

Decision Maker: **DEVELOPMENT CONTROL COMMITTEE
EXECUTIVE**

Dates: 16th November 2017
29th November 2017

Decision Type: Non-Urgent Executive Non-Key

Title: **London Borough of Bromley's Community Infrastructure Levy,
Proposed Preliminary Draft Charging Schedule Consultation**

Contact Officer: Terri Holding, Planner
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Chief Officer: Jim Kehoe, Chief Planner

Ward: N/A

1. Reason for report

To explain the process of The Community Infrastructure Levy (CIL); to recommend an appropriate level of CIL charge for consultation purposes and to undertake a consultation on the Preliminary Draft Charging Schedule for a 6 week period.

The Community Infrastructure Levy (CIL) allows local authorities in England and Wales to raise funds from developers undertaking new building projects. It effectively replaces much of the existing process of planning obligations commonly known as 'Section106' agreements.

2. **RECOMMENDATION(S)**

That Development Control Committee

- 2.1 Endorses the attached Appendix 1 Preliminary Draft Charging Schedule (PDCS), summarised in Table 1 below, and recommends that Executive approve the PDCS and authorises the consultation process to begin.

That the Executive

- 2.2 Approves the Preliminary Draft Charging Schedule summarised in Table 1 (para 3.1) and detailed in Appendix 1.
- 2.3 Approves and authorises the PDCS consultation process.

Impact on Vulnerable Adults and Children

1. Summary of Impact:

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Quality Environment:
-

Financial

1. Cost of proposal: £26k for public consultation & Public Examination
 2. Ongoing costs: N/A
 3. Budget head/performance centre: Local Plan Implementation
 4. Total current budget for this head: £32k
 5. Source of funding: Existing revenue budget for 2017/18 and potential future CIL monies
-

Personnel

1. Number of staff (current and additional): 1
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Community Infrastructure Levy Regulation 2010 as amended
 2. Call-in: Not Applicable:
-

Procurement

1. Summary of Procurement Implications:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough-wide
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1 The Community Infrastructure Levy (CIL) allows local authorities in England and Wales (defined as Charging Authorities) to raise funds from developers undertaking new building projects. It effectively replaces much of the existing process of planning obligations commonly known as ‘Section106’ agreements. The primary use of CIL is to gain financial contributions from certain types of viable development to help fund new or improve strategic infrastructure required to support the growth identified in the Local Plan. CIL places a charge per square metre on development. It will not be the sole funding source for all infrastructures delivered, but will supplement other public sector revenue streams. In summary, the recommendation is to consult on the proposed charges shown in Table 1.

Table 1. Proposed CIL Charging Rate

Proposed LB Bromley CIL Charges	
Use*	CIL Rate
Residential C3	£100 per sq m
Retail Warehousing** over 1000m ²	£100 per sq m
Supermarket/ foodstore*** over 280m ² (3,000 sq.ft)	£100 per sq m
Other forms of development****	£0 per sq m
These rates apply in addition to the rates set out in the Mayor of London’s Community Infrastructure Levy Charging Schedule (currently £35 per sq m for Bromley)	

- * Development types based on The Town and Country Planning (Use Classes) Order 1987 as amended
- ** Retail warehouse are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering mainly for car-borne customers.
- *** Convenience retailing is the provision of everyday essential items, including food, drinks, newspapers/magazines and confectionery.
- **** Infrastructure contributions from C2 development will be sought via section106 (or other) agreement where viable, and not via CIL.

3.2 CIL has a number of significant advantages over the current system of Section 106 agreements, including:

- Payment is non-negotiable, which helps speed up the planning process and offers more certainty for the Council;
- The CIL charge is transparent and predictable, meaning that applicants will know their CIL liability prior to submitting a planning application;
- A wider range of liable development will contribute to the cost of infrastructure provision, not just large scale development;
- CIL will be available to spend on local infrastructure priorities with more flexibility than s106’s;

- CIL will be the main mechanism for securing developer contributions for infrastructure to support growth. Section 106 agreements will be significantly scaled back.

3.3 The following are subject to reliefs (if applied for) or are exempt from the levy:-

Development of less than 100 square metres (CIL reg 42)) – unless this is a whole house, in which case the levy is payable

Houses, flats, residential annexes and residential extensions which are built by ‘self builders’ (CIL reg 42A, 42B, 54A, and 54B as amended 2014)

Social housing that meets the relief criteria set out in CIL reg 49 or 49A (as amended 2014)

Charitable development that meets the relief criteria set out in CIL reg 43 to 48

Buildings into which people do not normally go (CIL reg 6 (2))

Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery (CIL reg 6 (2))

Structures which are not buildings, such as pylons and wind turbines

Specified types of development which local authorities have decided should be subject to a ‘zero’ rate and specified as such in their charging schedules

Vacant buildings brought back into the same use (CIL reg 40 as amended 2014)

Where the levy liability is calculated to be less than £50, the chargeable amount is deemed to be zero so no levy is due.

Mezzanine floors, inserted into an existing building, are not liable for the levy unless they form part of a wider planning permission that seeks to provide other works as well.

3.4 CIL is a part replacement for the use of Section 106 planning obligations in securing infrastructure to support development on anything wider than a site-specific basis. Certain infrastructure, for example affordable housing, site specific mitigation, and infrastructure required by C2 development will continue to be negotiated through Section 106 in the same manner. In due course the existing Planning Obligations Supplementary Planning Document (SPD) will be revised to reflect changes made as a result of introduction of a Local CIL charge.

Evidence of funding collected through s106 and estimated CIL receipt

3.5 The National Planning Practice Guidance (NPPG) requires, as part of the background evidence needed to support the setting of a CIL charge, evidence (at Appendix 3) of the amount of funding collected in recent years and also the level of affordable housing achieved.

3.6 Over the last 3 financial years (between April 2014 and March 2017) a total of £3.2m of Section 106 pooled monies has been received for Education, Health,

Public Realm, and Highways projects, as set out in Appendix 3. This equates to an average of £1,067,770 per annum that has been generated towards the delivery of infrastructure from pooled contributions.

- 3.7 Looking ahead to a time when a local CIL is adopted, it is estimated there is a potential receipt for £3.5m towards infrastructure projects per year that would otherwise have been funded by pooled s106 in whole or part. This estimation of a local CIL receipt was calculated by using the average size property size taken from the South East London Strategic Housing Market Assessment (SHMA) 2014. The SHMA highlights the level of need within the Borough up to 2031 is for 1 bed (53%), 2 bed (21%) and 3 bed (20%) units (Draft Local Plan para 2.1.6, 2016). Using the potential CIL rate of £100 for residential (C3) use, the Borough's housing target of 641, allowing for an affordable housing level (in practice around 20% of units), and taking the average sized 2 bed property of approximately 70 sq.m, (using GLA minimum space standards), this would then equate to £3,591,000 per annum.
- 3.8 However there is a significant level of self-builders in the borough and over the last few years whilst collecting Mayoral CIL, we have seen that self-builders by meeting the regulation criteria and claiming that relief, has an impact on the potential amount collected on behalf of the Mayor for the Mayoral CIL. Recent analysis showed a potential loss of 22% of revenue via residential applications, but if the property is then sold (currently the most common reason is relocation) or rented within a time limit the owner is disqualified from relief and the CIL charge is collected (up to 3 years after the new dwelling has been completed).

Liability to pay Community Infrastructure Levy

- 3.9 CIL liability is triggered by most development comprising buildings that includes an increase of new build floorspace of 100 sq metres, or more, of gross internal floorspace (GIA). For developments that comprise a residential dwelling the amount of new build floorspace is irrelevant; CIL is triggered on any scheme involving a dwelling whether this is from new build or existing floorspace (para 3.3 the Regulations provide exemptions or reliefs for self-built housing, for residential extensions or annexes and for affordable housing). Provided that a building has not been left vacant the GIA of any existing building on the site which is due to be demolished, or which will form part of the new development, would normally be deducted from the chargeable area.
- 3.10 The CIL Regulations provide exemptions and reliefs from payment of the levy for certain forms of development. In some cases these are mandatory forms of relief, which must be applied by the authority and in other cases they are discretionary where the Council must decide whether to make them available. In summary the different forms of relief relate to development that comprises social housing, charitable development, self-build homes, residential extensions and residential annexes.
- 3.11 A chargeable development, for the purposes of determining a CIL liability, is the development for which planning permission is granted. This includes development where planning permission is granted by way of a "general consent" (such as permitted development) if it is of a sufficient scale or type which would trigger liability to pay CIL. CIL is a mandatory payment that becomes payable on commencement of development by the party who has

assumed liability and each person known to the authority as an owner of the relevant land.

What will the local CIL used for?

- 3.12 The money raised from CIL can be used to pay for infrastructure to support development, ensuring that new development bears a proportion of the cost of delivering the new infrastructure required. CIL can be spent on any community infrastructure required to support growth, provided the infrastructure is on a Council published 'Regulation 123' list. CIL infrastructure does not include Affordable Housing. The 'Regulation 123 list is a list of community infrastructure projects prepared and agreed by the Council. The Local Plan which the Council has agreed contains an Infrastructure Delivery Plan (IDP) Schedule; that is a list of all known or potential infrastructure projects/schemes from which the specific Regulation 123 list should be devised. Topic areas from the IDP Schedule focus on Transport, Education, Health, Open Space, Parks and Gardens, Leisure, Public Realm, Low Carbon, Energy, Waste, and Flood Mitigation. The emerging scope for the CIL Reg 123 list is at Appendix 2. Once CIL is adopted the Reg 123 list will be reviewed annually.
- 3.13 As footnoted in the Preliminary Draft Charging Schedule table, infrastructure contributions from C2 development will be sought via s.106 (or other) agreement rather than CIL. This is because the current viability evidence does not support a generalised CIL charge for such development. Instead, viability will be assessed on a case-by-case basis via s.106 (or other) agreement. In order to avoid any "double-dipping" – where developers pay twice for the same infrastructure – (which is prohibited by regulation 123), the Regulation 123 list is drafted to exclude relevant infrastructure where the need for it specifically arises from C2 development.
- 3.14 In addition following an amendment of the CIL Regs in April 2013 there came into force regulations concerning the 'neighbourhood proportion'. This allows for when Neighbourhood Plans are developed in the future, and where there is a Neighbourhood Development Plan in place, the neighbourhood will be able to receive 25% of the revenues from CIL arising from the development that they have chosen to accept within their neighbourhood boundary. The Council must agree with the local community how to spend the money. Neighbourhoods without a Neighbourhood Development Plan, but where the CIL is charged will receive a capped share of 15% of the levy arising from development in their area.
- 3.15 The regulations provide that the Neighbourhood proportion can be spent on:
- The provision, improvement, replacement, operation or maintenance of infrastructure; or
 - Anything else that is concerned with addressing the demands that development places on an area.
- 3.16 The Council will need to consider further how the CIL and neighbourhood proportion is to be managed. A separate report will be made on that matter in the future. There are currently no Neighbourhood Plans in place within the Borough.

Setting a Community Infrastructure Levy

- 3.17 To charge a CIL the local authority must produce and adopt a charging schedule which sets out the levy rates for the area. Rates can be differentiated by location, land use and size of development – but only on the impacts on development viability. The charging schedule must be based on evidence of:
- An up to date Infrastructure Delivery Plan identifying demand across service areas, funding, and any known funding gaps. Web link: [Infrastructure Delivery Plan 2016](#)
 - Viability evidence based on different development scenarios: [DSP Viability Assessment Report Nov 2016](#)
- 3.18 Using this evidence the authority must strike an appropriate balance in setting the levy rates between desirability of funding from CIL (in whole or in part) the actual and expected cost of infrastructure required to support development of its area, taking into account other actual or expected sources of funding, and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.
- 3.19 The Charging Schedule should support the delivery of growth, and be consistent with the Draft Local Plan and London Plan (2016) policies. The process for preparing a charging schedule is similar to that which applies to relevant Plans including stages of public consultation and finally a public examination of the charging schedule by an independent person (usually a Planning Inspector).

The Charging Schedule

- 3.20 The Council has prepared a Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDSC) document at Appendix 1. This provides the first step in setting the CIL rates, which are supported by evidence on development viability compiled by external consultants Dixon Searle Partnership (DSP) over the period 2015-2016. The PDSC sets out the general explanation of CIL, the background to its preparation and methodology used to determine the CIL rates.
- 3.21 The PDSC is supported by the evidence base which included a detailed viability assessment, which examines the levels of CIL that can be achieved across the borough without affecting the overall viability of development identified in the Local Plan. Only developments that are shown to be viable will be charged CIL.
- 3.22 The PDSC is also supported by the Infrastructure Delivery Plan (IDP), to demonstrate that there is a funding deficit between the total cost of required infrastructure and the infrastructure already agreed for delivery and to be financed by the Council, external partners and agencies. The deficit justifies the position of the Council to move forward with CIL. The IDP was prepared as part of the Local Plan and specifically the IDP Schedule table forms Appendix 10.3 of the Local Plan Submission document.
- 3.23 The proposed rates have been tested based on the affordable housing policy requirements, by market value area and by standards for sustainable homes, and with provision made for the Mayoral CIL which is already collected at the rate of £35 per sq metre plus index linking (since 2012) and consequently the

rate stands at £44.10 per sq m) from range of development types typical in the Borough, over all use classes have been tested within the viability assessment. The recommended CIL rates are reasonable and have not been set at or near the maximum level assessed in the viability evidence, and set at an appropriate amount that is viable in the current economic climate.

Proposed CIL Charges

Residential

3.24 The viability assessment has concluded that for residential development (s) in most development circumstances in the Borough a local CIL charging rate not exceeding £100 per sq. m would be suitable. The consultants had stated that there may be a differential rate for town centre or similar development, if on balance that included a higher charge elsewhere. However following discussion with the LDFAP the setting of a more modest rate applied area-wide, so as not unduly impact on town centre redevelopment scenarios, was preferred. Whilst a higher rate could be justified in some circumstances (for simpler sites in high value locations) the added the complexity using a differential rate would not prove to be worthwhile in terms of overall clarity and operation of the Council's approach.

Commercial

3.25 The consultants found that the only commercial/non-residential development likely to show a level of viability sufficient to support the fixed nature of CIL charging beyond that already in place of Mayoral CIL is retail development.

3.26 This could support CIL charging at a similar rate to residential in some areas. Town centre development scenarios tests (envisaging comparison development primarily) produce strong looking values but the consultants expect these to be needed to support the release of sites and development costs are likely to be high, compared with those for equivalent types of units located away from main shopping areas. In addition, any Local Plan relevant new town centre shopping or local centres provision in the small shop units for convenience store use and similar could potentially be prejudiced at that rate. The consultants therefore suggested a low or nil rate. In discussion with the LDFAP the preferred option was for a Nil rate overall for both comparison and convenience shop development.

3.27 Retail warehousing development appears to have amongst the strongest viability prospects of all in the Borough, should this format come forward. Depending on type and strength of investment, these may not support yields at quite such positive levels as foodstore developments. Bearing in mind the London Mayoral CIL and other collective costs, the consultants view is that a CIL charge of £100 sq. m would be appropriate.

3.28 Large Supermarket/ foodstore development showed positive yields but these did fade in the testing. With likely relatively high land values in most parts of the Borough the ability to compete for sites may not be as strong. In lower value locations other uses will often be less competitive for sites. Combined with higher development costs associated with town centre rather than edge of centre, suburban or fringe sites, the consultants view would be a rate not exceeding £100 for any new schemes, without going to the margins of viability.

3.29 Town centre retail in the form of restaurant use shows a highly variable picture of viability, dependent on the assumed rental and yield combination. On the whole owing mainly to the higher build costs assumptions in the DSP report, these are indicated to have reduced viability compared with A1 retail use. On the whole these are usually part of a wider offer that creates a sense of place and potentially groupings of them.

Other Uses

3.30 At this moment in time the consultants, whilst noting that CIL Charging Schedules are expected to be reviewed after a short timescale of just a few years, consider no other forms of development other than as shown in Table One will clearly support CIL charging.

3.31 Other uses may be best assessed on a site by site basis using the existing s106 mechanism where appropriate.

3.32 The proposed CIL Charges are shown at paragraph 3.1 in **Table 1**.

Consultation and Next Steps

3.33 In line with CIL Regulations, the Council is required to undertake consultation on the PDCS. This is a technical consultation, and will be go to all persons registered on the LB Bromley database including statutory consultees, stakeholders and infrastructure providers. The consultation is timetabled for 6 weeks January/February 2018. Responses can be received through the consultation portal electronically or alternatively by email and letter.

3.34 The Council will consider all representations received during this consultation and report back later in the spring with the final draft version of the Charging Schedule for publication in the spring when further representations are sought. At this stage the document is submitted to an independent examiner and any representations are forwarded to the examiner for consideration at Public Examination. It is expected the Public Examination (subject to progress of the Local Plan Examination) could take place next Summer with adoption Winter 2018. The Council would then publish the date that the Local CIL would become effective, and would start charging from that date.

Conclusion

3.35 The PDCS has been prepared based on a comprehensive assessment of development viability across the Borough. The proposed rates are justified by evidence and ensure that they do not compromise the ability for the Council to deliver the Local Plan.

3.36 The CIL PDSC is a technical planning document and an Equalities Impact Assessment (EqIA) will be undertaken following the PDCS consultation to ensure there are no direct impacts arising from the proposals.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

4.1 There are no specific impacts. The CIL PDCS is a technical planning document (see para 3.35).

5 POLICY IMPLICATIONS

5.1 The PDSC has been prepared in accordance with CIL Regulations 2010 (as amended).

6. FINANCIAL IMPLICATIONS

6.1 The estimated cost of the public consultation for the PDCs (and subsequent DCS) of £1k can be met from within the existing service budget.

6.2 There will be a cost for the examination of the CIL charging schedule, which is estimated to be up to £25k. These costs could include support by planning consultants in the preparation of viability evidence and attendance at the Public Examination. Should the charging schedule be approved and the Council adopt a local CIL, then the costs incurred can be set against future CIL income.

6.3 As detailed in 3.7 above, it is anticipated that £3.6m per annum could be generated by Bromley's CIL towards infrastructure.

6.4 It should be noted that 5% of any CIL monies received can be set aside to meet the additional cost to the Council of the administration of the scheme.

6.5 Affordable housing cannot be funded from CIL, and therefore the S106 contributions will primarily be for this purpose. Any additional S106 contributions will be specifically negotiated wherever possible.

7. LEGAL IMPLICATIONS

7.1 The CIL PDCS has been prepared in accordance with CIL Regulations 2010 (as amended).

Non-Applicable Sections:	Personnel Financial
Background Documents: (Access via Contact Officer)	National Planning Policy Framework (March 2012) Adopted Supplementary Planning Document Planning Obligations (December 2010) Community Infrastructure Levy Regulation 2010 (as amended) Infrastructure Delivery Plan – web link Infrastructure Delivery Plan 2016 Dixon Searle Partnership Viability Report – web link DSP Viability Assessment Report Nov 2016

Appendices

Appendix 1 Preliminary Draft Charging Schedule

Appendix 2 Indicative scoping for Reg 123 list and s106 priorities

Appendix 3 Background Evidence Paper s106/Affordable Housing

LONDON BOROUGH OF BROMLEY



COMMUNITY INFRASTRUCTURE LEVY

PRELIMINARY DRAFT CHARGING SCHEDULE 2017

CONTENTS

How to give your views

1. INTRODUCTION

What is CIL?

Why do we need CIL?

CIL and Section 106

Mayoral CIL and Instalments option

Next Steps

Timetable

2. VIABILITY

Residential

Local Plan – Allocation Sites

B Use classes (office /industrial) and C1/C2 Use Classes (care homes and hotels)

Other Uses

3. PRELIMINARY DRAFT CHARGING SCHEDULE

4. PAYMENT OF CIL

CIL Exemptions

Discretionary Relief and Exceptional Circumstances Relief

5. NEIGHBOURHOOD PLANS

6. ANNUAL MONITORING

Review

7. FURTHER INFORMATION

How to Give Your Views

The Preliminary Draft Charging Schedule consultation document is available for comment from 3rd January until 16th February 2018.

Your comments and views are welcomed on the proposed CIL rates and other elements of the proposed approach contained in this document.

Responding Online

If you are not reading this document online, please consider using our online Consultation Portal to make your comments. You should find this the quickest way to tell us what you think.

Online Consultation Portal: <http://bromley.objective.co.uk/portal>

If you have not already used the Portal, we encourage you to do so. It is a very simple process and once registered you will automatically be informed when we publish other planning consultation documents.

Other Ways to Comment

While the consultation is designed for online responses, the Council wishes to ensure that everyone has the opportunity to respond. Therefore there are printed copies of this document available to be viewed in **all Bromley Libraries**, the Cotmandene and Mottingham Community and Learning Shops, and at the Bromley Civic Centre, (addresses below). There is a comments response form available when viewing the document which can be completed.

If you, or someone you know needs the document in a particular language or format, please contact us.

If you are not using the Portal, please email or send your response form to us using the following details.

Postal Address:

**CIL Preliminary Draft Charging Schedule
Planning Strategy Team
London Borough of Bromley
Civic Centre
Stockwell Close
Bromley
BR1 3UH**

Email: LCIL@bromley.gov.uk

Phone: 020 8313 4344

This is not the only opportunity to be involved in the development of Bromley's Community Infrastructure Levy, but it is a key stage and your views are important.

Civic Centre
Stockwell Close
Bromley BR1 3UH

Open 8:30am - 5pm Monday - Friday

Cotmandene Community Resource Centre
64 Cotmandene Crescent
St Pauls Cray
Orpington BR5 2RG

9:30am to 1pm, 2pm to 4pm Monday - Thursday

Mottingham Community and Learning Shop
1-2 Cranley Parade
Beaconfield Road
Mottingham SE9 4DZ

Monday - closed. Tuesday - Friday 9:30am - 1pm, 2pm to 4pm

All responses (online, emails and letters) must be received by 5pm on 16th February 2018.

Please note that all responses may be made available for public inspection.

INTRODUCTION

1.1 The Preliminary Draft Charging Schedule (PDSC) is a consultation document issued as the first step in setting the London Borough of Bromley Community Infrastructure Levy. It contains the proposed CIL preliminary charging schedule and explains the general principles of CIL, and the background evidence used to arrive at the proposed charging rates, in compliance with CIL Regulation 2010 (as amended) and the DCLG Planning Practice Guidance on the Community Infrastructure Levy. In brief the PDSC is shown here:-

Table (1) London Borough of Bromley Preliminary Draft Charging Schedule

Use*	Charge £ per sqm
Residential C3	£100 per sq m
Retail Warehousing** over 1000m ²	£100 per sq m
Supermarkets/foodstore*** over 280m ² (3,000 sq ft)	£100 per sq m
Other forms of development****	£0 per sq m
These rates apply in addition to the rates set out in the Mayor of London's Community Infrastructure Levy Charging Schedule (currently £35 per sq m for Bromley).	

*Development types based on The Town and Country Planning (Use Classes) Order 1987 as amended

**Retail warehouse are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering mainly for car-borne customers.

**Convenience retailing is the provision of everyday essential items, including food, drinks, newspapers/magazines and confectionery.

****Infrastructure contributions from C2 development will be sought via section 106 (or other) agreement where viable, and not CIL.

What is the CIL?

1.2 The CIL is a levy that allows local authorities to raise funds from new development in order to make a financial contribution towards the infrastructure needed because of that development. Infrastructure as defined in the Planning Act 2008 (amended by the Localism Act 2011) includes roads and other transport facilities; flood defences; schools and other educational facilities; medical facilities; sporting and recreational facilities; and open spaces. The CIL will supplement rather than replace other sources of funding. The Council will use CIL alongside a range of other funding sources, Local

Government Grants, Council Growth Fund and Council Capital Funding, to continue to invest in infrastructure projects that are vital to the delivery of the Local Plan.

Why do we need a CIL?

1.3 Most new development will have an impact on the local infrastructure within the Borough. The CIL income will assist the funding of the necessary infrastructure that the Council, local community/neighbourhoods need.

1.4 The implementation of a CIL will also have other benefits. It will provide developers with more certainty up front. They will know how much they will need to contribute before they submit a planning application and can factor this in when they are budgeting to decide if a development is viable. The CIL will also provide local communities with greater transparency and understanding of the planning process by seeing how new development is contributing to their community/ward through publication of annual monitoring.

CIL and Section 106

1.5 The CIL will provide infrastructure to support the development of an area rather than making an individual planning application acceptable in planning terms, which is the purpose of Section 106 (S106) Legal Agreements. The CIL will work in tandem with S106 rather than replacing it altogether.

1.6 The introduction of CIL is also important as the CIL legislation made changes to s106, which came into force in April 2015. The ability to pool planning obligations through legal agreements under S106 is restricted. Larger infrastructure projects such as transport schemes and education or health facilities require pooling of many individual planning contributions in order to be delivered. Therefore, CIL will be able to deliver the projects that are no longer possible through S106. The S106 will continue to be used to deliver some infrastructure, but this will largely be restricted to site-specific mitigation, infrastructure needs arising from C2 development (see para 1.7), affordable housing, and may also include public realm. The Council will not have a CIL in place until 2018; therefore, in the short-term the SPD on Planning Obligations will remain live until the local CIL is implemented. The SPD will be reviewed and revised to ensure it is consistent with the CIL charging schedule and that there is no duplication of charges.

1.7 The CIL Regulations restrict the use of planning obligations to ensure that developments are not charged for the same items through both S106 Agreements and the CIL. The Council is required to publish a list of infrastructure it intends to fund via the levy. It will not be possible to seek planning obligations towards items on the infrastructure list. Furthermore, the Council will only be able to pool a maximum of five S106 contributions towards a particular infrastructure project. The list will expressly exclude infrastructure where the need arises specifically from C2 development, because the Council seeks contributions for such infrastructure via section106, where viable. This avoids any double-dipping which is prohibited by regulation 123.

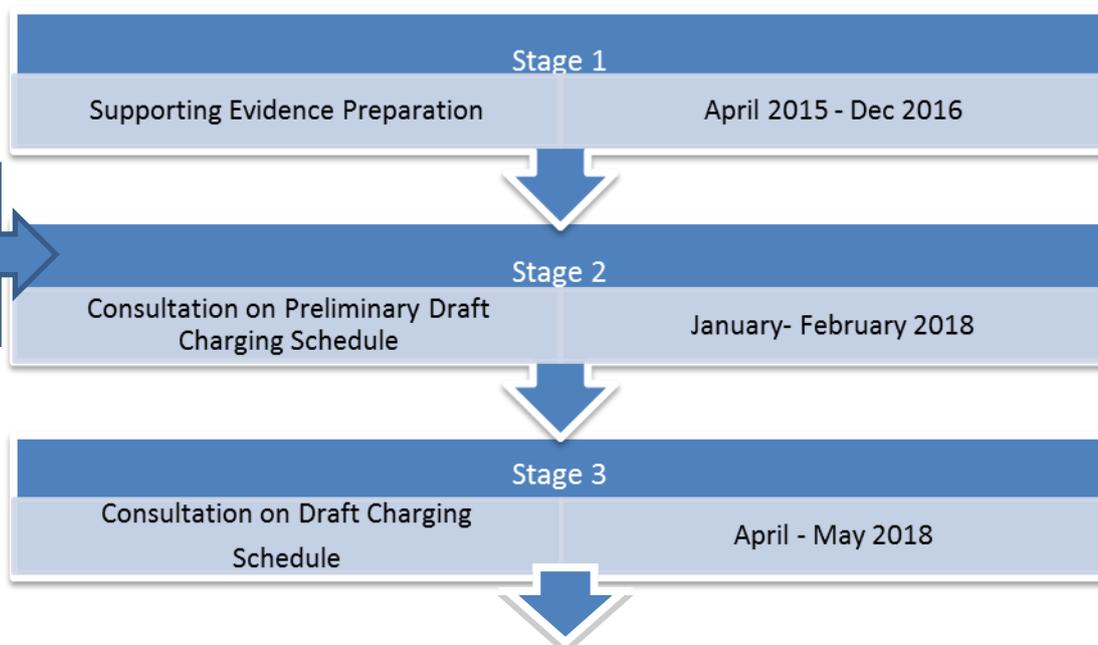
Next Steps

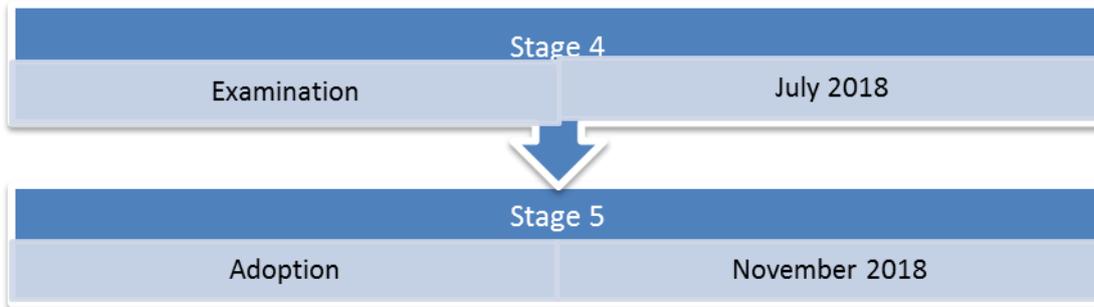
1.8 Once the council has considered all the representations received, it will produce a Draft Charging Schedule, which will be subject to a further round of consultation. This next consultation on the Draft Charging Schedule is expected to take place in the late Spring of 2018. It is anticipated that the Council will adopt the CIL in Winter 2018/19.

Timetable

1.9 The following diagram below shows the main stages in the production of the CIL:

Main stages in the production of the Bromley CIL.





VIABILITY

2.1 The Council is required to demonstrate that the introduction of CIL supports the delivery of the Local Plan and does not put it at risk. In setting the levy rate, the Council must strike a balance between the desirability of generating additional funds toward the cost of infrastructure from the levy and the impact the levy might have on the economic viability of development itself. By introducing a CIL it may mean that a small, but acceptable number of development schemes are rendered unviable. However, this will not affect overall delivery of the Local Plan as the levy has been set at a rate that allows the majority of development to be viable.

2.2 In March 2015, the Council appointed Dixon Searle Partnership (DSP) to undertake an independent viability analysis of the Borough for the development of a Borough CIL, including Local Plan viability as a whole, and an update of the Affordable Housing viability assessment previously undertaken by DSP in 2012.

2.3 DSP were required to provide recommendations to the Council in relation to introducing a CIL, having regard to the nature of the economic conditions of the Borough and the emerging Local Plan and taking into account that there is a Mayoral CIL charge made on new development at £35 per sq m in the Borough. The key driver of development viability is local values (property values) within the Borough and what funds are available to meet the development costs including planning policy obligations and / or any CIL. These are the main influences in the relationship between values and costs, since the development costs are usually variable from one local authority area to another.

Residential

2.4 Whilst the CIL regulations enable charging authorities to implement a variety of charging zones, national guidance also recommends implementing the most simple and transparent charging schedule.

2.5 The CIL viability assessment was prepared over a period of time 2015 to 2016, and highlighted that, whilst there is a degree of varying residential values across the Borough, for example it was found that a higher rate could be justified in some circumstances at simpler sites in high value areas, the Council has had to consider whether the added complexity would be worthwhile in terms of overall clarity and operation of the Council's approach.

2.6 The Bromley Town Centre sites in the Area Action Plan (2010); and the more complex previously developed land (PDL) sites were considered for a lower CIL charge but that had to be balanced with higher CIL charges elsewhere, or the setting of a more modest rate applied area-wide and not to unduly impact on the town centre development.

2.7 Hence, while the evidence suggested that the Council could set a residential rate of between £100 and £125 per square metre, guidance recommends appropriate buffers should be factored into the CIL rates to accommodate any fluctuations in the housing market. The Council has therefore decided not to operate a differential/varying system across the borough but to consult on a rate of £100 per square metre.

Local Plan - Site Allocations

2.8 A broad assessment of the viability of these sites has been undertaken. The Viability Assessment shows that based on current stage assumptions and review, and considered alongside the Council's developing information on infrastructure needs that the Local Plan residential allocated sites offer a realistic prospect for viable development.

Retail

2.11 The independent viability assessment demonstrated that supermarkets and retail warehousing developments will maintain viability with a CIL rate of £100.

2.12 The viability evidence demonstrates that this level of CIL could not be applied across all retail development.

B Use classes (office /industrial) and C1/C2 Use Classes (care homes and hotels)

2.15 The DSP study suggests that viability outcomes would not be sufficient to support CIL charging from this range of 'B' class (offices and industrial) uses and also for C1/C2 classes (care home and hotels) at the present time. In DSP's wide experience of undertaking viability assessments this is not unusual. It does not necessarily mean that development will not be achieved, but that the resulting outcomes for this sector are unlikely to improve sufficiently in the short term to enable a clear evidencing CIL charging schedule.

2.16 This however, does not prevent the Council securing contributions through S106 agreements towards the infrastructure needs created by these developments, subject to regulation 123. The CIL will also be subject to a regular review. Therefore a CIL may be applied to this use in future if it is considered to be viable at that point in time.

Other uses

2.17 Throughout their assessment of the Borough, DSP have identified that other forms of development are insufficiently viable to support a CIL charge at the current time.

3. PRELIMINARY DRAFT CHARGING SCHEDULE

3.1 The table below indicates the proposed preliminary charging schedule for CIL, there will be no differentiation by area, the charges are Boroughwide.

Table (1) London Borough of Bromley Preliminary Draft Charging Schedule

Use*	Charge £ per sqm
Residential C3	£100 per sq m
Retail Warehousing** over 1000m ²	£100 per sq m
Supermarkets/foodstore*** over 280m ² (3,000 sq ft)	£100 per sq m
Other forms of development***	£0 per sq m
These rates apply in addition to the rates set out in the Mayor of London's Community Infrastructure Levy Charging Schedule (currently £35 per sq m for Bromley).	

*Development types based on The Town and Country Planning (Use Classes) Order 1987 as amended

**Retail warehouse are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering mainly for car-borne customers.

***Convenience retailing is the provision of everyday essential items, including food, drinks, newspapers/magazines and confectionery.

****Infrastructure contributions from C2 development will be sought via section 106 (or other) agreement where viable, and not CIL.

4. PAYMENT OF CIL

4.1 The CIL Regulations, state that CIL must be payable in full within 60 days of the development commencing unless the Council introduces an instalment policy. The Mayor of London already has an instalment policy (effective since 1 April 2013) used across London. This policy has been revised as of 1st January 2018 to help tackle housing delivery and assist the small housing developer. The Council recognises that development often relies on finance to fund construction before returns can be achieved. Cash flow is an important factor in development viability. Therefore using the same instalment policy for consistency, when required, can assist the viability of development projects.

- For developments where the contribution to the CIL is between £50 - £100,000, the amount should be paid in full no more than 60 days after development has begun.
- For developments where the contribution is £100,001 or more, developers have the option to make two instalment payments:
The greater of £100,000 or half of the amount owed – to be paid 60 days after development has begun
- The remainder 240 days after development has begun.

4.2 The levy is charged on new development and is not negotiable. Normally, development requires planning permission from the local planning, the Planning Inspectorate, or the Secretary of State on appeal. However, some developments not requiring planning permission (permitted development) will also be liable for CIL if they do not fall into the exemption criteria listed below in paragraph 4.4. It will be the responsibility of the applicant to send the Council a Notice of Chargeable Development prior to commencement of any development. The Council must be informed as to who is liable to pay CIL. Therefore, an Assumption of Liability form should be submitted to the Council. The default liability of CIL falls on the landowner if no notice is received. Upon granting planning permission, the Council will issue a Liability Notice advising of the CIL liability for the development.

4.3 Where a planning permission is phased, each phase of the development is treated as if it were a separate chargeable development for levy purposes.

CIL Exemptions

4.4 The CIL Regulations exempt the following from paying the CIL:

- Development by registered charities for the delivery of their charitable purposes;
- Those parts of a development which are to be used as social housing;
- The conversion of any building previously used as a dwelling house to two or more dwellings;
- Development of less than 100 sqm of new build floorspace, provided that it does not result in the creation of a new dwelling;
- The conversion of, or works to, a building in lawful use that affects only the interior of the building; and
- Development of buildings and structures into which people do not normally go (e.g. pylons, wind turbines, electricity substations).
- Self-build-homes built or commissioned by individuals for their own use. Community group self-build projects also qualify for the exemption where they meet the required criteria.

Discretionary Relief and Exceptional Circumstances Relief

4.5 The CIL Regulations allow for the Council to provide further relief, at their discretion. The Council does not have to offer this relief, but if they choose to do so, they must adopt a discretionary relief policy. This is not part of the charging schedule and may be published at a later date. The Council has not made a formal decision on whether it will offer discretionary relief in accordance with the CIL Regulations. Further information may be published in due course.

5 NEIGHBOURHOOD PLANS

5.1 There are currently no Neighbourhood Plans in place within the Borough. There are also no formally designated Neighbourhood Planning Areas or Neighbourhood Forums.

5.2 If Neighbourhood Plans are developed in the future, then where there is a Neighbourhood Development Plan in place, the neighbourhood will be able to receive 25% of the revenues from CIL arising from the development that they have

chosen to accept within their neighbourhood boundary. The Council must agree with the local community how to spend the money. This could be used for community projects i.e. refurbishing a community hall, or play space.

5.3 Neighbourhoods without a Neighbourhood Development Plan, but where the CIL is charged will receive a capped share of 15% of the levy arising from development in their area. The Council must agree with the local community how to spend the money.

ANNUAL MONITORING

6.1 Once the CIL is adopted the Council will report annually through the Authority Monitoring Report on:

- The amount of CIL collected;
- The amount of CIL that has been spent;
- Information how CIL funds have been spent (i.e. which infrastructure projects, and how much has been used to cover administrative costs);
- The amount of CIL retained at the end of the reporting year.

Review

Annual reporting on the CIL will help the Council to monitor the levels of CIL. The Council will keep the charging schedule under review in response to monitoring.

7. FURTHER INFORMATION AND FAQs

7.1 The following web links may be helpful if you require further information about CIL and the CIL process. In due course the Council is preparing a set of FAQs that will be available on the website www.bromley.gov.uk .

Source	Website Address
National Planning Policy Framework	https://www.gov.uk/guidance/national-planning-policy-framework
National Planning Policy Guidance	https://www.gov.uk/guidance/community-infrastructure-levy
Planning Portal	www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil
Community Infrastructure Levy	

Community Infrastructure Levy

Background Evidence

Emerging Scope of Regulation 123 list and Section 106 priorities for the emerging revised Planning Obligations SPD.

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Appendix 2

Emerging Scope of Regulation 123 list and Section 106 priorities for the emerging revised Planning Obligations SPD.

Planning Obligations will still be sought for site specific infrastructure when CIL is adopted. To ensure clarity and compliance with Regulation 123, the Council will publish a list of infrastructure items which CIL can be used to fund or part-fund. This is known as the Regulation 123 (Reg123) list and a draft version is below. Funding for infrastructure items or types on this Regulation 123 list cannot be sought through Section 106 agreement. The Reg123 list can be updated and republished by the charging authority without revising the CIL rates.

Table 1. Indicative Scope of Regulation 123 list and Section 106 priorities for the emerging revised Planning Obligations SPD

Key Local Plan Objectives relating to CIL and s106	Emerging scope of Regulation 123 List	Priorities for Section 106 and Section 278 (Financial and non-financial)
Manage, protect, enhance natural environments and biodiversity, improve quality of Open Space and provision in areas of deficiency, Leisure, and Heritage Assets	Improved Open Space, Leisure and Heritage provision.	Site specific matters
Health and Well being , ensuring new community facilities are appropriately located, produce healthier environment and infrastructure to support people in living fuller, longer, healthier, and more sustainable lives.	Health facilities, leisure and cultural facilities, except where the need for such infrastructure arises from C2 development.	Site specific matters. Infrastructure relating to the objective of health and well-being where the need arises from C2 development.
Ensuring an appropriate supply of Homes to meet varied needs and incomes		Affordable Housing
Support appropriate provision of facilities for employment, education and training, Business and Employment and Local Economy .	Education and employment facilities	Site mitigation. Training.
Ensuring vitality of Bromley Town Centre and encourage diverse offer of Town Centres Ensure high quality design Public Realm and appropriate well planned private and public space, and that they are safe and accessible.	Public Realm improvements especially in town centres.	Site mitigation matters
Reducing congestion, supporting Transport improvements, ensuring investment in infrastructure to improve connectivity.	Transport and connectivity excluding site specific matters.	Highways, site specific mitigation, Bus route agreements, Travel Plans, Car free agreements, Car Club spaces
Environmental Challenges , reducing environmental impacts, improving resilience of buildings and places, reducing waste and reducing air pollution.		Site mitigation matters Energy efficiency measures (including carbon off-setting)

For reference see the Local Plan, Appendix 10.3, and the Infrastructure Delivery Plan Schedule (web link [Infrastructure Delivery Plan 2016](#))

Community Infrastructure Levy

Background Evidence

Section 106 Monies Raised and Affordable Housing Provision

November 2017
London Borough of Bromley
Planning Strategy and Projects

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Introduction

This document has been prepared in accordance with the DCLG Community Infrastructure Levy (CIL) Guidance June 2014¹. Paragraph 18 on the preparation of evidence to support a levy charge states that “as background evidence, the charging authority should also provide information about the amount of funding collected in recent years through section 106 (s106) agreements. This should include information on the extent to which their affordable housing and other targets have been met.” In line with guidance, this paper sets out the amount of funding collected in recent years, and the Council’s record of achieving affordable housing over the last five years. Further information relating to s106 agreements can be found within Bromley’s Authority Monitoring Reports².

Section 106 Financial Obligations

The tables below provide a record of s106 agreements receipts (excluding any housing monies) over the last three financial years. Further guidance can be found in Bromley’s Planning Obligations Supplementary Planning Document (SPD) (2010).³

Table 1: Value of Planning Obligation Receipts between 01/04/2014-31/03/2015

Plannin g Ref	Site Address	Value of s106 Agreement	Payment Made (£)
06/00749	Ravensbourne College (instalment 5 of 5)	Education contribution £550k	110,000.00
03/02319	Blue Circle	Education contribution £500k	122,000.00
12/01838	47 Homesdale Road	Education contribution £53.59k & Healthcare contribution £16k	69,590.45
12/03634	2 Betts Way	Education contribution £83.826k & Healthcare contribution £24.871k	108,696.77
14/02410	Hayes Court, West Common Road	Education contribution £550k	207,654.88
Total for 2014/15			617,942.10

¹ Community Infrastructure Levy Guidance - <https://www.gov.uk/guidance/community-infrastructure-levy>

² Annual Monitoring Reports -

http://www.bromley.gov.uk/downloads/download/73/annual_monitoring_reports_and_five_year_housing_supply

³ Bromley’s Planning Obligations Supplementary Planning Document -

http://www.bromley.gov.uk/downloads/file/199/adopted_spd_on_planning_obligations

Table 2: Value of Planning Obligations Receipts between 01/04/2015-31/03/2016

Planning Ref	Site Address	Value of s106 Agreement	Payment Made (£)
15/05003	Orpington Police Station	Public Realm contribution £81.513k & £2k for disabled parking	83,512.50
14/02667	Kingswood House	£21k parking restriction contribution	21,000.00
11/02140	Kent County Cricket Ground	£300k contribution towards sports	300,000.00
11/02100	Land at rear of 86-94 High St Beckenham	Education contribution £182.389k	182,389.38
12/03385	Sheila Stead House	Education contribution £168.738k & Health contribution £35.953k	204,690.54
12/02658	Day Centre, Chipperfield Rd	Education contribution £335.511k	335,511.48
12/03606	Sundridge Park Management Centre Ltd (instalment 1 of 2)	Education contribution £50k	25,000.00
13/01670	1 Chilham Way	Education contribution £283.047k & Health contribution £52.315k	335,361.92
13/01872	Oakfield Centre	Education contribution £211.618k & Health contribution £37.742k	249,359.82
12/00304	76 High St Orpington	Health contribution of £44k	44,000.00
12/00102	Graham Chiesman House	Health contribution of £119.04k	119,040.00
07/03632	Land at south side Ringers Road	Health contribution of £42k	42,000.00
14/04452	The Walnuts	Health contribution £24.5k	24,500.00
Total for 2015/16			1,966,365.64

Table 3: Value of Planning Obligations Receipts between 01/04/2016-31/03/2017

Planning Ref	Site Address	Value of s106 Agreement	Payment Made (£)
03/02319	Blue Circle Sports Ground	£80k bus stop contributions & £25k towards Oakley Road junction	105,000.00
13/03889	The Rising Sun	Highways contribution £22.232k, Education contribution £44.36k & Health contribution £16.096k	82,687.50
15/00909	Harris Academy, Beckenham	Towards the cost of resurfacing Manor Way Beckenham £40.0k	40,000.00
12/00976	GlaxoSmithKline	Road Safety improvements £10k	10,000.00
15/00696	Broadway House	£2.5k for a car club parking space	2,500.00
16/01091	45 Ancaster Rd, Beckenham	£0.5765k to be paid for tree removal costs	576.67
12/03606	Sundridge Park Management Centre Ltd (instalment 2 of 2)	Education contribution £50k	25,000.00
14/01873	Isard House, Glebe House Drive	Education contribution £112,881.95 & Health contribution £27.93k	140,811.95
15/01616	Summit House, Glebe Way	Education contribution £154.432k & Health contribution £57.996k	212,427.62
Total for 2016/17			619,003.74
Total for all planning obligations paid between 01/04/2014-31/03/2017:			3,203,311.48
Average amount of contributions paid from section 106 agreements over three years:			1,067,770.49

The total s106 income on an annual basis varies, and the average is £1,067,770 per annum.

Affordable Housing Provision

Information on affordable housing provision has been taken from the Greater London Authority's London Development Database (LDD) which informs the Borough's Authority Monitoring Reports.

Affordable housing provision is often the key to Section 106 in terms of planning obligations, on a site by site basis, and overall value. Table 4 below gives the net affordable housing delivery in the Borough over the last five years.

The Unitary Development Plan sets out the policy requirements for affordable housing. In developments of 10 or more units, developers are required to include a minimum of 35% affordable housing.

Table 4: Net Affordable Housing Delivery in Bromley

Year	Total Net Unit Completion	Net Affordable Housing Completions	Affordable % of Total Units	London Plan Target Total	Total Dwelling Completions as % of Target
2012/2013	527	-68	-12%	500	105%
2013/2014	695	140	20%	500	139%
2014/2015	426	-62	-14%	500	85%
2015/2016	748	10	1%	641	116%
2016/2017	858	45	5%	641	133%
Total	3254	65	2%	2782	116%
Average per Annum	650	13	0%	n/a	n/a
UDP Policy Requirement:			35%		

The affordable housing delivery performance over the last five years of 2% against the total number of completions is significantly below where the Council would expect to be in terms of the policy objectives contained in the Unitary Development Plan Policy H2 - Affordable Housing, from major development schemes of 10 or more units.

Total dwelling completions are above the London Planned annual dwelling delivery targets. Borough performance has increased over the last two years. The current London Plan target is made up of 6,413 conventional supply units.

Table 5 below provides a breakdown of the number of gross affordable homes built by type over the last five years, taking into account the planning policy requirement for affordable housing to comprise by tenure 70% social/affordable rented and 30% shared ownership (Unitary Development Plan Policy H2) and 60% social/affordable rented and 40% shared ownership (London Plan Policy 3.11).

Table 5: Number of Gross Affordable Homes Built, by Type

Year	Number Units Built	Affordable/Social Rented		Intermediate	
		Number	%	Number	%
2012/2013	144	130	90	14	10
2013/2014	140	110	79	30	21
2014/2015	51	28	55	23	45
2015/2016	20	7	35	13	65
2016/2017	91	50	55	41	45
Total	446	325	73	121	27
5 Year Average	89	65	73	24	27
UDP Policy Requirement:			70%		30%
London Plan Policy Requirement:			60%		40%

Table 6 sets out the percentage of affordable housing (AH) completions in private developments over the last five years.

Table 6: Affordable Housing (AH) Completions in Private Developments

Year	Completed Schemes	Net Total Number of Homes	Total AH Units	Total AH Units (10+ Schemes)	% of Affordable Homes
2012/2013	6	369	164	159	44%
2013/2014	6	447	75	59	16%
2014/2015	7	500	133	100	26%
2015/2016	2	1871	186	186	10%
2016/2017	5	867	90	76	10%
Totals	26	4054	648	580	16%
Five Year Average:					21%