



Planning Committee

9th March 2011

Report from the Director of Regeneration & Major Projects

Action

Wards affected:
ALL

Response to Mayor of London's CIL consultation

1.0 Summary

- 1.1 This report asks Planning Committee to support the consultation responses on The Mayor of London's Community Infrastructure Levy (CIL) Proposals. The Mayor proposes to levy a CIL charge on most forms of development to help pay for Crossrail. This would have a significant impact of the collection of the council's S106 standard charge. The council's response strongly objects to the imposition of the Levy on Brent.

2.0 Recommendations

That the Planning Committee;

- 2.1 Endorse the consultation response to the Mayor of London regarding his Community Infrastructure Levy proposals set out in Appendix 1.

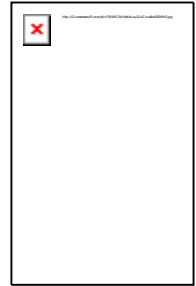
3.0 Detail

Introduction

- 3.1 In January 2011, the Mayor of London issued a consultation paper on his proposals to introduce a Community Infrastructure Levy on all London boroughs to assist in the payment for Crossrail. The closing date for the consultation document was March 1st 2011. This has not allowed time to present a report to the council's Executive. Officer's have therefore submitted comments to the Mayor of London to meet the deadline but is seeking Planning Committee support for those comments. The comments are set out in a letter to the Mayor attached as Appendix 1.

Main Proposals

- The levy will be charged on new buildings of 100 sq m (GIA) or more or the creation of one dwelling, even where this is below 100 sq m.
- The levy will be based on the net additional increase in floorspace of a development.
- Brent's Levy will be £35m² of any development (education/health/charities have exemption and social housing)-there are also £50 per m² and £20 per m² zones in other London boroughs depending on their 'ability to pay' through development.
- The levy will be payable for developments that receive planning permission after the date the Charging Schedule comes formally into force.
- Payment of the levy will be made by developers when they commence their developments.
- The levy will be collected by the London boroughs, who will forward the payments to the Mayor.
- There is no indication is given that the rate can be negotiated where a development cannot afford the full payment but S.106 payments should be scaled back to enable developers to pay the CIL.



- 3.2 The idea of CIL was introduced by the previous government and it was intended to be a more flexible form of Planning Obligation (S106) that allowed for the funding of large scale infrastructure projects. In broad terms there is support for such an approach as it will allow the council for example to set an overall charge on all developments and then have the flexibility to fund key bits of infrastructure in a timely manner. There would be less restriction on expenditure than in the S106 system but under the new Localism proposals, the government would want a proportion of CIL to be used and prioritised locally. The council will also be able to set a CIL charge and the council has applied to be a pathfinder authority that would introduce CIL early on. The key feature of CIL is that the Mayor's charge will take precedence over local authority CIL, or indeed S106 obligations, and will always need to be paid first. It is therefore very important to examine the Mayor's proposals as they are likely to have a direct impact on Brent meeting its own local needs unless payments can be made on both local S106 and the mayor of London's CIL and ensure that any development scheme in the borough remains viable.

The Rationale behind the Mayor's CIL proposals

- 3.3 The Mayor introduced a S106 payment for Crossrail for directly affected boroughs in 2010 through changes to the draft London Plan and a Supplementary Planning Document that set out the tariff to be paid and the area that would be affected by the payments-this was the areas that most directly benefited from cross-rail and where an uplift of planning values may be expected as a consequence of improved accessibility and included areas such as Canary Wharf that received most benefit and has the best ability to pay without affecting the viability of development.

3.4 Cross-rail will cost £14.1bn

TfL £7.1bn

Cross-rail bus supplement £4.1bn

S106 £0.3bn

TfL from station development etc the remainder

3.5 The Mayor will raise £300m by charging S106 on development near the affected route, mostly in Canary Wharf, the city and other central boroughs. The Panel report following the Examination into the London Plan supports this S106 contribution and a further £300m through CIL from all London boroughs. The requirement to raise £300m only fell to the Mayor if CIL remained on the statute. CIL will fall away once the £300m is reached (GLA estimate 7 years at current rates of construction). The Mayor has powers to set CIL for strategic transport proposals so this could be the first of many or CIL could be kept to extended to fund further Crossrail needs.

3.6 When setting the level of charge the Mayor is required to strike what appears to him to be “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”. The Mayor makes two important points:

- CIL will not affect scheme viability in boroughs
- CIL is justified by economic benefits (£66m) to the borough

3.7 It is important to stress that the council supports the Crossrail project overall. In past times such important strategic public transport projects have been paid mostly by government funding, through fare payers and by funding used by TfL via government. A limited amount of funding was secured through development usually close to potential stations that secured significant benefit from it. The CIL seeks to charge a much wider geographical spread of development on the basis that it does not affect viability and is justified as a ‘contribution’ to the benefits each borough may receive through Crossrail.

What is the effect on Viability ?

3.8 Set out below is a table of impacts comparing S106 standard charge with CIL. The impacts will vary because our standard charge is mostly based on securing S106 from the housing rather than commercial development.. The council only collect from ‘B class’ office and industrial development otherwise. So from an individual unit CIL will be about 29-44% of our current charge. When we get to mix use development such as Quintain’s NW lands, they would take all of our nominal S106 in CIL before any local needs are met. For Industrial development our standard charge is £25 per m2- CIL would take 140% of what we currently require under S106 standard charge. In the current climate this would make most if not all industrial development in places like Park Royal unviable.

Table 1: Development & Impact of CIL vs S106

Development	S106 standard charge (£)	CIL	Difference	% of current S106
50m 1 bed flat	3,000	1750	1250	29
75m 2 bed flat	6,000	2625	3375	44
3 bed house 100m2	9,000	3500	5500	39
1300 bed QED scheme with 20% affordable	5.63	£3.15m	2.48m	56
1300 bed QED scheme with 60k m2 commercial	5.63	£5.6m	0.03	99
Pure B1, B2, B8 scheme of 40,000m2	£1m	£1.4m	+0.4m	140

3.9 The council will therefore have to decide whether it adds the CIL charge to our S106 requirements which meet local need, accept that only a CIL or CIL with reduced S106 payment is made or refuse applications until both the CIL payment and the S106 standard charge can be met. On most mixed development schemes the effect of the mayor's CIL will be to double the overall contribution required from developers- otherwise it will add between 29 and 56% extra on Brent's standard charge S106. In the current client the council would be most concerned that this would damage the viability of many developments. If Brent reduced its S106 demands it would require the council to find significant payments towards schools and other infrastructure generated by the development., capital monies it clearly does not have The only way out of this bind would be to refuse development unless a development can support both CIL and the council's S106 standard charge. This denies the borough the regenerative development it so needs. The next alternative is to reduce down to a fraction, the amount of affordable housing any development viably supplies. This will frustrate the boroughs attempts to meet housing need and bring forward mixed and balanced communities.

CIL justified by Economic Benefits

3.10 CIL charging for Crossrail is, according to the Mayor of London, justified by an assessment by Buchanans, of the value of the economic benefits of Crossrail to every London borough. This evidence was given to the London Plan Inquiry. This £66m package of 'economic benefit' of itself, according to the London Mayor, justifies the

CIL contribution. The package of economic benefits assumes largely that there is no other choice to the borough. However it may be that the opportunity cost of this package of mostly indirect benefits could be replaced with a package of direct provision of equal or better benefit. It may be more direct than that. The loss of S106 standard charge funding local infrastructure improvements could be almost as great as the indirect benefit the borough receives. If the test of economic benefit also impacts on the viability of development then the council would reasonably prioritise meeting local infrastructure needs with viable development over Crossrail, recognising its strategic benefit but understanding its full economic costs. The Draft charging schedule assumes that CIL is justified by indirect economic benefits but does not consider whether it impacts on development, nor whether, boroughs would chose a different package of economic benefit based on firstly meeting key local infrastructure needs.

- 3.11 There are other anomalies in the proposals- boroughs like Newham gain most of the economic benefit (£99m), get 3-4 cross-rail stations but are on the lowest of the charging zones (£20 per m² of development), based on historic house prices rather than uplift of values. It is not clear also why the contributions don't accrue interest (page 49 of consultation document) or whether the cumulative total includes the 3.3% indexation applied to 2019. While the rate levied on development may change in each borough, the overall contribution will also be determined by the amount of development as each square metre of it will face a charge. Brent as the seventh biggest contributor to new floor space in London (if trends 2000-2009 continue) will therefore pay a bigger total of the overall bill than those boroughs developing a lower amount of overall floor space. Our conclusion is that a borough that receives little direct benefit is likely to pay a higher proportion of the costs than many boroughs deriving a greater direct benefit.
- 3.12 Why should a mixed-use regeneration scheme, a considerable distance away from the Crossrail line should make a payment to the CIL instead of funding other local infrastructure necessities ? This is particularly pertinent at a time when the public purse is under considerable pressure.

Are there other realistic alternatives ?

- 3.13 The council accepts that boroughs are contributing a limited proportion of the overall costs, yet the burden of CIL is likely to be considerable. The council is concerned that the albeit 'limited contribution' sought by the Mayor of London will have disproportionately negative impacts. These impacts will limit development sorely needed, affect the provision of affordable housing, and impact on the ability of local authorities to secure key infrastructure such as schools. The Mayor should examine the alternatives. These are among others:
- Shifting the burden to developments and /or boroughs that more directly benefit from Crossrail and new Crossrail stations/interchanges
 - A longer funding period to allow both government/TfL/developer contributions accepting a longer build out period
 - A lower charging per m² charge over a longer period so as not to stifle development in the fragile short-term

- A ratchet mechanism with a lower early charge to allow land-values to adjust to a rising charge but bring forward viable development
- To consider using new proposed mechanisms for funding infrastructure such as Tax Increment Financing or TIFs

3.14 The council suggests a number of ways the £300m Crossrail 'CIL' gap could be bridged by most directly charging those developments and boroughs that receive most benefit or by spreading the impact of payments over a greater number of years. The government is actively reviewing the use of Tax increment Financing or TIF's. In essence this allows councils or other authorities to fund infrastructure schemes against an uplift in business rateable value created by the infrastructure and retained in part by the local authority. Other ways of reducing the impact on boroughs should be considered where the burden may stifle development and the 'benefits, do not outweigh significant dis-benefits not considered by the Mayor of London.

Conclusions

- 3.15 CIL as proposed will have significant effects on the viability of future development in the borough because it increases the amount sought by the Mayor and the council of between 30% and 140% of that required now.
- 3.16 The impact will be either reducing affordable housing, refusing development because both S106 and mayoral payments cannot be met or the council funding key infrastructure requirements such as schools in order to receive the more intangible benefits of crossrail.
- 3.17 The council does not consider that the charging structure is fair in that it burdens authorities who have less direct benefit of crossrail and those boroughs creating more overall development will be penalised the hardest.
- 3.18 The Mayor should preferably consider looking at other financial mechanisms such as TIFs to fund the crossrail gap or at the very least propose a more graduated charging system that would allow adjustment in the land and development market so that the burden imposed by Crossrail CIL and reasonable Planning obligations or Boroughs CIL could be afforded without destabilising the fragile development industry.

4.0 Financial Implications

4.1 The imposition of CIL will have significant financial impacts on the borough. It is likely to reduce the amount of regenerative development coming forward in the development. It is likely to reduce the amount of affordable housing increasing the temporary housing cost burden on the council. It is likely to increase the amount of local but strategic infrastructure costs such as schools that will no longer be funded through S106 standard charge contributions. This would need to be met by the council in discharging its legal responsibilities.

5.0 Legal Implications

5.1 CIL is a London wide Community Infrastructure Levy under the powers set out in Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations 20101 ("the Regulations"). These enable the Mayor to set a charge called the

Community Infrastructure Levy (CIL) which will be paid by most new development in Greater London.

6.0 Diversity Implications

6.1 It is not possible at this stage to identify clearly the possible impact of the proposals on individual ethnic and other groups.

7.0 Staffing/Accommodation Implications

7.1 None.

8.0 Environmental Implications

8.1 The proposals support improved public transport provision strongly supported by the council, but the cost burden is likely to be too high to support it.

9.0 Background Papers

Mayors Preliminary Draft Charging Schedule January 2011

Contact Officers

Any person wishing to inspect the above papers should contact Dave Carroll, Planning Service 020 8937 5202

Andy Donald
Director of Regeneration & Major Projects

Appendix 1 – Copy of Response to Mayor of London



Regeneration and Major Projects
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Boris Johnson, Mayor of London
Preliminary Draft CIL Charging Schedule
FREEPOST LON15799
GLA City Hall post point 18
The Queen's Walk
London SE1 2BR

Date: 18th February 2011

Dear Mayor

LB Brent Response to Consultation on Draft CIL Charging Schedule

I have set out the council's comments on the Draft Charging Schedule for Crossrail CIL. These are officer level comments but it is my intention to get these endorsed by the council's planning committee and I attach the report that will be considered and I expect endorsed by the council's planning committee on 9th March. The council wishes to object to the CIL Charging Schedule on the following grounds:

1. The proposed CIL does affect the viability of development in the borough
2. The Economic Benefits are overstated and are not considered in the round
3. The Mayor has not fully considered reasonable alternatives

Viability

We have compared the council's S106 standard charge with CIL. In Brent the standard charge is levied at £3000 per bedroom, so from an individual residential dwelling CIL will be about 29-44% of our current charge. In larger mixed use development such as Quintain's NW lands, the mayor would take all of our S106 charge in CIL before any local needs are met. For Industrial development our standard charge is £25 per m²-CIL would take 140% of what we currently require under S106 standard charge. In the current climate this would make most if not all industrial development in places like Park Royal unviable.

If Brent reduced its S106 demands because it was replaced by CIL, the consequence would be that the council would need to find significant payments towards schools and other infrastructure generated by the development, capital monies it clearly does not have. The only way out of this bind would be to refuse development unless a development can support both CIL and the council's S106 standard charge. This denies the borough the regenerative development it so needs. The next alternative is to reduce down to a fraction, the amount of affordable housing any development viably supplies. This will frustrate the

boroughs attempts to meet housing need and bring forward mixed and balanced communities.

In conclusion the council considers that CIL will have a direct and significant effect on the viability of development, contrary to the views expressed in the draft charging schedule

Economic Benefits

This £66m package of 'economic benefit' of itself, according to the London Mayor, justifies the CIL contribution. The package of economic benefits assumes largely that there is no other choice to the borough. However it may be that the opportunity cost of this package of mostly indirect benefits could be replaced with a package of direct provision of equal or better benefit. It may be more direct than that. The loss of S106 standard charge funding local infrastructure improvements could be almost as great as the indirect benefit the borough receives. If the test of economic benefit also impacts on the viability of development then the council would reasonably prioritise meeting local infrastructure needs with viable development over Crossrail, recognising its strategic benefit but understanding its full economic costs. The Draft charging schedule assumes that CIL is justified by indirect economic benefits but does not consider whether it impacts on development, nor whether, boroughs would chose a different package of economic benefit based on firstly meeting key local infrastructure needs.

There are a number of other anomalies that the council points out in its report relating to the actual amounts of CIL that is likely to be collected set against the direct benefits.

Alternatives to CIL

The council does not consider that the charging structure is fair in that it burdens authorities who have less direct benefit of Crossrail and those boroughs creating more overall development will be penalised the hardest.

The Mayor should preferably consider looking at other financial mechanisms such as TIFs to fund the Crossrail gap or at the very least propose a more graduated charging system over a longer period that would allow adjustment in the land and development market so that the burden imposed by Crossrail CIL can be planned and adjusted for. This can be done to allow boroughs to and reasonable Planning obligations or Boroughs CIL could be afforded without destabilising the fragile development industry in the borough.

Yours Sincerely,

Chris Walker,

Assistant Director, Planning Service

Enc.