

Item No. 13.	Classification: Open	Date: 17 March 2015	Meeting Name: Cabinet
Report title:		Community Infrastructure Levy and Section 106 Planning Obligations and Community Infrastructure Levy Supplementary Planning Document	
Ward(s) or groups affected:		All	
From:		Councillor Mark Williams, Regeneration, Planning and Transport	

FOREWORD – COUNCILLOR MARK WILLIAMS, CABINET MEMBER FOR REGENERATION, PLANNING AND TRANSPORT

Making the most of the regeneration of Southwark is crucial for our residents. I am therefore delighted to be bringing forward Southwark's community infrastructure levy (CIL) and new Section 106 planning obligations and CIL Supplementary Planning Document. The CIL is a new levy that local authorities can choose to charge on new developments in their area. Subject to approval at council assembly, Southwark's CIL will be introduced on 1 April and will be used to support growth by funding infrastructure that the council, local community and neighbourhoods want and need. The benefits of the CIL are increased certainty for the funding and delivery of infrastructure, increased certainty for developers and increased transparency for local residents. The CIL charging schedule has been subject to extensive consultation, viability testing and rigorous public hearings by an independent Examiner to ensure that the charges balance the need for infrastructure with our priorities of delivering affordable housing and supporting the on-going regeneration of the borough.

As well as helping fund strategic infrastructure, CIL will also be used to address local impacts of growth. The Localism Act introduces a requirement that councils spend at least 15% of their CIL funding on local projects and at least 25% where there is an adopted neighbourhood plan in place. Given the need to ensure that local communities benefit from CIL I'm pleased that the new SPD, which replaces our existing 2007 guidance, commits Southwark to spending at least 25% locally, irrespective of whether there is a neighbourhood plan. Funding will be spent on projects on a Community Infrastructure Project List which are consulted on and agreed through the community councils.

Once the CIL takes effect, the way s106 planning obligations are negotiated will change and they will have a much reduced role. However, while their role will be more restricted, they will continue to play an important part in ensuring that development benefits existing residents and businesses in the borough. In particular, the new SPD reiterates our commitment to securing jobs and training opportunities in construction and new development. It also introduces a "Green fund" that will enable the council to generate funding for local projects which reduce carbon emissions and sets out a new charge that will help fund much needed housing adaptations in existing homes for people with disabilities, in instances where it is not possible to provide wheelchair housing on-site. S106 obligations will also continue to be the means of securing affordable housing, as well as ensuring that development provides high quality public realm and site-specific transport improvements that are an essential component of regeneration.

The council will monitor collection and spend of CIL and S106 obligations, with details published on a regular basis. The council has also committed to reviewing CIL within 3 years to make sure that charges reflect current economic circumstances and priorities in the emerging New Southwark Plan.

RECOMMENDATIONS

That cabinet recommends that council assembly:

1. Consider the Examiner's Report on the Southwark Community Infrastructure Levy (Southwark CIL) (Appendix A).
2. Approve the Southwark CIL (Appendix B) and bring it into effect on 1 April 2015.
3. Approve Southwark's "Regulation 123 List" (Appendix C).
4. Note the Southwark CIL Infrastructure Plan (Appendix D), the updated Equalities Analysis (Appendix E) and Consultation Report (Appendix F).

That cabinet:

5. Resolves to adopt the Section 106 Planning Obligations and Community Infrastructure Levy Supplementary Planning Document (the SPD) (Appendix G) on 1 April 2015, subject to approval of the Southwark CIL by Council Assembly on 25 March 2015.
6. Notes the SPD Consultation Report (Appendix H), the updated SPD Equalities Analysis (Appendix I), the Table of Modifications (Appendix J), the draft adoption statement (Appendix K) and the Habitats Regulations Assessment carried out under the EU Habitats Directive (Appendix L).
7. Agrees that a sustainability appraisal and environmental assessment are not required for the SPD and to the publication of the related Screening Assessment and Statement of Reasons (Appendix M).
8. Agrees to delegate the approval of any non-substantive amendments to the SPD to the Director of Planning in consultation with the Cabinet Member for Regeneration, Planning and Transport.

BACKGROUND INFORMATION

Community Infrastructure Levy

9. The CIL is a levy that local authorities can choose to charge on new developments in their area. The money can be used to support development by funding infrastructure that the council, local community and neighbourhoods want. Infrastructure is defined in the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) to include: roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities and open spaces. The benefits are increased certainty for the funding and delivery of infrastructure, increased certainty for developers and increased transparency for local people.
10. If intending to apply the levy, councils (which are designated as "charging authorities")

must produce a document called a charging schedule (Appendix B) which sets out the rate for their levy. These rates must be supported by an evidence base including:

- An up-to-date development plan
 - The area's infrastructure needs
 - An overall assessment of the economic viability of new development.
11. Once brought into effect, the levy is a compulsory charge levied on most new developments that involve an increase of 100sqm or more of additional floorspace or that involve the creation of a new residential unit. The charging authority can set one standard rate or it can set specific rates for different areas and types of development.
 12. Some developments are exempt from paying the levy. These are developments of affordable housing and developments by charities of buildings used for charitable purposes.
 13. It should be noted that in London, the Mayor is also a charging authority. The Mayor has introduced a CIL to fund Crossrail. The Mayor's levy is £35 per square metre, with a limited number of exceptions. Southwark collects this levy on behalf of the Mayor.

Process for preparing a CIL

14. The process for preparing a CIL involves a number of stages which are identified below:
 - i. Consultation on a Preliminary Draft Charging Schedule (this is the first CIL document the council consulted on. Southwark consulted on the preliminary draft CIL between July and October 2012)
 - ii. Consultation on a Draft Charging Schedule (the council consulted on Southwark's draft CIL between February and April 2013 and a Revised Draft Charging Schedule (RDSCS) between December 2013 and February 2014)
 - iii. Submission of the Draft Charging Schedule to the planning inspectorate, consultation on any post-submission modifications and examination-in-public
 - iv. Receipt of the Examiner's Report and approval of CIL.
15. The council is now at the final stage in the process. The examination-in-public hearings on Southwark's Revised Draft Charging Schedule (RDSCS) took place in July 2014. Following the hearings, the Examiner issued an interim findings report which advised that the council would need to prepare and consult on further evidence in order to justify its proposed rates. The council also proposed a number of modifications to the RDSCS in light of the examiner's interim findings and the further evidence. The council consulted on the modifications and further evidence between 11 December 2014 and 13 January 2015. Representations received were passed to the Examiner and on 2 March he submitted his final report (Appendix A).
16. In accordance with the CIL Regulations, the Examiner's Report was published by the council as soon as was practicable. The Planning Act 2008 stipulates that a local authority cannot approve its CIL unless an examiner has recommended approval and may only approve it subject to any modifications recommended by the examiner.

Infrastructure planning

17. In conjunction with preparing a CIL charging schedule, authorities should also prepare an infrastructure plan setting out strategic infrastructure required to support growth over the period of the council's local plan (in Southwark's case the core strategy period of 2011-2026). Southwark's infrastructure plan is set out in Appendix D. The infrastructure plan is part of the evidence base needed to help justify levying a CIL. The infrastructure set out in the plan is not an exhaustive list. It is intended to be a living document which can be updated regularly. Omission of infrastructure items from the list would not preclude such items being funded in the future through CIL. Nor does the plan commit the council to spending the amounts set out in the plan.
18. A key principle of CIL is that after CIL is adopted authorities should not be spending both CIL and Section 106 planning obligations on the same item of infrastructure. Government advice in the National Planning Practice Guidance (NPPG) requires authorities to be clear about those items which will not be funded by section 106 planning obligations and set these out in a list (Appendix C). This is called a Regulation 123 list (which refers to Regulation 123 of the CIL Regulations). After CIL has been approved, the Regulation 123 List can be amended, subject to appropriate local consultation.
19. Because the purpose of CIL is to support growth rather than mitigate impacts of specific developments, it can be used more strategically than section 106 contributions. A protocol for governing expenditure will be prepared in due course.
20. Under the Localism Act, the council must identify a 'meaningful proportion' of Southwark CIL that will be spent in the local area to ensure that those people affected by development see some of the benefit. The government has confirmed that the "meaningful proportion" will comprise 25% of CIL funding in areas where there is an adopted neighbourhood plan and 15% elsewhere. The SPD explains how this would be implemented in Southwark. Southwark will aim to spend at least 25% in all areas of the borough. Funding would be allocated to projects on the community infrastructure project list (CIPL) which is based on a recently revised project bank list. This would be updated every year in consultation with the community councils and the planning committee to ensure it reflects local needs.
21. The council will monitor the collection and use of CIL and publish these details in an annual report.

Section 106 Planning Obligations

22. Planning obligations are used to address negative impacts of a development. They are legally binding and comprise either an agreement between a council and a developer or a unilateral undertaking made by a developer. They can be used to specify the nature of developments (for example, requiring a given portion of housing to be affordable), compensate for loss or damage created by a development (for example, loss of open space), or address a development's impact (for example, through a contribution towards public realm improvements in the local area). They can involve a financial or non-financial obligation. Southwark's current guidance on section 106 planning obligations is set out in the 2007 Section 106 Planning Obligations Supplementary Planning Document (the adopted SPD).

23. The adopted SPD sets out a number of standard charges which the council uses to calculate section 106 planning obligations. These charges cover a range of infrastructure, including school places, open space, strategic transport improvements, sports development and play facilities. Funding which is generated is often pooled as individual obligations are often not sufficient to pay for large infrastructure items.
24. However, the introduction of the Planning Act 2008 and the CIL Regulations has changed the way that developments contribute towards funding strategic infrastructure. Section 106 planning obligations will continue to be used, but will have a much more restricted role. Once a CIL has been adopted or by 6 April 2015 (whichever is the sooner) local authorities will not be able to pool more than 5 separate planning obligations to pay for one item of infrastructure. The intention of the CIL Regulations is that section 106 planning obligations should mainly be used to secure site specific infrastructure which is needed to directly mitigate the impact of development. Examples might include an access road needed to make the development acceptable or public realm improvements around the site. This restriction will make it very difficult for the council to apply the standard charges in the adopted SPD which are based on the principle of pooling funding. If the council does not introduce a CIL by 6 April 2015 it will potentially lose a significant amount of funding that is needed to contribute to strategic infrastructure which is required to promote growth and development in its area.
25. Affordable housing will continue to be secured through Section 106 planning obligations.
26. The council has prepared a revised SPD (Appendix G) to be adopted at the point that Southwark's CIL comes into effect. The revised SPD will supersede the adopted SPD and provides detailed guidance on the use of planning obligations alongside CIL. It explains the circumstances in which the council will seek to negotiate section 106 planning obligations. This includes circumstances where public realm or site specific transport improvements are required and where developments do not meet on-site policy requirements for amenity space provision, play facilities and carbon dioxide reductions. The revised SPD must be consistent with Southwark's Core Strategy and in general conformity with the London Plan.
27. The council consulted on the revised SPD between December 2013 and February 2014. All responses have been considered and a number of amendments have been incorporated into the final document in the light of these. The revised SPD should be adopted on the day that the Southwark CIL takes effect.

CONSULTATION

Community Infrastructure Levy

28. The council's approach to consultation on the CIL was consistent with the CIL Regulations 2010 and our Statement of Community Involvement (SCI) 2007.
29. In compliance with the SCI, the council consulted on the Preliminary Draft Charging Schedule for a period of 14 weeks, which included 6 weeks of formal consultation between 5 September and 17 October 2012. A second round of consultation was then held on the Draft CIL Schedule for a period of 8 weeks including a formal period of consultation of 6 weeks between 20 February and 3 April 2013. Southwark then

consulted on a Revised Draft Charging Schedule (RDCS) for a period of 12 weeks, including a 6 week period of formal consultation between 14 January 2014 and 25 February 2014. Finally, during the examination stage the council consulted for a period of 4 weeks between 11 December 2014 and 13 January 2015 on further evidence and proposed modifications to the RDCS.

30. At each stage of consultation, as well as making the document available on the web and in local libraries, the council notified around 3,000 consultees in the Planning Policy database. The preliminary draft, draft and revised draft CIL were publicised at the community council meetings and an events were held in September 2012 and October 2014 with developers to raise awareness about CIL and to discuss the evidence base. A full report on consultation is contained in Appendix F.

Section 106 Planning Obligations and CIL SPD

31. As noted above, Southwark's SCI provides guidance on consultation on planning documents in the borough. The SCI together with the Town and Country Planning (Local Planning) (England) Regulations 2012 guided Southwark's approach to consultation on the SPD.
32. In conjunction with the RDCS, the council consulted on the SPD for a period of 12 weeks, including a 6 week period of formal consultation between 14 January 2014 and 25 February 2014. As in the case of CIL, the document was advertised in the press and available on the web and in local libraries. The council notified around 3,000 consultees and the document was publicised through community councils. Officers were also available to attend meetings of community groups and other organisations where requested.
33. In all, the council received 17 representations on the SPD from individuals, developers and organisations. A summary of these comments is set out below. A verbatim set of comments and the council's response is set out in the SPD Consultation Report (Appendix H).

Greater London Authority

- Supports the SPD and welcomes the approach to carbon offset. Charge for carbon offset should be aligned with the Mayor's Sustainable Design and Construction SPG (£60 per tonne). Subject to this change the document is in general conformity with the London Plan.

Transport for London

- Recommended including reference to bus service enhancements as a potential Section 106 planning obligation and to specifically state what the council's priorities are for Section 106 planning obligations.

Other statutory consultees

- English Heritage recognise the council's intention is to address at risk heritage issues through Section 106 planning obligations as set out in the SPD.
- Environment Agency support references to flood mitigation. For developments fronting the Thames, the EA asks for the draft SPD to align with the Thames

Estuary 2100 (TE2100) Plan and support the flood risk management measures identified by it.

- Thames Water request consideration of using planning obligations or the Community Infrastructure Levy to fund wastewater infrastructure.

Residents

- Further clarification is needed on the decision making and the spending protocol of local CIL. A community involvement policy is needed to give meaning to the statement that 25% of CIL money will be spent locally on project ideas created by the local community.
- More clarity is needed on consultation, selection and approval of CIPL projects to spend the local CIL percentage. Clarification needed on the purpose of this sequence of priority areas for spending local CIL.
- The current project banks should still be used for Section 106 planning obligations, even though projects will need to address the impacts of a single development. The current wording in SPD implies there will be no more “community benefit” from Section 106 planning obligations which is inaccurate. An evaluation of the community experience should be done.
- No decision making process for CIL spend, only a process for assembling a projects list. All CIL spend should be formally approved by the Neighbourhood Forum or the Community Council and listed in the minutes of these meetings.
- CIL monitoring reports should be reported to Community Councils and Neighbourhood Forums, not only published on the web.
- Monitoring and administration percentage of CIL should include a portion for the capacity building of neighbourhood forums so they can be an effective partner in the CIL process.

Southwark Liberal Democrat group

- Happy with most aspects of the document.
- All efforts should be made to ensure CIL funds are spent locally. Community Council areas considered too large and where the development does not fall within a neighbourhood plan or opportunity area this should be examined on a case by case basis to ensure those residents whose lives are affected by the development can benefit from the new investment.
- Clarification requested on the decision to have a flat rate of 25% of CIL for the local proportion, instead of 15% for areas with no neighbourhood plan. Whilst additional local funding is welcome, this could discourage preparation of neighbourhood plans.

Developers/Landowners

- Carbon Offset Fund: Further guidance on the position of whether or not financial obligations would be sought if a major development fell short of the 20% aspiration for on-site renewable target; inclusion of wording to ensure that the policy requirement is monitored in the context of changes in technology and policy.
- Children’s Play Space: Suggestion to remove the Mayor’s Play and Informal Recreation SPG (2011) guidance rather than replicate it in the SPD; off-site contributions should only be required if there is not appropriate on site or local capacity; reference to ‘Child Bed Spaces’ is confusing –refer to ‘Child Yield’; and

reference could be made to funding for a specific play space based on actual costs if agreed with the council as an alternative to the £/sqm payment.

- Employment and Business Contributions: Important to ensure that obligations can be implemented flexibly to reflect the particular issues and opportunities associated with individual sites; density standards applied to the formulae should therefore reflect the actual nature of existing and proposed stock.
- General comments: The CIL guidance in the SPD should be removed given the specific and technical nature of the subject matter, and put in a separate guidance note; include a reference on where planning obligations meet the tests set out in CIL Regulation 122, these are not generally expected to be onerous or greater than the equivalent of around £1,500 per unit as assumed in the CIL viability study; request clarification on the council's instalments policy, the content of a Planning Obligations Statement; remove the reference to 'claw-back' mechanisms.

KEY ISSUES FOR CONSIDERATION

Community Infrastructure Levy

34. The CIL Regulations specify that in setting their levies charging authorities must strike a balance between the desirability of securing funding for infrastructure and the potential impacts of charging a CIL on the economic viability of development across their areas. Levies must also take into account the requirement to pay the Mayoral CIL and should also consider impacts on planning policies, including the requirement to provide affordable housing. Following a lengthy period of preparation and an examination-in-public, the council has received the Examiner's Report and is able to approve its CIL and bring it into effect. As was identified in paragraph 16 above, it should be noted that the council can only approve its CIL subject to the modifications proposed by the Examiner.
35. A summary of the proposed charges included in the RDCS is set out below:
 - Residential Zone 1: £400 per square metre (north of Union Street, Snowfields and Jamaica Road and including relevant areas in Bankside, Borough, London Bridge and Shad Thames).
 - Residential Zone 2: £200 per square metre (including Canada Water, Bermondsey, Elephant and Castle and Dulwich).
 - Residential Zone 3: £50 per square metre (including the Aylesbury Estate, southern end of Old Kent Road and Peckham).
 - Student housing: £100 per square metre in the case of direct-let rent schemes and £0 for nomination rent schemes.
 - Office: £70 per square metre in CIL zone 1 and £0 elsewhere.
 - Retail: £250 per square metre for shopping centres and supermarkets and £125 per square metre for other retail types
 - Town centre car parking: £0 per square metre
 - Health, education and public libraries: £0 per square metre
 - Industry and warehousing: £0 per square metre
 - All other uses: £30 per square metre
36. Following the public hearings into the RDCS in July 2014 the Examiner issued his interim findings which included the following:

- The residential rates should be supported by further evidence regarding a number of inputs into the viability appraisals including build costs, contingency, profit rates and floorspace efficiency.
 - There was insufficient evidence to justify the higher retail rate.
 - There was insufficient evidence to justify the charge for “all other uses”.
 - A minor modification should be made to the definition of nomination student housing.
 - The boundary between Zones 1 and 2 should be realigned along the railway viaduct just to the north of Union Street, rather than Union Street itself.
37. Following receipt of the interim findings report, the council prepared additional evidence advised by the Examiner. It also proposed the following modifications to the RDCS:
- The rate of £250 per square metre for shopping centres and supermarkets should be replaced by a flat retail charge of £125 per square metre
 - The charge for “all other uses” should be reduced to £0
 - The Union Street boundary should be amended, in accordance with the Examiner’s findings
 - The definition of nomination student housing should be amended, in accordance with the Examiner’s findings.
38. On 2 March 2015 the council received the Examiner’s Final Report (Appendix A). The Examiner endorsed the RDCS, recommending that it should be approved subject to the council making the modifications set out in paragraph 37 above.
39. With regard to residential development, 42 of the schemes appraised in the evidence base contained residential homes (6 in CIL Zone 1, 29 in CIL Zone 2 and 7 in CIL Zone 3). Of these, there were two schemes which were made unviable by CIL. 24 schemes were viable and the remainder (16 schemes) were unviable before the application of a CIL charge. In all cases CIL comprised a small proportion of gross development value (on average less than 3%). It was the view of the council’s consultants, BNP Paribas, that the outcomes show that where schemes are unviable, with the exception of two developments, this would not be because of CIL and consequently CIL would not be a critical factor in determining whether schemes are delivered. The Examiner broadly endorsed the inputs and methodology used in the viability appraisals and also noted that there was not sufficient evidence to justify lower rates in opportunity areas or action areas.
40. The Examiner noted the need for a small adjustment in the boundary of CIL Zone 1, to align the boundary with the viaduct rather than Union Street. There are few development opportunities in the area between Union Street and the viaduct and this change would not be expected to have a significant impact on overall CIL income.
41. There was discussion during the public hearings about private rented sector (PRS) housing and whether such housing should have a different CIL rate from private “for sale” housing. The Examiner noted that Southwark has no adopted planning policy which would limit a developer’s ability to offer property for rent or conversely which would restrict it and prevent it changing to “for sale” housing. Moreover, available evidence suggested that residential developments will alternate between PRS and “for sale” housing, according to changing circumstances. The viability evidence identified that although in some instances PRS is less viable than “for sale” housing, the

proposed CIL rates are set at a level that should allow PRS schemes to come forward. The Examiner endorsed the council's approach.

42. 8 schemes involving student accommodation were appraised. One of these was made unviable by the proposed CIL charge and 4 were unviable before the application of CIL. It is considered that the council's approach of dual charges of £100 per sqm for direct let student accommodation and a nil charge for schemes delivered with universities, where rents are capped over a period of at least 7 years, remains justified. The Examiner noted that a small change was required in the reference to the rent cap in the RDCS (to refer to an average rent rather than a cap).
43. With regard to offices, based on evidence of new developments and lettings and investment deals undertaken in the borough it is evident that the office market in the north of the borough around CIL Zone 1 is thriving. Elsewhere in the borough, office rents are identified as being considerably lower and as a result developments incorporating large amounts of office space are unlikely to come forward in the short to medium term as speculative developments as the capital values generated are insufficient to cover development costs. In most cases such uses are being cross subsidised by other uses in the developments and such space is only coming forward as part of mixed use developments. Overall, it is considered that the charges in the RDCS are justified and the Examiner did not question the council's approach.
44. Similarly, the evidence suggested that industrial and warehousing development is largely unviable in the current market, which would justify a nil charge. The Examiner did not question this approach, or the council's proposal that health and education uses and public libraries, which are often publically funded, are nil rated.
45. With regard to hotels, the Examiner concluded that the hotel market in London is buoyant and there is good evidence that capital values per room are very much higher in the north of the borough. The rates in the RDCS reflect this situation and are sufficiently conservative.
46. With respect to retail, the Examiner concluded there was not sufficient evidence to justify a higher charge for supermarkets and shopping centres or malls. By contrast, the lower rate of £125 per square metre was not substantially challenged. Of 36 schemes tested which involved retail provision, only one was made unviable by the proposed CIL rates. The reduction in the CIL charge from £250 per square metre to £125 per square metre is not expected to have a significant impact on overall CIL income. There are few opportunities to deliver supermarket/shopping centre type development and much of the space that will be delivered (for example on the Elephant and Castle shopping centre, Surrey Quays shopping centre and the Aylesham Centre) will replace existing space, which would significantly reduce CIL liability in any event.
47. The Examiner also considered that the council's nominal charge for "other floorspace" was not justified by evidence. 6 schemes involving a cinema, assembly and leisure uses and a private gym were tested and all were unviable before the application of CIL. While it was not necessarily the leisure uses that made these schemes unviable, it is not considered that the evidence would justify a charge for "other floorspace".
48. Overall the Examiner concluded that the council had been realistic in terms of achieving a reasonable level of CIL income to address an the acknowledged gap in

infrastructure funding which is need to support growth, while ensuring that a range of development remains viable across the borough as a whole.

49. The CIL Regulations also require publications of a Regulation 123 List, alongside a CIL. This is a list of infrastructure items that in the future will not be funded by section 106 planning obligations. These are items which could be funded or part funded by CIL. Projects not referred to on the list could be funded by either CIL or planning obligations. However, it is anticipated that Section 106 planning obligations would only be used to pay for site specific infrastructure, such as an access road, improvements to the public realm around the site or instances where a developer were not able to meet planning policy requirements for on-site infrastructure, such as children's play space or amenity space. The NPPG advises that authorities should be as clear as possible about what will be funded by CIL to avoid a scenario where a developer is charged twice for the same piece of infrastructure, once through CIL and again through Section 106 planning obligations. The Regulation 123 List can be amended with appropriate consultation and without the need to revise CIL rates.

Section 106 Planning Obligations and CIL SPD

50. The SPD explains how section 106 will operate alongside CIL. It provides planning applicants with guidance on the most commonly negotiated site specific section 106 planning obligations and also provides a clear process for calculating these obligations. It sets out the threshold at which obligations will be sought and the mechanism for calculating charges. It also recognises that there will be occasions when a development proposal below the threshold size, or a very large scheme, create impacts which justify an exception to this process.
51. The SPD also explains the Mayoral Crossrail planning obligation and the Mayoral CIL (the Mayor is a CIL charging authority as well as Southwark) to make sure that applicants include these additional payments.
52. Finally the SPD explains how funding, including the finding for local projects, will be spent by the council.

Differences between the adopted SPD and the revised SPD

53. A number of parts of the adopted SPD have been retained, expanded or enhanced and new sections have been added so as to explain site-specific development requirements and to secure on-site or local improvements arising from development. The revised SPD provides specific guidance on how the council will deal with the most commonly negotiated site specific section 106 planning obligations, which include standard charges and detailed guidance addressing the following areas:
 - Affordable housing
 - Archaeology
 - Carbon dioxide offset – green fund
 - Children's play space
 - Employment and enterprise – jobs during construction and final development
 - Outdoor amenity space
 - Public realm
 - Student Housing – university schemes
 - Transport: Site specific measures

- Wheelchair accessible housing

Affordable housing

54. There is a need for more affordable housing in the borough, especially for families. Affordable housing lies outside of CIL and will continue to be secured through a section 106 planning obligation in line with Policy 5 of the Core Strategy (2011) and the adopted and draft Affordable Housing SPDs (2008 and 2011 respectively).

Archaeology

55. Given its historical setting, Southwark has very important archaeology. Planning obligations will continue to be asked for to support the council's monitoring and supervisory role in archaeological matters to ensure that archaeology is properly managed and preserved. A contribution will continue to be secured from developments within the archaeological priority zones in the borough, on the basis of the likely officer time required to carry out a desk-based assessment, archaeological evaluation, and archaeological excavation.

Carbon dioxide offset – Green Fund

56. Southwark's Sustainable Design and Construction SPD (2009) states that where planning policy energy targets cannot be met, any short-fall should be provided off-site or through a cash in lieu contribution to the borough. This is consistent with the Mayor's draft Sustainable Design and Construction SPG (2013) which states that boroughs should establish a carbon dioxide reduction fund and set a price at which the carbon dioxide short-fall will be calculated.
57. Section 106 planning obligations would be asked for where developments do not meet the on-site carbon dioxide reduction targets set out in the development plan (a 40% improvement over the Building Regulations). Any shortfall against the target would be charged at £60 per tonne, which is in line with the national charge identified by the government. Any payments collected would then contribute to a green fund containing a list of projects for energy improvement schemes in council owned buildings, such as schools, libraries, housing etc. and which would not otherwise be funded.

Children's play space

58. New developments are expected to provide play space for children in line with the Core Strategy Policy 7 and the London Plan, with further detail set out in Southwark's Residential Design Standards SPD (2011) and the Mayor's Supplementary Planning Guidance on Shaping Neighbourhoods Play and Informal Recreation (2012). In exceptional circumstances where this cannot be secured on site, the council will seek a section 106 planning contribution to improve play space elsewhere in the vicinity of the development.

Employment – jobs during construction and final development

59. Maximising employment and employability amongst Southwark's population is another key priority for planning obligations and also the council's Economic Well-being Strategy (2010-2020). The council will continue to seek to secure a planning obligation for the placement of unemployed jobseekers from the local area into jobs within the

construction phase of a development and the final development, either through an existing on-site work programme, or through setting up a new programme to target the employment sector of the final development.

60. The adopted SPD standard charges for employment during construction and general end phase employment have been reviewed and updated as appropriate.
61. It will also be important to secure planning obligations where appropriate to maintain and enhance the supply of employment space, and also support new inward investment opportunities and growth in the existing business base. To that end, the council will require a planning obligation from developers to contribute towards skills and employment programmes where employment floorspace in protected employment locations set out in the Core Strategy is lost. A local supply side procurement obligation in addition to the intention to secure the provision of affordable business space where appropriate have also been included in the revised SPD.

Outdoor amenity space

62. All new residential development must provide an adequate amount of useable outdoor amenity space. Southwark's Residential Design Standards SPD (2011) sets out the minimum standards which must be met in new developments.
63. In exceptional circumstances where the required provision of amenity space for a development cannot be provided on site, the council will seek a section 106 planning contribution to improve open space elsewhere in the vicinity of the development site. Any shortfall in the required provision of amenity space will be subject to a charge per square metre.
64. In general, funding for the provision, enhancement and maintenance of open spaces required as a result of incremental population growth, will be provided as part of CIL contributions and other capital funding.

Public realm

65. High quality public realm is an important aspect of any development and ensures that a building or site is integrated into the existing built fabric and street scene. The council will continue to expect developments to mitigate the impact on the public realm in the vicinity of the development. Contributions will either be secured through a commitment by the applicant to carry out a schedule of works under a section 278 agreement, or a contribution to works to be carried out by contractors employed by the council.
66. The revised SPD also recognises that the council may use CIL to fund or part fund strategic projects to improve the streetscene and built environment, such as the improvements to the public realm at the Elephant and Castle northern roundabout or the Camberwell Green town centre improvements.

Student Housing – university schemes

67. There are two distinct types of student accommodation available in Southwark. This has been identified in the BNP Paribas Real Estate's Student Housing Study: Implementation (March 2011) and has also been confirmed in the representations to the consultation on Southwark CIL by the major student accommodation providers in

the borough. One type of accommodation is direct let student housing which charges unrestricted rents. The other, usually tied to a university, is nomination schemes which charge restricted rents at lower than market levels.

68. Given there is a viability consequence of offering restricted rents, it is proposed that Southwark's CIL is not applied to restricted rents university student accommodation. A corresponding planning obligation will be sought to ensure that the reduced rental level is provided. This obligation will be optional for a university. In the event that the option is not taken, the development would become liable to pay CIL.

Transport measures – site specific

69. The current standard charge for strategic transport infrastructure has been removed from the revised SPD as CIL funds and other mainstream funding programmes will be used to address the cumulative impacts of development on the transport network. However, individual developments may cause a site-specific impact which should be directly addressed through measures provided in the development itself, or where that cannot be achieved the council will use section 278 agreements under the Highway Act 1980 or section 106 planning obligations. Such measures can include new pedestrian crossings, cycleways, and car club parking spaces. The revised SPD also recognises that larger developments may need to directly contribute to wider transport improvements where required to enable the delivery of the site.

Wheelchair accessible housing

70. Planning policy requires all new major residential developments to provide at least 10% of the number of habitable rooms to be wheelchair accessible. However, there are some locations where site constraints make it difficult or impossible to provide disabled car parking spaces. In exceptional circumstances where development proposals demonstrate that it is not viable or feasible to meet the wheelchair accessible unit policy requirement and requisite on-site disabled car parking spaces, a commuted sum can be secured through a section 106 planning obligation to mitigate the impact of the development.
71. In these circumstances the council would seek £30,000 per wheelchair accessible unit not being provided. This level of contribution is based on the expected cost for Southwark to make adaptations to existing properties to meet the needs of disabled occupiers.

Implementation of CIL

72. The final section of the SPD explains what CIL funds can be spent on which is much wider than the current section 106 standard charging approach. This includes the provision, improvement, replacement, operation or maintenance of infrastructure to support the growth identified throughout the borough, which will be set out in a CIL spending protocol.
73. The Localism Act requires local authorities to spend a meaningful proportion of CIL locally. The government recently confirmed that this proportion should be either 25% of CIL funds where a neighbourhood plan is in place and 15% elsewhere. Where there is no parish council in place, such funds should be spent in consultation with the local community. Southwark anticipates that local CIL funds will be spent on projects

identified in the Community Infrastructure Project List (CIPL). The CIPL will take over from the section 106 project banks and will contain projects agreed by community councils or through a neighbourhood plan. The CIPLs will be updated at regular intervals.

74. The SPD signals that Southwark will spend at least 25% of CIL funds locally, irrespective of whether a neighbourhood plan is in place. The council will use the following sequence of areas to identify relevant projects, depending on the location of the development site:
- Areas with an adopted neighbourhood plan
 - Opportunity areas
 - Action areas
 - SPD areas (other than individual sites/buildings)
 - Community council areas (for those areas which are not covered by any of the above).

Post consultation changes

75. Following consultation on the draft SPD, a number of changes are proposed. These are shown in the Table of Modifications (Appendix J).
76. All sections have been updated to reflect any changes in the references to other guidance, plans, legislation and webpage links.
77. Several respondents requested further detail and clarification of the community involvement, consultation and the spending protocol of local and borough CIL funds, and specifically in relation to the CIPL. Section 6 of the SPD has been amended to provide additional clarification and address some of the points raised to provide more transparency. The council's website will also be updated regularly to provide details on the creation of CIPL project lists, community involvement and CIL spend reporting.
78. Minor amendments have also been included in Appendix 1 of the SPD (Standard charges), to include further clarification in applying the calculations for the carbon offset green fund; children's play space; employment and enterprise; student housing; and transport site specific measures.

COMMUNITY IMPACT STATEMENT

Equalities Analysis

Community Infrastructure Levy

79. An equalities analysis was undertaken as part of the preparation of the CIL Preliminary Draft Charging Schedule. This was updated to reflect the changes proposed in the RDCS and the proposed modifications (Appendix E). The equalities analysis considered the potential impacts arising as a result of the boundaries of the charging zones and the different levels of charge that would be applicable to different types of development within these zones. In accordance with the Equality Act 2010, the analysis considers the potential impacts of the charging schedule on those groups identified within the Act as having protected characteristics. The main issues are summarised below.

80. The range of CIL charges proposed and the boundaries of the charging zones are considered to give rise to limited impacts on the individual groups that are identified in the Equality Act. The imposition of a CIL charge could have potential impacts on small businesses in some parts of the borough, which could impact on a range of groups including BME communities. We propose to adopt a nil charge for office floorspace in all areas except for the commercial areas adjoining the river. As well as benefitting new businesses directly, this approach will ensure that CIL does not act as a barrier to job creation or as a disincentive to provide local services, which are important to those with reduced mobility, such as older people, disabled people and those who are pregnant or have young children.
81. While the nil charge for small shops was deleted, the testing of sites showed that a modest charge, which is comparable to charges in the adopted SPD, would not impede such development. The reduction in the CIL charge for supermarkets and shopping centres is unlikely to have any significant impacts on groups with protected characteristics. There are few opportunities to develop such space in the borough and CIL is unlikely to be a decisive factor in determining whether such developments go ahead.
82. While the deletion of the charge for “other floorspace” may result in a small reduction in overall CIL revenues, this would be offset by beneficial impacts on groups with protected characteristics. It would reduce costs in developing such floorspace, reducing the overall cost burden for the development of space which is used by community groups, including meeting spaces, youth clubs etc.
83. There is a small risk that CIL will drive up values which will make it harder to access housing which is affordable. However, the proposed charging schedule has been informed by viability appraisals and the level of CIL reflects existing values and is not reliant on any increase in values. The reduction in CIL residential rates from £250 to £200 and the fact that we have also set the level of CIL significantly below the maximum level which could be charged will help mitigate impacts on land values.
84. The proposed lower tariff in the centre of the borough acknowledges the need for new and improved infrastructure, but also aims to ensure that CIL does not hinder regeneration attempts, for instance in Peckham and at the Aylesbury Estate. Ultimately, CIL is a mechanism intended to raise money to fund infrastructure that will contribute to sustainable development in the borough. In this sense, the adoption of CIL should have an overall positive impact on the various equalities groups. More specific impacts may arise depending on the types of infrastructure that are ultimately funded through CIL, but such issues are not broached as part of the charging schedule and will be considered in due course in the context of decisions concerning expenditure.

Section 106 Planning Obligations and CIL SPD

85. Before adopting the SPD, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not. An updated equalities analysis (Appendix I) has been carried out to assess the impact of the SPD on the nine protected characteristics set out in the Equality Act 2010. It is recognised that the SPD

guidance may have many similar impacts on these different groups of people who have protected characteristics, and that the overall impact of the SPD will be positive on all residents and people who work in and visit the borough. For example, a key aspect of the guidance is the creation of an enhanced public realm that is safe, well-lit and inclusive, in accordance with the parent local plan policies. This would improve accessibility for those with a physical disability and also promote wider community inclusion. We also carried out equalities analysis for all of the current adopted and draft documents in the planning policy framework. The findings of these analyses have helped to inform the guidance that we have prepared in the revised SPD.

Sustainability Appraisal

Community Infrastructure Levy

86. The Core Strategy 2011 was subject to a sustainability appraisal incorporating a strategic environmental assessment to ensure that principles of sustainable development were thoroughly considered. The Southwark CIL is an extension of the spatial vision and policies set out in the Core Strategy and should not raise additional implications for sustainable development objectives which have not been previously considered. The guidance in the NPPG on Charge setting and charging schedule procedures states that sustainability appraisal for CILs is not required.

Section 106 Planning Obligations and CIL SPD

87. Section 19 of the Planning and Compulsory Purchase Act 2004 originally required a local planning authority to carry out a sustainability appraisal of new development documents covering social, economic and environmental issues. This appraisal would also extend to meet the requirements of EU Directive 2001/42/EC in relation to the environmental assessment of the effect of certain plans and programmes.
88. The Planning Act 2008 removed the automatic requirement for an SPD to have a sustainability assessment. This is because such documents do not normally introduce new policies or proposals or modify a planning document which has already been subjected to a sustainability assessment at a higher level.
89. The Government does however advise local planning authorities to screen documents to ensure the requirements of an SA have been considered in a higher level policy document. The requirements of the Environmental and Assessment of Plans and Programmes, which incorporates the requirements of the Directive, still need to be considered.
90. The screening assessment (see Appendix M) has been prepared to determine whether or not the SPD is likely to have an impact on sustainability or a significant effect on the environment. The assessment concluded that it is not necessary to carry out a sustainability appraisal or an environment assessment in this case because the SPD does not introduce new policies, determine the use of land or constitute a minor modification to a plan. It simply provides guidance on policies contained in the London Plan, Core Strategy, Canada Water AAP, Aylesbury AAP and Peckham and Nunhead AAP and supplements the guidance contained in supplementary planning documents that relate to sustainable development, infrastructure and affordable housing.
91. The policies referred to in the SPD have been sufficiently appraised in parent

documents. The council considers that the SPD will not result in any additional significant effects to those already identified at a higher level. It will provide more detailed guidance to developers to ensure that the potential positive effects identified in the sustainability appraisals of the parent plans are realised.

92. In accordance with Regulation 9 (2) (b) the council consulted on the screening assessment with the “consultation bodies” (English Heritage, Natural England and the Environment Agency). A copy was also made available on the council’s website. The consultation bodies agreed that a sustainability assessment and environmental assessment were not required.
93. Recommendation 7 of this report asks cabinet to agree that a sustainability assessment and environmental assessment are not required. This comprises the council’s formal determination in accordance with Regulation 9 (1). The council is also publishing a Statement of Reasons (Appendix M) which is required by Regulation 11 (1) (b).
94. The council has carried out an habitats regulations assessment screening to assess any impacts on EU protected wildlife habitats (Appendix L). The screening concluded the guidance in the SPD is unlikely to have any significant discernible adverse impact on European protected habitats and therefore a full assessment is not required. Natural England were consulted on the SPD but did not comment.

FINANCIAL IMPLICATIONS

Community Infrastructure Levy

95. In the first year of operation, it is estimated that the Southwark CIL will secure £7-8m, which is broadly comparable to the non-affordable housing income gained through section 106 planning obligations. There is a time delay in securing either section 106 planning obligations or CIL actual income, but CIL will replace the majority of section 106 income over time. Overall, CIL is expected to generate around £112m over 20 years at today’s prices, although this may vary significantly depending on how much development takes place. The rates set out in the CIL charging schedule (Appendix B) will be index linked and should increase over time.
96. The modifications recommended by the Examiner will result in a further reduction in CIL revenues. However, as set out in paragraphs 40 and 46 above, it is not expected this reduction would be significant. The council’s modelling of future CIL revenues is reliant on residential development and would not be affected by the modifications.
97. The expenditure of CIL income is far less restrictive than section 106 funding and allows the council to apply it for infrastructure that supports growth in the borough. The proposed Southwark CIL is a direct response to previous changes in legislation the prevent using Section 106 tariffs (such as the current S106 toolkit and transport tariff in the Elephant and Castle SPD) from April 2015.
98. Costs associated with both managing, monitoring and establishing Southwark CIL can be recouped from up to 5% of any CIL income.

Section 106 Planning Obligations and CIL SPD

99. As is noted above, it is expected that funding generated by section 106 planning obligations will decrease once CIL comes into effect. This is because funding for strategic infrastructure, which has previously been generated by section 106 planning obligations will in the future be generated by CIL. Officers have estimated that the financial value of section 106 planning obligations per home will be about £1,500, following approval of CIL, although this may vary depending on site specific circumstances and may be provided in-kind in many cases. It is currently around £8,000-£10,000 per home.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

100. The Planning Act 2008 (PA 2008) introduced a discretionary planning charge known as the Community Infrastructure Levy (CIL). The statutory framework for CIL is set out in sections 205-225 of the PA 2008 and further detail is provided under a number of regulations, in particular, the CIL Regulations 2010 (as amended).
101. CIL is a charge paid by owners and developers on new buildings over a certain size. The charge is designed to help fund local infrastructure as identified in a local planning authority's development plan and can only be spent on 'infrastructure'. Infrastructure is defined in the PA 2008 (section 216) as including a wide range of facilities such as roads/transport facilities, open space and schools.
102. CIL is payable to a 'charging authority' which in London means each London Borough Council. If the Council intends to apply the levy, it must prepare a charging schedule that sets out the CIL rates in its area (section 211(1) of the PA 2008). The charging schedule becomes part of the Local Development Framework (the planning documents taken into account in making planning decisions). The charging schedule sets out the rates for CIL in the Council's area and the rate must be expressed as pounds per square metre of development (regulation 12(2) (b) of the CIL Regulations 2010). The charge is levied on the net internal area of development (regulation 40(5) of the CIL Regulations 2010). By virtue of regulation 13 of the CIL Regulations 2010, charging authorities are able to charge different rates based on either a geographical basis or with reference to the intended use of the development. The Council must however consider the overall viability of development within its area.
103. Section 211 of the PA 2008 provides that the Council, in setting its rates or other criteria, must have regard to:
- a) the actual and expected costs of infrastructure;
 - b) the economic viability of development (which may include, in particular, actual or potential economic effects of planning permission or of the imposition of CIL); and
 - c) other actual and expected sources of funding for infrastructure.
104. The legislation therefore seeks to ensure that charging schedules balance the desirability of funding infrastructure against the potential effects of the charge on the economic viability of development in the authority's area (regulation 14 of the CIL

Regulations 2010). The regulations also set out other costs to be factored in, such as administrative expenses and Mayoral CIL.

105. The schedule must be informed by 'appropriate available evidence' regarding viability (section 211(7A) of the PA 2008).
106. There is no legislation on how long a charging schedule should apply once adopted; nor is there any duty in the PA 2008 or the CIL Regulations 2010 for the schedule to be reviewed. However, guidance strongly encourages charging authorities to keep their charging schedule and Regulation 123 Lists under review. Should the charging schedule be reviewed, the charging authority must follow the same process of consultation, examination and approval as for the initial schedule.
107. In view of the need to keep development viable and the infrastructure list up to date, it is advisable for the Council to monitor and review the charging schedule at appropriate intervals.
108. The National Planning Policy Framework 2012 states that SPDs add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites or on particular issues and are capable of being a material consideration in planning decisions but are not part of the development plan.

The relationship between CIL and Section 106 Agreements

109. Regulation 122 and 123 impose limitations on the use of planning obligations, such that *"a planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure"*. Effectively, where a charging authority has published a list of infrastructure projects that it intends to fund through CIL, such projects cannot be funded by planning obligations. The language of the regulation implies the production of a Regulation 123 List is a matter for the charging authority's discretion. However, guidance suggests that a charging authority should submit a Regulation 123 List along with its draft charging schedule. Accordingly, it is noted that as well as preparing an up to date Infrastructure Plan that identifies a non-exhaustive list of infrastructure intended to be funded by CIL, the Council has also prepared a Regulation 123 List for adoption with its draft charging schedule.
110. Notwithstanding the list, Section 106 Agreements may still be used to secure site specific mitigation and affordable housing. The SPD sets out the relationship between the two.

Consultation

111. In compliance with the SCI, the Council consulted on the Preliminary Draft Charging Schedule for a period of 14 weeks, which included 6 weeks of formal consultation between 5 September and 17 October 2012. A second round of consultation was then held on the Draft CIL Schedule for a period of 8 weeks including a formal period of consultation of 6 weeks between 20 February and 3 April 2013. The Council then consulted on a Revised Draft Charging Schedule (RDCS) for a period of 12 weeks, including a 6 week period of formal consultation between 14 January 2014 and 25 February 2014. Finally, during the examination stage the Council consulted for a period of 4 weeks between 11 December 2014 and 13 January 2015 on further evidence and proposed modifications to the RDCS. The Examiner recommended that

the draft charging schedule be approved on 2 March 2015.

112. The Council has had regard to the general duty, introduced by Section 110 of the Localism Act 2011, to cooperate with other prescribed bodies in respect of strategic planning matters which may impact upon sustainable development. Although it may be argued that this duty does not strictly apply to the process of preparing charging schedules, the Council has taken a purposive approach and has cooperated with a range of organisations.

Consultation on SPD

113. The Town and Country Planning (Local Planning) England Regulations 2012 states at paragraph 12 that a local planning authority must undertake a process of public participation before it can adopt a SPD. Part of that process involves consulting with relevant persons, setting out the main issues raised by those persons and then explaining how those issues have been addressed in the SPD.
114. SPDs are not subject to independent examination in the same way that other planning documents are however as stated above there is still a process of consultation that must be undertaken in respect of such documents. Section 19(3) of the Planning and Compulsory Purchase Act 2004 specifically requires local planning authorities to comply with their adopted Statement of Community Involvement. In so far as the SCI exceeds the consultation requirements of the 2012 Regulations the SCI must be complied with. The Council's SCI provides for a period of 6 weeks informal and then 6 weeks formal consultation.
115. In conjunction with the RDCS, the Council consulted on the draft SPD for a period of 12 weeks, including a 6 week period of formal consultation between 14 January 2014 and 25 February 2014. As in the case of CIL, the document was advertised in the press and available on the web and in local libraries. The Council notified around 3,000 consultees and the document was publicised through community councils. Officers were also available to attend meetings of community groups and other organisations where requested.

Equality Impact Assessment

116. The Equality Act 2010 introduced a single public sector equality duty. This duty requires the Council to have due regard in its decision making processes to the need to:
- a) eliminate discrimination, harassment, victimisation or other prohibited conduct;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and
 - c) foster good relations between those who share a relevant characteristic and those that do not share it.
117. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

118. The Council has consulted a broad range of groups and has made every effort to be inclusive. The Council has also prepared a detailed Equalities Assessment in relation to both the charging schedule and the SPD.
119. CIL and the SPD has the potential to impact unequally on persons having one or more protected characteristic. The Council will need to monitor the impact of CIL and the SPD.

Human Rights Considerations

120. CIL and the SPD potentially engage certain human rights under the Human Rights Act 1998 ('the HRA'). The HRA prohibits unlawful interference by public bodies with convention rights. The term 'engage' simply means that human rights may be affected or relevant. In the case of CIL and the SPD, a number of rights are potentially engaged:-
- **The right to a fair trial (Article 6)** – giving rise to the need to ensure proper consultation and effective engagement of the public in the process;
 - **The right to respect for private and family life (Article 8)** – for instance the setting of CIL tariffs could impact on viability of housing provision or re-provision. Other considerations may include impacts on amenities or the quality of life of individuals based on CIL being too prohibitive;
 - **Article 1, Protocol 1 (Protection of Property)** – this right prohibits interference with individuals' right to peaceful enjoyment of existing and future property/homes. It could be engaged, for instance, if CIL makes future development unviable; and
 - **Part II Protocol 1 Article 2 (Right to Education)** – this is an absolute right enshrining the rights of parents' to ensure that their children are not denied suitable education. This will be a relevant consideration in terms of ensuring sufficient educational infrastructure is funded by CIL.
121. It is important to note that few rights are absolute in the sense that they cannot be interfered with under any circumstances. 'Qualified' rights, including Article 6, Article 8 and Protocol 1, can be interfered with or limited in certain circumstances. The extent of legitimate interference is subject to the principle of proportionality whereby a balance must be struck between the legitimate aims to be achieved by a local planning authority in the policy making process against the potential interference with individual human rights.
122. Before making their decision members are advised to have regard to human rights considerations and strive to strike a fair balance between the legitimate aims of setting CIL and the SPD for the benefit of the community against the potential interference with individual rights.

Decision-making

Cabinet Recommendation (recommendation 1 to 4)

123. As noted earlier, CIL is to be a part of the Local Development Framework and can be considered analogous to other LDF documents such as Development Plan Documents. Under Part 3(C) of the Council's Constitution, the Cabinet collectively has responsibility for the Council's policy framework (function 3), its finances (function 7)

and approval of preferred options (effectively advanced drafts of) development plan documents (function 20). In any event, Cabinet has power under Article 6 of the Constitution to carry out all of the local authority's functions which are not the responsibility of any other part of the Council.

124. The legislation on CIL does not prescribe decision making in respect of a charging schedule. The only relevant requirement is that the charging schedule, once approved by the Examiner, should be approved by a resolution of the full council of the charging authority (Section 213(2) of the Planning Act 2008). Once the Cabinet has recommended approval, the matter will be referred to Council Assembly for final approval.

Cabinet Approval (recommendation 5 to 8)

125. Part 3C of the Constitution enables the Cabinet to adopt supplementary planning documents.

Strategic Director of Finance and Corporate Services (FC14/055)

126. This report is requesting cabinet to agree and recommend to Council Assembly the Community Infrastructure Levy and Section 106 Planning Obligations and Community Infrastructure Levy Supplementary Planning Document, following the Examiner's Report on Southwark's Community Infrastructure Levy (CIL) and the various consultation exercises detailed in the report. Full details of the proposals are contained within the main body of the report.
127. The strategic director of finance and corporate services notes that the council expects to receive the same amount of income under the new proposals. However, it is noted that, as the purpose of CIL is to support growth rather than mitigate impacts of specific developments, it can be used more strategically than section 106 contributions.
128. It is also noted that the availability of income under the new proposals in funding the council's infrastructure projects will be closely monitored on a regular basis.
129. Staffing and any other costs connected with this recommendation to be contained within existing departmental revenue budgets.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
London Plan 2011	Southwark Council 160 Tooley Street London SE1 2QH	Sandra Warren 020 7525 5411
Link: http://www.london.gov.uk/priorities/planning/londonplan		
Southwark Statement of Community Involvement 2008	Southwark Council 160 Tooley Street London SE1 2QH	Sandra Warren 020 7525 5411
Link: http://www.southwark.gov.uk/info/856/planning_policy/1238/statement_of_community_involvement_sci		
Saved Southwark Plan 2007	Southwark Council 160 Tooley Street London SE1 2QH	Sandra Warren 020 7525 5411
Link: http://www.southwark.gov.uk/info/856/planning_policy/1241/the_southwark_plan		
The Core Strategy 2011	Southwark Council 160 Tooley Street London SE1 2QH	Sandra Warren 020 7525 5411
Link: http://www.southwark.gov.uk/info/200210/core_strategy		

APPENDICES

No.	Title
Appendix A	Examiner's Report on the Southwark CIL Revised Draft Charging Schedule (RDCS) (circulated separately)
Appendix B	Southwark Community Infrastructure Charging Schedule (circulated separately)
Appendix C	Regulation 123 List (circulated separately)
Appendix D	Southwark CIL Infrastructure Plan (available on the website)
Appendix E	Southwark CIL Updated equalities Analysis (available on the website)
Appendix F	Southwark CIL Consultation Report (available on the website)
Appendix G	Section 106 Planning Obligations and Community Infrastructure Levy (CIL) Supplementary Planning Document (SPD) (circulated separately)
Appendix H	SPD Consultation Report (available on the website)
Appendix I	SPD Updated Equalities Analysis (available on the website)
Appendix J	SPD Table of Modifications (available on the website)
Appendix K	SPD Draft Adoption Statement (available on the website)
Appendix L	SPD Habitats Regulations Assessment (available on the website)
Appendix M	SPD Sustainability Appraisal Screening Assessment and Statement of Reasons (available on the website)

AUDIT TRAIL

Cabinet Member	Councillor Mark Williams, Regeneration, Planning and Transport	
Lead Officer	Eleanor Kelly, Chief Executive	
Report Author	Tim Cutts, Planning Policy	
Version	Final	
Dated	6 March 2015	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		6 March 2015