



Proposals for a Mayoral Community Infrastructure Levy Preliminary Draft Charging Schedule

London First Response

Introduction

1. London First is a business membership organisation with the mission to make London the best city in the world in which to do business. We represent the capital's leading employers in key sectors such as financial and business services, property, transport, ICT, creative industries, hospitality and retail.
2. We welcome the opportunity to respond to this consultation. We support the introduction of the Mayoral CIL as it forms a small but important part in the Crossrail funding package. However, just as important to London's economic growth is renewing both the residential and commercial buildings that form the built environment of the capital. Therefore, the Mayoral CIL must not become an additional burden on development to the extent that it makes development unviable. Our key concerns are set out below:

Key issues

- **Cumulative burden placed on development:** When all the other financial obligations that are placed on development are taken into consideration, the Mayoral CIL must be set at a level that ensures development in London does not become unviable.
- **The Mayor and borough CIL's:** The Mayor must play an active role in ensuring that the CIL Charging Schedules brought forward by the boroughs do not, when combined with all the financial obligations placed upon development in London, render development unviable.
- **Exceptions process:** The Mayor should introduce a fair and transparent exceptions process in order to help strategically important regeneration developments to proceed.
- **The use of three charge zones:** Clarity is required as to why three charging zones have been created for the Mayoral CIL in contrast to the four zones used in the Strategic Housing Land Availability Assessment (SHLAA) and Housing Capacity Study (HCS).

- **Phasing and payment:** The payment of Mayoral CIL should preferably be linked to the occupation of development; alternatively, bespoke arrangements should be agreed above a certain threshold.
- **Cessation of the Crossrail CIL:** The Mayor should confirm that he will cease collecting the Crossrail CIL once the £300 million target has been reached.

3. For more information about this response please contact Jonathan Seager jseager@londonfirst.co.uk, 02076651584.

Detailed response

4. Our response to the consultation is set out in the order of the key issues that we have highlighted above.

Cumulative burden placed on development

5. If taken in isolation, the Mayoral CIL may be affordable for much development in London. However, when the cumulative burden of the Mayoral CIL, borough CILs and planning obligations are taken into consideration, the effect on development viability is considerable. In addition, the increasing cost of meeting environmental regulations such as renewable energy requirements adds a further cost to development.
6. In this context, the Mayoral CIL provides a further obstacle for development in London to overcome in what is already an extremely challenging environment for business. Indeed, as the consultation acknowledges 'viability is only one of the pre-conditions to development the others are developer confidence, availability of finance, land and planning permission'.¹ Developer confidence and availability of finance have suffered significantly since the credit crunch. The recent 0.6 per cent decrease in UK Gross Domestic Product during the fourth quarter of 2010 demonstrates that the economic situation remains fragile, particularly for the construction sector which suffered a 3.3 per cent fall in output (Q4) and was cited by the Office of National Statistics, along with the service sector, as one of the main reasons for the UK's poor economic performance.² It must be within this context that the affordability of the Mayoral CIL is considered, at least whilst these difficult economic circumstances prevail.

The Mayor and borough CILs

7. The only way to obtain an accurate picture of development viability across London is to assess the total impact of a developer's financial liability (see paragraph five above). Until boroughs bring forward their Charging Schedules and the full extent of boroughs planning obligations policies (including affordable housing) is known, this will not be possible.
8. CIL legislation has provided the Mayor with the opportunity to potentially take the majority of funding for infrastructure from developers because, when setting their CILs, boroughs must have regard to the Mayoral CIL. As the Mayor is first in setting his CIL charge, we are concerned at the potential conflict with boroughs who will lose out on infrastructure funding; their respective Charging Schedules will therefore be set at

¹ Proposals for a Mayoral Community Infrastructure Levy, Preliminary Draft Charging Schedule, paragraph 4.4.11, page 35.

² See Office of National Statistics, GDP Growth, UK output decreases by 0.5% <http://www.statistics.gov.uk/cci/nugget.asp?id=192>

unrealistic rates in order to recoup as much money as possible. It is therefore not only incumbent upon the Mayor to set his CIL rates at realistic levels but to also actively ensure that boroughs are taking account of viability issues when producing their own Charging Schedules. The Mayor should make a statement to this effect and become actively involved in scrutinising boroughs' Charging Schedules.

Exceptions process

9. We welcome the commitment in the Preliminary Draft Charging Schedule³ to prevent developers from being “double charged” for Crossrail through payment of the Mayoral CIL and through payment of a planning obligation. Treating the former as a credit to the latter is a sensible solution.
10. However, the Mayor should reconsider his decision not to introduce an exceptions process for the Mayoral CIL.⁴ Whilst it is true that the administrative burden will slightly increase on the GLA and boroughs because of such a process, the burden is not so great as to reject the process altogether. Without a sensible and proportionate exceptions process, strategically important regeneration developments could be cancelled.
11. The viability of operating CILs and seeking planning obligations is particularly relevant to Opportunity Areas, which are priorities for regeneration. We would welcome clarification about how the Mayor envisages the Mayoral CIL working in tandem with other financial obligations placed upon development in such areas.
12. If introduced, an exceptions process should truly be for exceptions, with stringent criteria applied in order to instigate the process and to deter those trying to pay less without sufficient justification. We would be happy to work with the Mayor on drawing up such criteria to produce a fair and transparent exceptions process.

The use of three charging zones

13. For the purposes of the Mayoral CIL Charging Schedule, three zones have been created each with a different CIL rate. However, and as acknowledged in the consultation document,⁵ the GLA's Strategic Housing Land Availability Assessment (SHLAA) and Housing Capacity Study (HCS) uses four zones.⁶ Please clarify why the two documents differ in the number of zones into which London is split. And what evidence, if any, has the GLA used to decide that there should not be four charging zones for the purposes of the Mayoral CIL?

³ Paragraphs 8-10, pages 23-24.

⁴ Under regulation 58, Exceptional Circumstances: procedure in London, The Community Infrastructure Levy Regulations 2010.

⁵ See Appendix 3 – approach taken by the SHLAA, page 60.

⁶ GLA's Strategic Housing Land Availability Assessment (SHLAA) and Housing Capacity Study (HCS), Pre-Publication Draft, August 2010, BNP Paribas Real Estate and Atkins.

Other issues

Phasing and payment by instalments

14. The consultation asks for respondents' opinions about the kind of flexibility the Mayor might offer with regard to the phasing and payment by instalment of CIL money, subject to the Government amending the CIL regulations to allow charging authorities the flexibility to decide their own payment deadlines.
15. We support flexibility in payment, particularly as such a measure will help to ease the burden placed on developers who are required to make substantial upfront financial commitments to, inter alia, infrastructure funding prior to occupation of a completed development and hence prior to generating any impact or income from the development.
16. As cash flow for developers is extremely tight at the moment and for the foreseeable future, some form of payment of CIL liability linked to occupation of development would be preferable. Alternatively, for CIL liabilities above a certain threshold charging authorities and developers could agree a bespoke payment profile. With regard to phased developments, payment of CIL liability should relate to the occupation of each phase.

Extending the charging period

17. The charging period for the collection of the £300m Mayoral CIL in relation to Crossrail is 2012-2019. However, there is no guarantee that this timeframe can be met as there is no certainty about the amount of money that the Mayoral CIL will produce each year. Property development is an inherently uncertain activity and just because a development obtains planning permission, and therefore generates a notional CIL liability, does not mean that the development will necessarily proceed to construction, generating an actually CIL liability.
18. Given this inherent uncertainty, the Mayor should consider extending the time period by which he is seeking to collect the £300m in order to ease the burden on development in London.

Assumptions made in the modelling

19. We have a number of issues about assumptions made in the modelling:
 - I. The modelling period used for calculating the Mayoral CIL is 2000-2009. However, this period is unrepresentative of a typical development cycle. It includes a period of significant growth, particularly in property prices. In order to make the modelling more representative the period 1990-1999 should be included.
 - II. We question the assumption that approximately 55 per cent of overall development during the course of the Mayoral CIL Charging Schedule will be

private residential development. Again, basing this assumption on development activity from 2000-2009 is an unrepresentative timeframe.

- III. The base case scenario for the delivery of new residential dwellings each year in the Preliminary Draft Charging Schedule is 12,249, whereas the London Plan sets out a target for delivery of 32,250 new residential dwellings each year. We assume the discrepancy is because the Charging Schedule is only considering private residential development which is liable to pay CIL therefore excluding affordable housing from the estimate? Clarification is required.
- IV. The modelling in the Preliminary Draft Charging Schedule does not appear to take account of the average planning obligations (£5000) used for the purposes of the SHLAA HCS Viability Assessment.⁷ Please clarify why this is the case.

Cessation of the Crossrail CIL

20. There is a need for a clear statement of intent now confirming that the Mayor will cease collecting the Crossrail CIL once the £300 million target has been reached. And if the Mayor wishes to use the CIL to fund other transport projects a further detailed consultation must be undertaken in good time.

Reducing bureaucracy of CIL

21. The payment of CIL and associated paperwork should be standardised and where a planning obligation is also required all paperwork should be aligned.

Clarification

22. The following issues require clarification:

- I. The Mayoral CIL is an allowable cost in the affordable housing toolkit when assessing viability?
- II. Both extant planning permissions and amendments to such permissions are exempt from the Mayoral CIL?
- III. Beyond the statement made in the Preliminary Draft Charging Schedule⁸, more detail is required about how often the Mayor intends to review the CIL rates and bands to reflect changing market conditions?

⁷ See paragraph 4.39, page 35, SHLAA HCS Viability Assessment.

⁸ Paragraph 13, page 24 states that the Mayor will 'keep the operation of CIL....under review'.