

| MAYOR & CABINET | | |
|----------------------------|---|------------------------|
| Report Title | Community Infrastructure Levy – Preliminary Draft Charging Schedule | |
| Key Decision | Yes | Item No. |
| Ward | All | |
| Contributors | Head of Planning & Head of Law | |
| Class | Part 1 | Date: 15 February 2012 |

1. Summary

- 1.1 The Community Infrastructure Levy (CIL) is a Levy which Local Planning Authorities in England may charge against most types of new development in their area. The rate at which CIL is chargeable is taken from the charging schedule which is in place at the time planning permission first permits the chargeable development and in the area the chargeable development will be situated. There are exceptions for minor developments and charities. The money raised will be used to pay for local strategic infrastructure in order to support the additional demand arising from new development such as schools, hospitals, roads and transport schemes, as well as libraries, parks and leisure centres.
- 1.2 In order to charge CIL the authority must produce a charging schedule which identifies the rate or rates due by development. The CIL Preliminary Draft Charging Schedule is the first draft of the charging schedule for Lewisham.

2. Purpose

- 2.1 This report seeks approval to undertake statutory public consultation on the:
- Community Infrastructure Levy Preliminary Draft Charging Schedule
- 2.2 This report provides a summary of how the CIL Preliminary Draft Charging Schedule has been prepared and the key evidence that supports it. The following documents are annexed:

- Annex 1: CIL Preliminary Draft Charging Schedule – January 2012
Annex 2: Background Paper – CIL Economic Viability Study – December 2011
Annex 3: Background Paper – CIL Infrastructure Delivery Schedule – December 2011
Annex 4: Background Paper – What is CIL – December 2011

- 2.3 The annexed documents can be found on the Council website at:
<http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=139&MId=2132>

3. Policy context

- 3.1 The contents of this report are consistent with the Council's policy framework. The CIL Preliminary Draft Charging Schedule contributes to the implementation of the Council's eight priorities and will help deliver the Sustainable Community Strategy (Shaping Our Future) (SCS), which was prepared by the Local Strategic Partnership and adopted by the Council in May 2008.
- 3.2 The CIL will provide funding and a system to help support the implementation of the SCS vision '*Together we will make Lewisham the best place to live, work and learn*' and all of the six strategic priorities, which are:
- Ambitious and achieving – where people are inspired and supported to fulfil their potential
 - Safer – where people feel safe and live free from crime, antisocial behaviour and abuse
 - Empowered and responsible – where people are actively involved in their local area and contribute to supportive communities
 - Clean, green and liveable – where people live in high quality housing and can care for their environment
 - Healthy, active and enjoyable – where people can actively participate in maintaining and improving their health and well-being
 - Dynamic and prosperous – where people are part of vibrant communities and town centres, well connected to London and beyond
- 3.3 The CIL Preliminary Draft Charging Schedule will help implement a range of other Council policies and strategies including, but not limited to the following:
- All Local Development Framework DPD's
 - People Prosperity Place; Lewisham's Regeneration Strategy 2008 - 2020
 - Children and Young People's Plan
 - Local Implementation Plan (Transport)
 - Lewisham Physical Activity Plan (2010-2013)
 - Ravensbourne River Corridor Improvement Plan, 2009
 - North Lewisham Links Strategy, 2007
 - Lewisham Social Inclusion Strategy, 2005
 - Local Education Authority School Plan
 - Lewisham NHS Estate Strategy
 - Healthy Weight, Healthy Lives (PCT with LB Lewisham), 2009
- 3.4 The regulations state that the CIL Charging Schedule is to be treated the same as a planning Local Development Framework Development Plan Document and therefore the CIL will require the approval of the Full Council.

4. Recommendations

- 4.1 The Mayor is recommended to approve the CIL Preliminary Draft Charging Schedule for statutory public consultation in accordance with the Statement of Community Involvement, and recommend that the Council do the same.
- 4.2 The Mayor is recommended to delegate power to make any minor changes to the text and format of the documents prior to consideration by the Council, to the Executive Director, Resources & Regeneration.

5. Introduction and background

- 5.1 The CIL is a new levy that local authorities may charge on development in their area. The money generated is to be spent upon infrastructure that is required in the local authority such as transport needs, parks, schools, sports centres and community facilities.
- 5.2 In order to charge CIL local authorities must produce a charging schedule which identifies who will pay CIL and at what rates (see Annex 1: CIL Preliminary Draft Charging Schedule – January 2012). The current system for collecting money from developments for the purpose of delivering infrastructure, 'Section 106', has had its remit severely reduced as of April 2014. This will mean that in order to continue collecting infrastructure funding from development after this date a CIL charging schedule must be in place. The London Borough of Lewisham is seeking to create a CIL charging schedule that will commence in April 2014 or before and run until April 2019.
- 5.3 What development is charged?

CIL will be levied using £'s per square metre and the chargeable area will be the net additional increase in floorspace of any given development. It is applicable to all new buildings and extensions greater than 100sqm of gross internal floorspace and unreservedly to all new dwellings.

If there are existing buildings on the development site which are to be demolished for redevelopment, the associated floorspace may be applicable for deduction from the chargeable floorspace, although other regulations have a bearing.

- 5.4 Is any development exempt? There are a few types of development that are exempt from paying CIL as follows:

- Affordable housing is exempt from CIL and should be dealt with through the remaining Section 106 procedure

- Social housing and development that is to be used for charitable services are exempt (certain to a number of conditions detailed in the regulations)
- The council can specify exemptions of its own should it wish. Details of any exemptions will be identified in the Charging Schedule.

5.5 For further introductory details regarding CIL, including what it is, why we are producing one and how it will work, please see the FAQ's section of Annex 2: Background paper – What is CIL – December 2011.

6. CIL Infrastructure Delivery Schedule

- 6.1 The CIL regulations require that in order to set a CIL charging schedule, the Council must have an appropriate evidence base to support the proposed levy. Part of this evidence base is an Infrastructure Delivery Schedule (IDS) which outlines the infrastructure required to support development in the borough. The schedule should present the projects in need of funding from CIL (either in part or entirely), the estimated cost of the infrastructure and the proportion of subsidy expected to be provided by both CIL and other sources of funding.
- 6.2 An assessment of the infrastructure required to sustain development in the borough was undertaken as part of the evidence base for the Local Development Framework in 2010. This assessment has been reviewed to reflect the latest position and priorities and to include / exclude projects that are appropriate to receive CIL funding.
- 6.3 The resulting CIL Infrastructure Delivery Schedule (CIL IDS) identifies a list of infrastructure projects that are required to support development and have a gap in secured funding which CIL can assist with. The list includes:
- green infrastructure such as parks, rivers and footpaths
 - physical infrastructure such as road and rail improvements and
 - social infrastructure such as schools, doctors and community facilities.
- 6.4 The CIL IDS identifies a funding gap of £70m that is required for infrastructure between 2014 and 2019 and which CIL can assist with filling. This, importantly, proves that CIL is required as the regulations specify that CIL is only justified if there is a proven gap in infrastructure funding.
- 6.5 The CIL IDS is required to prove that there is a need for CIL funding, which it does, to the value of £70m. However, the Council are **not** required to spend the income generated from CIL on the projects in the CIL IDS list. It is understood that circumstances and priorities will change over time and therefore the Council may decide what projects are supported once the CIL funding has been secured. The projects must be capital projects and they must be strategic infrastructure that is required to support development in the borough.

7. Economic Viability Study

- 7.1 In setting the rate of CIL the Council must consider the appropriate balance between the desirability of using CIL to fund the cost of infrastructure required to support new development and the potential effects of the imposition of CIL on the economic viability of development across the borough.
- 7.2 This means that in setting the CIL rate the Council need to demonstrate that the proposed CIL rate will not put development across the borough, **taken as a whole**, at undue risk.
- 7.3 In order to assist with understanding the economic viability of development in the borough, the Council employed independent consultants to produce an Economic Viability Study (EVS). The resulting report provides a robust and evidenced assessment of the size of CIL rate (in £/sqm) that future development in the borough will, in general, be able to afford to pay without causing development, in general to become financially unviable.
- 7.4 The Council have the option to charge variable rates dependent upon both the geographical location of a development and the type of development. The EVS found viability evidence justifying a higher CIL liability in the northern parts of the borough compared to in the rest of the borough. Similarly, viability evidence also shows that residential development can afford a higher CIL liability than other forms of development, while business and industrial developments (B class uses) can not afford to pay CIL.

8. CIL Preliminary Draft Charging Schedule

- 8.1 Using the evidence from the background reports discussed above, the Council have been able to produce a CIL charging matrix as follows in Table 8.1.

Table 8.1: CIL rates

| Geographical zone | Category A | Category B | Category C |
|-------------------|------------|------------|------------|
| Zone 1 | £100 / sqm | £80 / sqm | £0 / sqm |
| Zone 2 | £70 / sqm | £80 / sqm | £0 / sqm |

Category A = Residential

Category B = Everything else apart from Categories A and C

Category C = Business (offices, industrial, storage and distribution)

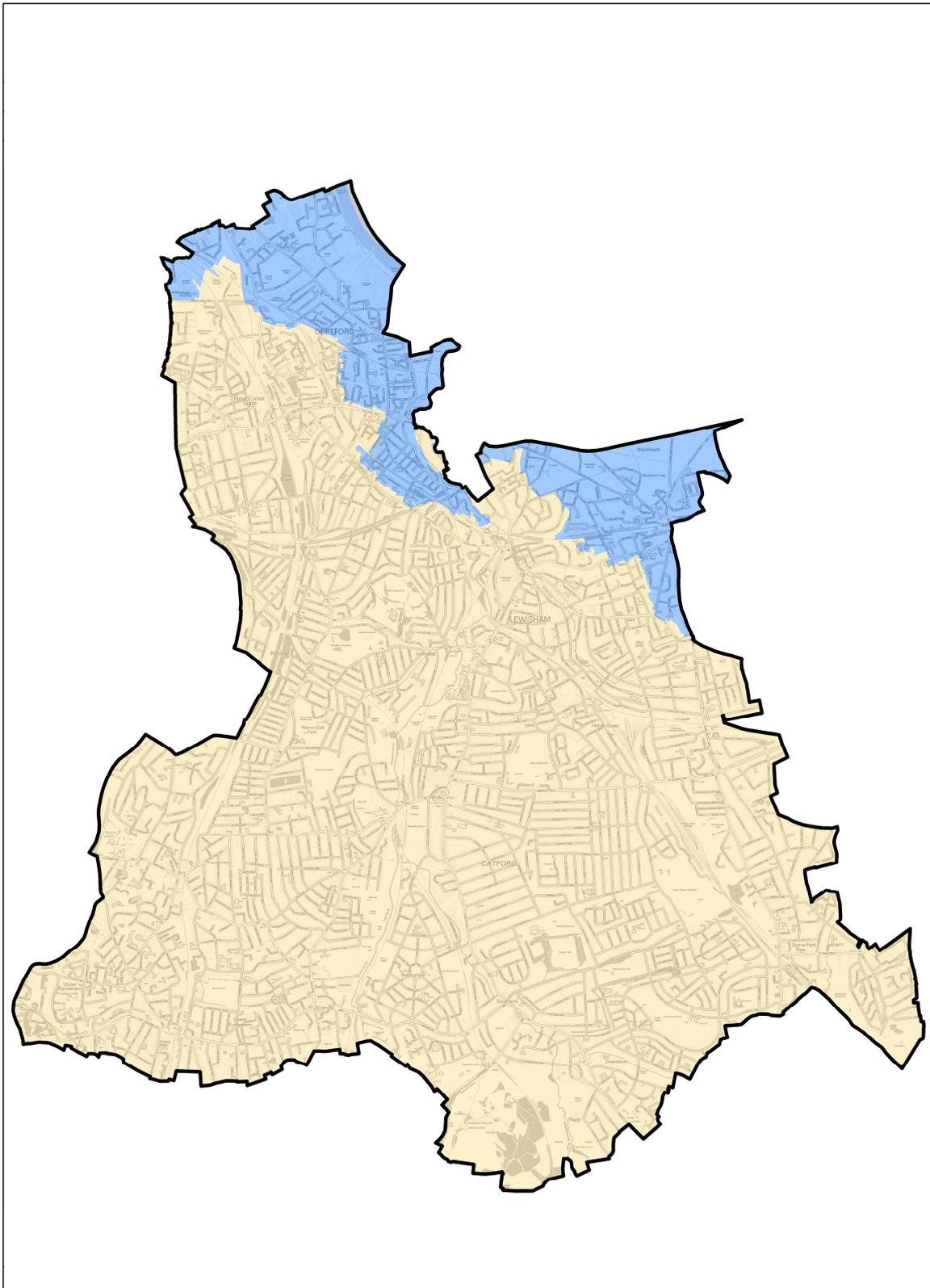
- 8.2 The two CIL payment zones have been created using current postcode boundaries in order to make use of an existing system of geographical division that is already utilised within the development industry. Table 8.2 contains the

list of postcodes that are subject to the payment of CIL grouped into the two previously arranged zones and Map 8.1 (overleaf) illustrates the table.

Table 8.2: CIL payment zones (postcodes)

| | |
|-------------|---|
| Zone | SE3, SE8, SE10 & SE16 |
| Zone | BR1, BR3, SE4, SE6, SE9, SE12, SE13, SE14, SE15, SE23 & S |

Map 8.1: CIL payment zones



- 8.3 Officers have calculated that the introduction of a CIL charge at the rates proposed will produce an income of approximately £20m over the CIL charging period (2014 – 2019) to support the delivery of infrastructure in the borough. This is less than the £70m set out by the CIL IDS as required to fund infrastructure. The funding gap is an expected occurrence given the time until the implementation of the projects assessed. The council will continue to work with public, private and voluntary sources to seek funding and assistance in ensuring the delivery of all the infrastructure projects in the CIL IDS.
- 8.4 In the long term it is likely that CIL should provide increased funding for strategic infrastructure to assist new development as compared with the sum secured through the current negotiable “Section 106” system for collecting contributions. This is because CIL will be due on all developments in categories A and B whereas S106 funding is only available on major developments. On a like for like basis the Councils charges under CIL should attract a similar level of funding on a per scheme basis as is currently the case under S106.
- 8.5 The CIL period has been set by officers as 2014 – 2019. During this time the charging schedule is index linked on 1 April each year according to the All-In Tender Price Index as at the previous November 1st, so charges per square meter will adjust year on year. If circumstances change dramatically during this period causing the CIL rate to be considered too high or low, the Council may need to review the charging schedule. In order to do so, a new charging schedule must be produced, consulted upon and go through an independent examination before it is adopted. If no changes are required prior to 2019, a new schedule will be produced for the period 2019 – 2024.

9. Legal Implications

- 9.1 The key stages and requirements in progressing the emerging CIL charging schedule and the main legal implications are described in the body of this report.
- 9.2 The primary legislation governing the making of and implementation of a CIL charging schedule is the Planning Act 2008 (as amended) and the Community Infrastructure Levy Regulations 2010 (as amended).
- 9.3 A charging schedule must contain the rates (as set out in pounds per square meter) at which CIL is to be chargeable in the Council’s administrative area and where the charging authority sets different rates a map which contains the location and boundaries of the zones should be reproduced (with an explanation of any symbol used) and an explanation of how the chargeable amount was calculated.

9.4 The CIL charging schedule is to be regarded in the same manner as a Development Plan Document in the Local Development Framework, therefore the function of approving it is shared by Mayor and Cabinet and Full Council. The CIL Preliminary Draft Charging Schedule must therefore be referred to Full Council for approval to undertake statutory public consultation.

9.5 As part of the consultation, the charging authority must send a copy of the preliminary draft to each neighboring local planning authority and the London Mayor to invite representations. The charging authority must also invite representations from persons resident or carrying out business in the area. The Council has adopted its Statement of Community Involvement (SCI) which sets out the minimum consultation that will take place for LDF documents and it is a requirement of a 'sound' plan that the standards in the SCI are met. This will include statutory consultees, land owners, community groups and other interested individuals and groups.

10. Crime and disorder implications

10.1 The CIL will assist in the funding of green, physical and social infrastructure where development is completed. Improvements in infrastructure, particularly social and community facilities, may have a positive affect on levels of crime and disorder.

11. Equalities implications

11.1 The Equality Act 2010 (the Act) brings together all previous equality legislation in England, Scotland and Wales. The Act includes a new public sector equality duty (the equality duty or the duty), replacing the separate duties relating to race, disability and gender equality. The duty came into force on 6 April 2011. The new duty covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

11.2 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

11.3 As was the case for the original separate duties, the new duty continues to be a "have regard duty", and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute

requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

- 11.4 The Equality and Human Rights Commission issued guides in January 2011 providing an overview of the new equality duty, including the general equality duty, the specific duties and who they apply to. The guides cover what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guides were based on the then draft specific duties so are no longer fully up-to-date, although regard may still be had to them until the revised guides are produced. The guides do not have legal standing unlike the statutory Code of Practice on the public sector equality duty, However, that Code is not due to be published until later in 2011. The guides can be found at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/new-public-sector-equality-duty-guidance/>
- 11.5 In setting out the regulations and guidance for CIL, central government performed an equalities assessment on the CIL process and found there were no negative consequences of introducing CIL. The CIL Preliminary Draft Charging Schedule has also been subject to a local Equalities Analysis Assessment. The results of the local assessment agreed with the central government judgment that there are no negative consequences of introducing CIL. Indeed, the improved level of infrastructure funding could be beneficial to all residents and visitors to Lewisham, including many equalities groups. The EqAA has been agreed by the Resources & Regeneration Executive Management Team and is awaiting to be reviewed by the Corporate Equalities Board.

12. Environmental implications

- 12.1 Environmental issues are at the heart both of the planning process and the delivery of supporting infrastructure. Although the proceeds from charging CIL do not have to be spent specifically on the projects in the CIL IDS list, it is fair to assume that over time environmentally beneficial infrastructure projects will receive funding from CIL.

13. Financial Implications

- 13.1 The introduction of CIL will mean that the Council will be able to charge developers based on specific rates set out in this report in order to generate income to fund infrastructure improvements. Existing S106 funding is to be scaled back and will be replaced by the new charges under CIL. Therefore the income generated by CIL of circa £20m over the period 2014 to 2019 will not be entirely new money but also partly a replacement of what the Council might have got under S106. As explained in point 8.4, CIL is chargeable on more development than S106 and therefore an increase in funding should be secured, however this funding remains significantly less than the £70m required under the Infrastructure Delivery Schedule.

13.2 The costs associated with the printing, publishing and consulting on the CIL Preliminary Draft Charging Schedule will be met from the existing Planning Services budget.

14. Conclusion

14.1 The CIL Preliminary Draft Charging Schedule is put forward for statutory public consultation. The delivery of CIL will ensure that the borough continues to receive contributions towards the delivery of strategic green, physical and social infrastructure from new development. Following public consultation a Draft Charging Schedule will be prepared and reported to the Mayor and Cabinet and Full Council for further consideration.

Background Documents

| Short Title Document | Date | File Location | File Referer | Contact Office | Exempt |
|--------------------------------------|-------------|----------------|-----------------|----------------|--------|
| Planning Act 2008 | 2008 | Laurence House | Planning Policy | Brian Regan | No |
| Community Infrastructure Regulations | 2010 & 2015 | Laurence House | Planning Policy | Brian Regan | No |

If you have any queries on this report, please contact Brian Regan, Planning Policy, 5th floor Laurence House, 1 Catford Road, Catford SE6 4RU – telephone 020 8314 8774.