

To: City Executive Board
Date: 29 May 2019
Report of: Head of Planning Services
Title of Report: Community Infrastructure Levy (CIL) – Draft Charging Schedule for Submission

Summary and recommendations	
Purpose of report:	To seek approval for the Draft CIL Charging Schedule and revised CIL 123 list to be submitted to the Secretary of State for examination, approve the statement of modification and approve the policy for Exceptional Circumstances.
Key decision:	Yes
Executive Board Member:	Councillor Alex Hollingsworth, Board Member for Planning 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.
Recommendations: That the City Executive Board resolves to:	
<ol style="list-style-type: none"> Approve the Statement of Modification (Appendix 5) the Community Infrastructure Levy (CIL) Draft Charging Schedule (Appendix 4) and the revised CIL Regulation 123 list (Appendix 7) and Authorise the Head of Planning (or any officer acting in that capacity), to make any typographical changes to the document deemed necessary and then to formally submit to the Secretary of State for examination; Approve the discretionary Exceptional Circumstances Relief Policy (as per Regulation 56 of the Community Infrastructure Levy Regulations 2010 (as amended) (Appendix 6); and Authorise that future decisions under the discretionary Exceptional Circumstances Relief Policy will be delegated to the Head of Planning after consultation with the Planning and Transport portfolio holder. 	

Appendices	
Appendix 1	Previous CEB Report – January 2018
Appendix 2	Summary of responses to consultation
Appendix 3	Further Viability Report (addendum to previous report September 2018)
Appendix 4	Draft Charging Schedule – November 2018
Appendix 5	Statement of Modification
Appendix 6	Proposed Exceptional Circumstances Relief Policy
Appendix 7	Revised Regulation 123 list

Introduction

1. This report follows on from the previous report to the City Executive Board (CEB) on 23rd January 2018 (included as Appendix 1) in which approval was given to consult on a new Community Infrastructure Levy (CIL).
2. The purpose of this report is to request approval for the Draft Charging Schedule and revised CIL Regulation 123 list (infrastructure projects or types of infrastructure that the City Council intends to wholly or partly fund through CIL), consulted upon in November 2018, to be submitted to the Secretary of State for examination with some modifications. Following the consultation and subsequent further viability testing, some amendments to the Charging Schedule are proposed, and CEB is asked for approval of these changes being incorporated into the CIL Charging Schedule ahead of submission to the Secretary of State. The proposed modifications relate to B2 and B8 (industrial) uses.
3. If CEB approves the changes to the Draft Charging Schedule a 'statement of modification', will be submitted alongside the draft CIL Charging Schedule as per regulation 15 of the CIL Regulations 2010 (as amended) (the Regulations). The Council will notify all of the CIL consultation bodies of the proposed modifications on submission of the Charging Schedule.
4. The report also asks for the approval for the introduction of a discretionary Exceptional Circumstances Policy.

Responding to issues raised in previous Draft Charging Schedule consultation

5. The Council carried out a consultation on the Draft Charging Schedule between 1st November and 13th December 2018. A summary of the 14 responses received to this consultation can be found in Appendix 2.

B1, B2/B8 Industrial

6. The main issues raised in the responses related to the CIL rates for B1 (office) and B2/B8 (Industrial) being unviable not only at the new rate of £50 per sqm, but also at the Council's adopted charging schedule rate of £20 per sqm (currently £28.83 per sqm with indexation).
7. As a result of the consultation responses received the Council instructed its consultants to carry out further viability testing for B1 and B2/B8 (see report at Appendix 3). The outcome of these further tests shows that B1 is viable at the new rate of £50 per sqm; however, B2 and B8 are unviable even at a rate of zero. The clear evidence from the further, rigorous viability testing as well as the strong opposition to the approach suggests that it would be unlikely that the Council could argue for applying a CIL charge to B2 and B8 uses. The Council intends to submit a 'statement of modification' to amend the rate for B2/B8 to zero (Appendix 5) alongside the draft CIL Charging Schedule (Appendix 4) to the Secretary of State for examination.

Strategic Sites

8. The Council received representations to the CIL Charging Schedule consultation requesting that strategic sites should be "zero rated" within the CIL charging schedule as allowed for by the regulations. These representations were received specifically in relation to the Osney Mead and Oxford North sites. The reasons given were there was a likelihood that the costs of providing the onsite infrastructure or mitigation necessary were such that an additional levy may threaten the economic viability of the development.
9. Officers acknowledge that there are a few complex mixed use brownfield strategic sites in the plan that could have abnormal circumstances not picked up by the plan wide viability assessment upon which the CIL rate is based. Therefore, officers requested that further viability testing be carried out on these strategic sites by the viability consultants. The sites investigated were:
 - Osney Mead;
 - Blackbird Leys Central Area regeneration; and
 - Oxpens.
10. Oxford North was also considered but it was decided that given this is an existing allocation with a live planning application, which is at an advanced stage, it would not be considered for zero rating as part of this process. This is particularly relevant as the new CIL schedule will need to be examined after the emerging Local Plan so by the time the new schedule is adopted this site would already have been determined.
11. Following a review of the information available from the promoters of the sites being considered, it was found that there was not enough information available at this point in time for robust testing on a specific site basis to be carried out. This was for several reasons that were site specific. However, one of the main reasons was that the sites did not yet have schemes worked up to be able to confirm unit numbers or employment floorspace for testing. Also, linked to this, they did not have certainty over abnormal costs that may be above those factored into the viability work.

Updated CIL Rates

12. The amended CIL rates will be as follows

The CIL rates	
Development type	CIL Rate/m²
A1 Shops	£200
A2 Financial and professional services	£200
A3 Restaurants and cafés	£200
A4 Drinking establishments	£200
A5 Hot food takeaways	£200
B1 Business	£50
B2 General industrial	£50 £0
B8 Storage or distribution	£50 £0
C1 Hotels	£50
C2 and C2A Residential institutions and Secure Residential Institution	£50
C3 Dwellinghouses*	£200
C4 Houses in multiple occupation	£200
Student accommodation	£200
D1 Non-residential institutions	£50
D2 Assembly and leisure	£50
All development types unless stated otherwise in this table	£50 standard charge
C3 includes self contained sheltered accommodation and self-contained graduate accommodation	

Exceptional Circumstances Relief

13. The regulations allow for charging authorities to have an Exceptional Circumstances Relief Policy so that they may offer relief from the levy in exceptional circumstances where a specific scheme cannot afford to pay the levy. A charging authority can then consider claims for relief on chargeable developments from landowners on a case by case basis, provided the conditions set out in regulation 55 (as amended) are met:

- a section 106 agreement must exist on the planning permission permitting the chargeable development and
- the charging authority must consider that paying the full levy would have an unacceptable impact on the development's economic viability and
- the relief must not constitute a notifiable state aid

14. It is proposed to introduce this policy now so that it can apply under the current and future charging schedules.
15. Therefore, if in the future the exceptional circumstances set out above are met by a site the council could use this discretionary policy. The current charging schedule includes use classes that have been identified by the emerging schedule not to be viable to have a CIL charge and therefore it is appropriate to introduce the discretionary exceptional circumstances relief immediately.
16. It is important to note that the Council's viability evidence for the new CIL Charging Schedule indicates that the majority of sites will be viable and therefore the Council does not expect many, if any, sites to be able to demonstrate the requirements of the policy. However, on the complex brownfield strategic sites in the city, there may be exceptional mitigation measures or infrastructure costs which may result in the sites not being viable. These sites would be dealt with on a case by case basis.
17. The draft policy is set out at Appendix 6 of this report. Decisions under this policy will be delegated to the Head of Planning after consultation with the Planning and Transport portfolio holder. It is important to note that, as set out in the constitution, while CEB may delegate some of its responsibilities to committees, single members and officers CEB can at any time take back any responsibilities it has delegated and officers do not have to use their delegated powers: they can ask the body that delegated to them to take the decision. Therefore, if there was a situation where after the consultation with the portfolio holder it was felt that it should be decided by CEB it could be referred to CEB for decision.
18. In order to introduce this policy the Council will be required to publish a statement on its website and make it available for inspection at its principal office and such other places within its area it considers appropriate (as per regulations 56 of the Regulations).

Financial implications

19. The rate at which the CIL tariff is ultimately set will determine the amount of income received by the Council from new development to be spent on infrastructure, which could include capital projects.
20. Over the previous years the Council has not had applications for B2/B8 units; therefore, the zero rates suggested for these developments will not have a detrimental effect on CIL funds.
21. The financial implications of the exceptional circumstances relief will be considered as part of the implementation of the policy on a case by case basis as part of the viability considerations.

Legal issues

22. The government has recently carried out a consultation relating to amendments to the CIL regulations. At the time of finalising this report it is unknown what changes will be made in the approach to contributions and CIL. The outcome of the consultation should be published shortly and officers will update CEB when the results are known.

Equalities impact

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

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Background Papers:	
1	CIL Charging Schedule
2	Viability Report dated September 2018