

# TOWARDS A COMMUNITY INFRASTRUCTURE LEVY FOR HILLINGDON

<b>Cabinet Member</b>	Councillor Keith Burrows
<b>Cabinet Portfolio</b>	Planning, Transportation and Recycling
<b>Officer Contact</b>	James Gleave: Planning, Environment, Education and Community Services.
<b>Papers with report</b>	<p>Appendix 1: Schedule of Responses to the Preliminary Draft Charging Schedule</p> <p>Appendix 2: Schedule of Responses to the Draft Supplementary Planning Document: Planning Obligations</p> <p>Appendix 3: Hillingdon's Community Infrastructure Levy Draft Charging Schedule (September 2012)</p> <p>Appendix 4: Hillingdon's Supplementary Planning Document: Planning Obligations (September 2012)</p> <p><b>(DOCUMENTS CIRCULATED SEPERATELY)</b></p>

## HEADLINE INFORMATION

<b>Purpose of report</b>	This report provides information to the Cabinet on the outcome of the consultation for Hillingdon's Preliminary Draft Community Infrastructure Levy (CIL) and the Draft Planning Obligations Supplementary Planning Document (SPD). Approval is sought to undertake further consultation on the draft CIL Charging Schedule and to proceed with the adoption of the Planning Obligations SPD.
<b>Contribution to our plans and strategies</b>	Sustainable Community Strategy, Our Built Environment
<b>Financial Cost</b>	<p>Income from the CIL 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.</p> <p>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, that are not covered by the CIL.</p>
<b>Relevant Policy Overview Committee</b>	Residents' and Environmental Services Policy Overview Committee
<b>Ward(s) affected</b>	All

## **RECOMMENDATION**

### **That Cabinet:**

- 1. Notes the consultation responses received on the Preliminary Draft Charging Schedule as detailed in Appendix 1.**
- 2. Notes the consultation responses received on the Draft Supplementary Planning Document: Planning Obligations, as detailed in Appendix 2**
- 3. Approves the proposed amendments to the Preliminary Draft Charging Schedule as set out in Appendix 3, and authorises officers to undertake further public consultation of 4 weeks on the document.**
- 4. Agrees that following the further public consultation of 4 weeks on the Draft Charging Schedule, that delegated authority be granted to the Deputy Chief Executive and Corporate Director of Planning, Environment, Education and Community Services, in conjunction with the Cabinet Member for Planning, Transportation and Recycling to agree the Submission of the Draft Charging Schedule for Examination to the Secretary of State.**
- 5. Approves the proposed amendments to the Supplementary Planning Document: Planning Obligations, as set out in Appendix 4, and agrees to hold the document in abeyance, so it can be adopted at the same time as the CIL Charging Schedule.**
- 6. 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.**

### **Reasons for Recommendation**

In March 2012, Cabinet instructed officers to consult on proposals to introduce a Community Infrastructure Levy (CIL) in Hillingdon. On 30<sup>th</sup> May 2012 the consultation period commenced on the Preliminary Draft Charging Schedule, which set out the rates at which it is proposed to charge CIL in borough. Two associated evidence base documents were also issued for consultation; The Community Infrastructure Viability Study and London Borough of Hillingdon Strategic Infrastructure Plan (SIP).

The six week consultation period for the Preliminary Draft Charging Schedule, the associated documents and the Draft Planning Obligations SPD closed on 11<sup>th</sup> July 2012. This report informs Cabinet of the outcome of the consultation process and seeks approval from Cabinet for officers to make appropriate amendments to the Preliminary Draft Charging Schedule; to issue the CIL documentation for a further round of consultation and subject to delegated approval from the Cabinet Member for Planning, Transportation, to submit the document to the Secretary of State for Examination in Public. For clarity and in accordance with The Community Infrastructure Levy Regulations 2010 (the CIL Regulations), the Preliminary Draft Charging Schedule will be referred to as the Draft Charging Schedule in the second round of consultation.

The preparation of the revised Planning Obligations SPD is covered by different Regulations to the CIL and it requires no further consultation. Officers therefore seek approval to hold this document in abeyance until the examination of the CIL is completed. At this time, Cabinet approval will be sought to adopt the CIL Charging Schedule and the Planning Obligations SPD together.

### **Alternative Options Considered**

The Cabinet may decline to approve the Draft Charging Schedule for public consultation. Alternatively Cabinet may request officers to make significant changes to the documents for subsequent approval prior to public consultation.

It is considered that these alternative options would prejudice progress on the preparation of the Charging Schedule. Given the Government's proposals to introduce the CIL and to reduce the scope of Planning Obligations, it is important that Hillingdon progresses its own CIL as a source of funding for future infrastructure provision and to support growth in the borough.

### **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; and
  - the outcome of the consultation on the Preliminary Draft Charging Schedule and the Draft Planning Obligations SPD approved by Cabinet in March.

#### Consultation on Hillingdon's CIL and Draft Planning Obligations SPD

2. Table A highlights the different requirements for the Preliminary Draft Charging Schedule and the Planning Obligations SPD, which formed the starting point for the consultation process.

**Table A: Consultation requirements for the Preliminary Draft Charging Schedule and the Planning Obligations SPD**

The Preliminary Draft Charging Schedule defined in The CIL Regulations	The Planning Obligations SPD defined in The Local Planning Regulations
<p>The period of consultation for the Preliminary Draft Charging Schedule is not made explicitly clear in the CIL Regulations although it is generally accepted that the documents should be made available for a minimum of 4 weeks. The CIL Regulations indicate that The Mayor of London and adjoining boroughs should be consulted.</p>	<p>The document should be made available for comment for a period not less than 4 weeks, with details of how to respond to the consultation process.</p> <p>The draft SPG must be made available at the offices of the local planning authority and at other places within its area that it considers to be appropriate. It should also be published on the local planning authority's website.</p>
<p>The charging authority must also invite representations on the Preliminary Draft from:</p> <p>(a) persons who are resident or carrying on business in its area; and</p> <p>(b) such of the following as the charging authority consider appropriate—</p> <p>(i) voluntary bodies some or all of whose activities benefit the charging authority's area, and</p> <p>(ii) bodies which represent the interests of persons carrying on business in the charging authority's area.</p> <p>The charging authority must make such arrangements as it considers appropriate for inviting representations from these organisations.</p>	<p>Before a local planning authority adopts the Supplementary Planning Document it must prepare a statement setting out</p> <p>(i) the persons consulted;</p> <p>(ii) a summary of the main issues raised during the consultation process; and</p> <p>(iii) how those issues have been addressed in the supplementary planning document.</p>

3. Officers sought to fully comply with or exceed the consultation requirements outlined in Table A. Firstly, all of the following documents were made available for a period of six weeks (as opposed to the statutory four weeks) on a dedicated webpage of the Council's website:

- The Preliminary Draft Charging Schedule prepared by URS/CBRE;
- The London Borough of Hillingdon Community Infrastructure Viability Study prepared by CBRE;
- The London Borough of Hillingdon Strategic Infrastructure Plan prepared by Officers and updated by URS; and
- The Draft Planning Obligations SPD prepared by officers

4. The webpage also contained a consultation response form, details of how to respond and where to find further information on the CIL and planning obligations process. A specific email address ([CIL@hillington.gov.uk](mailto:CIL@hillington.gov.uk)) was set up for consultees to submit responses.

5. The consultation documents were made available for public inspection at the Civic Centre and all libraries across the borough from 30th May to 11<sup>th</sup> July 2012. In addition, two drop-in sessions were held at Botwell Library on 7<sup>th</sup> June 2012 and at the Civic Centre on 14<sup>th</sup> June 2012 to provide members of the public with an opportunity to ask questions about the introduction of CIL. A separate drop in session for members was held on 18<sup>th</sup> June 2012 at the Civic Centre.

6. The following organisations and individuals were specifically informed by letter that the consultation was taking place:

- The Mayor of London;
- Local Planning Authorities in adjoining London Boroughs and Districts;
- Local Planning Authorities in adjoining County Councils;
- Local MPs;
- A range of statutory consultees including: utility providers, emergency services, transport and infrastructure providers, healthcare organisations, and government departments including the Planning Inspectorate;
- Residents Associations in the borough;
- Local Chambers of Commerce;
- Planning Consultants who have previously commented on Hillingdon's emerging Core Strategy (now The Local Plan Part 1); and
- 20% of all businesses registered on Hillingdon's Business Guide (approximately 270 organisations).

7. A presentation on the introduction of the CIL was given at the Resident's Planning Forum on 12 June 2012. This forum provided an opportunity for residents to ask questions on the introduction of the CIL and for officers to explain how it would benefit the borough as a whole.

#### Key issues raised in response to the consultation on the Preliminary Draft Charging Schedule

8. A summary schedule of all representations received in response to the Preliminary Draft Charging Schedule and officer responses to the points made is attached as Appendix 1 to this report. In total 19 individuals/organisations responded to this consultation. The key issues raised in the process are outlined in Table B below.

**Table B: Key issues raised in response to the Preliminary Draft Charging Schedule**

Issue raised	Officer response
<p>The proposed threshold for CIL charges on retail development of 1,000 square metres is not permitted under the provisions of the CIL Regulations. Whilst it is possible to have different rates for different use classes, the regulations do not allow for differentiation within use classes. Specifically, Poole Borough Council has chosen to withdraw its charging threshold for retail development after evidence presented at examination by Sainsbury's.</p>	<p>There is nothing in the CIL Regulations to state that different CIL rates cannot be set within different use classes. The viability evidence supports the proposed charging threshold, showing that when assessed at a borough wide level, retail development over 1,000 sqm can support a CIL rate of £215 per square metre. The evidence also supports the Council's decision not to charge CIL on retail development in town centres. As such it is not proposed to change this aspect of the Charging Schedule.</p>
<p>The proposed charging rates (particularly those for retail, residential and in some cases office development) are too high and will threaten the viability of development, either in part of the borough or across the borough as a whole. The CIL does not strike an appropriate balance between the desirability of funding infrastructure and the potential effects on the economic viability of development.</p>	<p>There may be some site specific instances where CIL affects the viability of development or the delivery of some planning obligations. However, when assessed at a borough-wide level, the supporting evidence indicates that the charging rates strike an appropriate balance between the desirability of funding infrastructure and the potential effects on the economic viability of development.</p>
<p>The proposed rates are high in comparison with those set for other boroughs.</p>	<p>The proposed charging rates have been set according to the specific circumstances in Hillingdon.</p>
<p>The 'existing use value' approach used in the viability assessment takes account of transactions in the recent past and it is unlikely that these make an allowance for future policy changes such as the introduction of CIL. The shortcomings of this approach are outlined in paragraphs 7-9 in the Inspector's Report on the Mayoral CIL and it is important the viability study assesses viability <b>after</b> the impact of Mayoral CIL. Overall, the Mayoral CIL should be treated as a development cost.</p>	<p>The Mayor's comments on this matter are noted. The viability assessment has used an 'existing use value' approach which takes account of recent transactions. The Mayoral CIL has been included in the assessment of viability and it is considered that there is no conflict with paragraphs 7-9 in the Mayoral CIL Inspector's Report. However it is accepted that there could be more clarity in the Viability Report on how this has been taken into account.</p>
<p>The Council should introduce exceptional circumstances relief for certain types of development</p>	<p>The use of relief from CIL payments for certain types of development is not supported. Rather, the approach has been to identify rates that do not affect the viability of development, when assessed at a borough wide level.</p>
<p>The consultation documents were prepared before the introduction of the National Planning Policy Framework (NPPF).</p>	<p>The documentation will be updated to reflect the introduction of the NPPF.</p>

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References to old style PPGs/PPS' should be replaced with the relevant section of the NPPF.

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Further clarification is required on how the Mayoral CIL has been taken into account in the assessment of viability.

Whilst the proposed CIL rates and the assessment of viability have taken the Mayoral CIL into account it is agreed that further information could be provided on how this issue has been assessed.

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9. Overall, responses to the consultation have not resulted in the need for any significant changes to the Preliminary Draft Charging Schedule. Perhaps the most significant point that was raised relates to the proposed charging threshold for retail development. This has been subject to much discussion in the planning press and is currently being assessed through the examination of charging schedules in a number of other local authority areas. As stated in the table above, officers believe that Hillingdon's Viability Study prepared by CBRE supports the proposed charging threshold, showing that when assessed at a borough wide level, retail development over 1,000 sqm can support a CIL rate of £215 per square metre. The evidence also supports the Council's decision not to charge CIL on retail development in town centres. As such it is not proposed to change this aspect of the Charging Schedule. However this approach to CIL charges for retail development will be reviewed again after the next phase of consultation.

10. A revised version of the Draft Charging Schedule is attached as Appendix 3 to this report. Minor changes to clarify particular points made during the consultation process are shown as either additional red text or as red strikethrough.

#### Key issues raised in response to the consultation on the Draft Planning Obligations SPD

11. A summary schedule of all representations received in response to the Draft Planning Obligation SPD and officer responses to the points made is attached as Appendix 2 to this report. In total 9 individuals/organisations responded to this consultation. The key issues raised in the process are outlined in Table C below.

**Table C: Key issues raised in response to the Draft Planning Obligations SPD**

<b>Issue Raised</b>	<b>Officer Response</b>
The SPD should include references to specific areas in the borough (such as Colne Valley Regional Park or the Grand Union Canal).	The SPD is not a site specific document and does not generally include site specific references or provisions.
References to Planning Policy Guidance should be replaced with corresponding references to the National Planning Policy Framework (NPPF).	The SPD will be updated to reflect current National Planning Guidance.
Affordable rented accommodation should be recognised in the SPD as a form of affordable housing.	Reference to affordable rented tenure is already made.

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A number of issues were raised around the assessment of viability. The viability of site specific affordable housing provision is currently assessed using a financial model known as the GLA Toolkit. Some argued there should be scope to use alternative models.

The GLA toolkit is the approved model for assessing the provision of affordable housing. The use of alternative models should be discussed with the Council as appropriate

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There is potential for 'double charging' of CIL and Planning Obligations, particularly in relation to transport contributions.

The purpose of S106 will be to provide for site specific transport mitigation, rather than borough-wide transport needs. The bullet points associated with paragraph 5.7 in the draft SPD will be updated to reflect this.

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Some of the provisions in the Planning Obligations SPD, such as the late payment and administration fees are excessively high

The provisions for late payment and administration fees have been carried forward from the current Planning Obligations SPD. These provisions have worked well and there are no specific reasons to change them.

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12. The responses to the consultation have not resulted in the need for any significant changes to the Draft Planning Obligation SPD. A revised version of the Planning Obligation SPD is attached as Appendix 4 to this report. Minor changes to clarify particular points made during the consultation process are shown as either additional red text or as red strikethrough.

### Next Steps

13. Subject to Cabinet approval and in accordance with the CIL Regulations the amended Draft Charging Schedule and supporting evidence base documents will be issued for a further consultation of 4 weeks. A separate Consultation Statement based on the schedule of responses contained at Appendices 1 and 2 will be prepared and made available as part of the consultation process. This statement will detail all of the representations made in relation to the Preliminary Draft Charging Schedule and the Planning Obligations SPD.

14. Following the completion of the four week consultation period and in accordance with the recommendations of this report, Cabinet Member approval will be sought to submit the Charging Schedule for Examination. Prior to Examination, it will be necessary to prepare a declaration that the CIL Regulations have been complied with and that appropriate evidence has been used to compile the Draft Charging Schedule. This declaration must be approved at a meeting of the authority, by majority of votes of members present. As such, Cabinet approval of the Draft Charging Schedule and declaration will be required prior to Submission.

15. The Examination is conducted by a suitably qualified independent person. Most local authorities progressing CILs have used or intend to use the Planning Inspectorate (PINs) to conduct the Examination.

16. In terms of timescale, PINs estimate a 20 week period from submission to the production of the final report. Assuming Submission takes place at the beginning of

2013, the final report should be available in May 2013. There will be a cost implications associated with the Examination, which are outlined in the 'financial implications' section of this report.

17. 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. In addition, it will be necessary to revoke the Council's existing Planning Obligations SPD. The revocation will be publicised on the Council's website and all those who made representations on the Draft Planning Obligations SPD will be notified.

### Conclusion

18. In conclusion it is considered 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 consultation process for the Preliminary Draft Charging Schedule and the Draft Planning Obligations SPD has not raised significant areas of concern, although there are some matters on which officers will need to keep a watching brief.
- Minor revisions have been made to the CIL Charging Schedule and the Draft Planning Obligations SPD.
- Cabinet approval is requested to issue the Draft Charging Schedule for consultation and to grant delegated authority to the Cabinet Member for Planning, Transportation and Recycling to approve the Submission of the document for Examination to the Secretary of State.
- Cabinet approval is also sought to hold the revised Planning Obligations SPD in abeyance until the receipt of the Inspector's Report on the draft Charging Schedule for the CIL.

### Financial Implications

The report outlines the public consultation that has been undertaken for proposed Hillingdon CIL and the key issues that were raised in response. As a result of this process no significant changes are proposed. A number of minor changes are proposed and are subject to a further consultation.

As previously reported earlier in the year the Community Infrastructure Levy (CIL) will provide a new income stream that will be used to fund general infrastructure associated with the incremental growth in the borough, and that different uses of development will be subject to different CIL charges. A closer examination of the proposed charging schedule in the previous Cabinet report demonstrated a potential increase in resource above what has been chargeable by Section 106 alone. However the actual total value

of the levy derivable from this proposed CIL is not knowable in advance as it is dependent on actual development that occurs.

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.

The additional CIL receipts over and above the level of receipts from the S106 contributions will provide a beneficial financing resource for the Council's capital programme, combined with the greater flexibility of its application to a wider range of infrastructure schemes across the whole of the Borough.

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, that are not covered by the CIL.

## **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 recommendations included within this report have no immediate financial implications. Minor changes to the proposed Hillingdon Community Infrastructure Levy (CIL) are not expected to impact significantly on the financial implications of implementation.

As previously reported to Cabinet, introduction of a Community Infrastructure Levy (CIL) will represent a significant new income stream for the authority with associated wide ranging financial implications.

CIL is expected to provide a more sustainable mechanism for supporting capital investment in 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.

The Cabinet are responsible for proposing and developing policies which would include supplementary planning documents. With regards to the draft Supplementary Planning Document: Planning Obligations, this document will be used as a guide to any planning obligations that the Council will seek in order to mitigate against the effects of the development on local infrastructure.

Consultation on the proposed levy and on the supplementary planning document must be undertaken when proposals are still at a formative stage, must give sufficient reasons to permit the consultee to make a meaningful response, and must allow adequate time for consideration and response. In considering the consultation responses, decision makers must ensure there is a full consideration of all representations arising including those which do not accord with the officer recommendation. The decision maker must be satisfied that responses from the public are conscientiously taken into account.

## **Corporate Property and Construction**

The proposals concerning the CIL and the Draft Planning Obligations Supplementary Planning Document have direct implications for the work of Corporate Property and Construction, particularly in relation to the development and disposal of property and the delivery of affordable homes. In view of this it is desirable that an appropriate balance is struck that enables both development to proceed and affordable homes to be delivered to meet the Council's objectives. Consequently, the recommendations are supported, in particular 3 and 5.

It is noted that there has been a borough wide assessment which has provided supporting evidence indicating that the CIL charging rates strike an appropriate balance between the desirability of funding infrastructure and the potential effects on the economic viability of development.

**BACKGROUND PAPERS**

Towards a Community Infrastructure Levy in Hillingdon: Cabinet Report: March 2012