

Committee: Overview and Scrutiny	Date: 03/02/15	Classification: Unrestricted	Report No.
Report of: Infrastructure Planning, Planning and Building Control	Title: Approval of the London Borough of Tower Hamlets' Community Infrastructure Levy (CIL) Charging Schedule		
Originating Officer(s): Owen Whalley	Wards: All		

1. INTRODUCTION

- 1.1 The attached Cabinet Report and Appendices comprise information pertaining to the adoption of a CIL in Tower Hamlets. This report will be put before Cabinet on the 4th February 2015 and Full Council on the 25th February 2015.

2. OVERVIEW

- 2.1 CIL is a mechanism to secure funding, from most types of new development, to provide supporting infrastructure such as schools, parks, health centres and community facilities.
- 2.2 CIL is, for the most part, replacing Section 106 (S106), as the mechanism to secure funding from development, towards the necessary infrastructure required to support development. The ability of the Council to use S106 will be significantly restricted from the 6th April 2015, due to legislative changes. As such it is intended to adopt a CIL by the 1st April 2015.
- 2.3 S106 will still remain for some matters, which can be defined as specific to the development site in question. These specific matters may include (but are not exclusive to) affordable housing, carbon offsetting measures, employment initiatives and public realm improvements.
- 2.4 Using the provision of public realm as an example, if it can be proven that improvements are required to make a specific, single development acceptable in planning terms then a S106 contribution can be sought for that site. However, there is scope for CIL to pay for public realm improvements that are not specifically related to one individual site, but are wider-reaching and more strategic in nature.
- 2.5 The objective of the Regulations governing the use of S106 and CIL is to ensure that S106 and CIL are **not** used to fund the same item of infrastructure – what is known as 'double counting'.
- 2.6 The restrictions on S106 mean that the number of contributions that can be pooled will be restricted. In addition, S106 cannot generally be used to provide infrastructure to support an area wider than one single development.
- 2.7 The restrictions placed on the use of S106 could seriously jeopardise the delivery of infrastructure required to support development if a CIL is not adopted. In effect, should

the Council not choose to implement a CIL, its ability to secure funding for the infrastructure necessary to support development will be seriously compromised.

3. BACKGROUND

- 3.1 The CIL Charging Schedule has been the subject of a Public Examination and was approved by the Examiner, subject to some changes. These changes are set out in more detail in paragraphs 5.16 to 5.29 of the attached Cabinet Report. These changes must be made, if the Council wishes to proceed to adopt the CIL Charging Schedule.
- 3.2 Refer to Table 1 (Page 10) of the appended Cabinet Report for the rates that have been approved by the Examiner in Tower Hamlets.
- 3.3 CIL is different from S106 in that it applies to more types of development, including smaller scale developments. Adopting a CIL will allow the Council to secure funding from developments that would not have otherwise been captured under a S106 regime.
- 3.4 It is anticipated that CIL income will be limited in the short term, due to the fact that schemes secured under the existing S106 regime will still be coming forward. However, it is expected that CIL will raise significantly more income, in the medium to long term.
- 3.5 The types of infrastructure that the Council will be able to spend CIL on are set out in what is called a Regulation 123 List¹. This list does not detail which specific infrastructure projects will be supported using CIL funds. The projects on which CIL income will be spent will be the subject of a detailed, lengthy and collaborative prioritisation process, to ensure income is allocated appropriately, alongside other funding mechanisms. Further work on the allocation process and accompanying procedures will be undertaken in due course.
- 3.6 With reference to section 6 below, please note that only approval for Appendix 1A will be sought at both Cabinet and Full Council. Approval for Appendices 1C, 1D and 1E will only be sought at Cabinet. Appendices 1A(1) and 1B are for information only. These approvals are sought at these committees as a result of legal advice.

4. RECOMMENDATION

- 4.1 The risks of not implementing a CIL in the Borough would be likely to result in difficulties with securing the appropriate funding to help pay for much needed infrastructure, to accompany the continuing regeneration and growth of the borough. As such, it is recommended that the Overview and Scrutiny Committee consider and comment on the report, enabling the report to be put before Cabinet and Full Council for the adoption of a CIL in Tower Hamlets.

5. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 5.1 The comments of the Chief Financial Officer are incorporated in the attached report

¹ The Council is required to produce the Regulation 123 list by the CIL Regulations. This list is set out in Appendix C to the Cabinet Report.

6. LEGAL COMMENTS

- 6.1 The Overview and Scrutiny Procedure Rules as set out in Part 4.5 of the Constitution entitle the Committee as part of its terms of reference to advise the Mayor and Cabinet of key issues/questions to be considered in relation to reports due to be considered by the Executive. Full legal comments on the recommendations made in the Cabinet report have been provided in Section 7 of the report. As noted in these comments (and at paragraph 3.6 above) in accordance with s213 of the Planning Act 2008 the Charging Schedule at Appendix 1A must be adopted by a majority of votes of the Full Council whilst the adoption and approval of the other documents (Appendices 1A(1), 1B, 1C, 1D, 1E and 1F) is a function which can be exercised by the Executive.
- 6.2 Pursuant to paragraph 10.2 of Part 4.5 of the Constitution, in relation to the Council's approach to matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Mayor or Executive for developments in so far as they relate to matters within its terms of reference. The Overview and Scrutiny Committee shall report their recommendations on proposals for consideration by the Mayor/Executive and the Mayor/Executive are required to consider the report at one of its next two meetings.

7. APPENDICES

- Appendix 1: Cabinet Report - Approval of the London Borough of Tower Hamlets' Community Infrastructure Levy (CIL) Charging Schedule
- Appendix 1A: Proposed Charging Schedule.
- Appendix 1A(1): Charging Schedule Explanatory Notes
- Appendix 1B: The Final CIL Examination Report.
- Appendix 1C: A Regulation 123 List.
- Appendix 1D: An Instalments Policy.
- Appendix 1E: A Payment in Kind and Infrastructure Payments Policy.
- Appendix 1F: Equalities Analysis

Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012

List of "Background Papers" used in the preparation of this report

Brief description of "background paper"

Name and telephone number of holder and address where open to inspection

NONE