

TOWARDS A COMMUNITY INFRASTRUCTURE LEVY FOR HILLINGDON

Cabinet Member	Councillor Keith Burrows
Cabinet Portfolio	Planning, Transportation and Recycling
Officer Contact	James Gleave: Planning, Environment, Education and Community Services.
Papers with report	Appendix 1: Hillingdon's Community Infrastructure Levy Preliminary Draft Charging Schedule Appendix 2: Hillingdon's Draft Supplementary Planning Document: Planning Obligations

HEADLINE INFORMATION

Purpose of report	This report provides information to Cabinet on the introduction of Hillingdon's borough- wide Community Infrastructure Levy (CIL) and the revised Draft Planning Obligations Supplementary Planning Document (SPD). Approval is sought to issue the revised draft Planning Obligations SPD and the CIL Preliminary Draft Charging Schedule for consultation purposes.
Contribution to our plans and strategies	None
Financial Cost	The Planning Obligations SPD would be used as a basis to collect contributions for affordable housing, employment and training and other site specific infrastructure provision. Income from the Community Infrastructure Levy would be used to fund general infrastructure provision associated with incremental growth in the borough. Different uses will be subject to different CIL charges. Hillingdon would charge a 5% administration fee on all CIL contributions.
Relevant Policy Overview Committee	Residents' and Environmental Services Policy Overview Committee
Ward(s) affected	All

RECOMMENDATION

That the Cabinet:

- 1. Notes the content of the Draft Planning Obligations SPD and the Preliminary Draft Charging Schedule.**
- 2. Authorises officers to undertake public consultation on the Draft Planning Obligations Supplementary Planning Document and Preliminary Draft Charging schedule.**
- 3. Instructs officers to report back to a future meeting of Cabinet on the outcome of the public consultation.**
- 4. Grants delegated authority to the Deputy Chief Executive and Corporate Director of Planning, Environment, Education and Community Services to agree, in conjunction with the Cabinet Member for Planning, Transportation and Recycling, to make any minor editing and textual changes to both documents, before they are formally published for public consultation.**

SUPPORTING INFORMATION

Reasons for Recommendation

In April 2011, Cabinet instructed officers to prepare draft proposals for a Community Infrastructure Levy for Hillingdon and agreed to grant delegated authority to appoint a consultant(s) to the value of £80,000 to undertake the relevant technical work. This included the preparation of a Preliminary Draft Charging Schedule (PDCS) and the accompanying economic viability assessment to inform and progress matters. Furthermore, officers were instructed to report back to Cabinet on the findings of the work, to agree a Preliminary Draft Charging Schedule for consultation and an appropriate means of collecting, spending and monitoring the proposed CIL.

In September 2011, Cabinet Member approval was given to appoint URS Scott Wilson and CBRE to prepare the Preliminary Draft Charging Schedule and the associated viability assessment. This work is now completed and subject to Cabinet approval, the Preliminary Draft Charging Schedule can be issued for public consultation.

The introduction of CIL will result in significant changes to the operation of S106 procedures. The two processes are intrinsically linked and it is considered prudent to twin track the production of a revised S106 SPD with the introduction of CIL across the borough. Further information on how the two processes will operate together is contained in this report.

Alternative Options Considered

The Cabinet may decide not to approve the Preliminary Draft Charging Schedule and Draft Planning Obligations SPD for public consultation. Given the Government's proposals to introduce the CIL and to reduce the scope of Planning Obligations, this option would not be in the best interests of the Borough.

Alternatively Cabinet may request officers to make significant changes to the documents for subsequent approval prior to public consultation.

Comments of Policy Overview Committee(s)

None at this stage.

Supporting information

Background

1. The background to this work relates to:
 - the Government's wider proposals for the introduction of CIL;
 - the introduction of the Mayoral CIL to fund Crossrail; and
 - changes to the Planning Obligations procedures.

What is the Community Infrastructure Levy?

2. The Community Infrastructure Levy (CIL) came into force in April 2010. It allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. CIL will apply to all new developments that are 100 sq m or over (net additional internal floorspace) or developments comprising one dwelling or more. This would include developments within airport boundaries. The money can be used to fund a wide range of infrastructure that is needed as a result of development. This includes new or safer road schemes, flood defences, schools, hospitals and other health and social care facilities, park improvements, green spaces and leisure centres.

3. CIL is set by "charging authorities". A local planning authority is the charging authority for its area. In the case of London, the Mayor of London is a charging authority for Greater London in addition to the individual boroughs, which results in London being subject to a two tier system. Authorities wishing to charge the levy must produce a Charging Schedule setting out proposed rates. The schedule constitutes a legal document and rates should strike an appropriate balance between the desirability of funding infrastructure and the potential effects on the economic viability of development. As part of the production of the schedule, authorities will be required to provide evidence to an independent examiner that this balance has been struck.

4. The responsibility to pay the levy runs with the ownership of land on which the liable development will be situated. The levy's charges will become due from the date that a chargeable development is commenced. When planning permission is granted, the collecting authority will issue a liability notice setting out the amount of the levy that will be due for payment when development is commenced.

5. The levy is intended to provide infrastructure to support the development of an area rather than to make individual planning applications acceptable in planning terms. It does not apply to affordable housing provision and there may still be some site specific impact mitigation requirements without which a development should not be granted planning permission. These would continue to be dealt with through Planning Obligations.

Planning Obligations and CIL

6. From 6 April 2014, or after the adoption of the borough wide CIL there will be restrictions on the use of planning obligations to fund infrastructure provision. Specifically, pooled contributions may be sought from up to five separate planning obligations for an item of infrastructure that is not locally intended to be funded by the levy.

7. For items that are not defined as infrastructure within the CIL Regulations and therefore not capable of being funded by the levy, such as affordable housing and employment training, there are no restrictions in terms of the numbers of obligations that may be pooled, but they must have regard to the wider policies set out in Circular 5/05 Planning Obligations. As such, the process of collecting Planning Obligations for employment and training contributions will remain largely unchanged.

Update on the Mayor's CIL

8. The Mayor is introducing his own CIL to contribute £300 million towards the cost of Crossrail. Boroughs have been divided into three broad charging bands (£20psm, £35psm and £50psm) and will be responsible for collecting the charge and then passing it back to the Mayor. From 1st April 2012 development in Hillingdon will be subject to the £35 charging band. This has been taken into account when setting Hillingdon's own CIL and is explained in later sections of this report. All rates referred to in this report are exclusive of the Mayoral CIL.

9. There is a likelihood that the Mayor will seek to introduce additional CILs to fund future items of strategic infrastructure. In these circumstances, the Mayor would be required to take account of existing borough wide CIL's when setting charging rates. The implementation of a borough-wide CIL will therefore help to justify a lower charging rate should future Mayoral CILs come forward.

Hillingdon's own CIL

10. URS Scott Wilson and CBRE have progressed two strands of work as a basis for the introduction of Hillingdon's own CIL; updating Hillingdon's Strategic Infrastructure Plan (SIP) and preparing a draft schedule of CIL rates for consultation.

Updating Hillingdon's Strategic Infrastructure Plan

11. The starting point for the Preliminary Draft Charging Schedule is Hillingdon's Core Strategy, which outlines planned growth in the borough and includes provision for approximately 6,500 new homes by 2026. The Strategic Infrastructure Plan (SIP) has been prepared by officers as a key piece of supporting evidence for the Core Strategy and demonstrates that there is sufficient infrastructure coming forward to support growth.

12. In order to justify the introduction of a CIL it is necessary to demonstrate a 'funding gap' between the cost of infrastructure provision and committed funding. URS has updated the SIP and the expected cost of infrastructure provision in the borough over the period of the Core Strategy is summarised in Table A.

Table A: Estimated Infrastructure Requirements and Cost to 2026

Infrastructure Element	Required Infrastructure Schemes	Cost (£millions)	Delivery Bodies
Transport	LIP Schemes including public transport and road and street improvement schemes	18.3	LB Hillingdon, TfL,
Utilities	2 Primary sub stations, 300 sub stations, Water pipe leakage repair scheme, Water infrastructure to meet need demand, Additional Waste facilities	23.0	Utilities Providers, LB Hillingdon
Health	2 new centralised health centres at Hayes and Yiewsley, 7 to 10 new GPs surgeries	3.3	Hillingdon PCT, NHS
Education	2 to 4 Primary Schools, 1 Secondary School	127.9	LB Hillingdon
Leisure	Additional child play space, swimming pool, sports halls and library space	13.3	LB Hillingdon
Other Community Infrastructure	No other community infrastructure requirement identified	0.0	LB Hillingdon

13. Identified infrastructure funding is shown in the Council's Capital Programme. Currently there is approximately £66.7m of funding identified to meet Hillingdon's future infrastructure needs. This includes £6.3m for transport improvements, £55.9m for primary school provision and £4.5m for other community infrastructure. If this identified funding is taken away from total infrastructure costs in Table A it leaves a funding gap of approximately £120m. This means that the CIL is justified and the Council can progress the production of a Preliminary Draft Charging Schedule.

Preliminary Draft Charging Schedule

14. This Preliminary Draft Charging Schedule is the first stage in the implementation of CIL in Hillingdon and sets out proposed rates at which new development will be charged in pounds per square metre. It is proposed that the document would be issued for a consultation period of 6 weeks to provide an opportunity for residents and businesses to comment on the proposals.

15. In accordance with Government guidance, proposed CIL rates have been established through a comparison of Residual Land Values (RLV) from a series of development scenarios and benchmarking these against indicative Existing Use Values (EUV). The analysis is also supported by a broad property market review and research for the borough. The aim of this process is to establish the level at which CIL could be charged without making development economically unviable, across a range of uses and locations in the borough. It should be emphasised that this is a borough-wide study and the conclusions cannot be used to assess the viability of specific sites.

How will CIL be charged in Hillingdon?

16. CIL can be charged in a number of ways. The London Borough of Redbridge has implemented a flat rate of £70 per square metre for all new development. A further option is to charge different rates in different sub regions. In order to support such an approach it is necessary to demonstrate a clear distinction between land values in different parts of the borough.

17. CBRE did not find sufficient evidence to justify charging CIL by sub-area and it is therefore proposed to implement the charge at different rates for different uses as follows:

Table B: Schedule of Proposed CIL Rates

Use Type	Proposed CIL Rate (per sq. m)
Large format retail 1,000sq. m+(A1-A5)	£215
Offices (B1)	£35
Hotels (C1)	£40
Residential Dwelling Houses (C3)	£95
Industrial (B8)	£5
Sui Generis	£35
All other uses	£0

18. The income the Council will receive from CIL is difficult to predict as it is linked to development commencements, which do not correlate particularly well with planning consents. Table C uses the rates in Table B and completions data from 2008/09, 2009/10 and 2010/11 to provide a broad estimate of the income the Council might have received during these years through CIL. A comparison is shown with Section 106 receipts for these years:

Table C: Comparison of CIL and S106 income

Year	2008/09	2009/10	2010/11
S106 Income (£)	2,207,691	4,171,502	3,304,000
CIL income (£)	11,532,630	7,436,955	3,474,415

Striking an appropriate balance

19. Government guidance states that charging authorities should use an area-based approach, which involves a broad test of viability across their area, as the evidence base to underpin their charge. Charging authorities should take a strategic view across their area and should not focus on the potential implications of setting a CIL for individual development sites. CIL Regulation 14 contained in the Community Infrastructure Regulations 2010 recognises that the introduction of CIL may put some potential development sites at risk. It is for charging authorities to decide what CIL rate sets an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across their area.

20. CBRE's viability evidence has been prepared to follow this aspect of the guidance and concludes that the proposed rates should not affect viability at a borough-wide level. The evidence reflects the conclusions of Regulation 14 in that:

'The Council will need to form a view on – the scale of the charge to meet infrastructure needs versus its potential impact on achieving economic development in the borough. Possibly some developments may find it financially challenging to meet the charge, but collectively the charging level at a borough wide basis brings greater benefits to outweigh any potential losses.'

21. It is clear therefore that whilst CIL has the potential to generate revenue for the Council, there may be some specific sites where the addition of the CIL tips the balance of viability. In order for development to proceed on these sites the cost of the CIL may need to be recovered or offset. There are a number of ways that this can be done. At the recent London Plan EiP the Chief Planning Inspector Keith Holland indicated that developers may be required to accept less profit in these circumstances. Alternatively, the cost of CIL may be met by a reduction in Section 106 contributions for affordable housing.

22. Specific queries have been raised regarding the impact of CIL on regeneration initiatives in certain parts of the borough and whether its implementation will encourage developer to landbank sites or favour areas with a lower CIL rates. There are a number of aspects to this issue:

- a) CIL represents a significant opportunity for the Council to provide more infrastructure across the borough. The presence or improvement of infrastructure is an important prerequisite to regeneration.
- b) It should be emphasised that CIL will only relate to the aspects of regeneration that involve a net increase in development. Developers are primarily driven by the availability of suitable sites and the need to meet a market demand. Alternative locations are only considered where these criteria can be met, regardless of CIL.
- c) There will be winners and losers from the introduction CIL. Some will benefit in terms of a reduction in contributions in comparison with S106, others will be subject to higher level of contributions.
- d) A primary consideration for developers is the sale or rental value of a particular scheme. Whilst CIL may be lower in adjoining boroughs, it may not be possible for a developer to obtain the same percentage return due to lower land values.
- e) As a development cost, CIL represents a small proportion of the overall return on a particular development scheme. For example, CIL payments for an 80 sqm residential unit charged at the proposed rate of £95 psm would be subject to a CIL contribution £7,600. Assuming an average house price of £260,000, this represents 2.9% of the overall unit cost.
- f) CIL is only likely to affect regeneration initiatives where it tips the balance of viability and where a developer has an alternative and equally suitable site that delivers an equal level of return. Sites that deliver a better level of return are likely to be preferable, regardless of CIL.

23. In conclusion, the evidence indicates that the proposed CIL rates in Table C will not have an adverse effect on the viability of development at a borough wide level. There may be some site specific instances where the viability of development is affected or Section 106 contributions for items such as affordable housing will be

introduced. However, it should be emphasised that this report seeks approval to proceed with the first stage of consultation on the proposals. This process will provide an opportunity to discuss the results of the viability work and the proposed charging rates with a range of internal and external stakeholders, which will help to reduce any uncertainties regarding the introduction of CIL in the borough.

The Section 106 SPD

24. Notwithstanding the restrictions on the use of Planning Obligations government guidance states that they still have a legitimate role to mitigate site specific consequences of development. Whilst CIL and S106 can operate together, developers should not be 'double charged, for the same item of infrastructure. As a general rule, CIL will be used to fund infrastructure provision generated as a result of incremental growth. In accordance with Government guidance it is proposed that Planning Obligations will continue to be used to provide site specific mitigation for particular development proposals and items that do not meet the definition of infrastructure, such as employment and training provision.

25. Hillingdon's current Planning Obligations SPD was produced in July 2008 and has formed a good basis for securing developer contributions since this time. The document is being updated to reflect the introduction of CIL and subsequent legislative changes that affect the use of Planning Obligations.

26. A revised draft of the Planning Obligations SPD is attached as Appendix 2 of this of this report. This section highlights the proposed changes to the SPD including the chapters to be retained with minor changes, those that are proposed to be removed from the SPD and those that will be amended to explain how planning obligations and CIL will operate alongside each other.

Chapters of the SPD to be retained with minor amendments

27. **Affordable Housing:** CIL payments cannot be used to fund affordable housing provision. The Affordable Housing chapter of the SPD has been updated through discussion with the Council's Development Team to ensure it is consistent with current legislation and guidance. In particular reference is now made to Affordable Rented tenure as a form of social rented provision. Overall the chapter remains largely unchanged.

28. **Employment and Training:** Planning Obligations will continue to be used to fund items that are not defined as 'infrastructure', such as employment and training provision. Subject to minor updates agreed with the Council's Corporate Policy team, the Employment and Training Chapter of the SPD remains largely unchanged.

29. **Transportation, Noise, Air Quality:** The 2008 SPD contains sections on contributions to mitigate transportation, noise and air quality impacts. Planning Obligations are currently used to mitigate site specific transportation impacts and to provide more general improvements to the transport network across the borough. It is proposed that the Council will continue to seek on-site transport mitigation and the provision of Green Travel Plans through Planning Obligations. Given the potential future limitations in the use of Planning Obligations it is suggested that 'off site' improvements to the transport network should be funded through the CIL.

30. Contributions for noise and air quality mitigation do not relate to items of infrastructure and are unsuitable for CIL funding. It is recommended that they remain in the Planning Obligations SPD. This section has been reviewed by the Council's Environmental Protection Unit (EPU) and subject to minor textual, will remain largely unchanged.

Chapters to be deleted from the SPD

31. **Healthcare and Education:** The chapters on healthcare and education provision in the 2008 SPD provide a formula based approach to calculate contributions towards the provision of such facilities. This approach has worked well in recent years as the majority of development schemes have provided these planning obligations in the form a commuted sum, rather than as direct provision of on-site facilities. Given future restrictions on the use of Planning Obligations, it is considered that health and education facilities should be funded through CIL. Accordingly, these chapters are not carried forward in to the revised SPD.

Amendments to explain the joint operation of Planning Obligations and CIL

32. There are some items where CIL and S106 will operate alongside each other. In these instances, CIL will be used to support the development of an area and infrastructure arising from incremental off-site growth. However, planning obligations will continue to be used to provide site specific mitigation requirements which are necessary to overcome planning objections. This approach has been applied to the following chapters of the emerging SPD in Appendix 2:

- **Chapter 7: Open Space Provision:** Planning obligations will be used to address the need for site specific open space or play space provision and/or to mitigate against losses directly resulting from new development. Generally however off site provision will be funded through CIL.
- **Chapter 12: Environmental Impacts:** Specific improvements will be sought to address site specific bio-diversity impacts, matters that relate to land contamination, recycling or waste management issues and flooding concerns.
- **Chapter 10: Community Safety in the public realm:** Planning obligations will continue to secure site specific community safety enhancements, such as CCTV schemes that are necessary to ensure a safe and sustainable environment.

33. Unlike the CIL, Planning Obligations will continue to be subject to viability testing and negotiated on a site by site basis. Whilst the scope of planning obligations as a means of overcoming planning objections will reduce with the introduction of CIL, it will continue to be an important mechanism to deliver infrastructure across the borough. A revised Planning Obligations SPD is therefore essential to ensure the delivery of on-site mitigation measures across the borough.

Conclusion

34. In conclusion it is considered that:

- Given that after April 2014 there will be limitations on the use of Planning Obligations to fund infrastructure provision, it is necessary to introduce CIL as an

alternative source of income to ensure that infrastructure continues to be provided for the benefit of local residents.

- The proposed CIL rates have been subject to detailed testing and are not considered to have an adverse affect on viability or regeneration across the borough. There will continue to be opportunities and consultation to test that this is indeed the case.
- The proposed CIL has the potential to raise more income than S106 contributions.
- The introduction of a borough-wide CIL will help to justify a lower charging rate for future Mayoral CILs.
- Planning Obligations will not disappear completely and will continue to be used for on-site provision of infrastructure. It is therefore necessary to prepare a revised Planning Obligations SPD, which will be consulted on at the same time as the CIL Charging Schedule.
- Affordable housing provision and employment and training provision will continue to be provide through Planning Obligations.
- Cabinet approval is therefore requested to issue the Preliminary Draft Charging Schedule for consultation. Officers will report back on the outcome of this process with further information on next steps.

Next Steps

35. Subject to the receiving Cabinet approval, the Preliminary Draft Charging Schedule will be issued for a 6 week consultation period. This process is likely to involve one or more forums with developers and other key stakeholders to discuss the impact of the CIL on economic viability within the borough. The document will come back to Cabinet to seek approval for a further statutory consultation period. Following this second period of consultation and prior to the adoption of the Charging Schedule it will be subject to a process of public examination by an independent planning inspector. Assuming the first and second phase consultations run to plan this is expected to take place at the end of 2012/ beginning of 2013. If this timetable is met the draft charging schedule will be published and operational in the spring of 2013.

Financial Implications

36. The report outlines the process by which a proposed set of CIL rates have been calculated which are shown in table B above, and these will be subject to a public consultation process.

37. An estimate on past performance has been calculated in table C to give an idea of potential CIL receipts based on completions data. Although past data is not necessarily a reliable guide to future performance, it does clearly demonstrate an increase in potential resource above what has been chargeable by S106 alone. The actual total value of the levy derivable from this proposed CIL rate is not knowable in advance as it is dependent on actual development that occurs. The report also outlines the work done by the consultants to assess the economic viability, with the objective of producing a proposal that minimises potential loss of development with maximum levy receipts.

38. The CIL is also 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.

39. 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.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

Consultation Carried Out or Required

As part of the preparation of this paper, internal discussions have been held with the Council's Housing Supply Team, Corporate Finance and Corporate Policy.

CORPORATE IMPLICATIONS

Corporate Finance

Corporate Finance has reviewed this report and confirms that there are no immediate financial implications arising from its recommendations. However, the introduction of a Community Infrastructure Levy (CIL) will represent a significant new income stream for the authority with associated wide ranging financial implications.

In establishing the validity of implementing the CIL in Hillingdon, this report notes the existence of a £66.7m funding gap arising from new development in the borough on the basis of planned investment over the period 2012/13 – 2014/15. Under current budgetary arrangements this gap is supported through use of Capital Receipts and Prudential Borrowing, ultimately impacting upon residents through Council Tax.

As a capital funding stream CIL will offer greater flexibility than existing Section 106 contributions and provide a more sustainable mechanism for supporting on-going Programmes of Works, reducing but not eliminating the reliance on achieving Capital Receipts to deliver these works.

Although CIL represents a funding stream for such investment, the impact of the levy on development activity within Hillingdon will need to be considered given both the Council's wider responsibility to encourage economic growth and the impact such growth would have on the Council's finances. Local Economic growth would lead to increased tax receipts through both a larger Council Tax base and the retention of growth in business rates. Additionally it would have the advantages of reducing expenditure by creating local employment opportunities taking local people of benefits and so reducing demand for services provided by the Council.

Current indications are that costs associated with the administration of CIL will be supported through the 5% administration fee noted in this report and will not require the identification of resources to fund such costs.

Legal Comments

The Planning Act 2008 established powers for charging authorities (in this case the Council) to create a Community Infrastructure Levy. The Community Infrastructure Levy Regulations 2010 set out the mechanisms allowing the Council to introduce a community infrastructure levy and came into effect in April 2010.

The 2010 Regulations allow a charging authority to levy a charge on the owners or developers of land that is developed so that they contribute to the costs of providing the infrastructure needed to support the development of the area. The regulations set a mechanism for setting and collecting the levy and place limitations on the use of planning obligations. The 2010 Regulations do not require a local planning authority to adopt a CIL for its area and a local planning authority may choose to continue to rely on planning obligations to provide necessary infrastructure. However post 6 April 2014 the Council's ability to rely on planning obligations will be limited as the 2010 Regulations scale back the use of planning obligations as explained in this report.

Corporate Landlord

As with privately owned land and buildings, it is likely that the CIL will have some impact on land values, at least in the short term until the market evens out. This will have an affect on the value of sites the Council wishes to dispose of. However, at a borough-wide level and based on evidence in the consultant's report, CIL is considered to be affordable and should not affect the viability of development.

BACKGROUND PAPERS

Hillingdon's Community Infrastructure Levy – viability study, March 2012