



**London Borough of Waltham Forest**

**Community Infrastructure Levy (CIL)**

**Preliminary Draft Revised Charging Schedule  
(PDRCS)**

Consultation – January 2019

# Contents

1) Introduction and Purpose of this Consultation .....	1
a) Consultation Period.....	2
b) How to make comments.....	2
c) Consultation Questions.....	4
2) Name of the Charging Authority	
3) What is Community Infrastructure Levy (CIL)?.....	6
4) How is CIL calculated and charged? .....	10
5) The Need for CIL (Infrastructure Funding Gap) .....	11
6) Proposed changes to CIL Charging Schedule.....	12
7) What can CIL be spent on (Regulation 123 List)? .....	16
8) Next Steps.....	17

## **Appendix 1: CIL Charging Zones Map**

## **Appendix 2: Adopted Regulation 123 List (extract from Charging Schedule)**

## **Appendix 3: Draft Proposed Regulation 123 List, 2019-2026/27**

## **Appendix 4: Draft Infrastructure Projects List**

## 1) Introduction & Purpose of this Consultation

- 1.1 Community Infrastructure Levy (CIL) is a tool, introduced in the Planning Act 2008, for local authorities to support the development of their area by funding the provision, improvement, replacement, operation and maintenance of infrastructure. CIL is set, not negotiated, as a price per square metre based on the type and location of development as defined in the published CIL Charging Schedule. The ability for Local Authorities to charge CIL came into effect on 6th April 2010 through the Community Infrastructure Levy Regulations 2010.
- 1.2 The London Borough of Waltham Forest introduced its (CIL) on 15<sup>th</sup> May 2014. As of 31<sup>st</sup> March 2018, the Council had collected £8.7m in CIL receipts, of which, £3.03m was been spent on the re-opening of Lea Bridge Station. A further £4.6m of CIL receipts are expected from development which has been granted planning permission, but the consent has not yet been implemented.
- 1.3 Due to the area based regeneration initiatives and increasing house price values evident in the Borough over the past five years, it is now an opportune time to review the existing charges as set out in the Council's Adopted CIL Charging Schedule to ensure they are responsive to market conditions and, where possible, to increase the level of funding available to support infrastructure delivery.
- 1.4 In line with the CIL Regulations 2010 (as amended), the Council has prepared this Preliminary Draft Revised Charging Schedule (PDRCS) for consultation. The accompanying documents to the consultation also include consultation on proposed amendments to the Council's Regulation 123 List (Appendix B&C) and a Viability Study (available separately to this document), prepared by BNP Paribas Real Estate.
- 1.5 Updated evidence, prepared by BNP Paribas Real Estate, supports a partial review of the Adopted Charging Schedule to the 'Southern' Charging Zone (Zone B) of the Borough only. To that end, the Preliminary Draft Revised Charging Schedule and associated viability evidence set out a starting point for the Council to commence this dialogue, as set out in the CIL Regulations 2010 (as amended).
- 1.6 This document sets out the proposed revisions to Waltham Forest's Adopted Charging Schedule, based on the evidence already prepared on behalf of the Council. It is a consultation document, and seeks comments prior to the preparation of the Draft Revised Charging Schedule document, which will also be the subject of a 6 week round of consultation prior to the schedule being subject to independent examination in public.

- 1.7 A wide range of infrastructure partners, stakeholders and service providers are actively engaged in the delivery of infrastructure in Waltham Forest– many of whom have been key in gathering evidence to support this CIL Review process.
- 1.8 The Council is anticipating receiving, through this consultation, ‘appropriate’ and ‘available’ evidence to test the initial position set out in this Preliminary Draft Revised Charging Schedule to ensure the most appropriate and robust Draft Revised CIL Charging Schedule is developed and taken forward to independent examination.

### **Consultation Period**

- 1.9 The Preliminary Draft Revised Charging Schedule (PDRCS) and accompanying documents are available for public comment for a six week period, between Monday 21st January 2019 to 5pm on Monday 4th March 2019.
- 1.10 The accompanying documents include the South and Central Waltham Forest: Community Infrastructure Levy Review, prepared by BNP Paribas Real Estate.
- 1.11 As part of this review, the Council has conducted an analysis on planned and aspirational infrastructure schemes within the borough to support growth. This has identified a current funding gap of between £650 to £670m. The funding required is far in excess of income that could be generated by CIL alone and therefore justifies the continued collection of CIL, and indeed the proposed higher CIL rates, alongside other existing and future funding sources to deliver the specified infrastructure in the borough to support the proposals contained in the adopted Local Plan. The overall funding gap can also be subject to change as existing infrastructure schemes are delivered and as new infrastructure schemes emerge and are added to the project pipeline.
- 1.12 Following the consideration of comments received to the Preliminary Draft Revised Charging Schedule, the Council will prepare and publish a Draft Revised Charging Schedule for further public consultation, followed by independent examination in public.

### **How to make comments?**

- 1.13 Copies of this Preliminary Revised Charging Schedule and supporting BNP Paribas Real Estate South and Central Waltham Forest CIL Review are available to view on line:

[www.Walthamforest.gov.uk/CIL](http://www.Walthamforest.gov.uk/CIL)

or at the Council's offices:

Town Hall  
Waltham Forest Town Hall Complex  
Forest Road  
Walthamstow  
London  
E17 4JF

1.14 Copies are also available at all local libraries at the addresses below:

- Hale End Library, Castle Avenue, Highams Park, E4 9QD
- Higham Hill Library, North Countess Road, Walthamstow, E17 5HS
- Lea Bridge Library, Lea Bridge Road, Leyton, E10 7HU
- Leyton Library Plus, High Road, Leyton, E10 5QH
- Leytonstone Library Plus, 6 Church Lane, Leytonstone, E11 1HG
- North Chingford Library Plus, The Green, Chingford, E4 7EN
- Walthamstow Library Plus, High Street, Walthamstow, E17 7JN
- Wood Street Library, Forest Road, Walthamstow, E17 4AA

### **How to make comments**

1.15 Comments on the Preliminary Draft Revised Charging Schedule should be made using the online consultation portal which can be accessed using the following website link:

[www.walthamforest.gov.uk/content/community-infrastructure-levy](http://www.walthamforest.gov.uk/content/community-infrastructure-levy).

1.16 Only comments received during the specified consultation period will be considered. Anonymous comments cannot be accepted. Responses should also include supporting evidence where possible. The Council asks that comments are made electronically where possible, to save time and money. However, comments made using paper formats/forms will be accepted. Written representations should be sent to the address below no later than 4th of March 2019.

1.17 You can contact the Planning Policy Team via:

Email: [planning.policy@walthamforest.gov.uk](mailto:planning.policy@walthamforest.gov.uk)

Post: Planning Policy - CIL Review  
Magistrates  
Waltham Forest Town Hall Complex  
Forest Road  
Walthamstow  
London

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1.18 Following the conclusion of this consultation of this Preliminary Draft Revised Charging Schedule, comments will be analysed and a Draft Revised Charging Schedule will be produced, which will be consulted upon prior to being submitted for independent Examination in Public. Indicative dates for these next steps are:

<b>Stage of Preparation</b>	<b>Indicative Date/Timeframe</b>
Preliminary Draft Charging Schedule consultation	January – March 2019
Consideration of responses	March 2019
Draft Charging Schedule consultation	April – May 2019
Consideration of responses	June 2019
Submission to Inspecting/Examining body	July 2019
Examination in Public	September 2019
Receipt of Examiners Report	November 2019
Cabinet Meeting to recommend adoption of Revised CIL Charging Schedule	December 2019
Adoption by Full Council & Implementation	December 2019
Implementation of Revised CIL Charging Schedule	1 <sup>st</sup> January 2020

1.19 If you require further information please visit:

[www.walthamforest.gov.uk/CIL](http://www.walthamforest.gov.uk/CIL)

### **Consultation Questions**

1.20 The Council would like you to consider the following questions when responding to the Preliminary Draft Revised Charging Schedule, revised Regulation 123 List and related evidence:

- 1) Do you agree with the assumptions and methodology used in the 'South and Central Waltham Forest: Community Infrastructure Levy Review', conducted by BNP Paribas Real Estate? If not, please provide appropriate and available evidence to support your position.
- 2) Do the proposed CIL rates strike an appropriate balance between funding infrastructure and any potential effects on the viability of development? If

not, please provide alternative appropriate evidence to support your position.

- 3) Do you agree with the proposed amendments to the Council's Adopted Regulation 123 List and the proposed balance between the use of CIL and Section106 Planning Obligations? If not, please provide details of which amendments you do or do not support and the justification for doing so.
- 4) What approach should be taken to strategic sites identified in the Local Plan Strategy, when considering the delivery of infrastructure, CIL payments and/or Section106 Planning Obligations?
- 5) Do you agree with the Council's CIL Instalment Policy to stagger payments? If not, do you have any suggestions and justification to warrant a different approach?
- 6) Do you think the Council should continue to offer CIL relief?
- 7) Do you think the Council should extend its current CIL relief scheme to offer relief for any of the following discretionary criteria (please include appropriate and available evidence to support the view)?
  - Land for infrastructure
  - Payment in kind in the form of on-site infrastructure delivery
  - Relief for exceptional circumstances
  - Relief for Charitable investment activities
  - Any other form of discretionary relief
- 8) Do you support the Council's proposals to amend the definition of CIL liable retail development to 280 square metres and governed by the provisions of the Sunday Trading Act 1994?
- 9) Do you have any other comments on the Preliminary Draft Revised Charging Schedule?
- 10) Do you have any other comments on the evidence base which supports the review, or any of the issues contained in the Preliminary Draft Revised Charging Schedule?

## **2 Name of the Charging Authority**

2.1 The Charging Authority is the London Borough of Waltham Forest.

## **3 What is CIL?**

3.1 CIL is a standardised non-negotiable 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. CIL provides a more consistent and transparent mechanism to secure financial contributions from development which had previously been secured through Section106 Planning Obligations (referred to as Section106 Agreements).

3.2 CIL is a pounds per square metre charge on most forms of new development. The levy is payable on development which creates net additional floor space, where the gross internal floor area of the newly built elements exceeds 100 square metres. That limit does not apply to new houses or flats, and a charge can be levied on a single house or flat of any size, unless it is being built by a self-builder.

3.3 Under CIL, developers can still be required to directly provide both 'off-site' contributions through Section106 planning obligations or Section 278 agreements and 'on-site' improvements through planning obligations to mitigate the direct impact of the development proposed (e.g. landscaping, access roads etc.).

3.4 There are currently two CIL rates in operation in the Borough, the Mayoral CIL and the Waltham Forest CIL. These are both applicable to certain forms of new development. Mayoral CIL is discussed in more detail later in the document.

### **What development is liable for CIL?**

3.5 The following forms of development do not pay CIL:

- Development of less than 100 square metres unless a whole house, in which case the levy is payable
- Houses, flats, residential annexes and residential extensions which are built by 'self-builders'
- Affordable housing that meets relief criteria, subject to an application by a landowner for CIL relief (CIL Regulation 49)
- Charitable development that meets relief criteria, subject to an application by a landowner for CIL relief (CIL Regulation 43)
- Buildings into which people do not normally go
- Buildings into which people go intermittently for the purposes of inspecting or maintaining fixed plant or machinery

- Structures that are not buildings, such as pylons and wind turbines
- Specified types of development which local authorities have decided should be subject to a zero rate and specified as such in the Charging Schedule
- Vacant buildings brought back into the same use
- Where the levy liability is calculated to be less than £50, the chargeable amount is deemed to be zero so no levy is due
- Mezzanine floors inserted into an existing building are not liable for the levy unless they form part of a wider planning permission that seeks to provide other works as well.

## **Exemptions from CIL**

3.6 The CIL Regulations 2010 (as amended) set out the situations for both mandatory and discretionary exemptions from CIL. Mandatory exemptions include affordable housing and development occupied solely for the purposes 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 costs of complying with s106 planning obligations are 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.

3.7 The Council does not expect to implement any discretionary exemptions other than as an exception. 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 as a matter of course.

3.8 Further guidance and definitions of the above are set out in the relevant sections of the Planning Practice Guidance and CIL Regulations 2010 (as amended).

## **Who is liable to pay CIL?**

3.9 Landowners are liable to pay CIL. Developers may take liability to pay the CIL charge on behalf of the landowner.

## **What are the benefits of CIL?**

3.10 The benefits of CIL include:

- CIL provides a clearer mechanism for funding infrastructure in a given area, and provides clarity, certainty and transparency from the outset about how much money a development scheme will be expected to contribute to infrastructure provision
- CIL collects contributions from a wider range of developments
- CIL provides local authorities with greater flexibility to set their own priorities and appending on infrastructure projects
- CIL is non-negotiable and therefore saves time and by reducing the overall need for full negotiations on the levels of contributions some schemes should pay

3.11 As stated previously, whilst making infrastructure payments under the CIL regime, developers can still be required to directly provide both 'off-site' contributions through Section 106 planning obligations and Section 278 agreements, and 'on-site' improvements through Planning Obligations to mitigate the direct impact of the proposed development (e.g. securing affordable housing, landscaping, access roads etc.)

3.12 Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s.106 agreements, are a mechanism by which measures to mitigate the direct impact of development can be secured. Section 106 agreements must meet the following tests:

- 1) Necessary to make the development acceptable in planning terms;
- 2) Directly related to the development; and
- 3) Fairly and reasonably related in scale and kind to the development

3.13 An agreement under Section 278 (s.278) of the Highways Act allows developers to enter into a legal agreement with the council to make alterations or improvements to a public highway, as part of a planning application or other development. Section 278 agreements remain in place and continue to be used by the Council so secure specific local highway improvements required as a result of a development.

### **Mayoral CIL1 and Mayoral CIL2**

3.14 There are currently two CIL rates in operation in the Borough, the Mayoral CIL (MCIL) and the Waltham Forest Local CIL (LCIL). These are both applicable to certain forms of new development in the borough.

3.15 The Mayoral CIL has been in effect since 1st April 2012 in accordance with Regulation 25 (a) of the Community Infrastructure Levy Regulations 2010 (as amended). The Mayor's CIL Charging Schedule is available to view on the GLA's website. MCIL is intended to contribute up to £600m towards the cost of

Crossrail1, which it is on track to achieve. Under the current MCIL, Waltham Forest is situated in Band 3, charging £20 per square metre (plus indexation) for all development that falls within the scope of the regulations.

3.16 Following Examination of MCIL2 in September 2018 and subsequent approval by the Inspector in November 2018, MCIL2 will take effect in the Borough from 1<sup>st</sup> of April 2019. Under MCIL2, Waltham Forest has been moved from Band 3 to Band two, resulting in increased charges of £60per square metre (plus indexation). For further information, please see:

<https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/mayoral-community-infrastructure-levy>

### Waltham Forest Adopted CIL Charging Schedule

3.17 Waltham Forest’s current Adopted CIL Charging Schedule is set out below. The current charging zone boundaries are set out in Appendix A.

Type of Development	Zone A (North of the North Circular)	Zone B (South of the North Circular)
All residential development, including private care/retirement homes	£65	£70
Publically funded care homes	Nil	Nil
Convenience based supermarkets/superstores* and retail warehousing**	£150	
Hot food takeaways and restaurants	£80	
Betting shops	£90	
Hotels	£20	
All other uses	Nil	
* Superstores/supermarkets are shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floor space as part of the overall mix of the unit.		
** Retail warehousing are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY and other ranges of goods, catering for a significant proportion of car-borne customers.		

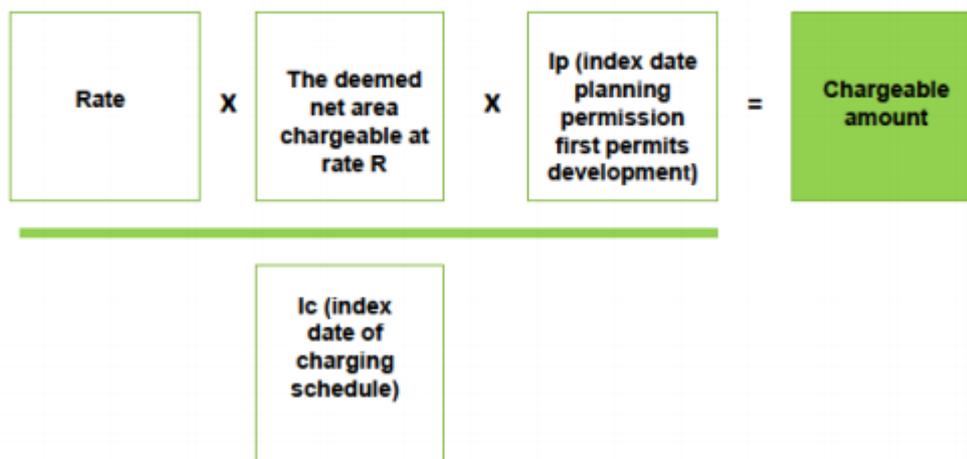
### Indexation

3.18 CIL charges are subject to annual indexation in line with the All-in-Tender Price Index on the 1<sup>st</sup> of January each year to reflect inflationary pressures on the cost of delivering infrastructure. The current rates charged in Waltham Forest, as of 1<sup>st</sup> January 2018 are shown below:

Type of development	CIL Rates from Adopted CIL Charging Schedule	Applied CIL Rate, including indexation as of 1 <sup>st</sup> January 2018
Zone A Residential	£65	£76.69
Zone B Residential	£70	£82.59
Supermarkets	£150	£179.99
Hot Food Takeaways	£80	£94.39
Betting Shops	£90	£106.19
Hotels	£20	£23.60

#### 4 How is CIL Calculated and Charged?

- 4.1 The CIL Regulations 2010 (as amended) 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 included in 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 Section.106 Planning Obligations).
- 4.2 The levy is expressed as a £ per sqm<sup>2</sup> rate and collected on the commencement of development. CIL is charged on the 'gross internal floor space' of any new development, apart from affordable housing and buildings used for charitable purposes where exemptions have been made.
- 4.3 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 within their area.
- 4.4 The chargeable amount will be calculated in accordance with Regulation 40 of the CIL Regulations 2010 (as amended). The Council will use the following formula:



4.5 In most cases the deemed net chargeable area will be the gross internal area of the chargeable development. However, the regulations allow for the gross internal area of retained parts of in-use buildings to be deducted and not charged. There are also provisions for deducting parts of existing buildings that will be demolished. Applicants are advised to look at the CIL regulations (regulation 40) and the government guidance for detailed advice.

4.6 Index linking will be applied as set out in the formula above, using the All in tender price index published by BCIS. The regulations also allow for social housing relief, and exemptions for residential annexes or extensions. These are explained fully in the regulations and government guidance.

4.7 Applicants should note however that if they commence development without serving a commencement notice as required by the regulations and / or without having applied for social housing relief, then they will lose their ability to pay by instalments and / or will not be eligible for relief for social housing.

4.8 The Council will liaise with applicants and agents to confirm the correct CIL charges and will issue liability notices as soon as practicable after planning permission first permits developments (as required by the regulations).

## 5 The need for CIL (Infrastructure Funding Gap)

5.1 The Council produced an Infrastructure Study in 2013 setting out the likely infrastructure impacts and costs of growth identified in the Council's Local Plan and supporting Infrastructure Delivery Plan (IDP) and Infrastructure Delivery Schedule (IDS).

5.2 Statutory guidance requires a CIL Charging Authority to identify the total cost of infrastructure that it desires to fund in whole or in part from the levy.

- 5.3 As part of this review an analysis of planned and aspirational infrastructure schemes has been carried out. This has identified a current funding gap of between £869 to £944m. The funding required is far in excess of income that could be generated by CIL alone and therefore justifies the continued collection of CIL, and indeed the proposed higher CIL rates, alongside other existing and future funding sources to deliver the specified infrastructure in the borough to support the proposals contained in the adopted Local Plan. A Draft Infrastructure projects list is included in Appendix 4.
- 5.4 The level of investment required is indicative and it includes investment that may need to be undertaken by both the Council and its partners or other infrastructure providers. The investment required will need to be the subject of 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 and 3<sup>rd</sup> Sector organisations in years to come. The actual level of investment the Council makes in future years will clearly be subject to Council priorities, as well as the availability of funding from other sources such as central government or the GLA, and will need to be agreed by the Council's Cabinet as appropriate.
- 5.5 The Draft London Plan, December 2017, is proposing to significantly increase the borough's minimum housing target by approximately 108%. The Council is currently in the process of developing a new Local Plan to accommodate this need as well as undertaking a refresh of its Infrastructure Delivery Plan to understand overall infrastructure requirements to meet future need. It is likely, therefore, that the infrastructure costs assumed above are likely to downplay the actual level of infrastructure funding need going forward. Therefore, the Council will seek to review its CIL Charging Schedule and supporting viability evidence base on completion of its ongoing Local Plan Review and Infrastructure Delivery Plan review to ensure the full extent of the boroughs infrastructure needs and CIL charges are sufficiently robust to meet that identified need.

## **6 Proposed Changes to the CIL Charging Schedule**

- 6.1 There has been a significant increase in property values in the south of the borough over the last 3-4 years. To identify what impact this has had on the viability of development, the Council commissioned BNP Paribas Real Estate to complete a viability study of development typologies across this part of the borough in order to understand what changes in CIL rates may be appropriate. BNP Paribas Real Estate are specialist viability consultants with a particular expertise and track record in preparing robust borough viability assessments for

local authorities across England, and in particular London, in support of bringing forward and updating local CIL Charging Schedules.

- 6.2 The study utilises the residual land value method of calculating the value of each development typology. This method is used by developers when determining how much to bid for land and involves calculating the value of the completed scheme and deducting development costs such as construction fees, finance, sustainability requirements, Section 106 contributions, CIL (both Mayoral and Borough CIL) and developers profit. The residual amount is the sum left after these costs have been deducted from the value of development, and guides a developer in determining an appropriate offer price for the site.
- 6.3 This assessment does not, however, include other 'extraordinary' sources of funding or revenue that may become available such as Housing Zone funding or other grant sources as this cannot be guaranteed.
- 6.4 The BNP Paribas Study (January 2018) has identified that there is scope to increase the current CIL rate of £70 per sqm<sup>2</sup> in Zone B (South of the North Circular) to £120 per sqm<sup>2</sup>. Additionally, the BNP study concludes that there is scope for a new charge on Student Accommodation and purpose built shared living products of £120 per sqm<sup>2</sup> in Zone B (South of the North Circular).
- 6.5 The BNP Paribas Study does not support changes to the current CIL rates across any other uses or elsewhere in the borough. Based upon this evidence, the remainder of the Charging Schedule will not be considered or proposed for amendment.
- 6.6 Whilst not proposing to amend any other charges other than those outlined above, the Council does wish to use this opportunity to update all the existing rates in line with the All-in-Tender Price Index, as provided for in the CIL Regulations. These are the rates that would be charged for any chargeable development at this date in any event and so is not a real change to the rates that would be charged under the extant Charging Schedule (in fact, these rates are marginally lower than they would be otherwise due to a rounding process that has been used).
- 6.7 The proposed changes to Adopted CIL rates are shown in the track changed table on the next page. Track changes in red are those rates which are proposed to increase. Those changes which are track changed in green are the updated rates to reflect indexation, as above:

Type of Development	Zone A (North of the North Circular)	Zone B (South of the North Circular)
All residential development, including private care/retirement homes	£65 <u>£76</u>	£70 <u>£120</u>
Student Accommodation and large scale purpose built shared living	<u>£0</u>	<u>£120</u>
Publically funded care homes	Nil	Nil
Convenience based supermarkets/superstores* and retail warehousing**	£150 <u>£176</u>	
Hot food takeaways and restaurants	£80 <u>£94</u>	
Betting shops	£90 <u>£106</u>	
Hotels	£20 <u>£23</u>	
All other uses	Nil	
<p>* A simple definition of a supermarket for this purpose is a food based, self-service, retail unit greater than 280 square metres and governed by the Sunday Trading Act 1994.</p> <p>** Retail warehousing are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY and other ranges of goods, catering for a significant proportion of car-borne customers.</p>		

5.8 It should be noted that the Council is proposing to update the definition of retail to improve the clarity of its proposed CIL Charging Schedule. The current definition provides no size threshold and in some instances this had led to challenges from some developers seeking to justify non-payment. The Council is mindful of wider structural changes in the retail industry and expects high growth in the development of smaller store formats, which when taken cumulatively, deliver similar, if not higher, local infrastructure challenges. As above, the Council is proposing to use the threshold of 280 square metres and those which are governed by the Sunday Trading Act 1994 as its definition for the purposes of the charging schedule. The proposed amendment is shown in the table above\*.

## 7 What can CIL be spent on?

7.1 The CIL Regulations set the context for the spending of CIL funds on infrastructure required to support the development of an area. The CIL Regulations encourage the accumulation of CIL funds into a 'pot'. Unlike other obligations or charges, CIL spending does not need to be directly related to the development on which it was levied and can address infrastructure needs in general within the wider area.

7.2 The key points set out by the CIL Regulations and Guidance relating to CIL funding are:

- CIL should be spent on infrastructure including: roads and other transport, schools and other education, community facilities, health, sport/recreation and open spaces;
- The infrastructure funded must support the development of the area;
- It can only be spent on capital projects, although associated revenue spending to deliver the project or to maintain the capital infrastructure item is also permissible;
- CIL can be used to increase the capacity of existing infrastructure or to repair failing infrastructure, if needed to support development; and
- CIL and Section 106 (S.106) funding should not be secured to fund the same infrastructure project.

### **The Regulation 123 List**

7.3 Regulation 123 of the CIL Regulations 2010 (as amended) requires Charging Authorities (the Council) to set out a list of those proposed projects or types of infrastructure that it intends to fund, or may fund, through the levy. Government guidance indicates that this list should be based on the evidence of infrastructure required that the Council prepared in support of its Local Plan and has relied upon, for the examination of its draft charging schedule, to demonstrate a funding gap that justifies the introduction of increased levies on development.

7.4 The Council's current Regulation 123 List is set out in Appendix B and contains the types of infrastructure that may be funded or part funded by CIL.

7.5 The current Regulation 123 List is still fit for purpose and reflects current funding priorities in the Borough. The Council would, however, wish to use this opportunity to include digital infrastructure to the list. The proposed Regulation 123 List is included in Appendix C of this document.

7.6 In accordance with the CIL Regulations, the proposed Regulation 123 List, in Appendix C, will also be subject to public consultation and independent examination through this process.

### **CIL and Planning Obligations (Section 106 Agreements)**

7.7 Under CIL, developers can still be required to directly provide both on and 'off-site' infrastructure, through S.106 contributions, to mitigate the direct impacts of the development proposed (e.g. landscaping, access roads). A Planning Obligations SPD setting out what obligations will be collected through S.106 and

CIL was adopted by the Council in August 2017 and can be found at:

<https://walthamforest.gov.uk/content/planning-obligations>

7.8 As it is proposed to alter the approach to the Regulation 123 List, it will be necessary to review the Planning Obligations SPD to ensure there is clarity around the Council's expectations for the infrastructure needs of development that will be funded from CIL and that which will be secured via S.106, eliminating the scope for any potential 'double charging' of developers for the same item of infrastructure. The Planning Obligations SPD review will commence on approval of the Draft Revised Charging Schedule following independent examination in public.

## **8 Next Steps**

8.1 Following this Preliminary Draft Revised Charging Schedule consultation, the Council will review the comments received alongside other relevant evidence which may emerge and use the findings to inform the next stage of preparing a revised charging schedule, the Draft Revised Charging Schedule (DRCS) for consultation.

8.2 In December 2018, the government launched for consultation a technical consultation on developer contributions reform. The document proposes a number of amendments to both the CIL and S106 regimes, including simplifying the process for updating an existing CIL Charging Schedule. Government has recognised and acknowledged that the current process is time consuming and creates a barrier to making targeted revisions to an adopted schedule.

8.3 The consultation states that developers have also argued that rates should be reviewed more regularly than at present. As such, government has stated its intention to revise this process to a single round of consultation followed by examination.

8.4 Given that these proposals are still at consultation stage, the Council is pursuing this revising to its charging schedule under the existing two stage consultation process.

8.5 Once the Council considers that the Draft Revised Charging Schedule (DRCS) is ready for independent examination in public and is approved for consultation, we will publish the document for a second round of consultation, in line with the CIL Regulations 2010 (as amended). During this period, representations can be made and any person making a representation has the right to be heard at a future CIL Examination in Public. Following the examination, the independent

Planning Inspector who will examine the DRCS will produce a report recommending adoption or changes to the document as set out. The revised CIL Charging Schedule will then be taken forward for adoption by the Council's Cabinet with implementation of CIL recommended from a published date.

DRAFT



## Appendix 2 – Adopted Regulation 123 List (extract from Adopted Charging Schedule)

### Regulation 123 list of infrastructure to be funded by CIL

**Date of Effect** – this Charging Schedule will come into effect on 15<sup>th</sup> May 2014.

#### **Types of infrastructure to be funded by CIL**

- The provision, improvement, replacement, operation or maintenance of new and existing public education facilities;
- The provision, improvement, replacement, operation or maintenance of new and existing leisure facilities such as sports facilities, libraries;
- The provision, improvement, replacement, operation or maintenance of new and existing open space and green infrastructure;
- The provision, improvement, replacement, operation or maintenance of new and existing roads and other transport facilities;
- The provision, improvement, replacement, operation or maintenance of new and existing health facilities;
- The provision, improvement, replacement, operation or maintenance of air quality monitoring infrastructure;
- The provision, improvement, replacement, operation or maintenance of new and existing employment and training facilities;
- The provision, improvement, replacement, operation or maintenance of new and existing community facilities and faith buildings;
- The provision, improvement, replacement, operation or maintenance of new and existing energy and sustainability infrastructure to help meet climate change, sustainability objectives;
- The provision, improvement, replacement, operation or maintenance of new and existing flood defences and Sustainable Drainage Systems;
- The provision, improvement, replacement, operation or maintenance of new and existing electricity supplies to all Council managed markets;
- The provision, improvement, replacement, operation or maintenance of new and existing infrastructure dedicated to public safety (e.g. wider CCTV coverage);
- The provision, improvement, replacement, operation or maintenance of new and existing infrastructure dedicated to public art;
- Unless the need for specific infrastructure contributions are identified in the Revised Planning Obligations Supplementary Planning Document or arises directly from five or fewer developments, where section 106 arrangements may continue to apply if the infrastructure is required to make the development acceptable in planning terms.

## Appendix 3 – Proposed Regulation 123 List

### Draft Proposed Regulation 123 List, 2019-2026/27

#### Types of infrastructure to be funded by CIL

- The provision, improvement, replacement, operation or maintenance of new and existing public education facilities;
- The provision, improvement, replacement, operation or maintenance of new and existing leisure facilities such as sports facilities, libraries;
- The provision, improvement, replacement, operation or maintenance of new and existing open space and green infrastructure;
- The provision, improvement, replacement, operation or maintenance of new and existing roads and other transport facilities;
- The provision, improvement, replacement, operation or maintenance of new and existing health facilities;
- The provision, improvement, replacement, operation or maintenance of air quality monitoring infrastructure;
- The provision, improvement, replacement, operation or maintenance of new and existing employment and training facilities;
- The provision, improvement, replacement, operation or maintenance of new and existing community facilities and faith buildings;
- The provision, improvement, replacement, operation or maintenance of new and existing energy and sustainability infrastructure to help meet climate change, sustainability objectives;
- The provision, improvement, replacement, operation or maintenance of new and existing flood defences and Sustainable Drainage Systems;
- The provision, improvement, replacement, operation or maintenance of new and existing electricity supplies to all Council managed markets;
- The provision, improvement, replacement, operation or maintenance of new and existing infrastructure dedicated to public safety (e.g. wider CCTV coverage);
- The provision, improvement, replacement, operation or maintenance of new and existing infrastructure dedicated to public art;
- The provision, improvement, replacement, operation or maintenance of infrastructure that provides, supports or enhances digital connectivity in the borough;
- Unless the need for specific infrastructure contributions are identified in the Revised Planning Obligations Supplementary Planning Document or arises directly from five or fewer developments, where section 106 arrangements may continue to apply if the infrastructure is required to make the development acceptable in planning terms.