

## TOWARDS A COMMUNITY INFRASTRUCTURE LEVY FOR HILLINGDON

<b>Cabinet Member</b>	Councillor Keith Burrows
<b>Cabinet Portfolio</b>	Planning, Transportation and Recycling
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<b>Papers with report</b>	None

### HEADLINE INFORMATION

<b>Purpose of report</b>	This report seeks Cabinet approval for officers to prepare draft proposals for a Community Infrastructure Levy for Hillingdon; and to agree delegated authority be granted to the Deputy Chief Executive and Corporate Director of Planning, Environment, Education and Community Services, in consultation with the Cabinet Member for Planning, Transportation and Recycling to appoint a consultant(s) to a value of £80,000 to undertake the relevant technical work to inform and progress matters.
<b>Contribution to our plans and strategies</b>	Hillingdon's emerging Core Strategy Hillingdon's Unitary Development Plan Saved Policies 2007 Hillingdon Partners Sustainable Community Strategy
<b>Financial Cost</b>	The initial estimated cost to produce the CIL charging schedule and supporting economic viability study is up to £80,000. This cost is not currently budgeted, so would be a call on the general contingency.
<b>Relevant Policy Overview Committee</b>	Residents' and Environmental Services Policy Overview Committee
<b>Ward(s) affected</b>	All

## **RECOMMENDATION**

### **That Cabinet:**

- 1. instructs officers to prepare draft proposals for a Community Infrastructure Levy for Hillingdon as the principal means by which developer contributions towards infrastructure should be collected;**
- 2. agrees to grant delegated authority to the Deputy Chief Executive and Director of Planning, Environment, Education and Community Services, in consultation with the Cabinet Member for Planning, Transportation and Recycling to appoint a consultant(s) to a value of £80,000 to undertake the relevant technical work, including the preparation of a Preliminary Draft Charging Schedule and the accompanying economic viability assessment to inform and progress matters;**
- 3. instructs officers to report back to Cabinet on the findings of the work as appropriate, to agree a Preliminary Draft Charging Schedule for consultation and an appropriate means of collecting, spending and monitoring the proposed CIL.**

## **SUPPORTING INFORMATION**

### **Reasons for Recommendation**

On the 18<sup>th</sup> November 2010, the Government confirmed that the Community Infrastructure Levy (CIL), introduced by the previous Government, would be continued with some changes. It allows local authorities in England and Wales to obtain contributions from developers towards infrastructure in a fair and transparent manner. The levy can be used to fund a wide range of infrastructure in support of new development and growth, including transport schemes, flood defences, schools, hospitals and other health and social care facilities, parks, green spaces and leisure centres.

The Cabinet will be aware that the Mayor has recently consulted on a proposed CIL as part of the funding package for Crossrail. In addition, reforms have been introduced to restrict the use of planning obligations; of which some have already been introduced and others will come into effect from April 2014.

For these reasons, 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.

### **Alternative Options Considered**

The Cabinet may choose not to progress work towards the implementation of CIL.

### **Comments of Policy Overview Committee(s)**

None at this stage.

### **Supporting information**

#### Background

1. On the 18<sup>th</sup> November 2010, the Government confirmed that CIL, introduced by the previous Government, would be continued with some changes. The Government considers that CIL is a fairer and transparent way of funding new infrastructure than the current use of obligations under Section 106 of the Planning Act 1990. This is because it ensures that the majority of developments contribute to the cumulative impacts of development on infrastructure. Unlike Section 106 agreements, which are negotiated individually on a case by case basis and therefore tend to be used only on the larger developments, CIL can be applied to all new buildings that involve the creation of a new dwelling or 100 square metres of new build for other land use. For the time being, the use of CIL is at the discretion of local authorities.

2. The Council currently secures developer contributions towards infrastructure by way of planning obligations, with the support of Hillingdon's adopted Planning Obligations Supplementary Planning Document. This provides supplementary guidance to both Hillingdon's Unitary Development Plan Saved Policies 2007 and the emerging Core Strategy.

3. It is an opportune time for the Council to consider the scope for introducing CIL for Hillingdon because:

a) the Core Strategy, which identifies growth in the borough over the plan period is nearing adoption stage

b) the Mayor is introducing a CIL to fund Crossrail, which will impact on the ability of boroughs to raise funding for local infrastructure. The Mayor's consultation document in January 2011 explains that boroughs have been put into charging bands of £20, £35 and £50 per sq metre of new development, based on an assessment of development viability. Hillingdon is in the £35 per sqm band. The Council has submitted a response to the consultation stating that the proposals are likely to prejudice growth in Hillingdon's town centres and will restrict the ability of individual boroughs to raise infrastructure funding through their own CIL. Furthermore, evidence for the borough's inclusion in the 'middle' charging band is marginal and there is a case that development should be subject to the lower rate of £20 per sqm.

c) the Government is introducing changes to the S106 Regulations, which will restrict the use of S106 funds. From the 6 April 2014 (or upon local adoption of the levy) the pooling of contributions towards an item of infrastructure will effectively be limited to that arising from a maximum of five obligations. This will significantly prejudice the delivery of some infrastructure items, which would depend upon contributions from numerous developments.

#### The potential benefits of a Hillingdon CIL

4. The potential benefits of introducing a CIL in Hillingdon include the following:

a) It could deliver additional funding to carry out a wide range of infrastructure projects that support growth and benefit the local community. This is because it would apply to most new developments that involve a net increase in floorspace and charges are based on the size and type of development, with the levy being expressed as a rate of pounds per square metre.

b) The levy can be used to increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development. The government has recently confirmed through the Localism Bill that CIL can also be used to fund on-going costs associated with infrastructure provision.

c) It would provide more flexibility and freedom to set the Council's own priorities for what money should be spent on; as well as a predictable funding stream to plan ahead more effectively. However an up to date development plan is required to progress CIL proposals.

d) It would provide developers with more certainty 'up front' about how much money they will be expected to contribute which, in turn, will encourage greater confidence and higher levels of inward investment. Unlike planning obligations, once introduced, CIL payments are fixed and there is no scope for developers to negotiate an exemption on the basis of the economic viability of a particular scheme. However, charging authorities are able to include an 'exceptional circumstances' clause in the charging schedule, where a reduced levy would apply.

5. It should be noted that planning obligations will still remain the method for securing affordable housing.

6. The government requires charging authorities to allocate a 'meaningful proportion' of levy revenues to the neighbourhoods in which they have been raised. Authorities are asked to work closely with neighbourhoods to assess local needs in addition to the wider infrastructure required to support growth. Charging authorities will be able to use revenue from the levy to recover administration costs and the costs associated with setting up the levy regime. Up to 5% of total revenues can be used for this purpose.

## The process for introducing a Hillingdon CIL

7. The process for introducing a CIL requires the preparation of a Preliminary Draft Charging Schedule, which would set out Hillingdon's levy for different types and locations of uses. The ability to charge differential levy rates means that Councils are able to tailor the levy to reflect the economics of any low demand areas they have, setting a lower charge so as not to generally frustrate development in those areas, while maintaining higher charges in those parts where demand is stronger. The viability assessment would show whether such an approach is justified.

8. The charging schedule should be underpinned by an evidence base on infrastructure needs. Officers have already undertaken a considerable amount of work to prepare a draft Strategic Infrastructure Plan (SIP), setting out the infrastructure required to underpin growth in Hillingdon's Core Strategy. Officers are currently consulting with the Department for Communities and Local Government (DCLG) to determine if this document contains sufficient detail to form the basis of the charging schedule and if this can be twin tracked with the production of the Core Strategy.

9. In setting the levy, the Council must aim to strike what appears to it to be an 'appropriate balance' between the desirability of funding infrastructure from the levy and the potential effects, taken as a whole of the imposition of the levy, on the economic viability of development across its area. The preparation of a charging schedule should be informed by appropriate evidence regarding the infrastructure funding gap and general development viability. This will entail an accompanying economic viability assessment to inform and justify the scale of the levy. Officers are recommending that the preparation of the Preliminary Draft Charging Schedule and the economic viability assessment be carried out by specialist consultants.

10. The Council would have to produce and consult on a Preliminary Draft Charging Schedule and then on its final Draft Charging Schedule. The Draft Charging Schedule should not be published until the Council's Core Strategy has been adopted. The Government expects the appropriate evidence base to include an up-to-date development strategy, which should normally be set out in an adopted Core Strategy. The possibility does exist for an authority to advance a Draft Charging Schedule, alongside a proposed Core Strategy.

11. The formal process leading to adoption of the levy involves public consultation and consideration, by an independent examiner, by way of an Examination in Public (EIP). Following the EIP, the independent examiner will recommend that the Draft Charging Schedule should be approved, rejected, or approved with specified modifications. The examiner's recommendations will be binding, however, charging authorities have the option of submitting a revised charging schedule for fresh examination.

12. On adoption of the levy, the regulations restrict the use of obligations to ensure that individual developments are not charged for the same infrastructure items through both obligations and levy. A charging authority should set out a list of the infrastructure items it intends to fund from levy revenue, based on the infrastructure planning work undertaken as part of the SIP. The authority cannot then seek a contribution towards those same items by way of obligations. If the authority does not publish such a list, then this would be taken to mean that the authority was intending to use levy revenue for any type of infrastructure (that could be funded by the levy) and thus could not seek an obligation contribution towards any such infrastructure.

13. The levy is intended to provide infrastructure to support the development of an area, rather than to make individual planning applications acceptable in all respects. As a result, there may still be some site specific mitigation measures, without which a development should not be granted planning permission. There would still be limited scope for obligations to address these mitigation requirements.

### Collecting the CIL

14. Hillingdon will need to put in place a system to collect and monitor CIL payments, including the Mayoral CIL. This is a key consideration and the Government recommends that charging authorities should consider the use of existing revenue collection mechanisms for this purpose, such as those related to the collection of business rates or Council tax. A further option would be to adapt existing mechanisms for collecting planning obligations. DCLG recommends that charging authorities set up internal working groups to resolve this issue.

### Next Steps

15. On the basis that the Cabinet accepts the recommendation to prepare draft proposals for a CIL for Hillingdon, the next steps are as follows:

- to appoint a consultant(s) to a value of £80,000 to undertake the relevant technical work, including the preparation of the Preliminary Draft Charging Schedule, the accompanying economic viability assessment and to update the SIP as appropriate.
- Twin track the production of the LDF and charging schedule.
- Set up a Council working group to agree the implementation of CIL, including the mechanism collect, monitor and spend borough wide and Mayoral levies; and

### **Financial implications**

16. As noted above, the Preliminary Draft Charging Schedule sets a rate for contributions in £/sqm of development. Until the assessment of viability is complete it is difficult to estimate what this rate will be. The London Borough of Redbridge's consultation on its Preliminary Draft Charging Schedule, which ended on 18<sup>th</sup> March 2011, included a flat rate for all development of £70 per

sqm and this provides a useful benchmark to assess CIL contributions in Hillingdon.

17. The following table estimates annual CIL revenues using floorspace completions for 2009/10 as set out in Hillingdon's Annual Monitoring Report and levies of £80, £70 and £63 per sqm. These figures provide an indication of potential revenues, but should be treated with caution.

**TABLE 1: Estimated CIL revenue based on 2009/10 completions**

<b>CIL revenue</b>				
CIL rate	£/ sqm	£63	£70	£80
2009/10 completed area	sqm	80104	80104	80104
<b>Total</b>	<b>£ 000s</b>	<b>5,046</b>	<b>5,607</b>	<b>6,408</b>

2010/09. Table assumes an average property area of 80 sqm.

18. Table 1 does not take account of the substantial completions in leisure floorspace during 2009/10, as the scale of this development is unlikely to be repeated over the period of the Core Strategy. As the developer, the Council would be liable to pay the levy associated with this development.

19. In comparison, the income that has been generated by the existing planning obligations system has averaged £3.1 million over the last 3 years.

20. The initial estimated cost of producing the charging schedule and supporting technical studies is £80,000, and this would be done by use of external consultants. Currently the planning LDF budget has a recurrent consultancy budget of £70,000. However this is already needed for the production of 3 other studies required as part of the Core Strategy in 2011/12, and would therefore not have the capacity to support this additional work. A provision for £80,000 would therefore be required to be made from the general contingency, to fund these costs of the Hillingdon CIL.

## **EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

### **What will be the effect of the recommendation?**

The introduction of a CIL in Hillingdon has the potential to deliver increased funding for the provision of necessary infrastructure will have a positive impact on the community.

### **Consultation Carried Out or Required**

Once a draft CIL report has been prepared, this will be presented to Cabinet for its approval for consultation purposes.

## **CORPORATE IMPLICATIONS**

### **Corporate Finance**

The initial estimated cost of producing the CIL charging schedule and viability study is £80,000. The recommendations in this report propose that external consultants are appointed to do this. Although there is a recurrent consultancy budget of £70,000 within the planning LDF budget, this is already committed for 2011/12 for core strategy work. The £80,000 is not currently budgeted for and would therefore be a call on the general contingency.

## **Legal**

A Local Authority's power to charge CIL is contained within Part 11 (Section 205-225) of the Planning Act 2008 ("the Act") and the Community Infrastructure Levy Regulations 2010 ("the Regulation"). The CIL is defined as an imposition of a charge; the purpose of which is to ensure costs incurred in providing infrastructure to support development of the area can be funded (wholly or partly) by owners or developers of land (Section 205(1) and (2) of the Act).

As mentioned above, a charging authority cannot adopt CIL unless it has first produced a charging schedule and must only implement CIL in reliance on an up to date development plan. The fact that Hillingdon are close to adopting the Core Strategy is useful in this regard. A charging authority must approve the charging schedule at a meeting of the authority and by a majority of votes of members present.

The current Coalition Government have stated that certain elements of the CIL will be reformed; one of the reforms that has been proposed includes allowing neighbourhoods to receive a proportion of funds raised by Councils from developers. The idea behind this reform is to enable money to be spent on local facilities. Careful monitoring of any such reform should be maintained by the Council.

The CIL regime contains provisions allowing appeals relating to how CIL is applied and how it is enforced. Hillingdon is required by the legal framework surrounding CIL to take the steps suggested in the recommendations section of this report.

## **Corporate Landlord**

Whilst the proposed CIL will enable the council to raise much needed finance, it represents an additional cost to developers and would be paid at the time development commences. Whilst it does not have a direct impact on land and property values, the CIL would affect residual land values and the viability of residential development schemes. In the current economic climate, developers may seek to pass on this cost to landowners in the form of a reduced purchase price for the development sites. In these circumstances, the Council could achieve comparatively lower receipts for the sale of its land and property assets. An exceptional circumstances clause in the CIL policy may assist if it enables council owned sites to pay only a minimal contribution, on the basis that the council already makes significant contributions to social infrastructure.

**BACKGROUND PAPERS**

Community Infrastructure Levy Regulations 2010