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50714

Report of the Director of City Development

Report to: Development Plan Panel

Date: 14th January 2013

Subject: Leeds Community Infrastructure Levy – Preliminary Draft Charging Schedule

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): District Wide	☒ Yes	☐ No
Are there implications for equality and diversity and cohesion and integration?	☒ Yes	☐ No
Is the decision eligible for Call-In?	☒ Yes	☐ No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	☐ Yes	☒ No

Summary of Main Issues

1. Consultancy GVA were commissioned to provide the key piece of evidence for developing the Leeds Community Infrastructure Levy (CIL); a CIL Economic Viability Study. At Development Plan Panel on 19th December 2012 GVA attended to present the Study's recommendations.

2. The Study outlines recommended maximum viable rates at which the CIL could be charged for a range of uses in different locations across the District. However, in line with the CIL Regulations and guidance it is acknowledged that a Study for a District the size of Leeds is inevitably at a strategic level and will be to a certain extent theoretical. Therefore other evidence can be used to justify a variation from the Viability Study's recommended rates. This other evidence is focused on historic Section 106 agreements signed and S106 monies received, and the infrastructure funding gap. This other data is set out in the background documents 'Leeds Funding Gap: Justification for the CIL' and 'Leeds Historic S106 Data: Justification for the CIL.'

3. At Development Plan Panel on the 19th December Members were also posed a series of questions to inform the development of the Preliminary Draft Charging

Schedule. The Regulations specifically state that the Council must aim to strike what appears be an appropriate balance between the desirability of gaining funding from the CIL to support the development of the District, and the potential effects of the CIL rates on the economic viability of development across the District. All the evidence must be weighed up in determining what levels to set the draft CIL rates at in the Preliminary Draft Charging Schedule for public consultation.

4. This report therefore recommends the rates for public consultation in the Preliminary Draft Charging Schedule, which is attached as a background document.

5. The proposed rates are:
   a. A zoned basis for residential development in five zones: City Centre, Inner Areas, Outer Southern Area, Outer Central, and the Outer Northern Area. The rates range from £5 per sqm up to £90 per sqm.
   b. Retail above 500 sqm a rate of £158 per sqm in the City Centre and £248 per sqm outside it.
   c. Offices in the City Centre at a rate of £90 per sqm.
   d. No charge for development by a predominantly publicly funded or not for profit organisation, including sports and leisure centres, medical or health services, community facilities, and education.
   e. A rate of £5 per sqm for all other uses.

6. The CIL for residential development is to be charged at different rates in different zones. While these must remain similar to those used in the Viability Study (based on housing market areas) in order for the viability modelling to be accurate, officers' and Members' local knowledge of housing and market characteristics has also been used as evidence for determining the precise location of these boundaries.

Recommendations

Development Plan Panel is requested to:

i) Agree the CIL rates in the Preliminary Draft Charging Schedule, including the charging zone boundaries, 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, in order to present the Panel's recommendation for approval at Executive Board.

1.0 Purpose of this Report

1.1 This report gives an overview of the findings and recommendations of the Economic Viability Study undertaken by consultants GVA as the key evidence base for the development of the CIL for Leeds.

2.0 Background Information

2.1 The Community Infrastructure Levy Regulations 2010 (as amended 2011 and 2012, final Regulations expected early 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.

2.2 In December 2011 the Executive Board agreed to progress work on developing a CIL for Leeds. Development Plan Panel on 19th December 2012 agreed some parameters for setting the draft CIL rates based on a range of evidence as outlined in the rest of this report.

3.0 Main Issues

3.1 Consultants GVA were appointed to undertake the key piece of evidence to inform the CIL, an Economic Viability Study. Members will recall that GVA attended Development Plan Panel on 11th September and 19th December to present their methodology and recommendations. GVA also presented the Study's methodology to Scrutiny Board (Housing and Regeneration) on 25th September.

Economic Viability Study

3.2 GVA in discussion with the City Council agreed the various assumptions and inputs to be used in the Study. They tested a range of uses across the District using a residual appraisals methodology of hypothetical sites based on appropriate sample sizes and typologies. This took into account the Council's current and potential future policy requirements, such as for affordable housing, greenspace, Code for Sustainable Homes, and other relevant assumptions. This included the policy requirements for new development in the emerging Core Strategy. The methodology was in line with Government CIL guidance and Royal Institute of Chartered Surveyors guidance on viability appraisals.

3.3 Provided the effects of introducing design standards and policy requirements, including CIL, do not result in a reduction in land values of more than 25% it is the Study's view that landowners will not ultimately withhold their land from the development market beyond the immediate period when the CIL is introduced. Where land value is affected to a greater extent it is considered that landowners will reasonably seek alternative uses for their land or will withhold it from development.

3.4 The key findings of the Economic Viability Study (EVS) are the suggested maximum CIL rates which could be set across a range of development types. The CIL guidance is clear that the viability evidence is important, but that it is for the Council to decide where the balance lies in setting the final rates which should be set in the Preliminary Draft Charging Schedule, as a pragmatic approach needs to be taken. For clarity the EVS maximum CIL rates are set out below, followed by the reasons why the final proposed rates for the Preliminary Draft Charging Schedule have been recommended.

3.5 The proposed CIL charging zones are: City Centre, Inner Areas, Outer Northern, Outer Central, and Outer Southern. Appendix 1 contains a map of the zones and Appendix 2 (separate PDF document) shows this on a more detailed base. For consistency the EVS undertook the modelling using the same zones as in the previous Economic Viability Assessment for affordable housing and the Strategic Housing Market Assessment update 2010. It was felt that gaining this consistency was essential in being able to withstand future Examination, and was more important than aligning with the market areas used to determine the amount of housing in the Core Strategy and the Site Allocations DPD (which are not based on viability).

3.6 For the commercial uses GVA advised that the markets and values are broadly the same across the District, other than for offices and retailing in the City Centre. Greenfield sites allow a higher CIL charge than brownfield sites across all the development types, but due to new commercial development likely to be primarily only on brownfield land, brownfield rates have been recommended.

3.7 Within the Outer Northern area the residential rates have been set at a rate which is viable on greenfield land. The EVS advised that generally residential development is not viable in the inner area and city centre, and that only retail above 500 sqm and offices are viable. Hotels, residential care homes, employment, and student accommodation were specifically modelled but show that a CIL rate would not be viable. It is not anticipated that there will be a significant provision in the market for new build of other uses not discussed previously. There are also no allocations made for these uses in the Core Strategy. Therefore these uses were not modelled in the viability assessment and the Study recommended they should be subject to a zero CIL charge.

Type of development in Leeds	***Economic Viability Study Recommended <u>Maximum</u> CIL Charge***
Residential – Outer Northern	*£100 /sqm*
Residential – Outer Southern	*£50 /sqm*
Residential – Outer Area Central	*£25 /sqm*
Residential – Inner Area	*£0 /sqm*
Residential – City Centre	*£0 /sqm*
Retail: < 500 sqm	*£0 /sqm*
Retail: City Centre ≥ 500 sqm	*£175 /sqm*
Retail: Outside City Centre ≥ 500 sqm	*£275 /sqm*
Offices: City Centre	*£100 /sqm*
All other uses	*£0 /sqm*

3.8 The EVS also recommends that there is an early review of potential charges in 2016/2017 when there will be evidence as to how the local market, landowners and developers have responded to the charges.

Other Evidence to Balance against the EVS Recommendations

3.9 The CIL Regulations state that the CIL should be set high enough to ensure that when combined with other sources of funding it makes a good contribution towards the infrastructure needed to support growth. However, it shouldn't be set so high that the growth set out in the Core Strategy is made unviable and it becomes a serious risk to the overall development of the area. This needs to be 'an appropriate balance'. The Viability Study results do therefore have to be balanced alongside other information. At December's Panel consensus was not reached on whether the maximum recommended CIL rates in the EVS (where these are above zero) should be taken forwards in the Preliminary Draft, or reduced slightly as advised by national guidance. Members requested further information and consideration on this point

3.10 The key intention is to achieve a balance in gaining a reasonable contribution for infrastructure from new development, against the need to continue to encourage the overall growth of the District. The rates have to be set at a level which is not expected to harm the overall viability of development in the City in this current difficult economic period. Critically, new Government CIL guidance was published in mid December 2012, with contains a greater emphasis that the CIL rates have to support the implementation of the development plan, and specifically that they should not threaten the scale of development identified in the Core Strategy. The relevant sections of the guidance are set out below for clarity:

> "Charging authorities will need to be able to show why they consider that the proposed levy rate(s) sets an appropriate balance between the need to fund infrastructure, and the potential implications for the economic viability of development across their area" (Paragraph 23). "A charging authority's proposed levy rate (or rates) should be reasonable given the available evidence, but there is no requirement for a proposed rate to exactly mirror the evidence, for example, if the evidence pointed to setting a charge right at the margins of viability. There is room for some pragmatism" (Paragraph 28). "In proposing a levy rate(s) charging authorities should show that the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole" (Paragraph 29). "<u>Charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area</u>. Charging authorities should show, using appropriate available evidence, including existing published data, that their proposed charging rates will contribute positively towards and not threaten delivery of the relevant Plan as a whole at the time of charge setting and throughout the economic cycle" (Paragraph 30).

3.11 The impact on affordable housing also needs to be considered, as once adopted the CIL will not be negotiable, whereas affordable housing will remain negotiable and therefore there will be pressure to reduce provision where schemes are not viable. Reducing the CIL rate from the potential maximum will help to alleviate this pressure.

3.12 In setting the rates it also needs to be remembered that retail development often acts as enabling development, and therefore it is again recommended that rates be set so as to maximise this enabling potential.

3.13 It is therefore recommended that in line with the guidance and to create an appropriate balance a rate of at least 10% below the maximum rates in the EVS should be used (where the EVS value is higher than zero).

<u>Infrastructure Funding Gap</u>

3.14 The Council published its draft Infrastructure Delivery Plan (IDP) in March 2012, a document identifying the City's social, physical and green infrastructure needs. It was put together in partnership with external infrastructure providers, and has a particular focus on the infrastructure needed to support the new development planned for through the Core Strategy. The IDP is intended to be a 'living' document which will be updated as necessary and particularly to support the key stages of the draft Core Strategy, and the progression of the CIL.

3.15 For the purposes of this current stage of the CIL, the IDP was updated with amendments and refinements to each item of infrastructure to determine whether CIL was an appropriate tool for plugging any gaps, with projects removed where full funding is already identified, or the where the item is not within the Regulations' definition for CIL spending (i.e. to meet new growth). This review resulted in the much shorter list of infrastructure items, as set out in the separate paper 'Leeds Infrastructure Funding Gap: Justification for the Leeds CIL.' That paper provides the best available information at this time on the funding gap for the infrastructure needed to support planned development in the city, and for which CIL is a suitable mechanism for contributing to filling that gap.

3.16 The CIL guidance recognises that it is inevitable that predicting future infrastructure funding sources for the longer term contains uncertainties, and the Funding Gap paper sets out these caveats and assumptions. Infrastructure requirements and costs may change over the plan period and will be updated accordingly in future revisions of the IDP or supporting CIL documentation. In summary, an overall 'funding gap' of £1.3 billion has been identified for the Leeds District up to 2028.

3.17 It is possible to divide the total CIL funding gap by the projected amount of floorspace across the District required in the Core Strategy, to identify a starting point for considering the potential CIL rates. However, as the CIL rates need to be set primarily based on viability evidence, rather than infrastructure needs, further work has not been done to this regard. As outlined above, the CIL is not to be the only source of infrastructure funding. Assuming a rate for the CIL which would meet this whole gap would be far greater than that which would be viable.

Historic S106 data

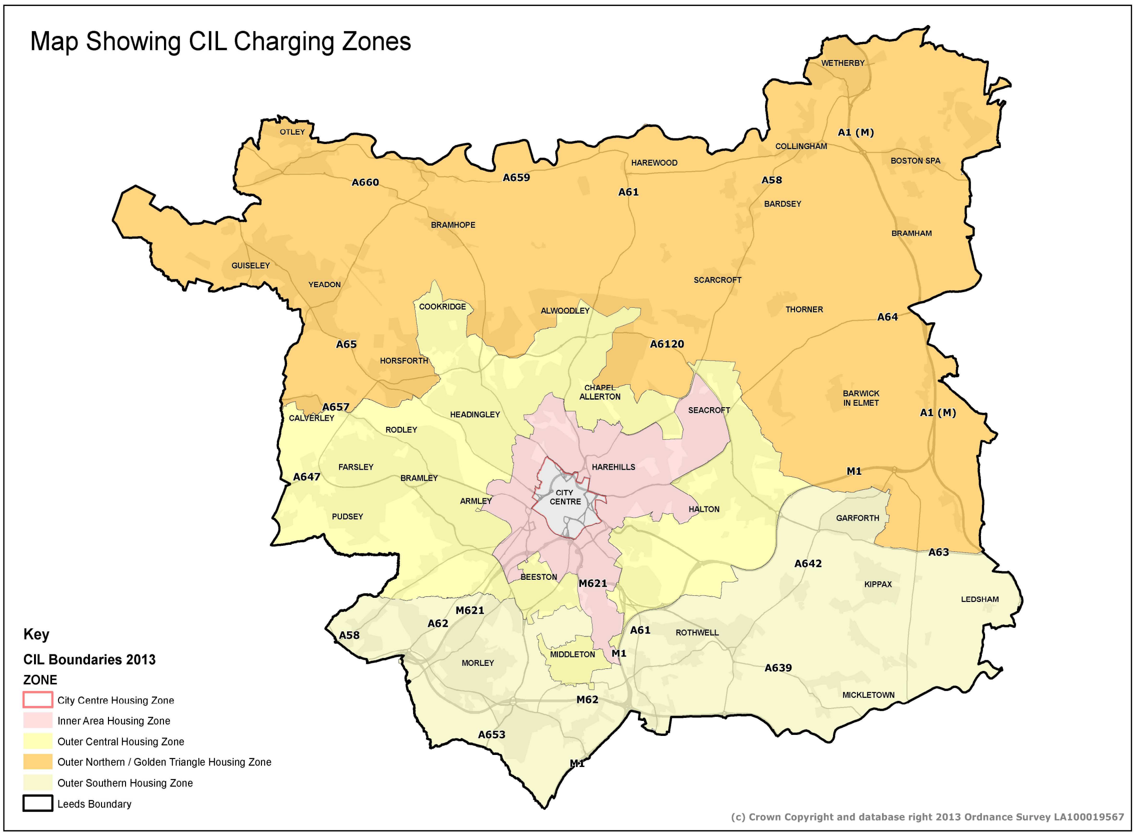
3.18 The background paper 'Historic S106 Data' has been prepared to outline that even in areas or types of development where the Viability Study shows schemes are generally unviable, some schemes have come forward which have signed S106s. Therefore there is a strong argument that a nominal charge of £5 should be set on the locations and many of the rates the Study shows as zero charge. Setting a nominal charge was therefore agreed at Development Plan Panel on 19th December.

3.19 This would not only bring in more revenue overall, but would mean that local development would bring local benefits through providing a meaningful proportion to all local communities. However, the Charging Schedule needs to be as simple as possible, and it may not be appropriate to set this nominal charge against all other development types. The Preliminary Draft Charging Schedule sets out that all other uses will be subject to this £5 charge "except for development by a predominantly publicly funded or not for profit organisation, including sports and leisure centres, medical or health services, community facilities, and education."

Preliminary Draft Charging Schedule Rates

3.20 The proposed Preliminary Draft Charging Schedule is included as a separate document which aims to be a comprehensive introduction to the CIL and to bring a summary of all the background evidence together. The proposed CIL rates and map are presented below for clarity.

Type of development in Leeds	CIL Charge per square meter
Residential – Outer Northern	**£90 /sqm**
Residential – Outer Southern	**£48 /sqm**
Residential – Outer Central	**£24 /sqm**
Residential – Inner Area	**£5 /sqm**
Residential – City Centre	**£5 /sqm**
Retail: < 500 sqm	**£5 /sqm**
Retail: City Centre ≥ 500 sqm	**£158 /sqm**
Retail: Outside of City Centre ≥ 500 sqm	**£248 /sqm**
Offices: City Centre	**£90 /sqm**
All other uses, except for development by a predominantly publicly funded or not for profit organisation, including sports and leisure centres, medical or health services, community facilities, and education.	**£5 /sqm**



3.21 Panel on 19th December agreed the broad locations of the residential zone boundaries as presented at the meeting, which included Calverley and Micklefield within the outer northern area and splitting of the broad southern area into outer southern and outer central. This is presented in the map below and at a larger scale in Appendix 1. It was recognised there may be a need to consider further minor boundary amendments at Panel on 14th January and Appendix 2 (separate PDF document) presents this map on a more detailed base. Larger copies will be available at Panel.

3.22 The CIL guidance is clear that the charging zones should be as simple as possible, and that all zones need to be supported by viability evidence. Splitting the District into smaller areas would be vastly complex, require a much more time intensive and expensive viability study, and would be very liable to challenge at Examination. Although there will be individual differences within each of the zones, the proposed rates take the range of these factors into account and are based on allowing the majority of development to come forwards. It is intended that the affordable housing zones would be realigned to match the CIL zone boundaries on adoption of the CIL.

<u>Instalments Policy</u>

3.23 At Panel on 19th December Members agreed to adopt an instalments policy to allow developers to pay their CIL charges in phased stages and to therefore support and enable development and economic growth. Without such a policy, the whole of the CIL charge is liable within 60 days of the commencement of development.

Generally, authorities have adopted an instalments policy for larger developments to encourage growth and to reflect that phased payments can help developments to be more viable, which is especially important in the current market. This policy is similar to that adopted or proposed by other authorities, and also similar to that originally set out in the CIL Regulations (subsequently removed by Amendment to enable authorities to set their own local policy).

INSTALMENTS POLICY	
< £9,999	Due in full within 60 days of commencement
> £10,000 - £59,999	Due in 3 equal instalments within: 60 days of commencement 120 days of commencement 180 days of commencement
> £60,000 - £99,000	Due in 4 equal instalments within: 60 days of commencement 120 days of commencement 180 days of commencement 240 days of commencement
> £100,000	Due in 4 equal instalments within: 90 days of commencement 180 days of commencement 360 days of commencement 720 days of commencement

Exceptional Circumstances Policy

3.24 The Council can also choose to adopt an Exceptional Circumstances Policy, whereby developers can request through a viability appraisal for some or all of the CIL charge to be waived. This is intended to be for exceptional circumstances only, and has very narrow criteria. These criteria are that the development would pay a higher S106 charge than the total CIL charge, and that the relief would not constitute State Aid. It cannot be used to appeal against a CIL charge if for instance a S106 has not been signed.

3.25 It is therefore recommended for the Council to adopt an Exceptional Circumstances Policy. It is important to note that the Council retains discretion over its use and does not have to give the relief in specific instances of development where it is applied for if the Council does not agree that to pay it would have an unacceptable impact on the economic viability of the scheme. The Council also only requires two weeks notice before being able to remove the policy, so its use could be monitored.

Revised CIL Guidance – December 2012

3.26 Revised Government CIL Guidance was published on December 14th and while overall it is consistent with earlier guidance and the approach taken in Leeds, there are a few key differences. There is the need to be a lot clearer at an early stage as to what infrastructure items will be funded through the CIL and which will be funded through S106s. This is through the Council preparing a 'Regulation 123 List'. Previously this List was not subject to examination and was able to be changed by the Council at any time. The new guidance requires the List to be a statutory consideration at the CIL Examination, should be consulted upon at Draft Charging Schedule stage, and cannot be changed after the CIL is adopted until the authority has consulted on the proposed changes.

Next Steps

3.27 Subject to any modifications requested by Development Plan Panel it is proposed to present the Preliminary Draft Charging Schedule to Executive Board on February 15th. Subject to approval by Executive Board the intention is to commence the formal public consultation period in March 2013. This will be a 6 week period of publication of all the relevant documents and background evidence, and will include stakeholder events as appropriate.

3.28 Following any amendments as a result of the Preliminary Draft consultation, there will be an opportunity for public representations on the Draft Charging Schedule currently anticipated in mid 2013, followed by Examination in late 2013 (subject to progress of the Core Strategy). It is intended to adopt the CIL by April 2014 following resolution by Full Council.

4.0 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 Development Plan Panel on 11th September and 19th December 2012.

4.1.2 As yet there has been no formal consultation stages of the CIL. The first formal consultation will be on the Preliminary Draft Charging Schedule, anticipated in March 2013. The Economic Viability Study as the key piece of evidence to inform the CIL has included informal consultation with the development industry by holding a stakeholder workshop in September, and with neighbouring authorities through ongoing meetings and discussions.

4.1.3 The initial findings of the Viability Study were also presented to Scrutiny Board on 25th September 2012. Briefings have been given in December 2012 which were available to all Members, to give a broad overview of the CIL, how the CIL rates are a separate decision making process from the spending mechanisms for the CIL receipts, and to outline the draft Study results.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An Equality Impact Assessment Screening was undertaken on the Executive Board report in December 2011. This concluded that equality, diversity, cohesion and integration issues were being considered as part of the preparation of the CIL although it was too early to be able to have any meaningful consideration of specific effects.

4.2.2 An Equality Impact Assessment Screening has been undertaken to help work up the recommendations for the CIL rates to be set in the Preliminary Draft Charging Schedule. This is a background document to this report to assist with Members' decision making and to give due regard to equalities implications. A draft of the Screening Report was also attached to the Development Plan Panel report 19th December 2012 for front loading of information.

4.2.3 The draft Screening sets 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).

4.2.4 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 extensive 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 cannot be fully considered until after the initial rates have been set and an estimate of potential revenues can be determined the Screening is primarily concerned with the first two elements set out above.

4.2.5 The conclusions in relation to the screening for the current stage 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 is 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. The public consultation stages will ensure that interested parties will have an opportunity to comment and to influence the rates and zones. Zone boundaries need to be carefully considered in order to ensure equality alongside the key consideration of viability.

4.3.4 It will be necessary to continue to have regard to equality and diversity issues as part of the ongoing process of developing a CIL for Leeds, including arranging and responding to appropriate consultation stages, and in particular in the governance and spending arrangements which are still to be set up across the Council. Another formal Screening will be required at the point of decision making on such aspects.

4.3 Council Policies and City Priorities

4.3.1 The CIL is already 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. 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

4.5.1 The Community Infrastructure Levy Regulations (2010 and amended 2011 and 2012, final Regulations expected early 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

4.6 Risk Management

4.6.1 If the Community Infrastructure Levy 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 work on the development of the CIL 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 This report provides the background evidence for the rates recommended in the associated CIL Preliminary Draft Charging Schedule.

5.2 It is considered that the rates proposed are based on sound appropriate evidence, subject to any modifications made as a result of public consultation.

6. Recommendations

6.1 Development Plan Panel is requested to:

i) Agree the CIL rates in the Preliminary Draft Charging Schedule, including the charging zone boundaries, 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, in order to present the Panel's recommendation for approval at Executive Board.

7. Background documents[1]

7.1 Relevant background documents can be obtained from Lora Hughes on 0113 39 50714:

- Leeds CIL Economic Viability Study (GVA January 2012)
- Preliminary Draft Charging Schedule (Draft January 2013)
- Infrastructure Funding Gap: Justification for the Leeds CIL (January 2013)
- Historic Section 106 Data: Justification for the Leeds CIL (January 2013)
- Map of Proposed CIL Charging Zones (detailed)
- Equality Screening for Development Plan Panel January 14th 2013.
- Infrastructure Delivery Plan (February 2012)
- Development Plan Panel Report 19th December 2012

APPENDIX 1

Map of Proposed CIL Charging Zones

APPENDIX 2 (separate PDF document)

Map of Proposed CIL Charging Zones (detailed)

[1] The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

APPENDIX 1 – MAP OF PROPOSED CIL CHARGING ZONES