



Policy and Resources Committee

8 February 2021

Title	Charging Schedule Review Barnet Community Infrastructure Levy
Report of	Chairman of the Policy and Resources Committee
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	<ul style="list-style-type: none">• Appendix A - Draft Charging Schedule• Appendix B - CIL viability review BNP Paribas 2019 and update and review of evidence 2021• Appendix C - Infrastructure Delivery Plan• Appendix D - Equalities Impact Assessment
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Summary

This report seeks committee agreement to consult on a new Draft Community Infrastructure Levy (CIL) Charging Schedule. The Draft Charging Schedule proposes to revise the Barnet CIL rate to £300 per square metre for residential development and introduce a charge for employment and leisure uses of £20 per square metre. Independent viability evidence was commissioned and indicates the new proposed rates to be both viable and would not unduly prejudice development coming forward in the borough.

Officers Recommendations

1. That the committee considers the proposed CIL rates set out in the Draft Charging Schedule, at Appendix A
2. That having considered the proposed rates authorises consultation on the Draft Charging Schedule and associated documents in accordance with requirements set out in the CIL Regulations.
3. That the committee notes that the results of consultation will be reported back to Policy and Resources Committee and that if appropriate, the committee will be asked to agree submission of the draft Charging Schedule and other evidence documents, including updates to the Council's draft Infrastructure Delivery Plan, to the Planning Inspectorate for examination.
4. That the committee note that the Charging Schedule, post consultation and examination, will need to be approved by the full Council in line with s.213(2) Planning Act 2008 and Government Guidance on approving and implementing the Charging Schedule:

1. WHY THIS REPORT IS NEEDED

- 1.1 CIL is a standard charge collected from developers on a rate per square metre basis after their planning permissions have been implemented and the funds raised are spent on infrastructure to support the development of an area. LB Barnet was one of the first London authorities to adopt and implement CIL in May 2013. The rate was set at £135 per square metre for residential and retail uses. When the rates were set in 2013, from the analysis undertaken for their report, BNP Paribas arrived at levels of CIL that could be justified for housing ranging from £210 to £350 depending on location in the Borough. The final level set was below the bottom of that range. in order to focus on the short-term objective of promoting growth through a difficult economic climate. At the time it was anticipated that the rate would be reviewed after 3 years. As a result of indexation, the CIL rates are now circa 50% higher than they were adopted. The £135 per square metre CIL rate is now £202 per square metre. The Mayoral CIL also increased from £35 per square metre to £60 per square metre on 1 April 2019.
- 1.2 As part of the commitment to review the CIL rate updated viability evidence was commissioned which demonstrates that there is potential to support a new Draft Charging Schedule which would increase rates for residential development to £300 a square metre and introduce a rate of £20 a square metre for Leisure and Employment uses. The rates proposed in the draft Charging Schedule which are supported by the viability review are set out below. In effect, the rates for Hotels (C1) and Retail (A1-A5) are remaining as currently set.

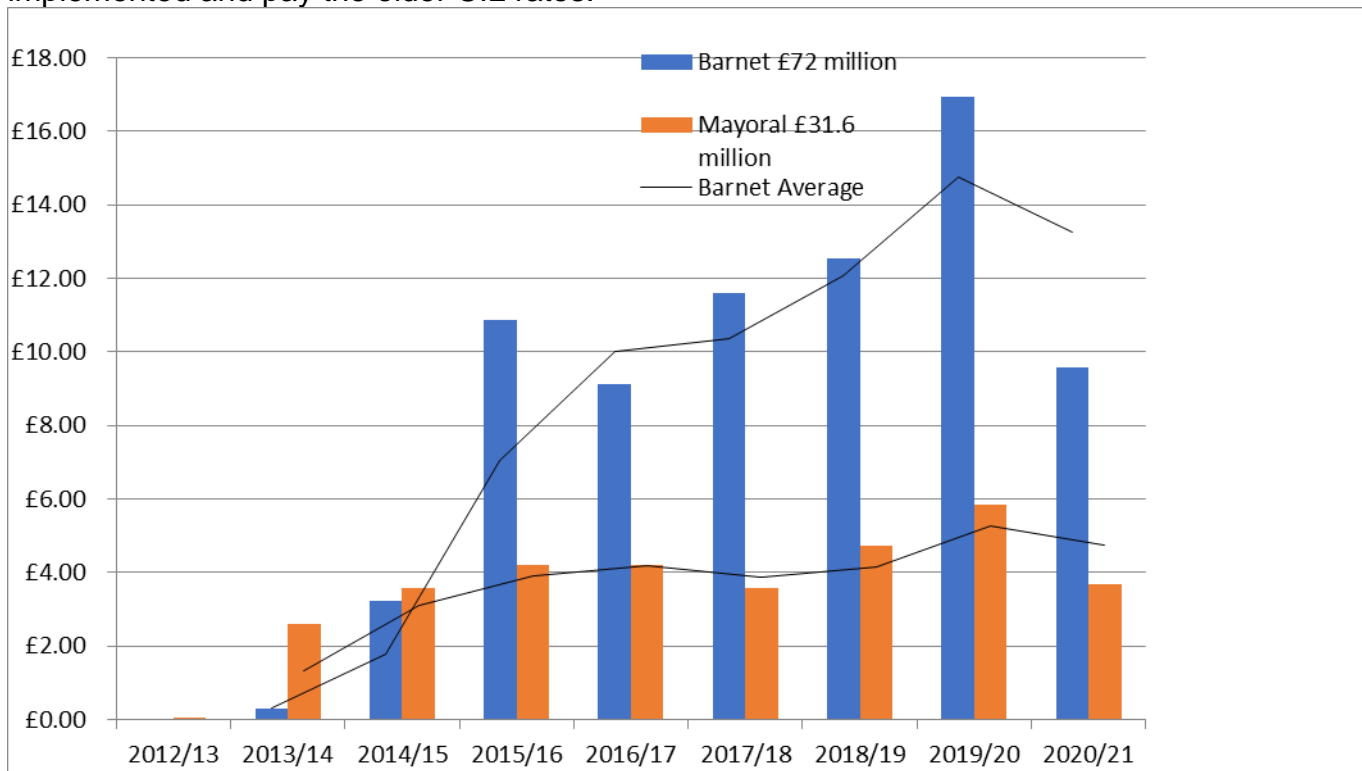
Development	Proposed Amount
Residential including C2, C3 and C4 use classes and sui generis HMOs	£300
Hotels (C1)	£202
Retail (former A1-A5 uses)	£202
Leisure (former D2 uses)	£20
Employment (former B use classes)	£20
All other uses	£0

- 1.3 It should be noted that the viability evidence showed that the Council could set differential rates for residential, with the majority of the borough in a zone A area with a charge of £300 a square metre and Zone B area covering Golders Green and Hampstead with a charge of £350 a square metre. Officers recommend that a flat rate of £300 a square metre is applied as this will be simpler to administer. It should be noted that having differential rates would not necessarily result in substantially higher receipts because many developments in Golders Green and Hampstead are likely to benefit from self build relief and not pay CIL.
- 1.4 Since the introduction of CIL, the borough has not seen a demonstrable adverse impact on the supply of housing land, housing delivery or upon the viability of developments coming forward across the borough. Since the evidence base for the adopted CIL was prepared, there have been increases to sales values and build costs. Viability testing of alternative CIL rates indicates that relatively significant changes could be accommodated without adversely impacting on viability to a sufficient degree to impact on land supply.
- 1.5 Barnet is projected to grow significantly over the next 15 years and this has consequential impact on the level of infrastructure required to support our residents. It is important that, and the regulatory regime allows for, development to address its infrastructure needs through the s106 and CIL regimes. An increase to the CIL rate for residential would bring Barnet's rate in line with other adjacent boroughs, for example Brent's adopted rate for residential of £200 with indexation is now circa £300 a square m which, is the headline rate recommended to be adopted in Barnet by the Council's viability consultants.
- 1.6 Increasing the CIL rate will also increase the portion of CIL available for the Neighbourhood Portion, which in Barnet is managed by the Area Committee's and capped at £150,000 per area committee per annum. The CIL regulations allow for 15% of CIL income received per annum to be used as the Neighbourhood Portion. Officers are considering proposals to remove the £150,000 cap on the amount available to the area committees and reform how it is allocated to allow greater proportion to be directed towards local projects. A report on this will be brought to a later meeting of this committee for consideration.
- 1.7 **Infrastructure needs**
- 1.8 A draft Infrastructure Delivery Plan is being prepared which comprises the infrastructure planning evidence required when setting new CIL rates and will also support the ongoing review of the Barnet Local Plan. The current draft Infrastructure Delivery Plan (IDP) is provided in Appendix C. The draft IDP identifies the infrastructure needed to meet the growth arising from development over the 15 year life of the new Local Plan, as well as existing need. The draft IDP also considers whether other sources of funding are available to deliver that infrastructure and establishes the significant funding gap which in turn justifies the proposed new CIL rates. The draft IDP estimates the funding gap to be at least £1,069,316,172 or 89 per cent of the estimated cost of infrastructure for the period 2020/21 to 2035/36 which totals £1,201,149,172.
- 1.9 The Infrastructure Delivery Plan will be a living document which is updated over time as infrastructure is funded or new infrastructure projects are identified and project costs confirmed. Therefore, the draft IDP may be updated again prior to publication of the

regulation 19 version of the local plan or submission of the Draft Charging Schedule for examination.

1.10 Anticipated receipts

1.11 It should be noted that any new rate will take some time to introduce and flow through into receipts or impact on development proposals. This is because the new rate will only apply to new planning permissions, or to reserved matters approvals of later phases of outline permissions or new floorspace granted under s73 permissions. Planning permissions already granted where the existing rate applies will still continue to be implemented and pay the older CIL rates.



1.12

1.13 The graph above shows the Barnet and Mayoral CIL received per financial year since 2012/13. Officer’s working assumption is that CIL income per annum, at current rates, is around £10 million a year. If the rate increases from £200 to £300 a metre, it is reasonable to increase this assumption from £10 million to £15 million. Over time, it is likely that income would increase by more than that conservative assumption.

1.14 An analysis of the planned growth in the local plan indicates that circa £509 million of CIL could become liable if all of the target of 46,000 homes in the plan come forward and were charged CIL at the new rate. This allows for each new unit to be 82 square metres, provide 35% affordable housing and a 20% deduction for existing in use floorspace being demolished being offset from the calculation. ¹

¹ Homes set out in plan (46,000) x 82 m² x £300 deduct 35% affordable housing and 20% deduction for in use floorspace (55% deduction overall)
 $46,000 \times 82 \times 300 \times 0.45 = \text{£}509 \text{ million}$

- 1.15 If development came forward at a uniform rate, this would amount to £33.9 million a year in CIL income. However, this analysis assumes that none of the development set out in the Local Plan already has planning permission. Actual CIL receipts are therefore likely to be lower than £33.9 million a year, as they will pay CIL at the lower rate that applies at present, or may not be paying CIL as development is still being build out under large phased schemes such as at Brent Cross south which was granted permission prior to CIL, but is included in the projections in the Local Plan.
- 1.16 Nevertheless, it is clear that CIL already is and will continue to be an important source of infrastructure funding going forward. The Council's Infrastructure Funding Statement was published in December 2020 and included the Infrastructure List required by regulation 121A(a) of the CIL regulations to set out the infrastructure projects that would be or may be funded by CIL, as set out below.
- 1.17 It is anticipated* that CIL in 2020/21 will be used to fund:
- Sports and physical activities
 - Strategic open space projects (i.e. those which cannot be mitigated by s106 from adjacent developments)
 - Community equipment and assistive technology
 - Early years child place sufficiency
 - Highways Asset Management Network Recovery Plan
 - Colindale Parks and Open Spaces
 - Colindale Highways and Transport
 - Town Centre Improvements
- *See also the Council's Financial Forward Plan for additional information on anticipated expenditure.
- 1.18 Expenditure of CIL and the funding breakdown for each project is agreed as part of the Council's end of year capital financing process.

2. REASONS FOR RECOMMENDATIONS

- 2.1 It is considered necessary to review the CIL rates to ensure that the Council is achieving a fair contribution to the infrastructure demands of new development that is coming forward in the borough.
- 2.2 It is considered that the proposed rates set out in the Draft Charging Schedule strike an appropriate balance between the desirability of funding from CIL the infrastructure required to support development in the Barnet area and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area. This is the main requirement set out in regulation 14 of the CIL regulations for setting rates and will be tested at examination by an independent examiner, following consultation.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 There is the option of not reviewing the rate at this time. BNP were commissioned to undertake the review of the rates in Summer 2019 and it was originally anticipated that the Draft Charging Schedule would be considered by committee in June 2020. However, because the impact of Covid 19 on the property market was so uncertain in March / April

2020, the decision was taken to delay until the Autumn when better information was available. A review and update of the evidence has been undertaken and the evidence indicates that it is still appropriate to consult on an increase to the rates. Given that it was anticipated that the rate would be reviewed after 3 years when adopted in 2013 and it is now nearly 8 years later, it is considered appropriate to review the rate now even if there is still some uncertainty from the impact of Covid 19 in the longer term. The BNP review and update of evidence allows for a buffer to accommodate fluctuations in viability over the medium term.

- 3.2 If a new charging rate is not brought in, the Council will have limited funding available to fund the infrastructure required to support development in the borough. The Infrastructure Delivery Plan which has been prepared to support the charging schedule and the Local Plan Review indicates that there is circa £1,069,316,172 of unfunded infrastructure required in the borough.
- 3.3 On balance therefore it is considered appropriate to review the rates now.

4. POST DECISION IMPLEMENTATION

- 4.1 The Community Infrastructure Regulations 2010 (as amended) sets out the procedure for publication, consultation, examination and adoption of a CIL charging schedule.
- 4.2 If committee agree to consult on the Draft Charging Schedule, it will be published and consulted on in accordance with regulation 16. This includes publishing the schedule on the Barnet Website and making it available for inspection at the Council's principal office and other appropriate areas. The relevant evidence, and a statement of the representations procedure also need to be published. Comments will be invited from residents and businesses, voluntary bodies operating in Barnet and local business groups. Consultation bodies (including adjoining local planning authorities, neighbourhood forums and the Mayor of London) will also be notified of the consultation and invited to make representations. Under regulation 17, the Council must take into account any representations made to it before submitting a Draft Charging Schedule for examination. Representations will be reviewed by officers and advice sought from the Council's viability consultants on any issues raised. A summary of the main issues raised by the representations and how they have been taken into account will be compiled prior to examination as required by regulation 19 (1) (b)(i).
- 4.3 Post consultation, the Draft Charging Schedule together with the prescribed documents would be submitted to an examiner for examination in accordance with regulation 19 and prescribed documents under reg.19(3) are to be published (in a similar fashion to the first publication). As set out in recommendation 3, the results of consultation will be reported to Policy and Resources committee and if appropriate, the committee will be asked to agree submission of the draft Charging Schedule and other evidence documents, including updates to the Council's draft Infrastructure Delivery Plan, to the Planning Inspectorate for examination.

- 4.4 Any person who has made a representation has the right to be heard by the examiner. If, after examination, the examiner's recommendations are that it is appropriate for the Charging Schedule to be adopted, the procedure for publication of the recommendations and reasons given by the examiner has to be complied with under regulation 23.
- 4.5 Under s.213 of the Planning Act 2008, the Council may approve a recommendation made by the examiner and must approve the Charging Schedule at a Council meeting. The Charging Schedule, post consultation and examination, will therefore need to be approved by the full Council in line with s.213(2) Planning Act 2008 and Government Guidance on approving and implementing the Charging Schedule. Regulation 25 requires the Charging Schedule and any report to be published on the Council's website as well as the date on which it is to come into effect. It is likely that the schedule would come into effect early in 2022.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The increased income generated from an increase to the CIL rate will help to meet Corporate Plan 2019-24 three main outcomes by helping to pay for the infrastructure to support development and the increasing population of the borough:
- 5.1.2 The three main outcomes are:
- Our residents live happy, healthy, independent lives with the most vulnerable protected
 - A pleasant, well maintained borough that we protect and invest in –and
 - Safe and strong communities where people get along well –.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 It is good practice to periodically review charges of this type and to ensure that they maximise the benefit to the council without being beyond the tolerance of the market. As the report indicates, it will take time for the CIL rate increase to be realised in terms of increase cash receipts, and as such no adjustment to current budget proposals is recommended.

5.3 Legal and Constitutional References

- 5.3.1 The terms of reference under Article 7 of the Council's Constitution sets out the responsibilities of the Policy & Resources Committee for:
Strategic policy, finance and corporate risk management including recommending: Capital and Revenue Budget (including all fees and charges); Medium Term Financial Strategy; and Corporate Plan to Full Council; as well as, to be responsible for those matters not specifically allocated to any other committee affecting the affairs of the Council.
- 5.3.2 The relevant legislation applicable to introducing or amending the CIL Charging Schedule is set out in Part II of the Planning Act 2008 and the CIL Regulations 2010 (as amended). The relevant provisions are set out in this report and the procedure in paragraph 4 of this report.

5.3.3 The Planning Practice Guidance on Community Infrastructure Levy provides that Charging Authorities may amend their charging schedule in whole or in part. However, the revisions must follow the same statutory processes as the preparation, examination, approval and publication of a charging schedule (as set out in Part 3 of the CIL Regulations 2010 as amended) - See paragraph: 045 Reference ID: 25-045-20190901 of the CIL Guidance.

5.3.4 There is currently no power or discretion in the CIL Regulations to amend an adopted CIL charging schedule without going through the formal statutory process.

5.4 **Insight**

5.4.1 n/a

5.5 **Social Value**

5.5.1 The increase in receipts from the introduction of a new Charging Schedule will secure funding for a range of infrastructure to support development in Barnet, which in turn will have a range of social, economic and environmental benefits.

5.6 **Risk Management**

5.6.1 It is considered that there are limited risks associated with the Draft Charging Schedule. There is a risk that the Charging Schedule is found unsound by the Examiner, and the costs of taking to examination are abortive, but this risk will be minimised by ensuring that the regulations are followed and the Schedule is supported by appropriate evidence.

5.7 **Equalities and Diversity**

5.7.1 The Equalities, 2010 outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have due regard to the need to:-

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act, 2010;
- Advance equality of opportunity between people of different groups; and
- Foster good relations between people from different groups.

Relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

5.7.2 An EQIA has been carried out and is included as enclosure D. The EIA has not identified any potential for a disproportionate impact and all opportunities to advance equality of opportunity are being addressed.

5.8 **Corporate Parenting**

5.7.1 n/a

5.9 **Consultation and Engagement**

5.9.1 The consultation requirements for CIL Draft Charging Schedules are set out in regulation 16 of the CIL regulations as referred to above.

6. BACKGROUND PAPERS

- 6.1 Community Infrastructure Levy guidance . <https://www.gov.uk/guidance/community-infrastructure-levy>
- 6.2 Infrastructure Funding Statement <https://www.barnet.gov.uk/planning-and-building/planning/community-infrastructure-levy>
- 6.3 Barnet CIL Charging Schedule 2013 <https://www.barnet.gov.uk/planning-and-building/planning/community-infrastructure-levy>