

## **Community Infrastructure Levy**

### **Draft Charging Schedule Background information document**

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## Summary

This document sets out Camden's proposals for introducing a Community infrastructure Levy. It includes an explanation of the legislative background for CIL charging but seeks views on:

- A proposed CIL charging schedule, instalments and exceptional circumstances policy.
- A draft list of infrastructure project which could be funded through a CIL in Camden
- A proposed section 106 policy to operate alongside the Camden CIL once it is introduced.

## What is the Community Infrastructure Levy (CIL)?

Community Infrastructure Levy (CIL) is a levy which local authorities can charge to raise funds for infrastructure needs arising from new developments. The Government has indicated that the CIL has been introduced to help fund delivery of infrastructure. The CIL is a response to the need for more forms of development to contribute to the provision of infrastructure. The money raised will be used to fund local infrastructure such as schools, community facilities, highways improvements and many other forms of provision which are currently funded by monies paid by developers under Section 106 (S106) obligations.

## Background

The Government has drafted planning legislation to introduce a CIL. The first part of this is in part II of the Planning Act 2008 which creates the Community Infrastructure Levy (CIL). The Community Infrastructure Levy Regulations 2010 came into force on 6th April 2010. Amendments to the CIL Regulations came into effect in April 2011 and in December 2012 and April 2013 further amendments and guidance were issued..

Before a CIL can be introduced local authorities must set out their proposed CIL charges in a schedule. This must be supported by evidence of infrastructure need including a list of what the CIL might spent upon to justify charging a CIL. Local

authorities must also provide evidence to show that the level of CIL will not deter development nor threaten the delivery the Development Plan for the area. All of this information should be subject to two rounds of public consultation and an Examination in Public.

The Government considers the introduction of CIL will provide developers with greater certainty about the infrastructure contributions they will be expected to make as a part of the development process. The CIL will apply to more developments than is currently required under the S106 obligation system. The CIL will aid more speed and certainty in the delivery of infrastructure to help meet the infrastructure needs of the Borough.

### **How CIL is Calculated and Charged?**

A CIL applies to most planning permissions which add more than 100 sqm of new floorspace or one dwelling or more. The following development types will be liable for CIL:

- Developments comprising 100m<sup>2</sup> or more of new build floorspace
- Development of less than 100m<sup>2</sup> of new build floorspace that results in the creation of one or more dwellings ; and
- The conversion of a building that is no longer in lawful use

Where planning permission is granted for a new development that involves the extension or demolition of a building in lawful use, the level of CIL payable will be calculated based on the net increase in floorspace calculated by measuring the Gross Internal Area. This means that the existing floorspace contained in the building to be extended or demolished will be deducted from the total floorspace of the new development, when calculating the CIL liability.

The levy is to be expressed as £ per m<sup>2</sup>, and is to be charged on the grant of planning permission. Although most of the CIL related activity will take place after planning permission is granted it can be a material planning consideration as the level of CIL may impact on other planning obligations and the design of some

schemes more generally. Following adoption of Camden's Charging Schedule, CIL rates will be fixed and non negotiable.

### **CIL Relief**

The regulations provide 100% relief from the levy on those parts of a chargeable development which are intended to be used for social housing which is defined in the CIL regulations. A charity landowner can also benefit from full relief of CIL if the building will be used wholly, or mainly, for charitable purposes.

For both of these forms of relief a formal application would need to be made to Camden with evidence to demonstrate that relief should be granted. It is open to local authorities to give discretionary relief for charitable purposes for development which are not covered by the definition of charitable activity in the regulations, however Camden does not intend to make this available.

### **Review of CIL Calculation and Appeals**

Developers may also apply for a review of the chargeable amount by Camden if they do not agree with the calculation and can also make an appeal against the amount, refusal to grant relief, or, apportioning the liability to the wrong party or the commencement date. The appeal would be to either the Secretary of State or the District Valuer depending on the grounds of appeal.

### **The Mayor of London's CIL**

The Mayor of London introduced a CIL for contributions towards Crossrail, which came into force on 1 April 2012. In Camden the charge is £50 per m<sup>2</sup> for all development except education and healthcare uses. Affordable housing is exempt from this or any other CIL. This CIL is collected by Camden on behalf of the Mayor. Any Camden CIL (when adopted) will be charged in addition to the Mayor's CIL.

## What is the Process for Adopting a CIL?

Before the CIL can be collected Camden must produce a Charging Schedule which sets out how much the CIL will be expressed as a rate per square metre. Different levels can be charged in different areas or for different uses. In setting CIL rates, Regulation 14 of the Community Infrastructure Levy Regulations 2010 (as amended), state Charging Authorities:

*'must aim to strike what appears to the charging authority to be an appropriate balance between' the desirability of funding infrastructure from CIL and 'the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area'*

The Government guidance (2013) accompanying the regulations specifies that:

*'a key consideration is the balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing the levy upon development across their area'.*

and

*'charging authorities should show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant Plan and support the development of their area'.*

In setting a CIL charging schedule, the Council must have appropriate evidence base which sets out what infrastructure is needed to support development in the area for the next 15-20 years or the period that is identified in the Local Development Framework. It needs to look at what projects need to be funded and from where this funding will be derived. The CIL is not intended to fund projects in their entirety but is meant to address any funding shortfall that is not met from other funding sources, e. g. Government grants or private sector investment

## Preliminary CIL consultation

A preliminary consultation was held in December 2012. This resulted in thirty five responses from mainly property developers and their agents, including Argent, British Land, Land Securities, Grosvenor Estates and the Bedford Estate. Responses were also received from bodies such as Royal Mail, English Heritage, the Metropolitan Police and the Fire Service, as well as specialist housing developers Unite and

Pocket Housing. Community groups who responded included the Charlotte Street Association, Fortune Green and West Hampstead and Kentish Town Neighbourhood Forums.

Concerns were raised about the level of the charges and the impact on affordable housing provision and the development of strategic sites, the lack of transparency in how the rates have been arrived at, the lack of explanation of what the CIL will be spent upon and the relationship with section 106.

These issues have been addressed through further viability testing on a wider range of developments in Camden reviewing more up to date on land sales and prices evidence and providing more information in the viability report . Also draft list of projects to be funded by CIL has now been produced along with revised draft section 106 policy guidance. A table summarising the comments received and the responses can be viewed on the CIL draft charging schedule consultation page on the Camden web site.

### **Evidence of Infrastructure Need in Camden**

Government guidance on CIL charge setting indicates that information on infrastructure needs should, wherever possible, be drawn directly from the infrastructure planning that underpins the Development Plan. An Infrastructure Study was carried out for the Core Strategy of the Camden Local Development Framework in 2010 by URS planning consultants to ensure that there was adequate infrastructure within Camden to support new growth.

An update of this was commissioned in early 2012 to identify what the future infrastructure needs in Camden and projects that CIL funds may contribute towards. Consultation took place with service providers within Camden and also external bodies such as the police and the water authorities. The study looked at a whole range of infrastructure needed under the general headings of social infrastructure (including education, health, sports/leisure, open spaces, libraries, employment training and community facilities), utilities (water energy, telecommunications, sewerage, flood risk, policing, ambulance and fire services) and transport (roads, public realm, walking/cycling provision and public transport).

The infrastructure study by URS gives a broad overview of Camden's infrastructure needs. What is produced in the study is not a definitive list of schemes to be funded through CIL and serves as a justification for introducing a charge at the levels proposed. The study has considered other funding sources e.g. Government grants, a funding gap of at least £280 million has been identified until 2026. This includes £55-60M for schools, £22M for community facilities, £60M for health, and £140M for transport.

### **CIL funding list**

Whilst the infrastructure study gives an overall picture of infrastructure needs in Camden current Government guidance indicates that charging authorities should set out the types of infrastructure or projects which would be funded through a CIL. Therefore a draft infrastructure list is part this consultation. An initial list has been developed by Camden selecting infrastructure projects from major Camden investment programmes in areas such as transport, education, community facilities provision, open spaces and sports / leisure.

As part of this consultation, suggestions are being sought for other infrastructure projects which will help meet the needs generated by new development. The views expressed will be used to develop Camden's CIL funding priorities. A more detailed funding list with indicative costs will then be developed and presented to the Examination in Public. Once a CIL is adopted Camden will be required to publish the funding list on its web site.

### **Neighbourhood Planning**

In April 2013, the Government introduced a requirement into the CIL Regulations 2010 (as amended) that CIL Charging Authorities should pass a certain proportion of the CIL collected in an area to Parish Councils' which cover that area where they exist. If a Neighborhood Plan had been adopted for that area then 25% of the funds should be passed to the parish Council and where there is not a plan in place then 15% of the CIL raised in the area can be spent. There are no parish Council's in Camden but the regulations indicate that Camden: 'may use the CIL (15 or 25% of



what is collected in an area) to support the development of the relevant area by funding

- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
- (b) anything else that is concerned with addressing the demands that development places on an area. “

As part of this consultation we are asking for your views on what types of projects should be funded through the CIL. This information will be used alongside the information which Camden already holds to develop a list of infrastructure schemes to be funded through CIL .

### **CIL Viability in Camden**

Camden Council appointed GVA Consultants to undertake a viability analysis to justify what level of CIL can be charged in Camden. Twenty common development scenarios that are expected to come forward in Camden were analysed. These include nine housing schemes ranging from one house to one hundred and fifty flats, eight mixed use schemes of varying scales, including housing, offices but also some retail, student housing and hotels. A further viability test now includes a 300 unit schemes and additional student housing scenarios.

These scenarios have been examined across five different value areas: Central; Zone 1(Kings Cross / Somerstown / Euston); Zone 2 (Camden / Kentish Town); Zone 3 (Highgate / Hampstead); and Zone 4 (West Hampstead). This is because the value of both the existing and the proposed uses on a site are important factors in determining what level of CIL could be charged.

A residual valuation approach has been taken on each development scenario in areas where development is expected to come forward. This takes into account 20 % developers profit, the Mayor's CIL, likely section 106 contributions and affordable housing (25% and 50% scenarios have been assumed). These assessments have used Valuation Office data and benchmarking data from real estate transactions in Camden for each development scenario.

The viability assessment has ensured that CIL in Camden is no more than a small proportion of the development value. The main purpose for doing this is to provide

evidence that the proposed level of CIL will not deter development from coming forward in most parts of Camden nor prevent the delivery of the policies in the Local Development Framework. More details of the assessment, the result and conclusions can be found in the GVA viability report.

The analysis identifies the increase in value generated by a development upon which a CIL could be charged. The CIL rates have then been derived by looking at the amount of floorspace of different types which comes forward in different developments across Camden and then calculating a potential CIL at a rate per square metre. These different rates are expressed in the charging schedule.

In some of the scenarios tested the proposed developments are unviable but the CIL is not a significant factor in determining whether these developments are viable or not. Indeed the viability testing contains a sensitivity analysis which shows that in many instances varying the rate of CIL has little impact on scheme viability.

The viability analysis has assumed that levels of affordable housing have been provided in the development scenarios to meet the targets set out in Camden current affordable housing policy and the rates have been set accordingly. Where lower levels of affordable housing are accepted in line with the policy criteria then there should still be additional scope for developments to be able to pay the proposed levels of CIL. In overall terms it is not anticipated that the proposed levels of CIL in themselves will have a material impact on the delivery of affordable housing.

### **CIL Charging Schedule**

The Council has considered the findings of the viability assessment and the need to address the estimated infrastructure funding gap in making a balanced judgement on appropriate CIL rates. The approach in line with Government Guidance has been to keep the rates relatively simple whilst securing an appropriate contribution of funding for local infrastructure made necessary by planned new development.

The proposed approach is a CIL focused on housing schemes. A higher rate of CIL is to be charged should be charged for schemes under 10 units or 1000sqm which do not contribute towards affordable housing. The viability testing demonstrates that these schemes could afford to pay £500 per sqm in locations across Camden and not be deterred from coming forward.

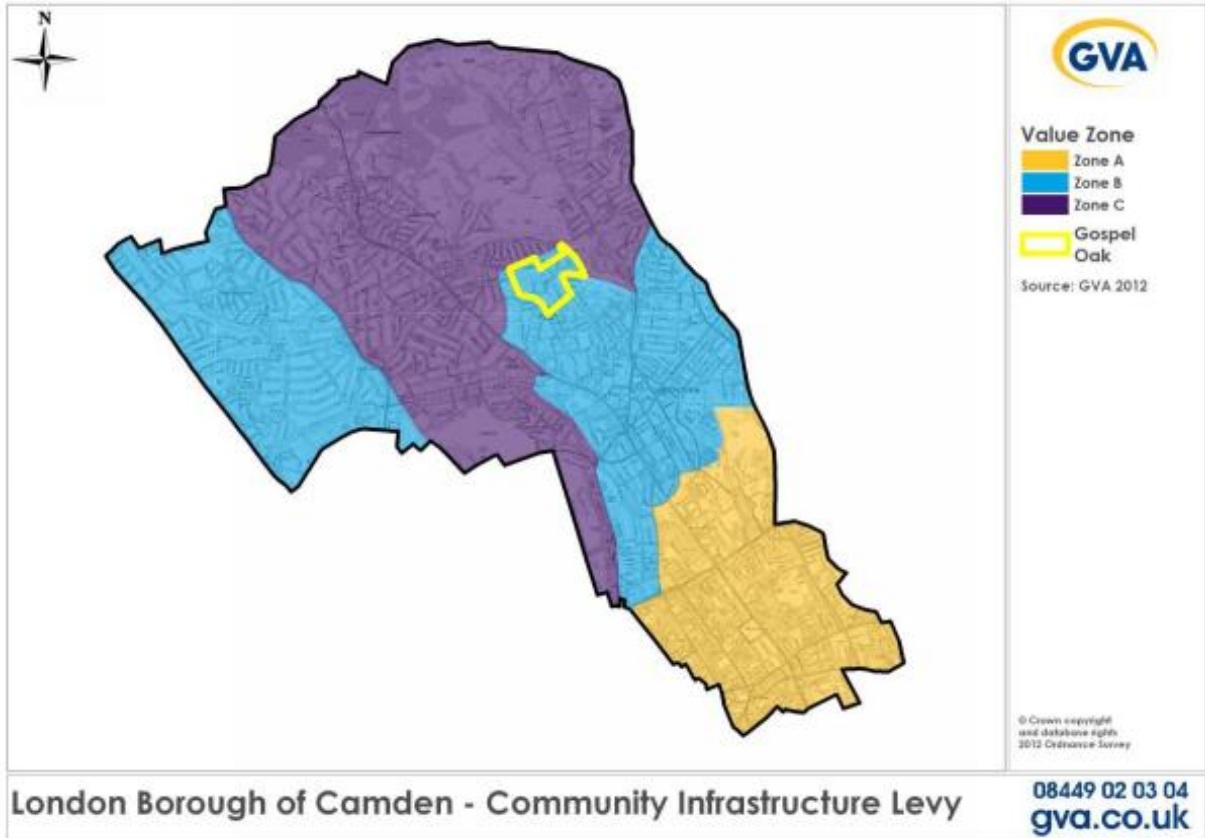
For larger housing schemes which provide or contribute towards affordable housing the charging approach is based on geographical variations in predicted CIL values. The viability testing has revealed that different levels of CIL could be charged in three distinct zones: Central London, Highgate/Hampstead, and rest of Camden.

A lower level of charge is proposed for commercial uses as these uses cannot afford same levels of CIL for the reason explained in viability report. A zero rate is recommended for community health and education uses which are less viable than other uses and provide forms of infrastructure in their own right. Similarly a zero rate is recommended for industrial/ employment uses. When compared to residential and office and retail these uses are not likely to come forward in significant volumes and therefore do not have the potential to raise much CIL.

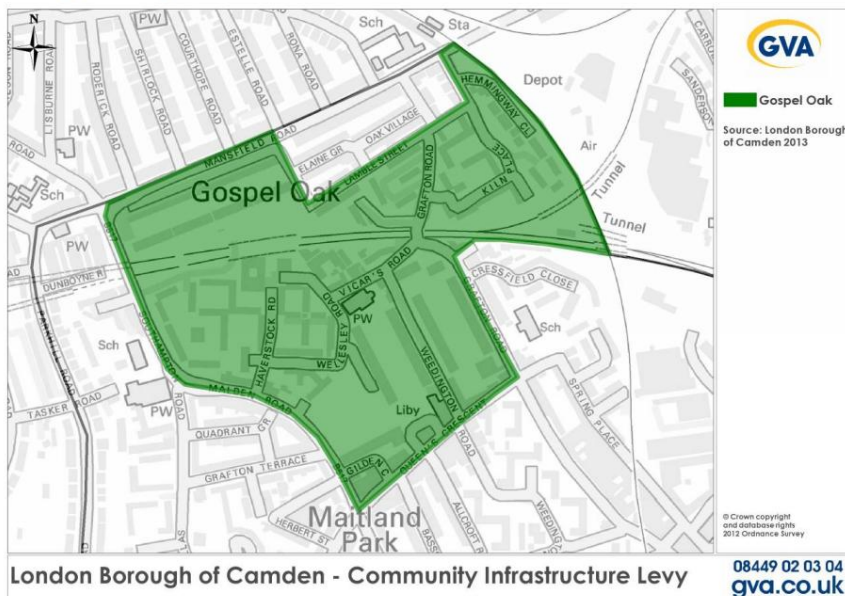
It is also proposed to introduce a zero charging area for as part of the Gospel Oak area. This area is dominated by local authority estates and has lower land values than other areas. Also the development schemes which are likely to come forward are for estate regeneration schemes which would have higher associated costs than other forms of development and would be deterred from coming forward if they are charged a CIL. More information on this is contained in the viability report.

### Camden's Draft Charging Schedule and Map

Camden's Draft Charging Schedule has been agreed by the Camden Cabinet for the public consultation.



### Gospel Oak Inset Map



<b>Suggested CIL Tariff (Pounds per square metre GIA)</b>	<b>Type of Development</b>
<b>Band 1</b>	
<b>£500</b>	<ul style="list-style-type: none"> <li>Residential below 10 dwellings</li> <li>Residential above 10 dwellings (Zone C)</li> <li>Residential Care Homes (Zone C)</li> </ul>
<b>Band 2</b>	
<b>£400</b>	<ul style="list-style-type: none"> <li>Student Accommodation (Zone B &amp; C)</li> </ul>
<b>Band 3</b>	
<b>£250</b>	<ul style="list-style-type: none"> <li>Residential above 10 dwellings (Zone B)</li> <li>Residential Care Homes (Zone B)</li> </ul>
<b>Band 4</b>	
<b>£175</b>	<ul style="list-style-type: none"> <li>Student Housing (Zone A)</li> </ul>
<b>Band 5</b>	
<b>£150</b>	<ul style="list-style-type: none"> <li>Residential (Zone A)</li> <li>Residential (Zone A)</li> </ul>
<b>Band 6</b>	
<b>£45</b>	<ul style="list-style-type: none"> <li>Office (Zone A)</li> </ul>
<b>Band 7</b>	
<b>£40</b>	<ul style="list-style-type: none"> <li>Hotels incl holiday hostels (Zone A)</li> </ul>
<b>Band 8</b>	
<b>£30</b>	<ul style="list-style-type: none"> <li>Hotels incl holiday hostels (Zone B&amp; C)</li> </ul>
<b>Band 9</b>	
<b>£25</b>	<ul style="list-style-type: none"> <li>Retails, Restaurants, Bars, Cafés, Use Class D2 and Commercial Leisure uses such as nightclubs</li> <li>Offices (Zone B&amp;C)</li> <li>All other uses not separately identified within the Schedule</li> </ul>
<b>Band 10</b>	
<b>Nil</b>	<ul style="list-style-type: none"> <li>General Public Service Buildings such as libraries, advice centres, education &amp; training facilities provided by/funded by the public sector</li> <li>All other uses within Gospel Oak area</li> </ul>

### Consideration of Strategic Sites

During the preliminary consultation on the Camden CIL schedule, concerns were raised on the impact a CIL would have on the development of major strategic sites. The need to consider this has also been raised in guidance issued by the Government since the Preliminary consultation.

These concerns have been partly addressed through further viability testing of 300 residential unit development scenarios. When this is combined with the other viability testing scenarios, it is considered to constitute in a fair assessment of the vast

majority of the development which is predicted to come forward in Camden in the foreseeable future. Developments of this scale would also be able to make use of Camden's proposed instalments policy for paying the CIL which would assist with development viability. The viability testing has assumed that CIL would be paid in one instalment.

In the case of large scale developments that deliver major strategic infrastructure; Camden will consider granting relief from paying the CIL or accepting land infrastructure in lieu of CIL. This is explained in the section below and will assist in the delivery of these major projects.

The assessment of the impact of charging a CIL in the Euston area is difficult because of the Government's proposal to construct a new High Speed Railway (HS2) and expand Euston station. The scheme has yet to receive Parliamentary approval and the scheme design has not yet been finalised. Once the precise nature of the scheme and the implications for development values and infrastructure funding become clear Camden will need to review its approach to CIL charging in this area.

To respond to these issues and similar ones potentially raised by other strategic sites Therefore it is proposed to revise the Camden CIL charging schedule after 3 years. This would allow the Council to consider an approach towards other strategic sites in growth area in the light of changing economic circumstances.

### **Instalments Policy**

The Community Infrastructure Levy Regulations 2010 allow CIL charging authorities to put in place policies allowing payment of CIL in several instalments. The Mayor of London is currently deciding what its CIL instalment policy will be. Once Camden introduces its own CIL it will decide whether to continue with the Mayor's policy or adopt our own Camden CIL instalment policy. The proposed instalments policy is set out in the table below:

<b>CIL Liable Amount</b>	<b>Number of Instalments</b>	<b>Payment Periods and Amounts</b>
Any amount less than £500,000	No instalments	- 100% payable within 60 days of the commencement of development.

Amounts equal to more than £500,000 but less than £1,000,000	Two instalments	<ul style="list-style-type: none"> <li>- £ 500,000 payable within 60 days of commencement of development.</li> <li>- Balance payable within 120 days of commencement of development.</li> </ul>
Amounts equal to or more than £1,000,000 but less than £2,000,000	Three instalments	<ul style="list-style-type: none"> <li>£ 500,000 payable within 60 days of commencement of development.</li> <li>-Balance payable in a further two instalments within 120 days and 180 days of commencement of development.</li> </ul>
Amounts equal to or more than £2,000,000 but under £4,000,000	Four instalments	<ul style="list-style-type: none"> <li>- £ 500,000 payable within 60 days of commencement of development.</li> <li>- Balance payable in a further three instalments within 180, 360 and 540 days of commencement of development.</li> </ul>
Amounts equal to or more than £4,000,000	Four instalments	<ul style="list-style-type: none"> <li>- £ 500,000 payable within 60 days of commencement of development</li> <li>- Balance payable in a further three instalments of equal amount within 360, 540 and 1020 days of development.</li> </ul>

### **Exceptional Circumstances Procedure and Payments in Lieu of CIL**

The CIL regulations 2010 (as amended) allows charging authorities to grant relief from paying CIL where there is a planning obligation attached to a planning permission of an equivalent or greater value. Camden would only intend to use this power to secure the most effective provision of major strategic infrastructure. However, as currently drafted in the CIL regulations this is subject to European Commission State Aid Control which would effectively rule out its use for this purpose as they impose restrictions on the amount of CIL relief which could be granted.

The Government recently carried out a consultation for a system of 'in kind payments for land or infrastructure in lieu' of paying a CIL. Camden may consider the use or an in kind payment system in the delivery of major infrastructure but is awaiting clarity from the Government as to how such a system may operate.

### **Relationship between S106 and CIL**

CIL differs fundamentally from Section 106 (S106) in that the funds collected are not tied to a specific development or for the provision of specific infrastructure. The CIL regulations will scale back the scope of section 106 legal agreements, although developers are still required to provide 'on-site' infrastructure needs through Section 106 obligations to mitigate the direct impact of development such as affordable housing, highways works and other non-financial requirements. Unlike funding from Section 106 agreements, CIL funds can be spent on a wide range of infrastructure across the Borough to support development without the need for a direct geographical or functional relationship within the vicinity of the development.

After the Council adopts a CIL or after 6<sup>th</sup> April 2014 (whichever is earlier), the council is restricted to pool together a maximum of five contributions from five separate Planning Obligations. This restriction does not apply for infrastructure provision which cannot be funded by CIL, including affordable housing and non-infrastructure items such as training which are not subject to these pooling restrictions.

Recent Government guidance in December 2012 and April 2013 indicates that local authorities are required to set out how Section 106 policy will operate alongside CIL in the future. Camden's revised draft section 106 planning guidance is attached to this consultation. The main thrust of the amendments could be summarised as follows:

- Non financial obligations will continue to be required by section 106 and site specific financial contributions will be sought where required to mitigate the impact of the development;
- Infrastructure which does not address the direct impacts of development such as school places or open spaces will transfer over to a CIL;



- Once a Camden CIL has been introduced S106 will not be able to be negotiated for projects or infrastructure identified in the CIL funding list;
- Up to five contributions towards a type of infrastructure or a project can still be pooled provided that it is clear that they will not be funded through CIL;
- Employment and training initiatives can remain under section 106 provided that they are not used to fund the buildings in which these activities take place.

### **Equalities Impact Assessment**

In setting its proposed rates we have undertaken viability research to ensure that the CIL is not set at a rate which will deter the different types of development which occur in Camden from coming forward. Therefore it is not considered that this level of CIL will have a disproportionate impact on any particular group in Camden.

However a meaningful Equalities Impact assessment (EIA) can only be carried once the spending priorities for a Camden CIL have been determined. The EIA will seek to ensure the costs of paying a CIL can be balanced against the benefit of any new infrastructure funded through a CIL. This consultation seeks views on what the infrastructure funding priorities in Camden should be. Following the consultation, an EIA will be prepared to reflect the overall impact of charging a CIL before a CIL is introduced.

### **How to Comment on Camden's Draft Charging Schedule?**

This consultation seeks your views of Camden proposed charging schedule. If you would like to make comments on the schedule please fill in the online questionnaire found on [we are Camden](#) or send any comments to [CIL@camden.gov.uk](mailto:CIL@camden.gov.uk).