

<b>Committee(s):</b>	<b>Date(s):</b>
Planning & Transportation Policy & Resources Court of Common Council	25th June 2013 27th June 2013 18 <sup>th</sup> July 2013
<b>Subject:</b> Consultation on City of London Community Infrastructure Levy Draft Charging Schedule	<b>Public</b>
<b>Report of:</b> Director of the Built Environment	<b>For Decision</b>

### Summary

The Community Infrastructure Levy (CIL) is a statutory charge on new development intended to help fund the provision of new infrastructure. It is due to be introduced by April 2014 when it will largely replace the existing approach to s106 planning obligations, which will need to be scaled back.

The procedures for setting a CIL are laid down in regulations. Alongside the CIL Charging Schedule, regulations require the preparation of:

- an Infrastructure Delivery Plan (IDP) to show the scale of new infrastructure planned to support projected growth that will in part be developer funded,
- an Economic Viability Study to demonstrate that the proposed CIL will not impact adversely on the general viability of development across an area,
- a Regulation 123 List setting out the types of infrastructure that will be funded by CIL, and
- proposals for scaling back s106 planning obligations

Regulations prescribe that the CIL is subject to two rounds of public consultation. The first round of consultation on the Preliminary Draft Charging Schedule, took place between 25<sup>th</sup> March and 13<sup>th</sup> May 2013. A total of 15 responses were received. No significant objections were received which would warrant substantive change to the City Corporation's proposals or the CIL rates, although a number of minor refinements are proposed. The Draft Charging Schedule therefore retains the proposed CIL rate of £75 per square metre City-wide for commercial development, and a rate of £95 per square metre for residential development, except on the riverside, where a residential rate of £150 per square metre is proposed.

This report outlines the results of the consultation process and seeks approval for the publication of a CIL Draft Charging Schedule for the second formal round of public consultation. Following the consultation, the Draft Charging Schedule, together with any comments received, will be submitted for public examination in front of an independent inspector.

### **Recommendations**

1. That the proposed City CIL Draft Charging Schedule and supporting material be approved for public consultation and, following the consultation, be submitted for public examination.
2. Officers be authorised to make any further, non-material, changes to the CIL documentation, prior to public consultation.

## **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 and skills provision. Funding for such elements, together with site specific mitigation measures, will need to continue to be sought through scaled-back s106 planning obligations.
3. Regulation 14(3) requires the City Corporation and the London Boroughs to take account of the Mayor's CIL in setting their own CIL. The Mayoral CIL came into effect on 1<sup>st</sup> April 2012 and is charged at a rate of £50 per square metre on the net increase in floorspace in the City. The Mayor has also adopted Supplementary Planning Guidance to the London Plan which requires the City and boroughs to take account of his s106 planning obligations for Crossrail in setting CIL rates. The Mayor's s106 is charged in the City at rates per square metre of £140 for offices, £90 for retail and £61 for hotels.
4. Regulations specify that the following information should be consulted upon alongside a CIL Charging Schedule:
  - an Infrastructure Delivery Plan (IDP) to demonstrate that developer funding is required to contribute to the costs of planned new infrastructure,
  - an Economic Viability Study to demonstrate that the proposed CIL will not impact adversely on the general viability of development across an area,
  - a Regulation 123 List setting out the types of infrastructure that will be funded by CIL, and
  - proposals for scaling back s106 planning obligations.
5. Regulations also prescribe that the CIL is subject to two rounds of public consultation, similar to those required for local plans. Firstly, on a Preliminary Draft Charging Schedule, to enable early consultation and engagement with developers, residents and others in the property industry before CIL charge rates are finalised. Secondly on a Draft Charging Schedule, which represents the local authority's final proposals for the CIL. Following consultation, the Draft Charging Schedule and any comments received must be submitted for public examination by an independent examiner.

### **Consultation on City of London Proposed Preliminary Draft Charging Schedule**

6. On 26<sup>th</sup> February and 22<sup>nd</sup> March 2013, the Planning & Transportation and Policy & Resources Committees approved a Preliminary Draft Charging Schedule for public consultation. The consultation took place between 25<sup>th</sup> March and 13<sup>th</sup> May 2013. The consultation was undertaken in accordance with regulatory requirements and the City Corporation's own consultation requirements for planning policy documents set out in the Statement for Community Involvement.
7. In total, 15 responses to the preliminary draft CIL were received. In part this low level of response reflects the considerable amount of pre-consultation engagement

undertaken by the City's viability consultants, which aimed to build early consensus on the approach to CIL rate setting. Evidence from other local authorities also indicates that there has generally been a very low level of response to CIL consultations.

8. Of the 15 responses, there were:
  - 4 indications of support, including from the Mayor of London and the City Property Association;
  - 5 objections – 2 objecting to the principle of taxing developers further to pay for infrastructure, 1 seeking further clarification of the way the viability study was undertaken and requesting further information be made available at the Draft Charging Schedule stage, and 2 requesting exemption from the payment of CIL (from Thames Water and the London Fire and Emergency Planning Authority);
  - 6 responses providing general comments, including requests for further clarification on the viability study and supporting material, comments on the City's wider planning policies and requests that the City Corporation liaise with others on how CIL receipts should be spent (including from TfL, Natural England and English Heritage).
9. The City Corporation's viability consultants have been asked to review these comments and provide advice on whether any changes need to be made to the Economic Viability Study. The consultants have refined aspects of the Viability Study to reflect comments received but concluded that these refinements do not impact on the overall assessment of viability or the recommended CIL charge rates.
10. The viability consultants have also provided an update to the Economic Viability Study, in the form of a commentary on changes in the City's development market since the viability study was undertaken at the beginning of 2013. This commentary concludes "we are of the opinion that the market has not changed sufficiently since our initial report to require any alterations to the assumptions adopted in our CFVA (City-Wide Financial Viability Assessment) and financial model". The consultants' commentary is attached at Appendix 3.
11. Although there were a small number of objections to the CIL proposals, none of these provided detailed information to support an alternative CIL rate, or to demonstrate that the proposed rates would adversely impact on the overall viability of development in the City. The support from the Mayor of London and the City Property Association, together with the overall low response rate, suggests that there was a broad level of support to the proposed CIL rates and that no substantive changes to the rates are required.
12. A full report on the Preliminary Draft Charging Schedule consultation process, including the comments received and the City Corporation's proposed response, is attached at Appendix 2.

### **Proposed CIL Draft Charging Schedule**

13. Taking account of consultation comments received and advice on the implications for viability from the City's viability consultants, no substantive changes are proposed to be made to the headline CIL charging rates. However, in response to the objection from the London Fire and Emergency Planning Authority, it is proposed that development which meets the operational requirements of the emergency services (ambulance, fire and City of London Police) should be charged a nil rate of CIL. The proposed City CIL Draft Charging Schedule is summarised below, and attached in full at Appendix 1.

<b>Land Use</b>	<b>Zone</b>	<b>CIL Rate (£ per m<sup>2</sup>)</b>
Offices	City-wide	£75
Residential	Riverside	£150
Residential	Rest of City	£95
Development used wholly or mainly for the provision of medical or health services, except the use of premises attached to the residence of the consultant or practitioner	City-wide	Nil
Development used wholly or mainly for the provision of education as a school or college under the Education Acts or as an institution of higher education	City-wide	Nil
<u>Development used wholly or mainly for the operational purposes of the emergency services</u>	<u>City-wide</u>	<u>Nil</u>
All other uses	City-wide	£75

14. Alongside the CIL Draft Charging Schedule, the City Corporation is required to publish a range of supporting information, as set out in paragraph 4 above. This supporting material has been amended to provide the further information and clarity sought by some consultation respondents and to provide updated information. These changes do not impact on the overall rate of CIL which is proposed to be charged, or upon future decisions by the City Corporation on how CIL receipts should be used to fund new infrastructure, or the types of infrastructure that will be funded. These issues will be considered in a further report to the Committee prior to public examination of the CIL.
15. Appendix 4 sets out the proposed City of London Regulation 123 List and Appendix 5 sets out proposals for scaled back s106 planning obligations. The Economic Viability Study and the updated Infrastructure Delivery Plan are available in the Members' Reading Room and will be made available on the City Corporation's website alongside the CIL Draft Charging Schedule.

#### **Draft s106 Planning Obligations Supplementary Planning Document**

16. CIL will replace s106 planning obligations in the provision of funding for most types of infrastructure. However, funding for affordable housing and revenue funding, such as that for training and skills initiatives, are excluded from CIL, as is site specific mitigation necessary to make a development acceptable in planning terms.
17. In line with Statutory Guidance, the City Corporation is required to publish proposals for the scaling back of s106 planning obligations to complement its CIL proposals. An Issues and Options paper, outlining the proposed changes to the existing s106 Supplementary Planning Guidance was published alongside the Preliminary Draft Charging Schedule for comment. To provide context for the CIL, it is proposed to re-issue this paper alongside the Draft Charging Schedule consultation. A full draft s106 Planning Obligations Supplementary Planning Document will then be prepared for the approval of the Planning & Transportation Committee and published for formal public consultation during the autumn of 2013 and made available to inform the CIL Public Examination. The intention would be to adopt a revised s106 Planning Obligations SPD alongside the CIL in spring 2014.

18. The draft s106 Planning Obligations Issues and Options consultation paper included contributions of £20 per square metre for affordable housing and £3 per square metre for training, skills and jobs brokerage. These rates are similar to those in the existing 2004 Planning Obligations SPG. No specific comments were received during the consultation on the level of the proposed s106 contributions, although comments were received seeking additional information on the relationship between s106 and CIL. These have been addressed through proposed changes to the CIL supporting material.
19. The draft s106 Planning Obligations Issues and Options paper included information on the level of the cash-in-lieu contribution towards affordable housing that will be required from housing proposals where affordable housing is proposed to be delivered off-site. This figure is currently set at £151,584 for each unit of affordable housing required and is based on advice from the former Housing Corporation. It has not been updated since the adoption of the SPG. It is now proposed that this figure should be updated and tied to future annual house price rises as recorded by the Land Registry. An increase to £161,500 is proposed. The City's viability consultants have confirmed that this increase will have no overall impact on residential development viability when considered alongside the proposed CIL. It is therefore proposed that a revised cash-in-lieu figure be included in the draft s106 Planning Obligations SPD Further Options consultation paper. The draft s106 Planning Obligations SPD Further Options consultation paper is attached at Appendix 5.

### **Total Charge on Development and Individual Scheme Viability Testing**

20. The proposal to leave the City CIL rates unchanged between the Preliminary Draft and Draft Charging Schedules means that the total charge on development would also be unaltered at £238 per square metre of additional commercial (including office) floorspace. This figure includes the City CIL, scaled back City planning obligations, Mayoral CIL and Mayoral planning obligations for Crossrail as set out below:

City CIL:	£75
City planning obligations:	£23
Mayoral CIL:	£50
Mayoral planning obligations:	£90 (£140-£50)
<b>Total</b>	<b>£238</b>

21. The City's viability consultants consider that a total charge at this level would not adversely impact on general development viability in the City.

### **Timetable**

22. In line with CIL regulations, and subject to the agreement of the Committee and Court of Common Council, the ongoing timetable for the preparation of the City's CIL is:
  - Consultation on Draft Charging Schedule: 22<sup>nd</sup> July – 30<sup>th</sup> September 2013
  - Public Examination: November/December 2013
  - Adoption: March 2014
23. It is expected that the City CIL Draft Charging Schedule will proceed to public examination in the autumn without the need for further Member consideration. Comments received during the second round of public consultation and any responses to them will be considered by the independent inspector at the public examination. However, if the consultation process unexpectedly produces comments that merit

significant review of the City's proposed approach in advance of the public examination, then this would be brought to Members for consideration.

### **Strategic Environmental Assessment and Equalities Impact Assessment**

24. Under Article 3(8) of the European Union's Strategic Environmental Assessment Directive, SEA is not required for financial or budget plans and programmes. Paragraph 20 of the DCLG Community Infrastructure Levy Guidance 2013 confirms that the CIL Charging Schedule is a financial document and therefore is not subject to the requirement for an environmental assessment.
25. An Equalities Impact Assessment was undertaken to support the Preliminary Draft Charging Schedule and concluded that the CIL will, overall, have a positive impact on most City residents and workers. As no substantive changes are proposed to be made in the CIL Draft Charging Schedule, it is not considered that there will be any further impacts on equalities. An updated Equalities Impact Statement will be published alongside the consultation Draft CIL Charging Schedule.

### **Options**

26. There is no requirement in regulation for the City Corporation to adopt a CIL. However, regulations prevent the pooling of 5 or more planning obligations to fund specific infrastructure from 6<sup>th</sup> April 2014. Failure to set a City CIL could therefore significantly impact on the capital funding available for infrastructure improvements. Therefore the City Corporation is justified in preparing for the operation of a City CIL.

### **Corporate & Strategic Implications**

27. 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**

28. 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 for preparation and administrative costs to be met from CIL income and so the CIL process should be self-financing on an ongoing basis.
29. If CIL is set at a level which adversely impacts on the overall viability of development in the City, it could reduce the City's attractiveness as an office location and reduce the growth in new floorspace, impacting on the City's reputation and capital and revenue income. If CIL is set too low, insufficient capital contributions are likely to be received to deliver necessary infrastructure projects. These risks have been mitigated through independent advice on viability and CIL rate setting. The two-stage consultation process and examination allow for refinement of CIL rates in response to comments received.
30. There are no legal issues arising from this report.

## **Conclusion**

31. Government CIL regulations will in 2014 restrict the City Corporation's ability to continue seeking developer planning obligations to contribute towards new infrastructure provision. A CIL Preliminary Draft Charging Schedule was issued for public consultation between March and May 2013. There was very limited comment on the proposed level of CIL and no substantive changes are required to the CIL proposals as a consequence of the consultation. It is therefore proposed to move to the second formal stage of public consultation on a CIL Draft Charging Schedule and, following the consultation period, to submit the Draft CIL for public examination.

## **Background Papers:**

Report to Planning & Transportation Committee and Policy & Resources Committee, 26th February and 22<sup>nd</sup> March 2013: Consultation on City of London Community Infrastructure Levy Preliminary Draft Charging Schedule and draft Issues and Options Planning Obligations Supplementary Planning Document

## **Appendices**

- Appendix 1: City of London Community Infrastructure Levy Draft Charging Schedule
- Appendix 2: Report of Consultation on the Preliminary Draft Charging Schedule
- Appendix 3: Commentary on the City of London Development Market and impact on CIL Economic Viability Study
- Appendix 4: Proposed City of London Regulation 123 List
- Appendix 5: Planning Obligations Supplementary Planning Document Further Options

## **Contact:**

*Peter Shadbolt | [peter.shadbolt@cityoflondon.gov.uk](mailto:peter.shadbolt@cityoflondon.gov.uk) | 020 7332 1038*