

Community Infrastructure Levy

Draft Charging Schedule

November 2012

This Charging Schedule has been issued, approved and published in accordance with Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations (as amended) 2011.

Date on which the Charging Schedule was approved: [Insert date]

Date on which the Charging Schedule takes effect: [Insert date]

Introduction

1.1 Introduction to CIL

1.1.1 This is a consultation document from the London Borough of Barnet (“the Council”) as part of its programme towards setting a local Community Infrastructure Levy (“CIL”) under powers set out in Part 11 of the Planning Act 2008 (“the Act”), the CIL Regulations 2010 as amended 2011 (“the Regulations”) and informed by ‘CIL guidance: charge setting and charging schedule procedures’ (“the Guidance”).

1.1.2 CIL will be a standardised non-negotiable local levy that is placed on new development. It will provide a more consistent and transparent mechanism to raise financial contributions currently sought using the Council’s Planning Obligations tariffs.

1.1.3 The CIL will apply to all ‘chargeable development’, defined as:

- consisting of buildings usually used by people (but excluding buildings to which people do not usually, or only occasionally, go to inspect machinery or structures such as electricity pylons or substations)
- delivering 100sqm or more of gross internal floorspace or the creation of one additional dwelling, even if the gross internal floorspace is <100sqm.
- floorspace that is not exempted under the Act, the Regulations or for a locally defined reason to be set out in section 4.3 of this document.

The chargeable amount will be calculated in accordance with Regulation 40 of the Regulations to net increase of the gross internal area.

1.1.4 The purpose of Barnet’s CIL is to secure capital funding to help address the gap in funding for local infrastructure. The money raised by Barnet’s CIL will be used to pay for infrastructure required to mitigate the impact of development across the Borough.

1.1.5 The definition of infrastructure is set out in section 216(2) of the Act and in Barnet’s Infrastructure Delivery Plan. Barnet will publish its formal list of infrastructure to be funded from CIL through the Council’s Annual Budget-setting process in accordance with the requirements of Regulation 123.

<u>Mayoral CIL</u>	<u>Barnet CIL</u>
£35 per square metre	£135 per square metre

1.1.6 On 1 April 2012, the Mayor of London started charging CIL (“Mayoral CIL”) on most development to help provide £300m towards the cost of delivering the Crossrail project. All chargeable development in Barnet will pay a flat rate of £35 per m².

1.1.7 The London Borough of Barnet intends to set its own separate local CIL as a single flat rate of £135 per square metre of **net additional floorspace**. By setting it at this rate the Council has ensured that it is a rate affordable for all

viable development proposals brought forwards. The Council recognises that this rate may secure less overall income than under Planning Obligation tariffs, but sees this change as part of its contribution towards ensuring growth in new housing can continue in Barnet. The justification for the Council's proposed CIL rate is set out in section 3 & 4.

2 Process of CIL Adoption

2.1 *Timetable for delivery of CIL*

2.1.1 Figure 1 shows Barnet's timetable for delivery of CIL, it sets out the likely process allowing sufficient time for consultation, examination and adoption processes, as well as sufficient transition time to ensure the development industry and internal stakeholders are prepared for the system changeover.

Figure 1 – Timetable for the delivery of CIL in Barnet

Stage	Objective	Due date
1. Evidence Preparation	Commission update report to Affordable Housing Viability Appraisal completed March 2010	Jun - Aug 2011
	Anticipated CIL chargeable floorspace projections	Aug - Sep 2011
	Adoption and testing of updated Infrastructure Delivery Plan	Nov - Dec 2011
2. Develop 'Preliminary Draft Charging Schedule' to set out Barnet's CIL policy	Rate-setting and production of PDCS to reflect the evidence	Sep 2011 - Jan 2012
3. Cabinet review of CIL	Approval to take forward the policy proposals for consultation	Feb 2012
4. CIL collection systems setup	Processes in place to enable Mayoral CIL to be collected	Feb - May 2012
5. Preliminary Draft Charging Schedule Consultation	Undertake a 6 week dialogue on local CIL with stakeholders	Mar - Apr 2012
6. Draft Charging Schedule Consultation	Provide 6 week pre-examination final consultation stage	Jul - Sept 2012
7. Charging Schedule Examination	Demonstrate soundness of the charging schedule adoption process & related evidence	Dec - Jan 2012
8. Transition Processes	Ensure readiness for decisions on existing applications to be completed ahead of adoption.	Feb - Mar 2013
9. Adoption by the Council	Full Council resolution required	Feb 2013
10. Commencement Date	All planning decisions charged CIL instead of s.106 tariffs.	Apr 2013

2.2 Consultation: Draft Charging Schedule

- 2.2.1 The consultation on this document took place from 27 July until 5pm 7 September 2012 in compliance with Regulation 16 and 17 of the Regulations. The **DCS** provides the background to the proposed tariff and is the second public consultation on the proposed CIL charges.
- 2.2.2 The consultation for the Preliminary Draft Charging Schedule (“PDCS”) took place on 12 March 2012 to 23 April 2012. Aside from support provided through telephone and email conversations, the Council ran a Developers Forum on 27 March 2012 and a further session for Regeneration Partners on 18 April 2012 to assist developers to adjust to Mayoral CIL and to respond to the PDCS consultation. Space for questions to be asked and answers given was therefore available throughout the consultation period to assist local developers to understand CIL and how the system will operate.
- 2.2.3 In compliance with Regulation 15(7) the Council has considered all representations made in response to the Preliminary Draft Charging Schedule published in March 2012, and changes have been made where appropriate. A report of the representations with the Council’s responses can be found on the Council’s website.
- 2.2.4 All representees and stakeholders listed on the Council’s Local Plan (LP) consultation list, the consultation bodies and those that took part in the PDCS consultation were informed of the consultation period on the Draft Charging Schedule and provided with a Statement of the Representations Procedure. Notification of the consultation were also be detailed on the ‘forward-planning’ pages of the Council’s website.
- 2.2.5 Paragraph 48 of the Guidance states that the “when a charging authority considers that a draft charging schedule is ready for examination, it must publish the draft schedule and the appropriate available evidence on infrastructure costs, other funding sources and economic viability.” Chapter 3 and 4 of this document set out the evidence compiled to underpin Barnet’s proposed CIL rate and how this has informed the Council’s decision in order to ensure a suitable balance is struck between the need to fund infrastructure and ensure development remains viable.
- 2.2.6 Barnet has made modifications to the Draft Charging Schedule after its publication. A Statement of Modification has been produced in accordance with the CIL Regulations 11 and 19. This is available on the Council’s website.
- 2.2.7 The Examination into the DCS is currently programmed for Winter 2012.

3 Evidence and Setting the CIL Rate

3.1 The policy context for CIL

- 3.1.1 Barnet's Local Plan Core Strategy sets out sets out in paragraph 20.7.2 that Barnet intends to develop a local CIL charging schedule to sit alongside the Local Plan to, as defined in Policy CS15, to *“support the delivery of infrastructure, facilities and services to meet the needs generated by development and mitigate for the impact of development”*.
- 3.1.2 The role of the Council as ‘charging authority’ is defined in the Guidance, but the process through which the local CIL is developed and operates has not been defined and is therefore left to the discretion of the Council:

“Section 206 of the Act confers the power to charge CIL on certain bodies known as ‘charging authorities’. The charging authority’s responsibilities are to:

- Prepare and publish a document known as the charging schedule which will set out the rates of CIL that apply in the authority’s area. This will involve consultation and independent examination*
- Apply the CIL revenue it receives to funding infrastructure to support the development of its area, and;*
- Report to the local community on the amount of CIL revenue collected, spent and retained each year.”*

- 3.1.3 This document provides both the justification behind the selected rates of CIL to be levied in Barnet, as well as the processes for its adoption.

3.2 Evidence required to calculate Barnet’s CIL rate

- 3.2.1 Regulation 14 provides a broad framework for the development of the CIL charging schedule, explicitly focusing on the way the balance is determined between the costs of infrastructure and contributions that will be required from individual developments as they come forwards:

“in setting rates in a charging schedule, a charging authority must aim to strike what appears to the charging authority to be an appropriate balance between-

- (a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and*
- (b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.”*

- 3.2.2 Regulation 11 defines that the ‘relevant evidence’ a charging authority should use to guide development of its charging schedule rates is:

“evidence that is readily available and which, in the opinion of the charging authority, has informed its preparation of the draft charging schedule”.

- 3.2.3 This broad framework means that provided the Council gives “an explanation of how the chargeable amount will be calculated”, the specific building blocks of that calculation are to be only the evidence considered by the Council to be both readily available and relevant to the process of calculating its CIL rate.
- 3.2.4 The following sections in this chapter set out the evidence considered to be most relevant to the CIL calculation by the Council.

3.3 A trajectory of consolidated residential growth

- 3.3.1 Regulation 9 defines “chargeable development” as development for which planning permission is granted.
- 3.3.2 Whilst Barnet is already London’s most populous borough, with 349,800 residents in 2011, it will continue delivering growth that builds on a local population increase of 30,300 (9.5%) since 2001. Figure 2 shows Barnet’s targeted housing growth up to 2026. Over 28,000 new homes are expected to be delivered in the next 15 years. This is reflected in the London Plan which sets Barnet the fourth highest housing target in London. Out of Barnet’s targeted housing growth over 18,000 new homes will be delivered in the Regeneration and Development Areas combined with the priority housing estates.
- 3.3.3 Much of the planned development to March 2016, and almost all of the development in regeneration areas and priority estates, has already been granted planning permission and therefore will not be required to pay CIL if this extant permission is built. However if a new or revised planning application is received for any of these sites, then CIL will be chargeable subject to the exemptions set out in section 3.2 of this document.
- 3.3.4 Housing growth in the Regeneration and Development Areas of Brent Cross Cricklewood, Mill Hill East, Stonegrove and Spur Road Estate, and West Hendon Estate has already been granted planning permission and therefore all the units planned in relation to these sites have been excluded in the calculation of anticipated chargeable floorspace.

Figure 2 – Distribution of Housing Growth up to 2026 as set out in the Core Strategy.

	SOURCE	2011-16	2016- 21	2021 -26	TOTAL
1	Incremental small housing schemes incorporating windfall allowance	2050	980	980	4010
2	non self contained accommodation	635	635	635	1905
3	vacant properties	395	395	395	1185
4	Total Town Centre sites	440	600	200	1240
5	Total Other Major sites	1280	460	20	1760
6	Priority Housing Estates¹²	850	670	640	2160
	Regeneration and Development Areas				
	Brent Cross - Cricklewood	410	1800	3300	5510
	Mill Hill East AAP	930	1000	200	2130
	Colindale AAP	4470	3320	300	8090
	North London Business Park / Oakleigh Road South Planning Brief	150	250	0	400
7	Total Regeneration and Development Areas	5960	6370	3800	16130
	Borough Total (sum of 1 to 7)	11610	10110	6670	28390

3.3.5 Development in Colindale is being delivered through many different sites, brought together through the Area Action Plan. This plan considers all the potential 10,000 new homes and all associated infrastructure to support these new homes. Approximately 2,500 of these anticipated units currently do not have planning permission. Re-development of both Dollis Valley Estate and Granville Road Estate is currently being planned through a process of competitive dialogue, but neither currently have an extant permission in place. All anticipated private sale units from these three regeneration areas are identified in Appendix 1 which details the anticipated chargeable floorspace expected to come forwards during 2011-16, a total of 34,602 sqm.

3.3.6 Appendix 1 further details the remaining anticipated development across the borough on a ward-by-ward basis. The information is taken from the council's 'Housing Trajectory', which is a living dataset identifying the anticipated completion dates of new units at each known development site in Barnet, this identifies a further 52,163 sqm of chargeable floorspace.

3.3.7 Appendix 1 involves adjustments to ensure accuracy of expected floorspace: (i) expected development, identified through extant planning permissions, is deducted, (ii) the number of approved units is adjusted by the average number of permissions requiring renewal and (iii) the amount of affordable housing expected is removed from the total as social housing is exempted.

3.3.8 Paragraph 5 of the Guidance states that "CIL will be levied on the gross internal floorspace of the net additional liable development". The figures for delivery in units are therefore converted to 'floorspace' in m² using the London Plan minimum standards per unit. Based on the experience of our

development management team, we have assumed the difference between 'gross' and 'net' additional floorspace is on average 2:1 for small major and minor development and 4:1 for regeneration areas / estate renewal, therefore Column J in Appendix 1 incorporates reductions of 50% and 25% to the estimated 'gross' floorspace. Anticipated "*gross internal floorspace of the net additional liable development*" for the 2011-16 period is therefore calculated in Appendix 1 to be 81,181m².

3.4 Anticipated levels of commercial growth

- 3.4.1 The same approach to residential change cannot be used for predicting the level of commercial floorspace likely to be delivered during the period in which CIL will operate; therefore the average historic level of delivery of commercial floorspace as identified through the London Development Database will be used as a prediction for likely future change.
- 3.4.2 The Annual Monitoring Reports for 2004-11 incorporate information on the total retail, office and industrial floorspace completed in each year. Figure 3 shows the total amount of floorspace delivered through larger schemes (over 100sqm) as well as calculating an average across all these years.
- 3.4.3 The information does not capture commercial floorspace from developments of less than 100sqm, however this is not a problem as all this floorspace is exempt under Regulation 42, unless part of a mixed use scheme. Commercial floorspace that would be exempted for charitable reasons under Regulation 43 is noted from historic information to be negligible.
- 3.4.4 The net anticipated additional commercial floorspace to be completed in the 2013-16 period is estimated as: 12,639m² of retail floorspace, 10,602m² of office floorspace and 897m² of industrial floorspace.
- 3.4.5 Of this anticipated net commercial floorspace it is estimated that approximately 50% will have already received planning permission, a similar proportion as noted in relation to residential development, to give a total net anticipated chargeable floorspace as follows:
- 6,319m² retail floorspace
 - 5,301m² office floorspace
 - 449m² industrial floorspace
- 3.4.6 This suggests a maximum of 12,069m² of CIL liable commercial floorspace could potentially come forwards during the period. Almost all of the past floor space delivered has been within protected employment land reflecting the evidence that in general outside of such spaces both office and industrial floorspace are 'unviable' uses, as identified by the updated Viability Appraisal.
- 3.4.7 Significant delivery of either of these types of floorspace is expected to be unlikely during the coming 3-year period (unless through replacement as part of a mixed-use proposal). Commercial floorspace appears to be sporadically delivered and mainly linked to a site-specific reason. Estimation of the likely CIL income from new commercial floor space is anticipated to fluctuate annually, but even combining commercial use classes it is likely to represent less than 15% of the total development anticipated to come forwards.

Figure 3 – Historic delivery of commercial floorspace in Barnet

Year of Delivery	Planning application reference	Address of site	Retail	Office	Industrial
			A1 - A5	B1	B2 / B8
2004-05	All completed development		15,420m²	11,466m²	Not measured
2005-06	All completed development		9,555m²	3,509m²	Not measured
2006-07	N/02979AR/03	Summit House, Moon Lane		1,008m ²	
2006-07	All completed development		0m²	1,008m²	0m²
2007-08	W/00198AK/05	Block A, Former RAF East Camp	2,255m ²		
2007-08	All completed development		2,255m²	0m²	0m²
2008-09	C/00831AP/06	2 Lyttleton Road		1,056m ²	
2008-09	W/00198AG/05	Block B, Former RAF East Camp	1,696m ²		
2008-09	All completed development		1,696m²	1,056m²	0m²
2009-10	N/13258B/05	Unit 9 Friern Bridge Retail Park			552m ²
2009-10	C/01209H/02	Tudor Court R/O Llanvanor Road		2,500m ²	
2009-10	C/02905AS/08	1117 Finchley Road, NW11 0QB	445m ²	901m ²	
2009-10	C/00502E/04	48a Hendon Lane	120m ²		
2009-10	All completed development		565m²	3,401m²	552m²
2010-11	B/03161/09	Barnet Trading Estate			942
2010-11	C00726AB/06	Land at S.E. end of Arcadia Avenue, Finchley Church End		725	
2010-11	C03659AX/07	221 Golders Green Road		1,783	
2010-11	C04026K/07	Land R/O 2-24 Lytton Road		1,792	
2010-11	All completed development		0m²	4,300m²	942m²
2004-11	Average of all completed developments		4,213m²	3,534m²	299m²

3.5 Anticipated levels of community use development

3.5.1 There is no information on community use completions to use as the historic level of delivery of non-residential, assembly and leisure and community floorspaces. However, given that the viability of community uses is questioned in the report by BNP Paribas, and furthermore that many of these projects are undertaken by registered charities, it will not be necessary to estimate the total amount of this floorspace likely to be delivered in 2011-16.

3.6 The Infrastructure Funding Gap

- 3.6.1 Paragraph 12 of the Guidance refers to the fact that *“the charging authority will want to consider what additional infrastructure is needed in its area to support development and what other funding sources are available”*. This in effect requires a calculation of the ‘infrastructure funding gap’, the total cost of infrastructure less the total available funding from sources other than CIL.
- 3.6.2 Paragraph 13 of the Guidance then indicates that *“information on a local authority’s infrastructure needs should be drawn directly from the planning that underpins their Development Plan”*. Barnet’s Infrastructure Delivery Plan (IDP), first adopted in October 2010 and updated and set out in more detail in November 2011, provides the evidence of infrastructure needed to underpin the Core Strategy; defined locally as ‘required infrastructure’.
- 3.6.3 Appendix 1 of the IDP report details all critical and necessary infrastructure projects currently deemed as key to mitigating for the impacts of consolidated growth. The IDP report further sets out the level of preparedness and development of forward-plans for each type of required infrastructure.
- 3.6.4 Figure 4 of the Council’s IDP identified the estimated cost of delivering all infrastructure projects required for the 2011-16 period to be £247m.
- 3.6.5 Figure 6 of the Council’s IDP identified approximately £182.1m in funding towards delivery of the required infrastructure in Barnet leaving a total infrastructure funding gap of £88.5m excluding funding from CIL.
- 3.6.6 It is recognised in the IDP that a local CIL is likely to only be able to contribute towards addressing part of this infrastructure funding gap. Therefore other approaches to ensuring the IDP is fully deliverable will likely be required.

3.7 The viability of new development

- 3.7.1 Regulation 14 requires the authority to aim to strike an appropriate balance between funding infrastructure and the effect of the imposition of CIL on the economic viability of development across its area, Paragraphs 20-30 of the Guidance set out the framework for which the evidence base for testing economic viability must depend. It notes in paragraph 20 that it is likely that charging authorities will need to summarise evidence as to economic viability in a document separate to the charging schedule.
- 3.7.2 The relevant documents delivered in relation to economic viability of development in Barnet are the Affordable Housing Viability Assessment (AHVA), adopted March 2010 and the associated Update Report in August 2011 which updated and translated the findings of the original report to address the requirements in relation to evidencing area-wide viability for applying a CIL charge to different forms of development. Both documents were completed by BNP Paribas Real Estate; the author is a specialist in providing evidence on development viability.
- 3.7.3 The AHVA modelled the area-wide impact on development viability around the borough at different densities of development for a variety of scenarios. These included different policy requirements in terms of the percentage of

affordable housing, total cost of planning obligations, whether affordable housing grant was provided and different splits between social rented and intermediate tenures. It was found that the imposition of different levels of planning obligations up to £15,000 per unit (equivalent to circa £20,000 CIL charge per private sale unit) had little impact on the viability of development.

3.7.4 The Core Strategy affordable housing policy has been revised to reflect the fact that evidence suggests a maximum of 40% affordable housing is possible in general across sites in Barnet. When the update report for CIL viability was commissioned, the Council had adopted a requirement for a maximum of only 30% affordable housing following a 60% social rented, 40% intermediate tenure split, and recognising no housing grant as available. For this reason the analysis of residential viability with CIL would need to be revised to account for this change if a rate near the limit of viability is proposed.

3.7.5 In terms of retail development, a borough wide assessment of the viability of retail development was undertaken which demonstrates that up to four different rates of significant variation in value could be applied to setting a suitable CIL rates for new development, namely:

New retail development is generally unviable	CIL rate of up to £136 could be applied	CIL rate up to £524 could be applied	CIL rate up to £925 could be applied
NW9	N11	N10	N20
NW4	N2	N12	NW7
NW2	N14	NW11	
EN4	N3		
EN5			
HA8			

3.7.6 In terms of office, industrial and community development, the update report identified that in the current period to 2016 it is unlikely that development will be sufficiently viable to come forwards unless part of a mixed-use scheme.

3.7.7 The Council's strategic aim to ensure the introduction of CIL:

- (a) simplifies contributions for smaller development schemes, and
- (b) aids the process of economic growth and delivery of development,

together mean that just a **single low flat rate of CIL** will be applied to all development, this to be set at the rate of the lowest viable form of development, namely retail development in N11, N2 and N14 at **£135/sqm**.

Barnet CIL rate:	£135 / sqm	This rate applies to all areas and all use classes of development.
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3.7.8 In setting a flat rate on all development it is recognised that certain types of development could be affected. The responses to both draft charging schedule consultation suggested that some stakeholders consider this approach to put overall development at risk. However other responses suggested that setting a single rate is more suitable. On balance the Council has decided to continue with a single rate; the following sections explore the key issues raised and how they are proposed to be addressed.

- 3.7.9 Overall the evidence shows that the level of CIL proposed to be charged on all development is both appropriate and justified in terms of the economic viability of future development within the Borough. With the specific adjustments to the decision-making process regarding how CIL funding is applied it is possible to address the two main viability concerns from community facilities/public infrastructure providers and regeneration partners. Therefore the rate proposed can be certain not to put development across the area at greater risk.

3.8 Community facilities and infrastructure

- 3.8.1 Community facilities and infrastructure are typically delivered on a grant funded basis, normally without the capacity for commercial benefit. It is therefore clear that any CIL charge levied upon public infrastructure will represent an additional cost that could push delivery of the project beyond the available funding envelope and make such development unviable.
- 3.8.2 Where such development is delivered by a charity it will benefit from the charitable relief made available through the Regulations and therefore the CIL charge should effectively be zero providing the terms of the Regulations are fully adhered to by the charity in question. Much of the community facilities and infrastructure expected to be delivered will be eligible for charitable relief.
- 3.8.3 Only community infrastructure being delivered by the Council, public bodies or regulated utilities remains likely to attract a CIL charge under the proposed single rate and will be at increased risk of viability. However all this infrastructure is expected to have been identified in the IDP by the Council to be 'necessary' or 'critical' to the delivery of the Council's Local Plan, therefore the CIL burden from such infrastructure could easily be recognised and an equivalent amount of CIL funds be used towards the self same delivery of the infrastructure should this be required to make such development viable.
- 3.8.4 Details of all community infrastructure confirmed as eligible to receive a CIL contribution to support delivery will be published in the Council's Regulation 123 list which will be approved through the Council's annual budget process. Allocations of funding will be subject to full compliance with CIL Regulations.

3.9 Mixed use development

- 3.9.1 The viability evidence recognises that industrial and office development is likely to be unviable during the current period. This means it is highly unlikely that this type of commercial development could come forward on its own before 2016. Most office use proposals will therefore be part of a specific mixed-use scheme, often where proposed additional office development will be in the latter phases of delivery of development. It is therefore likely that such phases of development will only come forward when there is a viable market re-established.
- 3.9.2 It is not possible in this document, which the Council intends to revise during 2016, to fully cater for all possible long term future changes in commercial development viability. Therefore in setting a single flat rate rather than differential rates (e.g. by type of use) it places no financial bias on any particular use within large scale mixed use development.

- 3.9.3 Important to note is that where a development is required to deliver replacement commercial (industrial, retail or office) floor space through creation of a mixed use scheme, the cost of CIL could reasonably be argued to be neutral as existing floor space, usually equivalent or larger than the proposed floor space, will be discounted from the total floor space delivered through the CIL liability calculation.

3.10 Regeneration and Development Areas and Priority Estates and Town Centres

- 3.10.1 The Council's Core Strategy identifies the two major Regeneration Areas of Brent Cross Cricklewood and Colindale as well as a number of development areas, priority estates and town centres as the key focus of development during the Local Plan period.
- 3.10.2 Viability is a particularly pertinent concern for these areas and their development schemes, as most have specific site constraints, high on site infrastructure requirements and/or a fixed requirement for affordable housing delivery. In combination these issues can pose a significant viability concern to overall scheme delivery.
- 3.10.3 The burden of on-site planning obligations (such as infrastructure, affordable housing and employment and training measures) required for a development to be considered sustainable and acceptable, is a particular concern in relation to the transition to CIL. Whilst a number of these types of site have existing planning approvals in place, and will therefore not be CIL liable if current consents are implemented, some may need to come forward for revised permission and some may require a replacement planning permission within the period in which this charging schedule will operate.
- 3.10.4 Viability issues vary for each of these schemes and therefore it is impossible to define a single 'regeneration and priority estate areas' CIL rate, nor does the Council consider that it is appropriate to set a separate rate for each of these developments as this would go against the Council's approach of developing a simple and transparent rate-setting process across the borough. Therefore the Council intends that specific matters of scheme viability and the cost of delivering site specific planning obligations are most appropriately dealt with through the negotiation of Planning Obligations either prior to or during the planning application process.

3.11 Relationship between CIL and Planning Obligations

- 3.11.1 Under the CIL Regulations developers may continue to provide infrastructure through Section 106 Planning Obligations in certain situations to mitigate the **direct impact** of the development proposed. This will be a focus on scheme-specific mitigation, compensation and prescriptive measures such as to secure affordable housing and site specific requirements such as the provision of a new access road.
- 3.11.2 The government has introduced new statutory restrictions upon the use of Planning Obligations to clarify their purpose and ensure that Obligations and CIL can work effectively together. Planning Obligations will need to meet the tests set out in Regulation 122 that state any such obligation must be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In addition, under Regulation 123 (2), on the adoption of CIL, the Regulations restrict local use of Planning Obligations to ensure that individual developments are not charged for the same items through both Planning Obligations and CIL. Where a charging authority sets out that it intends to fund an item of infrastructure via CIL then that authority cannot seek a Planning Obligation contribution towards the same item of infrastructure. Furthermore, a charging authority will publish on its website a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL, and consequently the authority would be prohibited from seeking a Planning Obligation contribution towards the same item of infrastructure.

CIL Regulation 123 (3) has the effect that from 6 April 2014, or the date that a charging authority's first charging schedule takes effect (whichever is earlier) local planning authorities will only be able to pool up to five individual Planning Obligation contributions towards infrastructure that is capable of being funded by CIL. Pooled contributions may be sought from up to five separate Planning Obligations for an item of infrastructure that is not locally intended to be funded by CIL. The limit of five applies as well to types of general infrastructure contributions, such as education and transport. In assessing whether five separate Planning Obligations have already been entered into for a specific infrastructure project or a type of infrastructure, local planning authorities must look over agreements that have been entered into since 6 April 2010.

- 3.11.3 Barnet is committed to offering a fair, balanced approach to planning obligations and to providing clarity for developers. Therefore the Council intends to update its guidance on Planning Obligations (s.106) in a revised Supplementary Planning Document intended for adoption in Spring 2013.
- 3.11.4 The forthcoming updates to the Planning Obligations and Affordable Housing Supplementary Planning Documents will provide clarity on how the balance between CIL and planning obligations will be effectively struck. It is intended that the approach set out in these two documents will enable development viability concerns within the planning process to be effectively managed and ensure that there is not a bias against larger developments due to the additional impact of on-site infrastructure / affordable housing requirements.
- 3.11.5 Developers should be reassured that where a required on-site planning obligation will also deliver wider community or environmental benefits over and above the sole mitigation of the direct and indirect impacts of the development in question, the infrastructure project will not be precluded from eligibility for CIL funding in whole or in part. The Council's planning process and discussions relating to the appropriate on-site planning obligations for a development scheme will be used to consider where this is appropriate, and to ensure that any such allocations of CIL funds would be in full compliance with CIL Regulations and any other relevant legislation.

3.12 Administration costs

- 3.12.1 Regulation 61 and paragraphs 41-44 of the Guidance set out the context relating to the incorporation of a fee towards administration costs within the charging schedule, and how such a fee can also relate towards supporting the set up costs in producing the charging schedule and in developing operational systems for management and collection of CIL.
- 3.12.2 At the time of writing, the anticipated total start up costs for delivering CIL will be in the region of £179,000 including consultation, examination, IT, viability evidence and the project officer's salary for 22 months covering evidence gathering, charging schedule drafting, consultation, examination and adoption as well as technical implementation stages of the process. The anticipated 3-year revenue cost for the service is likely to be £231,000 allowing for 2x monitoring officers to support the CIL (and planning obligations) processes.
- 3.12.3 Until the current amendments to the Regulations associated with the Localism Act are adopted, a maximum administrative fee of 5% of CIL income is permissible in relation to payments from this charging schedule. A maximum fee of 4% will apply to the provision of a CIL collection service on behalf of the Mayoral CIL once his charging schedule is adopted. The monitoring fee is included within the £135 /sqm rate and will directly relate to the cost of delivering the monitoring function.

3.13 Mayoral CIL

- 3.13.1 Paragraphs 31-33 of the Guidance specifically deal with the situation in London where the Mayor of London set a rate of CIL. This sets out the obligation to work closely with the Mayor to ensure that the setting and running of a two-tier CIL charging system is arranged so as to set CIL requirements that retain viability across London and by accounting for any existing or proposed rates to be levied by the other party.
- 3.13.2 A rate of £35 /sqm to be levied on all development in Barnet except education, healthcare and all development exempted by the regulations (social housing and charitable use). It is estimated this rate will bring in an income of £3m for Crossrail during 2011-16.
- 3.13.3 The Charging Schedule sits alongside the Mayor's London Plan, but it will not form part of it. The Mayor began levying the charge on 1 April 2012.
- 3.13.4 All evidence of viability to support the Barnet CIL rate-setting process has been calculated on the basis of an assumed £35 /sqm Mayoral rate having already been top-sliced from the total viability of development.
- 3.13.5 The Council will collect the Mayoral CIL in its capacity as a 'collecting authority on behalf of a charging authority [Mayor of London]'. This distinction between Mayoral CIL and the Local CIL means that it will be treated wholly separately from each other. Developers will be have to adhere to the requirements and be liable for each CIL independently.

4 Impact Assessment of CIL

4.1 *Calculation of the anticipated total CIL income*

- 4.1.1 The potential CIL income from the proposed rates is just less than £13m towards the delivery of required infrastructure in Barnet. Of this total income, 95% will arise from anticipated residential development in 2011-16.
- 4.1.2 It is clear that CIL income will not fully address the Infrastructure Funding Gap identified in the Infrastructure Delivery Plan, but it provides a 15% contribution towards the identified gap. Charging the maximum CIL possible through differential rates could add as much as £5-8m to the total CIL income, but would result in charging a rate of CIL that would pose additional costs on all development greater than the sum imposed through current Planning Obligation tariffs.
- 4.1.3 It is hoped that in setting up an Infrastructure Reserve, the Council can pool funding for the delivery of required infrastructure in parallel with the merging of the Infrastructure Delivery Plan into the Capital Programme. It is hoped that the flexibility this delivers with funding will mean that the most critical infrastructure can still get underway whilst alternative solutions to a higher rate of CIL can be found to address the remaining infrastructure funding gap.
- 4.1.4 Sensitivity testing to adjustments in either the residential or retail rates has been undertaken to demonstrate the financial impact of a difference in the CIL rate applied to each type of development. 5%, 10% and 25% adjustments to the CIL rates would have the following financial impacts on the total income likely to be brought in by CIL:
- 5% adjustment to the rate = £650k change in income
 - 10% adjustment to the rate = £1.3m change in income
 - 25% adjustment to the rate = £3.2m change in income
- 4.1.5 The sensitivity testing reveals that a 10% adjustment to the rate would not have too significant an impact on the total income compared with the scale of the overall funding gap, however given the low flat level of the rate proposed it is not suggested that any adjustment to the rate is required.
- 4.1.6 An analysis of the comparative cost of the CIL charge versus the cost of current planning obligation tariffs on a development is provided in Appendix 2. This shows that the proposed rate of CIL will on the whole reduce the cost burden on almost all developments compared to the existing charge applied through 'planning obligation tariffs' for Education, Libraries, Healthcare and Monitoring; this is particularly the case for developments of 3+ bedroom properties. The Council views that this reduction will be a positive step to help ensure family homes are deliverable in the current economic situation.

4.2 *Exemptions and relief*

- 4.2.1 Regulation 42 sets out that chargeable development will only be liable to pay CIL if on completion of that development the gross internal area of new build

or enlargements to an existing building on the relevant land will be less than 100 sqm; except where such development will comprise of one or more additional dwellings.

- 4.2.2 Regulation 43 sets out that where a charitable institution is the owner of the material interest and the chargeable development will be used wholly or mainly for charitable purposes, it is exempt from CIL liability (applies to only the share of a charge that relates to a charitable institution's sole material interest). Regulations 46-48 govern the operation and processes relating to this charitable relief.
- 4.2.3 Regulations 49-50 set out that a collecting authority must also give full relief from paying CIL on all portions of a chargeable development that are intended for the purposes of social housing. Regulations 51-54 govern the operation and processes relating to this social housing relief including how the material interest in the land is to be managed around issues of land disposal.
- 4.2.4 Regulation 44 sets out the option for a collecting authority to provide discretionary relief for 'charitable investments', whereby the whole or the greater part of a chargeable development will be held by the owner as an investment from which the profits will be applied for charitable purposes. The Council will not be making available this discretionary relief, and therefore all development for charitable investment purposes will be CIL liable in accordance with a rates set out in this document; this is because all such development will have an impact on the need for local infrastructure.

4.3 *Exceptional Circumstances Relief*

- 4.3.1 Regulation 55-56 sets out the option for a collecting authority to provide discretionary relief in 'exceptional circumstances', specifically these are circumstances where the authority considers all the following requirements have been fully met:
- A planning obligation has been entered into and the total cost of complying with the planning obligation is greater than the total amount of CIL payable in respect of the chargeable development.
 - To require payment of the CIL would have an unacceptable impact on the viability of the chargeable development
 - It is satisfied that to grant relief would not constitute State aid which is required to be notified to and approved by the European Commission.
- 4.3.2 The London Borough of Barnet will be making Exceptional Circumstances Relief available in its area on adoption of the Charging Schedule. However, developers need to be aware that they will be responsible for all costs associated with the process of applying for Exceptional Circumstances Relief.

4.4 *Existing Floor Space*

- 4.3.1 CIL is calculated on the **net additional** gross internal area floor space; therefore existing floor space can be taken into account when it meets the criterion of being in continuous lawful use for a period of six months in the twelve months leading to when planning permission is first permitted.

Planning permission is first permitted when the last pre-commencement condition (if any) is discharged.

4.5 Differential rates

- 4.5.1 Regulation 13 permits the setting of differential rates for different zones in which development will be situated or by reference to different intended uses of development. Paragraphs 34-37 of the Guidance set out that differential rates are options to enable total flexibility of CIL to suit the viability of local development alone.
- 4.5.2 Despite the viability evidence analysing the possibility for differential rates according to both area and type of development, this is not proposed to be considered at the present time. This is because it is viewed that the current priorities are to create simplicity of CIL charging and to provide support for new development through current challenging economic times.

4.6 Indexation of the levy

- 4.6.1 Regulation 40 sets out that the calculation of the chargeable amount at the time of agreeing the chargeable rate for a development will incorporate an adjustment to account for the difference between the index figure for the year in which planning permission was granted and the index figure for the year in which the charging schedule took effect.
- 4.6.2 Regulation 40(7) sets out that the index referred to in 4.5.1 is the All in Tender Price Index produced by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors on the 1st November each year.

4.7 Instalments: delivering infrastructure and development

- 4.7.1 The AHVA has accounted for the ward-level and borough wide viability of development, as appropriate, to ensure that acceptable CIL rates were proposed whilst ensuring development remains deliverable and viable.
- 4.7.2 But, following on from the approach taken in the Council's 'responding to the recession - interim guidance note', the Council further intends to set in place an instalments policy that will recognise the impact of how the timing of CIL payments affects development viability.
- 4.7.3 The Mayor of London is considering an instalment policy for the Mayoral CIL. Whilst the Regulations allow the Council to have the flexibility to introduce its own instalment policy, the Council is assured of the benefits of having the same policy as the Mayor, and is looking to mirror the Mayor's approach. However, it is important to recognise that the Council is mindful of the unique demands in the borough, and will be open to the option of producing its own instalment policy if and when it is deemed necessary.

Appendix 1 – Anticipated regeneration / estate schemes and ward-by-ward total CIL chargeable floorspace 2011-16

<i>a</i>	<i>b</i>	<i>c</i>	<i>d</i>	<i>e</i>	<i>f</i>	<i>g</i>	<i>h</i>	<i>i</i>	<i>j</i>
Ward Name	Area	Estimated total no. units	No. units with existing permission	No. permitted units needing renewal of permission	Estimated total units in CIL related schemes	Chargeable development (affordable exempted)	Average floorspace per unit in the ward	Estimated 'gross' chargeable floorspace	Estimated 'net' chargeable floorspace
Source / Assumption used:		Housing Trajectory (sale units only)	Planning App. Information	0%	(c - d + f)	100% or 70%	Mean of regen. permissions	(g x h)	75% of gross floorspace
Granville Road	Child's Hill	67	0	0	67	67	42	2,830	2,123
Dollis Valley	Underhill	349	0	0	349	349	45	15,740	11,805
West Hendon (Phase 2)	West Hendon	TBC	0	0	TBC	TBC	TBC	0	9,959
Beaufort Park	Colindale	1,706	1,706	0	0	0	43	0	0
Colindale Hospital	Colindale	780	726	0	54	38	43	1,607	1,205
Brent Works	Colindale	104	104	0	0	0	43	0	0
Zenith House	Colindale	309	309	0	0	0	43	0	0
Barnet College	Colindale	426	0	0	426	298	43	12,679	9,510
Subtotal for Colindale:		3521	2845	0	676	473	43	14,286	10,715
								TOTAL:	34,602

a	b	c	d	e	f	g	h	i	j	k
Ward Name	Type (Major/ Minor)	Estimated total no. units from LDF trajectory	No. units with existing permission	No. permitted units needing renewal of permission	Estimated total units in CIL related schemes	Chargeable development (affordable exempted)	Average floorspace per unit in the ward	Estimated 'gross' chargeable floorspace	Estimated 'net' chargeable floorspace	Total chargeable floorspace per ward
Source / Assumption used:		Housing Trajectory	No. of live permissions	9%	(c - d + f)	70%	Mean of live permissions	(g x h)	50% of gross floorspace	(minor+major)
BRUNSWICK PARK	Major	186	36	3.24	153.24	107.268	43.28	4642.56	2321.28	2743.48
	Minor	55	39	3.51	19.51	19.51	43.28	844.39	422.20	
BURNT OAK	Major	86	86	7.74	7.74	5.418	36.47	197.59	98.80	178.12
	Minor	18	15	1.35	4.35	4.35	36.47	158.64	79.32	
CHILDS HILL	Major	43	31	2.79	14.79	10.353	42.88	443.94	221.97	3647.87
	Minor	370	231	20.79	159.79	159.79	42.88	6851.80	3425.90	
COLINDALE	Major	0	0	0	0	0	42.52	0.00	0.00	162.21
	Minor	14	7	0.63	7.63	7.63	42.52	324.43	162.21	
COPPETTS	Major	0	0	0	0	0	41.51	0.00	0.00	272.93
	Minor	45	35	3.15	13.15	13.15	41.51	545.86	272.93	
EAST BARNET	Major	190	12	1.08	179.08	125.356	48.28	6052.19	3026.09	3760.43
	Minor	65	38	3.42	30.42	30.42	48.28	1468.68	734.34	
EAST FINCHLEY	Major	82	0	55	137	95.9	36.93	3541.59	1770.79	2104.09
	Minor	59	45	4.05	18.05	18.05	36.93	666.59	333.29	
EDGWARE	Major	252	232	20.88	40.88	28.616	45.61	1305.18	652.59	2398.99
	Minor	133	62	5.58	76.58	76.58	45.61	3492.81	1746.41	
FINCHLEY CHURCH END	Major	41	41	3.69	3.69	2.583	48.25	124.63	62.31	3163.34
	Minor	225	106	9.54	128.54	128.54	48.25	6202.06	3101.03	
GARDEN SUBURB	Major	18	48	4.32	0	0	64.25	0.00	0.00	2670.23
	Minor	145	68	6.12	83.12	83.12	64.25	5340.46	2670.23	
GOLDERS GREEN	Major	675	76	6.84	605.84	424.088	48.03	20368.95	10184.47	11722.15
	Minor	125	67	6.03	64.03	64.03	48.03	3075.36	1537.68	

<i>a</i>	<i>b</i>	<i>c</i>	<i>d</i>	<i>e</i>	<i>f</i>	<i>g</i>	<i>h</i>	<i>i</i>	<i>j</i>	<i>k</i>
Ward Name	Type (Major / Minor)	Estimated total no. units from LDF trajectory	No. units with existing permission	No. permitted units needing renewal of permission	Estimated total units in CIL related schemes	Chargeable development (affordable exempted)	Average floorspace per unit in the ward	Estimated 'gross' chargeable floorspace	Estimated 'net' chargeable floorspace	Total chargeable floorspace per ward
Source / Assumption used:		Housing Trajectory	No. of live permissions	9%	(c - d + f)	70%	Mean of live permissions	(g x h)	50% of gross floorspace	(minor+major)
HALE	Major	9	0	0	9	6.3	45.65	287.60	143.80	941.53
	Minor	85	55	4.95	34.95	34.95	45.65	1595.47	797.73	
HENDON	Major	175	33	2.97	144.97	101.479	47.5	4820.25	2410.13	6150.75
	Minor	294	150	13.5	157.5	157.5	47.5	7481.25	3740.63	
HIGH BARNET	Major	166	51	4.59	119.59	83.713	47.12	3944.56	1972.28	1972.28
	Minor	88	111	9.99	0	0	47.12	0.00	0.00	
MILL HILL	Major	93	117	10.53	0	0	49.55	0.00	0.00	1671.07
	Minor	163	105	9.45	67.45	67.45	49.55	3342.15	1671.07	
OAKLEIGH	Major	0	0	0	0	0	45.53	0.00	0.00	253.37
	Minor	63	57	5.13	11.13	11.13	45.53	506.75	253.37	
TOTTERIDGE	Major	64	25	2.25	41.25	28.875	58.65	1693.52	846.76	2034.42
	Minor	86	50	4.5	40.5	40.5	58.65	2375.33	1187.66	
UNDERHILL	Major	43	0	0	43	30.1	45.1	1357.51	678.76	1026.25
	Minor	60	49	4.41	15.41	15.41	45.1	694.99	347.50	
WEST FINCHLEY	Major	11	20	1.8	0	0	38.93	0.00	0.00	1155.05
	Minor	174	126	11.34	59.34	59.34	38.93	2310.11	1155.05	
WEST HENDON	Major	0	0	0	0	0	38.74	0.00	0.00	2234.52
	Minor	210	104	9.36	115.36	115.36	38.74	4469.05	2234.52	
WOODHOUSE	Major	82	12	1.08	71.08	49.756	42.24	2101.69	1050.85	1899.45
	Minor	133	102	9.18	40.18	40.18	42.24	1697.20	848.60	
TOTAL:		4,826	2,442	275	2,718	2,247	1,914	104,325	52,163	52,163

Assumptions:

- 9% of smaller major and minor units need renewal of permission based on statistics from cases in 2010-11. No largescale major sites have been assumed to need renewal of permission due to extant commencement in most cases.
- Small major schemes have been assumed to deliver 30% affordable units, the information on the regeneration schemes only list the private sale units as this specific information is available for each site instead of working on an assumed viable percentage.
- Average floorspace per unit was calculated by comparing existing permissions (either within a ward or across all regeneration schemes) and identifying the percentage of 1-, 2-, 3- and 4+- bed units. The floorspace standards from the London Plan for each sized unit were then applied to these percentages to give a mean floorspace for the 'average' unit within that ward / with regeneration schemes.
- 'Gross' to 'net' floorspace ratios were assumed based on the professional judgement of the Development Management team leaders, based on the average nature of the existing uses that are being converted or demolished as a result of development.

Total anticipated chargeable floorspace:

Anticipated CIL chargeable floorspace from small scale major and minor developments in 2011-16 is: 52,163m²

Anticipated CIL chargeable floorspace from regeneration and priority estate developments in 2011-16 is: 29,018m²

Therefore total anticipated chargeable floorspace in 2011-16 is: 81,181m²

Appendix 2 – Comparison of proposed CIL rate vs. S106 tariffs

Existing S106 tariffs

	1 bed	2 bed	3 bed	4+ bed
Private units				
Education	£741	£2,659	£7,799	£11,949
Libraries	£139	£139	£244	£244
Health	£802	£1,184	£1,682	£2,016
Monitoring	£84	£199	£486	£710
TOTAL:	£1,766	£4,181	£10,211	£14,919
Affordable units				
Education	£386	£3,062	£4,643	£7,987
Libraries	£174	£174	£174	£310
Health	£802	£1,184	£1,682	£2,016
Monitoring	£68	£221	£325	£516
TOTAL:	£1,430	£4,641	£6,824	£10,829

Anticipated future CIL charge (excluding Mayoral CIL)

	1 bed	2 bed	3 bed	4+ bed
Greenfield site London plan unit size	38 sqm	53 sqm	65 sqm	74 sqm
private unit CIL cost	£5,130	£7,155	£8,775	£9,990
Brownfield site 'Net additional' (50%)	19 sqm	27 sqm	33 sqm	37 sqm
Private unit CIL cost	£2,565	£3,645	£4,455	£4,995
Largescale site 'Net additional' (75%)	29 sqm	40 sqm	49 sqm	56 sqm
Private unit CIL cost	£3,848	£5,366	£6,581	£7,493

*Planning obligation and CIL rates in Scenerio 3 + 4 adjusted to reflect the 'average unit' charge inclusive of affordable housing

Scenerio 1: (residential scheme <10 units, no affordable)

Greenfield	obligations	CIL rate	Change
1-bed	£1,766	£2,565	£799
2-bed	£4,181	£3,645	-£536
3-bed	£10,211	£4,455	-£5,756
4-bed	£14,919	£4,995	-£9,924

Scenerio 2: (residential scheme <10 units, no affordable)

Brownfield	obligations	CIL rate	Change
1-bed	£1,632	£2,309	£677
2-bed	£4,365	£3,220	-£1,145
3-bed	£8,856	£3,949	-£4,907
4-bed	£13,283	£4,496	-£8,788

Scenerio 3*: (residential scheme >10 units, 40% affordable)

Brownfield	obligations	CIL rate	Change
1-bed	£1,665	£3,591	£1,926
2-bed	£4,319	£5,009	£690
3-bed	£9,195	£6,143	-£3,052
4-bed	£13,692	£6,993	-£6,699

Scenerio 4*: (large / regeneration scheme, 30% affordable, planning obligations = + £5000 extra/unit)

Brownfield	obligations	CIL rate	Change
1-bed	£6,766	£5,130	-£1,636
2-bed	£9,181	£7,155	-£2,026
3-bed	£15,211	£8,775	-£6,436
4-bed	£19,919	£9,990	-£9,929

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