

# Community Infrastructure Levy Charging Schedule

updated with Governance and revised Reg 123 (004)

**Adoption:** July 2014

**Implementation:** November 2014

**Revisions to Regulation 123 List and Governance:** November 2017



## **Introduction**

As part of the changes introduced under the Planning Act 2008, the previous Government introduced the Community Infrastructure Levy (CIL) - a new mechanism to enable infrastructure requirements arising from growth to be funded through developer contributions.

The Community Infrastructure Levy Regulations 2012 (as amended) allows councils to introduce CIL, being a charge on new buildings and extensions to help pay for supporting infrastructure and replaces s.106 contributions (except in relation to affordable housing and on site mitigation measures).

### **What is CIL?**

CIL is a standardised non negotiable local levy that is placed on new development for the purpose of helping to raise funds to support the delivery of the infrastructure that is required as a result of new development. Far from being a new source of funding, CIL provides a more consistent and transparent mechanism to raise financial contributions, currently sought through s106 agreements.

However, under CIL, developers can still be required to directly provide both 'off-site' infrastructure, through s106 contributions, and 'on site' improvements through planning conditions to mitigate the direct impact of the development proposed (e.g. landscaping, access roads).

### **How is CIL calculated and charged?**

The regulations require two distinct aspects to be considered. Firstly, a 'charging authority' (the Local Authority) needs to demonstrate that new development necessitates the provision of new, or improved, infrastructure. Secondly, that the rate of the proposed levy does not make development proposals unviable, in particular with regards to expected costs that would be associated with the provision of on-site infrastructure (for the purposes of CIL, affordable housing is regarded as an on-site requirement and will continue to be secured through s106 agreements).

The levy is to be expressed as £ per m<sup>2</sup> and collected on the commencement of development. CIL is to be charged on the 'gross internal floor space' of any new development, apart from affordable housing and buildings used for charitable purposes where standard exemptions have been made.

Whilst the rate of CIL is determined by the charging authority, it is scrutinised by an independent examiner to assess whether the charge has regard to the evidence base and that the level of charge is reasonable and will not impact negatively on the economic viability of development.

### The Infrastructure Funding Gap

The Council has produced an Infrastructure Study in March 2010 setting out the likely infrastructure impacts of growth identified in the Council's Local Plan. This has been built on and an updated document setting out the current anticipated funding requirements to meet infrastructure needs in the Borough was produced in March 2013. The outcomes of this study indicate that there is a total funding gap that CIL can contribute towards of approximately £230m. This is set out below, and the summary document is included on our website.

The level of Investment required is indicative and it includes investment that may need to be undertaken by both the Council and its partners. The investment required will need to be subject to continuous review in light of changes to the funding regimes for both the Council and its partner organisations and changing roles and functions of public sector organisations in years to come. The actual level of investment the Council makes in future years will clearly be subject to Council priorities and available funding and will need to be agreed by Cabinet as appropriate.

<b>Table 1 Summary of Infrastructure Investment Estimates 2013/14-2026/27</b>			
<b>Infrastructure Type</b>	<b>Investment Required (£m)</b>	<b>Funding Available (£m)</b>	<b>Funding Gap (£m)</b>
Education	198.0	120.0	78.0
Health	tbc	tbc	Tbc
Open space/ Leisure	22.3	1.5	20.8
Transport	107.6	19.5	88.1
Emergency Services	--	--	--
Decentralised Energy	25.0	2.5	22.5
Water Management & Flooding	20.6	tbc	20.6
Waste	--	--	--
<b>Total (£m)</b>	<b>£373.5</b>	<b>£143.5</b>	<b>£230</b>

## Viability in Haringey

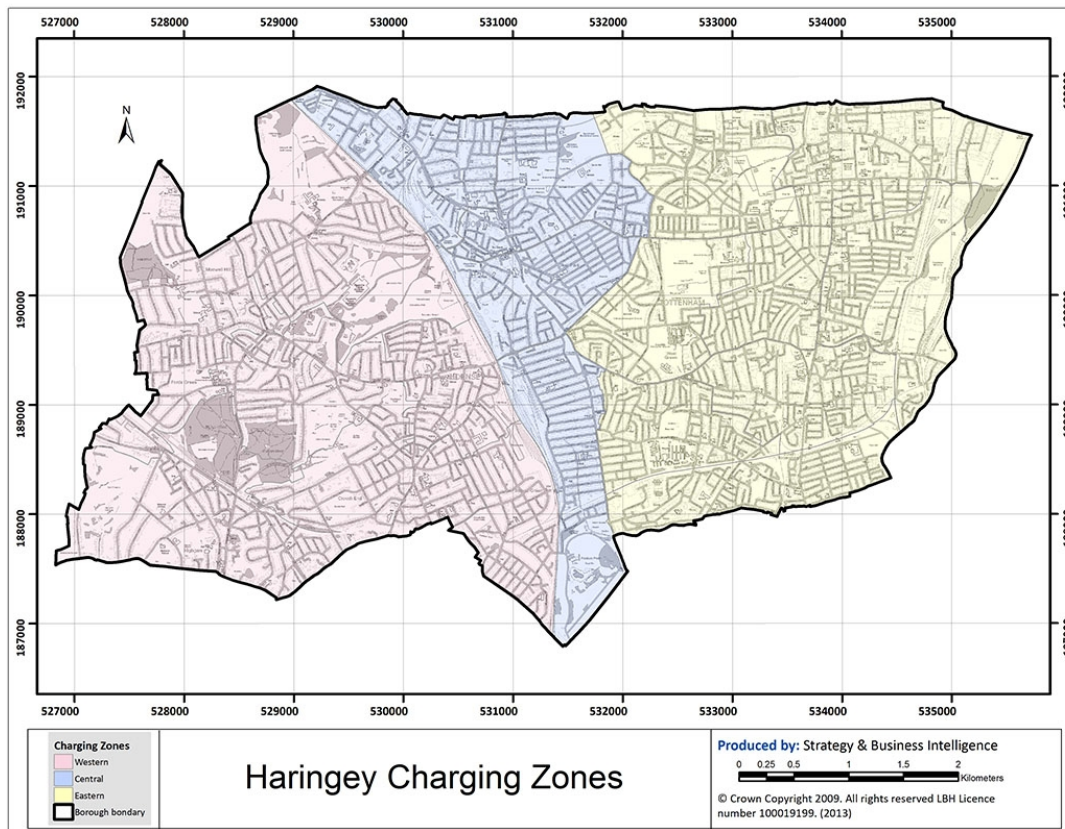
Evidence has been provided by BNP Paribas to identify what CIL rates will be viable in Haringey. A primary study was received in February 2012, and updates to the evidence were provided in February 2013. The full set of evidence is available on our website.

## The Charging Schedule

The proposed schedule is set out below. The map shows the charging zones:

<b>Table 2- Approved CIL Charging Schedule for Haringey</b>				
<b>CIL charge (£/square metre)</b>				
<b>Use</b>	<b>Western</b>	<b>Central</b>	<b>Eastern</b>	<b>Mayoral CIL</b>
Residential	£265	£165	£15	£35
Student accommodation	£ 265	£165	£15	£35
Supermarkets	£95			£35
Retail Warehousing	£25			£35
Office, industrial, warehousing, small scale retail (use class A1-5)	Nil Rate			£35
Health, school and higher education	Nil Rate			Nil
All other uses	Nil Rate			£35

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. Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items, and other ranges of goods, catering mainly for car borne customers.



## Exemptions

CIL charges will not be levied on:

- Development that creates less than 100m<sup>2</sup> of new build floor space measured as Gross Internal Area (GIA) and does not result in the creation of one or more dwellings.
- Buildings into which people do not normally go, or only go to perform maintenance.
- Buildings for which planning permission was granted for a limited period.
- Affordable housing, subject to an application by a landowner for CIL relief (CIL regulation 49).
- Development by charities for charitable purposes subject to an application by a charity landowner for CIL relief (CIL regulation 43).
- Development classified as self-build.
- Development classified as a residential annex or extension.

The CIL Regulations 2010 set out the situations for both mandatory and discretionary exemptions. Mandatory exemptions include affordable housing and developments occupied solely for the purpose of charitable activity by a registered charity. However, the charging authority has discretionary powers to provide relief on:

- the investment activities of charitable institutions

- in exceptional circumstances where:
  - the cost of complying with s106 planning obligation is greater than the chargeable amount payable by a developer;
  - there is an unacceptable impact on the economic viability of a development
  - that the granting of relief would not constitute state aid.

The Council will not expect to implement any discretionary exemptions. The Council believes the charge is viable and will monitor the charge to ensure it remains viable. Should circumstances change the Council will seek to revise the levy rather than provide any discretionary relief from the charge.

### **Payments in kind**

In circumstances where the liable party and Haringey Council agree, payment of the levy may be made by transferring land. The agreement cannot form part of a planning obligation, must be entered into before the chargeable development is commenced and is subject to fulfilling the following:

- the acquired land is used to provide or facilitate the provision of infrastructure within Haringey;
- the land is acquired by the Council or a person nominated by the Council;
- the transfer of the land must be from a person who has assumed liability to pay CIL;
- the land has to be valued by an independent person agreed by the Council and the person liable to pay CIL;
- 'Land' includes existing buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over the land.

### **Collection of CIL**

London Borough of Haringey is the collecting authority for the purpose of Part 11 of the Planning Act 2008 and CIL Regulations 2010 (as amended by Regulations 2011 and 2012).

When planning permission is granted, Haringey Council will issue a liability notice setting out the amount payable, and the payment procedure.

In the case of development enabled through permitted development orders, the person(s) liable to pay will need to consider whether their

proposed development is chargeable, and to issue Haringey Council a notice of chargeable development.

### **Payment Instalments**

Where the payable amount of CIL is £500,000 or less, the whole amount shall be paid in a single installment not more than 60 days after commencement of the development.

Where the payable amount is more than £500,000, developers should have the option to pay two installment payments:

- The greater of £500,000 or half the value of the total payable amount 60 days after commencement, and
- The remainder 240 days after commencement.

### **Appeals**

A liable person can request a review of the chargeable amount by the charging authority within 28 days from the issue of the liability notice.

CIL Regulations allow for appeals on:

- The calculation of the chargeable amount following a review of the calculation by the Council.
- Disagreement with the Council's apportioned liability to pay the charge.
- Any surcharges incurred on the basis that they were calculated incorrectly, that a liability notice was not served or the breach did not occur.
- A deemed commencement date if considered that the date has been determined incorrectly.
- Against a stop notice if a warning notice was not issued or the development has not yet commenced.

A person aggrieved by the levy (or attempt to levy) of a distress can appeal to the Magistrates Court.

### **Spending CIL revenue**

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.

The Council includes as part of this submission the proposed Regulation 123 list below.



<b>Table 3: Haringey's Regulation 123 List</b>
<b>Haringey CIL funding may be applied in whole or part to the provision, improvement, replacement or maintenance of the following infrastructure:</b>
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
The above list is not in order of priority. The above list excludes infrastructure projects that are required to make a development acceptable in planning terms in accordance with the planning policies set out in the Council's Local Plan. Whilst CIL will be the Council's main mechanism for securing funding towards the infrastructure that is required to support the cumulative demands from development in Haringey, there will be some instances where individual development gives rise to their own requirements for infrastructure in order to make the development acceptable in planning terms. Such infrastructure will be secured as part of the development through the use of planning conditions or planning obligations. Further details on this approach are set out in the Council's Planning Obligations SPD.
This Regulation 123 list therefore explicitly excludes the provision of infrastructure that is required to make a development acceptable in planning terms and which meets the legal tests of Regulation 122 of the CIL Regulations. Through the publication of this list the Council therefore retains its discretion to negotiate



necessary planning conditions and s106 planning obligations to secure such infrastructure.

### **Distribution of CIL funding**

As per the CIL Regulations and Guidance, the Haringey's CIL is proportioned and allocated using the following approach:

- 5% is retained by Haringey Council to cover administrative costs (including consultation on the levy charging schedule, the issuing of liability notices, enforcing CIL, legal costs and reporting on CIL activity);
- 15%, known as the 'Neighbourhood Proportion', is to be spent on neighbourhood projects within the neighbourhood of contributing development (up to a maximum of £100 per existing Council Tax dwelling). In accordance with Regulation 59C, neighbourhood projects can include funding towards:
  - the provision, improvement, replacement, operation or maintenance of infrastructure; or
  - anything else that is concerned with addressing the demands that development places on an area.

The funding allocation rises to 25% where a Neighbourhood Plan is in place. At the present time, only the Highgate Neighbourhood Plan has been adopted, and one is currently being developed for Crouch End;

- 80%, known as the 'Strategic Proportion', is retained by Haringey Council to allocate to projects on its capital programme which are infrastructure that supports growth. An indication of such projects are set out in the CIL Regulation 123 List above and the IDP.

### **Identifying the specific infrastructure projects to be funded by CIL**

#### Strategic Proportion

The Strategic Proportion of CIL will be spent on CIL eligible projects with the Capital Programme, taking into account the Regulation 123 List and the IDP. Bid's outside of the existing Capital Programme, will be considered by the Assistant Director for Planning. Those considered to support sustainable growth (see the assessment criteria for prioritising infrastructure to be funded by CIL set out further below) and that are eligible for CIL funding, will be referred to the Haringey Capital Board for a final decision.

#### Neighbourhood proportion

Where there is a neighbourhood plan in place, the neighbourhood plan should identify the local neighbourhood projects required to support development proposed by the plan or to give effect to policies/proposals within the plan. Projects eligible for CIL funding should be specifically identified and, where appropriate, projects prioritised (see the assessment criteria for prioritising infrastructure to be funded by CIL set out further below).

CIL eligible neighbourhood projects could include, for example: road and footpath improvements; tree planting; new or improved play spaces and facilities; community safety measures (e.g. CCTV, lighting); new or improved cycling facilities; traffic calming measures; improvements to school grounds and buildings; and the improvement of local facilities such as libraries, community centres or sports halls. Such projects could be funded in whole or part through CIL receipts.

The Council will cost the eligible neighbourhood projects (including project management costs, contingencies and long-term maintenance provision) and will pool the neighbourhood proportion of CIL receipts raised within the designated neighbourhood area to pay for the items therein, investigating other sources of funding (such as grants and match funding) where possible.

Outside of neighbourhood plan areas, the CIL Regulations allow the Council as Charging Authority to decide what its own bespoke definition of a 'local' neighbourhood area is. As such, the wards in Haringey have been grouped into eight CIL Neighbourhood Groups based upon having the same CIL rate and having regard to the broad distribution of growth planned through the Local Plan. This is the approach recommended by the Council's Scrutiny Panel in order to streamline the process, provide for a meaningful level of CIL funding to deliver larger projects, and ensure an element of strategic decision making across the seven areas:

- Area 1 – Fortis Green, Alexandra and Muswell Hill wards, and the area of the Highgate ward outside the Neighbourhood Plan area.
- Area 2 – Hornsey and Stroud Green wards, and the area of Crouch End wards outside of the Neighbourhood Plan area
- Area 3– Bounds Green ward

- Area 4 – Noel Park and Woodside wards
- Area 5 – Harringay ward
- Area 6 – White Hart Lane and Northumberland Park wards
- Area 7 – West Green, St Ann’s and Seven Sisters wards
- Area 8 – Tottenham Green, Bruce Grove and Tottenham Hale wards



Consultation with the community within each CIL Neighbourhood Group will be undertaken to compile an initial list of projects and the priorities, determined by the number supporting the same or similar infrastructure. CIL receipts raised within each CIL Neighbourhood Group are will then be spent against the list of projects compiled for each area. The consultation will be rerun every two to three years to ensure the projects and priorities are still the most relevant to the local community.

### **Prioritising the infrastructure projects to be funded by CIL**

It is very unlikely that CIL will generate enough funds to completely cover the cost of new infrastructure needed to fully support planned development. As such, there will be competing demands for this funding. To ensure the spending of CIL funds are prioritised in the right

way, the Assistant Director of Planning will assess and prioritise project proposals against the following set of guiding criteria:

- a. The proposed project has the support of the service provider or operator;
- b. The use of CIL funding is necessary as no alternative funding sources are available to deliver the proposed infrastructure, including funding that may be made available in a later funding period (the exception is where there is an urgent need for the infrastructure and the Council can secure the CIL funds to be reimbursed at specified later date);
- c. The proposed infrastructure will promote a sustainable form of development and will not give rise to local impacts;
- d. The use of CIL funding can help to optimised the delivery of identified infrastructure through the ability to leverage other sources of funding, such as match or gap funding, or to reduce borrowing costs;
- e. The use of CIL funding can provide additionality to a capital infrastructure project that maximises the benefits of the parent project where mainstream funding does not provide for this;
- f. The use of CIL funding can increase the capacity of existing strategic infrastructure;
- g. The use of CIL funding can help to deliver coordinated improvements within the area;
- h. The use of CIL funding can help to accelerate the delivery of regeneration initiatives;
- i. The use of CIL funding will help further sustainable economic growth for the benefit of the area or the borough;
- j. The proposed infrastructure is of a sufficient scale or scope so as to positively impact the local area;
- k. The proposed infrastructure can be delivered within 24 months of authorisation;
- l. The use of CIL funding represents value for money and will not give rise to long-term liabilities that place a financial burden on the service provider or operator.

The more criteria met, the greater the priority the CIL funding a project will receive.

### **CIL and Section 106 agreements**

Unlike s106, CIL is to provide infrastructure to support the development of an area, not to make individual planning applications acceptable in planning terms. It breaks the link between a specific development

site and the provision of infrastructure and thus provides greater flexibility for delivery of infrastructure when and where it is needed.

Section 106 agreements and Section 278 Highways Agreements will continue to be used to secure site-specific mitigation and affordable housing. In some instances, S106 agreements may be used in large development sites needing the provision of their own specific infrastructure for which delivery may be more suitably dealt with through s106s. Type of s106 requirements may include the following:

- Specific infrastructure requirements that directly arises from five or fewer developments, section 106 arrangements may continue to apply if the infrastructure is required to make the development acceptable in planning terms
- Affordable housing contributions
- New access roads/ junction improvements serving the site
- Connections to a renewable/ decentralised energy network
- On-site open space requirements
- Employment and training provision
- Travel plans / Car clubs / Cycle parking
- Town Centre management funding

Further details on the application of planning obligations is set out in the Haringey Planning Obligations SPD

### **Mayoral CIL**

The Mayoral CIL has been in effect since April 2012 in accordance with Regulation 25 (a) of the Community Infrastructure Regulations 2010 (as amended). The Mayor published his CIL charging schedule on the GLA's website, and it is intended to contribute towards the funding of Cross Rail, and the Mayor has in effect declared his aim of raising £300m from Mayoral CIL towards this project. The Mayor's target is expected to be achieved by 2019. It is very likely that further London wide infrastructure funding will be required in the future and the revision and required collection of Mayoral CIL will now form a permanent feature of the planning and development policy framework operating in London.

The London boroughs collect the Mayor's CIL on his behalf. Haringey falls within Zone 2 of the Mayor's Charging Schedule which means that Haringey is required to collect £35/m<sup>2</sup> on behalf of the Mayor for any development that falls within scope of the regulations.

## **Monitoring and Reporting on CIL**

The Council will publish annual reports showing, for each financial year:

- How much has been collected in CIL by CIL Neighbourhood Group area, including the split between the Strategic and Neighbourhood portions of CIL;
  - How much has been spent by CIL Neighbourhood Group area, including the split between the Strategic and Neighbourhood portions of CIL;
  - The infrastructure on which it has been spent;
  - Any amount used to repay borrowed money;
  - Amount of CIL retained at the end of the reported year by CIL Neighbourhood Group area, including the split between the Strategic and Neighbourhood portions of CIL.
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