

Halton's Community Infrastructure Levy

1. Introduction

- 1.1. The Borough Council is considering the introduction of a Community Infrastructure Levy and you are invited to comment on this potential introduction and the scope of the Levy.

What is the Community Infrastructure Levy?

- 1.2. The Community Infrastructure Levy (often known as CIL or the Levy) is a locally set charge on development. It is intended to give more certainty to developers over how much their development will need to contribute to meeting the costs of infrastructure required to support their development. It is intended to supplement other funding to ensure that new community infrastructure can be provided to support local growth and to give the Council and the community more choice and flexibility in how they fund infrastructure.
- 1.3. Councils have a choice as to whether to set a Community Infrastructure Levy or not. In order to charge a levy on development in Halton, the Council, as a 'charging authority' under the CIL Regulations, must set out the rate(s) it intends to charge and any other criteria in a 'charging schedule'.

Question 1:

Should Halton Borough Council set a Community Infrastructure Levy?

Purpose of this document

- 1.4. Councils wishing to introduce a CIL have to carry out two consultations:
- Preliminary Draft Charging Schedule (PDCS); and
 - Draft Charging Schedule (DCS)
- 1.5. This document sets out the scope for what could be included within the Charging Schedule and precedes either of these formal stages of consultation.

2. Community Infrastructure Levy

Deciding the Rate of Community Infrastructure Levy

- 2.1. The Council will set out its levy rates in a charging schedule. The Council will aim to set a rate that does not threaten the viability¹ of development identified in the Halton Local Plan, and provides an appropriate balance between funding infrastructure and the viability of development across the Borough. The Council may choose to adopt a zero rate if viability testing shows that a particular use or area cannot withstand the charge.
- 2.2. Levy rates will be expressed as pounds per square metre. These figures will be applied to the gross internal floorspace of the new development (or net additional development).
- 2.3. In order to decide the rate of the CIL the Council will need:
 - An up to date development plan;
 - Evidence on the infrastructure funding gap (usually provided as a list of projects necessary to support the growth of an area, a ‘Regulation 123’ list); and
 - Evidence on viability.
- 2.4. The Council has already adopted the Halton Local Plan Core Strategy and is currently preparing the Halton Delivery and Allocations Local Plan, which will update selected parts of the Core Strategy as well replacing the remaining the policies in the Halton UDP.
- 2.5. The Council will identify the total cost of infrastructure they wish to fund (wholly or partly) through CIL, taking into consideration the additional infrastructure that is needed in the Borough to support development and what other source of funding are known to be available.
- 2.6. Halton Borough Council commissioned DTZ to undertake a high level assessment to determine the potential to introduce CIL without impacting negatively on the scale of development across the Borough. This assessment will need to be supplemented by more in-depth work will be required to ensure compliance with CIL regulations and to determine the appropriate level of charging, which property classifications it could be introduced for and in which market areas.

¹ The definition of viability in the planning process is set out in the National Planning Policy Framework (NPPF), which states that the costs of any requirements “*likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable*” (Para 173).

2.7. Based on average achieved residential sales values DTZ identified three broad average house price bands:

- High - £190,000+
- Medium - £125,000 to £190,000
- Low - £50,000 to £125,000

2.8. DTZ also identified potential site size boundaries based upon the range of sites identified in the 2012 SHLAA.

- Small – up to 0.25ha (net developable area)
- Medium – up to 1ha (net developable area)
- Large – up to 3ha (net developable area)

2.9. The DTZ report indicates that:

- CIL is likely to be viable on small sites (up to 0.25 hectares) within the higher value and upper medium value areas of the Borough. This is an indication of the impact of affordable housing requirements on the larger sites
- CIL is unlikely to be viable within any of the low value areas of the Borough or the lower value medium value areas
- Higher density developments (35-40 dph) within the upper medium value areas have some marginal potential for CIL

2.10. The CIL Regulations allow the Council to set differential rates for different geographical zones or for different types or uses of development or for different scales of development, this could include nil rates, increased rates or reductions.

2.11. Further work will be undertaken by the Council to determine the appropriate rates and areas to be covered by the CIL.

2.12. In setting the CIL rates it is proposed that the Council takes a cautious approach having regard to the results of the viability testing. Caution is also taken due to the continuing uncertainty in the development industry and economy more widely.

Question 2:

Should Halton consider any other information when deciding the rate of CIL?

Question 3:

Should Halton look to set differential rates across the Borough?

Question 4:

Do you consider it appropriate for Halton to take a cautious approach when setting CIL?

What can CIL be used for?

2.13. CIL can be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure. It can fund a wide range of physical, social and green infrastructure including the following:

- Transport infrastructure – roads, public transport and other facilities;
- Medical facilities and public health projects;
- Education;
- Sports and recreational facilities;
- Open spaces and green infrastructure projects;
- Flood risk assessment and flood alleviation;
- Emergency services; and
- Communications technology.

Question 5:

Do you have any comments on the broad categories of infrastructure proposed to be funded by CIL?

Question 6:

Should any other uses be included?

3. Implementation

Who will pay Community Infrastructure Levy

3.1. CIL will be applied to:

- Most new buildings that people normally use
- Where more than 100 square metres of gross internal floorspace (net) is created
- Where a new dwelling is created (even if it less than 100 square metres), unless it is built by a self-builder

3.2. 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 following exemptions apply nationally as a result of the CIL Regulations as amended –

- Residential annexes and extensions within the curtilage of a dwelling.
- Self-build housing to be occupied as the sole or main residence of the people on whose behalf it is being built, with clawback provisions.
- Any development where the total chargeable amount is less than £50 (this is deemed to be zero rated).
- Retail mezzanine floors.
- Structures or buildings that people enter for the purpose of inspecting or maintaining fixed plant or machinery.
- Any floorspace where the headroom is less than 1.5 metres
 - unless under a stairway.

How will Community Infrastructure Levy be collected?

3.3. When planning permission is granted the Council will issue a liability notice setting out the amount of the levy that will be due for payment when the development is commenced, the payment procedure and the possible consequences of not following this procedure.

3.4. The Council will calculate the ‘chargeable amount’ of CIL payable using locally-set rates (to be determined) multiplied by the ‘gross internal area’ of new buildings and enlargements to existing buildings, taking demolished floorspace into account. The formal calculation methodology is provided in Regulation 40 and Part 5 of the CIL Regulations 2010 (as amended).

3.5. In calculating individual charges for the levy, Regulation 40 (as amended by the 2014 Regulations) requires collecting authorities to apply an index of inflation to keep the levy responsive to market conditions. The index is the national All-In Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors.

3.6. There may also be circumstances where it will be more desirable for the Council 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.

Question 7:

Should the Council provide a policy in relation to the acceptance of land as a payment in kind for the whole or part of the levy?

Who assumes Community Infrastructure Levy liability?

3.7. Once planning permission is granted, CIL regulations encourage any party, (such as a developer submitting a planning application, or a landowner), to take liability to pay the CIL charge. CIL liability runs with the land. If no party assumes liability to pay before development commences, land owners will be liable to pay the levy.

Instalments

3.8. The Council intends to introduce an Instalments Policy and will allow for phased payments linked to applications on certain sites. This would include details of the number of instalments permitted, the timing and dates of payments and the amount payable in any instalment.

Question 8:

Should the Council introduce an Instalments Policy?

Question 9:

Which sites should be allowed to pay in instalments? Should it be defined by: the size or use of the site; sites identified in the Local Plan; the size of the payment; or should it be available to all sites?

Exceptions & Discretionary Relief

3.9. The CIL Regulations 2010 (as amended) make provision for three classes of development that are exempt from any CIL liability. These are:

- Affordable housing;
- Charitable developments that are used wholly, or mainly for charitable purposes; and
- Self-build housing.

3.10. National Planning Practice Guidance (PPG) states that a charging authority can offer '*discretionary relief for exceptional circumstances*' from the levy if it deems that the levy would have an unacceptable impact on the economic viability of a development. This can mean the whole development or a part of a scheme where a development proceeds in phases as separate chargeable developments.

3.11. This relief from the levy avoids rendering sites with specific and exceptional cost burdens unviable. Relief cannot be granted if it would constitute a notifiable state aid².

Question 10:

Do you have any views on the proposed discretionary relief policy?

² Article 107(1) of the Treaty on the Functioning of the European Union (Lisbon Treaty 2009) declares that state aid, in whatever form, which could distort competition and affect trade by favouring certain parties or the production of certain goods, is incompatible with the common market, unless the Treaty allows otherwise.

4. How will Community Infrastructure Levy be spent?

- 4.1. The definition of infrastructure is set out in the adopted Core Strategy and includes transport, education, health, flood defences and green infrastructure. The Council will publish a Regulation 123 list, which lists infrastructure projects or types of infrastructure that it intends to fund through CIL.
- 4.2. The CIL legislation allows for a proportion of the levy to be passed directly from the Council collecting it to the local community in which it was raised. A capped 15% proportion of CIL revenue will be given to local councils (parish or town) to be spent on locally determined infrastructure in areas where development takes place. This will rise to 25% for those areas with a neighbourhood plan in place.
- 4.3. The initial and continuing costs of preparing and implementing a CIL can also be drawn from CIL receipts - the Council can retain up to 5% of revenue received to meet its administrative costs in operating the levy.

Regulation 123 List

- 4.4. Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended) requires local authorities to produce a list of those projects or types of infrastructure that it intends will be wholly or partly funded through the Community Infrastructure Levy (CIL).
- 4.5. The Infrastructure Delivery Plan (IDP) is available to view online at www.halton.gov.uk it is a regularly updated document and is prepared in consultation with service providers. It indicates the main items of infrastructure needed to support growth. It distinguishes between infrastructure that is critical to enable growth to take place and that which is desirable to meet the plan's wider objectives.
- 4.6. The Draft Regulation 123 List will be informed by the IDP. It will contain a list of specific projects and types of infrastructure that the Council intends to be funded in whole or in part by CIL, rather than through planning obligations.
- 4.7. The list is intended to ensure that individual developments are not charged for the same infrastructure through both S106 (or S278) and CIL. Accordingly, a S106 (or S278) contribution cannot be sought towards an infrastructure item on the List.
- 4.8. Affordable housing will continue to be secured through S106 and its provision is not liable for a CIL contribution.

4.9. The inclusion of a project or type of infrastructure on the list does not signify a commitment from the Council to fund (in whole or part) the listed project or type of infrastructure, nor does the list prioritise infrastructure items.

Planning Obligations (S106s & S278)

4.10. Developers may be asked to provide contributions for infrastructure in several ways. This may be by way of the Community Infrastructure Levy and planning obligations in the form of section 106 agreements and section 278 highway agreements.

4.11. CIL is intended to provide infrastructure to support the development of an area, rather than making individual planning applications acceptable in planning terms. As a result, some site specific impact mitigation may still be necessary in order for a development to be granted planning permission. Some of these needs may be provided for through CIL but others may not, particularly if they are very local in their impact.

4.12. S106 must be

- 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.

4.13. Planning obligations will be used to fund:

- Site specific access and traffic calming measures
- Site specific public transport, pedestrian and cycle links
- On-site drainage and flooding solutions
- On-site sustainable energy requirements
- Affordable housing

Question 11:

Do you agree that the Council should continue to use planning obligations as the principal way of funding infrastructure?

5. Next Steps

Consultation

- 5.1. You are invited to comment on the proposed scope of the Community Infrastructure Levy and the content of this document. You are also invited to draw the Council's attention to any matters which have not been identified, but you think should be, and explain to us why you think they should be included in this Plan review. You know your local area really well and the Council want to work with you to prepare a plan which reflects the changes that local communities want to see in their area.
- 5.2. The consultation will take place from xxxx to 5pm on xxxx. Only comments received during the consultation period will be considered. The Council asks that consultation responses are made online where possible (at www.halton.gov.uk/DALP), to save time, paper and money. Paper copies of the comments form can be found at the locations identified below or can be downloaded from the website and will of course be considered alongside the electronic submissions.
- 5.3. You will find a copy of each of the relevant the documents online at www.halton.gov.uk/DALP or you can view a paper copy at the Halton Direct Links (HDLs) at Halton Lea, Runcorn; Brook Street, Widnes; and Granville Street, Runcorn or at the Libraries at Runcorn Shopping Centre (formerly known as Halton Lea), Runcorn; Granville Street, Runcorn; Kingsway, Widnes and Ditton, Widnes.
- 5.4. At the close of this consultation all comments will be recorded and will be considered by officers, a report of the consultation will be prepared and made available online (at www.halton.gov.uk).
- 5.5. In accordance with the Government's CIL Regulations Halton Borough Council will undertake two rounds of consultation on the proposed charging schedule following this scoping exercise. The first being the Preliminary Draft Charging Schedule. Secondly, once the public comments on the Preliminary Draft Charging Schedule are considered the Council will update the document as necessary and consult again on a Draft Charging Schedule. The CIL document will then be submitted to the CIL examiner for Public Examination.

Monitoring and review of CIL

- 5.6. The Council will publish annual reports showing, for each financial year:
 - How much has been collected in CIL;
 - How much has been spent;
 - The infrastructure on which it has been spent;
 - Any amount used to repay borrowed money; and
 - The amount of CIL retained at the end of the reported year.

5.7. It is proposed that the levy rates be reviewed in 5 years.

Question 12:

Do you agree that the CIL rates should be reviewed in 5 years?

6. Glossary

Charging Authority		A charging authority is the collecting authority for CIL charged in its area, in England it includes the Unitary Authorities such as Halton. These bodies all prepare relevant Plans for their areas, which include assessments of the infrastructure needs for which the levy may be collected.
Charging Schedule		The Charging Schedule is a document that sets out community infrastructure levy rates for a charging authority area.
Community Infrastructure Levy	CIL	A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area.
Core Strategy		The main Local Plan document that sets out the long-term spatial vision for the Borough, the spatial objectives and strategic policies to deliver that vision, having regard to the Sustainable Community Strategy.
Delivery and Allocations Local Plan	DALP	<p>The Delivery and Allocations Local Plan will replace the remaining policies and the Proposal Map from the Unitary Development Plan including allocating land for development to 2028 and redefining the extent of the Green Belt around Widnes and Hale.</p> <p>This will support the spatial vision and strategic objectives of the adopted Core Strategy Local Plan</p>
Development		Defined under the 1990 Town and Country Planning Act as "the carrying out of building, engineering, mining or other operation in, on, over or under land, or the making of any material change in the use of any building or other land." Most forms of development require planning permission.
Draft Charging Schedule	DCS	This is the document prepared for the second stage of statutory consultation required in the production of the Charging Schedule.

Infrastructure Development Plan	IDP	The Infrastructure Development Plan is a supporting document to the Local Plan. Its purpose is to provide background evidence regarding the physical and social infrastructure likely to be needed to support identified development in the Borough over the plan period. It sets out a baseline assessment of existing infrastructure provision and provides an indication of the existing capacity and shortfalls of all types of infrastructure. The document will be updated and monitored regularly and will assist in future delivery of infrastructure requirements. The Infrastructure Plan relies on the input of infrastructure partners and stakeholders and is therefore only as accurate as the plans of our partners.
Local Plan		The plan for the future development of the local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. Current core strategies or other planning policies, which under the regulations would be considered to be development plan documents, form part of the Local Plan. The term includes old policies which have been saved under the 2004 Act.
National Planning Policy Framework	NPPF	The NPPF was published on 27 th March 2012 and replaces all Planning Policy Guidance (PPG) Notes and Planning Policy Statements (PPS) with a single document of just under 50 pages. This set out the national framework for planning.
Planning Obligations		A legally enforceable obligation entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal.
Planning Practice Guidance	PPG	The PPG was produced on 6 th March 2014 by CLG to be a web-based resource, providing planning practice guidance to all on a national basis. The resource is live and is updated as needed.

Preliminary Draft Charging Schedule	PDCS	This is the document prepared for the first statutory consultation required in the production of the Charging Schedule.
Regulation 123 list		The Regulation 123 List provides for charging authorities to set out a list of those projects or types of infrastructure that it intends to fund, or may fund, through the levy. This list should be based on the draft list that the charging authority prepared for the examination of their draft charging schedule.
Section 106 Agreement	S106	Section 106 (S106) of the Town and Country Planning Act 1990 allows a local planning authority to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. The obligation is termed a Section 106 Agreement and is a way of delivering or addressing matters that are necessary to make a development acceptable in planning terms.
Section 278 Agreement	S278	A Section 278 Agreement is a legally binding document between the Local Highway Authority and the developer to ensure that the work to be carried out on the highway is completed to the standards and satisfaction of the Local Highway Authority.
Strategic Housing Land Availability Assessment	SHLA A	This examines the availability of land in the Borough for residential use and forms part of the Local Plan Evidence Base. It does not allocate sites for housing.