination of planning conditions and planning obligations. The Council has existing planning policies to secure things like play space on site and the Council seeks to use Section 106 and Section 278 agreements to secure other directly relevant contributions including highways improvements. The Council also makes use of any other available opportunities to help pay for infrastructure, for example by securing a GLA Housing Zone designation in Tottenham Hale which has helped fund certain infrastructure items needed to support new development.
- 6.4 CIL is set through the adoption of a Charging Schedule produced in accordance with the relevant Local Plan and using the procedure set out in the Planning Act 2008 and the CIL Regulations 2010 (the 'CIL Regulations') (as amended). The CIL Regulations 2010 (regulation 14) require that in setting rates a charging authority must strike 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.
- 6.5 In setting rates, a charging authority must take into account the rates set for the Mayoral CIL (see below).
- 6.6 As to the meaning of an 'appropriate balance', the Government's Planning Practice Guidance ('PPG') on CIL sets out that the levy is expected to have a positive economic effect on development across a Local Plan area. When deciding the CIL rates, an appropriate balance must be struck between additional investment to support development and the potential effect on the viability of developments (PPG, paragraph 010). In meeting the regulatory requirements, charging authorities should be able to show and explain how their proposed CIL rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area. In doing so, charging authorities should use evidence in accordance with PPG and take account of national planning policy on development contributions.

¹ 15% of CIL must be set aside to be spent on neighbourhood projects determined in consultation with the community, known as 'Neighbourhood CIL'. The Council ran a consultation in late 2018 seeking feedback about how this set amount should be spent. A further consultation will be undertaken later in 2019 / early 2020.

- 6.7 As part of the CIL process, the charging authority must establish the total cost of the infrastructure projects they wish to fund wholly or partly through CIL. In doing so, they must consider (i) what additional infrastructure is required to support development in their area (as identified in the relevant infrastructure assessment) and (ii) what other sources of funding are available based on appropriate evidence. The charging authority will then need to determine the size of its infrastructure funding gap (i.e. known/expected infrastructure costs – other possible sources of funding those costs) based on which a CIL funding target can be established. It is the identification of the funding gap which evidences the need to put the CIL in place (PPG, paragraph 017).
- 6.8 The PPG requires that information on infrastructure needs should be drawn from the infrastructure assessment that was undertaken as part of preparing the Council's Local Plan (paragraph 17). The Council's adopted Local Plan was supported by the IDP 2016, which identifies an expected funding gap to 2026/27 of £348.6 million) (section 13) and lists the prices and potential funding sources, including CIL, for the list of necessary infrastructure projects (section 14). The IDP dates to 2016 and is considered to be up to date. As such it is not deemed necessary to re-do or update the infrastructure evidence in support of CIL, which was tested at examination two years ago and found to be sound. The 2016 IDP states that it was expected a formal update of the IDP would take place to support the updating of the Council's CIL. This has not taken place and instead it is proposed the update will take place in support of the Council's emerging new Local Plan. As set out above, it is considered that the 2016 IDP is sufficiently robust and up to date for the purpose of supporting the Council's partial review of the CIL Charging Schedule.
- 6.9 In order to assess the potential economic impact of the imposition of CIL, a viability assessment is required, using an area-based approach and informed by the appropriate available evidence. A charging authority's proposed rate(s) should be reasonable given the available evidence, but there is no requirement for it to exactly mirror the evidence. There is room for some pragmatism. It would be appropriate to ensure that a 'buffer' or margin is included, so that the CIL rate is able to support development when economic circumstances adjust. In all cases, the charging authority should be able to explain its approach clearly (PPG, 020).
- 6.10 The CIL Regulations allow charging authorities to apply differential rates to help ensure the viability of development is not put at risk (regulation 13). However, differences in rates need to be justified by reference to economic viability of development, not on the basis of delivering policy objectives (PPG, 022). Charging authorities may wish to consider how any differential rates appropriately reflect the viability of the size, type and tenure of housing needed for different groups in the community and should consider the views of developers at an early stage. In setting differential rates, the charging authority must ensure their Charging Schedules are state aid compliant.
- 6.11 The procedure for reviewing an existing CIL Charging Schedule is the same as producing a new one and is governed by the Planning Act 2008 and the CIL Regulations. The achievement of the appropriate balance by the charging authority in setting its CIL rates is tested through an examination of the

proposed Charging Schedule by an independent examiner, following consultation.

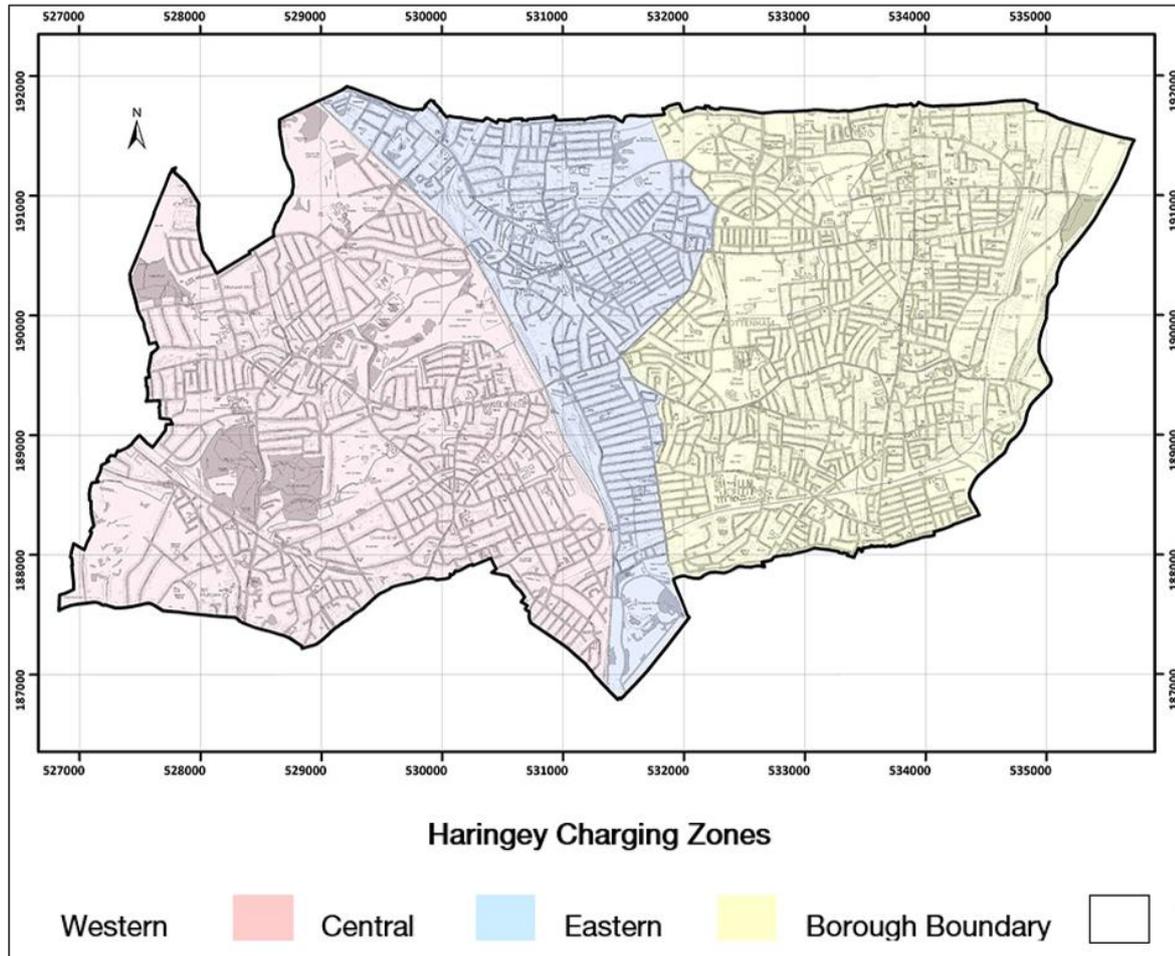
Haringey CIL

6.12 The Council approved the introduction of a local CIL in July 2014 and started charging on 1 November 2014. The rates together with the map showing the different charging zones are set out in the Council's existing adopted CIL Charging Schedule (Appendix A). The adopted rates are as follows:

Table 1: Adopted CIL Charging Schedule for Haringey

Adopted CIL Charging Schedule for Haringey			
Use	CIL charge (£/square metre)		
	Western	Central	Eastern
Residential	£265	£165	£15
Student accommodation	£265	£165	£15
Supermarkets	£95		
Retail Warehousing	£25		
Office, industrial, warehousing, small scale retail (use class A1-5)	Nil Rate		
Health, school and higher education	Nil Rate		
All other uses	Nil Rate		

6.13 The map of the three geographical zones (Western, Central and Eastern) is shown below:



6.14 CIL charging rates are subject to annual indexation therefore the current rates charged by the Council are higher than the adopted rates in Table 1. As of the April 2019 the inflation multiplier was 1.242 (equating to +24%).

6.15 As at 31 March 2019 the Council had collected £8.5m in local CIL. This is broken down as follows:

Table 2: Local CIL Collected

Year	Haringey CIL collected	Total CIL collected
2015/16	£764,856.73	£8,521,394.31
2016/17	£1,904,625.21	
2017/18	£1,887,688.21	
2018/19	£3,964,224.16	

7 Partial Review of the CIL Charging Schedule

Initiation of Partial Review

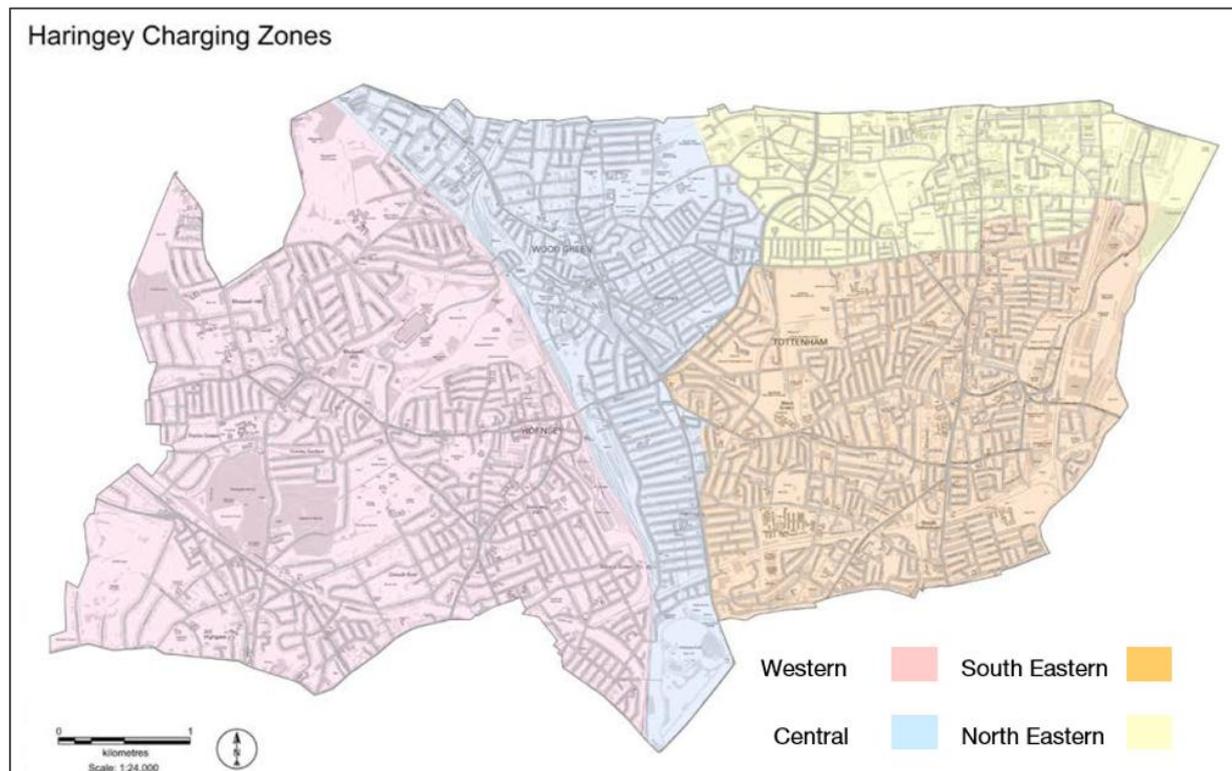
7.1 In 2016 the Council initiated a review of its adopted CIL rates. Specialist consultants BNP Paribas prepared updated viability evidence for the Council which indicated that there was potential to increase CIL rates in the south east

of the borough. Cabinet subsequently endorsed a partial review of the CIL Charging Schedule and a Preliminary Draft Charging Schedule (PDCS) was published for consultation in March 2017. This proposed an uplift to the CIL that would be charged for residential development in the south east of the borough to be implemented via the creation of a new south-eastern charging zone for residential development. The rest of the Charging Schedule remained unchanged.

Table 3: Preliminary Draft Charging Schedule (red shows changes proposed in 2017 consultation)

Use	CIL charge (£/square metre)			
	Western	Central	<u>South Eastern</u>	<u>North Eastern</u>
Residential	£265	£165	<u>£130</u>	£15
Student accommodation	£265	£165	<u>£130</u>	£15
<u>Warehouse Living</u>	<u>N/A</u>	<u>N/A</u>	<u>£130</u>	<u>N/A</u>
Supermarkets	£95			
Retail Warehousing	£25			
Office, industrial, warehousing, small scale retail (use class A1-5)	Nil Rate			
Health, school and higher education	Nil Rate			
All other uses	Nil Rate			

7.2 The map of the four geographical zones (Western, Central and South Eastern and North Eastern) is shown below:



- 7.3 The Council received 15 written responses during the consultation. There were a number of objections from developers in relation to the proposed increase in CIL in the south-eastern charging zone. One of the representations raised the issue that for outline applications the Council had already granted the new CIL rate would be applicable to subsequent reserved matters applications. The imposition of a higher CIL rate was identified as having potential to significantly impact on three strategic development sites in Tottenham Hale that had outline planning permission, principally by undermining the delivery of affordable housing that had been agreed on the sites. This would have led to the levels of affordable housing on these sites having to be revised and would have undermined the delivery of Local Plan and Housing Zone objectives.
- 7.4 Following legal advice, and upon being advised of the risk to affordable housing delivery, Cabinet agreed in October 2017 to defer consultation on the Draft Charging Schedule (DCS) until such time as its publication would not put known development within Tottenham Hale at viability risk. The Council has now determined reserved matters applications on the three strategic development sites in Tottenham Hale and issued CIL liability notices based on the existing adopted CIL rates. As the viability risk to the known developments from a change in CIL rates has been mitigated it is considered appropriate to move forward with the partial review.

Resumption of Partial Review

- 7.5 The Eastern Haringey CIL Viability Update Study which supported the PDCS was finalised in December 2016. As it is close to three years old an update was commissioned to the study to establish whether the rates proposed in the PDCS are still viable. The updated study completed in October 2019, (published as Appendix C) reflects current values and costs for development and land. It also

contains other amended inputs which impact on development viability as set out in the following paragraphs.

- 7.6 Most new development in London is subject to Mayoral CIL (MCIL) which was introduced in April 2012. This is effectively 'top-sliced' from the local CIL rate and must be built into the viability analyses of individual boroughs. At the time Haringey adopted its CIL rates the MCIL for Haringey was £35 per sqm (with a nil rate for education and health). This rate remained in force when BNP Paribas prepared its December 2016 study (albeit the rate assumed for the appraisals was higher as indexation over the period 2012-2016 had increased MCIL to approximately £50 per sqm). In February 2019 the Mayor adopted a new Charging Schedule (MCIL2) which included an increased Mayoral CIL rate for Haringey of £60 per sqm. MCIL2 came into effect on 1 April 2019. In preparing its updated study BNP Paribas had to account for this increase in Mayoral CIL.
- 7.7 The study was prepared in line with the affordable housing policy framework in the Council's Local Plan. Policy SP2 of the Local Plan Strategic Policies document (adopted March 2013, with alterations July 2017) sets a borough wide affordable housing target of 40% and a tenure split delivery target of 60% affordable rent (including social rent) and 40% intermediate housing. The only exception to this is within the area covered by the Tottenham Area Action Plan (adopted July 2017) where a reversed tenure split target of 40% affordable rent (including social rent) and 60% intermediate housing applies. The policy framework of the Local Plan has not changed since the previous evidence was prepared. The Council has however adopted a revision to its Housing Strategy relating to its preferred affordable housing tenures. The Council's Development Management DPD requires that this revision is taken into account when making planning decisions.
- 7.8 In March 2019 the Council agreed and adopted a revised version of Appendix C to the Council's Housing Strategy 2017-22. This sets out an expectation that all new affordable homes being developed are affordable for Haringey residents. It sets out the Council's preference that new affordable housing should be developed by the Council itself or purchased by the Council from private developers and delivered as Council housing. Appendix C to the Housing Strategy also sets out that for general needs homes the Council has an explicit preference for social rent with rents at target rent levels, especially for Council rented homes at Council rents. It also sets out that the Council's preference for the Intermediate portion is for Discount Market Rent Housing at London Living Rent levels.
- 7.9 The affordable housing requirements which were tested in the development appraisals for the December 2016 study are not in line with the Council's current preferences as set out in Appendix C of the Housing Strategy. Officers therefore determined it necessary to consider the new requirements as part of an updated study. The purpose of this is to understand the impact the Council's new affordable housing guidance has upon development viability and the consequential CIL rates which can be levied on residential development without putting its delivery at risk.
- 7.10 BNP Paribas was instructed to test the four scenarios set out in the table below:

Table 4: Affordable housing scenarios tested by BNP Paribas in viability update

	Affordable housing scenario 1	Affordable housing scenario 2	Affordable housing scenario 3	Affordable housing scenario 4
Affordable Rent component	Affordable rent let at rents that do not exceed Local Housing Allowance rates	London Affordable Rent	Social Rent	Social Rent
Intermediate component	Shared ownership	Shared ownership	Shared ownership	Discount Market Rent

7.11 Scenario 1 is consistent with the December 2016 Study which informed the proposed rates in the Preliminary Draft Charging Schedule. It is based on the delivery of Affordable Rent (let at rents that do not exceed Local Housing Allowance rates) and Shared Ownership. Scenarios 2, 3 and 4 are newly tested. Scenario 2 is based on the delivery of London Affordable Rent which is let at rents set by the Mayor that are standard across London and Shared Ownership. Scenario 3 is based on the delivery of Social Rent (let at locally set rents) and Shared Ownership. Scenario 4 is based on the delivery of Social Rent (let at locally set rents) with the Intermediate component made up of Discount Market Rent (let at London Living Rent levels). Scenarios 2, 3 and 4 each accord with guidance provided in Appendix C of the Council’s Housing Strategy. Scenario 4 best reflects the Council’s preferred approach as set out in the document.

Conclusions of updated viability work and implications for revising CIL

7.12 As set out in section 5.4 of this report the CIL Regulations require that, in setting a charge, local authorities strike an appropriate balance between securing enough revenue to fund necessary infrastructure on the one hand and the potentially adverse impact of CIL upon the viability of development across the whole area on the other.

7.13 The updated viability work by BNP Paribas (Appendix C), finalised in October 2019, indicates that viability of residential development is currently challenging in certain locations and on certain types of development in the eastern part of the borough. Nevertheless, BNP Paribas considers that it is possible for the Council to continue to levy rates across the Eastern CIL Zone and increase the rates for residential development and student accommodation subject to allowing for an appropriate buffer to address risks to delivery.

7.14 Table 5 sets out BNP Paribas’ recommended maximum CIL rates for residential development in the Eastern Charging Zone under the four affordable housing scenarios:

Table 5: BNP Paribas recommended maximum CIL charges allowing for buffer

	Recommended maximum CIL Charge for residential development
Scenario 1: Affordable Rent & Shared Ownership	£115
Scenario 2 London Affordable Rent and Shared Ownership	£115
Scenario 3 Social Rent and Shared Ownership	£65
Scenario 4 Social Rent and Discount Market Rent	£50

- 7.15 PPG on viability is clear that viability assessments should take account of all relevant policies, and local and national standards, including Section 106 planning obligations. Scenario 1 is not representative of the Council's latest preferred approach to delivering affordable housing and therefore the results from the modeling of Scenario 1 are not considered appropriate to underpin the setting of revised CIL rates. It is considered that Scenarios 2 and 3 are generally appropriate in the context of the current guidance position. The Council has set a preference for Scenario 3 (Social Rent), however Scenario 2 (London Affordable Rent) reflects the main low cost affordable rented housing that the GLA expects to fund so is generally preferred by Registered Providers. The evidence indicates that the viable CIL rate for Scenario 2 is £115 per sqm. The evidence indicates that the viable CIL rate for Scenario 3 is £65 per sqm. Scenario 4 is most appropriate in the context of the current policy position best reflecting the Council's requirements for affordable housing delivery. The evidence indicates that the viable CIL rate for Scenario 4 is £50 per sqm.
- 7.16 Having regard to the Council's affordable housing policy preferences discussed above and in light of the maximum CIL charges set out in Table 5, BNP Paribas recommend that the Council consider introducing a flat rate charge of £50 per sqm for residential development in the Eastern Charging Zone. Increasing the proposed charge beyond this level would require a policy trade off to be made. The only way to achieve a higher CIL without making development unviable would be for the Council to seek a different affordable housing tenure mix or to accept a reduced overall quantum of affordable housing (e.g. lower than the borough wide target of 40%).
- 7.17 Officers support the recommendation of BNP Paribas and recommend the introduction of a flat rate of £50 per sqm for residential development in the Eastern Charging Zone. This would represent an increase of £35 per sqm versus the current adopted charge of £15 per sqm. The CIL increase would apply to all wards in the Eastern Charging Zone. BNP Paribas' December 2016 study indicated that there was no potential to increase the residential CIL rate in White Hart Lane and Northumberland Park wards. Since that time, however, sales values have increased such that an increased residential CIL rate in these wards would be economically viable.

- 7.18 As part of its update BNP Paribas also analysed the viability of student accommodation in the Eastern Charging Zone. The results indicated that there is potential to increase the charge from the current adopted rate of £15 per square metre to £85 per square metre.
- 7.19 BNP Paribas also tested two specialist housing uses. It was found that purpose built private rented sector (PRS) schemes (referred to as “Built to Rent” in the Draft London Plan) can sustain a higher charge than standard residential development. BNP Paribas recommend that the Council introduces a new rate of £100 per square metre for PRS. The viability update also considered the viability of “warehouse living”, a specialist housing use which is found in some parts of the east of the borough. BNP Paribas recommend that the Council introduces a new rate of £130 per square for warehouse living (in line with what was proposed in the PDCS).
- 7.20 In light of the updated viability evidence and having regard to the relevant legal tests and national guidance, officers consider that the following amendments to the Council’s Charging Schedule are justified:
- 1) Increasing the residential rate in the Eastern Charging Zone from £15 per sqm to £50 per sqm;
 - 2) Increasing the student accommodation rate in the Eastern Charging Zone from £15 per sqm to £85 per sqm;
 - 3) Including a new “Built to Rent” use in the Charging Schedule which would be subject to a charge of £100 in the Eastern Charging Zone (the Built to Rent rate in the Western and Central Charging Zones will be amended so that it is in line with the existing residential rate for those zones).
 - 4) Including a new “warehouse living” use in the Charging Schedule which would be subject to a charge of £130 per sqm in the Eastern Charging Zone (it is not applicable to other charging zones so the rate there would be nil).
- 7.21 Officers recommend this approach would accord fully with the CIL Regulations 2010, in particular Regulation 14 which requires local authorities setting CIL rates to strike an appropriate balance between securing enough revenue to fund necessary infrastructure on the one hand and the potentially adverse impact of CIL upon the viability of development across the whole area on the other. This approach would also accord with the PPG on differential rates being justified on the basis of economic viability.
- 7.22 Whilst the setting of higher CIL rates in some wards could potentially be justified, setting CIL at the limit of viability is not recommended. The effect of this would be put the viability of new development at risk and it would likely make it more difficult for the Council to secure a policy compliant level of affordable housing. It is also important that the revised CIL rates are not set at a level which would prejudice or restrict new affordable housing policies for the emerging new Local Plan. Setting CIL rates at the limit of viability could limit the scope of future new policy.

Implications of implementing proposed revised CIL rates

- 7.23 The proposed residential charge of £50 per sqm in the Eastern Charging Zone is a £35 per sqm increase on the current charge of £15 per sqm (£18.63 when indexation is applied) and would result in an increase in CIL receipts versus what would be collected if the current adopted rate was retained.
- 7.24 The PDCS which the Council consulted on in early 2017 proposed a CIL rate of £130 per sqm for residential development in the south of the Eastern Charging Zone. It did not propose any change to the CIL rate in the north of the Eastern Charging Zone (comprising White Hart Lane and Northumberland Park wards). Based on these charges and development anticipated in the period 2018 to 2026, the PDCS estimated this would generate CIL revenues of £18.79 million. The current recommended rate of £50 per sqm across the entire Eastern Charging Zone would result in a reduction of CIL revenues of approximately half versus the estimate in the PDCS.
- 7.25 It is important to note that it is very difficult to forecast CIL receipts as this is entirely dependent on planning applications being submitted, approved, development commenced and certain triggers being met, such as commencement on site, with a wide range of factors outside of the control of the Council influencing this. Particularly, the wider economy and development and construction industry factors play a big role. Contributions can vary from very small to very large across different development sites meaning that forecasts can be 'lumpy', volatile and be significantly impacted by one or two small changes.

8 Regulatory Committee Comments

- 8.1 The proposals which are the subject of this report were considered by Regulatory Committee on 15 October 2019. The following points were raised and discussed before the proposals were endorsed by Regulatory Committee for approval by Cabinet without any changes for consideration:
- Committee identified an error on page 5 of Appendix C relating to the proposed student accommodation rate. This was noted by officers and has subsequently been corrected within Appendix C of this report.
 - Committee asked which planning permissions the proposed new rates would apply to. Officers advised that the new rates would apply to permissions applied for from the date of implementation – it would not affect developments where permission had already been granted.
 - Committee asked what the implications would have been of increasing the residential CIL rate in 2017 rather than putting the Partial Review on hold. Officers advised that increasing the rate in 2017 would have resulted in issues with approvals for outline planning applications, as viability assessments would have been calculated based on the old CIL rate. An increase in the CIL rate would have resulted in a loss of affordable housing for the Hale Wharf and Ashley Gardens developments
 - Committee discussed rates charged in neighbouring boroughs and whether these were comparable. Officers advised that residential CIL rates between boroughs are not directly comparable because each borough has their own affordable housing policy and this has an impact on the residential CIL rate which is financially viable.

- Committee asked about the consultation on the Draft Charging Schedule. Officers advised that consultation would be targeted at the Planning Policy database. Committee was advised to expect that that developers would consider that the proposed residential rate was set too high, but unless alternative evidence could be provided, officers felt that the Council was in a good position to present the proposed rate at examination stage.
- Committee asked about spending of CIL and the arrangements around this. Officers explained there would be other consultations on neighbourhood CIL spending, separate to the Draft Charging Schedule consultation.

9 Next Steps

9.1 The process for reviewing a CIL Charging Schedule is set out in the CIL Regulations 2010. The following table sets out an indicative timetable for proceeding with the partial review:

Table 6: Milestones for partial review of Haringey CIL

Milestones for partial review of the CIL Charging Schedule	
Task	Completion Date
Draft Charging Schedule approved by Cabinet	November 2019
Draft Charging Schedule Consultation	December 2019 – January 2020
Submission for Examination	Early 2020
Examination Hearing	Spring 2020
Inspector's Report	Summer 2020
Approval of Charging Schedule at Full Council	Autumn 2020
Publication and effect of revised CIL Charging Schedule	Early 2021

9.2 As set out in Table 6 the next stage in the partial review is the publication of a Draft Charging Schedule for consultation. A Draft Charging Schedule has been prepared in this regard incorporating the proposed rate changes set out in Section 6 of this report (Appendix B). The proposed charges in the Draft Charging Schedule are set out below.

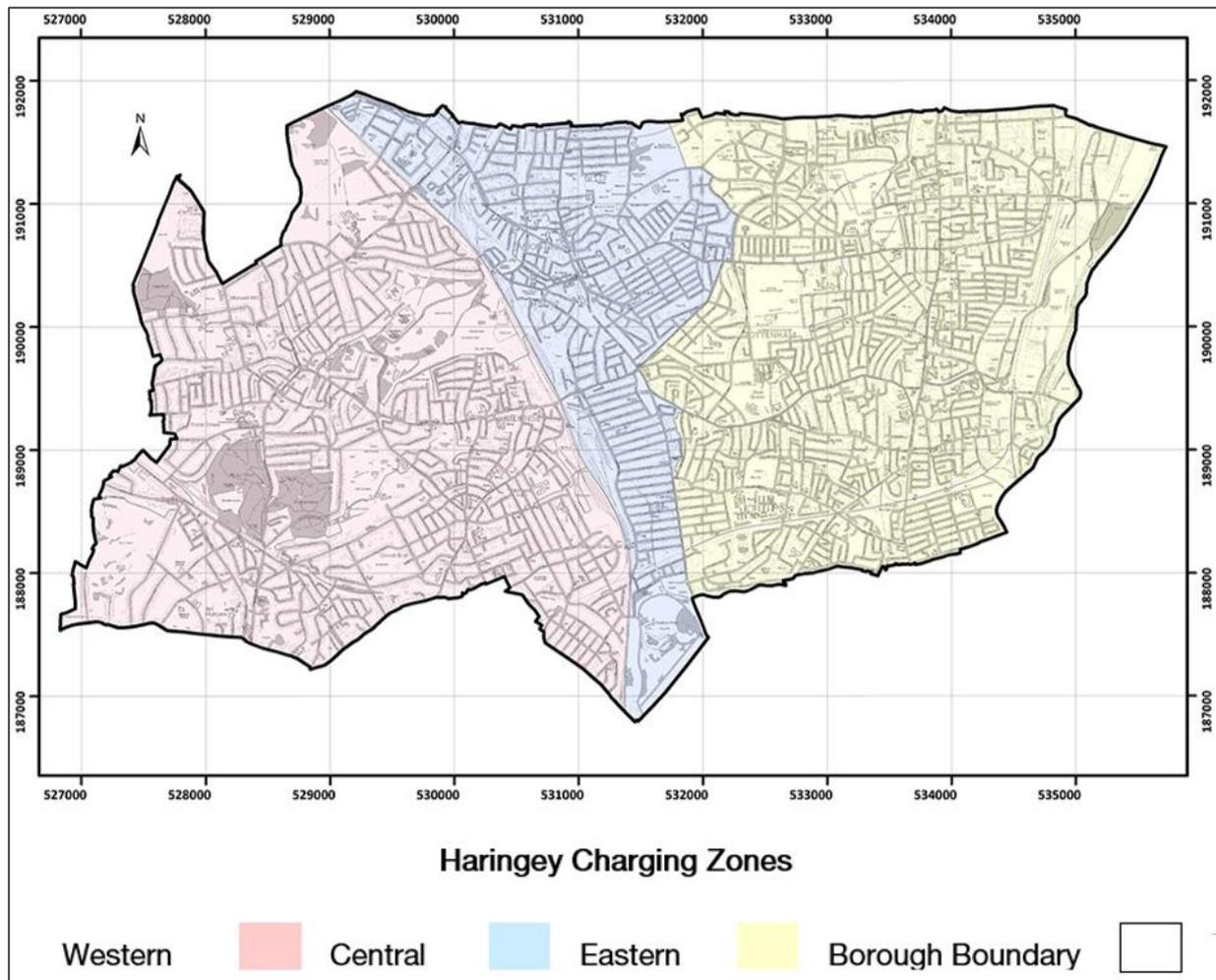
Table 7: Proposed Draft Charging Schedule (red shows changes proposed for 2019 consultation)

Use	CIL charge (£/square metre)		
	Western	Central	Eastern
Residential	£265*	£165*	£15 £50
Student accommodation	£265*	£165*	£15 £85
<u>Build to Rent housing</u>	<u>£265*</u>	<u>£165*</u>	<u>£100</u>

<u>Warehouse Living</u>	<u>Nil Rate</u>	<u>Nil Rate</u>	<u>£130</u>
Supermarkets	£95*		
Retail Warehousing	£25*		
Office, industrial, warehousing, small scale retail (use class A1-5)	Nil Rate		
Health, school and higher education	Nil Rate		
All other uses	Nil Rate		

*Rates that are not amended as part of the Partial Review of the CIL Charging Schedule in 2019/20 will be indexed for inflation in accordance with the CIL Regulations 2010 (as amended) based on the date of their original effect in the original CIL Charging Schedule (November 2014) to the date of final approval (expected 2020/21). The updated indexed figures will be provided as part of the final reviewed CIL Charging Schedule at the point of final approval (expected 2020/21) rather than in this Draft Charging Schedule document.

9.3 The map of the three geographical zones (Western, Central and Eastern) is shown below:



9.4 The Haringey CIL Draft Charging Schedule (Appendix B) as revised and updated from the Preliminary Draft Charging Schedule and the Community Infrastructure Levy: Eastern Haringey Viability Update Study prepared by BNP Paribas (October 2019) (Appendix C) is to be published for public consultation. The Council will also publish a Statement of Representations Procedure, the IDP Update 2016 and any other procedural documentation required.

9.5 The CIL Regulations 2010 set out how the Council should consult on a Draft Charging Schedule (Regulations 16 and 17). The minimum requirement is for 4 weeks of consultation, however in line with good practice and consistent with the Council’s Statement of Community Involvement it is proposed that the consultation runs for at least 6 weeks. Subject to Cabinet approval, this is proposed to take place from December 2019.

10 CIL Spending

10.1 While the spending of CIL is not the subject of this report and does not form part of the recommendations, a summary is given below as to how CIL must be spent and the local approach that is being taken to funding specific projects. As set out in paragraph 5.15 of this report, as at 31 March 2019 the Council had collected £8.5m in local CIL. CIL therefore provides an important source of

funding towards a wide range of community infrastructure projects required to support area development.

10.2 The Planning Act 2008 (as amended) and CIL Regulations (as amended) set out how CIL can be spent:

- Up to 5% of CIL may be spent on the administrative expenses incurred by the Council in administering the collecting and spending of CIL.
- 15% of CIL must be spent on 'Neighbourhood CIL' (NCIL) projects, that is projects identified in consultation with local neighbourhoods. The 15% figure increases to 25% where there is an adopted Neighbourhood Plan.
- The remaining 70-80% of CIL may be spent on 'Strategic CIL' (SCIL) projects.

Strategic CIL (SCIL)

10.3 The CIL Regulations 2010 (as amended) require that CIL must be spent on "funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area" (Regulation 59). It is important to note that Charging authorities may not use the levy to fund affordable housing.

10.4 The process for spending Strategic CIL is set out in the Haringey CIL Charging Schedule on the CIL webpage at www.haringey.gov.uk/cil. This states that "CIL revenue will be spent on infrastructure needed to support development in Haringey. This need is assessed as part of the Local Plan making process and an Infrastructure Delivery Plan is included in the adopted Local Plan: Strategic Policies. This infrastructure needs and delivery plan are updated regularly."

10.5 The Charging Schedule sets out in Table 3 Haringey's Regulation 123 List, which essentially sets out what SCIL may be spent on, as follows:

- Educational Facilities
- Further Education Facilities
- Health and wellbeing Facilities
- Parks and Open Spaces
- Social and Community Facilities
- Transport and Highways (excluding works that area required as part of a development proposal to be secured through a Section 278 Agreement)
- Enterprise Space
- Sports and Leisure Facilities
- Public Realm Improvements
- Community Safety Measures
- District Energy Network and associated infrastructure

10.6 The Governance document states (page 9) that the Strategic Proportion of CIL will be spent on CIL eligible projects within the Capital Programme taking into account the Regulation 123 List and the IDP.

Neighbourhood CIL (NCIL)

- 10.7 Legislation requires NCIL to be spent on “infrastructure” or what is known as ‘Neighbourhood CIL’ (NCIL) projects which can be “anything else that is concerned with addressing the demands that development places on an area”.
- 10.8 15% of CIL must be spent on NCIL projects, that is projects identified in consultation with local neighbourhoods. The 15% figure increases to 25% where there is an adopted Neighbourhood Plan which is currently only the case in the Highgate Neighbourhood Plan area in the borough at the moment, although there are emerging Neighbourhood Plans at Crouch End and Finsbury Park and Stroud Green.
- 10.9 The process for spending Neighbourhood CIL is set out in the Governance document on the CIL webpage at www.haringey.gov.uk/cil. A consultation on NCIL was undertaken from October to November 2018 and 551 comments were received. A further consultation will take place in late 2019 / early 2020 to narrow down all the potential projects and there will be engagement with relevant service departments (who would deliver the projects) and ward members too. Projects can then be commissioned and delivered by the relevant Council service.

CIL spend reporting and CIL spend to date

- 10.10 The Council reports on CIL collection and spend in the Authority Monitoring Report every year in December for the previous financial year. The only CIL that has been spent so far is £1.9m for Bounds Green Primary School in 2016.

11 Contribution to strategic outcomes

- 11.1 Priority 3 (Place): CIL helps fund local and strategic infrastructure projects which are necessary to ensure that the growth in the borough is something that everyone can benefit from and produces sustainable, attractive and accessible places.
- 11.2 Priority 4 (Economy): CIL receipts are a key source of funding to support the delivery of local physical and social infrastructure.

12 Statutory Officer comments (Comments of Chief Financial Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

- 12.1 The recommendations in this report do not require any funding as the existing staff resource is being utilised to progress the partial review. There will be a potential increase in CIL income which would result in additional income to the authority.

Procurement

12.2 There are no procurement implications arising from this report.

Legal

12.3 The Assistant Director of Corporate Governance has reviewed and noted this report.

12.4 Cabinet is authorised under Article 7.03 of the Council's Constitution to carry out the Council's executive functions. The law does not specify that the approval of a local authority's CIL Charging Schedule is a function that cannot be the responsibility of an authority's executive and so Cabinet can authorise the consultation regarding the Haringey CIL Draft Charging Schedule.

12.5 The Council's Constitution does, however, provide in Article 4.02 and Part Three that the approval of the Council's CIL Charing Schedule shall only be exercised by Full Council and so following receipt of the independent examiner's report approval will need to be sought from Full Council for the Charging Schedule.

12.6 The partial review must be carried out in accordance with the Planning Act 2008 and the CIL Regulations 2010 (as amended). The applicable legal tests and Government Guidance to be followed by the Council when carrying out the review process is comprehensively summarised in section 5 of this report.

Equality

12.7 The Council has a Public Sector Equality Duty under the Equality Act 2010 to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

12.8 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

12.9 An increase in the CIL rate for residential development in the east of the borough has the potential to put the delivery of housing and affordable housing at risk. As affordable housing is more likely to represent a singular viable housing option for individuals and groups with protected characteristics this risk has potential equalities implications. However, by setting the CIL rates based on the viability of development, any risk to affordable housing delivery is minimised. It is noted that the viability analysis accords with the guidance in Appendix C of the Council's Housing Strategy relating to lower rent affordable housing. The increase in CIL rates will generate additional funding towards the

delivery of infrastructure and neighbourhood projects in the borough which have potential for positive effects on protected groups.

12.10 An Equalities Impact Assessment (EQIA) screening tool has been completed and as no particular equalities considerations were identified as arising from the proposal to proceed with the partial review a full EQIA is not required. However, equalities matters will be duly considered in the course of the review.

13 Use of Appendices

- Appendix A – Adopted Haringey CIL Charging Schedule 2014
- Appendix B – Haringey CIL Draft Charging Schedule 2019
- Appendix C – Community Infrastructure Levy: Eastern Haringey Viability Update Study prepared by BNP Paribas October 2019

14 Background Papers

- Appendix C to Haringey Housing Strategy 2017-2022
<http://minutes.harinet.haringey.gov.uk/ieListDocuments.aspx?CId=143&MId=8670&Ver=4>

15 Local Government (Access to Information) Act 1985

15.1 Preliminary Draft Charging Schedule consultation document 2017
http://www.haringey.gov.uk/sites/haringeygovuk/files/preliminary_draft_charging_schedule_consultation_document_2017_1.pdf

15.2 Report to Cabinet (17 October 2017) providing update on Community Infrastructure Levy Charging Schedule and Planning Obligations SPD
<http://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MId=8290&Ver=4>