

Trafford Community Infrastructure Levy: Preliminary Draft Charging Schedule Consultation Document



TRAFFORD
COUNCIL

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1. INTRODUCTION

- 1.1 In November 2011, the Council made the decision to commence preparation of a Community Infrastructure Levy (CIL) charging schedule for Trafford. When adopted, this charging schedule will set a financial levy on developments to provide for essential infrastructure to support planned growth. By April 2014 the remit of Section 106 contributions will be limited to Section 278 of the Highways Act, site specific mitigation measures and the provision of affordable housing under the new CIL Regulations. The only way to recover other charges against development in relation to the provision of infrastructure will be through the adoption of a CIL charging schedule.
- 1.2 At present, planning obligations can only be taken into account in determining planning applications where they meet the following tests from Regulation 122 of the CIL Regulations 2010:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and,
 - fairly and reasonably related in scale and kind to the development.
- 1.3 Developer contributions secured through planning obligations will no longer be able to be pooled from more than 5 different obligations to deliver the provision of a certain project or type of infrastructure from April 2014 or the date of adoption of the CIL charging schedule, whichever comes first. This restriction, from Regulation 123 of the CIL Regulations 2010, is intended to ensure that local planning authorities use CIL instead of planning obligations to secure contributions for infrastructure that serves a wider area than the specific development site or group of sites.

What is the Community Infrastructure Levy?

- 1.4 The CIL is a new tariff paid by developers which will allow funds to be raised from new building projects in the Borough. It is intended to supplement other funding streams in providing new infrastructure needed to support local growth. The purpose of the levy is to give developers more certainty over costs than the existing system for collecting planning obligations, and it will also give councils and communities more choice and flexibility in how infrastructure is funded. The money can be used to fund a range of projects including transport, flood defence, green infrastructure and community facilities.
- 1.5 Policy L8 of the Trafford Core Strategy (adopted January 2012) provides the basis for the collection of planning obligations and the provision of on-site infrastructure associated with new development through Section 106 agreements. With the introduction of CIL, the use of S106 obligations will

be limited to site specific mitigation measures which are required to make a development acceptable (such as a new access road) and for the provision of affordable housing.

- 1.6 CIL is intended to supplement rather than replace other funding streams, and to provide infrastructure alongside residential and commercial development, promoting sustainable development. Charges are meant to help fund new, or to upgrade existing, infrastructure to support growth, not to cover the cost of existing deficiencies.

Consultation

- 1.7 As a first step in working towards adopting a CIL charging schedule, the Council is consulting on the Preliminary Draft Charging Schedule (PDCS). At this early stage in the process we are keen to hear your views on our proposals and will consider all responses carefully before we prepare a Draft Charging Schedule.
- 1.8 Charging authorities must consult their local communities regarding the proposed rates for the levy. Whilst no length of consultation is stipulated in the regulations, government guidance states that authorities are encouraged to consult for a period of at least 6 weeks. The PDCS is published for consultation under Regulation 15 of the CIL Regulations 2010 (as amended 2011). This is the first opportunity to formally comment on the proposed charges set out in the charging schedule.
- 1.9 The PDCS is published for consultation for 6 weeks between the 3 August 2012 and 14 September 2012. This document provides the background to, and sets out the proposed charges for the levy that will apply by geographical area and/or type of development, on a per square metre basis (e.g. for office, industry, retail and residential development). The charges have been established through the use of appropriate available evidence including:
- The Trafford Core Strategy (adopted January 2012);
 - The Local Infrastructure Plan; and,
 - The Trafford Community Infrastructure Levy (CIL): Infrastructure and Economic Viability Study (Roger Tym and Partners, July 2012).
- 1.10 All the documents are available to view on the Strategic Planning pages of the Council's website: <http://www.trafford.gov.uk/ldf> throughout the consultation period.

- 1.11 Please submit your written comments, no later than 14th September 2012 either by post or email to:
Strategic Planning & Developments
Waterside House
Sale Waterside
Sale
Greater Manchester
M33 7ZF

E-mail: strategic.planning@trafford.gov.uk.

- 1.12 All comments received during the consultation will be fully considered before a Draft Charging Schedule (Regulation 16) is produced. This Draft Charging Schedule will then be subject to a further round of consultation (for a minimum of 4 weeks) in winter 2012, before being submitted to the Secretary of State prior to Examination, timetabled for summer 2013. The Examiner has the power to approve or reject the proposed CIL, or request modifications to be made.

- 1.13 When commenting on the proposed rates set out in this PDCS, the following questions should be considered:

- Do you agree that the assumptions and/or method set out in the viability report are robust? If not what alternatives do you suggest?
- Do you agree that the viability study represents an appropriate basis for determining the level of CIL that would be viable in the Borough?
- Do you agree that the rates proposed will not put at serious risk the overall development of the area?
- Do you agree with the different rates for development type proposed? If not which do you not agree with and why?
- Do you agree with the different charging zones for residential development? If not why?
- If you support the differential residential rate do you think the boundary between the different zones as shown is an appropriate boundary? If not please say what boundaries should be used instead?
- Do you agree with the base charge rate? If not why not?
- Do you agree that the proposed level of CIL represents an appropriate balance between the desirability of funding infrastructure through CIL and ensuring that development remains viable?

If you disagree with any aspects of the schedule please support your answers with actual **evidence** and **examples**.

Who will pay CIL?

- 1.14 The regulations state that CIL will be applied to most buildings that people normally use and where more than 100 square metres of floorspace (net) or a new dwelling is created (even if it is less than 100 square metres). CIL will be payable on the commencement of development or for larger developments, over an agreed phased period.
- 1.15 There will be no charge for change of use applications unless additional floorspace is created, as well as no charge for the sub-division of existing dwellings. The CIL regulations also allow for other exemptions and CIL is not payable on the following:
- structures into which people do not go;
 - affordable housing meeting specific criteria;
 - redevelopments that do not result in a net increase in floorspace (subject to caveats); and,
 - development by charitable institutions and/or for charitable purposes.
- 1.16 The Council can also choose to adopt a zero rate if viability testing shows that a particular use or area cannot withstand the charge, in accordance with the CIL regulations.
- 1.17 The Department for Communities and Local Government (DCLG) consulted on changes to regulations in regard to the detailed implementation of CIL between October and December 2011. As part of this consultation, proposals were put forward for the integration of affordable housing into CIL. However, the response from Government to the consultation and new regulations are yet to be published. This means that at the present time, the provision of affordable housing remains outside of the scope of CIL and will continue to be required through Section 106. Any changes proposed by Government during the preparation of the Trafford CIL will be taken into account as necessary.

How will the levy be collected?

- 1.18 In most cases, Trafford Borough Council will collect the levy as the 'Charging Authority'. The levy's charges will become due from the date that a chargeable development is commenced in accordance with the terms of the relevant planning consent. The definition of commencement of development for the levy's purposes is the same as that used in planning legislation, unless planning consent has been granted after commencement.

- 1.19 The responsibility to pay the levy runs with the ownership of land on which the liable development will be situated. That benefit is transferred when the land is sold with planning consent, which also runs with the land. Although ultimate liability rests with the landowner, the regulations recognise that others involved in a development may wish to pay. To allow this, anyone can come forward and assume liability for the development.
- 1.20 There may be circumstances where it will be more desirable for a charging authority to receive land instead of monies. The regulations provide for charging authorities to accept transfers of land as a payment in kind for the whole or part of the levy. This will be subject to negotiation with the Council.

What will CIL be spent on?

- 1.21 The Council intends to publish a 'Regulation 123' list, which will list infrastructure projects or types of infrastructure that will be funded through CIL. This list does not need to be produced prior to Examination and can be changed and updated as necessary. However when produced it must be published on the Council website. Specific infrastructure directly related to a development can still be sought through S106 contributions, provided that this infrastructure is not listed on the Regulation 123 list therefore ensuring that developers are not funding the same infrastructure items twice.
- 1.22 Local authorities are required to spend CIL funds on the infrastructure needed to support development in their area. Local authorities will need to work closely with neighbourhoods to decide what infrastructure is required and to balance neighbourhood funding with wider infrastructure funding that supports growth. Through the Localism Bill, the Government are proposing to allocate a meaningful proportion of levy revenues raised in each neighbourhood back to that neighbourhood.

2. THE EVIDENCE BASE

- 2.1 The CIL regulations state that, in setting rates, a charging authority must aim to strike what appears to be an appropriate balance between:
- 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
 - the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.
- 2.2 In order to set the rates, and to take into account these requirements, key documents are required to build the evidence base. The first of these is the **Trafford Core Strategy**, adopted in January 2012. The Core Strategy sets out how much development will take place in the Borough to 2026 and the broad locations of that development. Policy L8 provides the basis for the collection of developer contributions and sets out the types of infrastructure which can be funded through obligations and tariffs.
- 2.3 The second is the **Trafford CIL: Infrastructure and Economic Viability Study (July 2012)**, prepared for the Council by consultants Roger Tym and Partners. This study involved a review of the Council's Local Infrastructure Plan (LIP) which established that an appropriate aggregate funding gap exists to justify charging a CIL. The other part of the study was to carry out an economic viability assessment. This looked at different types of development, both residential and non-residential, across the Borough and their viability taking into account the costs of development and the developer's margin, to inform the scale of potential tariffs that could be collected by CIL under current market conditions. Any rate set must be well below the potential that could be collected to ensure that it does not undermine the economic viability of development as a whole in the Borough.
- 2.4 The economic viability assessment considered the implications for residential and non residential development of the variable CIL charge options. Separate assessments were undertaken for each, using different models that take into account the key characteristics of each development type. The full details of the assessment can be found in the accompanying report – **Trafford CIL: Infrastructure and Economic Viability Study (Roger Tym and Partners, July 2012)**.
- 2.5 A reasonable benchmark in terms of profitability / developer's margin is considered to be 20% of total development cost. The findings of the economic viability assessment showed that margins exceed the benchmark in respect of all the different scenarios modelled (based on

actual development sites) for the development of housing. For apartments, three of the four scenarios modelled showed marginal viability. For non-residential development only convenience retail (supermarket) and retail warehouse development were found to be viable when looking at speculative developments on different development types.

- 2.6 As part of the evidence gathering stage, a CIL stakeholder workshop was held that provided landowners, developers and agents with an opportunity to comment on the critical assumptions used in the economic viability assessment at an early stage. The purpose of the viability assessment is to demonstrate a theoretical maximum CIL; how far beneath that margin the CIL charge is set is a matter for the Council reflecting decisions in regard to risk and the approach to different development types. Charging authorities must balance the viability of development with the need to fund infrastructure investment.

3. PRELIMINARY DRAFT CHARGING SCHEDULE

- 3.1 Using the evidence from the economic viability assessment and feedback from the stakeholder workshop, theoretical maximum possible charge rates were identified for the developments exceeding the benchmark margins. These figures were then drawn back from the ceiling of viability to ensure development in the borough is not put at risk.
- 3.2 It is also within the discretion of the charging authority to decide whether a base charge should be applied to all development, recognising that although certain development types are assessed as unviable at present, it is likely that some development of this type will take place and will have infrastructure implications.
- 3.3 For Trafford it is proposed that separate rates be set for different types of development, and for residential development in specific the rates be set by different geographical areas (charging zones) that the assessment concluded were viable. For all other developments that are chargeable under the regulations, a nominal base charge is proposed. The base charge identified in the charging schedule is at a level where it is unlikely to be the determining factor as to whether a development takes place or not. It has been pegged at a ceiling of 1% of the cost of development of the lowest cost development – industrial – which equates to £10 per sq.m.
- 3.4 Details of the different proposed rates that will form the basis of the charging schedule are set out below:

Use	Proposed CIL charge (per sq.m)
Private market houses in:	
<i>Cold market sub-area</i>	£20
<i>Moderate market sub-area</i>	£40
<i>Hot market sub-area</i>	£80
Apartments in:	
<i>Hot market sub-area</i>	£65
Comparison retail outside of a defined centre	£75
Convenience retail outside of a defined centre and above 280 sq.m (net additional floorspace)	£250
Public/Institutional Facilities as follows: education, health, community and emergency services	£0
All other chargeable development	£10

Preliminary Draft Charging Schedule: August 2012

4. PRELIMINARY DRAFT CHARGING SCHEDULE MAP

- 4.1 The PDCS map below identifies the location and boundaries of the charging zones for new residential development, for the purposes of CIL. These charging zones would set a differential rate for residential development in a hot market sub-area (£80/m²); a moderate market sub-area (£40/m²); and a cold market sub-area (£20/m²).
- 4.2 It is proposed to have a differential rate for some non-residential uses of development and these boundaries are therefore included on the map. The charging zones would set a differential rate for comparison retail and convenience retail (above 280 sq. m) development outside of the defined centre boundaries.

