

Report of: Director of City Development

Report to: Executive Board

Date: 17th September 2014

Subject: The Leeds Community Infrastructure Levy – Future Date for Adoption of Charging Schedule and Approval of Associated Policies

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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In? (NB. Please see paragraph 4.5.2 for further information)	<input checked="" type="checkbox"/> Yes	<input 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

- Members are familiar with the development of the Community Infrastructure Levy (CIL) for Leeds. In meeting the many 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 has previously agreed to progress setting a CIL charge 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 infrastructure while being at appropriate rates which will continue to attract investment, create jobs, and deliver new housing.
- There have been various stages of formal consultation on the Leeds CIL as required by the CIL Regulations, followed by a public examination in June 2014. The Council received the Examiner's report on 5th September 2014 and a copy of the report is attached in Appendix 7. The Examiner does not recommend any significant changes, and this is therefore a very positive outcome. The final CIL Charging Schedule is in Appendix 1.
- Therefore, the purpose of this report is for Executive Board to note the contents of the Examiner's Report and to seek authority to proceed to Full Council to request

the formal adoption of the CIL Charging Schedule on 6th April 2015. This is a big milestone for the Council.

4. Executive Board is also requested to approve the associated policies and documents alongside the Charging Schedule (as set out in the Regulations). The appendices contain the proposed Regulation 123 List, Exceptional Circumstances Policy, the Instalments Policy, and the Statement of Discretionary Charitable Relief. An Equality Impact Screening is also included.
5. This report does not make any recommendations on spending priorities or local apportionment, as these are separate matters and not directly concerned with the approval of the Charging Schedule itself. Executive Board has previously resolved to continue to work in partnership with parish councils and local communities to explore the opportunities for maximising the available resources to best meet needs, including through neighbourhood planning.

Recommendations

6. Executive Board is requested to:
 - i) Recommend to Full Council to approve the content of the Community Infrastructure Levy Charging Schedule.
 - ii) Recommend to Full Council to formally adopt the Community Infrastructure Levy in Leeds from 6th April 2015.
 - iii) Approve the content of the Regulation 123 List, Exceptional Circumstances Policy, Instalments Policy, and the Statement of Discretionary Charitable Relief.
 - iv) Agree that as required following monitoring, revisions to any of the policies and procedures in iii) going forward can be approved by the Chief Planning Officer under delegated authority.
 - v) Note that the following steps will be undertaken in order to deliver the decisions of the Board:
 - a. The Charging Schedule will be taken to Full Council on 12th November 2014 for resolution to adopt.
 - b. The timescales for the implementation of the decisions are that subject to agreement of Executive Board and Full Council, Leeds City Council will start charging the CIL from 6th April 2015.
 - c. The Chief Planning Officer is the officer responsible for implementation.

1 Purpose of this report

- 1.1 This report explains the outcome of the Examiner's report on the Leeds CIL Draft Charging Schedule, the proposed minor modifications to the final Charging

Schedule and associated policies, and proposes a formal adoption date of 6th April 2015. The Charging Schedule and associated policies are provided as appendices.

2 Background information

- 2.1 In meeting the many challenges associated with the Council's 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 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 is a non-negotiable charge on new buildings in £s per square metre and the rates must be set out in a Charging Schedule. In Leeds there are a range of rates for different types of development. It is charged on most buildings/extensions over 100 sqm and dwellings of any size, based on a net increase in floorspace. It cannot be charged on affordable housing, charities, householder extensions, or self-build. The CIL becomes liable on the grant of planning permission, but is paid when development commences on site.
- 2.3 The CIL Regulations restrict the scope for the use of S106 planning obligations from 6th April 2015. After that date the pooling of more than five S106s per type or item of infrastructure will no longer be possible. In Leeds this means that it will no longer be possible to continue the current methods for collecting pooled contributions towards education, greenspace, public transport improvements, or the Holbeck Urban Village public realm.
- 2.4 The Leeds CIL Examination hearing took place on the 3rd June 2014. Some of the relevant issues were also discussed in the Core Strategy Examination hearing sessions in October 2013 and in particular at the affordable housing hearing session on 13th May 2014. The Examiner published his report on 5th September 2014. A separate report has been produced for this Executive Board relating to the Core Strategy examination and future steps.

3 Main issues

- 3.1 The CIL Examination report states that the Examiner considers that the Council has sufficient evidence to support the CIL Charging Schedule and can show that the levy is set at a level that will not put the overall development of the Leeds District at risk. He recommends that the Charging Schedule should be approved in its published form without changes to any of the proposed rates. He is satisfied that the evidence represents a robust assessment of the necessary infrastructure and possible sources of funding, and that the Council has taken a cautious but realistic approach in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of

development remains viable across the District. The proposed rates are justified by the appropriate available evidence, and the nominal charge in the inner urban areas and the viability buffers in the outer, south and north zones provide sufficient comfort that the rates will not prevent the housing needs of the city from being met. For offices, the evidence indicates that the rate is set at a level which will not threaten the delivery of the Core Strategy's aims for the City Centre. Overall, the charges are based on reasonable assumptions about development values and likely costs and the evidence suggests that residential and commercial development will remain viable across most of the area.

- 3.2 The only recommendations for changes are as already agreed with the Council in the hearing session, which are very minor amendments to improve clarity. Overall this is a very positive report which will be viewed with interest by authorities across the country, with a number already seeking advice and to adopt a similar approach. Leeds can be viewed as a forerunner for both the Leeds City Region and the Core Cities in this regard (with the exception of Bristol which is already charging its CIL). The Examiner also considered that it is sensible for the Council to commit to review the Charging Schedule in light of the outcome of the Site Allocations Plan and/or an improvement in market conditions and overall viability.

Final Charging Schedule

- 3.3 As a result of the Examiner's report, very minor modifications have been made to the final Charging Schedule to reflect the recommendations made, and the progression to adoption stage. The final document for adoption is attached at Appendix 1 (N.B. with additional front cover to be added). A number of other policies are also required alongside the Charging Schedule, discussed below and attached as appendices.

Regulation 123 List

- 3.4 Currently the Council requires many developments to pay a pooled S106 contribution for greenspace, education, public transport improvements, and public realm if development is in the Holbeck Urban Village. Under the CIL these S106 payments will no longer be possible. Therefore CIL Regulation 123 requires the Council to set out a list of those projects or types of infrastructure that it intends will be, or may be, wholly or partly funded through the CIL. In order to ensure that individual developments are not charged for the same infrastructure items through both S106 and the CIL, a S106 contribution cannot then be made towards an item already on the List. The February 2014 Amendments to the Regulations mean that S278 Highways agreements also cannot be made towards an item on the R123 List (although they can still be pooled).
- 3.5 Executive Board agreed the Draft Regulation 123 List on 9th October 2013 and this was then presented as part of the subsequent public consultation and discussed at the CIL Examination. Two minor amendments are proposed to reflect comments from consultees about the correct title of the infrastructure projects. 'River Aire Flood Alleviation Scheme' is now called 'Leeds Flood Alleviation Scheme', and 'public transport schemes' are now called 'sustainable transport schemes'.
- 3.6 For clarity, the following table shows the general distinction between what the CIL will be able to fund and what S106s and S278s will be able to fund.

Items remaining under S106 or S278	Infrastructure potentially paid for by the CIL
Affordable housing	-
Employment and skills agreements	-
Site specific matters needed to make the development acceptable in planning terms, including:	-
New bus/cycle/pedestrian routes and connections if directly required by the development	Sustainable transport schemes: <ul style="list-style-type: none"> - New Generation Transport (NGT) - Leeds Core Cycle Network - The Public Right of Way network
Local junction/highways improvements and access into the site	-
Metrocards, travel plans and monitoring fee / co-ordinator posts	-
Primary schools/extensions as a direct result of large sites or groups of up to five sites identified in the Site Allocations Plan	Primary education
-	Secondary education
On-site greenspace and public realm	Green infrastructure / public greenspace / public realm / community sports facilities
On-site drainage and flooding solutions	Leeds Flood Alleviation Scheme (FAS)
On site sustainable energy requirements	Connection to district heating networks
-	Public health facilities

Instalments Policy

- 3.7 The Council can set a policy to allow the CIL to be paid in instalments, which helps viability especially for larger developments. Executive Board agreed the Draft Instalments Policy on 15th February 2012. However, following further discussions with LCC Finance it has become apparent that the Civica financial system requires instalments to be at regular intervals every 3 or 6 months, and therefore a small modification is now needed for the CIL payment thresholds above £100,000. To keep the invoicing process streamlined it is therefore proposed to use 6 monthly instalments as set out below.

<u>Agreed Draft Instalments Policy</u>		<u>Proposed Change – Final Policy</u>
£100,000 to £499,999	Due in 4 equal instalments within: 3 / 6 / 12 / 18 months of commencement	Due in 3 equal instalments within: 6 / 12 / 18 months of commencement
≥ £500,000	Due in 4 equal instalments within: 3 / 6 / 12 / 24 months of commencement	Due in 4 equal instalments within: 6 / 12 / 18 / 24 months of commencement

- 3.8 The Instalments policy now also reiterates that Regulation 70(8) requires that if the appropriate instalment amount is not received by the specified date then the whole remaining balance becomes due immediately.

Exceptional Circumstances Policy

- 3.9 The Regulations allow the Council to set an Exceptional Circumstances Policy, which is the only way in which any reduction in a development's CIL payment is allowed. A Draft Exceptional Circumstances Policy was agreed in principle by Executive Board on 15th February 2012. It has strict and narrow criteria, and the Council expects that this policy will be rarely used because the Leeds CIL rates have been set to already take into account viability issues, development costs, and

full policy requirements across the District. This includes that it is reasonable to assume that any S106 signed by an applicant reflects viability of the scheme, including consideration of the CIL rates applicable at the time.

- 3.10 The Regulations state that relief from paying CIL may be granted “if it appears to the charging authority that there are exceptional circumstances which justify doing so; and the charging authority considers it expedient to do so.” Further criteria are that relief can only be granted if the development also signs a S106, if the Council considers that to require payment of the CIL would have an unacceptable impact on the economic viability of a development, and the relief would not constitute State Aid (where one organisation may only receive 200,000 euros of relief of any type across the whole of the UK within each 3 year rolling period). Of note, the Council is able to remove the policy by simply giving two weeks’ notice, so its use (or ‘misuse’) can be monitored and acted on. The applicant has to request exceptional circumstances relief before commencement on site but the request does not have to be before grant of planning permission. A development ceases to be eligible for relief if the site is sold before it commences, or if it does not commence within 12 months.
- 3.11 The proposed policy has been expanded from the Draft to give more guidance to applicants, while specifying that the Council retains the discretion to make judgements about the viability of the scheme in economic terms and whether the exceptional circumstances policy applies. In addition, a new element has been proposed, stating that the Council may make a judgement in individual cases that exceptional circumstances are not solely based on economic viability. Even where the CIL may give rise to an unacceptable impact on the economic viability of the chargeable development, the Council may also require demonstration of wider regeneration benefits and/or the need for the applicant to show that a particular site has to be brought forwards imminently for wider benefit.

Statement of Discretionary Charitable Relief

- 3.12 The Regulations require that a charity which owns the land being developed will get full relief from their share of the CIL liability where the chargeable development will be used ‘wholly, or mainly, for charitable purposes’. In accordance with Regulations 44 and 46, the Council can also choose to offer discretionary charitable relief to a charity landowner where the greater part of the development will be held as an investment from which the profits are applied for charitable purposes.
- 3.13 Executive Board has not previously considered whether to grant this relief. It is now recommended to offer the relief in order to support charitable activities as much as possible.
- 3.14 The policy proposed (in Appendix 5) simply sets out that relief will be available for development held as an investment by a charity. However, there is the option for the Council to impose further criteria in the policy, for instance whether the CIL relief should be 100% or only a partial %, and/or whether there are any restrictions on the type of charity or its geographical coverage e.g. to provide services to Leeds residents. Executive Board is invited to consider any other such criteria.

Spending and Apportionment

- 3.15 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 is a separate workstream to the adoption of the CIL Charging Schedule. The CIL will be a part of the wider Council funding package that also includes aspects such as the New Homes Bonus and retained business rates, the City Region Infrastructure Fund and other public sector grants. Executive Board has previously agreed (9th October 2013) to work in partnership with local councils, Area Committees, and neighbourhoods to explore opportunities for maximising available resources through governance and implementation of the CIL spending to best meet their local needs. This includes through neighbourhood planning work.

Next Steps

- 3.16 Subject to approval by Executive Board the intention is to take the Charging Schedule to Full Council on 12th November, to agree an adoption date of 6th April 2015. There are a range of workstreams underway involving administration, implementation, and process change to make sure that the Council's systems and staff are ready for this adoption date. This includes having relevant guidance available for all stakeholders, including updated website pages and CIL training events for the development industry.

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 and Scrutiny Board.
- 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 and the CIL Regulations. Executive Board on 9th October 2013 approved consultation on the Draft Charging Schedule and to submit the Draft for examination.
- 4.1.3 The Draft Charging Schedule was submitted on the 7th April 2014 and the public examination hearing was held on 3rd June 2014. A number of stakeholders attended the hearing or submitted written statements, including representatives from the property industry and from community groups. The CIL Regulations require Full Council to agree the final proposed Charging Schedule and set a future date for its adoption. In the lead up to the adoption, copies of the relevant material will be placed in libraries and One Stop Centres and on the Council's website. There will be a range of other guidance, training events, and proactive methods of raising awareness of the new process for communities, the property industry, and colleagues within the Council.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equality Impact Assessment Screening was undertaken for Executive Board in December 2011 relating to an overview of the CIL, and in February 2013 to help

determine the recommendations for the CIL Preliminary Draft Charging Schedule. The latter was updated in August 2013 for the Draft Charging Schedule with no changes in its conclusions since the previous version. It has been updated once more for this final stage.

- 4.2.2 The consideration of most relevance to equality, diversity, cohesion, and integration will be relating to the choices to be made in spending the CIL. This is outside the scope of the current decision on the adoption of the Charging Schedule itself. Therefore the Screening conclusions remain the same, in that overall the CIL will be a benefit for the people of the District, and that no impacts are identified.

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, 2012, 2013, 2014). 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. As such, this supports the Best Council Plan objective, 'Promoting sustainable and inclusive economic growth'.

4.4 Resources and Value for Money

- 4.4.1 Executive Board agreed 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 up to 5% of future CIL receipts to be reclaimed for the CIL set up and ongoing administration costs. The implementation of the CIL in Leeds is expected to result in increased funding for strategic infrastructure across the District. This is alongside the context of a reduction in the current use of S106s from April 2015, and the impetus to deliver the CIL at the point at which this occurs provides the most value for money.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Community Infrastructure Levy Regulations (2010 as amended) 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. Through the public examination process and as expressed in his report, the Examiner has confirmed that the Leeds CIL Charging Schedule has met all the legal compliance requirements. The CIL Regulations have also restricted the scope for the use of S106 planning obligations. From 6th April 2015 it will no longer be possible to secure S106s for District wide requirements such as greenspace, transport schemes, education, or the Holbeck Urban Village Public Realm.
- 4.5.2 Approval of the Charging Schedule itself is a matter for Council and is not therefore subject to call in. However the approval of the associated policies and documents are matters for the Executive Board to determine and such decisions are 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 money which under the present system is gained through the S106 mechanism, as the restriction on the use of pooled S106 contributions comes into effect nationally whether or not a local authority has introduced CIL. In order to manage this risk it is recommended that the CIL is adopted from 6th April 2015. This is the date on which the revised Regulations come into force.
- 4.6.2 The preparation of the CIL is a challenging process within the context of ongoing national changes to the Regulations, limited precedents from other Core City authorities, and in responding to local issues and priorities. Consequently at the appropriate time advice has been sought from a number of sources, including legal and from the Planning Advisory Service, Planning Officers Society, and other local authorities to help manage risk and to keep the process moving forward. Implementation work is underway in order to have all the necessary systems in place to start charging the CIL from the 6th April 2015.

5 Conclusion

- 5.1 Following the receipt of the Examiner's report on the CIL Draft Charging Schedule, this report suggests minor changes and presents the final Charging Schedule for adoption. The Examiner agrees that the rates proposed are an appropriate balance based on sound evidence, and will contribute positively to the development plan by gaining new infrastructure funding while not threatening the viability of growth and development as a whole.
- 5.2 The CIL Charging Schedule, the Regulation 123 List, and other associated policies are provided as appendices. In particular, the Statement of Discretionary Charitable Relief is a new policy proposed to support charitable activities in the District. The key recommendation is for the CIL to be adopted in Leeds on the 6th April 2015.

6 Recommendations

6.1 Executive Board is requested to:

- i) Recommend to Full Council to approve the content of the Community Infrastructure Levy Charging Schedule.
- ii) Recommend to Full Council to formally adopt the Community Infrastructure Levy in Leeds from 6th April 2015.
- iii) Approve the content of the Regulation 123 List, Exceptional Circumstances Policy, Instalments Policy, and the Statement of Discretionary Charitable Relief.
- iv) Agree that as required following monitoring, revisions to any of the policies and procedures in iii) going forward can be approved by the Chief Planning Officer under delegated authority.
- v) Note that the following steps will be undertaken in order to deliver the decisions of the Board:
 - a. The Charging Schedule will be taken to Full Council on 12th November for resolution to adopt.
 - b. The timescales for the implementation of the decisions are that subject to agreement of Executive Board and Full Council, Leeds City Council will start charging the CIL from 6th April 2015.
 - c. The Chief Planning Officer is the officer responsible for implementation.

7 Background Papers¹

7.1 There are no background papers associated with this report.

8 Appendices

Appendix 1 – CIL Charging Schedule

Appendix 2 – Regulation 123 List

Appendix 3 – Exceptional Circumstances Policy

Appendix 4 – Instalments Policy

Appendix 5 – Statement of Discretionary Charitable Relief

Appendix 6 – Equality Impact Screening for the Leeds CIL Charging Schedule

Appendix 7 – Examiner's Report on the Leeds Community Infrastructure Levy Draft Charging Schedule

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.