

Report of: Deputy Chief Planning Officer

Report to: Chief Planning Officer

Date: 11th March 2014

Subject: The Community Infrastructure Levy: Draft Charging Schedule Submission Version (Incorporating Modifications)

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):		ALL
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input 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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

1. In meeting the challenges associated with the ambition to be the best city in the UK, central to the Vision for Leeds is the desire to ensure that the need for growth in jobs and housing is planned and delivered in a sustainable way. The Council is progressing in setting up a Community Infrastructure Levy (CIL) on new development in its area and this is one of the key ways in which funding for the supporting infrastructure will be gained to support the City's ambitions. The CIL will help to meet Leeds' priorities by generating funding to provide the infrastructure, and set rates at levels which will continue to attract investment, create jobs, and deliver new housing.
2. Executive Board on 9th October 2013 approved the content of the CIL Draft Charging Schedule and associated evidence base, in order to proceed with publication and 6 weeks of formal public consultation. This consultation was undertaken between 29th October and 10th December 2013, and 41 representations were received.
3. Executive Board also approved the submission of the Draft Charging Schedule to the examiner after the close of the consultation in accordance with the CIL Regulations. Due to the publication in February 2014 of the CIL 2014 Amendment Regulations and CIL Guidance there is now a need to make minor modifications to the Draft Charging Schedule to reflect the changed legislation. One other minor modification relating to the definition of 'convenience retail' is also proposed as a result of the representations received. It is also proposed to remove the exceptions policy and

the instalments policy to become stand-alone documents (although their content will remain the same except for changes required by the revised Regulations).

4. The CIL Regulations require that any modifications made after the Draft Charging Schedule publication must be subject to 4 weeks public consultation, commencing when the Schedule is submitted to the examiner. A Statement of Modifications listing and explaining the changes is required. Any representations can only be made on the modifications.
5. Approval is therefore sought to consult on and submit the Draft Charging Schedule Submission Version (Incorporating Modifications). Due to the minor nature of the changes this is classed as a significant operational decision and can therefore be made by the Chief Planning Officer without need to be reviewed at Executive Board or subject to call in. The intention is to submit the Schedule with associated evidence base and documents by the end of March 2014. The examination date cannot be confirmed but will be after the Core Strategy hearing on the 13th May 2014.
6. The appendices contain the proposed Draft Charging Schedule Submission Version (Incorporating Modifications) and the Instalments Policy and Exceptional Circumstances policy, a Statement of Modifications, and the Council's detailed response to all the representations on the Draft Charging Schedule.

Recommendations

7. The Chief Planning Officer is requested to:
 - i) Agree the minor modifications to the CIL Draft Charging Schedule as set out in the Submission Version (Incorporating Modifications), in order to proceed with 4 weeks public consultation on the modifications
 - ii) Agree for the Draft Charging Schedule Submission Version (Incorporating Modifications) and all associated evidence base and documents to be submitted to the Planning Inspectorate for subsequent examination, including the Council's responses to the representations received on the Draft Charging Schedule.
 - iii) Note that the following steps will be undertaken in order to deliver this decision:
 - a. The Draft Charging Schedule Submission Version (Incorporating Modifications) and Statement of Modifications will be published for public consultation. This material and all associated evidence base and documents will be submitted to the examiner along with any representations received on the Modifications. Following the examination and receipt of the inspector's report and any further modifications required there would need to be a Full Council resolution to adopt the CIL.
 - b. The timescales for the implementation of this decision are that it is intended to submit the Schedule and commence the 4 weeks public consultation by the end of March 2014. The subsequent timetable will depend on the Core Strategy progress and capacity of the Planning Inspectorate.
 - c. The Chief Planning Officer is the officer responsible for implementation.

1 Purpose of this report

- 1.1 This report explains the minor modifications to the CIL Draft Charging Schedule which are now proposed following the publication in February 2014 of the CIL 2014 Amendment Regulations and CIL Guidance, and the representations received on the Draft Charging Schedule in December 2013.

2 Background information

- 2.1 In meeting the challenges associated with the ambition for Leeds to be the best city in the UK, central to the Vision for Leeds is the desire to ensure that the need for growth in jobs and housing is planned and delivered in a sustainable way together with providing appropriate supporting infrastructure. The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) set out that a charging authority can choose to charge the CIL on new development in its area and this is one of the key ways in which infrastructure funding will be gained to support these overarching ambitions. By creating the right balance between gaining infrastructure funding to provide the infrastructure which supports growth, and in setting rates at appropriate levels which will continue to attract investment, the CIL will help to meet Leeds' priorities to create new jobs and business growth, to deliver the City Region transport strategy, and to create a wide range of housing choice and places where people want to live.
- 2.2 The CIL 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; from April 2015 it will not be possible to secure S106s for District wide requirements such as greenspace, transport schemes and education.
- 2.3 Executive Board on 9th October 2013 approved the content of the CIL Draft Charging Schedule and associated evidence base, in order to proceed with publication and 6 weeks of formal public consultation. This consultation was undertaken between 29th October and 10th December 2013, and 41 representations were received.

3 Main issues

- 3.1 Appendix 1 contains the Council's proposed responses to the individual comments in the representations. Some of these responses are based on further consideration by consultants GVA who undertook the CIL Economic Viability Study (Jan 2013). It is considered that the great majority of the representations do not raise new issues or issues of concern and responses are made based on the previous responses at Preliminary Draft Charging Schedule stage.
- 3.2 One issue which has required consideration is that the Draft Charging Schedule identified different charges for 'convenience retail' and 'comparison retail' (above 500 sqm). The Sainsbury's representation queried how the Council would work out a split of convenience/comparison within a supermarket. However, the intention of the 'convenience retail' definition was effectively to be a 'supermarket' and the other two supermarket operators who submitted representations assumed they would come entirely under the convenience category. The evidence in the EVS relates to

supermarkets with no reference to splitting of retail floorspace within a supermarket and having different CIL rates within it.

- 3.3 Therefore in the interests of clarity it is now proposed to make a minor modification: a change from the term 'convenience retail' to 'supermarket', plus a new definition: "Larger format foodstores (above 500 sqm) that sell a full range of grocery items and are shopping destinations mainly used for a person's main weekly food shop, although generally they also contain a smaller range of comparison goods."
- 3.4 In addition, in late February 2014 the Government published the CIL 2014 Amendment Regulations and CIL Guidance. A number of the new provisions require changes to the technical detail of the Charging Schedule to update e.g. the CIL calculation formula. However, it is important to note that the provisions relating to charge setting and examination evidence do not apply in Leeds (under the transitional arrangements in Reg 128A) as the Council had already published its Draft Charging Schedule. Some of the references in the Draft Charging Schedule Submission Version therefore remain as the 2013 Guidance.
- 3.5 It is proposed to term the revised Draft Charging Schedule the 'Draft Charging Schedule Submission Version (Incorporating Modifications).'
- 3.6 A final proposed change is that it is also proposed to remove the exceptions policy and the instalments policy from the Charging Schedule itself to become stand-alone documents (although their content will remain the same except to reflect the revised Regulations). This is in the interests of clarity because the Council can alter or withdraw them at any time in a separate process to a review of the Charging Schedule itself.

Next Steps

- 3.7 The CIL Regulations require that any modifications made after the Draft Charging Schedule publication must be subject to 4 weeks public consultation, commencing when the Schedule is submitted to the examiner. A Statement of Modifications listing and explaining the changes is required. Any representations can only be made on the modifications.
- 3.8 Approval is therefore sought to consult on and submit the Draft Charging Schedule Submission Version (Incorporating Modifications). Due to the minor nature of the changes this is classed as a significant operational decision and can therefore be made by the Chief Planning Officer without need to be reviewed at Executive Board or subject to call in. The intention, subject to approval, is to submit the Schedule with associated evidence base and documents by the end of March 2014. The examination date cannot be confirmed but will be after the Core Strategy hearing on the 13th May 2014.
- 3.9 The appendices contain the proposed Draft Charging Schedule Submission Version (Incorporating Modifications) with the Instalments Policy and Exceptional Circumstances policy, a Statement of Modifications, and the Council's proposed detailed response to all the representations on the Draft Charging Schedule.

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. Scrutiny Board (Sustainable Economy and Culture) considered the Draft Charging Schedule on the 17th September 2013. Executive Board on 9th October 2013 approved consultation on the Draft Charging Schedule, which was undertaken in accordance with the City Council's adopted Statement of Community Involvement and the CIL Regulations and ran from 29th October to 10th December 2013. This included directly notifying all Members of the proposals. 41 representations were received and Background Paper 3 sets out the Council's detailed response to those representations. Planning Board in March 2014 and the Executive Member for Neighbourhoods, Planning and Support Services support the proposed modifications.
- 4.1.2 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. As a requirement of making Modifications to the Draft Charging Schedule as set out in this report, the Regulations require a further 4 week public consultation commencing on Submission to the examiner. All representations received also have to be sent to the examiner after the close of consultation.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equality Impact Assessment Screening was undertaken for Executive Board in February 2013 to help determine the recommendations for the CIL Preliminary Draft Charging Schedule. The screening was updated in August 2013 for the Draft Charging Schedule.
- 4.2.2 As it is considered that the modifications proposed to the Draft Charging Schedule are only minor, there are no implications relating to equality and cohesion as a result.

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 subsequent Amendment Regulations). The CIL will be a document within the Local Development Framework. The intention to develop the CIL reflects Council policies and City priorities in that it emphasises incentivising growth, both to the development industry and local communities.
- 4.3.2 In particular, the Best Council Plan (July 2013) aims to promote sustainable and inclusive economic growth. The CIL is set out in this is a priority, and its successful implementation will directly help to achieve sustainable economic growth by bringing in funding for key infrastructure projects.

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 2015. The impetus to deliver the CIL as soon as possible therefore provides the most value for money.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The CIL Regulations (as amended 2011, 2012, 2013, 2014) 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 2015 it will no longer be possible to secure S106s for District wide requirements such as greenspace, transport schemes and education facilities.
- 4.5.2 This report sets out that minor modifications are proposed to the Draft Charging Schedule, prior to submission for examination. The requirements in the 2014 CIL Amendment Regulations have been incorporated within the proposed changes. Due to the minor nature of these changes this is deemed to be a significant operational decision which can be made by the Chief Planning Officer, and is therefore 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 progress to submit the Draft Charging Schedule Submission Version to the Planning Inspectorate for examination as outlined in this report. The preparation of the CIL is a challenging process within the context of ongoing national changes to the Regulations and in responding to local issues and priorities. Consequently at the appropriate time advice is sought from a number of sources, particularly legal, as a method to help manage risk and to keep the process moving forward. Cross-working within Forward Planning and Implementation also ensures that the different documents and evidence base making up the Local Development Framework are aligned.

5 Conclusion

- 5.1 Following the CIL Draft Charging Schedule consultation in late 2013 this report proposes minor modifications for the Submission Version as a result of representations received and in order to reflect the 2014 CIL Amendment Regulations. In particular, a change from the term 'convenience retail' is proposed to 'supermarket' with an associated definition.

5.2 The Draft Charging Schedule Submission Version, the Statement of Modifications, and the Leeds City Council Responses to Representations on the Draft Charging Schedule are provided as appendices.

6 Recommendations

6.1 The Chief Planning Officer is requested to:

- i) Agree the minor modifications to the CIL Draft Charging Schedule as set out in the Submission Version (Incorporating Modifications), in order to proceed with 4 weeks public consultation on the modifications.
- ii) Agree for the Draft Charging Schedule Submission Version (Incorporating Modifications) and all associated evidence base and documents to be submitted to the Planning Inspectorate for subsequent examination, including the Council's responses to the representations received on the Draft Charging Schedule.
- iii) Note that the following steps will be undertaken in order to deliver this decision:
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 - b. The timescales for the implementation of this decision are that it is intended to submit the Schedule and commence the 4 weeks public consultation by the end of March 2014. The subsequent timetable will depend on the Core Strategy progress and capacity of the Planning Inspectorate.
 - c. The Chief Planning Officer is the officer responsible for implementation.

7 Background Papers¹

- Appendix 1 – Draft Charging Schedule Submission Version (Incorporating Modifications) (March 2014)
- Appendix 2 – Instalments Policy (Incorporating Modifications) (March 2014)
- Appendix 3 – Exceptional Circumstances Policy (Incorporating Modifications) (March 2014)
- Appendix 4 – Statement of Modifications (March 2014)
- Appendix 5 – Leeds City Council Responses to Representations on the Draft Charging Schedule (March 2014)

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.