

THE HILLINGDON LOCAL PLAN

Reporting Officer: Deputy Chief Executive and Director of Residents Services

1. Summary

- 1.1 This report seeks approval to adopt the Council's Community Infrastructure Levy Charging Schedule and Replacement Planning Obligations Supplementary Planning Guidance (SPD).
- 1.2 In February 2012, Cabinet agreed that Hillingdon's Community Infrastructure Levy Draft Charging Schedule could be submitted to the Secretary of State for formal examination. The hearing associated with the Examination took place on 1 October 2013. The Examiner's report was published in February 2014 and concluded that the Charging Schedule be approved, subject to the following modifications:
- Amend Table 3.1 to clarify that the rate for large format retail only applies outside of designated town centres. Include maps in the Charging Schedule identifying the town centres.
 - Amend the description of the rate for large format retail so that it only applies to A1 uses in Table 3.1 and paragraph 2.3.
 - Delete references to a Sui Generis rate from Table 3.1, paragraph 2.3, paragraph 5.6 and paragraph 5.7.
- 1.3 On 24 April 2014 Cabinet resolved to approve the Charging Schedule with the modifications recommended by the Examiner and an associated revised version of the Council's Planning Obligations SPD. Formal adoption of the Charging Schedule and the revised Planning Obligations SPD is now being sought.

RECOMMENDATIONS: That:

- (a) **the Community Infrastructure Levy Charging Schedule and the Planning Obligations Supplementary Planning Document be adopted as Council policy (both documents are available in the Group Offices and on line at:**
<http://modgov.hillingdon.gov.uk/ieListDocuments.aspx?CId=117&MId=1953&Ver=4>;
- (b) **the proposed instalments policy for CIL payments be approved and**
- (c) **the current Planning Obligations Supplementary Planning Document be withdrawn following the adoption of the revised Planning Obligations Supplementary Planning Document.**

INFORMATION

2. Hillingdon's Community Infrastructure Levy Charging Schedule

2.1 Taking account of the Examiner's recommendations, the charging rates that are recommended for adoption per square metre of new development are as follows:

Use Type	Proposed CIL rate (per square metre)
Large format retail (A1 greater than 1,000 square metres outside of designated town centres)	£215
Offices	£35
Hotels	£40
Residential dwelling houses	£95
Industrial (B8)	£5
All other uses	£0

2.2 The Draft Charging Schedule submitted for Examination stated that the Council will implement an instalments policy to assist in the payment of CIL charges. The following instalments policy, which has been prepared following research into existing policies being applied elsewhere, was approved by Cabinet on 24 April 2014:

Amount of CIL Liability	Number of Instalments	Payment period and Amounts
Any amount less than £250,000	No instalments	Total amount payable within 60 days of commencement of development
Amounts more than £250,000 but less than or equal to £500,000	Two instalments	£250,000 payable with 60 days of commencement of development. Balance payable within 60 days of commencement of development.
Amounts greater than £500,000	Three instalments	£250,000 payable within 60 days of commencement of development. Balance payable in two further instalments of equal amount within 120 and 180 days of commencement of development.

2.3 In anticipation of the CIL being adopted, officers are currently putting in place the necessary processes to collect the CIL charges. This involves modifications to the processes and procedures currently used to collect

the Mayoral CIL. It is expected that collections can commence on 1 August 2014.

3. Amendments to the Charging Schedule

- 3.1 Before approving the adoption of the Charging Schedule and revised Planning Obligations SPD, Council is asked to note that Cabinet approved the following action on 24 April 2014, which stated that it:

"Grants delegated authority to the Deputy Chief Executive and Corporate Director of Residents Services to agree, in conjunction with the Cabinet Member for Planning, Transportation and Recycling, to make any further minor editing and textual changes to the Draft Charging Schedule before it is adopted at full Council."

- 3.2 The Government has recently made a number of amendments to the Community Infrastructure Levy regulations, including revisions to the formula used to calculate CIL contributions. These changes relate primarily to the calculation of charges for building conversions and changes of use. At present, the charges for these forms of development are calculated by subtracting existing floorspace that has been in use on site for 6 months in the last 12 months from total proposed floorspace. The government has extended the period that existing floorspace can be taken into account to any floorspace that has been in use on site in the last 3 years. This change is unlikely to have a significant impact on expected CIL collections received by the Council.
- 3.3 It is likely that the calculation formula will be subject to further amendments by the Government and officers have therefore deleted it from the Charging Schedule.

4. The Planning Obligations SPD

- 4.1 The Council consulted on a revised version of the Planning Obligations SPD in May 2012. The outcome of the consultation process and the subsequent changes to the draft SPD were reported to Cabinet on 27 September 2012. In this report, officers noted that:

'No further consultation is necessary for the Planning Obligations SPD. However because the processes relating to the introduction of CIL and the changes to the planning obligations procedures are so intrinsically linked, it is proposed hold the Planning Obligations SPD in abeyance until the receipt of the Inspector's Report on the draft CIL Charging Schedule. At that time, Cabinet approval will be sought to adopt both documents together. The adoption process for the SPD involves the preparation of an Adoption Statement, which must be publicised in the same way as the Draft Planning Obligations SPD outlined in Table A.'

- 4.2 It is proposed that the revised Planning Obligations SPD should take effect at the same time as the CIL Charging Schedule. At this time it will also be necessary to formally withdraw the current Planning

Obligations SPD. adopted in July 2008. Statements confirming the Adoption of the Revised Planning Obligations SPD and the withdrawal of the current document will be publicised in accordance with the Planning Regulations. In particular, these statements will be made available on the Council website, at the Civic Centre and all local libraries.

- 4.3 The Adoption Statement will contain key information about the SPD, such as that date on which it was adopted and details of the modifications that were made as a result of the consultation process. It will also be published on the Council website for a period of not less than 3 months.

5. Financial Implications

- 5.1 The CIL is a cash payment, payable on commencement of the development; this differs from S106 which can be a payment in kind through the provision of infrastructure as well as a cash payment. The CIL scheme also allows for 5% retention of the levy for the resource of administration costs of collection.
- 5.2 The additional CIL receipts over and above the level of receipts from the S106 contributions will provide a beneficial financing resource for the Councils capital programme, combined with the greater flexibility of its application to a wider range of infrastructure schemes across the whole of the Borough.
- 5.3 The instalments policy outlined in the report are broadly similar to the current practice for Section 106 payments so there would not be any material implications for the Council arising from this.
- 5.4 The report also notes a change to the formula used in the calculation of CIL. This is a technical regulatory change in relation to the timeframe in which previous land-use is considered in establishing the net increase of space liable for a CIL charge for some developments. This change may in some case reduce the charge levied as a result to a developer. However this is not thought to be of significant impact.

6. Conclusion

- 6.1 Subject to the Council's agreement officers will seek to implement the Community Infrastructure Levy Charging Schedule on 1 August 2014. As noted above, this process requires the implementation of a satisfactory collection system, based on the mechanism currently used to collect the Mayoral CIL.
- 6.2 Subject to the adoption of the revised Planning Obligations Supplementary Planning Document, it will be formally published in accordance with the Planning Regulations. There will then follow a statutory period of six weeks during which any final legal challenge can be made.

- 6.3 Once in place Hillingdon's CIL Charging Schedule and Revised Planning Obligations SPD will replace the current Planning Obligations SPD adopted in July 2008.

7. Financial Implications

- 7.1 The Council is now in a position to adopt a CIL Charging Schedule for non-Sui Generis development within the borough from 1 August 2014. Until a Sui Generis charging scheme can be approved, it would be prudent to ensure Section 106 Contributions continue to be levied on such developments, thereby supporting resulting infrastructure requirements.
- 7.2 Anticipated income from the Community Infrastructure Levy has been included in the Council's Medium Term Financial Forecast, proving a mechanism for support infrastructure projects within the capital programme approved by Council in February 2014.

8. Legal Implications

- 8.1 The Planning Act 2008 introduced a discretionary planning charge known as the Community Infrastructure Levy ("CIL"). On 6 April 2010 the CIL Regulations 2010 (as amended) ("CIL Regulations 2010") came into force. CIL is a charge on new buildings above a certain size that enables the Council to fund infrastructure identified in the development plan. CIL is based on a formula that relates the size and character of the development to the amount charged.
- 8.2 On adoption of the CIL charging schedule the Council is restricted in the use of section 106 planning obligations. A planning obligation cannot be sought for infrastructure intended to be funded by CIL and no more than five obligations can be pooled by the Council to provide for the same item of infrastructure.
- 8.3 The Council may approve the draft charging schedule only if the examiner makes recommendations under section 212A(4) or (5) of the Planning Act 2008 and the charging authority has had regard to those recommendations and the examiner's reasons for them. This has occurred in this case and the draft charging schedule can be approved, subject to the decision. The CIL charging schedule must be adopted by a majority decision of Full Council.
- 8.4 Should Full Council be minded to adopt the CIL charging schedule the Council must as soon as practicable publish the CIL charging schedule along with a report setting out how the CIL charging schedule has been amended to implement the Inspector's required modifications and make those documents available for inspection by the public. The Council shall also give notice by local advertisement of the approval of the CIL charging schedule and confirm where those documents can be found. The Council must also give notice to those persons who specifically requested such notification and send a copy of the CIL charging schedule to the relevant consenting authorities.

- 8.5 A person may challenge the validity of the CIL charging schedule within three months of Full Council's adoption of the CIL charging schedule.
- 8.6 Should Full Council be minded to adopt the new Planning Obligations SPD the Council must as soon as practicable make the Planning Obligations SPD and adoption statement available in accordance with Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012/767 ("Local Planning Regulations") and send a copy of the adoption statement to any person who has requested to be notified of the adoption of the new Planning Obligations SPD. The adoption statement must state the date the Planning Obligations SPD was adopted, whether any modifications were made to take account of representations, that a person may apply to the High Court for permission to undertake judicial review proceedings and that any such application must be made promptly and in any event no later than three months after the date on which the Planning Obligations SPD was adopted.
- 8.7 In order to withdraw the Council's current Planning Obligations SPD the Council must as soon as reasonably practicable make available a statement confirming the withdrawal, send all those who made representations notification that the current Planning Obligations SPD has been withdrawn and cease to make any documents relating to the withdrawn Planning Obligations SPD available in accordance with the Regulation 35 of the Local Planning Regulations (other than the withdrawal statement).

9. Corporate Property Implications

- 9.1 Corporate Property and Construction supports the recommendations set out in the report. However, it is noted that the introduction of the proposed CIL Charging Schedule and the Replacement Planning Obligations will impact on viability considerations for the Council's property development and asset disposals projects.

BACKGROUND PAPERS: Report to Cabinet April 2014
