

Borough Plan Advisory Committee

Date: 10 January 2012

Agenda item:

Subject: Community infrastructure Levy – preliminary draft charging schedule for public consultation

Lead officer: Director for Environment and Regeneration, Chris Lee

Lead member: Cabinet Member for Environmental Sustainability and Regeneration, Councillor Andrew Judge

Forward Plan reference number: 1077

Contact officer: Strategic Policy and Research Manager, Tara Butler

Recommendations:

1. That Borough Plan Advisory Committee recommends to Cabinet the approval of public consultation on the charges and geographic zones proposed for Merton's Preliminary Community Infrastructure Levy Charging Schedule for six weeks between January and March 2012.
 2. That Borough Plan Advisory Committee recommends that Cabinet delegates approval for the production of the consultation document for Merton's Preliminary Draft CIL Charging Schedule and other consequential matters in accordance with the appropriate Regulations to the Director of Environment and Regeneration in consultation with the Cabinet Member for Sustainability and Regeneration.
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 By 2014 the Community Infrastructure Levy (CIL) will largely replace Section 106 agreements in funding infrastructure from development. To apply the Levy, councils must produce and adopt a CIL Charging Schedule, setting out what the charges in their area will be.
- 1.2 In June 2011, Councillors (Borough Plan Advisory Committee and Cabinet) approved the timetable for producing Merton's CIL Charging Schedule.
- 1.3 The purpose of this report is to recommend the proposed charges and zones which will make up Merton's preliminary draft CIL Charging Schedule for six weeks of public consultation commencing January 2012.
- 1.4 Members are also recommended to delegate approval for the production of the consultation documents, which will set out the preliminary charges and map illustrating the zones along with a simple explanation of CIL, to the Director of

Environment and Regeneration in consultation with the Cabinet Member for Environmental Sustainability and Regeneration.

2 DETAILS

- 2.1 As set out in a report to the Borough Plan Advisory Committee on 15 June 2011, all boroughs must prepare and adopt a CIL Charging Schedule before they can start charging CIL.
- 2.2 The potential CIL charge should be informed by objective evidence of what might be viable for development to pay in each borough. The charge can be assessed by development type (e.g. residential, retail, offices) and area (e.g. Wimbledon, Mitcham).
- 2.3 The Mayor of London will also be charging CIL on all London boroughs to pay for Crossrail. Subject to the public examination taking place in winter 2011, the Mayor will charge £35 per square metre for additional floorspace on most developments in Merton. Each borough will have to administer the Mayor's CIL and collect debts on his behalf from April 2012 onwards.
- 2.4 There are some clear messages that are apparent from the CIL Regulations, government guidance and other councils that are further ahead.
 - *Keep it simple* - the Regulations state that CIL should not be overly complex. In addition, as CIL is based on a charge on additional floorspace per square metre and as many developments in London are of mixed use schemes on sites with existing floorspace, a wide variety of different charges would make CIL calculation and collection increasingly difficult. Most councils are setting one or two different charges for all the uses in their area.
 - The charge(s) *must be justified by objective viability assessments* – it can't be based on wanting to encourage or restrict certain development types or promote specific regeneration locations.
 - Unlike with Section 106 agreements, the CIL Regulations do not allow for CIL to be easily waived or renegotiated on a site-by-site basis. It is a charge on the land and if it makes development unviable then the development may not go ahead. Therefore authorities should avoid trying to set CIL charges that are at the ceiling of what might be viable for the majority of their development sites.
- 2.5 Officers undertook research on development and infrastructure trends and forecasts in Merton and commissioned consultants (Roger Tym and Partners) to undertake viability modelling work, which has informed the Preliminary draft CIL Charge.

2.6 Based on the research findings and guidance, Merton's Preliminary draft CIL Charge is summarised in Table 1 below (this does not include the Mayor's CIL which is an additional £35 per square metre for most development in Merton, starting from 01 April 2012).

2.7 The map in Appendix 1 illustrates where the different charging zones of Wimbledon, Colliers Wood / Raynes Park and Mitcham-Morden apply.

Table 1: Summary of Merton's proposed preliminary draft CIL charging schedule for consultation (not including additional £35 per square metre Mayor's charge) – see map in Appendix 1 for zones

Development type	Wimbledon	Colliers Wood / Raynes Park	Mitcham and Morden
Residential	£385 per square metre	£140 per square metre	£42 per square metre
Retail – comparison and convenience	£100 per square metre		
All other uses	£0 per square metre		

2.8 As a guide, other boroughs are currently proposing the following charges

	RESIDENTIAL	OTHER DEVELOPMENT
Wandsworth	£250 per square metre in most of the borough; £50 per sqm in Roehampton; (plus additional £50 Mayoral CIL)	£0 (a recent change, having consulted on higher rates for offices and retail previously) (plus additional £50 Mayoral CIL)
Redbridge	£70 (borough wide flat fee) (plus Mayor's CIL of £25)	
Croydon	£0 in Croydon town centre, £120 per square metre for the rest of the borough.	£20 for employment uses; £120 for retail and leisure

Spending CIL

2.9 Unlike funds received through Section 106 agreements, what CIL can be spent on does not have to relate to the site on which it was levied.

2.10 CIL can be spent on a very wide range of new infrastructure (schools, transport, decentralised energy, healthcare, opens spaces, leisure, biodiversity etc). Central government is currently (until 30 December 2011) consulting on whether CIL should also be used to pay for affordable housing, and what proportion of CIL receipt must be passed to parish councils.

- 2.11 Councils have to publish a list of what they interpret as “infrastructure” (which CIL pays for). This is known as a “Regulation 123 list” and councils may update this list once every 28 days. Section 106 agreements (which must still directly relate to the site) can only be used to provide infrastructure which is not on that list.
- 2.12 Councils can decide to allocate all CIL receipts entirely towards one piece of new infrastructure or spread them across a large number of projects.
- 2.13 Unlike Section 106, CIL can be spent on the ongoing costs of new infrastructure as well as the initial costs of new infrastructure, for example, setting up and maintaining a decentralised energy system. However CIL must not be use to plug the funding gap where there is an identified existing infrastructure deficit; it should only be used to provide new infrastructure.
- 2.14 The council’s Capital Strategy and Asset Group of senior officers will co-ordinate expenditure and implementation of CIL. Cabinet will receive quarterly updates on CIL via the existing S106 report, which will eventually include information on CIL and any S106. Prior to the adoption of Merton’s CIL in 2013, community groups will be engaged to help inform CIL expenditure in their area, as proposed by emerging government guidance on CIL.

3. ALTERNATIVE OPTIONS

- 3.1 It is considered that there are limited genuine alternative options to drafting a CIL charging schedule. Although CIL isn’t a statutory requirement, boroughs without a charging schedule from April 2014 will generally not be able to pool contributions towards new infrastructure.
- 3.2 There are alternative options around which charges to set for which areas. These preliminary charges for consultation are recommended on the basis of available evidence and government guidance.
- 3.3 Results from the forthcoming public consultation and additional evidence will help to refine Merton’s CIL Charging Schedule. Under the project timetable set out in section 5 of this report, Merton’s CIL Charge will be finalised in late 2012 and adopted, subject to a successful independent examination, in summer 2013.

4. CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1 This report contains a summary of Merton’s proposed Preliminary Draft CIL Charging Schedule: the proposed charges and the map which sets out the zones in which the charges would be levied.

- 4.2 CIL is a relatively recent significant change to the way in which new infrastructure may be funded from development. As can be seen from the background papers set out in Section 12 of this report, the details of CIL have changed frequently in the last two years and there is a wealth of guidance on this complex issue. It is important that the CIL consultation documents explain the issues that affect Merton's CIL clearly, plainly and succinctly.
- 4.3 Subject to Members approval of the proposed charges and zones, officers will prepare the consultation documents for Merton's Preliminary draft CIL Charging Schedule. The consultation document will succinctly set out the proposed charges, a simple explanation of what CIL is, how it will be levied and the differences with Section 106 as well as the necessary statutory content. The consultation document will not go into detail at this stage as to how Merton's CIL might be spent as it is difficult to plan for expenditure before the proposed CIL charges are finalised and central government is still consulting on options which will affect how CIL is spent in local areas.
- 4.4 This report recommends that Members delegate approval for the consultation documents on CIL to the Director for Environment and Regeneration in consultation with the Cabinet Member for Environmental Sustainability and Regeneration.

5. TIMETABLE

- 5.1 The timetable for Merton to produce a CIL Charging Schedule is as follows:
- Preparation and viability testing – June-December 2011
 - Community engagement on draft Merton CIL Charging Schedule – January-March 2012
 - Finalise Merton CIL Charging Schedule – spring 2012
 - Final community engagement on CIL: September - November 2012
 - Submit for independent examination: December 2012
 - Independent examination – public hearings – February/March 2013
 - Adoption – June / July 2013

6. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1 Between 2000 and 2011, Merton received on average £960,000 per year in Section 106 receipts. However across the 11 years this varied from circa £400k annually years to circa £3million in other years, depending on what schemes were delivered that year

- 6.2 Like most outer London boroughs, many of Merton's development sites are not vacant land but have existing buildings on them. CIL can only be charged on additional floorspace, in other words the floorspace (in square metres) of existing buildings on a development site must be subtracted from proposed new floorspace and CIL is only applicable to the remainder. Therefore this reduces the potential for CIL collection.
- 6.3 Not all developments will be charged CIL (e.g. affordable housing, charitable institutions, healthcare, community, education, industrial are either exempt in the Regulations or unviable for CIL)
- 6.4 Therefore, Merton's CIL revenue could average between £400,000 and £800,000 in CIL receipts per annum, a potential reduction in infrastructure funding for Merton when compared to Section 106. This is based on
- development trends in Merton since 1999,
 - development forecast by use and area for the next five years
 - consideration of CIL exemptions, and
 - the potential CIL charges in the Draft CIL Consultation Report (December 2011),
- 6.5 It is difficult to accurately forecast CIL receipts due to the complicated nature of levying the new charge and how often landowners will pursue CIL exemptions.
- 6.6 It is recommended that officers closely monitor the scale of development to which the Mayoral CIL collection applies from April 2012 onwards and use this as a guide for forecasting potential Merton CIL collection.

7. LEGAL AND STATUTORY IMPLICATIONS

- 7.1 Part 11 of the Planning Act 2008 introduces the Community Infrastructure Levy (CIL). CIL is also provided for by the Localism Act 2011. Government have prepared CIL Regulations 2010; CIL (amendment) Regulations 2011 and is currently consulting (until 30 December 2011) on further amendments to CIL Regulations, which are due to be finalised in 2012.
- 7.2 As the CIL draft Regulations for consultation relate mainly to how CIL is spent, Merton's CIL Charging Schedule is being prepared in line with the provisions of the CIL Regulations 2010 and 2011.

8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1 None for the purposes of this report.

9. CRIME AND DISORDER IMPLICATIONS

- 9.1 Planning obligations are used to fund infrastructure to reduce crime and disorder, including CCTV. As infrastructure providers, the Met Police may apply to boroughs for CIL funding.

10. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1 It is considered that starting to prepare for CIL implementation at this stage is essential to reducing the risks of not being ready to collect the Mayor of London's CIL by April 2012. The CIL Corporate Delivery Group and the CIL Corporate Project Group will help to identify and manage risk

11. APPENDICES – the following documents are to be published with this report and form part of the report

Appendix 1 - summary of Merton's Preliminary draft CIL Charging Schedule: potential charges and map

12. BACKGROUND PAPERS

Planning Advisory Service – CIL frequently asked questions (Nov 2011):

<http://www.pas.gov.uk/pas/core/page.do?pagelid=1242969>

Planning Officers Society CIL advice note (October 2011):

http://www.planningofficers.org.uk/downloads/pdf/POS%20advice%20note_CIL%20and%20Infrastructure%20Planning_October%202011_V2.pdf

Community Infrastructure Levy: detailed proposals and draft regulations for reform: consultation October-December 2011 (CLG)

<http://www.communities.gov.uk/publications/planningandbuilding/cilreformconsultation>

“Community infrastructure levy – collection and enforcement”, information document October 2011 DCLG

<http://www.communities.gov.uk/publications/planningandbuilding/cilcollectionenforcement>

The Community Infrastructure Levy Regulations 2010

The Community Infrastructure Levy (Amendment) Regulations 2011

“Community infrastructure levy – an overview”, May 2011 DCLG

<http://www.communities.gov.uk/publications/planningandbuilding/communityinfrastructurelevymay11>

“Community Infrastructure Levy Relief”, Information document, May 2011 DCLG

“The Community infrastructure levy summary”, November 2010 DCLG

“Community infrastructure levy guidance – charge setting and charging schedule procedures”, March 2010 DCLG

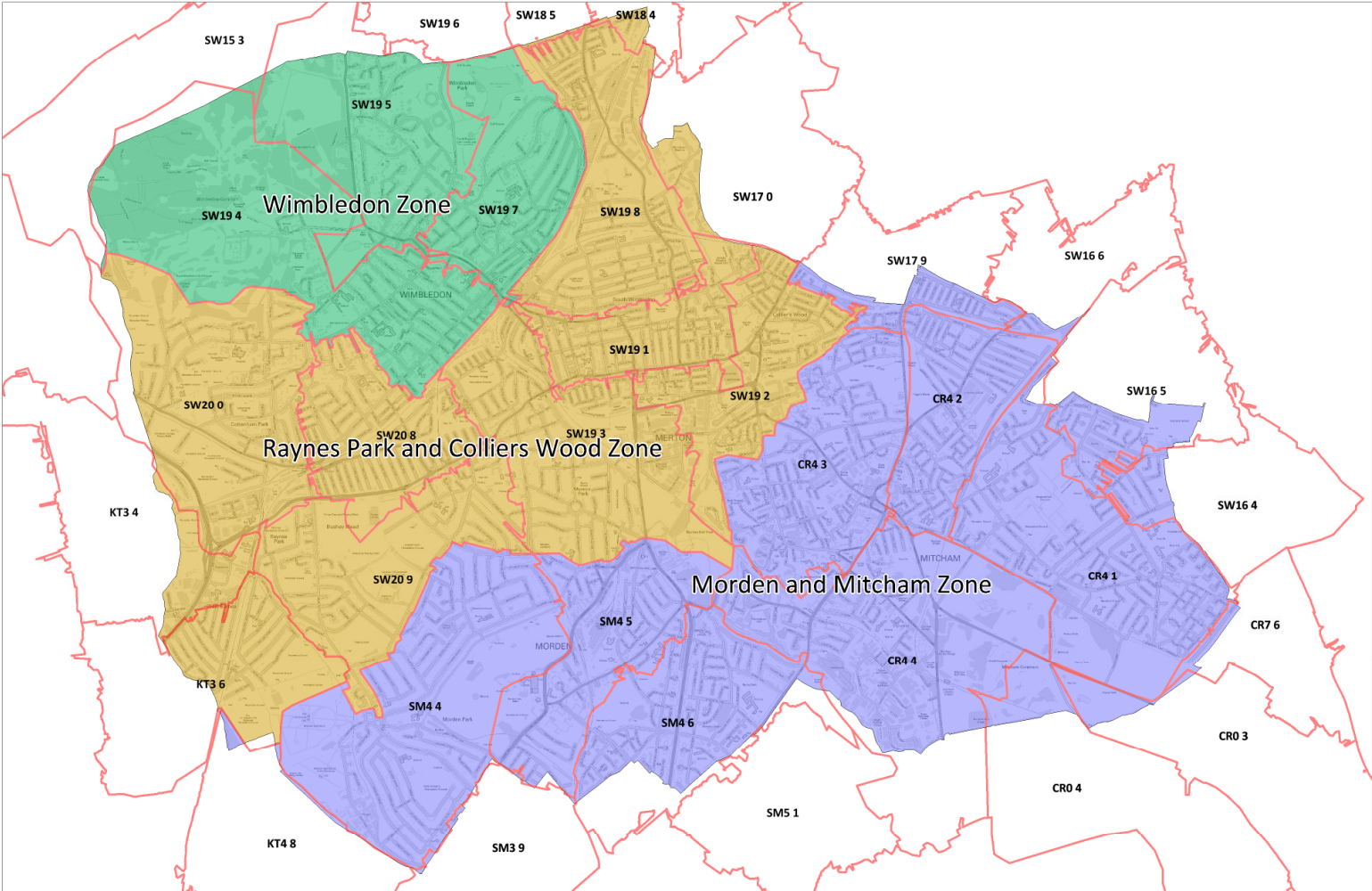
Appendix 1 – summary of Merton’s Preliminary draft CIL Charging Schedule

Table 1 - Proposed Merton CIL charges for preliminary consultation

Development type	Wimbledon	Colliers Wood / Mitcham and Morden Raynes Park
Residential	£385 per square metre	£140 per square metre / £42 per square metre
Retail – comparison and convenience	£100 per square metre	
All other uses	£0 per square metre	

NB: the Mayor of London proposes charging an additional £35 per square metre for most development in the borough. Table 1 above does not reflect the Mayor’s charge.

Map 1 – geographic extent of the proposed charges for Merton’s CIL (residential only)



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Merton's Community Infrastructure Levy
Preliminary Draft Charging Schedule

 Postcode Sector Boundaries

