Committee(s)	Dated:
Planning & Transportation Committee	25/07/2017
Subject: City Corporation response to consultation on the Mayoral Community Infrastructure Levy 2 Preliminary Draft Charging Schedule	**Public**
Report of: Carolyn Dwyer, Director of the Built Environment	**For Decision**
Report author: Peter Shadbolt, Department of the Built Environment	

Summary

The Mayor has published a Preliminary Draft Charging Schedule for a new Mayoral Community Infrastructure Levy (CIL), to replace the existing Mayoral CIL and s106 charges, which is intended to contribute to the cost of delivering the proposed Crossrail 2 railway from south-west to north-east London. In the event that Crossrail 2 does not proceed, the Mayoral CIL will be used to contribute towards strategic transport infrastructure across London.

The Mayor proposes an increase in Mayoral CIL charge rates across London, with the City of London along with other parts of central London being liable for increased Mayoral CIL charges of £185 per square metre for offices, £165 for retail and £140 for hotel use. Other uses will be subject to a charge of £80 per square metres with some exceptions.

The Mayor’s proposals are supported by a viability appraisal which concludes that these rates would not have an adverse impact on development viability across London, even when allowance it taken of borough and City CIL rates that would also apply to fund local infrastructure.

The City Corporation supports the delivery of the Crossrail 2 railway and supports in principle the introduction of a new Mayoral CIL charge to contribute towards delivering this strategic transport infrastructure.

However, the City Corporation has concerns that the cumulative impact of the proposed Mayoral charges on development, alongside City Corporation’s City CIL and City s106 charges could have an adverse impact on the viability of development in the City. The viability appraisal prepared by the Mayor does not provide sufficient information and does not contain sensitivity testing to enable the City Corporation to be satisfied at this stage that the proposed Mayoral CIL will not have an adverse impact on development in the City or the City Corporation’s ability to deliver affordable housing and training and skills provision through s106 obligations. Therefore the City Corporation requests that the Mayor’s viability assessment be refined to address the specific effect on City office development viability. The City Corporation looks forward to close liaison during this process to ensure that the

proposed increased Mayoral CIL contributes to the delivery of Crossrail 2 without adversely affecting local infrastructure delivery or City development viability.

Recommendation(s)

Members are recommended to:

- Agree the key points of the City Corporation's proposed response set out below:
  The City Corporation:
  - Supports the delivery of the Crossrail 2 railway and supports in principle for the introduction of a new Mayoral CIL charge to contribute towards the cost of delivering this strategic transport infrastructure.
  - Concern that the cumulative impact of the proposed Mayoral CIL charge, alongside City Corporation's City CIL and City s106 charges could have an adverse impact on the viability of development in the City.
  - Requests that the Mayor's viability assessment be refined to address the specific effect on City office development viability and looks forward to close liaison during this process.
- Agree that the detailed comments set out in paragraphs 11 – 15 of this report will be forwarded to the Mayor as the City Corporation's response to the Mayor's consultation on the Mayoral CIL2 Preliminary Draft Charging Schedule.

Main Report

Background

1. In April 2012, the Mayor introduced a Mayoral Community Infrastructure Levy (MCIL1) applicable across London in order to contribute to a target of £600m funding for Crossrail from developer contributions. MCIL1 is levied at a rate of £50 per square metre of new floorspace in the City of London and the rest of the Central Activities Zone (CAZ).

2. MCIL1 complements a separate developer funding regime for Crossrail delivered through Mayoral s106 planning obligations, which was introduced in April 2010 as part of the Alterations to the London Plan. Contributions are sought from office, retail and hotel development within central London at a rate per square metre of £140 for offices, £90 for retail and £61 for hotels. Contributions under s106 are subject to viability and can be amended if evidence indicates that the contribution would make the development unviable. Where a development is liable for both MCIL1 and Mayoral s106, the Mayor agreed that the total contribution would be the greater of the two charge regimes.

3. In addition to Mayoral CIL and Mayoral s106, the City Corporation levies a City CIL on development at a rate per square metre of £75 for office, hotel and retail development and £95 or £150 for residential. The City Corporation also levies

s106 obligations on commercial development of £20 per square metre for affordable housing and £3 per square metre for training, skills and education. Residential development is required to make a contribution towards affordable housing equivalent to 30% provision on site and 60% off site. In setting the City CIL and City s106 rates, a viability assessment was undertaken which considered the impact of the City and Mayoral CIL and s106 levies on development and it concluded that contributions at the agreed rates would be deliverable.

4. The process for setting and implementing a CIL requires 2 rounds of formal public consultation on a Preliminary Draft Charging Schedule and a Draft Charging Schedule, followed by a public examination. Proposed CIL rates have to be supported by viability evidence demonstrating that the CIL would not have an overall adverse impact on the viability of development across the area in which the CIL is in place.

Current Position

5. The Mayor has now published for public consultation a Preliminary Draft Charging Schedule as the first stage in a review of the Mayoral CIL. The new Mayoral CIL (MCIL2) is supported by a viability analysis and evidence highlighting the need for additional funding to deliver Crossrail 2. Crossrail 2 is a proposed new railway linking the national rail networks in Surrey and Hertfordshire through a tunnel under central London. Key central London stops will include Victoria, Tottenham Court Road, Euston and St Pancras. The railway would not pass directly through the City, but would deliver increased capacity and network resilience across London. Consultation on MCIL2 runs from 26 June 2017 until 7 August 2017. Although Crossrail 2 is still at an early stage in inception and has not been confirmed by the Government, the Mayor considers that a new Mayoral CIL needs to be brought forward now to avoid a charging gap at the end of Crossrail 1 construction in 2019 and to allow for early funding of Crossrail 2. Supporting information suggests that MCIL2 is expected to meet approximately 15% of Crossrail 2's project costs. In the event that Crossrail 2 does not proceed, the Mayor has indicated his intention to use MCIL2 to contribute towards the cost of delivering other strategic transport infrastructure across London set out in the adopted London Plan.

6. The Mayor has proposed Mayoral CIL rates for different developments across London, including the City. The City would remain in Band 1 of MCIL2 along with much of central London as well as boroughs in the south west of the capital which would benefit directly from Crossrail 2. Within an area comprising principally the CAZ and the Isle of Dogs, separate Mayoral CIL rates for offices, retail and hotel would be introduced. These rates would replace the existing Mayoral s106 charge. The Mayor has indicated that he is not minded to allow relief from MCIL2 for exceptional circumstances, and that it would be better to address any problems of viability caused by the combined demands of the Mayoral CIL, any borough or City CIL and any s106 agreements by making adjustments to the latter. The Mayor considers that this approach would ensure that the administration of his Mayoral CIL does not become unduly complex and burdensome but it might also put at risk viability-based s106 contributions received by the Mayor and the City Corporation.

7. Table 1 sets out the Mayor's proposed charge rates for MCIL2 in the City of London, and compares these rates with those in the current Mayoral CIL and Mayoral s106 charges. Table 2 shows the percentage increase from current Mayoral CIL and s106 charges, taking account of indexation from the base date of the charges to the 3rd quarter of 2016.

Table 1: Proposed and existing Mayoral CIL charge rates and Mayoral s106 charges for the City of London (£ per sq m)

Land Use	Proposed MCIL2	Existing MCIL1	Existing Mayoral S106	Actual Increase
Offices	185	n/a	140	+45
Retail	165	n/a	90	+75
Hotel	140	n/a	61	+79
Other Development[1]	80	50	n/a	+30

1) excludes health and education uses, for which the Mayor has adopted a nil charge rate

Table 2: Proposed increase from existing Mayoral CIL and Mayoral s106 charges taking account of indexation to Q3 2016 (£ per sq m)

Land Use	Existing MCIL1/s106	Existing MCIL1/s106 with indexation	Proposed MCIL2	% increase from indexed rates
Offices	140	153.77	185	20.3
Retail	90	98.95	165	66.7
Hotel	61	67.00	140	109
Other Development	50	64.57	80	23.9

8. In setting a Mayoral CIL rate, the Mayor is required to take account of any borough CILs in place at the time. When setting their CIL rates, the boroughs and the City are required to take account of any Mayoral CIL rate. The Mayor commissioned JLL to prepare viability evidence to support his proposals for MCIL2, addressing their impact on the viability of development across the whole of Greater London. The approach taken by JLL is similar to that undertaken in relation to MCIL1 in 2011/2012, which was approved by an appointed inspector. It considers the impact of MCIL2 on the viability of development using residential house prices as a proxy for other forms of development. This reflects the fact that across London as a whole, the principal land use and type of development is residential. JLL have considered whether this approach is valid in relation to office development and have provided evidence suggesting a strong correlation between residential prices in London and office rents (areas with high residential prices also have higher levels of office rents). JLL conclude that, whilst the proposed MCIL2 rates may have an impact on some marginal development, across London as a whole the proposed London-wide MCIL2 rate of £80 per sq m would constitute between 0.51% and 1.28% of average house costs and that

movement in other costs, such as build costs, are likely to have far greater impacts on viability than MCIL2.

9. JLL have looked at the potential impact of the MCIL2 rates for offices, retail and hotel development and considered borough viability evidence from Westminster, Tower Hamlets and the City to determine whether the proposed rates would have an adverse impact on overall commercial viability. For office development, JLL consider that the proposed MCIL2 rates represent a 'consolidation' of existing MCIL1 rates and Mayoral s106 rates and should not therefore have an adverse impact on viability. However they do represent an increase of £45 on the existing baseline rate. Proposed rates for retail and hotel development have been increased substantially from the baseline (£75 for retail and £79 for hotels), but the analysis concludes that, as retail and hotel development has tended to be part of wider mixed use schemes, the proposed rates would not have an adverse impact on the viability of schemes with a retail or hotel content.

10. JLL's analysis considered the impact of the proposed MCIL2 rates on the delivery of affordable housing and concluded that this is much more likely to be impacted by housing policy, the grant regime and construction costs than the Mayoral CIL. The impact of MCIL2 on affordable housing delivery is considered to be minor. There is no assessment of the impact on s106 contributions towards affordable housing from commercial development, which are required in the City.

Suggested City Corporation Comments on draft Mayoral CIL Proposals

11. The key points of the City Corporation's proposed response are that the City Corporation:
    - Supports the delivery of the Crossrail 2 railway and supports in principle for the introduction of a new Mayoral CIL charge to contribute towards the cost of delivering this strategic transport infrastructure.
    - Has concerns that the cumulative impact of the proposed Mayoral CIL charge, alongside the City Corporation's City CIL and City s106 charges could have an adverse impact on the viability of development in the City.
    - Requests that the Mayor's viability assessment be refined to address the specific effect on City office development viability and looks forward to close liaison during this process.

<u>Support in principle for Crossrail 2 and for the Mayoral CIL</u>

12. The proposed route for the Crossrail 2 railway does not run through the City of London. The City Corporation is committed to supporting and promoting the case for Crossrail 2. Crossrail 2 will result in a significant increase in rail capacity into and through London which will enhance the capital's transport links and its accessibility and network resilience. Crossrail 2 will open up opportunities for further housing growth which will be of particular significance for London as a whole. The City Corporation supports in principle the Mayor's intention to introduce a new MCIL mechanism to contribute towards the funding and delivery of Crossrail 2.

Need for greater clarity on use of Mayoral CIL funds for other strategic transport infrastructure

13. The City Corporation supports the delivery of other strategic transport proposals in the London Plan to improve accessibility and competitiveness across London. Whilst a number of these proposals would have little or only marginal impact on the City, the City Corporation accepts that central areas should make a contribution to wider London transport improvements and agrees in principle that an all development MCIL rate is appropriate and that central areas should contribute at a higher rate. However, the City considers that the higher rates proposed in MCIL2 for offices, retail and hotel development in the City of London should fund new transport infrastructure that directly benefits the central area or makes a significant contribution to improving access into the City. The City Corporation would therefore like greater clarity on how MCIL2 will be used in the event that Crossrail 2 does not proceed.

Need for further viability testing relating to City office developments

14. Table 1 sets out the proposed increases in Mayoral CIL rates from the original rates for the City of London. Table 2 shows the percentage increase in charges from existing Mayoral CIL and Mayoral s106 charges, taking account of indexation from the base date of the charges to the 3rd quarter of 2016. With indexation, the percentage increase would be lower than the apparent increase from headline rates in Table 1, but the Mayor's proposals still involve a substantive increase. The City Corporation has concerns that the increase in charge rates proposed has not been adequately tested through the viability appraisal and particularly that sufficient account has not been taken of the cumulative impact on development of MCIL2 rates, City CIL and City s106 charge rates.

15. Although the approach to viability based on residential values as a proxy was accepted at the MCIL1 public examination, the City Corporation has concerns that this approach may not be reflective of the development viability position in a predominantly commercial area. The JLL report does indicate that specific consideration was given to the rates for offices, retail and hotel in central London and account taken of borough and City CIL viability considerations. The viability analysis references City CIL viability in relation to retail and hotel development but not specifically refer to office development. There appears to be no consideration of the relationship between MCIL2 rates and office development costs and rents and no sensitivity testing of the findings presented.

16. The City Corporation does not at this stage object to the proposed MCIL2 rates for the City, but would like to be reassured that they are supported by robust evidence that takes account of City-specific viability issues. It has not been possible within the short consultation period on MCIL2 to undertake a full assessment of the implications of the rates on development in the City. This will need to be undertaken prior to the next stage in the process, the preparation of the MCIL2 Draft Charging Schedule expected later this year. The City Corporation requests that the Mayor provide further evidence in support of the MCIL2 rates as they apply to the City to demonstrate that the proposed levels are viable alongside City CIL and City s106. The City Corporation reserves its

position to comment further on MCIL2 rates at a later stage in the preparation process once further evidence and viability testing has been undertaken.

<u>Need to consider fully the risks to planning obligation income of MCIL2 fixed rates replacing site specific viability tested Mayoral s106 contributions</u>

17. The Mayor has indicated that he does not intend to allow relief from MCIL2 in exceptional circumstances, such as those where a combination of MCIL and s106 obligations makes a development unviable. This is a significant alteration to the approach for Crossrail 1, where these rates were contained within s106 obligations that were flexible and subject to consideration of the impact on development viability. If there is an adverse impact on viability from a combination of new MCIL2 and City CIL, it is likely that s106 obligations would be reduced on viability grounds and these currently make significant contributions to affordable housing and training, skills and education in the City.

Next Steps

18. Following the Preliminary Draft Charging Schedule consultation, the Mayor will consider comments before publishing a Draft Charging Schedule for public consultation. This is likely to be before the end of 2017. The Mayor hopes to consider MCIL2 at the public examination alongside the London Plan during 2018 with a view to implementing the new Mayoral CIL from April 2019.

Corporate & Strategic Implications

19. The proposed introduction of MCIL2 will assist in the delivery of Crossrail 2 required to boost network capacity and resilience, maintain transportation access to and through London, maintaining its attractiveness as a business location and encouraging further housing development, in line with the City's Vision and Key Policy Priorities in the Corporate Plan 2015-2019. Greater clarity on the impact of the proposed Mayoral CIL rates on commercial and affordable housing development and the delivery of necessary City of London infrastructure is necessary to ensure that Corporate Plan aims can be met.

Implications

20. Proposals for MCIL2 are still at an early stage and further testing is needed. There is a risk that, if MCIL2 charge rates are set too high, there could be an adverse impact on development viability and delivery, and on the delivery of affordable housing and contributions to training, skills and education that are part-funded by s106 planning obligations. This will be mitigated by continuing dialogue with the Mayor and his team and testing of the impact of MCIL2 rates on City development.

Health Implications

21. There are no health implications arising from this report.

Conclusion

22. The Mayor has published a Preliminary Draft Charging Schedule for a new Mayoral CIL, to replace the existing Mayoral CIL mechanism and s106 charges, with a view to contributing to the cost of delivering the proposed Crossrail 2 railway. In the event that Crossrail 2 does not proceed, the Mayoral CIL will be used to contribute towards strategic transport infrastructure across London.

23. The Mayor's increased charges are supported by a viability appraisal which concludes that these rates would not have an adverse impact on development viability across London, including when taking account of borough and City CIL rates. Where there are issues of development viability, the Mayor considers that these should be addressed through variation in s106 planning obligations levied by boroughs and the City.

24. The City Corporation supports the development of Crossrail 2 and, in principle, supports the introduction of a new Mayoral CIL charge to contribute towards the cost of delivering this infrastructure. However, the City Corporation has concerns that the cumulative impact of the proposed charges on development in the City, alongside City CIL and s106 charges could have an impact on the viability of development. The viability appraisal prepared by the Mayor does not provide sufficient information and does not contain sensitivity testing to enable the City Corporation to be satisfied that the proposed Mayoral CIL will not have an adverse impact on development in the City or the City's ability to deliver affordable housing and training and skills provision through s106. Further information on the viability impacts is required before the City Corporation can support the proposed Mayoral CIL charge rates and the mechanisms set out in the Mayor's proposals.

Appendices

- Appendix 1 – Mayor of London's MCIL2 Preliminary Draft Charging Schedule

Background Papers

MCIL PDCS Supporting Information and Viability Evidence Base available on the GLA website at: https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/mayoral-community-infrastructure-levy

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