

Maidstone Borough Council

Maidstone Community Infrastructure Levy

Preliminary Draft Charging Schedule Consultation 2014



www.maidstone.gov.uk/localplan

This document is produced by
Maidstone Borough Council

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1.1 The community infrastructure levy preliminary draft charging schedule consultation starts on 21 March 2014 and ends at 5pm on 7 May 2014.

1.2 Comments on the preliminary draft charging schedule can be submitted to the council's online consultation web page at: maidstone-consult.limehouse.co.uk/portal.

1.3 Comments can also be submitted using the community infrastructure levy consultation questionnaire, which is available from the council web page, or in hard copy from the Spatial Policy team.

2.1 On 16 May 2012, the Maidstone Cabinet confirmed its commitment to develop a community infrastructure levy charging schedule. This preliminary draft charging schedule consultation document is the first step towards consulting on and introducing community infrastructure levy rates in Maidstone Borough.

2.2 The community infrastructure levy is a per m² charge on new development (net additional floorspace).

2.3 The charge can be differentiated by geographical area and by development type. The charge must be based on viability evidence.

2.4 The purpose of the charge is to provide a funding source which will help to deliver necessary infrastructure to accommodate new development across the borough. This necessary infrastructure is identified as part of the Maidstone Borough Local Plan.

2.5 Some types of development, notably affordable housing and charitable uses, are exempt from being charged the community infrastructure levy. The council can implement other exemptions but only under strict circumstances. A size threshold of 100m² also applies to non-residential developments.

2.6 Where exemptions do not apply, the council must set a community infrastructure levy charge, even if it is £0 per m².

2.7 The community infrastructure levy has a number of fundamental differences to section 106 agreements, which can be seen as advantages or disadvantages, however, the community infrastructure levy regulations have been written to restrict the pooling of section 106 agreements from 6 April 2014⁽¹⁾.

2.8 This means that depending on the size and location of development across the borough, the council will need to make choices about how it intends for supporting infrastructure to be funded.

2.9 Infrastructure needs might be localised to a development site, this lends itself to the use of section 106 agreements. Or, there might be a need for wider infrastructure provision in a strategic location, or indeed the entire borough, that requires the pooling of community infrastructure levy contributions to ensure delivery.

2.10 Where the council provides funding for infrastructure from community infrastructure levy receipts, it will require an agreement, similar to a deed of obligation [used with section 106 obligations], that specifies how the infrastructure provider will use the funding for its intended purpose.

1 The Community Infrastructure Levy (Amendment) Regulations 2014 have been written to defer the pooling restriction date by a year to 6 April 2015, however, this statutory instrument is yet to be made.

3.1 Planning obligations, or section 106 agreements, are agreements focused on the site specific mitigation of development impacts. Section 106 agreements come in different forms, but are most commonly thought of in terms of financial contributions towards the delivery of mitigating infrastructure, or indeed the provision of the infrastructure itself.

3.2 On 6 April 2014⁽²⁾ the pooling limit of five section 106 agreements, towards a single piece of infrastructure/type of infrastructure, will come into force. The start date for counting was 6 April 2010.

Section 106 obligations - pooling limit

Until 6 April 2014⁽³⁾ the council can pool as many section 106 agreements as is necessary to fund an identified piece of infrastructure, but from 6 April 2014⁽⁴⁾ onwards the restriction of five pooled agreements will apply. These agreements will be counted with a starting date of 6 April 2010.

3.3 The Community Infrastructure Levy Regulations 2010 set into statute the tests for using section 106 planning obligations. This represents a tightening of the rules and has meant that local planning authorities and developers are both being more careful with regard to what potential planning obligations can be considered legitimate.

Tests for a section 106 planning obligation

A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is -

- 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.

3.4 It is possible in some cases that a specific infrastructure project or type of infrastructure will not easily fit into the categories listed, however, this does not mean that the need for the infrastructure is any less. Where this is the case, the community infrastructure levy might be the most appropriate means to provide funding.

2 The Community Infrastructure Levy (Amendment) Regulations 2014 have been written to defer the pooling restriction date by a year to 6 April 2015, however, this statutory instrument is yet to be made.

3 See previous footnote.

4 See previous footnote.

4 . Local Plan Viability Testing

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4.1 During 2012 and 2013 Peter Brett Associates assessed the viability of the emerging Maidstone development policies. The assessment dealt with both cumulative plan-wide viability and site viability, where sites and potential locations had been identified in emerging policy.

4.2 Since this work was undertaken the preparation of the Core Strategy has been superseded by the national re-emergence of local plans, and the Maidstone Borough Local Plan itself. Site assessments included in the Local Plan Viability Testing⁽⁵⁾ research are still valid for their purpose to guide the setting of community infrastructure levy rates proposed in this document. These assessments take a high level approach to viability, which ensures sufficient flexibility to be able to use the results to shape policy over time.

4.3 The viability testing was split between residential and non-residential uses.

Residential

4.4 Residential testing looked at the sites that the council was proposing to allocate in the north west and south east strategic locations. It also looked at sites complementary to the spatial strategy, as outlined in policy CS1⁽⁶⁾ i.e. previously developed land in the Maidstone urban area and sites in the rural service centres. This formed a mixture of site specific assessments and generalised site typology assessments.

4.5 The specific sites, at Bridge Nursery, East of Hermitage Lane, West of Hermitage Lane (in the north west strategic housing location) and Langley Park, North of Sutton Road, North of Bicknor Wood (in the south east strategic housing location) represented an urban periphery greenfield category.

4.6 For urban sites on previously developed land and for the countryside, rural service centre and larger settlement sites, a generic approach was used that factored in the typical yields that these types of site might deliver, based on known available sites that had been submitted to the 2009 Maidstone Strategic Housing Land Availability Assessment (SHLAA).

Non-residential

4.7 Non-residential viability testing of the local plan considered the non-residential development types that might be likely to come forward during the plan period⁽⁷⁾. Geographical assumptions made for non-residential testing were split primarily between being in the town centre and being out of the town centre, as listed at 4.9. In reality, some other uses, such as B2 and B8, which have not specified their location, are not typical town centre uses and testing has reflected that these would need out of town centre locations such as industrial estates.

4.8 The development types tested do not need to coincide with those defined in the Use Classes Order (as updated in 2013). In practice this means that for viability and Community Infrastructure Levy purposes, a degree of sensitivity

5 See appendix A for link to document.

6 Core Strategy, Public Consultation 2011.

7 The plan period was agreed at Cabinet on 13 March 2013 to be amended from 2006-2026 to 2011-2031.

can be applied to uses that in traditional terms might be considered to be part of the same use class. The principal example of such differentiation within the same use class having been applied so far is in the case of retail. Local authorities have attempted to outline a difference between supermarkets and small scale retail, based on varying characteristics and, importantly, significant differences in development viability. In Maidstone, it is also clear that town centre retail cannot sustain a community infrastructure levy charge, whereas out of town centre retail can.

4.9 The non-residential development types tested in the Local Plan Viability Testing document were:

- Superstore/supermarket
- Retail warehousing
- Town centre retail
- Local convenience retail
- B1 office - town centre
- B1 office - out of town centre
- B2 industrial - 1,500m²
- B2 industrial - 5,000m²
- B8 warehouse - 5,000m²
- Hotel
- Assembly/leisure
- Care home
- Extra care living
- Health and fitness

4.10 The only uses shown to be able to support a Community Infrastructure Levy charge were:

- Local convenience retail
- Superstore/supermarket
- Retail warehousing

5 . Proposed levy

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Proposed levy

5.1 These are the rates that the council is proposing to charge for its residential and non-residential levies.

Proposed residential levy

5.2 The proposed residential levies are split by geographical location and by land classification.

| | |
|--|-------------------------------|
| Urban - previously developed land | £35 per m² |
| Urban and urban periphery - greenfield and private residential gardens | £84 per m² |
| Countryside, rural service centre and larger settlements | £126 per m² |

Proposed retail levy

5.3 The council is proposing to simplify the possible variations in non-residential community infrastructure levy charges, by grouping out of town supermarkets, superstores and out of town retail warehouses into one classification.

| | |
|--|-------------------------------|
| Out of town centre - local convenience retail (up to 750m ²) | £189 per m² |
| Out of town centre - supermarket, superstore and retail warehouse (above 750m ²) | £260 per m² |

Nil rate levy

5.4 All other uses will be charged at a nil rate (£0 per m²).

Duty to pass CIL to local councils

6.1 The Community Infrastructure Levy (Amendment) Regulations 2013 make provision for receipts to be passed to local councils (parish councils), or be spent on behalf of designated neighbourhood forums. The proportion passed to the local council, or spent on behalf, is dependent on the adoption of a neighbourhood plan.

Where a neighbourhood plan has been adopted

6.2 Where a neighbourhood plan has been adopted, 25% of community infrastructure levy receipts arising from development in the given area will be passed to the local council, or spent on behalf of the designated neighbourhood forum.

Where a neighbourhood plan has not yet been adopted

6.3 Where a neighbourhood plan has not yet been adopted, 15% of community infrastructure levy receipts arising from development in the given area will be passed to the local council, subject to a cap equivalent to £100 per every existing household in that area.

Maidstone Borough Local Plan

7.1 The Maidstone Borough Local Plan will replace the existing Maidstone Borough-Wide Local Plan 2000.

7.2 The local plan consultation 2014 proposes allocations to deliver residential and non-residential development. The plan proposes a provisional target of 17,100 dwellings⁽⁸⁾, to be delivered in a dispersed pattern across the borough.

7.3 The local plan also proposes allocations for employment and retail development, however, viability evidence shows that the community infrastructure levy could not be charged on traditional employment uses (B classes) without making them unviable.

Infrastructure delivery plan

7.4 The infrastructure delivery plan lists infrastructure schemes which have been identified as necessary to accommodate the development proposed in the Maidstone Borough Local Plan. The infrastructure delivery plan is published separately to the local plan and is updated as necessary.

7.5 The infrastructure listed in the infrastructure delivery plan is not intended to deal with existing deficits, rather it is to accommodate new development. However, in practice these two outcomes are often delivered together.

7.6 The council has produced the infrastructure delivery plan in consultation with a range of local service providers and partners, including but not limited to Southern Water, South East Water, Kent County Council, West Kent Clinical Commissioning Group and the National Grid.

7.7 The infrastructure delivery plan does not specify that the council or developers should fund the entirety of any necessary infrastructure. Where external funding is available, this is noted. Phasing of development is also a factor in whether external funding is available to spread the cost.

List of relevant infrastructure (regulation 123 list)

7.8 Infrastructure that the council proposes will be wholly or partly funded by the community infrastructure levy is listed in this section. This infrastructure is known as 'relevant infrastructure', which is subject to funding restrictions i.e. section 106 agreements cannot be used to fund them, to prevent a duplication of funding whereby contributions for the same piece of infrastructure are taken through the community infrastructure levy and section 106.

7.9 Regulation 123 of the Community Infrastructure Levy Regulations 2010 requires this list, hence its informal name, the 'regulation 123 list'.

7.10 This list of relevant infrastructure is derived from infrastructure projects listed in the Maidstone Borough Local Plan infrastructure delivery plan.

8 This figure is based on capacity/supply information known to date, taken from the 2014 Strategic Housing Land Availability Assessment (SHLAA), extant planning permissions and completions data.

7.11 The inclusion of a project or type of infrastructure in this list does not represent a commitment from the council to fund it, either in whole or in part.

7.12 The order of the table does not imply any order of preference for community infrastructure levy funding. At the Maidstone Borough Council Cabinet meeting on 13 March 2013, infrastructure priorities were agreed for the borough. These priorities are listed in the Maidstone Borough Local Plan Preparation consultation document 2014.

Delivering infrastructure and reviewing the list

7.13 The delivery of specific infrastructure items included on the list is intended for the five year period following adoption of the local plan/charging schedule. In reality, this infrastructure may not be delivered within this period, dependent on the rate at which community infrastructure levy payments are received. This is particularly true where infrastructure items might be more strategic in nature and costs may need to be pooled over a longer timescale.

7.14 As a result, the list of relevant infrastructure will be reviewed each year as part of the council's community infrastructure levy monitoring process. This review will determine, as the local plan period progresses, whether the list remains appropriate to be able to deliver infrastructure in support of the plan. This will take into account the ongoing performance of infrastructure delivery and will determine if for any reason the list needs to be amended.

7.15 The council must consult on amendments to the list of relevant infrastructure, however, the specific process for doing this is within the council's discretion. Amendments to the list that adversely affect plan viability will prompt a necessary review of the charging schedule.

| Infrastructure project or type | Indicative cost |
|---|--------------------|
| Public realm | |
| Town centre | £3,800,000+ |
| Pedestrian/cycle access | |
| Earl Street/St Peter's Street bridge | £2,000,000 |
| Town centre/rural service centres - sign improvements | £200,000 |
| (Cycle) - town centre/urban area - network improvements | £750,000 |
| Public transport | |
| Romney Place bus lane | £60,000 |
| M20 junction 7 strategic location - Old Sittingbourne Road park and ride site | £TBC |

| Infrastructure project or type | Indicative cost |
|--|------------------------|
| A229/A274 bus lane - second phase | £TBC |
| Rural service centres - railway station enhancements | £TBC |
| Rural service centres - upgraded bus stops | £TBC |
| Highways | |
| Town centre - bridge gyratory bypass | £6,000,000 |
| North west strategic location - M20 junction 5 signals | £700,000 |
| North west strategic location - Coldharbour roundabout additional lane | £2,600,000 |
| North west strategic location - 20/20 roundabout additional capacity | £1,300,000 |
| South east strategic location - Willington Street/A274 junction improvements | £820,000 |
| Primary education | |
| Maidstone (east) - expansion of schools | £568,000 |
| Maidstone (south) - expansion of schools | £214,000 |
| Rural area, outside of rural service centres - expansion of schools | £482,000 |
| Secondary education | |
| Infrastructure type | £6,244,000 |
| Community learning | |
| Infrastructure type | £126,000 |
| Libraries | |
| Infrastructure type | £428,000 |
| Health | |
| North west strategic housing location - expansion/improvement of GP facilities | £741,000 |
| South east strategic housing location - expansion/improvement of GP facilities | £906,000 |

| Infrastructure project or type | Indicative cost |
|--|---------------------|
| Kent adult social services | |
| Infrastructure type | £273,000 |
| Green and blue infrastructure | |
| Infrastructure projects to be confirmed through GBI strategy | £TBC |
| | |
| TOTAL | £28,212,000* |

*Infrastructure list/cost totals information to be updated following confirmation of infrastructure needed to support all proposed allocations.

CIL timetable

8.1 The council is preparing the community infrastructure levy alongside the local plan, with each stage of consultation taking place at the same time as a stage of local plan consultation. This means that the requirements of the local plan can be read with the requirements of the charging schedule.

8.2 The equivalent stages of preparation and consultation are set out in the following table:

| Community Infrastructure Levy | Maidstone Borough Local Plan | Expected date |
|---|--|----------------------|
| Preliminary draft charging schedule consultation (PDCS) | Regulation 18 (Preparation) consultation | March 2014 |
| Draft charging schedule consultation (DCS) | Regulation 19 (Publication) consultation | Nov/Dec 2014 |
| Submission to Secretary of State | Submission to Secretary of State | April 2015 |
| Independent examination | Independent examination | Summer 2015 |
| Adoption by Maidstone Borough Council | Adoption by Maidstone Borough Council | Autumn 2015 |

CIL preliminary draft charging schedule - Cabinet report - 24 February 2014

<http://meetings.maidstone.gov.uk/documents/s34721/Community%20Infrastructure%20Levy%20-%20Preliminary%20Draft%20Charging%20Schedule.pdf>

Planning Advisory Service (PAS) - CIL information web page

www.pas.gov.uk/3-community-infrastructure-levy-cil

The Community Infrastructure Levy Regulations 2010

www.legislation.gov.uk/uksi/2010/948/contents/made

The Community Infrastructure Levy (Amendment) Regulations 2011

www.legislation.gov.uk/uksi/2011/987/contents/made

The Community Infrastructure Levy (Amendment) Regulations 2012

www.legislation.gov.uk/uksi/2012/2975/contents/made

The Community Infrastructure Levy (Amendment) Regulations 2013

www.legislation.gov.uk/uksi/2013/982/contents/made

The Community Infrastructure Levy (Amendment) Regulations 2014

This statutory instrument was made on 23 February 2014.

www.legislation.gov.uk/uksi/2014/385/contents/made

Local Plan Viability Testing 2013

www.maidstone.gov.uk/_data/assets/pdf_file/0014/34151/Viability-Testing-2013.pdf

