



CABINET

August 8 2018

Subject Heading:

Havering Community Infrastructure Levy – Draft Charging Schedule

Cabinet Member:

Councillor Damian White
Leader of the Council

SLT Lead:

Steve Moore Director of Neighbourhoods

Report Author and contact details:

Martyn Thomas Development and
Transport Planning Manager

Martyn.thomas@havering.gov.uk

Tel : 01708 432845

Policy context:

National Planning Policy Framework
(2012)

London Plan (2015)

Havering Corporate Plan 2018/19

Havering Local Development Framework
(2008)

Submission Havering Local Plan (2018)

Community Infrastructure Levy
Regulations 2010 (as amended)

Financial summary:

The Community Infrastructure Levy is a potential income stream to be applied against Havering's infrastructure requirements and will be used to complement Section 106 funding.

Is this a Key Decision?

Yes – impact on more than two wards and income of more than £0.5m

When should this matter be reviewed?

January 2021

Reviewing OSC:

Towns and Communities

The subject matter of this report deals with the following Council Objectives

Communities making Havering

[x]

Places making Havering

[x]

Opportunities making Havering

[x]

Connections making Havering

[x]

SUMMARY

- 1.1 This report is to provide an update on the latest position in preparing the Havering Community Infrastructure Levy ('CIL') following public consultation on the Preliminary Draft Charging Schedule in 2015. This report brings forward for approval a recommended Draft Charging Schedule and relevant supporting documents.
- 1.2 The Draft Charging Schedule follows consideration of the responses to the Preliminary Draft Charging Schedule. It also takes account of updated evidence on infrastructure, the latest information on viability considerations consistent with the Local Plan evidence and the preparation and submission of the Havering Local Plan.
- 1.3 The report also seeks Cabinet approval to consult the public for six weeks on the CIL Draft Charging Schedule and supporting documentation before they are submitted for Examination. The supporting items include an Infrastructure Funding Gap Report and a draft Regulation 123 list. The report seeks approval for the Havering CIL to be submitted for independent Examination.

RECOMMENDATIONS

1. It is recommended that Cabinet:
 - (a) Approve the Council's responses to the representations submitted during the consultation in 2015 on the Preliminary Draft Charging Schedule **(Appendix 1)**;
 - (b) Approve for public consultation, the following Proposed Submission documents, prior to their submission to the Secretary of State :
 - the Havering CIL Draft Charging Schedule **(Appendix 2)** as revised and updated from the Preliminary Draft Charging Schedule;
 - the draft Regulation 123 list **(Appendix 3)** ;
 - the procedural and evidence based documentation supporting the Draft Charging Schedule as listed below :
 - (i) Consultation Statement following consultation on the Preliminary Draft Charging Schedule (2018) **(Appendix 1)**
 - (ii) Infrastructure Funding Gap Report (2018) **(Appendix 4)**
 - (iii) Viability Assessment (2018) **(Appendix 5)**
 - (iv) Infrastructure Delivery Plan (2018) **(Appendix 6)**

- (c) Delegate authority to the Director of Neighbourhoods, following consultation with the Leader, to finalise and approve the proposed Submission documents, as set out in 1(b) (above) for submission to the Secretary of State, including to:
- (i) make modifications to the Submission documents arising from consultation;
 - (ii) submit the Draft Charging Schedule, the draft Regulation 123 list, the Council's responses to the representations submitted to the Preliminary Draft Charging Schedule, and the necessary procedural and evidence base documentation, together with any proposed modifications, to the Secretary of State;
 - (iii) make submissions to the Examiner in support of the Submission Draft Charging Schedule (including the supporting procedural and evidence base documentation);
 - (iv) make modifications to the Submission documents during, and as a result of, the Examination process;
 - (v) undertake any further consultation required during the Examination ;
- (d) Approve the revocation of the Havering Planning Obligations Supplementary Planning Document (2013) on adoption of the CIL

REPORT DETAIL

The structure of this report

This report is in several sections:

1. Background and context to the Havering Community Infrastructure Levy
2. Progress on the Havering Community Infrastructure Levy
3. The preparation of the recommended Draft Charging Schedule
4. The recommended Draft Charging Schedule
5. The recommended Havering CIL Regulation 123 list
6. Public consultation on the Draft Charging Schedule and supporting items
7. Moving the Havering CIL towards Examination after public consultation
8. How will Havering use its CIL receipts
9. Monitoring the Havering CIL
10. Mayoral CIL
11. Conclusions and next steps

1. Background and context to the Havering Community Infrastructure Levy

What is the Community Infrastructure Levy?

- 1.1 The Community Infrastructure Levy (CIL) is a legislative mechanism to enable local authorities to apply a financial levy on new building projects towards the cost of infrastructure. The intention is that such funds, secured through the Havering CIL, will be put towards the cost of the new infrastructure envisaged by Havering's planning and regeneration strategies especially the submitted Havering Local Plan which set out how the borough will develop over the next 15 years.
- 1.2 CIL is a monetary (pounds) per square metre financial levy on most new development and it must be used to help deliver infrastructure to support development. CIL can be used to provide new infrastructure, increase the capacity of existing infrastructure or to repair failing existing infrastructure, if that is necessary to support development. The CIL should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development.
- 1.3 The CIL 'charging schedule' must be consistent with, and support the implementation of up to date (relevant) development plans. The Havering CIL is being brought forward to be consistent with the current London Plan and the submitted Havering Local Plan (2018) in line with the relevant CIL Guidance.
- 1.4 In preparing its CIL, the Council should 'strike an appropriate balance between the desirability of funding infrastructure from CIL and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area'.(Source : Government website (www.gov.uk) Community Infrastructure Levy Guidance paragraph 008).
- 1.5 Some development falls outside the scope of CIL: development of less than 100m², certain residential schemes built by 'self-builders', social housing, charitable development meeting specific criteria and certain infrequently used buildings / premises, certain structures, vacant buildings bought back into the same use (subject to the vacancy test) and development that a Council has determined will have a 'zero' CIL rate.
- 1.6 In practice, the contribution of CIL towards overall infrastructure costs is likely to be relatively modest given the significant cost of certain infrastructure such as improved transport connections, health and medical facilities and education facilities. Nevertheless, at a time when resources across all sectors are tightly constrained, it will have an important role.
- 1.7 The CIL will sit alongside existing Section 106 agreements which will be used for more site specific requirements.

Why do local authorities prepare and adopt CIL

1.8 In summary, there are considerable benefits from implementing a CIL:

- funding support to assist in the delivery of priority infrastructure
- to address restrictions on spending developer contributions
- better control for the Council over spending priorities
- reasonably steady capital income stream from all chargeable development (by comparison to income from Section 106, which can be unpredictable)
- reduced revenue costs on the long-term
- less bureaucratic system 'cutting out' protracted S106 negotiations
- transparency, consistency and speed of negotiations reduces developers risk and will encourage development
- streamlined process once adopted

The 'drivers' for preparing the Havering CIL

1.9 Havering's CIL is being taken forward against a backdrop of:

- continuing pressure on resources (including those of the Council) for funding those items of infrastructure that it has direct responsibility for
- the importance of the quantum / timing of new infrastructure provision supporting the Council's ambitious planning, transport and economic development strategies such as the Havering Local Plan, the two Housing Zone proposals and the Council's twelve estates regeneration programme
- the importance of securing funding towards the provision of infrastructure
- the necessity of robustly identifying and resolving specific key infrastructure issues that are recognised as important in the wider community (for example, education needs for further school places in Havering and the provision of facilities linked to health services); and
- a continuing and growing focus on infrastructure provision arising from the London Mayor through his planning, transportation and regeneration work
- the new Local Plan for Havering submitted for Examination in Spring 2018 includes an Infrastructure Delivery Plan to support the borough's planned development over the plan period 2016-2031 including the delivery of some 17,550 new homes over the 15 year plan period.

Linking Havering's CIL to its planning policy context

1.10 When it is adopted, Havering's CIL will have a key role in supporting, and informing, the timely and efficient provision of infrastructure to deliver important planning and regeneration strategies including those of the Mayor of

London and Havering itself. The Mayor's London Plan, together with the existing Local Development Framework (2008) forms the development plan for Havering. In due course, it is anticipated that the development plan will comprise the London Plan and the emerging Havering Local Plan when the latter is formally adopted following its Examination later this year. Until then the emerging Havering Local Plan is a material planning consideration.

- 1.11 In regard to the Mayor of London, this will include the current London Plan and other complementary Mayoral strategies and frameworks. This will include the requirement that Havering seeks to achieve, and exceed, the minimum 15 year supply housing target (as set out in Table 3.1 of the London Plan) which for Havering is 11,701 new homes over the period 2015-2025 (with an annual monitoring target of 1,170 new homes per year). CIL will also assist in securing the delivery of the London Riverside Opportunity Area Planning Framework (OAPF) which is Supplementary Planning Guidance to the London Plan. It identifies the Havering part of London Riverside as having the potential to accommodate a new residential community and includes a designated Mayoral Housing Zone. CIL will also assist in the delivery of infrastructure identified in the OAPF such as a new rail station at Beam Park, public transport improvements, the provision of new community facilities and the transformation of the A1306 corridor into an attractive linear boulevard including a park. The Council has given its own endorsement to the regeneration potential of this area through its non-statutory Rainham and Beam Park Masterplan and Framework (2015) which, inter alia, sets out the Council's priorities for investment in the area. The CIL will also have an important role in the wider regeneration of Romford through its designation as a Mayoral Housing Zone focussed on the Town Centre including the delivery of some 3,300 new homes and community facilities including a new school and a health centre. The recently published Mayor's Transport Strategy (2018) has a focus on delivering good growth, improving public transport, creating jobs and providing 'healthy streets'. Havering's CIL, along with other resources (such as Local Implementation Plan funding from the Mayor of London) will also have an important role in delivering these.
- 1.12 The Havering Local Plan was submitted for Examination in spring 2018. If it is adopted, it will provide an up to date planning policy framework for Havering over the period 2016 – 2031. It is under-pinned by an up to date Infrastructure Delivery Plan which also informs the Havering CIL.
- 1.13 The emerging Local Plan includes the delivery of some 17,550 new homes over the plan period in line with the 15 year supply target in the London Plan. The emerging Local Plan brings forward a comprehensive suite of policies which indicate the broad locations for homes, employment, retail, leisure, transport, community services and other types of development. The Local Plan will focus growth and change in the Romford and Rainham and Beam Park areas in line with their Mayoral Housing Zone designations. Romford is identified as having potential to accommodate some 5,300 new homes over the 15 year plan period with at least 4,750 new homes being built over the first 10 years of the plan period and there is potential for delivery to be secured on

further sites in Romford which will increase this. These will be supported by new infrastructure such as new school places, a new health hub, public realm improvements and enhanced connectivity. Rainham and Beam Park are identified in the emerging Local Plan as having scope for 3,000 new homes being built in the first 10 years of the plan period. These will be supported by a new station at Beam Park, public realm and connectivity improvements along the A1306, better bus connections and 'penetration', new school places, improvements to sports and leisure facilities and a new health centre.

Technical matters linked to CIL

- 1.14 CIL regulations set out a detailed process which local authorities must follow to establish an adopted CIL charge.
- 1.15 The key requirements for being successful in establishing a CIL are;
- to have up to date evidence on local development markets and infrastructure requirements
 - to demonstrate that there is a funding 'gap' between the cost of necessary infrastructure and the funding available
 - to strike an appropriate balance between the level of CIL charge and its potential effects on economic viability
 - understanding the relationship between CIL and Section 106 legal obligations is also important
- 1.16 The Infrastructure Delivery Plan prepared as part of the formal evidence base of the submitted Havering Local Plan has also provided robust and up to date evidence on a wide range of infrastructure types to support the preparation of the Havering CIL.

The key steps and content of CIL

- 1.17 Preparation of a CIL must reflect legislative and statutory requirements and encompasses specific elements :
- Preparation and consultation on a **Preliminary Draft Charging Schedule**
 - Preparation and consultation on a **Draft Charging Schedule**
 - **Examination of the Draft Charging Schedule by an independent examiner**
- 1.18 The preparation of a CIL includes significant specialist technical work (particularly around the issue of assessing development viability). The CIL must be founded on a robust approach supported by appropriate available

evidence because the CIL will be the subject of an Examination by an independent external assessor (Examiner) before it is adopted.

- 1.19 The Council has engaged specialist consultants (Inner Circle Consulting) with extensive experience and a proven and highly regarded track record of preparing and delivering CIL schemes. Inner Circle Consulting have supported many other local authorities (including London Boroughs) in developing and delivering their CIL schemes. Additionally, they have worked closely with the Government and the Planning Advisory Service on CIL matters.
- 1.20 Additionally, the Council has engaged specialist advisers (BNP Paribas Real Estate) to deal with the viability assessment elements underpinning the CIL. BNP Paribas Real Estate have a significant track record of successfully advising local authorities on viability and defending viability evidence at Examinations. In particular, they have undertaken other work in Havering to support the Council's planning and regeneration programmes including the viability assessment necessary to support the submitted Havering Local Plan.
- 1.21 The Council's Planning Obligations Supplementary Planning Document (SPD) was adopted in 2013 and it applies a standard discounted charge (tariff) for each new residential unit developed. As originally adopted, the strategy seeks to apply a differential charge (either £4,500 or £6,000 depending on geographical location in Havering) on each residential new unit provided with the intention that the 'pooled' funds would be used towards the cost of infrastructure.
- 1.22 More recently, in the light of the Government's restrictions on 'pooling' arrangements of the CIL regulations), the Council's 'tariff' approach has been adjusted.
- 1.23 It now focuses on securing funds towards education infrastructure costs in the recognition that there is a severe school place shortage across most of Havering. Since the Regulations came into effect (2015), the Council has continued to require contributions to mitigate the impact of additional dwellings on education infrastructure. Accordingly, the Council has continued to seek developer contributions of up to £6,000 per dwelling towards the cost of education infrastructure. Planning Inspectors have generally supported this approach in the light of robust evidence on school place shortages. Further the Council has taken the stance that its approach can be applied to developments of less than 10 units because it is applying the charge to mitigate the impact of the development on education and once the monies are received these would be allocated to ensure the funding is related to a secondary school in Havering or a primary school close to the site. Measures are employed to ensure that no more than five contributions would be pooled for an individual project.
- 1.24 It is recommended that the current Planning Obligations SPD will be revoked on adoption of the Havering Community Infrastructure Levy.

- 1.25 The Council may wish, in due course, to bring forward an updated Planning Obligations SPD which will provide guidance to developers on the site specific obligations that will not be captured by the Havering CIL. This could, for example, include guidance on affordable housing, skills and training and highways obligations. This would be taken forward as one of a number of SPDs that will support the Havering Local Plan once it is adopted.

2. Progress on the Havering Community Infrastructure Levy

- 2.1 Havering published its CIL Preliminary Draft Charging Schedule (PDCS) for public consultation in 2015. The accompanying documents comprised:

- a Preliminary Draft Charging Schedule
- a Viability Appraisal Assessment
- an Infrastructure Evidence Base document

- 2.2 The following actions were undertaken :

- notification of the consultation was sent to stakeholders included on the Council's planning policy consultation database
- the consultation documents were available on the Council's website
- copies of the documents were made available for inspection at the Council's main offices and libraries
- a Statutory Notice was published

Key content of the Preliminary Draft Charging Schedule (PDCS)

- 2.3 In summary, the key elements of the Preliminary Draft Charging Schedule CIL documents were :

- different CIL rates for new developments depending on their location and use.
- two 'charging zones' for CIL (one on either side of the A1306)
- different CIL rates for open market residential, private care / retirement housing depending on their location relative to the A1306
- different CIL rates for retail uses depending on their size and location
- a CIL rate for hotels
- no CIL charges for offices and industry

The consultation responses received at the PDCS stage

- 2.4 A total of 16 responses were received from stakeholders including residents, the London Mayor, neighbouring boroughs, technical advisers to landowners, and national bodies (such as Highways England and Natural England).

2.5 Several responses supported the introduction of CIL and the Council's approach to it and recognised the opportunities that it afforded from combining developer contributions.

2.6 The main issues raised during the consultation included:

- concern that the CIL would adversely impact on economic performance
- concerns about the viability assessment underpinning the CIL
- concern that the CIL did not reflect the then current CIL Regulations in regard to the balance to be achieved between securing funding towards infrastructure and viability
- concern about the Council's approach to setting CIL charges generally
- specific concerns about a differential tariff between large and small retail units
- greater clarity needed on definitions (particularly regarding retail)
- concerns about the ability of town centre development to support the levels of CIL proposed
- infrastructure should encompass green infrastructure and a strategic approach is needed to the natural environment rather than ad hoc
- the CIL should be prepared alongside the (then) new Havering Local Plan to ensure that it (CIL) is underpinned by a robust evidence base in regard to assessed need for housing and commercial development and that the impact of the proposed CIL rate could be tested against the delivery of the Local Plan
- absence of a Regulation 123 list (as required by CIL Regulations according to the respondent)
- support for emergency facilities having a 'nil' CIL charge and request for these to be included in the Regulation 123 list
- concern that town centre residential development at high density will not support proposed CIL rates
- recognition that the potential income from CIL will only make a small contribution towards the infrastructure funding gap
- welcome that CIL recognises the need to support transport infrastructure
- suggestions that CIL charges could be offset by land transfer to assist the Council in fulfilling its statutory duties and meeting local needs
- concern that CIL has a more significant impact on retirement housing than on general housing
- noted that the CIL had taken Mayoral CIL into account and would not jeopardise the objectives and policies of the London Plan
- comments about the funding for motorways and trunk roads
- CIL monies should be used to support new infrastructure (schools, community and health facilities) for new developments
- specific items were identified to be funded through CIL (such as a new crossing over Waterloo Road near the former Oldchurch Hospital site)
- two adjoining (neighbouring) authorities had no comments
- a resident thought his rates already paid for all infrastructure

2.7 **Appendix 1** summarises the representations received. It provides a recommended response to them which the Cabinet is being asked to approve. It is important that in preparing the Draft Charging Schedule, the Council can show how it has dealt with any earlier representations.

2.8 In the period since the PDCS consultation, the focus has been to ensure that the CIL has a sound and up to date evidence base and has a robust approach to viability. Particular regard has been had to ensuring that the infrastructure necessary to support the Local Plan and to support the planned growth of the borough is reflected in the Infrastructure Evidence Base document that underpins both the CIL and the Local Plan. Consideration has also been given to the other planning and regeneration initiatives that have been initiated such as the Housing Zone proposals for Romford and Rainham and Beam Park.

3. The preparation of the recommended Draft Charging Schedule

3.1 The recommended Draft Charging Schedule (and linked items) takes account of:

- The comments received during the consultation on the Preliminary Draft Charging Schedule
- The development envisaged in the submitted Havering Local Plan
- Updated evidence on infrastructure requirements in line with the development envisaged in the submitted Havering Local Plan (and based on the Infrastructure Delivery Plan)
- An up to date picture on the potential funding for infrastructure
- A comprehensive and robust review of viability matters

3.2 As required through legislation and regulation, the proposed CIL charges in the Draft Charging Schedule are underpinned by a careful and thorough review of development viability to ensure that they take account of market intelligence and that they will not put the delivery of development at risk. Within this context, the recommended Draft Charging Schedule recognises the importance of Havering securing appropriate and timely infrastructure to support change and growth in the borough and seeks to optimise the potential CIL income to assist this.

3.3 The recommended CIL charges are set out below (Section 4). In short, the proposed CIL rates for residential uses (only) are recommended to be uplifted as a result of the up to date viability assessment. This evidence identifies that given the improvement in the market since the initial viability assessment was undertaken informing the Preliminary Draft Charging Schedule, this can be accommodated without adversely impacting on viability.

3.4 The Draft Charging Schedule must be formally published for public consultation. The Council must also publish appropriate and available

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evidence on infrastructure costs / other funding sources and economic viability that have informed the preparation of the Draft Charging Schedule.

3.5 To that end, robust supporting evidence and justification for the recommended CIL charges has been prepared and is recommended for approval. The documents recommended for approval include:

- an Infrastructure Funding Gap Report (2018) to set out the infrastructure funding gap that the introduction of CIL is seeking to reduce (alongside other funding sources). This is informed by the Infrastructure Delivery Plan (March 2018) which supported the Havering Local Plan
- a draft Regulation 123 list of infrastructure projects or types that are intended to be funded by CIL. The list forms part of the 'appropriate available evidence' for consideration at the forthcoming CIL examination (See Sections 5 & 7, respectively below)
- a Viability assessment report (2018)
- an Infrastructure Delivery Plan (2018)

3.6 The Draft Charging Schedule also includes details of how CIL charges can be paid by means of instalments.

4. The recommended Draft Charging Schedule

4.1 The recommended Draft Charging Schedule is set out in **Appendix 2**. The key points are:

- retention of two charging zones for Havering
- increases in some of the CIL charging rates
- clarification on residential type uses that will be subject to CIL
- definitions clarified

4.2 The table following sets out the proposed CIL charges:

Table 1 – Recommended Havering CIL Draft Charging Schedule

TYPE OF DEVELOPMENT (and Use Class)	CIL RATE (£ PER M ² OF NET ADDITIONAL FLOORSPACE)	
	ZONE A (NORTH)	ZONE B (SOUTH)
Open market residential (C3)	£125	£55
Private care/ retirement housing (excluding Extra Care)	£125	£55
Office and industrial (B)	£0	
Retail – supermarkets*, superstores and retail warehouses** above 2,000 m ² gross internal area	£175	
Retail – below 2000m ² gross internal area in Metropolitan, District and Local centres as defined in the Local Plan	£50	
Hotel (C1)	£20	
All other development	£0	

* Supermarkets/Superstores are defined as shopping destinations in their own right, where weekly food needs are met, catering for a significant proportion of car-borne customers, and which can also include non-food floorspace as part of the overall mix of the unit.

** Retail Warehousing is defined as shopping destinations specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering for a significant proportion of car-borne customers.

5. The recommended Havering CIL Regulation 123 list

5.1 The documents published at the Draft Charging Schedule stage will include a document to identify those projects or types of infrastructure that the Council intends to fund, or may fund, through the CIL. This is known as the Regulation 123 list. The preparation of its Regulation 123 list will enable Havering as a CIL ‘Charging Authority’ to clearly set out its approach to securing funding towards infrastructure matters with particular regard to those topics it will seek to use CIL monies for and those matters which it will continue to secure funding for through Section 106 planning obligations. In developing its Regulation 123 list, the Council has had regard to its Infrastructure Delivery Plan and its emerging Local Plan. These set out very clearly the key areas of

growth in Havering and the infrastructure that will be needed to support and deliver these. The Infrastructure Delivery Plan identifies key infrastructure projects, identifies delivery agencies, indicative programming and potential funding sources.

5.2 The recommended Havering Regulation 123 list differentiates between :

- types of infrastructure that the Council will make funding contributions towards through CIL
- areas and on-site / off-site and site specific matters where planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended) or another source of funding will continue to be utilised to help deliver infrastructure through securing financial contributions from developers

5.3 A copy of the recommended draft Regulation 123 list is set out in **Appendix 3**. It will be noted that :

- the types of infrastructure that the Council will seek to use CIL monies for are listed in **Column 1**. None of these matters will be eligible for developer contributions secured through Section 106 planning obligations (to avoid 'double-dipping')
- there will be some infrastructure matters not covered by the Regulation 123 list for which the Council will **not** seek CIL contributions. It will continue to use planning obligations to secure them and these are listed in **Column 2** and in the supporting text beneath the table
- there are some specific elements of infrastructure not covered by the Regulation 123 list which are required to support identified growth and change in particular areas of Havering as set out in its planning and regeneration strategies and initiatives as well as supporting items such as the Infrastructure Delivery Plan. The Council will seek funding through planning obligations for these rather than CIL and these are identified in **Column 3**

5.4 In considering the assignment of infrastructure 'types' and 'matters' to the table in the Regulation 123 list, officers have had very careful regard to ensuring that the Council will be able to use most effectively, and efficiently, the funding that it secures from developers through both its CIL and planning obligations contributions **and, importantly, that the overall funding 'pot' towards infrastructure is maximised, as far as is possible**. It must be recognised, however, that whilst the monetary outcomes from CIL are likely to be more predictable because of the inherent nature of the process, the likely outcomes that will be achieved from negotiating with developers for contributions that will be secured through planning obligations may be less certain. It is considered that as part of the planning service restructure

consideration should be given to enhancing the skills and capacity of staff in this area to help ensure that contributions to the Council from developers are maximised.

5.5 A number of considerations have been reflected in assigning infrastructure types and matters within the table and these are briefly set out below so that Members can have confidence that the objectives above (para. 5.4) will, as far as possible, be secured. They include :

- additional housing development will, in most instances, have a direct impact on existing infrastructure such as schools, health and community facilities and for this reason it is appropriate to include all of these matters in Column 1 in the Regulation 123 list so that the Council can accumulate a steady stream of funding to be put towards further provision
- housing development may not in itself result in a demand for more infrastructure (such as transport facilities or utilities) but it may require the impact of development to be mitigated through improvements to existing infrastructure or the provision of new infrastructure. The table indicates that this will continue to be addressed through planning obligations following negotiations with developers.
- securing funding through robust negotiation with developers and subsequent planning obligations may more readily enable the Council to secure a quantum of funding that is more appropriate having regard to the scheme's 'value' than if it were based simply on the application of formulaic CIL charging rates
- it may be impractical to deliver some infrastructure through CIL because its significant overall cost would require a lengthy period before a large enough CIL 'pot' was accumulated (and other infrastructure may be making demands on the overall 'pot' concurrently). In these cases, it will be more appropriate for funding to be secured through specific planning obligations. The Council's proposed strategic transport improvement projects (such as better north-south connections and remodelling Gallows Corner) are types of strategic infrastructure matters that will more appropriately be dealt with through planning obligations. Furthermore, other potential funding sources may regard accumulated CIL funds for major projects and programmes as a reason for reviewing their own commitment towards funding these
- CIL provisions enable developers to pay their CIL liabilities in instalments. Securing developer contributions through planning obligations will provide the opportunity for the Council to seek to achieve earlier contributions towards necessary infrastructure

- 5.6 The inclusion of a project or type of development in Column 1 of the Regulation 123 list will not signify a commitment from the Council to fund (either in whole or part), the listed project or type of infrastructure through CIL. The Regulation 123 list will not imply any order of preference for CIL funding.
- 5.7 The Regulation 123 list will be a 'living' document which provides a summary of the infrastructure that the Council considers it may use CIL funds for in whole or part. In determining its content, the Council will have regard to its planning and regeneration strategies as set out in the Havering Local Plan and other strategies and programmes. The Council will keep its Regulation 123 list under review to ensure that it accurately reflects the need for infrastructure in Havering and, as necessary, it will amend the Regulation 123 list.

6. Public consultation on the Draft Charging Schedule and supporting items

- 6.1 The public consultation on the Draft Charging Schedule will reflect the requirements of the Council's adopted Statement of Community Involvement.
- 6.2 It is recommended to comprise:
- a 6 week public consultation period commencing in August 2018
 - latest position on CIL preparation and consultation documents being set out on the Council's website
 - consultation documents being made available in all Havering libraries and at the PASC
 - Statutory Notice published
 - notification sent to those registered on the Council's planning policy database

Additionally:

- correspondence from the Council to planning agents and developers will include reference to the latest stage in CIL preparation
- text on the latest stage of CIL preparation will be included beneath the e-mail 'sign-off' for all officers in the Council's planning and economic development service(s)

7. Moving the Havering CIL towards the Examination after public consultation

- 7.1 At the conclusion of the Draft Charging Schedule stage public consultation, the Council will need to decide if it wishes to make any modifications to the proposed CIL before it is submitted for formal Examination by an independent Examiner. The Council will need to take steps to inform people who were

invited to make comments on the Draft Charging Schedule that the revised draft Charging Schedule has been published.

- 7.2 It is recommended that the approval of any modifications and submission of the CIL be delegated to the Executive Director of Neighbourhoods in consultation with the Leader of the Council.
- 7.3 The Council's Statement of Community Involvement requires that the consultation on the Draft Charging Schedule stage of the Havering CIL will be six weeks. A four week period is required after the publication of proposed modifications to enable further comments to be submitted from stakeholders who made comments at the Draft Charging Schedule stage and for stakeholders to confirm if they wish to be involved in the Examination
- 7.4 The Examiner will primarily examine the evidence base of the CIL and the viability work that underpins it especially if third parties have commented on this in any representations.
- 7.5 In regard to the CIL charges proposed for Havering, these are higher than those in place currently for some of its neighbours (but lower than others). It should be noted, however, that CIL charges in neighbouring boroughs are themselves being prepared or, where already in place, are being reviewed by the relevant authorities and are likely to be increased. The Council's proposed CIL rates are based on robust evidence and are appropriate taking into consideration the local viability and development context.
- 7.6 Typically, a Local Planning Authority submitting its CIL Charging Schedule would do this to the Planning Inspectorate (PINS) and an Examiner appointed by PINS would then undertake the formal Examination.
- 7.7 Through the 2008 Planning Act, charging authorities are able to have their Draft Charging Schedules reviewed by an appropriately qualified Examiner from outside of PINS. The responsibility on the Council (as the prospective 'Charging Authority') is to ensure 'that this Examiner is independent and has appropriate qualifications and experience.' It is proposed to secure the services of an independent Examiner (through Trevor Roberts Associates) for examination of the Havering CIL because of the potential benefits it may secure for the overall programme. Specifically, an Examiner can be 'assigned' to the Havering CIL at an early opportunity rather than when the CIL is formally submitted and the Examiner can focus solely on progressing the Havering CIL.
- 7.8 Subject to Cabinet approval, the consultation on the Draft Charging Schedule will commence as soon as possible after Cabinet. It is expected that the Examination will be in early autumn 2018.
- 7.9 Following the Examination, the Council will receive a report from the Examiner setting out if the CIL can be formally adopted as submitted or if the Examiner considers that it requires modifications.

- 7.10 It is not possible to be certain about the programme beyond publication of the Draft Charging Schedule as the number and complexity of responses cannot be known at this stage.
- 7.11 The CIL will be required to be monitored and kept under review (See Section 9 below). The Examiner may include a recommendation about the timing of any review of the Havering CIL after its adoption. Thereafter, the Council can review and amend its CIL whenever it wishes subject to it following the necessary procedures.
- 7.12 The Council is anticipating that the CIL could be adopted by full Council in early 2019 following prior consideration by Cabinet.

8. How will Havering use its CIL receipts

- 8.1 The Council will be able to use CIL receipts on infrastructure needed to support new development across Havering in accordance with the Regulation 123 list.
- 8.2 Unlike Section 106 Planning Obligations, CIL receipts will not be 'earmarked' at the time of collection for particular infrastructure. Instead they will be 'pooled' into one overall CIL fund which will be used to contribute towards the cost of any infrastructure identified in the Regulation 123 list needed to support new development in Havering.
- 8.3 CIL Regulations says that a proportion of the CIL funds (a minimum of 15% depending on circumstances) collected should be spent in neighbourhoods where the development giving rise to the CIL charge will be located. The Council welcomes the opportunity in principle to engage with local communities on this aspect of CIL. It will, in due course, be developing a mechanism to do this.
- 8.4 In addition to new infrastructure, the Council will also be able to use CIL receipts to expand and enhance existing infrastructure or for the on-going maintenance or operational costs of providing infrastructure. These costs must be directly related to the additional demands arising from new development.
- 8.5 The Council is likely to have to make challenging choices about its priorities for CIL funding. It will need to develop robust mechanisms for prioritising and allocating the funding it collects through CIL.
- 8.6 The mechanism is likely to involve strategic decisions by Cabinet on priorities coupled with periodic review of the Infrastructure Delivery Plan. The mechanism for this is not required to be resolved as part of the approval of the Draft Charging Schedule.

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- 8.7 The Council will also have to publish an annual summary of how it uses CIL funds it collects as the 'charging authority' (see comments above in Section 1).
- 8.8 The current proposed restructure of the Council's Planning Service is anticipated to introduce a specific team with responsibility and capacity for infrastructure and CIL work.
- 8.9 The Council will also be able to draw upon CIL monies (up to 5%) to contribute to the up-front and continuing costs of preparing and implementing its CIL.
- 8.10 In parallel to the work on the Draft Charging Schedule, work has also been taking place to develop robust processes and procedures in development management to implement the Havering CIL when it is adopted. This will include work to ensure the necessary systems and processes are tested and in place to maintain development management performance, to ensure a smooth transition between Section 106 planning contributions and the receipt of CIL.

9. Monitoring the Havering CIL

- 9.1 The Council will be required to monitor its CIL performance including receipts and spending. It is expected that this work will be led by staff with responsibility for infrastructure in the proposed restructure of the Council's planning service.

10. The London Mayor's CIL

- 10.1 The London Mayor has implemented his own CIL scheme to assist with strategic transport projects, specifically the funding of the Crossrail project.
- 10.2 The current Mayoral CIL is expected to generate some £300m towards the £15 billion overall cost of the original Crossrail scheme. All development (except schools and health facilities) has to contribute.
- 10.3 The current Mayoral CIL applies to all London boroughs and there are differential rates across London. The Mayor's CIL has priority over any borough CIL and is a first charge on developments. The applicable rate for Mayoral CIL in Havering is £20 per sqm. Subject to a satisfactory outcome from the Examination, the Mayor is expected to introduce a revised Mayoral CIL in April 2019 (the charge for development in Havering will be £25 per sqm and this will replace the current Mayoral CIL charge).
- 10.4 The legislation allows for, and the Mayor intends to, extend Mayoral CIL to secure contributions towards the cost of other strategic transport projects and programmes.

- 10.5 As with CILs across the rest of London, the proposed CIL rates for Havering will be over and above the payments that developers in Havering must pay in respect of any Mayoral CIL.

11. Conclusion and next steps

- 11.1 The Council is committed to the timely and efficient delivery of infrastructure to support residents and businesses in Havering. When adopted CIL will provide a contribution towards helping ensure that Havering secures the infrastructure necessary to support the delivery of its planning and regeneration strategies. As such, it will help to ensure that residents are able to enjoy a high quality of life founded on the infrastructure that they need for day to day living. It will assist also in ensuring that Havering remains a borough with a high quality environment and high levels of transport accessibility and connectivity where people want to live and businesses want to invest. Notwithstanding the scope arising from CIL, it will remain essential, however, for the Council and other stakeholders to continue to explore every opportunity to secure funding from other sources to complement and augment CIL monies.
- 11.2 Subject to Member approval, the Council will undertake public consultation on the Draft Charging Schedule and submit it to the Secretary of State for independent Examination.

REASONS AND OPTIONS

12. Reasons for the decision:

- 12.1. Improved infrastructure provision is necessary to support and complement development in Havering and to ensure that it is a place where people want to live and have a high quality of life and where businesses will want to invest.
- 12.2. The Council has to look at every opportunity to secure funding towards the cost of infrastructure given the constraints on resources.
- 12.3. A Community Infrastructure Levy scheme provides the opportunity for the Council to secure funding towards the cost of infrastructure necessary to support change and growth in Havering in line with its planning and regeneration strategies.

13. Other options considered:

- 13.1 The Council's Planning Obligations Strategy Supplementary Planning Document (SPD) (adopted 2013) was prepared in the recognition that financial contributions from developers would be combined to be used towards the funding of infrastructure. It was envisaged that in due course the SPD would, with appropriate revisions and updating of the evidence base,

- assist the Council in bringing forward a Community Infrastructure Levy scheme for Havering.
- 13.2 There are very limited genuine alternative options to preparing a Havering CIL. Boroughs without a CIL are currently constrained as to how they can use funding secured from developments towards infrastructure because of the restrictions on 'pooling' contributions.
- 13.3 The change and growth envisaged in the emerging Havering Local Plan (and other strategies such as the draft London Plan) must be accompanied by significant investment in infrastructure if that change and growth is to be accommodated effectively and to have a good 'fit' with existing development and communities.
- 13.4 A Havering CIL will provide an important income stream towards the cost of that infrastructure. It will not, however, be sufficient in itself to cover the total cost of the infrastructure. The Council and other stakeholders will have a continuing responsibility to explore scope for other funding sources and to take steps to secure that (often in competition with other stakeholders).
- 13.5 Havering bringing forward a CIL scheme responds to the current limitations identified elsewhere in this report from using Section 106 planning obligations to assist in funding infrastructure (including the 'pooling' restrictions).
- 13.6 The proposed CIL charging rates and the geographical areas to which they will apply have been carefully considered by the consultants. On balance, they are considered to achieve the best balance of potential CIL income against early adoption of the Havering CIL. In the view of the consultants, the proposed CIL rates retain adequate / reasonable viability for developers and will not put the delivery of development and the Local Plan at risk. Consideration was afforded to recommending higher CIL rates and or additional charging zones, but this was felt to have an increased risk of both successful challenge and delay to the adoption of CIL.

IMPLICATIONS AND RISKS

14. Legal implications and risks

- 14.1 The power to charge by way of the CIL was introduced by Part 11(Sections 205-225) of the Planning Act 2008. The Community Infrastructure Levy Regulations 2010 (as amended in 2011 and 2012) deal with the detailed implementation of CIL and cover matters such as the procedure for setting CIL, the charging and collecting of the levy and liability for payment. A charging authority cannot adopt CIL unless it has first produced a charging schedule based on appropriate available evidence, which has informed the preparation of the charging schedule.

- 14.2 Setting and reviewing the Community Infrastructure Levy (CIL) must follow a statutory process, as defined in the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended). In addition, there is considerable Government Planning Policy Guidance dealing with the approach to be adopted in setting and reviewing rates within the Charging Schedule.
- 14.3 The process requires demonstrable consideration of evidence and consultation of that evidence. There is also a requirement to consider the outcome of that consultation prior to setting or reviewing a rate, which includes external validation by an examiner and is subject to any modifications recommended by the examiner.
- 14.4 In order to set a CIL Charge, the authority, in line with the regulations, must have:
- a. An up to date development plan (in this case the Local Plan strategy);
 - b. Evidence of infrastructure funding gap (to justify a future CIL Charge and Regulation 123 list);
 - c. Evidence on viability and the need to strike an appropriate balance between the desire to fund infrastructure and the effects on economic viability.
- 14.5 This report illustrates that the tests above have been met in that;
- a. The Council has prepared an Infrastructure Delivery Plan (2018) to support the proposals in the Local Plan Strategy. This consultation document on the draft charging schedule should be read in conjunction with the Infrastructure Delivery Plan. The Infrastructure Delivery Plan sets out what infrastructure is considered to be required in the Borough to support development and the funding sources based on appropriate available evidence.
 - b. The Localism Act 2011 amends the Planning Act 2008 to allow for the making of regulations requiring charging authorities to pass money raised through CIL to other bodies for spending on infrastructure or any other matter that supports development by addressing demands that the development places on the area. It should be noted that CIL will form one funding stream, which will be used to reduce any funding gap to support the proposals in the emerging Local Plan Strategy and will be used alongside other funding sources including that from central government, the Local Authority's own capital receipts or other mechanisms such as S.106 agreements / S.278 agreements.
 - c. The Infrastructure Delivery Funding Gap Report notes a total funding gap that justifies the creation and implementation of a CIL charging schedule, alongside other funding sources, to deliver appropriate infrastructure in

the Borough to support the proposals contained within the emerging Local Plan Strategy.

- d. The Council's CIL Charging Schedule is being prepared in accordance with the provisions of the CIL Regulations 2010 (as amended). Any further amendments to the regulations will be taken into consideration prior to the Schedule being made. A key test in deriving a CIL rate is that it must not have a detrimental effect on development (taken as a whole) in the borough area. Regulation 14 of the CIL Regulations recognises that the CIL rate set may put some development at risk. A charging authority must look at the potential effects of charges "taken as a whole" on the viability of development "across its area". Evidence may show that proposed rates may make a particular development on any given site unviable. But, unless that development threatens the delivery of the plan as a whole, the duty (to achieve an appropriate balance) in Regulation 14 is still likely to be met.

14.6 Section 213 of the Planning Act 2008 provides that charging authority (in the case of Havering full Council) must approve the charging schedule at a meeting of the authority and by a majority of votes of members present.

14.7 The Act and the Regulations also provide for a mechanism and process for the review of the Regulation 123 list.

15. Financial implications and risks:

15.1 Introduction of a CIL will enable the Council to secure developer contributions towards the provision of specific infrastructure matters within the borough with these monies being outside the 'pooling' restrictions currently in place for contributions from developers. The level of CIL funds generated will be dependent on the type, size and quantity of development in the borough. The Infrastructure Funding Gap report (Appendix 4) identifies that the projected CIL income over the 15 year period of the new Havering Local Plan could be more than £60m.

15.2 CIL will be another potential funding stream towards the cost of infrastructure (as identified in the recommended Regulation 123 list set out in Appendix 3 to this report). It will sit alongside the financial contributions that the Council will continue to seek to secure from developers for on-site / off-site / site specific infrastructure. As is required, the Regulation 123 list clearly distinguishes between those infrastructure matters that the Council will seek to allocate CIL funding towards (Column 1 of the table) and those infrastructure matters (in Columns 2 & 3 of the table and in the supporting text beneath it) that will remain as matters that the Council will seek to secure funding for through Section 106 planning obligations.

15.3 The Council has produced viability evidence to inform the setting of its CIL rates as well as providing supporting evidence of the infrastructure funding gap based on the Havering Local Plan. (As referenced in the Infrastructure

Funding Gap Report and the Viability assessment, appendices 4 and 5 respectively).

- 15.4 The level of contributions received under CIL will represent only a proportion of the cost of the infrastructure needs of Havering and as such funding will need to be allocated to projects which are identified as having the highest priority. (As referenced in Appendix 3, Draft Regulation 123).
- 15.5 As set out in the body of the report, CIL legislation and regulation requires that a proportion of CIL funds from a development are spent within the area where the development is located. The proportion varies from 15-25% depending on factors such as whether there is a neighbourhood plan in place and if there are parish, community or town Councils in place. In the case of Havering, the proportion to be spent in the local neighbourhood will be required to be 15%.
- 15.6 In undertaking the work to establish a CIL for Havering, the Council has employed specialist advisers and an estimated cost of around £75,000 has been incurred which is currently unfunded. A request for corporate funding will be made forthwith to cover these costs.
- 15.7 In future years, the Council will be able to use an element of the CIL monies towards the cost of administering and collecting the CIL itself. There are provisions within the CIL regulations to use up to 5% of funds derived from CIL to administer and monitor the system. The table below shows the potential range of CIL income that would be available to fund the costs of administration of the CIL.

CIL Cashflow	Indicative	Annual CIL	Potential Range of CIL	
	Total CIL		5% administration	
	income	income	funding	
	£m	£m	£m	£m
Whole Period - 15 years	67.044			
Years				
1 to 5	14.035	2.920	0.073	0.146
6 to 10	16.647	6.722	0.168	0.336
11 to 15	16.361	2.223	0.056	0.111

- 15.8 Havering CIL charges will be collected from developers alongside any relevant London Mayoral CIL charges as one overall CIL obligation. Havering will then forward Mayoral CIL monies to the London Mayor as it does currently.

16. Human Resources implications and risks

- 16.1 There are no specific implications for the Council's workforce arising from this report.
- 16.2 The work involved in progressing the CIL through consultation and examination will be undertaken by officers in the Development Service except where it is necessary to engage the specialist skills provided by the consultants retained to advise on the preparation of the Havering CIL.
- 16.3 The new Infrastructure Team proposed to be established in the proposed restructure of the Planning Service will include an Infrastructure team who will take responsibility for the collection, allocating spend and reporting of CIL.

17. Equalities and diversity implications

- 17.1 The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:
- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
 - (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, gender, race and disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender re-assignment.

- 17.2 The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.
- 17.3 The Community Infrastructure Levy is unlikely to have an adverse impact on any social group. By making communities more sustainable, the Community Infrastructure Levy will facilitate economic growth and liveability and so create opportunity for all. The infrastructure and services that the Community Infrastructure Levy will provide will enhance accessibility and liveability for all sectors of society, and could help to deliver new infrastructure that serves different needs within the community, for example by increasing mobility and accessibility.
- 17.4 The Havering Community Infrastructure Levy, including the Preliminary Draft Charging Schedule will be subject to public consultation and will be informed by the emerging new Havering Local Plan and its Equalities Impact Assessment.

17.5 If after the consultation and the Examination the Council decides to adopt the CIL it must ensure that:

- There is a transparent governance structure in place (including clear priorities and criteria) for allocating CIL funds or granting discretionary relief from CIL charges.
- All decisions on allocating funds or granting discretionary relief are fair and consistent, consider the needs of local communities and businesses, and adhere to the Council's Public Sector Equality Duty.

BACKGROUND PAPERS

None.