

## TRAFFORD COUNCIL

**Report to:** Executive  
**Date:** 23 September 2013  
**Report for:** Decision  
**Report of:** Executive Member for Economic Growth and Prosperity

### Report Title

**Trafford Community Infrastructure Levy: Submission**

### Summary

This report seeks Executive approval of the Trafford Community Infrastructure Levy Draft Charging Schedule (DCS) and supporting documentation for submission to the Secretary of State for independent examination. It details a review of comments received to the DCS consultation, outlines the additional evidence base work that has been undertaken and sets out the proposed modifications to the Draft Charging Schedule put forward to address the comments received to the DCS consultation and to meet proposed changes to the CIL regulations and guidance.

### Recommendation(s)

That Executive:

- a) Agree the submission of the Trafford Community Infrastructure Levy Draft Charging Schedule (as detailed in Appendix A and summarised at paragraph 3.4), the supporting regulation 123 list (as set out in Appendix B) and the proposed modifications to the Draft Charging Schedule (as set out in Appendix C) to the Planning Inspectorate for independent examination.
- b) Delegate to the Corporate Director for Economic Growth and Prosperity, in consultation with the Director of Legal and Democratic Services, responsibility for approving any minor amendments to the wording of the documents prior to submission.

### Contact person for access to background papers and further information:

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

### Background Papers:

- Trafford CIL: Economic Viability Study – 2<sup>nd</sup> Addendum Report, September 2013
- Regulation 14 Balance Statement

*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	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, 2012 and 2013 (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.
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 have been able to make electronic submissions to the CIL Charging Schedule consultations on line and all the documentation is 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 CIL Draft Charging Schedule and draft Revised SPD1: Planning Obligations Supplementary Planning Document (SPD) on the 29<sup>th</sup> April 2013 for a 6-week consultation. This consultation took place between the 13<sup>th</sup> May and 24<sup>th</sup> June 2013.
- 1.3 In April 2013, the Government released a consultation on further reforms to the CIL regulations which, if brought into effect, should address a number of concerns that developers have raised since the introduction of CIL in 2010. It is widely anticipated that the updated CIL regulations and guidance will be published in October/November 2013.

- 1.4 On the 02 July 2013 officers received a copy of the Examiner's Report from the Central Lancashire CIL Examination. The report detailed that the viability case made by Central Lancashire to support the rates proposed for apartments and "all other uses" (a base rate) was, in the Inspector's view, not robust and that the charges for these uses should be removed from the schedule. In addition, the Inspector suggested that the definitions set out for retail uses were not sufficiently specific to differentiate between the uses. This was of relevance to Trafford as there are similarities in the approach taken to the viability work underpinning the Trafford CIL, not least because the same consultant team have produced the economic viability assessment. It was therefore considered prudent to undertake some additional work to reduce the risk of the Trafford Charging Schedule experiencing similar issues at Examination.

## **2 Comments to the consultation**

- 2.1 As detailed above, consultation on the Draft Charging Schedule took place between the 13<sup>th</sup> May and 24<sup>th</sup> June 2013 and a total of 30 responses were received. Many of the responses raised similar issues to those made during the consultation on the Preliminary Draft Charging Schedule. Some major stakeholders were positive in terms of the levy rates and made minor suggestions to request further clarification on issues relating to the rates their developments would pay, the Regulation 123 list and the instalment and exception policies.
- 2.2 A number of the responses raised issues with the levy that needed to be considered further, and these have been reviewed through the additional work that has informed the proposed modifications. These comments can be summarised as:

### **GENERAL**

- Concern that the Council has not adequately assessed the need to balance the desirability of funding new infrastructure from CIL and the potential effects of the imposition of CIL as a whole on economic viability of development across the borough (Regulation 14).
- Request for an amendment to the Instalments Policy, so that it is triggered by completion of development phases rather, than number of days.
- Request for greater flexibility in the use of the exceptions policy.
- Request for a more detailed Regulation 123 list for greater transparency and to demonstrate that there will be no "double dipping".

### **RESIDENTIAL**

- Concern that inadequate analysis has been undertaken on the effect of CIL on the delivery of affordable housing.
- Concern that the Infrastructure and Economic Viability Study has not accurately assessed the viability of residential development and specifically that retirement apartments should be tested as a separate development typology in the CIL viability assessment.
- Request for Trafford to revisit the inputs and assumptions set out in the viability assessment to produce a revised CIL rate for residential development.
- Concern that the discount from the ceiling rate to the final charges for residential development differs between the different market areas, without any explanation.

### **RETAIL**

- Concern that the definitions used for retail purposes are not precise enough and proposed differentiations are not evidenced.

- Suggested that the supermarket charge cannot be justified based on the evidence base.
- Concern regarding the revision of the supermarket rate to include all size and locations, and not just those outside of a defined centre.
- Consider that Town Centre convenience retail has been omitted from the economic viability study, which is a key element of the Local Plan (Policy W2).

#### OTHER CHARGEABLE DEVELOPMENT

- Suggested that the evidence base doesn't support the introduction of a base charge of £10 per square metre to all other chargeable development; this fails to recognise the great variety of businesses, the different conditions in which they operate and the range in value of their land and property.

### **3 Further work and proposed modifications**

- 3.1 In order to address both the above issues and others arising from comments raised as part of the DCS consultation, some additional work has been undertaken. This includes: the production of a further addendum report with updated evidence to support the proposed charges including a review of the comments challenging the assumptions used; a balance statement that demonstrates that the Council has struck what it considers an appropriate balance (regulation 14) in setting the levy rates; and an updated regulation 123 list (Appendix B) to provide more transparency with regard to what infrastructure is intended to be funded through CIL. As a result of this work, minor modifications have been made to the DCS (Appendix A), which are set out in detail in the Statement of Modifications (Appendix C); these do not make any material changes to the charging schedule, but provide clarity in relation to the proposed rates.
- 3.2 In line with the proposed rates set out in the Trafford Draft Charging Schedule, the 'all other chargeable development' rate is detailed to provide up to £9.5m revenue during the plan period. It was therefore considered prudent to undertake some further viability work to ensure the levy rates are defensible and that a robust evidence base is submitted alongside the Charging Schedule for Examination. This work has appraised in more detail some of the uses within the 'all other chargeable development' category (e.g. hotels and leisure development) to demonstrate that they can support the charge. Additional modelling work for mixed use development in the strategic locations, such as Pomona Island, that include the majority of planned apartments (in cold and moderate locations) has also been undertaken to provide a more robust case to support a charge on apartments in these market areas. It is considered that this approach will reduce the financial impact and risk to the Trafford CIL Examination.
- 3.3 The Trafford CIL: Economic Viability Study – 2nd Addendum Report undertaken by the consultant team demonstrates that the rates proposed are supported by evidence, which is sufficiently fine-grained where differential rates and/or charging zones are proposed. It reviewed the viability at the strategic locations (the key areas for change detailed in the Core Strategy) to demonstrate that the Local Plan is deliverable with CIL. For retail development, it ensured that there is no question over the definitions of the type of retail development and that the evidence is sufficiently fine grained to support the charges. Finally, additional evidence base work on office and industry, leisure, hotels, retirement/sheltered accommodation and cold and moderate apartments was undertaken to provide further information to support the "all other development" rate and to provide more transparency to developers regarding what they will be expected to pay. As a result of the findings a number of the development types tested have been listed separately within the Draft Charging

Schedule. These uses will still pay the £10 charge that was set out in the May consultation version of the DCS “all other chargeable development” category, however by listing them separately developers can see more clearly what they will be expected to pay.

- 3.4 No changes have been proposed to the charges since the consultation on the Draft Charging Schedule. With regards to the rate proposed for supermarkets, this will remain the same at £225 per square metre. The consultants have provided information that it suitably fine grained to support the rate proposed and for this to apply across the borough, and not just outside of defined centres. The additional work undertaken details that the only changes being proposed to the Draft Charging Schedule are for the purposes of clarification to ensure more transparency for developers. It is therefore proposed that the rates in the Draft Charging Schedule will remain the same, with some minor modifications proposed for the purpose of clarity as follows:

*Draft Charging Schedule with proposed modifications*

Use	Proposed CIL charge (per sq.m)
Private market houses in:	
<i>Cold charging zone</i>	£20
<i>Moderate charging zone</i>	£40
<i>Hot charging zone</i>	£80
Apartments* in:	
<i>Cold charging zone</i>	£10
<i>Moderate charging zone</i>	£10
<i>Hot charging zone</i>	£65
Retail Warehouses	£75
Supermarkets	£225
Public/Institutional Facilities as follows:	
Education, health, community & emergency services, public transport	£0
Offices	£10
Industry and Warehousing	£10
Leisure	£10
Hotels	£10
All other development	£10

\*Apartments includes sheltered accommodation/retirement apartments

- 3.5 In addition to the above, a balance statement has been prepared to provide more detail in regard to the process that has been undertaken in setting the rates, to ensure that they have been set at an appropriate level. Also, a number of representations sought clarification as to how the Council would respond to the Governments recent consultation on further reforms to the CIL Regulations,

particularly on demonstrating closer links between the CIL and the deliverability of the Local Plan: Core Strategy. Having reviewed the Government consultation it is considered that the Trafford CIL is broadly in line with the new proposals.

3.6 It is anticipated that changes will be required to the instalments policy. However, this policy is outside of the scope of the CIL Examination process and may be subject to further changes proposed through updated regulations, expected to be published in October/November 2013. Therefore, it is proposed to agree these changes with the Executive prior to adopting the CIL charging schedule, following Examination.

#### **4 Next steps**

4.1 Once agreed, the Trafford CIL Draft Charging Schedule will be submitted to the Planning Inspectorate for Examination. It is anticipated that the Trafford CIL will be at Examination during December 2013.

4.2 All responses received to the DCS consultation will be submitted to the Examination and made available for public inspection, via the Council's website. A number of participants have also requested to be heard at the Examination.

4.3 The Draft Charging Schedule and supporting documentation, a statement of representations, copies of the representations, and a statement of modifications will be made available online on the Strategic Planning web pages and in libraries across the borough as soon as is practicable following submission. Letters will also be sent to any person who has requested to be notified of the submission of the DCS.

#### **5 Other Options**

5.1 It is currently anticipated that on the 06 April 2014, the CIL Regulations will greatly reduce the ability of Council 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 for local authorities to recover charges against development for the provision of infrastructure will be through the adoption of a CIL charging schedule. Therefore three alternative options exist:

- To proceed with the submission of the Charging Schedule and continue to collect contributions towards necessary infrastructure after this date;
- To delay submission of CIL until the outcome of the Government CIL further reforms consultation are known; or
- To not proceed with developing a CIL and operate a greatly reduced planning obligations system to fund infrastructure, after the 06 April 2014.

#### **Reasons for Recommendation**

Executive approval is required so that the CIL Charging Schedule and supporting documentation can be submitted for Examination.

**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.....



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

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