

Committee(s):	Date(s):
Planning & Transportation Policy & Resources Court of Common Council	25/02/2014 20/03/2014 01/05/2014
Subject: Adoption and Implementation of the City of London Community Infrastructure Levy	Public
Report of: Director of the Built Environment	For Decision

Summary

The Community Infrastructure Levy (CIL) is a statutory charge on new development intended to help fund the provision of new infrastructure. Upon adoption it will largely replace the existing approach to s106 planning obligations, which will need to be scaled back.

The City Corporation has prepared a Community Infrastructure Levy. This has been subject to early engagement with the development industry and two rounds of formal public consultation during 2013. In November 2013, it was submitted to the Planning Inspectorate for Public Examination by an independent planning inspector.

The inspector's report into the City CIL has now been received. The inspector has concluded that the City CIL provides an appropriate basis for charging the levy in the City of London and recommends that it be approved without amendment. However there is a need for some factual updating of the text, which are termed 'correctable errors', in order to maintain consistency with the revised CIL Regulations.

The 2008 Planning Act requires that the City CIL be adopted by resolution of the Court of Common Council.

Recommendation(s)

Members are asked to:

1. Note that the inspector's report supported the proposed City CIL and recommended its approval.
2. Approve the proposed 'correctable errors' to the City of London Community Infrastructure Levy Charging Schedule and approve the Charging Schedule for adoption, with implementation from 1st July 2014.
3. Approve the Regulation 123 List, concerning infrastructure to be funded by the City CIL, which sits alongside the City CIL Charging Schedule.
4. Delegate to the City Planning Officer and/or Development Director

and/or Director of the Built Environment authority to approve scaled back s106 Agreements in place of the full form of s106 Agreements in cases where the planning application has been approved subject to a full s106 Agreement, and where it has not been possible to complete the s106 Agreement prior to implementation of the City CIL, and where the delegated officer considers it appropriate to do so.

5. Agree as a transitional measure to honour proposed expenditure in s106 Agreements, where it has not been possible to complete the Agreements, and where the specific s106 expenditure was relied upon in determining that applications were acceptable.

Main Report

Background

1. The Community Infrastructure Levy (CIL) is a statutory charge on new development intended to help fund the provision of new infrastructure to support development.
2. CIL is intended to replace s106 planning obligations as the main source of developer contributions towards new infrastructure. Unlike s106, CIL is a fixed charge and is not subject to site-specific viability testing. CIL should be consistent with and support the implementation of the local plan. It can be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure. Regulations specifically exclude CIL from funding affordable housing and revenue schemes e.g. education, skills and job brokerage. Funding for such elements, together with site specific mitigation measures, will need to continue to be sought through scaled-back s106 planning obligations.
3. CIL regulations require two rounds of public consultation on the draft CIL, similar to those required for local plans:
 - Preliminary Draft Charging Schedule Consultation. This is intended to enable early consultation and engagement with developers, residents and others in the property industry before CIL charge rates are finalised. Consultation on the City CIL Preliminary Draft Charging Schedule took place between 25th March and 13th May 2013.
 - Draft Charging Schedule Consultation. This consultation should represent a local authority's final proposals for the CIL. The City CIL Draft Charging Schedule was subject to consultation between 24th July and 4th October 2013.
4. Following consultation, the Draft Charging Schedule, any comments received and the evidence base supporting the CIL must be submitted for public examination by an independent examiner.

Current Position

5. Consultation on the City CIL Draft Charging Schedule generated a total of 16 responses, of which 6 which were objections covering the principle of setting

a CIL, the proposed CIL rates, or proposals for payment of CIL by instalments. All representations, together with the Draft City CIL and supporting evidence, were submitted to the Planning Inspectorate on 7th November 2013 for Public Examination by an independent planning inspector.

6. As part of the Examination, the inspector asked for further statements from those individuals and organisations who had responded to the City CIL Draft Charging Schedule. A public hearing was programmed for 16th January 2014. No further statements were forthcoming and no requests were received to attend the hearing and the inspector cancelled the public hearing and dealt with the City CIL through consideration of the City Corporation's written evidence, Draft Charging Schedule and written representations to the CIL.
7. The Inspector's report was received by the City Corporation on 23rd January 2014. It is a short report, which compliments the City Corporation on its approach and the quality of its evidence and recommends approval of the City CIL without amendment. The Inspector's summary is set out below and the full report is available on the City Corporation's website:
www.cityoflondon.gov.uk/cil .

"This report concludes that the City of London Community Infrastructure Levy Draft Charging Schedule provides an appropriate basis for the collection of the Levy in the City of London. The report is very brief, reflecting the thoroughness of the City Corporation's approach, the comprehensiveness of the evidence that supports the Schedule, and the relatively few objections to it. It is convincingly demonstrated that the Levy is set at a level that will not put the growth of the City of London at risk. I recommend that the Schedule be approved in its published form, without amendment."

Adoption and Implementation of City CIL Charging Schedule

8. Following receipt of the inspector's report, Committee approval is now sought to formally adopt and implement the City of London Community Infrastructure Levy Charging Schedule, which is attached at Appendix 1. The 2008 Planning Act requires that formal approval of the City CIL should be through a meeting of the Court of Common Council.
9. The City CIL will apply a charge on the uplift of development in the City at a rate of £75 per square metre for office development and £95 per square metre for residential development, except on the riverside where a residential rate of £150 per square metre will be charged. Nil rates will be charged for education and health related development and development necessary for the operational purposes of the emergency services. All other development will be charged at £75 per square metre.
10. Implementation of the City CIL is proposed to commence on 1st July 2014. This date will allow sufficient time between adoption of the City CIL and implementation to allow officers and developers to complete outstanding s106 planning obligations negotiations and thereby avoid abortive work. It is likely that there will be an increased workload on officers within the Built Environment and Comptroller and City Solicitor's Departments in the run up to implementation.

Correctable Errors

11. Since the City CIL Charging Schedule was submitted for public examination, the Government has published new Community Infrastructure Levy (Amendment) Regulations 2014. These amendment regulations introduce new categories of mandatory exemption and relief from the payment of CIL and amend the formula to be used when calculating the CIL charge. At the time of writing this report, the new regulations were in draft form and had not been made as a Statutory Instrument, although this is expected to happen prior to the meeting of the Planning & Transportation Committee. Subject to the regulations being made as a Statutory Instrument, it is proposed that these amendments be incorporated into the City CIL upon its adoption.
12. CIL regulations prevent the City Corporation from simply making such changes to its CIL Charging Schedule, requiring that they be formally identified as 'correctable errors'. The proposed changes are identified using strikethrough for deleted text and underline for new text in the City CIL Charging Schedule, attached at Appendix 1, and are also set out in the separate schedule of 'correctable errors' in Appendix 2.
13. Alongside these regulatory changes, it is necessary to make minor amendments to the City's CIL Charging Schedule to ensure that it reads as an adopted document, rather than a draft. Again, these are required to be identified as 'correctable errors'.

S106 Planning Obligations

14. Upon implementation the City CIL will replace most of the City's current s106 planning obligations mechanism. In parallel with the development of the CIL, a revised s106 Planning Obligations Supplementary Planning Document has been prepared. This scales back City s106 planning obligations requirements to meet CIL regulatory requirements and will ensure that contributions can continue to be made by developers towards affordable housing and training, skills and job brokerage, as well as site specific mitigation, highways improvements and reinstatements and carbon off-setting. The s106 Planning Obligations SPD has been subject to public consultation and a report seeking the adoption of the SPD will be brought before a future meeting of the Planning & Transportation Committee. Implementation of the SPD will be on the same date as that for the City CIL.
15. Subject to the approval of this report by the Planning & Transportation Committee, all current applicants and those making planning applications prior to the CIL implementation date, will be notified of the proposed implementation date. Applicants will be encouraged to provide all the necessary and required information, including draft s106 Agreements, to enable timely determination of applications prior to CIL implementation.
16. All efforts will be made to complete full s106 Agreements already authorised by the Planning & Transportation Committee (or minor variations approved under delegated authority) prior to implementation of the City CIL. However, there may be cases where this is not possible. It is anticipated that unless there are exceptional circumstances, the completion of such agreements in a scaled-back form, and the payment of CIL, will not materially alter the

considerations relevant to the decisions to grant planning permission. In order to ensure that applications which straddle both regimes can be progressed efficiently, it is recommended that the Committee authorise the appointed senior officer to approve the use of a scaled back agreement in place of a full agreement, where the officer is satisfied that this is appropriate and will not introduce new material planning considerations. This will also be subject to applicants completing the necessary CIL notices so that the required CIL to which the development becomes liable can be charged and processed.

17. There may also be cases where Members, in determining whether applications were acceptable, have agreed that specific projects should be funded from s106 contributions, and those contributions cannot be specifically required after the implementation of the City CIL. Committee approval is, therefore, sought to honour such expenditure through CIL funding as a transitional measure, subject to the completion of scaled back agreements.

Regulation 123 List

18. CIL Regulations require that CIL charging authorities publish a list, known as a Regulation 123 List, of the types or specific pieces of infrastructure that will be funded, or part funded, through CIL. The City Corporation has consulted on a draft Regulation 123 List at each stage of the preparation of the City CIL and submitted this list to the planning inspector as evidence in support of the City CIL. Members are now asked to formally approve this list, identifying the broad types of infrastructure that CIL will be used to fund. The list is deliberately broad in scope to provide flexibility on the future use of CIL funds for new infrastructure provision. The Regulation 123 List is attached at Appendix 3.
19. Regulations allow future changes to be made to the Regulation 123 List without a need to amend the City CIL Charging Schedule, provided that the City Corporation undertake 'appropriate local consultation'.

Instalments Policy

20. CIL regulations allow the City Corporation to adopt a policy enabling the payment of City CIL in instalments. Regulations also indicate that, in London, if a borough or the City does not adopt such a policy, then payment will be subject to the provisions of any instalments policy adopted by the Mayor in respect of his CIL.
21. The Mayor has adopted an instalments policy for his CIL, which allows payment in 2 instalments. The Mayoral CIL is collected by the City Corporation on his behalf and, to ensure more effective administration of the City and Mayoral CIL processes, the Mayor's instalments policy has been included within the City CIL Charging Schedule. Regulations allow any future changes to the instalments policy to be progressed by approval of the Planning & Transportation Committee and publication of details on the City's website.

Discretionary Relief from CIL

22. Part 6 of the Community Infrastructure Levy Regulations 2010 (as amended) allows local authorities to apply additional, discretionary relief from CIL in

exceptional circumstances. The City CIL is supported by a robust evidence base and viability appraisal, which demonstrates that it should not impact on the overall viability of development across the City. The City CIL Charging Schedule therefore does not propose to make further discretionary relief available. Where there are genuine issues of viability, there is flexibility within the retained s106 planning obligations mechanism to address viability concerns.

23. The impact of the City CIL will be kept under review and regulations allow the City Corporation to amend its approach to discretionary relief at any point in the future, by means of a notice on its website, if monitoring shows that the City CIL is having an adverse impact on development viability. Any proposals for changing the approach to discretionary relief would be brought to the Planning & Transportation Committee for approval.

Corporate & Strategic Implications

24. The preparation of a Community Infrastructure Levy for the City of London accords with the requirements of:
 - Corporate Plan vision to support and promote City as a world leader in international and financial business services.
 - Department of the Built Environment Business Plan 2013-2016, Key Performance Indicator PP1: Prepare City Community Infrastructure Levy (CIL) and the procedure for prioritising CIL spending.
 - Core Strategy policy CS4: Planning Contributions

Implications

25. Setting a City CIL will ensure that contributions from developers can continue to be pooled to fund capital investment in new infrastructure. CIL Regulations allow the City Corporation to retain up to 5% of annual CIL charges to cover CIL preparation and administrative costs and so the CIL process should be self-financing on an ongoing basis.
26. Early engagement with the development industry, the two stage consultation process and the public examination have enabled a City CIL rate to be set which should not impact on the overall viability of development in the City or its attractiveness as an office location.
27. There are no legal issues arising from this report.

Conclusion

28. The City of London Community Infrastructure Levy has undergone public examination by an independent planning inspector. The Inspector has concluded that the proposed City CIL rates are appropriate and set at a level which will not put the growth of the City at risk, whilst continuing to deliver capital funding to help deliver necessary infrastructure improvements. It is therefore recommended that the City of London CIL be adopted, with implementation taking place from 1st July 2014.
29. Delegated authority is sought to allow transitional measures to address the potential requirement to seek scaled back s106 Agreements alongside the

CIL where it has not been possible to complete s106 Agreements already authorised by the Planning & Transportation Committee. Committee approval is also sought for the use of CIL monies to honour agreed expenditure on specific projects, where s106 Agreements cannot be completed.

Appendices

- Appendix 1 – City of London Community Infrastructure Levy Charging Schedule
- Appendix 2 – List of Correctable Errors in the City of London CIL Charging schedule
- Appendix 3 – City of London Community Infrastructure Levy, Regulation 123 List

Background Papers:

Report to Planning & Transportation Committee 25/06/2013, Policy & Resources Committee 27/06/2013 and Court of Common Council 18/07/2013, 'Consultation on City of London Community Infrastructure Levy Draft Charging Schedule'

Peter Shadbolt

Assistant Director (Planning Policy)

T: 020 7332 1038

E: peter.shadbolt@cityoflondon.gov.uk