



BRENTWOOD BOROUGH COUNCIL COMMUNITY INFRASTRUCTURE LEVY (CIL)

Draft CIL Charging Schedule – Statement of Legal Compliance

March 2023

Background

1. This statement has been produced to demonstrate Brentwood Borough Council's compliance with the requirements set out in the Planning Act 2008 and the CIL Regulations 2010 (as amended) in the preparation of the Draft Charging Schedule.

Compliance

2. Brentwood Borough Council considers that, as the charging authority:
 - it has complied with the requirements of Part 11 of the Planning Act 2008 and Part 3 (Charging Schedules) of the CIL Regulations 2010 (as amended);
 - it has used appropriate available evidence to prepare its draft charging schedule; and
 - it has dealt with any other matters prescribed by CIL Regulations 2010 (as amended)
3. The table below sets out all the relevant components of the Act, and the CIL Regulations as they relate to the preparation of a Draft Charging Schedule and has identified how it has complied, including through the provision of links to relevant documentation.

Legal Requirement	Compliance
<u>Planning Act 2008 Section 206:</u> Specifies that a local planning authority is the charging authority for an area and may charge a CIL in respect of the development of land.	Brentwood Borough Council is the local planning authority for Brentwood Borough.

<p><u>Planning Act 2008 Section 211</u>: Requires a charging authority to issue a charging schedule setting rates, or other criteria, by reference to which the amount of CIL chargeable in respect of development in its area is to be determined.</p> <p>These rates should be set having regard to the actual and expected costs of infrastructure, matters specified by the CIL Regulations relating to the economic viability of development and other actual and expected sources of funding for infrastructure.</p> <p>A charging authority may consult, or take other steps, in connection with the preparation of a charging schedule(subject to CIL Regulations).</p> <p>A charging authority must use appropriate evidence to inform the charging authority's preparation of a charging schedule.</p>	<p>A Draft Charging Schedule (February 2023) (CSD1) has been included within the submission documentation.A Draft CIL Charging Schedule (February 2023) (CSD1) has been included within the submission documentation.</p> <p>The Brentwood Infrastructure Delivery Plan (CSD7A & CSD7B) has been included within the submission documentation. This sets out the need for a CIL to fund infrastructure.</p> <p>A CIL Viability Assessment Update (August 2022) (CSD6) has been prepared and included within the submission documentation. This sets out the potential effects on economic viability of charging a CIL.</p> <p>A Consultation Statement (February 2023) (CSD4) setting out the Council's approach to consultation on the Draft Charging Schedule has been prepared and is included within the submission documentation.</p>
<p><u>Regulation 12(2)</u>: Requires a draft charging schedule incorporating specific information to be submitted for examination.</p>	<p>A Draft Charging Schedule (February 2023) (CSD1) containing the required information has been included within the submission documentation.</p>
<p><u>Regulation 13</u>: Allows a charging authority to set differential rates based on different development zones, different intended uses, and different intended development sizes (gross internal area or no. units).</p>	<p>The Draft Charging Schedule sets out the proposed CIL rates for different zones and different development typologies. The inclusion of differential rates for residential, retail, and other forms of development in the draft charging schedule submitted by Brentwood Borough Council is legally compliant.</p>
<p><u>Regulation 14(1)</u>: Requires that in setting rates (including differential rates) a charging schedule, a charging authority must aim to strike an appropriate balance between a) the desirability of funding from CIL (in whole or in part) the actual and</p>	<p>The Brentwood Infrastructure Delivery Plan (CSD7A & CSD7B) has been included within the submission documentation. This sets out the need for a CIL to fund infrastructure.</p>

<p>expected 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 developments across its area.</p>	<p>A CIL Viability Assessment Update (August 2022) (CSD6) has been prepared and included within the submission documentation. A CIL Viability Assessment Update (August 2022) (CSD6) has been prepared and included within the submission documentation. This sets out the potential effects on economic viability of charging a CIL.</p>
<p>Regulation 14(2): In setting rates in a charging schedule, a charging authority may also have regard to actual and expected administrative expenses in connection with CIL to the extent that those expenses can be funded from CIL in accordance with regulation 61.</p>	<p>The Council considered the administrative costs of implementing CIL as part of its deliberations on whether to progress to examination. This is set out within the report to the Policy, Resources and Economic Development Committee, as Item 385, at its meeting on the 8 March 2023 regarding the Community Infrastructure Levy Submission.</p> <p>The Council considers that using 5% of CIL receipts to cover administration expenses is justifiable. This is in line with advice in the PPG.</p>
<p><u>Regulation 14 (5)</u>: Clarifies that a charging authorities draft infrastructure list in appropriate evidence to inform the preparation of a charge.</p>	<p>The Brentwood Infrastructure Delivery Plan (CSD7A & CSD7B) has been prepared and is included within the submission documentation. This sets out the need for a CIL to fund infrastructure. The Infrastructure Delivery Plan has been subject to examination as part of the Local Plan examination that took place between 2020 and 2022.</p>
<p><u>Regulation 16</u>: Specifies the consultation requirements in respect of the draft charging schedule.</p>	<p>A Consultation Statement (February 2023) (CSD4) setting out the Council's approach to consultation on the Draft Charging Schedule which satisfied the requirements of regulation 16 has been prepared and is included within the submission documentation.</p> <p>A four week consultation pursuant to Regulation 16 was carried out, beginning 12 October 2022 and ending on 9 November 2022. This is in line with guidance set out in the PPG.</p> <p>No limitations were placed on who may make a representation to the consultation, and a variety of means were used to</p>

	<p>advertise the consultation. The Council is therefore satisfied that it invited representations from those groups of people listed in paragraph 16(1A), as the Council considered appropriate.</p> <p>To ensure general awareness of the consultation and invite representations from a range of people covering those groups listed in Regulation 16(1A) an advertisement was placed in the local newspaper and posts were issued across the Council's social media platforms of LinkedIn, and Twitter. These are shown at Appendix 9 and Appendix 10 of the Consultation Statement.</p> <p>The Council also ensured compliance with Regulation 16(2) by writing directly via email to those organisations listed in that regulation.</p> <p>The Council has therefore undertaken consultation on the Draft CIL Charging Schedule in a manner which fulfils the requirements of Regulation 16 of the CIL Regulations, as amended <i>to invite representations on the draft charging schedule... as the authority considers appropriate</i>. Furthermore, it has undertaken the consultation in a way which is consistent with its published Statement of Community Involvement 2018, and the details set out in the Planning, Resources and Economic Development Committee meeting (Item 178) of 3 October 2022, authorising Regulation 16 consultation.</p>
<p><u>Regulation 17</u>: Clarifies that any person may make a representation within the specified consultation period, and that those consultation responses must be taken into account before the charging schedule is submitted for examination.</p>	<p>The consultation documents provided as appendices within the Consultation Statement (February 2023) (CSD4) are clear that any person was welcomed to make a representation during the consultation period.</p> <p>A schedule setting out each of the representations received and a response is also included within the Consultation Statement (February 2023) (CSD4).</p>

	<p>The consultation statement was included as appendix to the committee report to the Policy, Resources and Economic Development Committee (Item 385, Appendix B), at its meeting on the 8 March 2023 regarding the Community Infrastructure Levy Submission.</p> <p>The Council can therefore demonstrate that the consultation responses received were taken fully into account prior to submission.</p>
<p><u>Regulation 19</u>: Specifies the documentation that should be submitted for the purposes of examination, and also specifies how charging authorities should go about notifying people of the examination.</p>	<p>The documents submitted to the examiner are available to view online on the Council's website.</p> <p>The Council will make available to view hard copies of all submission documents were made available under Regulation 16, and will notify all representors of the submission of its Draft Charging Schedule to the independent examiner</p>
<p><u>Regulation 19(4)</u>: Sets out where the charging authority modified the draft charging schedule after it was published in accordance with regulation 16, the charging authority must send a copy of the statement of modifications to each of the persons invited to make representations under regulation 16.</p>	<p>A Statement of Modifications (February 2023) (CSD2) has been included within the submission documentation and is available to view online on the Council's website.</p> <p>Everyone invited to make representations on the Draft Charging Schedule (under Reg 16) has received an email notifying them that the council has made modifications to the Schedule and explaining how they can request to be heard by the Examiner regarding any of those modifications (in accordance with Reg 21).</p>