

MAIDSTONE BOROUGH COUNCIL

**PLANNING, TRANSPORT AND DEVELOPMENT OVERVIEW &
SCRUTINY COMMITTEE**

TUESDAY 16 SEPTEMBER 2014

REPORT OF HEAD OF PLANNING AND DEVELOPMENT

Report prepared by Darren Bridgett

**1. COMMUNITY INFRASTRUCTURE LEVY - KEY ISSUES ARISING
FROM CONSULTATION (REGULATION 15)**

1.1 Issue for consideration

1.1.1 To consider the key issues arising from the Community Infrastructure Levy (CIL) preliminary draft charging schedule (PDCS) (regulation 15¹) public consultation, which ran from 21 March to 7 May 2014. The report focuses on the key elements of the objections, namely the levy and how it was set. The full summary of issues raised in representations, including statistics, is attached as Appendix A to the report.

1.2 Recommendation of the Head of Planning and Development

1.2.1 That the Planning, Transport and Development Overview and Scrutiny Committee considers the key issues arising from representations submitted during the Maidstone CIL preliminary draft charging schedule (regulation 15) public consultation, attached as Appendix A to the report, and makes any recommendations that it considers appropriate.

1.3 Reasons for recommendation

1.3.1 Public consultation (regulation 15) on the Maidstone CIL preliminary draft charging schedule ran from 21 March to 7 May 2014. The council received 34 comments from individuals and organisations, concerning a wide range of issues. The comments received are currently being considered and will shape the future direction of the CIL in Maidstone. The breakdown of consultees is as follows:

¹ The Community Infrastructure Levy Regulations 2010.

Member of the public	8
Parish council	3
Development – house builders	8
Development – supermarkets	4
Infrastructure provider	6
Local authority	3
Other	2

1.3.2 All comments can be viewed in full through the council's comments handling portal, at: http://maidstone-consult.limehouse.co.uk/portal/cil_preliminary_draft_charging_schedule_consultation_2014.

1.3.3 The stages for CIL preparation are:

- Preliminary draft charging schedule (PDCS) public consultation (regulation 15)
- Draft charging schedule (DCS) publication (public consultation) (regulation 16)
- Submission
- Examination
- Adoption

1.3.4 The PDCS consultation was the first stage of consultation for the Borough Council to introduce a CIL charging schedule. The comments received, and importantly the issues raised by those comments, will form the basis of any amendments made to the PDCS before it is consulted on as the draft charging schedule (DCS) in summer 2015 (alongside the regulation 19² draft of the Maidstone Borough Local Plan (MBLP)).

1.3.5 This report describes the key issues raised in the PDCS consultation.

1.3.6 **General issues**

1.3.7 **Timing of the CIL** – A number of comments were made requesting that the CIL should be introduced immediately/ahead of the local plan. The basis for these comments is that development is already being permitted that requires infrastructure provision to make it acceptable in planning terms.

1.3.8 **Having a positive effect on development** – CIL regulations have changed from the requirement that the council **should aim to strike an appropriate balance** to the requirement that the council **should strike an appropriate balance** between the desirability of funding infrastructure from the levy and the potential effects of the levy on the economic viability of development across the area. The comments

² Town and Country Planning (Local Planning) (England) Regulations 2012.

disagree that the council has yet struck this balance in the levy that it is proposing, specifically, that the council proposed are too high and that these will jeopardise the delivery of development in the borough.

1.3.9 **Local plan viability testing**

1.3.10 **Values and assumptions** – Figures used in the evidence base are too buoyant/optimistic. In particular the comments consider that:

- Sales values are too high.
- Affordable revenues are inconsistent with evidence provided.
- Benchmark land values are too low.
- Construction costs and associated costs are out of date.
- Site servicing costs are too low/not evidenced.
- The allowance for the incorporation of Code level 4 is too low.
- Developers profit levels are too low (in comparison to the risk they are taking).

1.3.11 **Validity of approach** – The question is raised about whether the viability evidence is still valid in light of the change of approach from a Core Strategy and associated documents to a full local plan.

1.3.12 **Detailed infrastructure evidence** – Further work is required to understand the income that the CIL can achieve and how this relates to the infrastructure that will be required to make the proposed developments acceptable in planning terms. How much of the infrastructure can be funded by the CIL?

1.3.13 **Section 106 planning obligations**

1.3.14 **Using section 106 planning obligations or the CIL** – Due to the type of infrastructure that some sites will require, e.g. larger sites requiring education provision, it is suggested that in some cases section 106 planning obligations would be more appropriate to deliver infrastructure than the CIL. This is because it is considered that the transfer of land for such facilities is better dealt with through section 106 obligations, rather than through the collection of CIL receipts and the subsequent acquisition of land – that process itself representing a cost.

1.3.15 **Proposed levy**

1.3.16 **Varying the balance of viability** – In the case of Headcorn it is suggested that the CIL charge should be higher than proposed in the PDCS and that the affordable housing requirement should be lowered. This comment cross references policy DM24 of the MBLP and is proposed on the basis that the 40% requirement for affordable housing will provide more affordable accommodation than is required in the village. It is suggested that the increased CIL income could be

used to cross subsidise affordable accommodation in the Maidstone urban area where it is suggested the accommodation is needed more.

1.3.17 Unfairly penalises retail developments – Retail is the only non-residential development type that has a levy proposed. This unfairly penalises retail development in comparison to all other non-residential developments. Within the retail development type it is suggested that to split the levy as proposed in the PDCS is not provided for in the CIL Regulations and that in proposing such a split, the levy may fall foul of State Aid regulations. The proposed £260 per m² levy on larger out of town retail is also considered to be significantly out of step with charges either proposed or implemented in surrounding areas.

1.3.18 Proposed changes – Some elements, not included in the PDCS, are proposed for addition:

- Instalments policy on CIL payments.
- Exceptional circumstances relief.
- Flat rate levy across the borough on all uses, based on the totality of infrastructure requirements.
- Allowance for infrastructure provision as payment in kind.

1.3.19 Duty to pass CIL to local councils

1.3.20 Cap on payments – Where a neighbourhood plan has not been adopted, the cap on payments to local councils equivalent to £100 per every existing household in the area is not supported.

1.3.21 Infrastructure/list of relevant infrastructure

1.3.22 Costing of infrastructure – Concern that larger items of infrastructure have been identified as significant elements of the infrastructure need yet these are still uncoded. This leads to a question over deliverability.

1.3.23 Meeting all infrastructure needs – The list of relevant infrastructure is not considered to meet all infrastructure requirements in the borough.

1.3.24 Further inclusions on the list – Respondents have stated/requested that other infrastructure should be included on the list. This includes:

- Police funding.
- Flood defences and mitigation measures.
- Youth and community learning.
- Infrastructure requirements at Hermitage Lane.

1.3.25 Further detail in respect of list/IDP/development sites – Kent County Council (KCC) have requested that further detail is included in relation to the infrastructure delivery plan (IDP) and the full list of

development sites proposed in the MBLP. This comment cross references with the MBLP and the IDP. It suggests that the IDP should identify which sites will have infrastructure funded by CIL payments and which sites will have infrastructure funded by section 106 planning obligations – this should be reflected in the list of relevant infrastructure. KCC have stated that they expect infrastructure to be funded wholly by development contributions.

1.3.26 **Timescale and next steps**

1.3.27 All of the comments that were submitted to the consultation are now being carefully considered. These comments will shape the future direction of the CIL in Maidstone, specifically the preparation of the draft charging schedule (DCS).

1.3.28 The draft charging schedule publication, which is the next stage of the CIL preparation, will take place alongside the regulation 19 consultation of the MBLP. This stage of consultation is due for summer 2015.

1.4 Alternative action and why not recommended

1.4.1 This is an information report, there is no alternative action.

1.5 Impact on corporate objectives

1.5.1 **For Maidstone to have a growing economy.** The introduction of the CIL is a key element of funding infrastructure provision in Maidstone Borough. As stated in responses to the PDCS consultation, there is a fear that the imposition of CIL could restrict the viability of certain development sectors. It is the duty of the council to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy on the economic viability of development across the area.

1.5.2 **For Maidstone to be a decent place to live.** A significant amount of development is proposed for Maidstone under the auspices of the local plan. In many cases this development will need to be made acceptable in planning terms i.e. the sustainable development principles of society, economy and environment. For this to be achieved, infrastructure will need to be provided to mitigate any issues that would arise from development.

1.6 Risk management

1.6.1 This is an information report, no decisions are being made and therefore no risks can be associated with those decisions.

1.7 Other implications

1.7.1

1.	Financial	X
2.	Staffing	X
3.	Legal	
4.	Equality impact needs assessment	
5.	Environmental/sustainable development	X
6.	Community safety	
7.	Human Rights Act	
8.	Procurement	X
9.	Asset management	X

1.7.2 **Financial.** The receipts from the CIL will be substantial and will need to be administered through the council's finance department, tracking income, decisions on spending and outgoings. In the broader context, there are financial implications relating to the long term delivery of the local plan and the developments proposed within.

1.7.3 **Staffing.** Before the CIL is adopted, a staff resource will need to be identified to undertake its administration. In councils that have already adopted a CIL, this has in some cases been a new post, working on a full time basis.

1.7.4 **Environmental/sustainable development.** The CIL deals with the funding and provision of infrastructure that makes development acceptable in planning terms i.e. society, economy and environment.

1.7.5 **Procurement.** The long term implication of adopting the CIL is that the council may itself become an infrastructure provider. In this case, the council would need to consider its approach to procurement and if its current arrangements would still be effective.

1.7.6 **Asset management.** The long term implication of adopting the CIL is that the council will have procured more assets in addition to those it currently possesses. The management of these assets will be a consideration that needs to be effectively addressed.

1.8 Relevant documents

1.8.1 Maidstone Community Infrastructure Levy – Preliminary Draft Charging Schedule Consultation 2014.

1.8.2 Appendices

1.8.3 Appendix A – Key issues arising from the Maidstone Community Infrastructure Levy Preliminary Draft Charging Schedule (regulation 15) consultation.

1.8.4 Background documents

1.8.5 None.

<u>IS THIS A KEY DECISION REPORT?</u>		<u>THIS BOX MUST BE COMPLETED</u>	
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If yes, this is a Key Decision because:			
.....			
Wards/Parishes affected:			