

Maidstone Borough Council - Community Infrastructure Levy: Draft Charging Schedule consultation 5 August to 16 September 2016

Summary of Representations and Officer Responses

Rep No	ID	Name	Representing on behalf of	Organisation Type/	Summary of Representation	Council's response
1	1013008	Robert Gardiner			Re 5.3 - I see no reason why retail within the town centre area should be excluded. MBC should set a chargeable rate with the option to suspend the charge for particular schemes which meet MBCs other objectives for the town centre.	The Council's viability evidence supports the introduction of the Levy for convenience retail both within and outside of the Town Centre. For comparison retail however, the evidence demonstrates that the Levy can only be sustained outside of the Town Centre boundary. The proposed rates therefore reflect the Council's viability evidence.
2	1013008	Robert Gardiner			6.3 There is no evidence that engagement with a parish would lead to any resolution with the parish. I recommend that MBC engage with the parish and in the absence of resolution that not less than 30% of the receipts be delivered to the parish for appropriate local spending. I also recommend that this be required within 26 weeks of the receipts being received from the developer.	The Council recognises its duty to pass CIL receipts to local councils, as set out in the CIL Regulations and Planning Practice Guidance. The Council has committed to engage with local councils through the development of the administrative and governance arrangements required to support the effective implementation of the CIL.
3	932530	Catherine Tonge	Natural England	Statutory body	The matters of the scales and mechanisms for CIL charging falls beyond the Natural England's remit and have no comments to offer at this stage.	The comments are noted.
4	557593	Trevor Hall	Kent Police	Infrastructure Provider	Having reviewed the document Kent Police is content it satisfies all necessary legislative and NPPF requirements and supports the proposals.	The comments are noted.
5	668511	Kevin Brown	Highways England	Infrastructure Provider	Any and all works to the SRN these days, in accordance with DCLG guidance, ( <a href="http://planningguidance.communities.gov.uk/blog/guidance/community-infrastructure-levy/other-developer-contributions/">http://planningguidance.communities.gov.uk/blog/guidance/community-infrastructure-levy/other-developer-contributions/</a> ) are likely to be dealt with via a S278 agreement. Therefore we would suggest that it might be helpful to include clarifying text on this matter in your CIL documentation and your IDP.	For clarity, the Draft Regulation 123 List will be updated to confirm that works to the Strategic Road Network would not be funded through the CIL. This will also be reflected when the Infrastructure Delivery Plan is next updated.
6	1021064	Bernard Cresswell			6.2 I see no evidence or reason why a Parish council that has not supplied a neighbourhood plan should receive less CIL percentage to one that has. By way of example Linton is governed by a conservation area plan.	The Council recognises its duty to pass CIL receipts to local councils, as set out in the CIL Regulations and Planning Practice Guidance. Where all or part of a chargeable development is not in an area that has a neighbourhood development plan in place the Council must pass 15% of the CIL receipts to the Parish Council for that area.
7	3848	Terry Ketley	Coxheath Parish Council	Parish Council	<p>2.5 Although the CIL is a funding source for infrastructure, there have to be major infrastructure plans, and hence finance in place, before development occurs. Coxheath Parish Council feels, therefore, that the emphasis is skewed. The Local Plan cannot rely on CIL to deliver infrastructure on the scale required.</p> <p>3.2 There are very substantial infrastructure deficits (particularly in highways, health and public open space) which must be improved/ addressed at same time as new initiatives.</p> <p>3.4 Coxheath Parish Council understands this is a large unused fund of Section 106 monies. A similar situation must not be allowed with CIL funds.</p> <p>4.5 It seems nonsensical to apply 40% affordable housing allocations to</p>	<p>The CIL will make a significant contribution towards the delivery of infrastructure necessary to support growth, but it is not expected to pay for all infrastructure. Other mechanisms, such as section 106 legal agreements, will also help to support delivery of infrastructure schemes.</p> <p>In passing CIL receipts to local councils, there will be an established mechanism by which a significant proportion of CIL receipts are available for spend within the local area. Although CIL receipts can be pooled and spent with more flexibility than the existing arrangements under section 106 planning obligations, infrastructure schemes are identified at all key settlements to support growth and the CIL can be used to support delivery of relevant schemes.</p>

					<p>rural areas of the borough, where employment opportunities are more limited, road/transport infrastructure is inadequate and other infrastructure (health, education, public open space, high speed broadband etc) is already under extreme pressure.</p> <p>6.3 It is essential that CIL from developments in rural Maidstone is used for the direct benefit of the communities affected by these developments.</p> <p>6.4 The definitions seem vague. They need to be clarified and explained.</p>	
8	10214 32	Liz Mclaren	Loose Parish Council	Parish Council	<p>Loose Parish Council considers that there is no provision for funding for the loss of wildlife habitat, etc. Much of this will be lost due to the development and construction disturbance.</p> <p>Section 4.4 – The thinking of conversion of office buildings to residential is not clearly described. More incentives are needed here</p> <p>Section 5.5 - There should be a greater levy imposed on development outside urban areas and a reduction on the levy imposed on development inside urban areas. This will encourage urban development and make use of urban areas.</p> <p>Section 6.3 – In line 7 the text “council” should be replaced with “parish council”</p> <p>Section 6 in general – Is there provision for 25% of the CIL going to a parish council if a Neighbourhood Plan is “made” within the year that the CIL is levied/collected? That is, what is the cut off date to prevent the 25% going to a parish council who may come along on the heels of a CIL being levied with their Neighbourhood Plan?</p>	<p>In respect of wildlife habitats, the Draft Regulation 123 List provides for site specific mitigation to be funded through section 106 agreements or through planning condition. More strategic green and blue infrastructure improvements are however identified for funding through the CIL.</p> <p>The Planning Practice Guidance is clear that CIL rates should be based on viability evidence rather than policy aspirations. Accordingly, it would not be appropriate to amend the rates for the reasons proposed.</p> <p>In respect of the neighbourhood portion, the higher level will apply where the neighbourhood plan has been made before a relevant planning permission first permits development.</p>
9	10215 28	Paul Burley - Montagu Evans	Quinn Estates	Developer	<p>The IDP and therefore the draft CIL Charging Schedule are predicated on a draft Local Plan which is subject of a number of substantial unresolved objections, including in relation to the draft plan’s spatial strategy and locations for housing growth. Progressing a CIL schedule at this time and on the basis of the current draft Local Plan is pre-judging the outcome of the Local Plan Examination which is not due to commence until after consultation on the draft Charging Schedule has closed.</p> <p>The lead agency for many of the IDP’s transportation projects is Kent County Council. That is despite KCC having made a fundamental objection to the draft local plan’s spatial strategy and the proposed strategic growth locations. That objection was on the basis that alternative locations could deliver growth without exacerbating Maidstone’s acute transportation problems to the same extent. It is also despite there still being no transport strategy that has been agreed by both Maidstone Borough Council and Kent County Council, even though the May 2016 <i>Infrastructure Delivery Plan</i> implies that there is consensus between the Borough and County councils in relation to the <i>Integrated Transport Strategy</i> (there is not any such consensus at this time).</p>	<p>The Maidstone Borough Local Plan was submitted for examination on 20 May 2016 and hearings are due to commence in October 2016. The CIL DCS has been developed alongside the emerging Local Plan and strategic documents such as the IDP and ITS. The Council has submitted what it considers to be a sound local plan, and this is an appropriate basis on which to progress the Draft Charging Schedule.</p> <p>The Maidstone Integrated Transport Strategy (ITS) was agreed to be adopted at Strategic Planning Sustainability &amp; Transportation Committee on 13 September 2016. The ITS sets out a package of sustainable transport interventions which provide appropriate mitigation in support and as part of the evidence base for allocations in the emerging Maidstone Borough Local Plan up to 2031.</p> <p>As set out in the Statement of Common Ground between the Council and KCC prepared as part of the Local Plan examination (document reference SUB 019) there is agreement on the principles and mitigation to 2022.</p>
10	83512 6	Malcolm Butler			<p>Unclear where all the relevant documents are viewable on the Maidstone Borough Council website.</p> <p>The affordable homes percentages are not in accordance with the needs</p>	<p>The comments are noted and the Council can confirm that the Draft Charging Schedule reflects government requirements regarding the neighbourhood portion. All relevant documents were made available on the Council's website, and in hard copy at a number of locations,</p>

					<p>of residents who will be using them. Most young couples and families trying to get on the housing ladder are those most in need of these properties. The cost of living in a rural area is far greater and affordable homes should be built where there are excellent bus services. Please revise the affordable housing allocations.</p> <p>Concerned with the provision 6.2 and the use of the word "or" and with the wording of 6.4 as all 100% of the 25% should be passed on to the relevant Parish Council.</p>	<p>throughout the consultation.</p> <p>The Council recognises its duty to pass CIL receipts to local councils, as set out in the CIL Regulations and Planning Practice Guidance. The Council has committed to engage with local councils through the development of the administrative and governance arrangements required to support the effective implementation of the CIL.</p>
11	956007	Kirsten Williamson	Southern Water	Infrastructure Provider	<p>CIL is not designed to include utility infrastructure, such as local sewers and associated facilities. Would be useful if this document recognised that developer contributions towards local infrastructure maybe required which are additional to CIL and S106 planning obligations.</p>	<p>Waste water infrastructure is not included within the Regulation 123 List of infrastructure to be funded through the CIL. The Infrastructure Delivery Plan sets out the relevant information regarding how such improvements will be funded.</p> <p>The Council recognises that it would be helpful to add clarification that contributions towards local infrastructure may be required which are additional to CIL and S106 planning obligations. The Council intends to produce a FAQs document which will be published on the website and this document can address points of clarification such as this.</p>
12	1022304	Ellie Henderson	The Woodland Trust		<p>We would wish to see tree planting and woodland creation specifically mentioned. Woodland creation can deliver across a wide range of benefits.</p>	<p>The Draft Regulation 123 List provides for site specific mitigation to be funded through section 106 agreements or through planning condition. More strategic green and blue infrastructure improvements are however identified for funding through the CIL.</p>
13	558620	Katie Miller	Kent Downs AONB		<p>A higher levy should be charged for residential development within or adjacent to the Kent Downs AONB which should be used to support Green Infrastructure requirements. This would relate to higher development land values within the AONB.</p> <p>The Kent and Medway Growth and Infrastructure Framework (GIF) identifies that investment will be needed at a strategic level to enhance existing green spaces and improving green infrastructure. A funding gap of £46,830,000 million has been identified in the GIF for the Maidstone area towards Green Infrastructure. Should a higher CIL not be imposed then we would like to see S106 Agreements for contributions.</p>	<p>The Council's viability evidence does not support variable CIL rates for housing rates within the rural areas and the approach reflects the Local Plan affordable housing Policy DM12.</p> <p>The Draft Regulation 123 List provides for site specific mitigation to be funded through section 106 agreements or through planning condition. More strategic green and blue infrastructure improvements are however identified for funding through the CIL.</p>
14	934473	Mat Evans	Gladman		<p>Funding Gap / evidence base - When establishing a funding gap that CIL receipts are intended to contribute towards filling, it is vital that the Council take account of all income streams including New Homes Bonus, council tax and business rates.</p> <p>The Council need to have an up to date, robust evidence base that fully justifies the infrastructure needs. If the authority's infrastructure planning is weak or out of date then the Council should undertake an exercise to refresh this.</p> <p>The Council is required to strike an appropriate balance between the desirability of funding from CIL and the potential effects of the imposition of CIL on the economic viability of development across the local authority area.</p>	<p>In order to justify the introduction of CIL it is necessary to demonstrate that there is an aggregate funding gap between the cost of providing infrastructure required to support planned growth and the amount of funding available to deliver that infrastructure. Funding Gap Analysis undertaken in June demonstrated this gap and this work will be updated for submission of the Draft Charging Schedule.</p> <p>The CIL rates have been set at levels which support the economic viability of development. In July 2015, the Council published a Revised Plan and CIL Viability Study which considered the viability and deliverability of the Local Plan as a whole and assessed the viability of development allocations to inform the setting of CIL charging rates.</p> <p>The support for introduction of an Instalments Policy is noted.</p> <p>It is accepted that the economic climate can change, therefore, the</p>

					<p>Important that in calculating the level of infrastructure the authority needs as a result of development the Council distinguishes between new and existing demands.</p> <p>GDL would urge the Council to adopt an instalments policy for CIL payments as this will give developers the flexibility to pay contributions in line with development phasing schemes and will facilitate cash flow and therefore development viability.</p> <p>GDL remind the Council of the need to review CIL tariffs once these have been set. The economic climate will inevitably change over the course of the plan period and as such the levy rates that can be set whilst ensuring development remains viable will also change.</p> <p>GDL note the proposed charge rates set in Table 3 and are supported of the Council taking a flexible approach to the level of CIL which can be achieved depending on viability evidence.</p>	<p>Council will monitor CIL and if there are unintended effects, it will be reviewed. There is already a significant buffer built into the CIL rates to allow for changes in site specific circumstances or more short term issues.</p> <p>The Council notes your support in regards to a flexible approach depending on the viability evidence.</p>
15	984970	Sherrie Babington	Linton Parish Council	Parish Council	<p>Linton Parish Council believes that smaller Parish Councils will be disadvantaged by the Community Infrastructure Levy by not having a Neighbourhood Plan.</p>	<p>The Council recognises its duty to pass CIL receipts to local councils, as set out in the CIL Regulations and Planning Practice Guidance. The Council has committed to engage with local councils through the development of the administrative and governance arrangements required to support the effective implementation of the CIL.</p>
16	1022613	Rory Silkin	Staplehurst Parish Council	Parish Council	<p>Draft Regulation 123 List: It is incomplete. It contains no heading and details for payments for drainage, both foul and surface. In the case of several villages, there is already a problem requiring remediation.</p> <p>Draft Instalments Policy: There is no reason why <u>all</u> payments should not be made within 24 months. The larger the CIL due, the larger the project, the greater the capacity the developer to fund it, and the easier it will be to pay.</p> <p>General: This has taken far too long to be published, allowing developers to gain planning permissions at the expense of MBC and the Parishes. It is as if someone on the inside was to gain advantage.</p>	<p>Drainage infrastructure is included within the list of exceptions, for ongoing funding through section 106 planning obligations. Waste water infrastructure is not included within the Regulation 123 List of infrastructure to be funded through the CIL. The Infrastructure Delivery Plan sets out the relevant information regarding how such improvements will be funded.</p> <p>The Council is proposing to introduce an Instalments Policy, in part due to responses to consultation on the Preliminary Draft Charging Schedule. Only developments which incur a CIL liability of over £1m would benefit from a timescale longer than 24 months, and in these cases 70% of the liability would be paid within this timescale. It is considered that this is a reasonable approach in such instances.</p>
17	984344	Flora Macleod (GL Hearn)	Redrow Homes South East	Developer	<p>Consultations and timescales – The findings of the PBA Viability Study July 2016 assessment are now approximately 15 months old. During this time the residential sales market has been rocked by changes to SDLT, changes to buy to let and mortgage rules as well as the EU referendum and result. PBA assumptions are based on previous iterations of the Local Plan that have now been superseded. The IDP has been objected to by Kent County Council. This does suggest that the housing figures, infrastructure requirements, evidence base and assumptions which have informed the draft charging schedule are now significantly out of date and will need to be considered.</p> <p>Overview and Methodology – PBA have set out the general scope of the study, an explanation of the proposed methodology and the planning policy context. Appraisals are undertaken on a variety of differing location and typological assumptions which follow accepted development viability practice as the appraisals are based on the residual valuation method.</p>	<p>The Council is progressing the Draft Charging Schedule in tandem with the Local Plan. This approach is encouraged by the CIL guidance and the NPPF.</p> <p>In April 2013 the Council published an Economic Viability Study which was updated in July 2015 by the Revised Plan and CIL Viability Study. These studies considered the viability and deliverability of the Local Plan as a whole and assessed the viability of development allocations to inform the setting of CIL charging rates and affordable housing requirements. Key factors affecting viability have been properly tested through this process.</p> <p>It is considered that these documents provide a robust evidence base and the CIL charge rate has been set at a level which supports the economic viability of development.</p> <p>Information on monies secured through section 106 planning obligations</p>

				<p>An analysis of Local Plan policies and their impact on viability testing is included. However, as stated above this analysis was based on a now redundant version. Furthermore a number of policies have evolved such that they will have an impact on the viability of the proposed CIL schedule. For example, SS1 now incorporates an increased housing target, which could have implications on future development delivery.</p> <p>Residential Market Overview - A value analysis of postcodes is used to test the appropriateness of having various CIL zones. PBA conclude that outside the urban boundary it <i>'is difficult to discern a clear pattern in values'</i> and that only urban and rural zones are required. However, the postcode value map provided for houses, though somewhat blurred, illustrates a different picture as the highest value areas (dark red) are, on average, nearly three times more valuable than the lowest (white). Admittedly these areas do not make up a significant proportion of the Borough. However, the next highest (red) and lowest (beige) postcode areas do and differ in value, on average, by 40%. This is itself a significant variance which should not be ignored. Separate CIL zones should, therefore, be tested.</p> <p>Viability Assumptions - PBA have assumed gross and net floor areas for flats at 62 sqm and 59 sqm respectively, suggesting an efficiency of 95%. This is well beyond market norms where an 85% net to gross ratio is considered efficient and the average often 80% or lower. The scheme appraisals should be amended to reflect this error.</p> <p>Benchmark/Threshold Land Values - Various benchmark land values have been adopted on a £ per acre basis. These have been derived from comparable land transactions in accordance with planning policy and viability guidance. However, the evidence that supports these numbers has not been included in PBA's report. It is, therefore, difficult to assess whether the values adopted are reasonable.</p> <p>PBA have deducted 25% from the headline values on the basis that these may be inflated as they do not take into account policy costs such as CIL. This approach is, however, predicated on the assumption that CIL is an entirely new requirement. However, CIL has been designed to replace the majority of S106 contributions, the cost of which is reflected in land values. Accordingly no deduction should be made.</p> <p>Build Costs derived from BCIS is useful for benchmarking but is not particularly useful and true costs are higher. PBA has adopted cost based on a 15 year date set which do not reflect sustainability requirements and other aspects of developments such as design.</p> <p>External Works – 10% assumed for flatted developments. However; housing schemes require an allowance in the region of 20%.</p> <p>S106 Costs – no reason why a suitable analysis cannot be made of past S106 agreements.</p>	<p>in recent years will be submitted to the Planning Inspectorate as part of the updated Funding Gap Analysis.</p>
18	10187 6	Vanessa Evans	Kent Wildlife Trust	<p>paragraph 6.3 It would be helpful to provide more information regarding how consultation would take place with communities in order to effectively consult on how funding will be spent.</p>	<p>The Council recognises its duty to pass CIL receipts to local councils, as set out in the CIL Regulations and Planning Practice Guidance. The Council has committed to engage with local councils through the development of the administrative and governance arrangements</p>

						required to support the effective implementation of the CIL.  The outcome of this work will be included in the FAQ's document to provide clarity on these issues.
19	229059	Jennifer Wilson	Environment Agency		<p>Welcome the contents of schedule H of the Maidstone IDP.</p> <p>Pleased to see section 3.91 of the IDP that our river restoration schemes will be included within the key strategic policies and objectives of the IDP.</p> <p>Please to note that all WFD projects have been identified in the Blue/Green Infrastructure Plan.</p> <p><b>Community Infrastructure Levy: Draft Charging Schedule – Draft Regulation 123 List (July 2016), Please add the text in red.</b></p> <p><b>Green and blue infrastructure</b> On or off site infrastructure, including open space, improvements and mitigation required to make the development acceptable in planning terms. <b>Specific reference should be made to the Water Framework Directive and consideration for implementing the requirements of the River Basin Management Plan</b>  <a href="https://www.gov.uk/government/publications/thames-river-basin-district-river-basin-management-plan">https://www.gov.uk/government/publications/thames-river-basin-district-river-basin-management-plan</a></p> <p>Strategic green and blue infrastructure measures and improvements.</p>	<p>The comments are noted.</p> <p>In respect of the WFD, the Draft Regulation 123 List provides for site specific mitigation to be funded through section 106 agreements or through planning condition. More strategic green and blue infrastructure improvements are however identified for funding through the CIL.</p>
20	591899	Jonathan Buckwell (DHA Planning)	Kent Medical Campus LTD	Developer	<p>In order to bring clarity, the CIL charging schedule should state explicitly that residential institutions such as care homes, nursing homes and similar facilities are to be nil rated. The DCS should be amended to state that the proposed £45/sqm CII rate is applicable only to Class C3. Additional clarity would be gained by listing Class C2 and C2A residential institutions as a separate line with a nil rating listed in the CIL charge column.</p>	<p>The rate for residential and extra care housing relates exclusively to housing and reflects the approach taken in the Local Plan Affordable Housing Policy DM12. It is not considered that the CIL rate or the Policy could be construed so as to apply to C2 uses.</p> <p>In producing a FAQs document the Council can however add further clarity on this point without requiring further changes to the Draft Charging Schedule.</p>
21	980557	Barbara Cooper	Kent County Council	Infrastructure Provider	<p>In view of the current Examination in Public and the range of unresolved objections to the Local Plan including from statutory consultees, consulting on a CIL DCS is a wholly premature.</p> <p>The IDP is not in accordance with the agreed principles of an Integrated Transport Strategy for the period to 2022 and it is therefore inappropriate to predetermine transport infrastructure requirements in the period to 2031.</p> <p>The Funding Gap Analysis has failed to adequately demonstrate the benefits of introducing a CIL when S106 has historically contributed significantly to the investment in infrastructure across the Maidstone Borough.</p> <p>Regulation 123 List - Generally supportive of the List but seeks amendments to add more flexibility for education mitigation at site H1 (8)</p>	<p>The Maidstone Borough Local Plan was submitted for examination on 20 May 2016 and hearings are due to commence in October 2016. The CIL DCS has been developed alongside the emerging Local Plan and strategic documents such as the IDP and ITS. The Council has submitted what it considers to be a sound local plan, and this is an appropriate basis on which to progress the Draft Charging Schedule.</p> <p>The Maidstone Integrated Transport Strategy (ITS) was agreed to be adopted at Strategic Planning Sustainability &amp; Transportation Committee on 13 September 2016. The ITS sets out a package of sustainable transport interventions which provide appropriate mitigation in support and as part of the evidence base for allocations in the emerging Maidstone Borough Local Plan up to 2031.</p> <p>Information regarding the amount of money raised in recent years</p>

				<p>and to move the Lenham Broad Location Primary Education mitigation from a CIL scheme to a S106 scheme.</p> <p>Draft Instalments Policy – Welcome the approach based on days commencement rather than completions.</p> <p>Governance – KCC seeks to work with MBC to develop a mutually agreeable governance framework.</p>	<p>through section 106 planning obligations will be included in the Funding Gap Analysis update for submission. Comparative analysis between the existing s106 regime and the proposed CIL regime indicates broad alignment between the two, and suggests average per dwelling infrastructure funding is likely to increase under the CIL regime.</p> <p>The need for flexibility at H1 (8) is understood and the revised Draft Regulation 123 List has been updated to reflect this. It is considered however that the inclusion of the Lenham primary school as a CIL scheme remains appropriate, and in accordance with the approach set out at Local Plan Policy ID1.</p> <p>Comments regarding the Draft Instalments Policy and governance are noted, and the Council will continue to work with KCC in this area.</p>
--	--	--	--	---	---