

COMMUNITY INFRASTRUCTURE LEVY

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PRELIMINARY DRAFT CHARGING SCHEDULE



October 2016

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Published October 2016

Brentwood Borough Council

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Please contact us to obtain a copy of this information in an alternative format.

How to Comment

We would like to know what the community and key stakeholders think about the Preliminary Draft Charging Schedule.

Please provide your comments on the consultation questions set out in Chapter 3.

The Preliminary Draft Charging Schedule is available for public comment for a six week consultation period, between Thursday 27 October and Thursday 08 December 2016.

You can find out more about the Preliminary Draft Charging Schedule and respond directly on the Council's website:

www.brentwood.gov.uk/CIL

Responding online is the quickest and easiest way to comment. Alternatively, you can also respond by email or letter.

- Email us at:
planning.policy@brentwood.gov.uk
- Write to us at: Planning Policy Team,
Brentwood Borough Council, Town
Hall, Brentwood, Essex, CM15 8AY

Hard copies of the Preliminary Draft Charging Schedule are available to view during normal opening hours at the Town Hall or local libraries (Brentwood, Shenfield and Ingatestone).

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STATEMENT OF STATUTORY COMPLIANCE

This Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule has been approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012, 2013 and 2014) and Part 11 of the Planning Act 2008 (as amended by Part 6 of the Localism Act 2011).

In setting the levy rates, Brentwood Borough Council considers it has struck an appropriate balance between:

- a. The desirability of funding from CIL in whole or in part the actual and estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and
- b. The potential effects, taken as a whole, of the imposition of CIL on the economic viability of development across the Brentwood Borough.

This Preliminary Draft Charging Schedule was approved for consultation on 19 October 2016

1. INTRODUCTION

Charging Schedule Process

- 1.1 This consultation document sets out the Preliminary Draft Charging Schedule (PDCS) for the Brentwood Community Infrastructure Levy (CIL). This document contains the Preliminary Draft Charging Schedule itself (Appendix A) along with the Charging Zone Map (Appendix B).
- 1.2 In 2014, Brentwood Borough Council approved a set of draft charging rates as the basis for production of the Council's Preliminary Draft Charging Schedule. However, this was subsequently not published for public consultation. The evidence base behind the original work has since been reviewed and updated and now forms part of this current consultation stage.
- 1.3 The process and timeline for the preparation and adoption of the charging schedule is as follows:
 - Evidence base to inform draft CIL rates updated (completed May 2016);
 - Preliminary Draft Charging Schedule published for consultation (October 2016);
 - Consultation undertaken and comments received are reviewed (October to December 2016);
 - Council prepares and publishes a Draft Charging Schedule (DCS) for consultation (January 2017);
 - Representations are received and reviewed on the Draft Charging Schedule (February to March 2017);
 - Council submits the Draft Charging Schedule for independent examination;
 - Charging schedule is examined in public;
 - Examiner's recommendations are published and the Council considers the content; and
 - Council decides whether to approve and adopt the charging schedule.

- 1.4 It is estimated that the charging schedule will be approved in Autumn 2017, and so become effective from that time.

National Context

- 1.5 CIL is a tariff system that local authorities can choose to charge on new development in their area by setting a Charging Schedule. The CIL is a charge levied on new buildings and extensions to buildings according to their floor area. In this way money is raised from developments to help the Council pay for infrastructure such as schools, public transport improvements, greenspace, highways, and other facilities to ensure sustainable growth. It can only be spent on infrastructure needs as a result of new growth and will be a mandatory charge.

- 1.6 CIL will replace the current Section 106 'tariff' approaches which are currently used for this purpose because the Council can no longer use Section 106 in the same way from April 2015 due to a change in government regulations. However, Section 106 will continue to be used for affordable housing and anything required for the specific development site to make it acceptable in planning terms, further details are outlined in this document. The CIL regulations are clear that CIL should not be set at such a level that it risks the delivery of the development plan, and has to be based on viability evidence.

2. GENERAL PRINCIPLES OF CIL

What is CIL?

- 2.1 CIL is a locally set charge on new development that authorities can choose to introduce across their area. It is based on the size and type of development and once set in an area is mandatory to pay and non-negotiable. The funds raised must be used to provide infrastructure which is required to support new development across the area.

What are the benefits of CIL?

- 2.2 CIL provides a simpler and more transparent process than the collection of funds and provision of infrastructure under Section 106 procedures. The Government suggests there are a range of benefits when local authorities introduce the levy. These include:

- CIL collects contributions from a wider range of developments, providing additional funding to allow local authorities to carry out a range of infrastructure projects that not only support growth but benefit the local community;
- CIL gives authorities greater flexibility to set their own priorities on projects benefitting the wider community affected by development, unlike Section 106 funds which require a direct link between a contributing development and an infrastructure project;
- CIL provides developers with clarity about the level of contributions which are required from any development and provides transparency for local people;
- CIL is non-negotiable and therefore should save time by removing the need for negotiations between the local authority and developers as occurs with Section 106;

- CIL is fair as it relates the contribution to the size of the development in terms of new floorspace;
- Parishes where development takes place will receive their own meaningful portion of the CIL to spend on the infrastructure they want. In areas where there is no Neighbourhood Plan this will be 15%, capped at £100 per existing dwelling. Where a Neighbourhood Plan is in place the portion is an uncapped 25% as a government incentive to accept development through a Neighbourhood Plan. Unlike the Councils CIL receipts, the Parish Council's meaningful proportion is not tied to Regulation 123 and does not have to be spent in consultation with Brentwood Borough Council. However Parish Councils do have to spend the meaningful proportion in line with the following CIL regulations:

- a) "The provision, improvement, replacement, operation or maintenance of infrastructure; or;
- b) Anything else concerned with addressing the demands that development places on an area" (Regulation 59C)

What development will be liable for CIL?

- 2.3 Most buildings that people normally use are potentially liable to pay the levy,

whether the proposal is for a new building or an extension which results in 100 square metres or more of net increase in gross internal floor space. Development which is less than 100 square metres but which involves the creation of an additional dwelling will be liable. The conversion of a building that has not been in use for some time will also be liable for the levy.

Are there any exemptions from CIL?

- 2.4 The CIL Regulations outline that some development will not be subject to a charge:

- Development by registered charities for the delivery of charitable purposes;
- Those parts of a development which are to be used as affordable housing;
- The conversion of any building previously used as a dwelling to two or more dwellings providing there is no increase in floor area;
- Buildings into which people do not normally go, buildings which people only enter intermittently for the purposes of inspection or maintenance, and structures which are not buildings, such as pylons; and
- Changes of use which do not involve an increase in floorspace.

Discretionary relief from CIL

2.5 The CIL Regulations state that discretionary relief can be made available for charitable investment if the charging authority chooses to make it available in its area and publishes a local policy. To be considered for relief, the whole or greater part of the chargeable development must be held as an investment from which the profits will be applied for charitable purposes.

2.6 The CIL Regulations also state that discretionary relief can be made available for 'exceptional circumstances'. However, relief can only be given where the following eligibility criteria set out in the Regulations are fulfilled:

- The claimant owns a material interest in the land;
- A Section 106 planning obligation has been entered into in respect of the planning permission which permits the chargeable development; and

The charging authority considers that:

- The cost of complying with the Section 106 agreement is greater than the charge from the levy payable on the chargeable development;
- Requiring payment of the charge would have an unacceptable impact on the economic viability of the chargeable development; and

- Granting relief would not constitute a notifiable State Aid.

2.7 Brentwood Borough Council has sought to use the evidence it has commissioned on the viability of development proposed in the Draft Local Plan in order to set CIL rates which will be affordable for the development needed to deliver the Plan. Accordingly, the Council does not propose to make discretionary relief available for exceptional circumstances.

What is the relationship between CIL and other planning obligations?

2.8 The use of Section 106 planning obligations has been scaled back by the Government to ensure there is no overlap between obligations and CIL.

2.9 The CIL Regulations introduced three main restrictions to planning obligations:

- Regulation 122 – a planning obligation must comply with the three statutory tests, requiring the obligation to:
 - (i) be necessary to make the development acceptable in planning terms;
 - (ii) be directly related to the development; and
 - (iii) be fairly and reasonably related in scale and kind to the development.

- Regulation 123(2) – a planning obligation must not provide for the funding or provision of ‘relevant infrastructure’ which is any type of infrastructure or any project of infrastructure which appears in the authority’s Regulation 123 list of infrastructure. Any infrastructure entry on the list may be funded in part or exclusively from CIL receipts but there is no obligation on the authority.
- Regulation 123(3) – a planning obligation must not infringe the pooling restriction in Regulation 123(3). This restriction now applies in all areas regardless as to whether CIL has been introduced. A planning obligation cannot be imposed if there has since 6 April 2010 been five or more planning obligations entered into with the authority providing for the provision or funding of the same infrastructure project or type of infrastructure.

needs may be provided with levy funds but some may be very local or specific, perhaps arising only from one or a small group of major developments in an area, such as the proposed Dunton Hills Garden Village in the Draft Local Plan. For this reason, while planning obligations have been scaled back, they have not been abolished.

2.10 Pooling of obligations from more than five schemes has been restricted since April 2015. This is because CIL is intended to take over the collection and pooling of funds to deal with the cumulative demands on infrastructure caused by development across the Borough.

2.11 However, there may be some site-specific infrastructure requirements without which planning permission should not be granted. Some of these

2.12 As noted above, to safeguard developers, authorities cannot charge for the same items through both planning obligations and CIL. Under CIL Regulation 123, they should show which items or types will not be subject to planning obligations by publishing a list of infrastructure projects or types they intend will be or may be funded by CIL. The ‘Regulation 123 list’ is presented as supporting evidence when the CIL charging schedule is examined, but it is not part of the charging schedule as it can be reviewed and changed independently of it.

2.13 The Council is in the process of preparing its Regulation 123 list. This will be made available for consultation alongside the emerging Infrastructure Delivery Plan (IDP) at the next stage of the CIL process; publication of the Draft Charging Schedule for consultation.

Who is liable for the payment of CIL?

2.14 The regulations state the registered owner of the land is liable to pay CIL, unless another party claims liability and declares this to the Council. On adoption of CIL the Council intends to incorporate a section for this into the application. For example a developer may have a contract with the land owner to develop a site and therefore declare they are liable for the CIL payment on the owner's behalf. The regulations and governments intention is that those who benefit financially when planning permission is granted should share some of that gain with the community. That benefit is also transferred when the land is sold with planning permission, which also runs with the land. The CIL can also be paid to the Council 'in kind' through the transfer of land or the provision of infrastructure, however this will be at the Councils discretion and will be tested on a case by case basis.

When is CIL payable?

2.15 Liability to pay CIL is triggered by commencement of the development. By default it must be paid within 60 days, but for schemes with phased outline permission payment will be triggered separately for each phase. In addition, authorities can set their own policies allowing all large liabilities to be paid by instalments. To implement this, the

Council would be required to publish an instalment policy on its website. Such a policy would not be part of the charging schedule and could be changed independently of it. By law, an instalment policy would apply to all developments and could contain only the following:

- The number of instalment payments;
- The amount or proportion of CIL payable in any instalment;
- The time from commencement by which the first and subsequent instalment must be paid; and
- Any minimum amount of CIL below which CIL may not be paid by instalment.

2.16 The Council is considering introducing an instalment policy and is seeking views on the above points (see Chapter 3 and consultation questions).

Relationship with the Infrastructure Delivery Plan

2.17 The Infrastructure Delivery Plan (IDP) accompanies the Council's emerging Local Plan. It considers a range of infrastructure groups and establishes an existing infrastructure baseline, it appraises what infrastructure is required to support new development and the extent to which each is a constraint to the delivery of the Local Plan.

2.18 Where possible it identifies the cost and delivery route for new infrastructure and whether the infrastructure is critical to the delivery of the Spatial Strategy and Strategic Objectives.

2.19 An update note on progress made on the IDP has been published along with this consultation document. Following the completion of new evidence on highways infrastructure and leisure facilities, the first Full Draft of the IDP will be available for consideration alongside the publication of the next stage of the CIL process (Draft Charging Schedule) in January 2017. For more information please see www.brentwood.gov.uk/CIL.

Evidence Base

Initial Analysis 2013

2.20 In 2013 Nationwide CIL Services (NCS) were commissioned to run the production of CIL in conjunction with the Council's Planning Policy Team.

2.21 The majority of the work involved preparing the evidence base was completed in late 2013. Work on CIL was temporarily stopped in September 2014. This was due to the work on the Local Plan being revaluated in terms of requirements to meet full Objectively Assessed Needs. Work could not progress on CIL until the strategy and preferred sites were established.

2.22 The evidence documents that were produced in 2013 were published on the

Council's website. Evidence included a viability assessment, land and property value appraisal, and viability construction cost study. These documents are available to view online using the Council's Document Library.

Key Headlines 2013

2.23 Key headlines from CIL evidence produced in 2013 are summarised below:

- For residential development studies concluded that variations in the values of residential development were not significant enough to warrant differential assumptions being applied to different geographical locations in the study area and that a single value zone approach was appropriate;
- A rate of £130 per square metre for residential development was recommended;
- For non-residential development a single zone approach was also recommended;
- Commercial developments (excluding retail) were not considered to be viable in Brentwood for the application of CIL charging;
- Food Supermarket and general retail were assessed to be viable and capable of accommodating CIL in both greenfield and brownfield development scenarios. A rate of £80 per square metre for retail A1-A5 uses was recommended; and

- For all other non-residential uses a rate of £0 per square metre was recommended.

New Analysis 2016

2.24 Due to the period of time that had passed since evidence was produced in 2013, it was deemed appropriate to renew studies and provide an up-to-date and robust basis for the Preliminary Draft Charging Schedule.

2.25 NCS have produced new evidence to assess viability and delivery. The assessment appraises the viability of the Brentwood Draft Local Plan in terms of policies on the economic viability of development expected to be delivered during the Plan period (2013-2033). The study considers policies that might affect the cost and value of development in addition to the potential to accommodate CIL charges. The study also includes an assessment of the ability of different categories of development within the Local Plan area to make infrastructure contributions via CIL.

2.26 The documents that have been produced by NCS and partners in 2016 are listed below. These can be viewed on the Council's website at www.brentwood.gov.uk/CIL as well as the Document Library. Links are also provided below as part of this consultation document:

- Whole Plan and CIL Viability Assessment, Nationwide CIL Services (May 2016)
- CIL Land and Property Value Appraisal Study, heb Chartered Surveyors (April 2016)
- CIL Viability Construction Cost Study for Brentwood Borough, Nationwide CIL Services and Gleeds (March 2016)

Key headlines 2016

2.27 Key headlines from CIL evidence produced in 2016 are summarised below:

- As was concluded in the 2013 evidence, a single value zone for residential development was considered appropriate;
- The recommended rate for residential development has increased to £200 per square metre;
- For non-residential development a single charging zone was recommended;
- A zero rate for all non-residential development excluding retail was recommended; and
- Two further rates were recommended for General Retail A1-A5 (excluding food supermarkets) at £125 per square metre and for food supermarkets a rate of £200 per square metre.

3. PRELIMINARY DRAFT CHARGING SCHEDULE

Your Views

- 3.1 Brentwood Borough Council's Preliminary Draft Charging Schedule is set out in Appendix A. The proposed Charging Zone Map is set out in Appendix B.
- 3.2 The Preliminary Draft Charging Schedule is available for public comment from Wednesday 27 October to Wednesday 08 December 2016.

Consultation Questions

- 3.3 The Council would like your views on the Preliminary Draft Charging Schedule and in particular responses to the questions set out on the next page.

How to Respond

- 3.4 You can find out more about the Preliminary Draft Charging Schedule and respond directly on the Council's website at www.brentwood.gov.uk/CIL.
- 3.5 Responding online is the quickest and easiest way to comment. Alternatively, you can also respond by email or letter:
- Email us at: planning.policy@brentwood.gov.uk
 - Write to us at: Planning Policy Team, Brentwood Borough Council, Town Hall, Brentwood, Essex, CM15 8AY
- 3.6 Hard copies of the Preliminary Draft Charging Schedule are available to view during normal opening hours at the Town Hall or local libraries (Brentwood, Shenfield and Ingatestone).

- 1 Are the proposed rates suitably informed by the viability evidence provided in the *Local Plan* and the *Whole Plan & CIL Viability Assessment*?
- 2 Do you think the evidence on viability is correct? If not, please provide alternative evidence to support your view.
- 3 Do the proposed rates strike an appropriate balance between funding infrastructure and any potential effects on the viability of development?
- 4 Do you think it is correct for there to be a zero rate for all non-residential development excluding retail?
- 5 On major strategic housing sites, further detailed work is ongoing to further evaluate the actual costs of delivering infrastructure and identifying a clear delivery strategy and where appropriate masterplanning. What approach should be taken to major strategic housing led sites when considering the delivery of infrastructure, CIL payments and Section 106 agreements?
- 6 Do you think the Council should introduce an instalments policy to stagger payments?
- 7 Do you think the Council should include discretionary relief from CIL for charitable investment or 'exceptional circumstances'?
- 8 What infrastructure do you think the Regulation 123 List should include (i.e. where should the Council direct the money raised by the Levy)?
- 9 How frequently, and/or what triggers do you think the Council should consider to launch a review of CIL and/or the Regulation 123 list?
- 10 Do you have any other comments on the Preliminary Draft Charging Schedule?
- 11 Do you have any other comments on the evidence base?

CONSULTATION QUESTIONS

Next Steps

3.7 Following this consultation, we will review the comments received together with any other evidence that emerges and use the findings to inform the next stage: the Draft Charging Schedule.

3.8 Once the Council considers that the Draft Charging Schedule is ready for an Examination-in-Public, we will publish the document for consultation. During this period, representations can be made and any person making a representation has the right to be heard at the CIL Examination-in-Public.



APPENDIX A



BRENTWOOD BOROUGH COUNCIL
COMMUNITY INFRASTRUCTURE LEVY (CIL)
CHARGING SCHEDULE
PRELIMINARY DRAFT FOR CONSULTATION

The Charging Authority

The Charging authority is Brentwood Borough Council.

Date of Approval

This CIL Preliminary Draft Charging Schedule was approved by the Council for consultation on 19 October 2016.

Statutory Compliance

The CIL Preliminary Draft Charging Schedule has been issued, approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012, 2013 and 2014) and Part 11 of the Planning Act 2008 (as amended by Part 6 of the Localism Act 2011).

Calculation of the CIL Charge

CIL will be applied on the chargeable floor space of all new development apart from that exempt under the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012, 2013 and 2014) and specifically Part 2 and Part 6.

APPENDICES

These exemptions from the CIL rates are:

- a. Where the gross internal area of a new buildings or extensions to buildings will be less than 100 square metres (other than where the development will comprise one of more dwellings);
- b. A building into which people do not normally go;
- c. A building into which people go only intermittently for the purpose of maintaining or inspecting fixed plant or machinery;
- d. A building for which planning permission was granted for a limited period;
- e. Development by charities of their own land to be used wholly or mainly for their charitable purposes;
- f. Social housing;
- g. Vacant buildings brought back into the same use;
- h. Floorspace resulting from change of use development where part of the building has been in continuous lawful use for at least six months in the three years prior to the development being permitted;
- i. Houses, flats, residential annexes and residential extensions which are built by 'self-builders'; and
- j. Mezzanine floors of less than 200 square metres inserted into an existing building unless they form part of a wider planning permission that seeks to provide other works as well.

CIL Rates

The Community Infrastructure Levy charging rates for development across Brentwood Borough Council's area are as follows:

Development Type	Maximum Rate of CIL
Residential - Housing	£200 per square metre
All Non-residential uses (excepting Retail)	£0 per square metre
General Retail A1-A5 (excluding Food Supermarket)	£125 per square metre
Food Supermarket A1	£200 per square metre

The charging zones which these rates apply are set out on the following map which is presented on an OS base as required in the regulations (see Appendix B).

Further Information

More information on CIL and its application in Brentwood Borough is available on the Council's website at www.brentwood.gov.uk/CIL

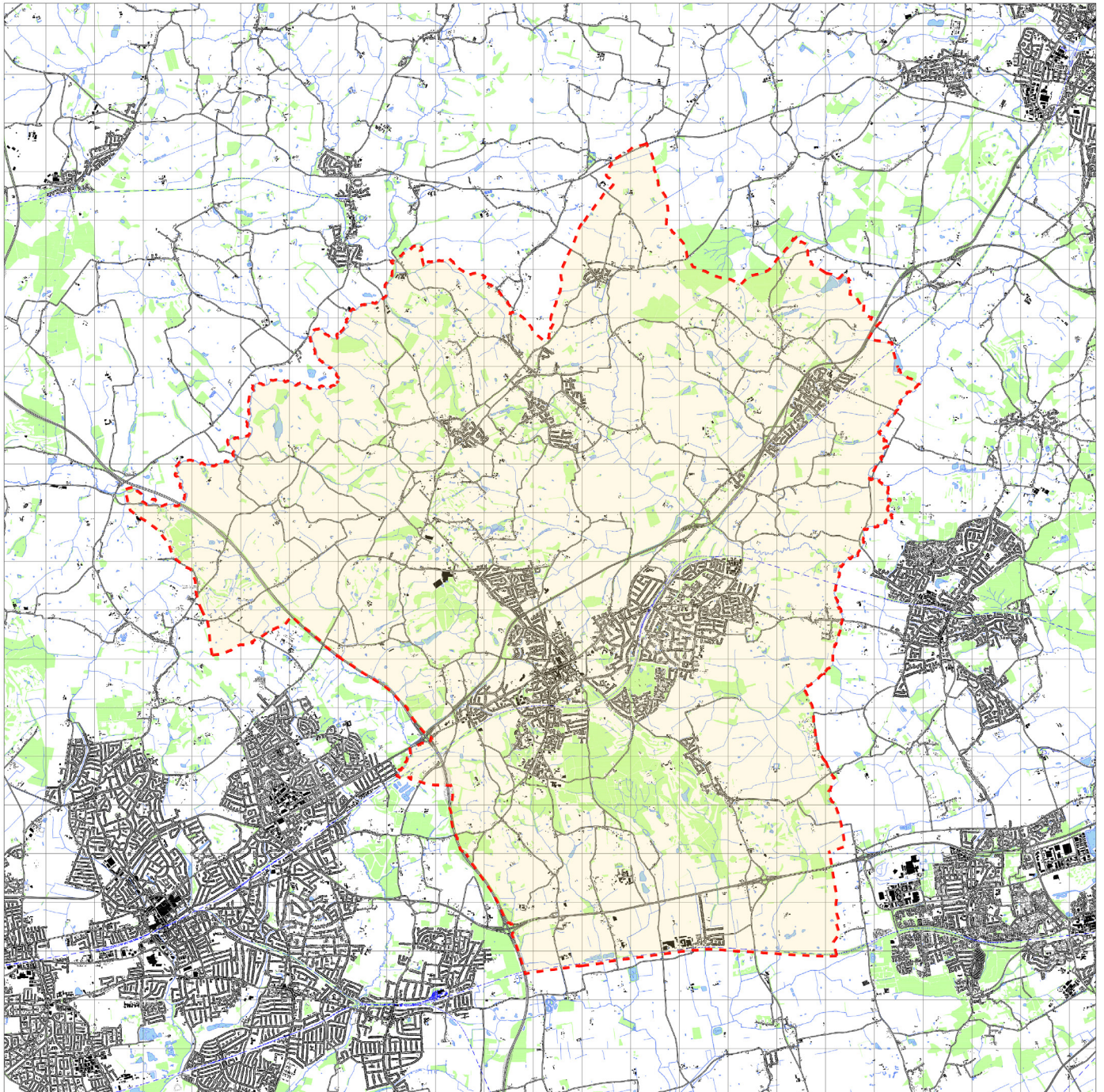


APPENDIX B



BRENTWOOD BOROUGH COUNCIL
CIL RESIDENTIAL CHARGING ZONE MAP

Brentwood CIL Preliminary Draft Charging Schedule



0 1 2 5 km



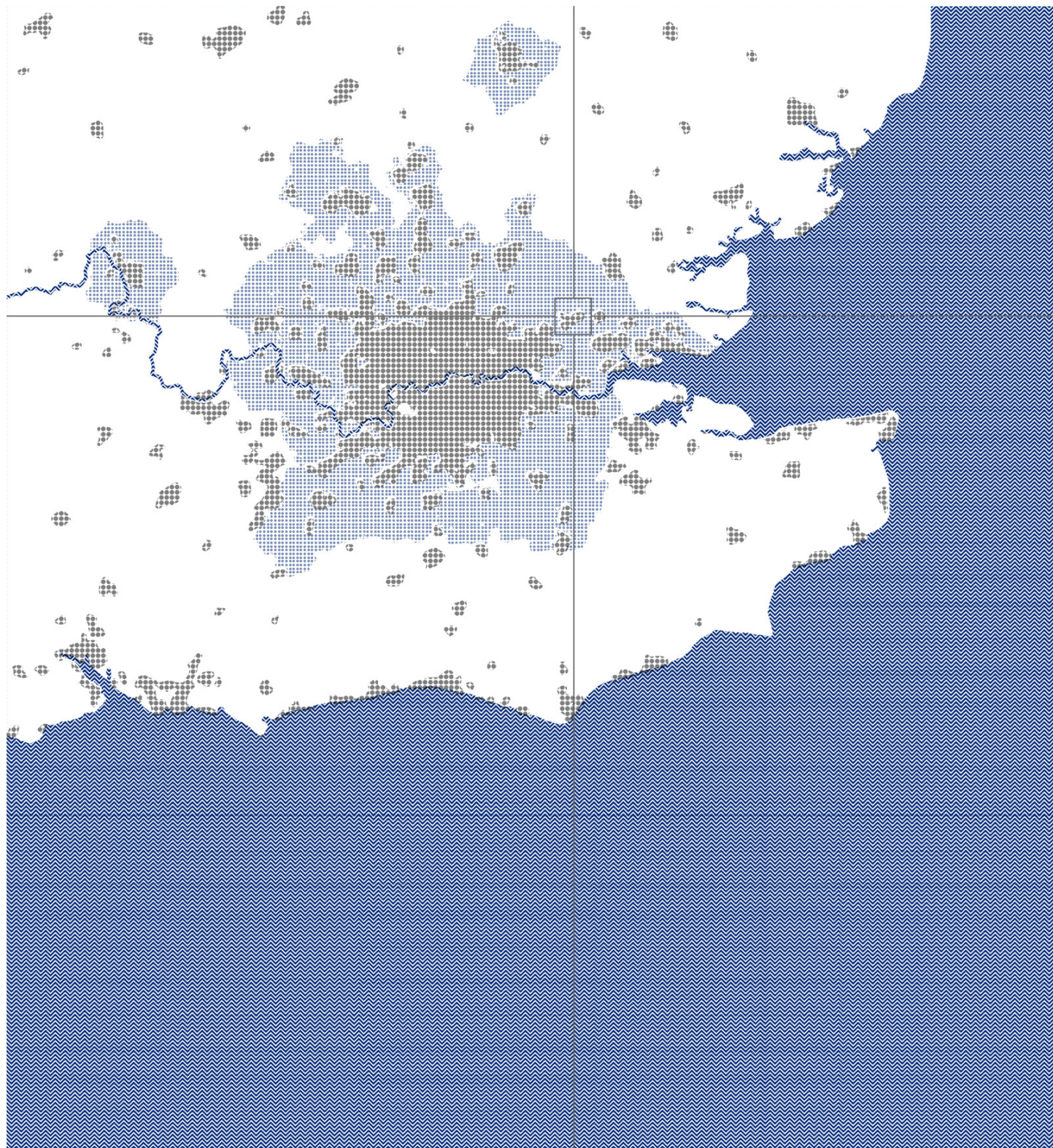
Built areas



Brentwood borough boundary



Single charging zone



www.brentwood.gov.uk

email: planning.policy@brentwood.gov.uk

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Published October 2016 by Brentwood Borough Council

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