

Item No.	Classification: Open	Date: May 2017	Meeting Name: Director of Planning
Report title:		Community infrastructure levy (CIL) draft charging schedule	
Ward(s) or groups affected:		All	
From:		Planning Policy Manager	

RECOMMENDATIONS

- 1 That the Director of Planning in consultation with the Cabinet member for Regeneration and New Homes in accordance with the authority delegated by Cabinet on 24 January 2017:
 - Notes the responses to consultation (summarised in paragraph 22 of this report) on the draft Community Infrastructure Levy (CIL) charging schedule (Appendix A) and that no modifications are proposed to the schedule following consideration of the consultation responses.
 - Notes that the draft CIL charging schedule will therefore be submitted without modification to an examiner for an examination-in-public in accordance with the decision of the Cabinet on 24 January 2017.
 - Notes that the draft Regulation 123 list, the infrastructure plan and the equalities analysis will also be submitted to the examiner as part of the evidence base for CIL.

BACKGROUND INFORMATION

Old Kent Road Opportunity Area

- 2 Working with the GLA and wider stakeholders the council is preparing the Old Kent Road Area Action Plan (AAP). The draft AAP is planning for significant growth of 20,000 new homes and 5,000 additional jobs in the Old Kent Road opportunity area.
- 3 Key growth drivers include delivery of the Bakerloo Line extension and wider transport improvements. Developments will be expected to contribute to funding this infrastructure through the Community Infrastructure Levy (CIL) and section 106 planning obligations.
- 4 The ambition and vision in the emerging Old Kent Road AAP is changing land values in the opportunity area. The council is therefore revising its CIL charging schedule so that CIL rates reflect current land values and to maximise the funding which can be generated for new infrastructure, while also ensuring that other policies objectives, such as provision of affordable housing, can continue to be met.

CIL

- 5 The CIL is a levy that local authorities can choose to charge on new developments in their area. The money can be used to support development by funding infrastructure that the council, local community and neighbourhoods

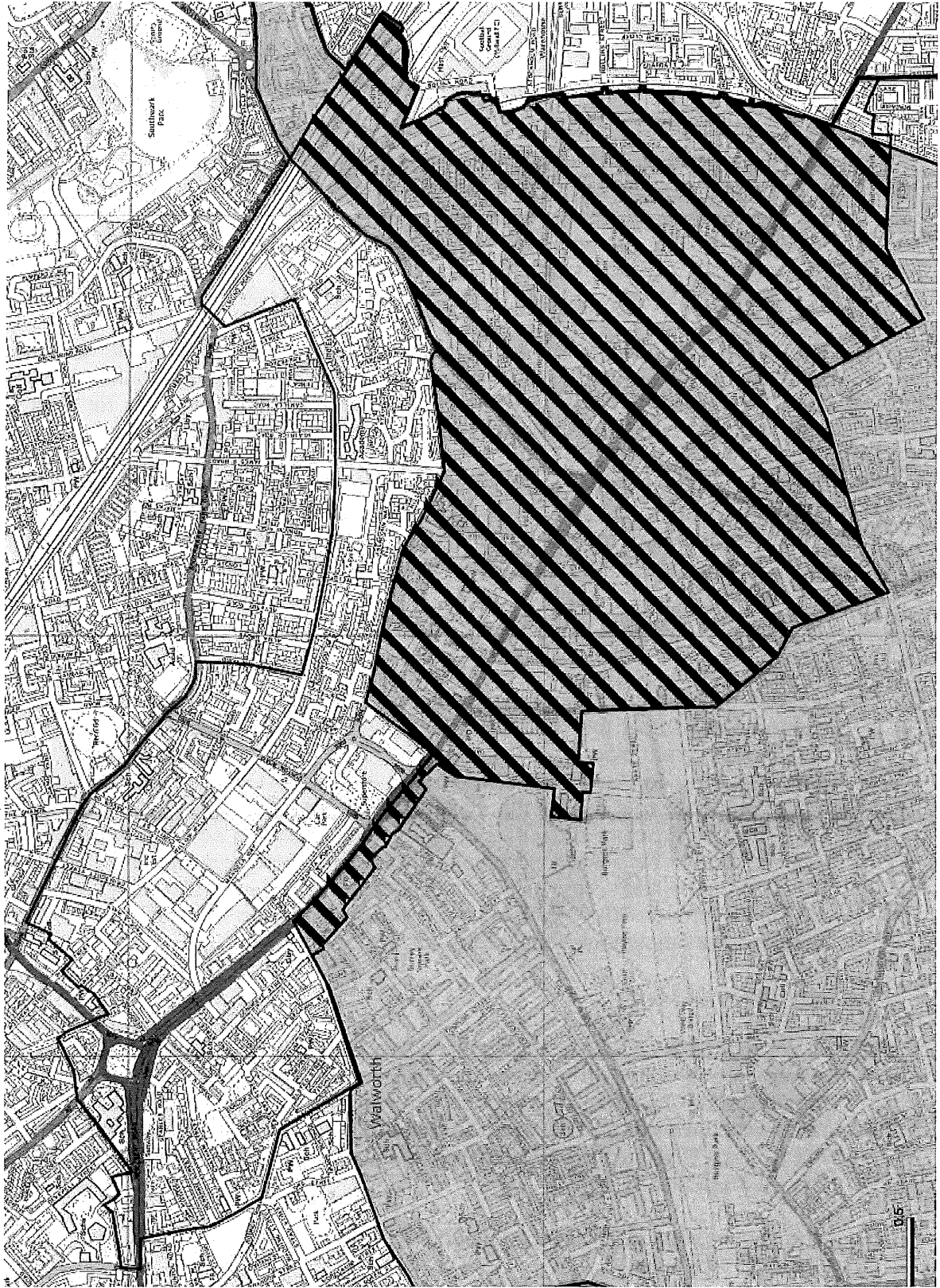
want. Infrastructure is defined in the CIL Regulations to include: roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities and open spaces. The benefits are increased certainty for the funding and delivery of infrastructure, increased certainty for developers and increased transparency for local people.

- 6 If intending to apply the levy, councils (which are designated as “charging authorities”) must produce a document called a charging schedule which sets out the rate for their levy. These rates must be supported by an evidence base including:
 - An up-to-date development plan
 - The area’s infrastructure needs
 - An overall assessment of the economic viability of new development
- 7 The levy is a compulsory charge levied on most new developments that involve an increase of 100sqm or more of additional floorspace, or that involve the creation of a new residential unit. The charging authority can set one standard rate or it can set specific rates for different areas and types of development.
- 8 Some developments are exempt from paying the levy. These are developments of affordable housing and developments by charities of buildings used for charitable purposes.
- 9 It should be noted that in London’s case, the Mayor is also a charging authority. The Mayor has introduced a CIL to fund Crossrail. The Mayor’s levy is £35 per square metre, with a limited number of exceptions. Southwark collects this levy on behalf of the Mayor.

Revision of CIL

- 10 Southwark’s CIL charging schedule was adopted in 2015. This sets rates for residential, hotel, office, retail and other developments. Rates are varied by area, with three separate CIL zones defined.
- 11 The 2015 CIL charging schedule sets CIL rates of £200 per sqm and £50 per sqm for residential developments in CIL charging zones 2 and 3 respectively. The CIL Regulations establish a mechanism for inflating CIL using the All-in-Tender Price Index. By 2017 Southwark’s residential CIL charges are forecast to be £218 per sqm in zone 2 and £54 in zone 3.
- 12 The Old Kent Road Opportunity Area falls across CIL zones 2 and 3. The council proposes to revise the CIL charging schedule to increase the rate paid by residential developments currently falling within CIL zone 3 in the southern part of the opportunity area. By amending the boundary between CIL zones 2 and 3 the whole of the opportunity area will be brought within CIL zone 2 (see Figure 1 overleaf). This is important to help fund the transport infrastructure required to support growth in the opportunity area, including delivery of the Bakerloo Line extension.

Figure 1: Map showing current CIL charging zone 3 (green), OKR OA boundary (red) and area that currently falls within CIL zone 3 which will be brought within CIL zone 2 (hatched)



- 13 No other changes to the CIL charging schedule are proposed beyond increasing the existing CIL rates in line with the All-in-Tender Price Index, as provided for in the CIL Regulations.

Process for preparing a CIL

- 14 The process for preparing a CIL involves a number of stages which are identified below:
- i. Consultation on a preliminary draft charging schedule.
 - ii. Consultation on a draft charging schedule.
 - iii. Submission of the draft charging schedule to an independent examiner, consultation on any post-submission modifications and examination-in-public (the current stage).
 - iv. Receipt of the examiner's report and adoption of CIL.
- 15 The council completed the first stage of revising the existing CIL charging schedule by consulting on the 'preliminary draft charging schedule' between June and November 2016. This set out the initial revised proposals for the CIL rates. Further details of the responses are provided in the next section.
- 16 In January 2017, cabinet agreed to publish the draft CIL charging schedule for consultation and subsequently submit it to the examiner for an examination in public. Consultation took place over a six week period in February and March 2017. The examination is expected to take place in July 2017.

Infrastructure planning

- 17 In conjunction with preparing a CIL charging schedule, authorities should also prepare an infrastructure plan setting out strategic infrastructure required to support growth over the period of the council's local plan. Southwark's updated draft infrastructure plan, which now includes the infrastructure required to support growth in the Old Kent Road Opportunity Area, is set out in Appendix C. The infrastructure plan is part of the evidence base needed to help justify levying a CIL. The infrastructure set out in the infrastructure plan is not an exhaustive list. It is intended to be a living document which can be updated regularly. Omission of infrastructure items from the list would not preclude such items being funded in the future through CIL. Nor does the infrastructure plan commit the council to spending the amounts set out in the plan.

Regulation 123 List

- 18 A key principle of CIL is that after CIL is adopted authorities should not be spending both CIL and section 106 planning obligations on the same item of infrastructure. Government guidance requires authorities to be clear about those items which will not be funded by section 106 planning obligations and set these out in a list. This is called a Regulation 123 list (which refers to Regulation 123 of the CIL Regulations 2010).
- 19 The council consulted on an on amended Regulation 123 alongside the draft CIL charging schedule.

CONSULTATION

- 20 The CIL Regulations 2010 (as amended) set out consultation requirements for

planning documents. In accordance with Southwark's statement of community involvement (SCI), the preliminary draft charging schedule was made available for comment over a twelve week period from June 17 2016 (later extended to 4th November 2016). Following Cabinet in January 2017, the council consulted on the draft charging schedule between 30 January and 13 March 2017.

- 21 In response to the consultation on these documents 14 representations were made. These break down as 2 representations from local residents, 3 representations from statutory bodies and 9 representations from developers.
- 22 The main areas of concern raised in representations are summarised below. The council's responses are summarised in the next section of the report.

Residents

- There should be a zero rated CIL sub-area of zone 3 in the Camberwell area to mitigate for the loss of the Bakerloo Line Extension, and sufficient CIL ringfenced to fund the re-opening of Camberwell station.
- Concern that these proposals will dampen housebuilding at a time of great need for increase.

Developers

- Viability of development. A fixed charging schedule for CIL will require flexibility in the application of other policies, such as the affordable housing requirement, to prevent stalled delivery, such as a 70/30 split for affordable housing towards intermediate as in Peckham and Elephant and Castle.
- Improvements to Canada Water station, Surrey Quays station, junctions on Lower Rd with Surrey Quays station and Rotherhithe tunnel and roundabout, bus, cycle, public realm, pedestrian access and road layout should be included in the Regulation 123 list.
- Charging schedule should have a discounted rate for undercroft or basement car parking associated with a chargeable use.
- The CIL rate for Old Kent Rd should be below zone 2 rate, with different rates for different parts of Old Kent Rd, and a different rate for Build to Rent schemes.
- Changes to the charging schedule should be made in association with changes to the AAP.
- Validity of data used in the viability assessment and the resulting assumptions on growth in sales values, build costs and benchmark land values are questioned in relation to other data sources and market research forecasts.

University/Charity

- Weekly rental for student accommodation is too low and needs to be between £190-200 to reflect the cost of land, fees, construction, finance and profit.

- Infrastructure provision as part of any future development of London Bridge campus will not be adversely affected by CIL policy and that due regard be given to charitable status.

GLA/TfL

- Support for draft CIL charging schedule
- TfL have some queries over the relationship between CIL and s106 planning obligations.

Sport England

- Whether there is a robust evidence base for playing pitches and indoor sports facilities for Southwark.

KEY ISSUES FOR CONSIDERATION

- 23 The council is planning for significant growth of 20,000 new homes and 5,000 additional jobs in the Old Kent Road opportunity area through the emerging Old Kent Road AAP. The delivery of new and improved transport infrastructure, particularly the Bakerloo Line extension, is critical to unlocking the growth opportunities. CIL will make a key contribution towards the cost of delivering this infrastructure.
- 24 The council consulted on the draft charging schedule over February and March 2017. The comments from local residents included a request to nil rate residential floorspace in Camberwell. At this point the council is not proposing to change the adopted CIL rate for Camberwell. However, the council has committed to undertake a borough-wide review of CIL in 2018.
- 25 Chief among the concerns of developers was the impact of CIL on viability and specifically on the quantum of affordable housing that can be achieved. The viability study undertaken to inform the change to the CIL charging schedule indicates that while viability may be challenging for a number of sites, schemes on lower value land that would be expected to come forward in the early years are viable with a range of affordable housing levels. CIL represents a small proportion of overall development costs and therefore does not have a significant influence on making a scheme viable or unviable, or on the level of affordable housing that can be provided. The council's viability testing suggests that where the quantum of affordable housing is affected, on some sites CIL might result in a decrease of up to around 5% eg the site could provide 30% affordable housing, rather than 35%.
- 26 Representations were made requesting differential rates for residential floorspace in the opportunity area and a differential rate for build-to-rent schemes. However, the council's evidence base would not justify a need to apply differential rates.
- 27 A representation was received from a university which noted that while the council has elevated rates in the CIL charging schedule in line with inflation, it has not inflated the rent levels for student housing, below which floorspace would be charged at the lower student housing rate. The Council is of the view that the

existing rent figure of £168 per week should be retained. This is in accordance with the Mayor's latest definition of 'affordable student accommodation' in the Housing SPG. This document sets the rent for this type of accommodation at £155 per week for the academic year 2016/17, with the annual increase to be reported in the Annual Monitoring Report in subsequent years.

- 28 Sport England has raised a concern about the infrastructure evidence base and this will be explored further through the Old Kent Road AAP. GLA and TfL are supportive of the changes to the CIL charging schedule. TfL have some concerns about the Regulation 123 list and officers will continue to engage with them on that matter. British Land also request the addition of other items of infrastructure to the Regulation 123 List including Improvements to Canada Water station, Surrey Quays station, junctions on Lower Rd with Surrey Quays station and Rotherhithe tunnel and roundabout, bus, cycle, public realm, pedestrian access and road layout. In the council's view however, the scale of the proposals envisaged by British Land at Canada Water would require site specific mitigation to address issues associated with the infrastructure at Canada Water.
- 29 Overall it is considered that the change of the CIL zone 2 boundary to ensure that all residential development in the Old Kent Road Opportunity Area pays the higher CIL rate of £218 per sqm represents an appropriate balance between generating funding to secure provision of infrastructure and ensuring that CIL does not put development and regeneration in the borough at risk. No modifications are proposed either to the draft CIL charging schedule or draft regulation 123 list.

Community Impact Statement

Equalities Analysis

- 30 An equalities analysis was undertaken as part of the preparation of the council's existing CIL charging schedule. This was updated to reflect the changes proposed in the revised draft schedule. In accordance with the Equality Act 2010, the analysis considered the potential impacts of the charging schedule on those groups identified within the Act as having protected characteristics. The outcomes were reported in the January 2017 Cabinet report.

Sustainability Appraisal

- 31 The Core Strategy 2011 and emerging Old Kent Road Area Action Plan were subject to sustainability appraisal incorporating strategic environmental assessment to ensure that the principles of sustainable development were thoroughly considered. The Southwark CIL is an extension of the spatial vision and policies set out in the Core Strategy and Old Kent Road Area Action Plan and should not raise additional implications for sustainable development objectives which have not been previously considered; nor should the SPD addendum which involves limited amendments to an existing adopted SPD. The NPPG notes that SPDs do not require a sustainability appraisal.

Financial Implications

- 32 The financial implications of the CIL charging schedule were reported in the January 2017 cabinet report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

- 33 The legal background to the Community Infrastructure Levy is fully explained in the supplementary advice contained in the report to Cabinet entitled ' Addendum to the adopted Section 106 and Community Infrastructure Levy Supplementary Planning Document (2015); Community infrastructure levy (CIL) draft charging schedule; and Regulation 123 lists' which was considered on the 24 January 2017. That advice is not repeated here save where it is helpful to explain and underline the council's compliance with the statutory process contained in the Community Infrastructure Levy Regulations 2010 (as amended) (' the Regulations').
- 34 As the Council is revising the CIL charging schedule it is obliged to follow the statutory process outlined in the Regulations and has complied with the requirement to publish the draft charging schedule, advertise the representations procedure and consult with the statutory consultation bodies. For the reasons given from paragraphs 23 onwards, this report explains that no substantive or minor amendments are proposed to the draft charging schedule. The next step will therefore be the submission of the draft charging schedule without modification, together with other documentation outlined in regulation 19 of the Regulations. The Cabinet approved the taking of this step in its decision of the 24 January 2017.
- 35 Paragraph 22 of this report also summarises the consultation responses in respect of the draft Regulation 123 list (which is explained in paragraphs 18 to 19 of this report). Again, no amendments are proposed to the list following the consultation responses received, for the reasons given in the report.

Strategic Director of Finance and Governance

- 36 The report is requesting the director of planning in consultation with the Cabinet member for Regeneration and New Homes to note that the draft CIL charging schedule, the draft Regulation 123 list, the infrastructure plan and the equalities analysis will be submitted to the examiner as part of the overall process for CIL. Full details are provided in the recommendations and the main body of the report.
- 37 The strategic director of finance and governance notes that there are no immediate financial implications arising from this report.
- 38 It is noted that staffing and any other costs connected with this recommendation will be contained within existing departmental revenue budgets.

FOR DELEGATED APPROVAL

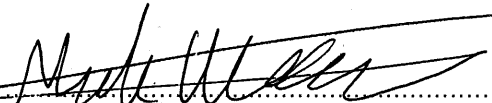
Under the powers delegated to me by Cabinet, I authorise action in accordance with the recommendation contained in the above report.

Signature 

Date 23/5/17

Designation DIRECTOR OF PLANNING

As the Cabinet member for Regeneration and New Homes I am satisfied that that public consultation has not raised significant policy matters that affect the decision to submit the draft CIL to the examiner for examination-in-public.

Signature 

Date 24/5/17

BACKGROUND DOCUMENTS

Background paper	Held at	Contact
CIL Infrastructure Plan	160 Tooley Street	http://www.southwark.gov.uk/planning-and-building-control/section-106-and-community-infrastructure-levy/reviced-cil-charging-schedule-consultation
Draft Regulation 123 List	160 Tooley Street	See above
CIL equalities analysis	160 Tooley Street	See above
Draft Old Kent Road Area Action Plan 2016	160 Tooley Street	http://www.southwark.gov.uk/info/856/planning_policy/3112/old_kent_road
Old Kent Road Opportunity Area Viability Study	160 Tooley Street	http://beta.southwark.gov.uk/planning-and-building-control/planning-policy/evidence-base/viability

APPENDICES

No.	Title
Appendix A	Community infrastructure levy (CIL) draft charging schedule

AUDIT TRAIL

Cabinet Member	Councillor Mark Williams, Regeneration and New Homes	
Lead Officer	Simon Bevan, Director of Planning	
Report Author	Tim Cutts, Regeneration South	
Version	Final	
Dated	10 May 2017	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included

Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		