

TRAFFORD COUNCIL

Report to: Executive
Date: 24 March 2014

Report to: Council
Date: 26 March 2014
Report for: Decision
Report of: Executive Member for Economic Growth and Prosperity

Report Title

Trafford Community Infrastructure Levy: Adoption

Summary

This report seeks Executive and then Council approval of the Trafford Community Infrastructure Levy (CIL) Charging Schedule (CS). It also seeks Executive approval for the Revised SPD1: Planning Obligations 2014 for adoption together with supporting documentation for the implementation of the levy on all planning applications determined from Monday 07 July 2014.

Recommendation(s)

That Executive:

1. Consider the outcome of the Examiner's report.
2. Recommend to Council that it formally adopts the Trafford Community Infrastructure Levy Charging Schedule (as detailed in Appendix A, which includes the modifications proposed by the Examiner as summarised at paragraph 2.1), the supporting Regulation 123 List (as set out in Appendix B) and the Instalments Policy (as set out in Appendix C) for implementation on Monday 07 July 2014.
3. Adopt the Revised SPD1: Planning Obligations 2014 for implementation on Monday 07 July 2014 (as set out in Appendix D).
4. Delegate responsibility for approving the CIL Exceptional Circumstances Policy, Infrastructure Payments Policy and any minor amendments to the wording of all documentation to the Corporate Director of Economic Growth and Prosperity, prior to its implementation.

That Council:

1. Adopts the Trafford Community Infrastructure Levy Charging Schedule (as detailed in Appendix A, which includes the modifications proposed by the Examiner as summarised at paragraph 2.1), the supporting regulation 123 list (as set out in Appendix B) and the Instalments Policy (as set out in Appendix C), for implementation on Monday 07 July 2014.

Contact person for access to background papers and further information:

Name: Rob Haslam (Head of Planning Services)
Extension: 4788

Background Papers: None.

Implications:

Relationship to Policy Framework/Corporate Priorities	The CIL Charging Schedule has been developed to support growth planned in the Trafford Local Plan: Core Strategy.
Financial	CIL provides the mechanism for the Council to secure funding towards the required essential infrastructure in the borough. Upon implementation of CIL, a management fee of up to 5% will be collected from CIL to support the management and delivery of CIL in Trafford.
Legal Implications:	The CIL Charging Schedule is being developed in line with the requirements of the Planning Act 2008, CIL Regulations 2010 as amended. Upon adoption it will replace in part the current planning obligations regime set out in Policy L8 of the Core Strategy and the current Planning Obligations Supplementary Planning Document with a revised version.
Equality/Diversity Implications	The draft CIL Charging Schedule was subject to an EIA assessment in September 2013 to ensure that equality issues have been considered as part of the preparation.
Sustainability Implications	The CIL Charging Schedule has been subject to an independent viability appraisal. Most of the evidence supporting it will have been subject to independent sustainability appraisal as part of the preparation of the Core Strategy.
Staffing/E-Government/Asset Management Implications	Consultees have been able to make electronic submissions to the CIL Charging Schedule consultations online and all the documentation is available to access through the Strategic Planning web pages.
Risk Management Implications	A timetable for clearance of outstanding S106 agreements has been set up to ensure a smooth transition to the CIL system.
Public Health Implications	None.
Health and Safety Implications	None.

1.0 Background

- 1.1 The Community Infrastructure Levy (CIL) was created under the terms of the Planning Act 2008, and establishes a new system for collecting developer contributions towards essential infrastructure.
- 1.2 Submission of the Trafford Council Draft Community Infrastructure Levy Charging Schedule to the Planning Inspectorate was made on the 03 October 2013. Philip Staddon BSc Dip MBA MRTPI was appointed to conduct the independent examination and the Examination Hearings took place on the 09 & 10 December 2013.
- 1.3 The Council received the Examiner's final report on the 31 January 2014. The report has been made available for inspection on the Council's website and in libraries across the Borough, in line with regulation 23 of the CIL Regulations 2010 (as amended).

- 1.4 The Examiner concluded that, subject to a number of modifications, the Trafford Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. A copy of the Charging Schedule including the modifications is provided in Appendix A.

2 The Charging Schedule

- 2.1 The draft Charging Schedule was considered by Executive on the 23 September 2013 and submitted for Examination. Following the conclusion of the Examination, the main modifications required by the Examiner can be summarised as:

- The levy rate for apartments in 'cold' and 'moderate' charging areas be reduced from £10 to £0 psm.
- The levy rate for supermarket development in defined town centres be reduced to from £225 to £0 psm.
- The definitions of 'supermarket' and 'neighbourhood convenience stores' be revised for clarity.
- The 'base rate' (including office, industry and warehousing) be reduced from £10 to £0 psm.

- 2.2 For these modifications the Examiner considered that the viability of these uses was marginal and that imposing a base rate CIL charge would have a negative impact on development coming forward within these areas.

- 2.3 Rates for houses in all charging zones, apartments in hot charging zones, supermarkets (outside of a defined town centre), retail warehouses, and leisure and hotels remain as proposed. A consequence of these changes is that the theoretical total CIL receipts anticipated in Trafford will be reduced in the short term. However, as the levy has been secured for leisure and hotel development, as well as supermarket development outside of a defined centre, the target CIL receipts from these types of development will go some way to lessening this reduction. Levy secured from these developments was not taken into account in the original calculation of target CIL receipts.

- 2.4 The removal of the base rate charge for apartment development may have some implications initially for the Council's Strategic Locations, where apartments are likely to dominate over houses (i.e. in all locations except Carrington). Initially these Strategic Locations will not be required to contribute towards CIL, but will still be required to provide site specific s106 contributions. The Council will therefore need to monitor development in these locations and undertake a review of the Charging Schedule when development viability becomes less marginal. Should development commence in these locations without a CIL charge it will still contribute to delivering new Council Tax and New Homes Bonus to the authority.

3 Changes to the Charging Schedule

- 3.1 The implications of the four proposed modifications are set out below:

- 3.2 **Apartments** – A definition for 'apartments' will be needed which our Development Management team can use in determining planning applications, and for the purpose of establishing what (if any) charge rates are applicable.

- 3.3 **Town Centre Boundaries** – As supermarket development within the Core Strategy's defined town centres (Altrincham, Sale, Stretford and Urmston) will be exempt from CIL charges, the boundaries of the defined town centres have been added to the final charging zone map (see Appendix A). These boundaries are those set out on

the UDP Proposals Map. However, if any amendments are made to the defined town centre boundaries through the preparation of the Trafford Local Plan: Land Allocations and the proposed Altrincham Town Centre Business Neighbourhood Plan, then an early review of CIL may be required to update these boundaries.

- 3.4 **Supermarkets** – The required modification includes the addition of some wording to the definition for supermarkets to give greater clarity.
- 3.5 **Neighbourhood Convenience Stores** – This modification required a change to the definition: “*trading areas will either be less, or will not significantly exceed, the Sunday Trading Act threshold of 280 sqm*”. Therefore, for the purposes of implementation, this would mean that small format ‘basket shop’ outlets operated by supermarket chains often c.400 sqm would fall under neighbourhood convenience stores, which are subject to a nil rate.

Other Implications

- 3.6 Other implications of the Examiner’s report into the Trafford Council Draft Community Infrastructure Levy Charging Schedule are set out below:
- **Exceptional Circumstances Policy and Infrastructure Payments Policy** – The further amendments to the CIL Regulations 2010 came into force on 24 February 2014, and include changes to the exceptional circumstances policy to make it more flexible and the introduction of an infrastructure payments policy. The new associated statutory guidance was also published in February 2014 to take into account the changes to the February 2014 regulations. It is proposed to introduce an Exceptional Circumstances Policy that will be applicable to the Borough’s identified Strategic Locations only. This policy will seek to ensure that affordable housing is delivered on-site, particularly in these areas, where it is most needed. Also, an Infrastructure Payments Policy that will allow developers to pay either “in kind” with land or to provide infrastructure (listed on the Regulation 123 list) in lieu of a CIL payment. It is requested that these policies be approved under delegated powers, ahead of the proposed CIL implementation date.
 - **Monitoring and Review** – Although the examiner concluded that evidence did not support some of the proposed CIL charges, as they were presently not viable or only marginally viable, the report states that the Council may wish to gather further evidence, through its monitoring and review processes to review the CIL charge at a future date. Therefore, considering the review of town centre boundaries and the fact that the market is currently on the upturn, it may be prudent to consider an early review of CIL following the adoption of the Trafford Local Plan: Land Allocations, or at the point where the evidence is available to support such a review.

4 Revised SPD1: Planning Obligations 2014

- 4.1 Upon the adoption of the CIL Charging Schedule, the existing Supplementary Planning Document 1 (SPD1): Planning Obligations will need to be revised to scale back the requirement for planning obligations, which will be covered in the CIL Charging Schedule. Planning obligations will only apply to site specific mitigation measures to address the impact of development and will be delivered on site, where appropriate, and thereby reduce the number of S106 agreements. A draft revised SPD was made available for public consultation between 13 May 2013 and 24 June 2013 alongside the draft Charging Schedule. A total of 16 comments were received. The main issues raised were over better clarity on what infrastructure would still be

required under planning obligations, what should be delivered by planning conditions and greater flexibility over phasing and payments. These comments have been addressed in the final version of the Revised SPD for adoption. It should be noted that affordable housing will continue to be required through section 106 legal agreement, as the CIL Regulations 2010 as amended detail that this sits outside of the scope of CIL.

- 4.2 A full copy of Revised Supplementary Planning Document 1 (SPD1): Planning Obligations 2014 is provided in Appendix D. The revised SPD will need to be adopted on 07 July 2014, for implementation at the same time as the CIL Charging Schedule. The adoption date of 07 July 2014 allows the Council to continue to implement the current SPD1 (adopted February 2012) until this date, and the adoption of the revised SPD ensures that there will be no double counting for the provision of infrastructure in future after CIL is implemented.

5 Regulation 123 List

- 5.1 As CIL is not payable until after development commences, it is recognised that there will be limited CIL receipts in the first year of operation (2014/15). In view of this, it is proposed that all CIL receipts in 2014/15 will be banked for expenditure and will be subject to Council approval at a later date.
- 5.2 The draft CIL Regulation 123 List that was submitted for Examination contains a very broad range of project types that could be eligible for CIL funding in the period to 2026. This list is proposed for adoption and is contained in Appendix B. Discussion at the Examination concluded that a more detailed list would be helpful. However, at this time further information is limited and a consultation with developers in 2014/15 could provide a revised Regulation 123 List for 2015/16.

6 Instalment Policy

- 6.1 Following discussion at the Examination and comments received from consultees during the consultation on the draft Charging Schedule, changes to the draft Instalment Policy have been made to provide some additional flexibility for developers over the stages when a CIL payment can be made. Executive and Council are asked to approve the proposed Instalment Policy, as detailed in Appendix C.

7 Next steps

- 7.1 It is proposed that the Trafford CIL Charging Schedule is implemented on the 07 July 2014. Implementing CIL on this date will provide sufficient time for developers and the planning and legal service to manage the transition between the current s106 regime and the new CIL regime. In terms of planning applications received by the Council, this would mean that any applications for major development submitted on or after the 07 April 2014 (or any major applications that are not determined before 07 July 2014), would be CIL liable. Likewise, any minor application submitted on or after 12 May 2014 (or any minor applications that are not determined before 07 July 2014), would be CIL liable. Also, any appeals that are not determined by 07 July 2014 would be CIL liable. As such, the Planning Inspectorate will need to be made aware of any outstanding appeals which they are considering that this may affect.
- 7.2 The S106/CIL Officer will be responsible for the implementation, monitoring and review of the Charging Schedule in line with the CIL Regulations 2010 as amended.

8 Other Options

- 8.1 Alternative options are considered to be:

- Delaying the implementation of CIL, however it is considered that there will be benefits to the Council in terms of streamlining the planning application process and the collection of CIL charges, from an implementation date of the 07 July.
- Not to introduce CIL and to continue with the present S106 regime until April 2015, when the Government restricts the pooling of the S106 contributions.

8.2 These alternatives are not considered to be preferable, as if CIL were to be delayed then the economic viability study and associated modelling work would need to be updated and subject to further Examination.

Reasons for Recommendation

To allow the Council to implement a new Community Infrastructure Levy (CIL) charging regime and to adopt an updated Supplementary Planning Document that is aligned with these new arrangements and which is to be implemented alongside the CIL.

Key Decision: Yes

If Key Decision, has 28-day notice been given? Yes

Finance Officer Clearance (type in initials).....GB

Legal Officer Clearance (type in initials).....JLF.....

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[CORPORATE] DIRECTOR'S SIGNATURE (electronic).....

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