

To: City Executive Board
Date: 23rd January 2017
Report of: Head of Planning, Sustainable Development & Regulatory Services
Title of Report: Community Infrastructure Levy – Preliminary Draft Charging Schedule for Consultation

Summary and recommendations	
Purpose of report:	To seek approval to consult on a new Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule
Key decision:	Yes
Executive Board Member:	Councillor Alex Hollingsworth, Board Member for Planning and Regulatory Services
Corporate Priority:	A Vibrant and Sustainable Economy; Meeting Housing Needs; Strong and Active Communities; A Clean and Green Oxford.
Policy Framework:	The CIL Charging Schedule sets out a tariff in the form of a standard charge on new development to help the funding of infrastructure in Oxford. It is to supplement or top up other sources of infrastructure funding.
Recommendation(s): That the City Executive Board resolves to:	
<ol style="list-style-type: none"> Approve the Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS) for consultation; and Authorise the Head of Planning, Sustainable Development and Regulatory Services, in consultation with the Executive Board Member, to make any necessary editorial corrections not materially affecting the document prior to publication. 	

Appendices	
Appendix 1	Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule
Appendix 2	Draft Infrastructure Funding Gap document
Appendix 3	Risk Assessment

Introduction

1. The Community Infrastructure Levy (CIL) is a tool for local authorities to help deliver infrastructure to support new development. CIL is a mandatory charge levied on new developments that involve an increase of 100m² or more of additional floorspace, or that involves the creation of a new residential unit.
2. The City Council adopted its Charging Schedule in October 2013. The charge was £100/m² (retail uses, housing, Houses in Multiple Occupation and student accommodation) and £20/m² (employment, hotels, institutions, assembly and leisure and other uses). These have been updated annually in line with the BCIS indexation and currently stand at £120.97 and £24.19 respectively.
3. The purpose of this report is to seek approval to consult on the Preliminary Draft Charging Schedule. The final version will ultimately replace the 2013 Charging Schedule.

Why review the Charging Schedule?

4. The City Council was a front runner in adopting a CIL Charging Schedule in 2013 but more recent Charging Schedules of other Local Authorities are charging a variety of different rates. In addition, under the legislation, the City Council has to grant charity relief exemption for certain developments which has been reducing potential CIL income. It is therefore prudent to review our charges to determine whether the Council is maximising funding towards infrastructure through CIL.
5. The City Council is in the process of producing the Local Plan 2036. The Charging Schedule and associated Regulation 123 list will demonstrate how the Local Plan can be delivered and so it is helpful to ensure the Charging Schedule is Examined by the Planning Inspector at the same time as the Local Plan 2036.

Background evidence to support the Preliminary Draft Charging Schedule (PDCS)

6. The following documents are being produced and will be available for the consultation stage of the PDCS:
 - *A draft Infrastructure Delivery Plan* which sets out infrastructure requirements to support the delivery of the Local Plan 2036. The draft will be informed by the Oxfordshire Infrastructure Strategy (OxIS).
 - *An Economic Viability Study* is being undertaken by consultants and is an important piece of evidence to assist in determining the most appropriate level for the CIL tariff. It considers burdens placed upon new development through the Local Plan 2036, such as affordable housing requirements and renewable energy.
7. *An Infrastructure Funding Gap* (Appendix 2) compares the likely CIL income from anticipated new developments with the cost of infrastructure that has been initially identified in the draft Infrastructure Delivery Plan. It confirms that CIL will not generate sufficient funds to pay for all the infrastructure identified. The City Council's intention is therefore to consider increasing the CIL rates to ensure that CIL can make a meaningful and needed contribution to the infrastructure needs of Oxford.
8. Initial indications from the *Economic Viability Study* show that a charge of £200/m² (retail uses, housing, Houses in Multiple Occupation and student accommodation)

and £50/m² (employment, hotels, institutions, assembly and leisure and other uses) is, generally, viable for development. This will undergo further sensitivity testing and Members will be updated verbally at CEB.

The CIL rates proposed in the Preliminary Draft Charging Schedule

9. The CIL regulations and the National Planning Practice Guidance (NPPG) specify that in setting their levies charging authorities should strike a balance between the need to fund infrastructure and the potential effects of the imposition of CIL on the economic viability of development across their areas. The overarching aim of CIL is to enable the delivery of growth, therefore, CIL should not be set too high.
10. In determining the appropriate CIL rates, consideration must be had for the financial burden this places on developers in combination with other requirements notably Affordable Housing provision. Affordable Housing is a key priority for the City Council and therefore, through the development of Local Plan 2036 policy approach, affordable housing will be maximised and CIL rates will be set at a level that ensures the full affordable housing requirement can generally be achieved.
11. The proposed approach, as set out in Table 1 of the PDCS (Appendix 1), is as follows:

Development type	*CIL Rate/m ²
Retail (A1-A5)	£200
Employment (B1 Business, B2 General industrial, B8 Storage or distribution)	£50
Hotels and Residential Institutions (C1, C2 and C2a)	£50
Housing and HMOs (C3 and C4)	£200
Student accommodation	£200
Non-residential institutions and Assembly and leisure (D1-D2)	£50
All development types unless stated otherwise in this table	£50

**CIL rates to undergo further sensitivity testing through the Economic Viability Study and Members will be updated verbally at CEB.*

Consultation on the Preliminary Draft Charging Schedule

12. Consultation will take place for 6 weeks and is likely to be in February/March 2018.
13. The Council will consult groups including developers, planning agents, stakeholders, Parish Councils, Residents Groups, Neighbourhood Forums, Oxfordshire County Council, adjoining Councils, infrastructure providers and other likely interested parties. The consultation will be undertaken in line with our adopted Statement of Community Involvement.
14. Likely stages of the process:

Preliminary Draft Charging Schedule (PDCS) Consultation	Feb/Mar 2018
Draft Charging Schedule (DCS) Consultation	Sept 2018
Submit Charging Schedule (CS) to Secretary of State alongside the Local Plan 2036	Late 2018/early 2019
Examination by an independent Inspector alongside the Local Plan 2036	Spring 2019
Adopt CIL Charging Schedule	July 2019
Update the Affordable Housing and Planning Obligations Supplementary	Post-July 2019

CIL and Section 106 and the Regulation 123 List

15. CIL is the Government's preferred method for collecting pooled contributions to fund infrastructure. There remains a need for S106 obligations, but they must be restricted to the regulation of development and in particular site specific mitigation as their use relates to acceptability of a proposal in planning terms. S106 obligations continue to be the primary mechanism for securing affordable housing through the planning system.
16. The Regulation 123 list of the Community Infrastructure Levy (CIL) Regulations is a list of infrastructure that will be, or may be, wholly or partly funded by CIL. The effect of the list is to restrict the use of S106 Planning Obligations for infrastructure that will be funded in whole or in part by the CIL. This is to ensure no duplication or double charging towards the same infrastructure project.
17. The [current Regulation 123 list](#) (Oct 2014) is very wide ranging and covers strategic and neighbourhood level infrastructure and relates to transport, public realm, community safety, education, community services, sports and leisure and environmental.
18. The content of the Reg 123 list will vary between authorities according to their circumstances and their requirements. For some authorities, where there are specific large scale pieces of infrastructure necessary to unlock development across the area, the Reg 123 list could be very limited and focussed. In other areas where infrastructure requirements result from incremental increases in demand across the board, their list is likely to be more general in nature, enabling them to respond flexibly.
19. The Regulations require Authorities to publish a draft of their Regulation 123 list in advance of a CIL examination. Through the consultation on the PDCS, the City Council will be asking for opinions on the scope of the Regulation 123 list.

CIL and Section 106 on strategic sites (including Northern Gateway)

20. The PDCS proposes that on strategic sites, such as Northern Gateway, S106 will be used rather than CIL. Such sites are likely to have major and expensive infrastructure demands which need to be delivered early to enable development to proceed. Where this is the case (and the statutory tests can be met) it is more likely that S106 obligations will be the appropriate delivery mechanism.
21. S106 would be used to fund specific transport works or other infrastructure such as educational and leisure needs arising as a result of the particular development. These contributions could be pooled with a maximum of four other S106 contributions to the same infrastructure project so careful application of S106 would be required. Contributions could not be combined with CIL spend or on other city-wide infrastructure projects.
22. The case for excluding strategic sites from the CIL regime and using Section 106 procedures in its place is very strong and this approach will form part of the wider consultation on the PDCS. The City Council is exploring ways to allow the Northern Gateway site to be considered under the S106 regime for collecting planning obligations rather than Community Infrastructure Levy. This reflects the nature of the development, the piecemeal way that large science park developments are

developed over a number of years, and the need for the delivery of up front infrastructure. This precise mechanism for this will be brought back to CEB at a future meeting.

23. The Reg. 123 list would therefore be reduced in scope to exclude specific strategic infrastructure associated with strategic sites and wider housing and economic growth. The emerging Local Plan will have a policy setting out that sites above a threshold (to be determined) would make contributions through S106 not CIL. The Affordable Housing and Planning Obligations SPD would also be reviewed to tie in with these changes.

Financial implications

24. The rate at which the CIL tariff is ultimately set will determine the amount of income received by the City Council from new development to be spent on infrastructure which could include capital projects.
25. The rates set out in the PDCS could generate CIL income in the region of £47 million from developments delivered by the Local Plan generated over a 20 year period. It is a ‘best-case’ scenario estimate as not all development sites will come forward for development or for the scale and type of development estimated.

Legal issues

26. The government has said that it "*will examine the options for reforming the system of developer contributions including ensuring direct benefit for communities*" and will respond to the review and make an announcement at the Autumn Budget 2017 (22nd November 2017). At the time of finalising this CEB report indications are that CIL will remain.

Level of risk

27. A risk assessment has been undertaken and the risk register is attached (Appendix 3). All risks have been mitigated to an acceptable level.

Equalities impact

28. There are no equalities impacts arising from this report.

Report author	Laura Higgins
Job title	Team Leader, Planning Policy
Service area or department	Planning, Sustainable Development & Regulatory Services
Telephone	01865 252173
e-mail	lhiggins@oxford.gov.uk

This page is intentionally left blank