

Item No. 9.	Classification: Open	Date: 4 February 2014	Meeting Name: Planning Committee
Report title:		Community infrastructure levy revised draft charging schedule	
Ward(s) or groups affected:		All	
From:		Director of Planning	

RECOMMENDATION

1. That planning committee comments on the community infrastructure levy (CIL) revised draft charging schedule (Appendix A) and the draft regulation 123 list (the list of infrastructure items which will not be funded by section 106 planning obligations, once CIL has been adopted) (Appendix B) which are currently available for public consultation in accordance with regulation 16 of the Community Infrastructure Levy Regulations (2010) (as amended).

BACKGROUND INFORMATION

Community Infrastructure Levy

2. The Community Infrastructure Levy (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 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.
3. If intending to apply the levy, councils (which are designated as "charging authorities") must produce a document called a charging schedule (Appendix A) 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.
4. Once adopted, the levy is a compulsory charge levied on most new developments that involve an increase of 100sqm or more of additional floorspace or that involves 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.
5. Some developments are exempt from paying the levy. These are developments of affordable housing and developments by charities of buildings used for charitable purposes.
6. It should be noted that in London's case, 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.

Section 106 planning obligations

7. In the future, 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 April 2015 (whichever is the sooner) local authorities will not be able to pool more than five 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 existing s106 planning obligations SPD which are based on the principle of pooling funding. If the council does not introduce a CIL by 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.
8. Affordable housing will continue to be secured through s106 planning obligations.
9. The council is revising its Section 106 Planning Obligations SPD in 2013 and is consulting on the SPD concurrently with the revised draft CIL charging schedule (see separate agenda item on the draft Section 106 Planning Obligations/Community Infrastructure Levy SPD). The revised SPD will supersede the existing Section 106 Planning Obligations SPD and provides detailed guidance on the use of planning obligations alongside CIL.

Process for preparing a CIL

10. 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)
 - 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 inspector's report and adoption of CIL.
11. As is noted above, the council consulted on a draft CIL (stage ii) between February and April 2013. The methodology and practice of preparing a CIL are still evolving and there have been some changes in requirements since the council consulted on the draft. In December 2012 the government published new statutory guidance and this was updated again in April 2013.
12. Representations, including from the GLA, raised concerns that Southwark's evidence did not meet revised tests needed to justify CIL charges. The council therefore decided to undertake further viability work to test the impact of CIL charges. In the light of this further work, some changes to the draft CIL have

been made which require a re-consultation on the CIL charging schedule (i.e. re-consultation at stage ii above on a revised draft charging schedule).

Infrastructure planning

13. 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). The infrastructure plan is part of the evidence base needed to help justify levying a CIL. The infrastructure set out in Southwark's infrastructure 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 infrastructure plan commit the council to spending the amounts set out in the plan.
14. A key principle of CIL is that after CIL is adopted authorities should not be spending both CIL and s106 planning obligations on the same item of infrastructure. The new government guidance requires authorities to be clearer about those items which will not be funded by section 106 planning obligations and set these out in a list (Appendix B). This is called a Regulation 123 list (which refers to Regulation 123 of the CIL Regulations 2010). After CIL has been adopted, the Regulation 123 List can be amended, subject to appropriate local consultation.
15. 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.
16. 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 in place and 15% elsewhere. The draft section 106 Planning Obligations/CIL 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 with consultation with the community councils and planning committee to ensure it reflects local needs.
17. Following this round of consultation on the revised draft charging schedule, it is anticipated that the document will be submitted to the Planning Inspectorate for an examination in public in early summer 2014. Subject to receiving a favorable report from the planning inspector, the council expects to adopt the CIL charging schedule in autumn 2014.

Consultation

18. The Community Infrastructure Levy Regulations 2010 (as amended) and our Statement of Community Involvement (SCI) 2007 set out consultation requirements for planning documents. 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.

19. A table of all comments received and the council's responses is provided in the consultation report.

KEY ISSUES FOR CONSIDERATION

20. 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.
21. As is noted above, in December 2012 the government published new statutory guidance and this was updated again in April 2013. The new guidance places more emphasis on the need to demonstrate that residual section 106 requirements have been rigorously justified and taken into account and the need to ensure that proposed CIL levies are generally below that maximum CIL levies that could be charged. While there is no guidance on what this buffer should be, inspectors have suggested that CIL charges which are 20% or 30% less than the maximum that could be charged are acceptable and allow for sufficient flexibility and variation in circumstances.
22. A summary of the changes included in the revised draft charging schedule are below.
 - Residential zone 1: maintain the £400 per square metre charge but move the eastern boundary to include Shad Thames
 - Residential zone 2: delete this zone by splitting it between zone 1 and the zone which includes Canada Water, Bermondsey and Elephant and Castle
 - Residential zone 3: change to 'zone 2' and reduce the charge from £250 per square metre to £200 per square metre
 - Residential zone 4: change to 'zone 3' and maintain the charge at £50 per square metre
 - Student housing: Reduce the charge from £250 per square metre to £100 per square metre in the case of direct-let rent schemes and £0 for nomination rent schemes (see paragraph 34 below for an explanation of these terms)
 - Office: maintain at £70 per sqm
 - Retail: maintain the differential rates of £250 per square metre and £125 per square metre but exclude town centre car parks
 - Health and education: maintain at £0 per square metre
 - All other uses: maintain at £30 per square metre.

Further details

23. In the light of the further viability testing, the number of residential CIL zones has been reduced from four to three. Zone 2 (Tower Bridge Road to Rotherhithe village) is deleted and split between zone 1 (Bankside, Borough and London Bridge north of Union Street and Snowfields) and the zone which includes Canada Water, Bermondsey and Elephant and Castle. The change reflects the

fact that there is a significant drop in residential land values east of Shad Thames. The zone 1 CIL residential rate of £400 per square metre could compromise the amount of affordable housing which can be provided in areas to the east of Shad Thames.

24. The charge of £400 per square metre in the revised zone 1 is maintained. There are generally few residential developments in this zone and those which have been built recently or are under construction are generating residential values which are significantly higher than elsewhere in the borough.
25. The boundaries in zones have been informed by the outcomes of viability testing. The DCLG guidance advises authorities against over-complicating their approach to CIL or designating too many zones, which would make CIL more expensive to administer and difficult for the public and developers to understand. Instead authorities are urged to follow a pragmatic approach. Accordingly, the boundaries identified by the council reflect broad changes in value. As is noted above, house price data (Appendix C) shows that land values are significantly greater in postal codes alongside the river. Average values over an 18 month period in postcode SE1 9 (around Southwark Street), were triple those in the postcode to the south, SE1 0 (Southwark Street to Borough Road). Similarly values in SE1 2 (London Bridge) were 50% higher than in the neighbouring postcode to the south, SE1 3 (St Thomas Street to Long Lane). Likewise in the centre of the borough, values are generally lower in areas around Peckham, Old Kent Road and West Camberwell.
26. The charge for the revised zone 2 (which includes Elephant and Castle, Bermondsey Spa, Canada Water, Camberwell, Nunhead, East Dulwich and Dulwich) has been reduced from £250 per square metre to £200 per square metre. Most homes in the borough which are expected to be built over the next 20 years are in this zone and therefore a reduction in CIL in this zone will reduce funding available for infrastructure. Officers have estimated that this reduction would be in the region of £1.5m per year across the borough. The charge is lower than the tariff agreed in the Elephant and Castle SPD and will reduce the amount of CIL generated in the Elephant and Castle opportunity area by around £5m over the period leading up to 2031.
27. However, the benefit of generating funding for infrastructure needs to be balanced against the imperative of continuing the supply of new homes and creating affordable housing, which are key objectives of the Core Strategy. The reduction has been made as a result of the fact that the expectation about the amount of section 106 planning obligations which will be negotiated has been increased (we previously estimated £1,000 per home and have raised that to £1,500 per home) and the need to comply with new government guidance which stresses that CIL should not stretch economic viability to the limit.
28. No changes are proposed to the £50 per square metre CIL charge in new zone 3 (Aylesbury Estate, Burgess Park, Peckham and Old Kent Road).
29. These revised CIL rates for residential development are comparable with neighboring boroughs which have published rates. Lambeth is proposing charges of £265/£150/£50; the City is proposing £150/£95; Tower Hamlets is proposing £200/£65/£35. Wandsworth has adopted a CIL of £250 p/sqm across the borough, with a £575 p/sqm charge in Vauxhall and Nine Elms (which has a much lower affordable housing requirement than Southwark).

30. With regard to student housing, the council previously proposed a charge of £250 per sqm. However, this has been amended in the Revised CIL Charging Schedule. The council has carried out a number of further appraisals of student housing schemes. These show that there are generally two types of student housing schemes: those run by universities or run by the private sector tied to a university and offering lower rents (these are called “nomination” schemes) and those run by the private sector charging higher rents (“direct let” schemes). In the developments appraised, the nomination schemes generally charge rents of between £85-£168 per week and direct let schemes charge around £229-£449 per week. The appraisals show that the nomination schemes are likely to require cross-subsidy from universities to make them viable. None could provide 35% affordable housing, which is a requirement of the core strategy, and CIL. On the other hand, the direct let schemes appraised are generally viable and can afford to provide affordable housing and CIL.
31. Where universities own land on which development is located they can use their charitable status to gain exemption from paying CIL. However, concern has been raised that universities do not always own land on which their developments are located and in those circumstances will be liable to pay CIL. The council is therefore proposing to amend the CIL charging schedule by defining the two types of student accommodation. A nil charge is proposed for nomination schemes and a CIL of £100 per square metre for direct let schemes. All of the direct let schemes appraised could afford that charge. To benefit from the nil charge, universities would need to enter into a section 106 agreement with the council to tie rents to a maximum of £168 per week, over a period of at least 7 years (7 years is the relevant period for securing charitable relief from CIL). CIL rates of £0/£100 per square metre are lower than rates proposed by other boroughs. However, this is compensated for by the fact that Southwark is the only borough which requires student developments to provide affordable housing. Securing affordable housing is a key objective in the Core Strategy and for that reason needs to be prioritised above CIL.
32. The council is not proposing to change the charges for hotels. The charge for hotels is varied between the north of the borough (north of Union Street) and the remainder of the borough. This reflects differences in viability which in turn is borne out by the geographic concentration of hotel development in recent years.
33. The council is proposing to maintain the charge for office space in CIL zone 1 at £70 p/sqm. Office rents in the borough’s prime office locations have been rising over the last 12 months and office schemes in zone 1 should be able to absorb Southwark’s CIL, as well as the Mayor’s Crossrail s106 which is also payable. Outside CIL zone 1, the appraisals suggested that office developments outside the CIL zone 1 are largely unviable at current values. Similarly, the appraisals suggested that industrial and warehousing developments are largely unviable and therefore a CIL levy of £0 p/sqm for these uses is maintained.
34. Most boroughs have differentiated rates for office space. The charge proposed in zone 1 in Southwark is similar to the rates proposed by other boroughs in their main office areas. These include: Lambeth (£125); the City (£75); Tower Hamlets (£120/£60); Wandsworth (£100) and Croydon (£120).
35. No changes are proposed to the retail charges of £250 p/sqm for supermarkets and shopping centres which have on-site parking facilities and £125 for all other retail space. The higher charge for supermarkets and shopping centre is justified on the basis of increased viability of these types of development. Concerns were

expressed that the council had not sufficiently tested the viability of building covered car parks which, where they are part of a retail development, would attract a retail charge. A nil charge for parking has been set where it is made available to all users of a town centre.

36. No changes are proposed to the nil charge proposed for public libraries, health or education uses and the charge for all other uses is maintained at £30 per square metre. Most development in the “other uses” category, such as cinemas, bingo halls, sports facilities etc, replace existing space and provided the existing space had been in use, would not be CIL liable. Where some additional floorspace is provided, the appraisals suggest that a modest levy would not impact significantly on viability.
37. The proposed reduction in the CIL rate in new zone 2, from £250 per square metre to £200 per square metre will reduce CIL revenues by about £1.5m per annum. Nevertheless, using the council’s development capacity assessment, it is estimated that CIL could generate around £7m-£8m per year (at today’s prices). The council has made an assessment of infrastructure required to support growth over this period. Sources of committed funding to support infrastructure have also been identified. Inevitably, there is more certainty over funding sources for projects to be delivered in the short term and much less certainty over mid and longer term projects. The infrastructure plan is a living document and can be updated regularly. CIL would play an important role in contributing to the infrastructure requirement, although would not be sufficient to cover the cost entirely and the council will continue to need to explore other sources of funding to deliver all the infrastructure set out in the infrastructure plan. The CIL regulations allow up to 5% of CIL generated to be used to monitor and administer the charge. As with s106 planning obligations, once the CIL is brought into effect the council will monitor funding generated and publish regular monitoring reports on the website.
38. Statutory guidance issued by the government in April 2013 indicates that authorities should also make available a draft list of infrastructure items that in the future will not be funded by section 106 planning obligations (the Regulation 123 list). These are items which could be funded or part funded by CIL. Projects not referred to on list could be funded by either CIL or planning obligations. However, it is anticipated that s106 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 government’s April 2013 CIL guidance 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 s106 obligations.
39. Overall it is considered that the levies set out in the revised charging schedule represent an appropriate balance between generating funding to secure provision of infrastructure and ensuring that CIL does not put development and regeneration in the borough at risk.

Community impact statement

Equalities analysis

40. An equalities analysis was undertaken as part of the preparation of the CIL

preliminary draft charging schedule. This has been updated to reflect the changes proposed in the draft schedule. 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.

41. 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.
42. 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 section 106 Planning Obligations SPD, would not impede such development.
43. 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.
44. 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.

Sustainability appraisal

45. 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. CLG guidance on Charge setting and charging schedule procedures, April 2013, states that because CILs are short financial documents, separate sustainability appraisal for CILs is not required.

BACKGROUND DOCUMENTS

Background paper	Held at	Contact
Southwark Statement of Community Involvement 2008 http://www.southwark.gov.uk/info/856/planning_policy/1238/statement_of_community_involvement_sci	Southwark Council 160 Tooley Street London SE1 2QH	Sandra Warren 0207 525 5471
Saved Southwark Plan 2007 http://www.southwark.gov.uk/info/856/planning_policy/1241/the_southwark_plan	Southwark Council 160 Tooley Street London SE1 2QH	Sandra Warren 0207 525 5471
The Core Strategy 2011 http://www.southwark.gov.uk/info/2002/10/core_strategy	Southwark Council 160 Tooley Street London SE1 2QH	Sandra Warren 0207 525 5471
Infrastructure Plan http://www.southwark.gov.uk/downloads/download/3680/revised_draft_cil_charging_schedule	Southwark Council 160 Tooley Street London SE1 2QH	Sandra Warren 0207 525 5471
Equalities Analysis http://www.southwark.gov.uk/downloads/download/3680/revised_draft_cil_charging_schedule	Southwark Council 160 Tooley Street London SE1 2QH	Sandra Warren 0207 525 5471
Consultation Plan http://www.southwark.gov.uk/downloads/download/3680/revised_draft_cil_charging_schedule	Southwark Council 160 Tooley Street London SE1 2QH	Sandra Warren 0207 525 5471
Consultation Report http://www.southwark.gov.uk/downloads/download/3680/revised_draft_cil_charging_schedule	Southwark Council 160 Tooley Street London SE1 2QH	Sandra Warren 0207 525 5471

APPENDICES

No.	Title
Appendix 1	Community infrastructure levy (CIL) revised draft charging schedule
Appendix 2	Draft Regulation 123 list
Appendix 3	House price data

AUDIT TRAIL

Lead Officer	Juliet Seymour, Planning policy manager	
Report Author	Tim Cutts, Team Leader, Planning Policy	
Version	Final	
Dated	23 January 2014	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Legal Services	No	No
Strategic Director of Finance and Corporate Services	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	23 January 2014	