

Report of the Director of City Development

Report to: Development Plan Panel

Date: 27th August 2013

Subject: Leeds Community Infrastructure Levy – Draft Charging Schedule

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): ALL	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Members are familiar with the Community Infrastructure Levy (CIL), and are aware that in Leeds we are working towards a target of adoption of the CIL by April 2014. Following Development Plan Panel and then Executive Board on the 9th October, the next stage is to consult on the Draft Charging Schedule from October 2013. The Draft Charging Schedule is effectively the Council's final proposal which will go to examination. Any representations received at the next stage of consultation will therefore not result in the Council making changes to the Charging Schedule but will be discussed during the examination.
2. Development Plan Panel on 2nd July 2013 was presented with a summary of the responses and key issues which arose from the consultation on the CIL Preliminary Draft Charging Schedule. Development Plan Panel on 27th August will consider an explanation of the changes which are now proposed following the Preliminary Draft consultation, including reference to further background information and analysis.
3. Please note that this report will be updated following the publication of the Development Plan Panel Agenda to provide the full explanation and further details of the changes. The appendices will contain the proposed Draft Charging Schedule itself, the Council's detailed response to all the representations on the Preliminary Draft, further evidence and justification documents including on retail rates and evolution of the housing zones, and the Draft Regulation 123 List.

4. This report does not make any recommendations on spending priorities or local apportionment, other than explain the relationship with the Regulation 123 List, as these are separate matters and not directly concerned with the approval of the Charging Schedule itself.

Recommendations

Development Plan Panel is requested to:

- i) Agree the content of the Draft Charging Schedule, in order to present the Panel's recommendation for approval at Executive Board.
- ii) Agree the scope of the evidence base and associated documents supporting the setting of the CIL rates, including the Regulation 123 List, in order to present the Panel's recommendation for approval at Executive Board.

1 Purpose of this report

- 1.1 This report gives an explanation of the changes to the CIL Draft Charging Schedule which are now proposed following the Preliminary Draft consultation, including reference to further background information and analysis.
- 1.2 Please note that following the publication of the Development Plan Panel Agenda but prior to the meeting, this report will be updated to provide the full explanation and further details of the changes. The Draft Charging Schedule and associated evidence documents will also be provided as appendices. This is to take account of a Cabinet discussion on 22nd August.

2 Background information

- 2.1 The Community Infrastructure Levy Regulations 2010 (amended 2011, 2012, 2013) set out that a charging authority can choose to charge the CIL on new development in its area. The charges must be set out in a Charging Schedule, and must be based only on viability evidence. The CIL Regulations have also changed the use of S106 planning obligations and from April 2014 it will no longer be possible to secure S106s for District wide requirements such as greenspace, transport schemes and education facilities. There is a strong indication from CLG that this date may be moved to April 2015, however, until formal confirmation of this City Council officers are still aiming for April 2014.
- 2.2 The Leeds CIL Preliminary Draft Charging Schedule consultation closed on 15th May 2013. Development Plan Panel on 2nd July 2013 was presented with a summary of the responses and key issues which arose from the consultation.

3 Main issues

- 3.3 During the consultation period 51 written responses were received from a wide range of businesses, community groups, individuals, agencies and residents. Overall the comments received were very useful in requiring officers to look closely at the different components of the Charging Schedule and reaffirm or refine the approaches taken. Officers have completed the detailed responses to the individual representations and the issues raised, and are confident that the overall approach taken by the Council in preparing the CIL is in line with the Guidance and Regulations. The majority of representations are not considered to require any changes to the Draft Charging Schedule. A summary of all the representations and the suggested response will form part of the material to be circulated after the Agenda date.
- 3.4 As set out in previous reports, the key findings of the CIL Economic Viability Study (GVA, January 2013) are the suggested maximum CIL rates which could be set across a range of development types and areas. Other evidence is then used alongside to justify the appropriate level to set the rates. This is a matter of judgement for the Council, bearing in mind that it must balance the aims to both gain funding to make a contribution towards the infrastructure needed to support growth and thereby contribute positively towards the delivery of the Core Strategy, but to not set the rates so high that they could threaten the viability of growth and development as a whole. "Charging authorities should avoid setting a charge

right up to the margin of economic viability across the vast majority of sites in their area. Charging authorities should show, using appropriate available evidence... that their proposed charging rates will contribute positively towards and not threaten delivery of the relevant Plan as a whole” (Paragraph 30, CIL Guidance April 2013).

- 3.5 Development Plan Panel previously agreed the principle of the five residential CIL zones and their general extent. Additional evidence for this will be provided in a paper explaining in detail how the boundaries have altered over time (including a response to the representations made on this point) including why they differ from the zones used for previous studies and affordable housing boundaries.
- 3.6 Additional evidence will also be provided regarding the judgements to be made in setting the appropriate balance for the retail rates.
- 3.7 Representations requesting other minor changes will also be highlighted where it is considered appropriate to make these changes.

Spending and Apportionment and the Regulation 123 List

- 3.8 It should be noted that all detailed decisions on spending and priorities are not the subject of this report. There are various options available to the Council in deciding such matters, which need to be discussed in more detail and with a greater range of partners. This will be a separate workstream to the adoption of the CIL Charging Schedule.
- 3.9 The spending issue relating to the Charging Schedule is the Regulation 123 List, which following revised guidance in April 2013 is now required to be presented for consultation at the Draft Charging Schedule stage. A Draft Reg123 List identifying the broad types of infrastructure and infrastructure projects on which the Council may wish to spend the CIL will be attached as an appendix. The Reg123 List is essentially a result of the requirement that on adoption of the CIL, S106 Agreements will no longer be able to be pooled (other than up to five S106s which could pay for one infrastructure item) and therefore by necessity some types of infrastructure will have to be paid out of the CIL or other sources. The CIL can only be spent on infrastructure identified on the List. However, it should be noted that the Reg123 List this does not identify priorities for spending within it, or any apportionment of the CIL funds across the District. Inclusion on the List does not mean that the Council must fund all the items listed. Actual spend can be determined on an ongoing basis and it is in theory open to the Council to concentrate CIL funds on a single area of infrastructure. The List can be changed and updated as necessary, with appropriate justification.

Next Steps

- 3.10 Subject to any modifications requested by Development Plan Panel it is proposed to present the Draft Charging Schedule to Executive Board on 9th October. Subject to approval by Executive Board the intention is to commence the formal 6 weeks of public consultation by the end of October in order to start consultation on the Draft Charging Schedule before amended Regulations come into force. This will be followed by Examination in early 2014 (subject to progress of the Core

Strategy and capacity of the Planning Inspectorate). It is currently intended to adopt the CIL by April 2014 following resolution by Full Council, although this may move back slightly if the Government announces its intention to move back the deadline from which S106s can no longer be pooled. This would allow the property industry and the Council more prior notice to determine outstanding planning applications/S106s ahead of adoption of the CIL.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Executive Board agreed to implement a CIL for Leeds in December 2011, and Members have been kept aware of ongoing work since then, particularly through specific Member briefings in December 2012 and various meetings of the Development Plan Panel.
- 4.1.2 Executive Board on 15th February 2013 approved consultation on the Preliminary Draft Charging Schedule, which was undertaken in accordance with the City Council's adopted Statement of Community Involvement (SCI) and the CIL Regulations and ran from 27th March to 15th May 2013. This included directly notifying all Members of the proposals.
- 4.1.3 The Economic Viability Study as the key piece of evidence to inform the CIL included informal consultation with the development industry with a stakeholder workshop in September 2012, and with neighbouring authorities through ongoing meetings and discussions.
- 4.1.4 There will be a further 6 week public consultation period on the Draft Charging Schedule from October 2013 following approval by Executive Board on the 9th October.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equality Impact Assessment Screening was undertaken for Executive Board on 15th February 2013 to help determine the recommendations for the CIL Preliminary Draft Charging Schedule. A draft of the Screening Report was also attached to the Development Plan Panel report 19th December 2012 for front loading of information.
- 4.2.2 The Screening set out that there are three elements in considering equality in the Community Infrastructure Levy (CIL) charge setting process:
 - 1) Equal and fair consultation throughout the charge setting process.
 - 2) Equality for those who will have to pay the charge.
 - 3) Equality as a result of decisions on spending the CIL and subsequent service and infrastructure delivery (which links back to a certain extent to the geographical locations where it is charged).
- 4.2.3 The consideration of most relevance to equality, diversity, cohesion, and integration will be relating to the choices to be made in spending the CIL, based to a large extent on geographical differences including infrastructure needs. This includes the 'meaningful proportion' to be given to the community for spending.

The impacts would arise at the point at which money has been secured through CIL and new or improved infrastructure is actually delivered; they would not arise directly as a result of the Charging Schedule itself. Such matters will also involve consultation and agreement with a wide range of stakeholders, and equality and cohesion will need to be fully integrated into decision making as there will likely be disproportionate impacts and mitigation. Therefore as the decisions to be taken on governance, spending, and service delivery are to be considered as a separate process to the approval and adoption of the CIL Charging Schedule, the Screening was primarily concerned with the first two elements set out above. Another formal Screening is likely to be required at the point of decision making on spending.

- 4.2.4 The conclusions in relation to the screening are that overall the CIL will be a benefit for the people of the District, and that no impacts are identified that cannot be mitigated against. The key mitigation was in considering whether to set a nominal CIL charge against all types of development in all locations to ensure that every community can benefit from local growth, and this was agreed. The public consultation stages ensure that interested parties have an opportunity to comment and to influence the Draft Charging Schedule.
- 4.2.5 The screening is currently being updated for the Draft Charging Schedule stage but it is not anticipated that there will be any change in the conclusions made so far. Any changes will be reported to Development Plan Panel.

4.3 Council Policies and City Priorities

- 4.3.1 The CIL is a process which local authorities can use, as supported by the CIL Regulations 2010 (and Amendment Regulations 2011 and 2012). The CIL will be a document within the Local Development Framework. The intention to develop the CIL broadly reflects Council policies and City priorities in that it emphasises incentivising growth, both to the development industry and local communities.

4.4 Resources and Value for Money

- 4.4.1 Executive Board gave agreement in December 2011 to progress work on the CIL, including the release of the necessary funds. The Government recognises that costs will be incurred and so the Regulations allow set up and administration costs to be reclaimed from future CIL receipts. The implementation of the CIL in Leeds is expected to result in increased funding for strategic infrastructure across the District, alongside the context of a reduction in the current use of S106s from April 2014. The impetus to deliver the CIL as early as possible would therefore provide the most value for money.

4.5 Legal Implications, Access to Information and Call In

The Community Infrastructure Levy Regulations (2010 as amended 2011, 2012, and 2013) set out that a charging authority can choose to charge the CIL on new development in its area. The charges must be set out in a Charging Schedule, and must be based on viability evidence. The CIL Regulations have also changed the use of S106 planning obligations. From April 2014 it will no longer be possible to secure S106s for District wide requirements such as greenspace, transport

schemes and education facilities. Development Plan Panel provides recommendations to the Executive Board and therefore this current report is not subject to call in.

4.6 Risk Management

- 4.6.1 If the CIL is not brought forward in Leeds, then the Council is at risk of losing out on monies which under the present system are gained through the S106 mechanism, as this system will no longer be available. In order to manage this risk it is recommended that Officers continue to progress the CIL to Draft Charging Schedule stage as outlined in this report. The preparation of the CIL is a challenging process within the context of ongoing national changes to the Regulations, limited precedents nationally, and in responding to local issues and priorities. Consequently at the appropriate time advice is sought from a number of sources, including legal and that from the Planning Advisory Service, Planning Officers Society, and neighbouring authorities as a method to help manage risk and to keep the process moving forward.

5 Conclusions

- 5.1 Following the CIL Preliminary Draft consultation this report suggests a number of proposed changes to the CIL Draft Charging Schedule, supported by further background information and analysis. It is considered that the rates now proposed are an appropriate balance based on sound evidence, and contribute positively to the development plan by gaining new infrastructure funding and not threatening the viability of growth and development as a whole.
- 5.2 Please note that this report will be updated following the publication of the Development Plan Panel Agenda to provide the full explanation and further details of the changes. The Draft Charging Schedule and associated evidence documents including the full response to the individual representations will be provided as appendices.

6 Recommendations

- 6.1 Development Plan Panel is requested to:
- iii) Agree the content of the Draft Charging Schedule, in order to present the Panel's recommendation for approval at Executive Board.
 - iv) Agree the scope of the evidence base and associated documents supporting the setting of the CIL rates, including the Regulation 123 List, in order to present the Panel's recommendation for approval at Executive Board.

7 Background documents¹

- 7.1 There are no background documents associated with this report.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.