

LONDON BOROUGH OF NEWHAM

CABINET

Is it a key decision?	Yes
Is it in the Forward Plan?	Yes
Date report published	27/06/12
Date of meeting	05/07/12

Subject: Newham Community Infrastructure Levy Preliminary Charging Schedule

Source: Director, Strategic Regeneration, Planning and Olympic Legacy

Wards affected: All

Purpose of Report

Following Cabinet approval in December 2011 to prepare a Community Infrastructure Levy, consultants BNP Paribas/CIL Knowledge were commissioned to undertake viability assessment work to evidence the rate at which the CIL is set for Newham.

The Preliminary CIL Charging Schedule sets out the proposed CIL rates, supported by evidence from the Viability Assessment.

This report requests Cabinet to approve the Preliminary Charging Schedule for public consultation.

Recommendations

The Mayor in consultation with Cabinet is asked to:

- 1) Approve for public consultation the Preliminary Draft Charging Schedule, and supporting documents
- 2) Delegate authority to the Director of Strategic Regeneration, Planning and Olympic Legacy to make any minor amendments to the Preliminary Draft Charging Schedule and supporting documents prior to publishing for public consultation.

Reasons for the Recommendations

To make timely progress on the introduction of a Community Infrastructure Levy in the borough, which will help to fund the required social, physical and green infrastructure to support future development in Newham to 2027, as agreed by Cabinet in December 2011.

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Local Government (Access to Information) Act 1985

Background papers used in preparing this report:

- LDF Core Strategy – LBN - January 2012

List of enclosures / Appendices:

- Appendix 1: Newham Preliminary Draft Charging Schedule
- Appendix 2: Newham Community Infrastructure Viability Assessment (June 2012)

Report – Part A

1. Introduction and Background

- 1.1 The Government introduced the Community Infrastructure Levy Regulations in April 2011 (as amended in November 2011). These enable local (plan making) authorities to set a charge called the Community Infrastructure Levy (CIL) to pay for infrastructure needed to support the development of the area.
- 1.2 The CIL charge can be levied on new residential and commercial floorspace granted planning permission after the adoption of the CIL (with some exemptions). Unlike section 106 there would be no negotiation on the rate, and it would be due for collection from the date planning permission is granted. Cabinet gave approval for the preparation of a Community Infrastructure Levy on 15th December 2011.
- 1.3 This report presents the Preliminary Draft Charging Schedule for public consultation. Further consultation will be undertaken on a Draft Charging Schedule before it is submitted to the Planning Inspectorate for independent examination, in Autumn 2012. If the Charging Schedule is found to be sound it is anticipated that Newham's CIL Charging Schedule will come into effect in April 2013.

2. Key Considerations and Sustainability

- 2.1 The key consideration is ensuring the rate of CIL proposed to be levied strikes an appropriate balance “between the desirability of funding infrastructure through CIL and the potential effects of doing so on the economic viability of development across the area” (CIL Regs). The Preliminary Draft Charging Schedule (Appendix 1) sets out the proposed rate/s, supported by evidence from the Viability Assessment (Appendix 2). This would be tested at the independent examination.
- 2.2 The results of the Viability Assessment are reflective of current market conditions and the Council is recommended to keep the viability situation under review so that levels of CIL can be adjusted to reflect any future changes. There is no set period for the length of time a CIL is in place and charging authorities can review the rate as often as they wish. However, to change the rate of CIL it would be necessary to reconsult and resubmit for examination. For this reason it is recommended that CIL rates include a buffer (or discount on the CIL) to allow for changes in market conditions over time, so that it is not set right at the margins of viability.
- 2.3 Table 1.1 below sets out the maximum CIL rate that developments in different parts of the borough are able to absorb (based on Postcode area). The most viable development in current market conditions is hotels and student housing, followed by residential, reflecting the

higher rates of CIL that are considered to be viable. Industrial and office development is not considered to be viable if CIL is levied on it, therefore it is recommended that a nil rate be applied to these land uses. The assessment takes into account the £20 per square metre that is already charged for the Mayor of London Crossrail CIL. These rates do not necessarily correlate to the policy objectives for particular land uses in the borough. For example, research is still ongoing into the potential cumulative impact of private student housing developments in Newham.

- 2.4 CIL is a fixed sum to be levied per sqm of development, and is non negotiable, therefore as referred to earlier a discount on the maximum rate is recommended by the consultants to allow for fluctuations in the value of land in the short/medium term. There is no prescribed percentage buffer (or discount) and this is entirely a matter for our own judgement as the Charging Authority. It should also be borne in mind however, that an element of buffering is already built in to the maximum figures (e.g. 20% developer profit, no grant for affordable housing, upper quartile build costs) so the maximum rate is a worst case scenario.
- 2.5 The consultants have suggested a discount of 30% below the maximum CIL rate viable, but also advised that a range between 20% and 40% (as LB Croydon have proposed) would be reasonable based on the evidence. It is proposed to set a rate which provides a 20% discount on the maximum rate viable in the borough (see Table 1.2). This is considered to allow sufficient flexibility to allow developments to come forward while providing funding for supporting infrastructure. Figures will be rounded up/down to the nearest ten pounds to aid simplicity of calculation and collection. Please also refer to the Charging Zones map at Appendix 1.
- 2.6 The proposed CIL rates have been selected on the basis of need and viability. No discount or 'aid' has been used in the CIL schedule. Some rates for different uses are lower than others (or zero) as a response to the appropriate available evidence gathered. To continue the consistent approach, boundaries for the geographical zones have been based generally upon postcode areas to reflect the evidence sources used to inform the economic viability testing. However Zone 1 (Royal Docks/Canning Town/West Ham) incorporates a small part of the E6 Beckton postcode around Gallions DLR station as this has more of a functional link with the rest of the Royal Albert Basin area.
- 2.7 To reiterate, in addition to Newham's own CIL the borough is also a collection authority for the Mayor of London's Crossrail CIL – this is £20 per square metre. This is still payable if we charge a nil rate (as proposed for office/industrial development).

Table 1.1 Maximum CIL rate viable in LB Newham

Use	Charging Zone 1 Postcodes E15 (exclusive of the LLDC area), E16 and E3 (part)	Charging Zone 2 Postcodes E6, E7, E12, IG11 (part)
Residential	£100	£50
Retail	£40	£40
Office	£0	£0
Hotel	£160	£160
Industrial	£0	£0
Student Accommodation	£170	£170

**Table 1.2 Proposed LB Newham CIL rate
(= 20% discount on the maximum CIL rate viable in LB Newham)**

Use	Charging Zone 1 Postcodes E15 (exclusive of the LLDC area), E16 and E3 (part)	Charging Zone 2 Postcodes E6, E7, E12, IG11 (part)
Residential	£80	£40
Retail	£30	£30
Office	£0	£0
Hotel	£120	£120
Industrial	£0	£0
Student Accommodation	£130	£130

3. Service Delivery and Performance Issues

3.1 The introduction of the Community Infrastructure Levy (CIL) will introduce additional administration resource requirements for the service. However, this will be offset by the reduced time spent in negotiating s106 agreements (albeit some agreements will still be required for on site mitigation). The introduction of the Mayor of London Crossrail CIL in April 2012 has meant that staff now have knowledge of the CIL regulations and experience in their implementation. The CIL would have a positive effect on Service Delivery meeting key aspirations of the Council as set out in the Core Strategy by providing additional revenue for infrastructure to support the growth in housing and jobs planned to 2027.

4. Financial Implications

4.1 The CIL Regulations 2011 effectively scale back the scope of section 106 agreements, primarily to affordable housing (central government are also considering bringing this within the CIL regulations), and the scope to pool contributions from multiple planning applications will be

reduced in April 2014, or when we introduce a CIL, whichever is earliest. This means that boroughs will expect reduced income from s.106 agreements over the medium term. The Council received £31m from s.106 agreements in the past 5 years (2006-7 to 2010-11). Of this £23.5m came from the Stratford City development, and £7.8m from all other developments. So given the huge scale of the Stratford City development, s.106 monies are likely to reduce in Newham anyway, regardless of the changes to the regulations..

4.2 However, CIL is payable on all developments over the threshold e.g. 1 new residential unit or commercial development of at least 100 square metres of gross internal floorspace. This would capture revenue from smaller developments that do not usually have a section 106 agreement associated with them. It is estimated that Newham will receive approximately £5.3m in CIL monies in the 5 years after it is introduced. In addition to this affordable housing will continue to be secured by s.106, along with on site mitigation (estimated at around £1,000 per new residential unit). Depending on the level of s.106 received for affordable housing, there could be an increase in monies received for CIL/s.106 combined, if the Stratford City s.106 agreement is discounted.

4.3 It should also be considered that while there is a new resource requirement in administering the CIL, this is offset by reduced time in negotiation of s.106 agreements. Charging authorities may also spend 5% of the CIL monies collected on administration (which includes the viability assessment, public consultation, independent examination etc.). Once adopted the CIL rate cannot be varied. However, CIL income will be monitored (The Core Strategy housing trajectory and section 106 monitoring systems already in place and maintained by the Spatial Planning team are able to report on income and expenditure and they will need to be adequately resourced in order to minimise the risks outlined above), and if income is significantly reduced this could indicate the rate is not viable and this would trigger a review of the CIL. Conversely if market conditions improve, a review could result in the borough setting a higher rate of CIL.

5. Comments of Finance Director

5.1 The introduction of CIL presents us with an opportunity to set the optimum charge rate to encourage commercial development in the Borough while at the same time maximise planning gain income. It is therefore essential to keep the prevailing rate under review in order to manage the potential risk of any lost income generating opportunities. It is vital to have in place highly effective systems to both accurately project CIL income (net of the Crossrail element) and efficiently collect CIL, which will make a significant contribution to the Council's Budget Strategy

5. Comments of the Legal Officer

- 5.1 Regulation 123(3) of the Community Infrastructure Levy (CIL) Regulations 2010 makes it clear that should the council adopt its Charging Schedule prior to 6 April 2014 then from that date on only contributions from five or less agreements in a local area will be able to be used for a mitigated purpose. If the Council is able to follow the proposed timetable within this report then the effects of Regulation 123 CIL will come into effect from 1 April 2013 which would be in accordance with the Regulations.
- 5.2 Part 3 of the CIL Regulations sets out the process for the adoptions of a Charging Schedule which includes consulting on the draft schedule before submitting the document for examination. Upon the Examiner's recommendations being issued, the Council will be required to adopt the approved Charging Schedule in accordance with section 212 of the Planning Act 2008 and the CIL Regulations. This report has set out that the consultation process is due to be carried out in accordance with the Regulations therefore the correct processes are being followed.

6. Risk Management

- 6.1 The costs to councils of introducing a CIL can be reimbursed from the CIL monies collected as explained above. Ongoing staff resource to administer CIL can also be met through the CIL monies received as allowed by the CIL regulations. The financial risk is therefore considered to be low.
- 6.2 The Planning Act 2008 and CIL regulations 2011 require the rate the CIL will be levied at to be assessed independently, and to strike an appropriate balance between 'the desirability of funding infrastructure through CIL and the potential effects of doing so on the economic viability of development across the borough.' If the CIL is set too high there is a risk that it will be challenged at examination and potentially found to be unsound because of the harm to the economic viability of development in across the borough. Further work and a new consultation would then be required to reassess the level at which the CIL is set. If the CIL is set too low there is a risk that necessary social, physical and green infrastructure will not be able to be provided as required by the Core Strategy, putting at risk the Council's objective of creating successful places with sustainable mixed and balanced communities.
- 6.3 It is considered that the proposed CIL rates as set out in Table 1.2 do strike an appropriate balance. They have been tested by an independent viability assessment and are therefore considered to be sufficiently robust to be tested at examination. The risk of the proposed CIL rates being found unsound by an independent inspector is considered to be low.

7. Consultation

7.1 Councillor McAuley, Lead Member, has been consulted on this report.

