

# 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: Residents Services.
<b>Papers with report</b>	Appendix 1: Schedule of Responses to the Draft Charging Schedule Appendix 2: Hillingdon's Community Infrastructure Levy Draft Charging Schedule Appendix 3: Proposed Declaration of Compliance with the CIL Regulations

## HEADLINE INFORMATION

<b>Purpose of report</b>	This report provides information to the Cabinet on the outcome of the consultation for Hillingdon's Draft Community Infrastructure Levy (CIL) Charging Schedule. Approval is sought to submit the documents to the Secretary of State for Examination.
<b>Contribution to our plans and strategies</b>	None
<b>Financial Cost</b>	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.
<b>Relevant Policy Overview Committee</b>	Residents' and Environmental Services Policy Overview Committee
<b>Ward(s) affected</b>	All

## RECOMMENDATION

That Cabinet:

- Notes the consultation responses received on the Draft Charging Schedule as detailed in Appendix 1.**

- 2. Approves the proposed amendments to the Draft Charging Schedule as set out in Appendix 2, and authorises officers to submit the document to the Secretary of State for Examination.**
- 3. Authorises the Cabinet Member for Planning, Transportation and Recycling to sign the declaration at Appendix 3 that the Draft Schedule has been prepared using appropriate evidence.**
- 4. Approves the list of the types of infrastructure that are to be funded in whole or in part by CIL contained in Table B.**
- 5. 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, any minor editing and textual changes to the Draft Charging Schedule and evidence base documents.**

### **Reasons for Recommendation**

On 27<sup>th</sup> September 2012, Cabinet instructed officers to consult on proposals to introduce a Community Infrastructure Levy (CIL) in Hillingdon. On 15<sup>th</sup> November 2012 the consultation period commenced on the Draft Charging Schedule, which set out the rates at which it is proposed to charge CIL in the Borough. Two associated evidence base documents were also issued for consultation, namely the Community Infrastructure Viability Study and the London Borough of Hillingdon's Strategic Infrastructure Plan (SIP).

The four week consultation period for the Draft Charging Schedule and the associated documents closed on 15<sup>th</sup> December 2012. This report informs Cabinet of the outcome of the consultation process, seeks approval for officers to make appropriate amendments to the Draft Charging Schedule and submit the CIL documentation to the Secretary of State for Examination.

The Government's CIL Regulations have been subject to recent changes. It was previously necessary to provide a declaration as part of the package of documents submitted to the Secretary of State to confirm that the CIL Charging Schedule had been prepared in accordance with appropriate evidence. The declaration was required to be approved at 'a meeting of the authority'. Given that the requirement for the declaration has only recently been deleted from the Regulations, it is recommended that it should form part of the submission package.

### **Alternative Options Considered**

The Cabinet may decline to approve the Draft Charging Schedule for submission or to not sign the attached declaration. Alternatively Cabinet may request officers to make significant changes to the documents for subsequent approval prior to submission.

It is considered that these alternative options would prejudice progress on the preparation of the Draft Charging Schedule. Given the Government's proposals to introduce the CIL and 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 Draft Charging Schedule approved by Cabinet in September 2012.

#### Consultation on Hillingdon's CIL

2. In order to meet the requirements of the government's CIL legislation for consultation on the Draft Charging Schedule, officers were required to:
  - Make a copy of the CIL documents available for inspection at the Civic Centre;
  - Post the CIL documents and the process for making representations on the Council's website;
  - Send copies of the CIL documents and the statement of representations procedure to a range of statutory consultation bodies; and
  - Advertise the publication of the Draft Charging Schedule in the local newspaper.
3. Officers sought to fully comply with or exceed these requirements. Firstly, the following documents were made available for a period of four weeks on a dedicated webpage of the Council's website:
  - The Draft Charging Schedule prepared by URS/CBRE;
  - The London Borough of Hillingdon's Community Infrastructure Viability Study prepared by CBRE;
  - The London Borough of Hillingdon's Strategic Infrastructure Plan prepared by Officers and updated by URS; and
  - Consultation Responses to the Preliminary Draft Charging Schedule.
4. The webpage also contained a consultation response form and details of how to make representations. A specific email address ([CIL@hillingsdon.gov.uk](mailto:CIL@hillingsdon.gov.uk)), which was set up at the start of the consultation process remained in place to capture consultation responses to the Draft Charging Schedule.
5. 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)

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

6. A summary schedule of all representations received in response to the 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 A below:

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

Issue raised	Officer response
One single rate for residential development is the wrong approach. A rate charged per bedroom or habitable room would be better. Concerns regarding the impact of CIL on affordable housing provision.	<p>Whilst all types of residential units would be subject to CIL charges affordable housing is exempt.</p> <p>Evidence indicates that when assessed at a borough-wide level, the proposed charging rate for residential uses is viable for most development schemes.</p> <p>There is not sufficient evidence to justify a more complex approach of charging CIL per habitable room. Evidence also indicates there is not sufficient differentiation between house prices in different parts of the borough to justify geographic variation in CIL charges.</p>
Certain sui generis uses, including development by emergency services and theatres should be excluded from CIL charges.	A modest charge of £35 sqm is proposed for sui generis uses. No evidence has been presented to indicate that this will threaten overall growth in Hillingdon.
CIL rates do not take account of the economic disparities in the borough and the impact this has on land values.	Charging rates for CIL have been determined by an extensive investigation of land values for different uses in different

	parts of the Borough. Overall, rates are considered to be viable.
Exclusions for town centre development are welcomed.	Town centre development has been excluded on the basis of viability evidence. Primarily, this shows that unit retail development in town centres could not support a CIL charge. The exclusion of town centre development is in accordance with the Council's policy of putting town centres first.
The policy of not offering discretionary relief to CIL is inflexible to local circumstances. Safeguarding discretionary relief would allow development to be assessed on a case by case basis.	The Council does not have evidence of exceptional circumstances to justify discretionary relief.
The impact of CIL needs to be reviewed in the context of its impact on heritage.	The Council's policies on the protection of heritage resources will apply regardless of the impact of the CIL. As such, the proposals should not have an adverse impact on buildings and features of historic importance.
Rivers and watercourses should be given more consideration in the Strategic Infrastructure Plan (SIP). There is little recognition of the contribution that the Grand Union Canal can make to the Borough. Further reference to town centres and youth provision is needed.	Unlike the Local Plan the SIP is not a policy document. Specific references to the regeneration potential of the Grand Union Canal are contained in the Local Plan and do not need to be repeated in the SIP. New youth facilities have already been provided through the Hillingdon Improvement Programme. Policies in the Local Plan allow for additional facilities if these are required. Development in town centres has been exempted from charges on the grounds of economic viability. This is in accordance with the Council's policy of encouraging vitality and viability in town centre locations.
Not enough information on how CIL contributions will be spent.	In accordance with the Community Infrastructure Levy Guidance issued in December 2012 the Council is required to set out at Examination a draft list of projects that are to be funded in whole or in part by CIL. These are listed in Table B of this report. This matter will be discussed at the Examination. The Council will prepare a 'Regulation 123' list as part of the documentation setting out how CIL contributions will be spent.
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	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

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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.

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.

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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.

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.

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The proposed rates are high in comparison with those set for other boroughs.

Officers are of the view that when looked at across the board, charging rates are consistent with those in other West London boroughs.

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7. Responses to this consultation have not resulted in the need for any significant changes to the Charging Schedule. A number of representors continue to raise concerns regarding the charging threshold for retail uses. On the basis of evidence produced by CBRE officers continue to be of the view 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.

8. A revised version of the Draft Charging Schedule, including proposed changes, is attached as Appendix 2 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.

#### Submission of the Draft Charging Schedule

9. Subject to Cabinet approval the Draft Charging Schedule will be prepared for submission to the Secretary of State and then submitted for Examination. In addition to the CIL documents listed at paragraph 3, officers also recommend the submission of the declaration at Appendix 3 to confirm that, in the preparation of the Draft Charging Schedule, the Council has:

- Complied with the requirements of this part and the Government's CIL regulations;
  - Used appropriate evidence to inform the Draft Charging Schedule; and
  - Dealt with any other matters prescribed by the CIL Regulations.
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10. It is recommended that the declaration should be signed by the Cabinet Member for Planning, Recycling and Transportation. In addition to this the Council is required to submit:

- A Statement of Modifications setting out the number of representations made to the Draft Charging Schedule and the Council's proposed modifications;
- Copies of representations submitted; and
- Copies of the relevant evidence: This will be in the form of the Council's Strategic Infrastructure Plan and the viability analysis.

11. Following the submission of Charging Schedule to the Secretary of State, the Council is required to make available the documents for public inspection at the Civic Offices and at other locations that it considers to be appropriate. The CIL documents should also be posted on the Council's website and notice given to those who have requested to be informed that submission has taken place. It is also necessary to inform those who have made representations of any modifications to the CIL documents.

#### Changes in CIL legislation

12. Since the publication of the Draft Charging Schedule, the Government has issued revised CIL legislation, in the form of the Community Infrastructure (Amendment) Regulations 2012. Revised CIL guidance (referred to in this report as the 2012 CIL guidance) was also issued in December and introduces new requirements for the submission and Examination of the Draft Charging Schedule. At the Examination, there is now a requirement to set out a list of projects or types of infrastructure that will be funded in whole or in part by the levy. Charging authorities are also required to set out known site specific matters where section 106 items may continue to be sought.

13. In September 2012, officers reported on the outcome of the consultation process for a revised Planning Obligations SPD, which is intended to be adopted at the same time as the CIL Charging Schedule. This document will replace the current Planning Obligations SPD and provides clarity on how CIL and S106 procedures will operate together. In summary some items, such as health and education facilities have been removed from the SPD and will be funded by CIL contributions. Others, such as open space provision, will be subject to S106 provision and/or CIL in different circumstances.

14. In accordance with the requirements of the 2012 CIL guidance, Table B has been produced using information from the draft Planning Obligations SPD to provide clarity on the items to be funded through S106 and CIL. The information in the Table will be submitted to the Secretary of State prior to the Examination and will form the basis of the 'Regulation 123 list' of the types of infrastructure to be funded by CIL.

#### **Table B: Comparison of items to be provided through S106 and CIL**

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##### **ITEMS TO BE FUNDED BY CIL CONTRIBUTIONS**

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##### **Education facilities**

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**Transport improvements** excluding site specific matters needed to make the development acceptable in planning terms.

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**Heath care facilities**

**Community care facilities** (social care institutions providing for older people and people with mental health or learning disabilities).

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**Library services**

**Leisure facilities** (sports facilities defined as publicly owned leisure centres, gyms and swimming pools).

**Open space provision** publicly accessible open space and allotments, excluding site specific matters needed to make the development acceptable in planning terms.

**Community facilities** (community centres and meeting places but excluding places of worship; voluntary sector meeting places and centres and public cultural facilities).

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**ITEMS TO BE FUNDED BY S106 CONTRIBUTIONS<sup>1</sup>**

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**Affordable housing**

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**Open Space and Recreation**

Planning Obligations will be required to address:

- New development that directly creates a need for new, additional or enhanced facilities or recreational open space
- The loss of recreational public open space or a recreational facility without adequate alternative and compensatory replacement.

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**Environmental Impacts**

Planning Obligations will be sought on a site specific basis to offset potential adverse impacts in relation to:

- Biodiversity and nature conservation:
- Landscape and trees
- Land contamination
- Recycling and waste management
- Flooding

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**Transportation Measures:** needed to make specific development proposals acceptable in planning terms.

Site specific matters can include (but are not limited to) highways crossovers to access the site and local road junctions, deceleration and turning lanes, measures to facilitate pedestrian and cyclist access, lighting and street furniture needed to mitigate the impact of a particular development. They may include mitigation works remote from the development site where the need for such works is identified in a Transport Assessment.

**Travel Plans:** These will generally be required for non residential development over 1,000 sqm and in exceptional circumstances for very large residential schemes.

Additional transport improvements are listed in the Community Safety and Public Realm section below.

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**Air Quality**

Planning Obligations may be sought to ensure that developments have no detrimental impact on air quality: The following items may be sought to improve air quality where there is a net increase in traffic based trips.

- Use of low emission fuel technology;
  - Trees and other planting where directly relevant to mitigating the impact of emissions;
  - Restrictions on certain types of vehicles;
  - Use of cleaner fuel for energy and heating;
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<sup>1</sup> Full details can be found in Hillingdon's Draft Planning Obligations Supplementary Planning Document issued in March 2012

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- Use of combined heat and power and community heating systems where appropriate;
  - Encourage company use of environmental management systems and air quality strategy; and
  - Any other appropriate measures to meet the objectives of the Air Quality Action Plan.
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#### **Noise**

The Council may seek the following measures to address noise and vibration emitted from non residential development schemes:

- Measures to reduce noise at source, such as fleet selection, quiet bleeper and other administrative or work place practices;
  - Mitigation measures such as noise barriers and sound insulation of residential properties and other sensitive receptors;
  - Provision of off-site landscaped buffers;
  - Roads and other surfaces incorporating the provision of quieter surfaces such as porous asphalt; and
  - The preparation and implementation of noise management plans.
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#### **Training and Employment**

Contributions for the provision of training and employment will not be subject to CIL charges and will continue to be collected through S106 procedures. It is intended that collections will be made for most planning applications proposing significant employment generating development through in-kind schemes or financial contributions towards training and employment in the borough.

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#### **Community Safety the Public Realm**

Public realm improvements will be sought through Section 106 Agreements to address the site specific impacts of development proposals. Depending on the nature of the scheme particular measures may include:

- Crime prevention and safety – e.g. CCTV;
  - Signage;
  - Site specific car parking improvements; and
  - Site specific highway works.
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#### Next Steps

15. Following the submission the charging schedule will be subject to a Public Examination, 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 in March 2013, the final report should be available in May 2013. There will be cost implications associated with the Examination, which are outlined in the 'financial implications' section of this report.

17. On the basis that the charging schedule is found to be sound, Cabinet approval will be required to formally adopt the schedule following the Examination and publication of the Inspector's report.

#### Financial Implications

The Planning Inspectorate has provided an estimate for undertaking the Examination of the Charging Schedule. Assuming that 2 days of hearing are undertaken an estimate of £25,000 has been provided for budgetary purposes. This cost can be met from a combination of contingency and LDF planning budgets.

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The report outlines the public consultation that has been undertaken for the 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.

## **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 (CIL). The Community Infrastructure Levy Regulations 2010 (the "2010 Regulations") 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.

Decision-makers must ensure there is a full consideration of all representations arising during consultation of the proposed levy 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.

Regulation 19 of the 2010 Regulations requires a statement of representations, copies of the representations, statement of modifications and copies of the relevant evidence be submitted with the Draft Charging Schedule to the Secretary of State.

Under section 212 of the Planning Act 2008 the Council must appoint an independent and suitably qualified and experienced person to examine the Draft Charging Schedule. An Inspector of the Secretary of State who has the required qualifications and experience is independent and appropriate to undertake the examination.

Due to an amendment of the 2010 Regulations the Council is no longer required to provide a Cabinet approved declaration that the Draft Charging Schedule has been prepared in accordance with the appropriate evidence.

In December 2012 the Department for Communities and Local Government published guidance on the Community Infrastructure Levy (the "Guidance"). There is now a requirement for the Council to publish a list of relevant infrastructure that it intends will be, or may be, wholly or partly funded by CIL (the "List"), which is referred to at

paragraphs 12 to 14 of this report. Should the Council fail to provide such a list it would be presumed that the Council is intending to use CIL funds for any type of infrastructure capable of being funded by the levy. This would result in the Council being unable to seek a planning obligation contribution towards infrastructure.

When preparing the List the Council must ensure that there is a clear link between the plan making evidence on infrastructure needs, the evidence on the aggregate infrastructure gap that proves the need for CIL and the List.

The List can be amended as and when the Council's priorities change. Should this be required, the Council must undertake the appropriate local consultation and publish the amended list on the Council's website. The Council cannot remove an item from the List just so that the Council can fund the item through a new section 106 agreement.

### **Corporate Property and Construction**

The proposals concerning the CIL have direct implications for the work of Corporate Property and Construction, particularly in relation to the development and disposal of property and the supply of new homes. In view of this it is desirable that an appropriate balance is struck that enables both development to proceed and housing supply to be delivered to meet the Council's objectives in the Sustainable Community Strategy. Introduction of the CIL as soon as possible will bring certainty to the market and enable some stalled developments to proceed. Consequently, the recommendations are supported.

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: September 2012