

Decision Maker: **Development Control Committee**

Date: **30th June 2011**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **PROPOSALS FOR A MAYORAL COMMUNITY
INFRASTRUCTURE LEVY : CONSULTATION ON DRAFT
CHARGING SCHEDULE**

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Chief Officer: Bob McQuillan

Ward: All

1. Reason for report

Following the consultation on a preliminary draft Community Infrastructure Levy earlier this year, the Mayor has now published for consultation his Charging Schedule. The closing date for comments is 8th July 2011.

2. **RECOMMENDATION(S)**

Members endorse the suggested responses to the consultation and formally request to be heard at the examination by an Inspector.

Corporate Policy

1. Policy Status: N/A.
 2. BBB Priority: N/A.
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Financial

1. Cost of proposal: N/A
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Planning Division
 4. Total current budget for this head: £3.8M
 5. Source of funding: Existing Revenue Budgets
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Staff

1. Number of staff (current and additional): 1 fte
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory requirement. Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010.
 2. Call-in: Call-in is not applicable.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Boroughwide
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 The Mayor is continuing to pursue proposals for a new London wide Community Infrastructure Levy (CIL) on development in the capital. The levy is intended to raise £300 million towards the delivery of Crossrail, which is essential to the capital's growing economy and to ensuring it remains a competitive global business centre in the 21st century. It forms part of the funding package for the project agreed between the Mayor and ministers. Crossrail will bring significant benefits across London improving the transport system, creating thousands of new jobs. It is estimated that every London borough, not just those on the Crossrail route, will see annual benefits to its economy ranging from £15 million to £115 million. It will support development in key parts of London, including the West End, the Isle of Dogs and the Thames Gateway.
- 3.2 The setting of a London wide Community Infrastructure Levy is a new power given to the Mayor under the Planning Act 2008 designed to raise money for the infrastructure needed to develop an area. Following through consultation the levy will be payable on most new development from spring 2012 and the money raised will go towards London's share of the Crossrail funding package agreed with Government. The levy will be collected by the boroughs once development commences.

It is proposed to charge the Levy on most developments in London at the following rates:

- Zone 1 - £50 per square metre Camden, City of London, City of Westminster, Hammersmith and Fulham, Islington, Kensington and Chelsea, Richmond-upon-Thames, Wandsworth
 - Zone 2 - £35 per square metre Barnet, Brent, Bromley, Ealing, Greenwich, Hackney, Haringey, Harrow, Hillingdon, Hounslow, Kingston upon Thames, Lambeth, Lewisham, Merton, Redbridge, Southwark, Tower Hamlets
 - Zone 3 - £20 per square metre Barking and Dagenham, Bexley, Croydon, Enfield, Havering, Newham, Sutton, Waltham Forest Preliminary Draft Charging Schedule.
- 3.3 Affordable housing is exempt from any CIL charge (Mayoral or local CIL charge). However for the Mayoral CIL almost all development is expected to contribute to CIL. There are some other exemptions and or reliefs that include health and education uses, small development (under 100 square metres or one additional unit) but no additional relief for charities unless the development is used by charities for charitable purposes.
- 3.4 The Charging Schedule has been worked out using average house prices per Borough as a proxy for economic vitality. The Mayor considers this is the most workable approach as it matches with the sector with the highest likely development (residential), which, *it is assumed*, correlates with commercial activity.
- 3.5 Under the Community Infrastructure Levy (CIL) Regulations, the amount of CIL to be paid (with a figure given per square metre of development and an explanation of the method to be used to work out how much should be paid in each case) has to be explained in a formal document called a Charging Schedule. The Mayor has to carry out two rounds of public consultation on his proposed Charging Schedule:
- First, he must consult on a preliminary draft. He published a preliminary draft for public consultation on 17 January 2011. There was a six week consultation period, ending on 2 March 2011. The Mayor has made no changes in response to Bromley's representations.
 - Having considered the comments made on the preliminary draft, he must then consult again on a draft Charging Schedule for a period of at least four weeks. This is the purpose of this current consultation.

- 3.6 The Mayor then has a further opportunity to make changes to the Draft Schedule and, if he does so, he has to allow a further four weeks for public consultation on these changes.
- 3.7 The Mayor will appoint an independent “examiner” to conduct a public Charging Schedule Examination. This will be a public hearing to ensure that:
- The Mayor has complied with the procedures for setting the CIL as set out in legislation
 - The Schedule is supported by background documents containing appropriate available evidence
 - This evidence shows that the level of CIL proposed to be charged complies with the legal duty to ensure that an appropriate balance has been struck between the desirability of funding infrastructure through CIL and the potential effects of doing so on the economic viability of development across its area. This judgement has to be based on infrastructure planning carried out as part of the development plan process, showing what is needed to support the growth of the area.
 - This evidence shows that the rate proposed to be charged would not put at serious risk overall development of the area.
- 3.8 The examiner will then report to the Mayor, who will take his final decision on the rate to be charged in the light of any recommendations the examiner may make. He will then formally approve and publish the Charging Schedule. CIL will be payable for developments that receive planning permission after the date the Charging Schedule comes formally into force. Payments are made by developers when they commence their developments. In London, the CIL set by the Mayor will be collected by the London boroughs, who will forward it to the Mayor. Both the Mayor and the boroughs are allowed to support the costs of CIL administration from the sums paid.
- 3.9 Once formally approved, the Charging Schedule will sit alongside the Mayor’s Spatial Development Strategy (the London Plan), but it will not form part of it.
- 3.10 The Government intends to make changes to the CIL through the Localism Bill, which is currently before Parliament. Of these the most important in the context of this document are:
- It intends to require authorities charging a CIL to pass “a meaningful proportion” of CIL monies raised in each neighbourhood back to that neighbourhood. Government considers this will ensure that where a neighbourhood bears the brunt of a new development, it receives sufficient money to help it manage those impacts. **This requirement will not apply to the Mayoral CIL proposals outlined in this document.**
 - It intends to limit the binding nature of recommendations made by the independent examiner about CIL rates. At the moment, any changes put forward by an examiner are binding. From the time when the Localism Bill receives Royal Assent it is proposed that authorities will have to correct charges considered excessive by examiners, but will have greater discretion about how this is done.
- 3.11 This document represents the second stage in the process. Drawing on the legislation and the guidance issued by the Department of Communities and Local Government, it:
- Explains how the Mayor will meet the various requirements in setting the CIL, providing background on the Crossrail project and how it is to be funded
 - Contains the draft Charging Schedule and explains the basis on which it has been prepared
 - Sets out the evidence about the effect on development viability and overall development in Greater London on which the Mayor has based his decision.

3.12 The Mayor concludes that

- A dependable public transport infrastructure capable of moving an expanding working and residential population is necessary if the objectives in the London Plan, and the wider economic objectives of the government, are to be met.
- The differential approach to setting the Levy (as distinct from a flat rate), whilst not perfect, gives some assistance to Boroughs with poorer fundamentals such as lower average house prices and helps support the spatial strategy in the London Plan.
- The £15 differential between groups means that CIL as a percentage of house price is similar for Groups 1 and 2 and slightly lower for Group 3 where the real estate fundamentals (end values relative to cost) are weakest and the priorities in the London Plan are strongest.
- Some schemes at the lower end of a group will inevitably be paying a higher percentage of value than those at the top of the next group. This effect would only be avoided if there is a structure with 33 zones directly proportional to house prices. However, such a structure would be more complex and suggests a more exact relationship between end value and viability than is borne out by the historical evidence.
- The removal of any “double count” between the S106 and CIL policies removes any unfairness that would otherwise have occurred.
- Using average house prices per Borough as a proxy for economic viability is the most workable approach as it matches with the sector with the highest likely development (residential), which correlates well with commercial activity.
- Generally speaking, the higher the value of a completed development over and above the existing use value, the more attractive the development. However, attractiveness needs to be aligned with opportunity. Historical experience suggests that development has been high in some Boroughs with below average house prices, and weak in some Boroughs with high average house prices, suggesting that increasing costs (by CIL) is less likely to impact on development volumes than availability of suitable land.
- Movements in variables such as construction costs and capital values over the development cycle are likely to have far greater impacts on viability than CIL at the levels suggested in this paper.
- Based on the preferred scenario, the target of £300m (excluding admin) is raised towards the end of the financial year 2018/2019.
- Overall we conclude that CIL at the levels proposed will not put at serious risk the overall development of Greater London because of any impact on development viability.

3.13 The Mayor has therefore retained the three Charging Zones (1-3) originally proposed with rates of £50, £35 and £20 per square metre of development. Bromley is and was in Zone 2.

3.14 The only exemptions from CIL under the Regulations are social housing and development by charities of their own land for their charitable purposes.

3.15 The objections which the Council raised at the earlier consultation stage relating to the principle involved, the banding and the basis on which the Charging Schedule operates and the loss of valuable resources to Bromley all remain relevant in the absence of charge.

4. POLICY IMPLICATIONS

4.1 The Bromley Supplementary Planning Document (SPD) on Planning Obligations was adopted in December 2010 and complies with the Community Infrastructure Levy Regulation and The London Plan 2008.

5. FINANCIAL IMPLICATIONS

- 5.1 From April 2012 the responsibility for administration, invoicing, collecting and delivering the Mayors CIL will be undertaken by the Council, whilst retaining 4% towards such costs. This equates to £1.40 for every £35 per square metre the Council collects for the Mayor CIL.

6. LEGAL IMPLICATIONS

- 6.1 Once set and adopted the Mayor's CIL will be mandatory.

7. PERSONNEL IMPLICATIONS

- 7.1 As the proposed CIL involves a provision for the Council to retain 4% to fund administration, this assumes additional staff resources will be needed to deliver these sums to the Mayor.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	Planning Act 2008 The London Plan 2008 and Draft London Plan 2009 DCC report 20 th October 2009 – Community Infrastructure Levy CLG – Community Infrastructure Levy Regulation – April 2010 Mayor's Preliminary Draft Charging Schedule – January 2011