

TRAFFORD COUNCIL

Report to: Executive
Date: 29 April 2013
Report for: Decision
Report of: Executive Member for Economic Growth and Prosperity

Report Title

TRAFFORD COMMUNITY INFRASTRUCTURE LEVY

Summary

The report seeks Executive approval for consultation on the Trafford Community Infrastructure Levy, Draft Charging Schedule (DCS). It details the proposed rates for the Draft Charging Schedule and the changes to legislation that have occurred since consultation on the Preliminary Draft Charging Schedule (PDCS). It provides an overview of the additional evidence base work undertaken to address issues raised during the previous consultation and of the additional supporting documentation prepared for the CIL Draft Charging Schedule.

Recommendation(s)

That the Executive:

- Agree the CIL Draft Charging Schedule (as detailed at Appendix 1) and supporting documentation, for consultation purposes.
- Agree the Draft SPD1: Planning Obligations SPD for consultation (as detailed at Appendix 2).
- Delegate to the Corporate Director for Economic Growth and Prosperity, in consultation with the Acting Director of Legal and Democratic Services, responsibility for approving any minor amendments to the wording of the documents prior to consultation.

Contact person for access to background papers and further information:

Name: Rob Haslam (Strategic Planning Manager)
Extension: 4788

Background Papers:

- Trafford CIL: Economic Viability Study, July 2012
- Trafford CIL: Economic Viability Study – Addendum Report, March 2013
- Trafford CIL: Infrastructure Note, March 2013
- Statement on CIL and Section 106, March 2013

Implications:

Relationship to Policy Framework/Corporate Priorities	The CIL Charging Schedule will be developed to support growth planned in the Trafford Local Plan: Core Strategy.
Financial	Funding for the preparation of the CIL Charging Schedule has been identified and is held within the Strategic Planning budget. 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 and (Amendments) 2011 and 2012 (and subsequent amendments). Upon completion it will replace in part the current Planning Obligations regime set out in Policy L8 of the Core Strategy and the Planning Obligations Supplementary Planning Document. In addition, the documentation has been subject to review by Counsel.
Equality/Diversity Implications	The CIL Charging Schedule will be subject to an EIA assessment 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 will be able to make electronic submissions to the CIL Charging Schedule consultations on line and all the documents will be available to access through the Strategic Planning web pages.
Risk Management Implications	The timetable for producing a CIL Charging Schedule will be set out in an LDF Programme.
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 Executive approved consultation on a Preliminary Draft CIL Charging Schedule in July 2012, this was a 6-week consultation from 3rd August 2012 to the 14th September 2012. Following the receipt of comments to this consultation and the publication of the CIL (Amendment) Regulations 2012, an informal consultation on the Infrastructure Note was carried out between 1st February 2013 and 25th February 2013.
- 1.3 The majority of responses received to the PDCS consultation were positive about the introduction of CIL in Trafford. However, some challenged the proposed rates and some of the assumptions used in the accompanying viability assessment. Others

requested more clarity and transparency regarding what infrastructure CIL would fund and what would still remain through Section 106 agreements.

2.0 Economic Viability Assessment Update

2.1 As a result of comments received, the Council's consultant team (Peter Brett Associates (formerly Roger Tym and Partners)) were asked to undertake additional viability assessment work, to address the issues raised. This work included addressing comments received in relation to the residential charges applied to Altrincham Town Centre and the Trafford Quays area, more fine grained data to support the residential charging zone boundaries, charges for retail development, testing of major development sites and more sensitivity testing around the base rate charge. This update also addressed changes to the CIL Regulations and guidance issued in December 2012 (see section 4.0).

2.2 The Trafford Economic Viability – Addendum Report looked in detail at the impact of the implementation of CIL on major development areas and concluded that the introduction of CIL is likely to have a beneficial impact on the viability of the Strategic Locations over the continuation of the current Section 106 regime.

2.3 In the last 3 years, the Council has received approximately £7 million in S106 payments, which averages £2.35 million per year. A further £2.7 million remains outstanding from signed agreements within this 3-year period. The estimated CIL is approximately £41 million over 15 years, which equates to £2.7 million per year.

3.0 Draft Charging Schedule

3.1 The CIL rates as proposed in the PDCS have been amended as a result of the responses received to the consultation and further evidence base work. The main amendments are set out below:

- Differential rates for residential – the CIL guidance states that where charge rates are proposed to vary by reference to viability zones, more fine grained evidence should be produced in order to define the boundaries of those zones. The proposed changes to the boundaries for the residential charging zones are set out in section 6.0 of the draft Charging Schedule (Appendix 1). In order to address some of the comments received through the consultation on the PDCS, in particular in relation to Altrincham Town Centre and the Trafford Quays area, further analyses of sales values in Trafford was undertaken. As a result of these analyses a change is proposed to the levy rate covering the Trafford Quays area, but Altrincham town centre remains the same.
- Revision to account for retail types – a number of responses received to the PDCS consultation asserted that the intended use of retail floorspace does not change upon reaching a certain size of development. As a result of work undertaken in the Trafford CIL: Economic Viability Study – Addendum Report, the draft charging schedule has been updated with the charges referring to the different intended uses of retail development. The evidence supports these charges being applied consistently across the borough, so there are no proposed viability zones. The retail definitions are set out in Appendix 1 of the draft Charging Schedule (Appendix 1).
- Supermarkets – Following an assessment of responses to the consultation, it is proposed to take a more cautious approach to charges in relation to supermarkets. It is now proposed that this charge is reduced by 10 per cent.

- CIL Instalment Policy – in response to comments received and emerging best practice it is proposed to introduce a CIL Instalments Policy, which would be offered in all cases where the total CIL liability to a developer is greater than £50,000, as detailed in section 7.0 of the Draft Charging Schedule (Appendix 1). Alongside this, it is also proposed to offer discretionary relief in exceptional circumstances, subject to the development meeting a strict set of criteria set out in the CIL Regulations 2010 (as amended) 2011 and 2012. These are detailed in Appendix 2 of the Draft Charging Schedule.

3.2 Details of the proposed rates that will form the basis of the Draft Charging Schedule are set out below:

Use	Proposed CIL Charge (per sq.m)
Private market houses in:	
<i>Cold market sub-area</i>	£20
<i>Moderate market sub-area</i>	£40
<i>Hot market sub-area</i>	£80
Apartments in:	
<i>Hot market sub-area</i>	£65
Retail Warehouses	£75
Supermarkets	£225
Public/Institutional Facilities as follows: education, health, community & emergency services	£0
All other chargeable development	£10

4.0 CIL Regulations

- 4.1 In December 2012 the Government brought out changes to the regulations and further guidance relating to CIL. The changes were made to ensure alignment with the National Planning Policy Framework (NPPF) and also clarified the interaction between CIL and Section 106 agreements. It also confirms that, for the present time, affordable housing will remain outside of the scope of CIL and will continue to be required through Section 106 agreements.
- 4.2 The guidance now requires authorities to be transparent about how CIL and Section 106 will work together to ensure that there is no double counting towards the same item of infrastructure. It also requires that the Regulation 123 list is based on infrastructure identified to support growth in the Local Plan. The guidance further advises that the infrastructure paper and the draft Regulation 123 list should be available for consultation alongside the Draft Charging Schedule.
- 4.3 Draft CIL (Amendment) Regulations 2013 have also been published setting out further changes in relation to the 'Neighbourhood' CIL. These state that where there is a Neighbourhood Plan in place, or permission was granted by a neighbourhood development order, the charging authority must pass 25% of the CIL funds to the Parish Council in whose area the chargeable development takes place. Where there is no neighbourhood development plan this amount is 15% subject to a cap of £100 per household in the parish area per year.

4.4 Parish Councils have the discretion to decide that some or all of the funds should remain with the charging authority. Where a chargeable development (or part of a development) takes place in an area for which there is not a Parish Council, the charging authority has wider spending powers in relation to those parts of its area. In this respect the charging authority will decide, in consultation with the local community, what the 25% or 15% neighbourhood funds will be spent on. These neighbourhood funds must be spent on infrastructure to support growth.

4.5 To ensure the DCS and supporting documents are in compliance with the new regulations and guidance they have been review by Counsel. In general Counsel has concluded that the Council's Draft Charging Schedule is robust and can be "regarded as the logical and evidential base for the taking forward of the levy rates". However, Counsel has detailed that some non-material changes are made in order to show more clearly the linkages between the Draft Charging Schedule, the infrastructure list and the delivery of growth in the borough. These changes are minor in nature; they will not alter the substance of the Draft Charging Schedule; and they will be undertaken ahead of the formal consultation process.

5.0 CIL Infrastructure Note

5.1 The CIL Infrastructure Note (attached as Appendix 3) provides additional information to supplement and update that contained within the Council's Local Infrastructure Plan (September 2010). The LIP set out the infrastructure needed to support the delivery of the Local Plan and was endorsed by the Planning Inspector during the public examination of the Trafford Core Strategy. As a result more detailed information on costs and additional infrastructure items specifically on flood defences and town centre improvements have been added to the schedule, resulting in a larger funding gap than was identified in the Preliminary Draft Charging Schedule. The identified 'funding gap' was previously £82 million but has now been identified as being approximately £232 million and demonstrates that this is significantly greater than the anticipated level of CIL receipts, approximately £41 million over the Local Plan period. Other funding resources will be required to deliver the balance.

6.0 Relationship Between CIL and Section 106

6.1 Following the adoption of CIL, the role of planning obligations will be greatly reduced and the current approach to planning obligations in Trafford will need to be reviewed. The statement on CIL and Section 106 (set out as Appendix 4) sets out how the Council intends to use planning obligations and Section 106 agreements, following the adoption of CIL.

6.2 This note sets out what infrastructure will be funded through CIL and what infrastructure will still be required through planning obligations/Section 106 agreements. This will ensure that there will be no double counting between CIL and Section 106 to fund the same item of infrastructure.

6.3 A revised and scaled back draft Planning Obligations SPD will be published for comment, alongside this CIL consultation and is attached to this paper as Appendix 2. With the exception of affordable housing which remains outside of the scope of CIL, the consultation documentation sets out the intention to significantly reduce the reliance on planning obligations/Section 106 agreements to fund infrastructure.

7.0 Draft Regulation 123 List

7.1 The draft Regulation 123 list sets out what strategic infrastructure CIL will fund, in line with the table set out in Appendix 5.

Other Options

On 06 April 2014, the CIL Regulations will greatly reduce the ability of Council's to use Section 106 to fund infrastructure, limiting their use to site specific mitigation measures and the provision of affordable housing. After that date the only way in which a local authority could recover charges against development in relation to the provision of infrastructure will be through the adoption of a CIL charging schedule. Therefore two alternative options exist:

- to proceed with the consultation in relation to the Draft Charging Schedule and continue to collect contributions towards necessary infrastructure after this date; or
- to not proceed with developing a CIL and operate a greatly reduced planning obligations system to fund infrastructure, after the 06 April 2014.

Consultation

This consultation provides the final opportunity for agents, developers, landowners, residents and other stakeholders to shape the CIL charging schedule before it is submitted for independent examination. The invitation will be widely publicised and open to all to submit their comments on the proposed rates in Trafford. All submissions will be available for public inspection following the closure of the consultation period.

The proposed date for the commencement of the consultation on the CIL Draft Charging Schedule is Monday 13th May 2013. It will run for a period of 6 weeks concluding on Monday 24th June 2013. The Draft Charging Schedule and supporting documentation will be made available online and in libraries across the borough. Letters will be sent to key stakeholders ahead of the commencement of the consultation and information will be provided on the Strategic Planning web pages.

Reasons for Recommendation

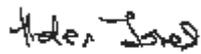
Executive approval is required so that the CIL Draft Charging Schedule and supporting documentation can be published for consultation purposes.

Key Decision: Yes.

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

Finance Officer ClearanceGB.....

Legal Officer ClearanceJF.....



CORPORATE DIRECTOR'S SIGNATURE

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.