



Planning Committee

Wednesday, 21 October 2009 at 7.00 pm
Committee Room 4, Brent Town Hall, Forty Lane,
Wembley, HA9 9HD

Membership:

Members

Councillors:

Kansagra (Chair)
Powney (Vice-Chair)
Anwar
Baker
Cummins
Green
Hashmi
Hirani
J Moher
R Moher
HM Patel
Thomas

first alternates

Councillors:

Mrs Fernandes
Beswick
Jackson
Eniola
Pervez
CJ Patel
Dunn
Tancred
Mrs Bacchus
Butt
Colwill
Long

second alternates

Councillors:

Mistry
Bessong
Joseph
Jackson
Corcoran
Leaman
CJ Patel
Arnold
Ahmed
Steel
Eniola

For further information contact: Joe Kwateng, Democratic Services Officer,
020 8937 1354, joe.kwateng@brent.gov.uk

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www.brent.gov.uk/committees

There will be no members' briefing prior to this meeting

The press and public are welcome to attend this meeting

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

ITEM	WARD	PAGE
1 Declarations of personal and prejudicial interests Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.		
2 LDF - progress and proposed changes for examination Progress with the Council's Local Development Framework (LDF), particularly the Core Strategy and Site Specific Allocations documents which will form the new development plan is explained and Committee is asked to recommend minor changes to the Core Strategy for approval by the Council's Executive for consultation in advance of Examination by a Planning Inspector early in 2010.	All Wards;	1 - 10
3 Detailed proposals and draft regulations for the introduction of the community infrastructure levy: consultation From April 2010, the Community Infrastructure Levy (CIL) will be a new charge which local authorities in England and Wales will be empowered, but not required, to charge on most types of new development in their area. CIL charges will be based on set formulae which relate the size of the charge to the size and type of the development. The proceeds of the levy will be spent on local and sub-regional infrastructure to support the development of the area.	All Wards;	11 - 24
4 Draft revised London plan - public consultation by the Mayor of London This report explains that the Mayor of London's draft new London Plan has been published for public consultation. Officers will provide a verbal report to Committee and will circulate a brief summary of the key issues to Members.	All Wards;	25 - 28
5 London strategic housing land availability assessment - Brent This Report informs Members of the outcome of the London Strategic Housing Land Availability Assessment (SHLAA) recently undertaken to identify land and buildings suitable for new housing development in Brent. The SHLAA's evaluation of Brent's potential new housing capacity will inform the proposed 'New London Plan' housing target for	All Wards;	29 - 32

Brent for the period 2011 - 2021. The provisional findings of the SHLAA indicate that Brent's new annual housing target should remain virtually the same as its current London Plan target of 1,120 homes.

6 Any Other Urgent Business

Notice of items to be raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 65.

Date of the next meeting: Wednesday, 4 November 2009


The site visits for that meeting will take place the preceding Saturday 31 October 2009 at 9.30am when the coach leaves Brent House.



Please remember to **SWITCH OFF** your mobile phone during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public.
- Toilets are available on the second floor.
- Catering facilities can be found on the first floor near the Grand Hall.
- A public telephone is located in the foyer on the ground floor, opposite the Porters' Lodge

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	<p style="text-align: center;">Planning Committee 21st October 2009</p> <p style="text-align: center;">Report from the Chief Planner</p>
For Action	Wards Affected: ALL
Report Title: LDF – PROGRESS AND PROPOSED CHANGES FOR EXAMINATION	

1.0 Summary

- 1.1 Progress with the Council's Local Development Framework (LDF), particularly the Core Strategy and Site Specific Allocations documents which will form the new development plan is explained and Committee is asked to recommend minor changes to the Core Strategy for approval by the Council's Executive for consultation in advance of Examination by a Planning Inspector early in 2010.

2.0 Recommendations

- 2.1 That the Planning Committee recommends that Executive agrees the proposed changes to the Core Strategy set out in Appendix 1, for public consultation.

3.0 Detail

Introduction

- 3.1 The proposed submission versions of both the Core Strategy and the Site Specific Allocations DPDs were published for public consultation in June 2009. There were 400 representations made by 46 respondents. Of these representations, 166 were that the document is sound whereas 234 considered it to be unsound. On September 30th the council submitted the Core Strategy, and all the representations made, as well as a schedule of non-material changes, to the Secretary of State for examination by a planning inspector. A summary of the key issues arising from the representations is attached as Appendix 2.
- 3.2 It is intended that the Site Specific Allocations DPD will be submitted either by the end of the year or early in 2010. The reason this DPD was not submitted at the same time as the Core Strategy is that

Planning Inspectorate guidelines indicate that they would not wish to hold an examination into site allocations until after the report on the Core Strategy examination. This will not be before spring 2010.

Proposed Changes

- 3.3 Since the consultation period ended, discussions with potential objectors and stakeholders have resulted in proposals to make a few minor changes to policy. Members are asked to recommend these proposed changes to the Executive when it meets on November 16th. These proposed changes are set out in full in Appendix 1.
- 3.4 The first change is very minor and is proposed, in part, in response to a recommendation from the Government Office for London. This is basically to encapsulate the objective of achieving the London Plan target for affordable housing (70% social housing and 30% intermediate) in policy rather than merely in supporting text. It is a requirement of Government planning policy as set out in PPS3 that Local Development Frameworks include such a policy. This does not alter any of the objectives of the strategy.
- 3.5 The remaining two changes concern policy on climate mitigation and, in particular, how this relates to Wembley (policies CP19 and CP7). A number of objections were received to policy CP19, particularly to expectation in policy that development would have to connect to decentralised energy networks. Concerns were expressed, including by the GLA, that proposals for such networks were not sufficiently advanced and that there was a need to set out the Council's plans for delivering sustainable energy infrastructure. Officers recognise that further development work would be needed before developers could be asked to connect to such networks and, in particular, some assessment of the viability / feasibility. In these circumstances officers recommend that the wording of policy CP19 be changed to allow developers the opportunity to demonstrate that connecting to decentralised networks is not feasible. At the same time the infrastructure sought for Wembley will include District-wide Combined Cooling Heat and Power "if feasible". These relatively minor changes are likely to overcome some of the objections relating to the soundness of the Core Strategy.
- 3.6 In addition to the proposed changes outlined above, 3 additional background documents have been made available. These provide further support to policies within the Core Strategy and can be found on the website at the following link:

<http://www.brent.gov.uk/tps.nsf/Planning%20policy/LBB-309>

They are:

Affordable Housing Viability Study, BNP Paribas Real Estate, Sept. 2009

Core Strategy: Tall Buildings, LB Brent, Sept. 2009

Scenario and Sensitivity Testing Paper on Retail Matters, Roger Tym & Partners, Sept. 2009.

4.0 Financial Implications

- 4.1 There are no financial implications arising directly from this report. However, pursuit of a district-wide CCHP system, as indicated in policy CP7, may have some implications for Council expenditure in the future depending upon how any scheme is implemented.

5.0 Legal Implications

- 5.1 The preparation of the LDF, including the Core Strategy, is governed by a statutory process set out in Government planning guidance and regulations. The regulations allow for changes to be proposed to the draft Plan after publication. The changes proposed will be put to the Inspector for consideration along with any representations that may be made upon them.

6.0 Diversity Implications

- 6.1 Full statutory public consultation has been carried out in preparing the Core Strategy and an Impact Needs / Requirement Assessment (INRA), which assessed the process of preparing the Core Strategy, was prepared and made available in November 2008.

Background Papers

Core Strategy, Proposed Submission, June 2009
Site Specific Allocation Proposed Submission DPD, June 2009

Contact Officers

Any person wishing to inspect the above papers should contact Ken Hullock, Planning Service, X5309, ken.hullock@brent.gov.uk

Chris Walker
Chief Planner

Appendix 1

Proposed Changes to the Core Strategy: Submission Version

Introduction

The Council submitted its Core Strategy to the Secretary of State on 30th September 2009. Since then, discussions with potential objectors and stakeholders have led to the Council proposing a few minor changes to policy which will be considered by the Inspector appointed to examine the Strategy. These changes are set out below.

Since consultation on the proposed submission version of the Core Strategy ended on July 13th, further supporting documents have been made available. Representations relating to the soundness of these proposed changes to the Core Strategy Submission Version and associated documents can be made by 8th January 2010.

on-line at www.brent.gov.uk/ldf, by e-mail to ldf@brent.gov.uk, or in writing, using the response form provided, to:

LDF Team
Planning Service
LB Brent
Brent House
349 High Road
Wembley
Middlesex HA9 6BZ

Proposed Changes

Additions to policies are shown in *italics*

Deletions to policies are ~~struck through~~

Paragraph 4.8

The direction for the future change and regeneration of the borough also needs to accommodate population and housing growth. The issue is how much growth is appropriate and how, where and when it can be provided. The council accepts that at least 10,146 new homes (including 1,000 non self-contained homes) can be accommodated in Brent up until 2016/2017, and will aim for a target of 50% affordable in accordance with the London Plan. *Within that, the Council will also aim to achieve the objective of 70% social housing and 30% intermediate provision. (See also paragraphs 5.91 and 5.92.)*

CP 2

Population and Housing Growth

The borough will plan for sustainable population growth of 28,000 people by 2017. The provision of at least 22,000 additional homes (including 1,030 re-occupied vacant homes) will be delivered between 2007 and 2026 (including over 11,200 homes from 2007/08 to 2016/17). The borough will aim to achieve the London Plan target that 50% of new homes should be affordable *and, within that, the objective of 70% social housing and 30% intermediate provision*. Over 85% of the new homes will be delivered in the growth areas with the following minimum targets:

	2007-2016	2017-2026
Wembley	5000	6500
Alperton	1500	100
Burnt Oak / Colindale	1400	1100
Church End	700	100
South Kilburn	1400	1000
Rest of the Borough	2050	360

The council will also promote additional housing as part of mixed use development in town centres where public transport access is good.

Policy CP 7

Wembley Growth Area

Wembley will drive the economic regeneration of Brent. It will become a high quality, urban, connected and sustainable city quarter generating 10,000 new jobs across a range of sectors including retail, offices, conference facilities, hotels, sports, leisure, tourism and visitor attractors, creative and cultural industries and education facilities reflecting its designation as a Strategic Cultural Area for London. Around 70 hectares of land around the Wembley National Stadium and Wembley town centre will be redeveloped for at least 11,500 new homes to 2026, supported by infrastructure identified within the Infrastructure and Investment Framework. This will include:

- New road connections
- Junction improvements
- 2 new 2 form of entry primary schools
- A new combined primary (2 form of entry) and secondary school (6 form of entry) on the Wembley Park site
- Extensions to existing local schools
- Nursery places
- At least 2.4 hectares of new public open space comprising of a new park (1.2ha min) and 3 pocket parks/squares (0.4ha each)
- Improvements to the quality and accessibility of existing open spaces
- A new community swimming pool
- A new civic centre
- Indoor and outdoor sports facilities
- Play areas
- A minimum of 1,000 trees
- New health facilities with space for 17 GPs and 13 new dentists
- *If feasible*, District-wide Combined Cooling, Heat and Power as set out in Policy CP17
- New multi use community facilities

As identified in Map E.1 'Wembley Growth Area, Energy Action Plan Area and Town Centre Boundary', Wembley town centre will be extended eastwards to facilitate a further 30,000sqm net of new retail floorspace in addition to that already granted planning consent.

CP 19

Brent Strategic Climate Mitigation and Adaptation Measures

All development should contribute towards achieving sustainable development, including climate change mitigation and adaptation.

Major proposals (10 or more dwellings and 1,000m² or more floorspace) and proposals for sensitive uses (education, health and housing) in Air Quality Management Areas, should submit a Sustainability Statement demonstrating, at the design stage, how sustainable design and construction measures are used to mitigate and adapt to climate change over the intended lifetime of a development. This includes the application of the London Plan energy hierarchy and meeting or exceeding the London Plan targets. In all areas a minimum rating of Code Level 3 should be achieved. For non-residential, a rating of BREEAM 'Excellent' is expected, or the equivalent on any 'Code for Sustainable Commercial Schemes' (when forthcoming).

Within the Wembley Energy Action Area (EAA) and in the Housing Growth Areas, major proposals are currently required to achieve a minimum Level 4 rating (in relation to the Code for Sustainable Homes). In particular, proposals will be expected (relative to their scale) to connect to, provide or contribute towards decentralised energy networks (heating and cooling) and renewables infrastructure in key Growth Areas of the Borough, notably Wembley, *unless it can be demonstrated that such provision is not feasible*.

Additional Supporting Documents

Affordable Housing Viability Study, BNP Paribas Real Estate, Sept. 2009

Core Strategy: Tall Buildings, LB Brent, Sept. 2009

Scenario and Sensitivity Testing Paper on Retail Matters, Roger Tym & Partners, Sept. 2009.

Appendix 2

Core Strategy Proposed Submission DPD Consultation Responses

Number of Representations

Number of respondents: 46
Total no of representations: 400

Representations that CS is sound 166
Representations that CS is unsound 234

Break down of representations by policy:

Policy	Title	Total Reps	Sound	Unsound
CP1	Spatial Development Strategy	11	6	5
CP2	Population and Housing Growth	14	8	6
CP3	Commercial Regeneration	5	3	2
CP4	North-West London Co-ordination Corridor	2	2	0
CP5	Placemaking	8	4	4
CP6	Design & Density in Place Shaping	10	6	4
CP7	Wembley Growth Area	6	3	3
CP8	Alperton Growth Area	5	5	0
CP9	South Kilburn Growth Area	2	2	0
CP10	Church End Growth Area	2	1	1
CP11	Burnt Oak/Colindale Growth Area	4	1	3
CP12	Park Royal	6	4	2
CP13	North Circular Road Regeneration Area	2	1	1
CP14	Public Transport Improvements	3	1	2
CP15	Infrastructure to Support Development	11	6	5
CP16	Town Centres and the Sequential Approach to Development	8	2	6
CP17	Protecting and Enhancing the Suburban Character of Brent	5	1	4
CP18	Protection and Enhancement of Open Space, Sports and Biodiversity	5	4	1
CP19	Brent Strategic Climate Mitigation and Adaptation Measures	11	5	6
CP20	Strategic and Borough Employment Areas	4	1	3
CP21	A Balanced Housing Stock	6	4	2
CP22	Sites For Nomadic Peoples	1	1	0
CP23	Protection of existing and provision of new Community and Cultural Facilities	4	3	1

Key Issues

General

Concern expressed that policy should protect existing uses that contribute to the local economy and development should take account of existing site characteristics.

Suggested that the Core Strategy is unsound because of insufficient evidence.

Issues about the appropriate locations for tall buildings and evidence to support policy.

Housing

Issues relate to:

- whether policy should reflect the emerging London Plan, which suggests that more flexible requirements will be introduced for affordable housing, and whether the target of 50% should apply.
- whether the need for viability to be taken account of in determining appropriate levels of affordable housing should be explicitly set out in policy.

Concerns about whether the stated capacity is deliverable and that there no are mechanisms for delivering the level of family housing sought. Delivery of housing targets not based on a SHLAA.

GOL consider that reference to the 70:30 social rental and intermediate housing provision should be in policy.

Town Centres and Retail

Sequential preference for town centres - in particular whether Wembley should be promoted as sequentially preferable.

Whether retail development should be contingent upon creating a continuous retail link from the High Road.

Assessment of retail floorspace need is based upon a flawed retail need and capacity study.

Concern about the appropriate categorisation of town centres in the hierarchy.

Infrastructure

Infrastructure requirements - including:

- whether the evidence base is adequate; and
- whether the requirements are based on need arising from new development or making up existing deficiencies.

Climate Change Mitigation and Adaptation

There is insufficient evidence to support and justify the Code for Sustainable Homes /BREEAM requirement in growth areas and Wembley Energy Action Area and also a


lack of evidence to demonstrate deliverability of proposed decentralised energy networks.

Employment Land

There are issues relating to the protection of employment land. The GLA are concerned about policy insufficiently protecting a particular Strategic Employment Location (Northfields) whilst other objectors would wish to see greater flexibility and exceptions to policy allowed.

Community and Cultural Facilities

The development of co-located multi-purpose facilities discriminates against a wide range of community groups, particularly faith groups which require dedicated community activity use. New community uses could in principle use industrial / commercial sites

	<p style="text-align: center;">Planning Committee 21st October 2009</p> <p style="text-align: center;">Report from the Chief Planner</p>
For action	Wards Affected: ALL
DETAILED PROPOSALS AND DRAFT REGULATIONS FOR THE INTRODUCTION OF THE COMMUNITY INFRASTRUCTURE LEVY: CONSULTATION	

1.0 Summary

- 1.1 From April 2010, the Community Infrastructure Levy (CIL) will be a new charge which local authorities in England and Wales will be empowered, but not required, to charge on most types of new development in their area. CIL charges will be based on set formulae which relate the size of the charge to the size and type of the development. The proceeds of the levy will be spent on local and sub-regional infrastructure to support the development of the area.
- 1.2 Central Government believe CIL will improve predictability and certainty for developers as to what they will be asked to contribute; will increase fairness by broadening the range of developments asked to contribute; will allow the cumulative impact of small developments to be better addressed; and will enable important sub-regional infrastructure to be funded. Central Government are seeking comments on the details of the CIL, regulations and implications until the 23rd October 2009. Brent will make both its own representations as detailed in this report and where appropriate support those of London Councils.

2.0 Recommendations

- 2.1 That the Planning Committee agrees to the comments on CIL as set out in paragraph 3.13 to be sent to Communities and Local Government Mayor and London Councils as part of their consultation process, on the proposals for implementing the CIL.

3.0 Detail

Introduction

- 3.1 Over the last few years the Government has introduced legislation to enable local and regional governments to introduce a new

infrastructure charging regime. The principle aim of this new charge is help provide the infrastructure that is required for growth and development. While there had been previous attempts to reform the S106 planning obligations system, most notably with a revised circular 1/97(becoming 05/05) enabling standard charges and procedures to the long discussed but never realised Planning Gain Supplement (PGS), there remained concern over the lack of significant pieces of infrastructure that could derail the provision of new homes and new jobs.

- 3.2 The new charge is known as the Community Infrastructure Level (CIL) and works as a set charge to be applied to all non-householder developments in an area. The legislation is in place, in the form of Part 11 of the Planning Act 2008, for it to be used from April 2010 subject to the approval of a Charging Schedule, which sets out the level and justification for the charge. The Charging Schedule must be linked to an approved Core Strategy and have been approved by an inspector at a hearing itself.
- 3.3 The goal from central government is to replace much of the S106 system with a clearer set charge that all sides know how much to expect and when. The idea that all sides will be in better positions in a more simplified and clarified system. Knowing the set charge developers will be able to purchase land with this in mind and reduce the ad hoc nature of S106 negotiations. Local authorities will be better able to make long term infrastructure plans, knowing there is a set amount of funds coming in, in a more consistent and regulated way. The element of negotiation will be removed.

Issues

- 3.4 This sounds very similar to Brent Council's own S106 Planning Obligations SPD. This is a reflection of the Council's forward thinking approach to S106 and the fact that much of the impetus for CIL came at a time when local councils were struggling with S106. However CIL makes a break between the actual impact of the development, as S106 was bound to, and providing infrastructure for wider growth.
- 3.5 The other key points of the proposed CIL are:
1. Uniform charge across the borough
 2. Rate per square metre
 3. Non negotiable
 4. Widening of remit, including sustainability measures
 5. Paring back of S106 to Affordable Housing and direct mitigation (i.e. footways, landscaping etc)
 6. 2 years to implement before S106 is scaled back
 7. Reporting information back on CIL to central government and administration efficiencies and regulation.
 8. Mayor CIL, Crossrail and more
 9. Viability testing

- 3.6 A uniform rate across the borough would follow our existing S106 SPD and is broadly accepted. A rate per square metre (sqm) is one way of trying to assess the impact of each development in a fair and consistent way. There are concerns that this will lead to developers reducing the size of their buildings, not the number of units, to try and avoid paying more CIL. As the Council has set minimum standards for units sizes in SPG17 which is carried over into the proposed Development Plan Document, this should not be of concern.
- 3.7 Removing the negotiation element should improve predictability in securing the charge, but will also remove the flexibility S106 has enjoyed, particularly in securing other benefits and supporting development in turbulent economic times. This is likely to result in other areas, particularly affordable housing coming under more pressure as they remain open to negotiation. Furthermore, when the economy picks up there is less opportunity to increase CIL or vice-versa.
- 3.8 Widening the remit of CIL contributions, allowing for large scale sustainability projects to be funded is a positive and proactive way of dealing with our responsibilities in tackling climate change impact of new developments.
- 3.9 The area of most concern is the proposed requirement to pare back S106 if and when CIL is established in an area. CLG requiring such a move within 2010-2012 could have a damaging effect on setting CIL at an appropriate level. A 2010-12 establishment would require data from 2008-2010, which will be an extraordinarily turbulent period. This would result in any CIL either being set at a low level due to historically low growth and land values or at a normal level prohibiting growth in the first few years. The Council proposes a longer 5-7 year window to allow CIL to be proven prior to the removal of the requirement for S106 contributions.
- 3.10 Under the proposed new structure, payments will be at set times, possible through the planning portal and more efficiently collected and collated. This is supported and would improve efficiency. Central government wants to more closely monitor the receipt and expenditure of CIL.
- 3.11 It is likely that the level of CIL will need to be viability tested prior to it being adopted. This, particularly in the current economic environment causes concern, for the reasons listed in 3.9. Further to these reasons the Council in it's Infrastructure and Investment Framework has identified a short fall (including allowing for the current S106 contributions) of approximately £2,400 per new residential unit. This and the current S106 charge would need to be viability tested, if it proves it would make the majority of schemes unviable it could in theory be reduced to a level most are viable, even if this is below the current S106 standard charge rate. The Council's response to this is in

the comments relating to not removing the S106 system until CIL is ready and to take over in (3.9).

- 3.12 Regional planning authorities, i.e the Mayor of London will be able to apply CIL for regional infrastructure such as Crossrail. The Mayor has already indicated there will be Crossrail CIL and there could be other Mayoral CILs. Boroughs will need to collect this on behalf of the Mayor and our own, if introduced after any Mayoral CIL will need to consider the Mayors in viability terms. Should boroughs be required to collect CIL on behalf of third parties, the boroughs should be allowed an administration fee. Brent will need to consider carefully if / when we propose a CIL baring in mind the Mayors ambitions.

Proposed responses

- 3.13 The consultation document proposes set questions it would like responses to. The Council's proposed responses and comments are listed below, covering the issues raised in the first part of this report:

1. *Do you agree with the proposal that the draft CIL regulations do not define 'infrastructure' further?*

The Act contains a list of infrastructure which now includes Affordable Housing .This gives the option of including affordable housing if CIL has a negative impact upon securing affordable housing. The Mayor's list only covers Transportation. The Council supports the current list and the option of further changes to consider changes in technology to be incorporated.

2. *Is any further reporting required for CIL?*

Charging authorities have to report information back to central government on CIL. No further reporting is supported.

3. *Is the 1st October deadline for reporting on the previous year's activity sufficient for local authorities?*

The Council would propose a 31st December deadline as this marries with the Annual Monitoring Report and falls within a historically quieter part of the year.

4. *Do you have any comments on any other matters raised in Chapter which hare not covered by the questions above?*

NONE

5. *Are there any circumstances where a normal CIL charging authority would not be able to fulfil its charging authority functions effectively?*

If during the viability setting of the charge, the level shown is so low that it does not prove sufficient funds for providing sufficient infrastructure.

6. Not relevant to Brent.
7. *Do you agree that differential rates should be based only upon economic viability of development?*

It is proposed to have a uniform level of CIL across the area, without any direct links between a development and a set piece of infrastructure, which is supported. In Brent a uniform level is supported, while the option of different levels of Crossrail CIL across London should be considered.

8. *Do you agree that CIL charges should be based on metric of pounds per square metre?*
9. *Would you prefer to have a choice of charging metrics, and if so can you suggest what and how the system could accommodate this choice without undue complexity and unfair distortions?*

The Council supports the per square metre approach on commercial and retail schemes, but not on residential units. The Council believes a per bedroom charge on residential units is more fair and easier to work out. It is also more aligned with the value of the property and therefore viability of the charge. This is the approach Brent has successfully used for the last 3 years in this S106 SPD.

10. *Do you agree with the Government's proposal to apply the charging metric to the gross internal area of the development or do you think there are advantages to levying CIL on the gross external area?*

CIL guidance needs to be clear about what is covered by internal and external areas, which walls / storage, plant etc. As long as not much more than external walls are excluded there is little difference and either is supported. The longer the list of excluded items the stronger the objection to using internal. Internal is supported with limited exclusion of space.

11. *Do you agree that CIL should be levied on the gross development, rather than the net additional increase in development?*

The Council supports CIL on any increase in development and is concerned it could undermine whole scale redevelopment and encourage piecemeal development to avoid paying more CIL.

12. *Should authorities be required to index CIL charges?*
13. *Should indexation be based on a national index to provide simplicity, consistency and a readily understood index or, alternatively should charging be allowed to choose different indices in different places?*
14. *Do you agree with Government's proposed choice of an index of construction costs?*

Charging authorities should be required to index link CIL to keep it fair and accurate in terms of what it can provide for. Indexing it to a national

construction costs index is correct and a supported index. Support indexation to national construction index.

15. *Are you content with indexation taking place to the point of granting of planning permission or would you prefer charges to be indexed to the point when development commences?*

Indexation must occur through to the implementation of the planning permission, otherwise only half the indexation benefit will be realised and the value of the charge reduced. Furthermore it will encourage developers to wait until the end of their permission to reduce the costs of the charge, rather than bring development forward to reduce the indexation amount. The Council supports the indexation until the point of implementation as a separate indexation to the pre planning permission indexation.

16. *Do you think it is right to apply the index on an annual basis or do you see advantages in apply it monthly?*
17. *Do you agree that charging authorities should be able to index their charges from 1 January each year (taking November index)?*

Indexation should be applied yearly to the charge, so that the base amount is clear. Indexation from the granting to the implementation of the permission should be applied monthly and will depend upon the when the permission is implemented.

18. *Do you agree with the Government's proposal to allow a joint charging schedule / development plan examination?*
19. *Do regulations or guidance need to cover any additional matters relating to the joint examination*

Joint charging schedules examinations are supported, especially for those with other boroughs. Consideration should be given for the trigger of an examination and the cost of it. Charging authorities can be held to ransom for the cost of the examination. It is hard to justify an examination if just one objector seeks it.

20. *Should the CIL examiner be able to modify a draft charging schedule to increase the proposed rate?*

The examiner should be able to increase the CIL rate only where the charging schedule and viability aspects have been address. This would stop areas from decreasing their CIL to give them a competitive advantage over other areas.

21. *Do you have comments on any other matters raised in Chapter 3 which are not covered by the questions above?*

As the level of CIL will need to be viability tested there is concern, particularly in the current economic environment, that any CIL would either be established at a low level due to historically low growth and land values or at a normal level prohibiting growth in the first few years. The Council in it's Infrastructure and Investment Framework has

identified a short fall (including allowing for S106 at its current rate) of approximately £2,400 per new residential unit. This in addition to the current standard charge would need to be tested, if it proves it would make the majority of schemes unviable it could in theory be reduced to a level most are viable, even if this is below the current S106 standard charge rate.

Regional planning authorities, i.e the Mayor of London will be able to apply CIL for regional infrastructure such as Crossrail. The Mayor has already indicated there will be Crossrail CIL and there could be other Mayoral Transport CILs. Boroughs will need to collect this on behalf of the Mayor and our own CIL, if introduced after any Mayoral CIL will need to consider the Mayors in viability terms. If the Mayor is introduced after the boroughs, they should have to take consideration of ours into account. Also should boroughs be required to collect CIL on behalf of third parties, the boroughs should be allowed an administration fee.

22. *Do you agree with the chosen definitions of building, planning permission and 'first permits'? If not what changes would you wish to see that strike the right balance between simplicity, fairness and minimising distortions?*
23. *Do you agree with our approach to when CIL is chargeable on outline and reserve planning permissions? If not what changes would you wish to see that strike the right balance between simplicity, fairness and minimising distortions?*

Yes, no comments.

24. *What are your views on the principle of providing a reduced rate of CIL for all affordable housing development? What do you think the likely consequences of providing such a discount might be?*

We support a discount for affordable housing units, as affordable housing is likely to come under significant pressure from CIL and reductions in grant. Allowing say a 20% reduction would encourage affordable housing delivery while acknowledging the benefit and cost of affordable housing.

25. *If the government were to provide a reduced rate of CIL for affordable housing development, do you think the proposed definition of affordable housing is workable in practice?*

Yes, supported.

26. *If the proposed definition provides a workable basis for any reduced rate of CIL for affordable, should CIL relief for charities building affordable housing be applied according to this definition or according to whether it fulfils the charity's charitable purposes?*

If they are building affordable housing not under their charitable purposes it should have the charge at the reduced rate. If it is under their charitable purposes it should not have CIL applied.

27. *Should LCHO properties where receipts from staircasing are recycled for additional affordable housing, not be subject to any clawback?....*

No clawback is support as the funds are being reused to provide more affordable housing.

28. *Is 7 years an acceptable time period for clawback to operate over?*

No objection.

29. *Is it reasonable to ask a claimant to submit an apportionment of liability in this way?*

No objection

30. *Do you agree that it is best not to have a special procedure for developments that have difficulty in paying the advertised rate of CIL? If not, how could it be done in a way that is fair, non-distortionary and not open to abuse?*

It is important to recognise that there will be times when developers can not pay the charge in the timeframe set due to market conditions or to company specific factors. A special procedure needs to be set and clear for what will happen and when. The S106 system has worked well through the downturn in being able to stage payments to aid developer cash flow. The Council proposes a system where financial constrains have been demonstrated to the Council's satisfaction, 50% of the charge may be proposed from implementation of the planning permission to practical completion. The same should apply to all other charging authorities.

31. *Do you agree with the Government's proposals for liable parties and assumption of liability?*

No objection

32. *Are these timescales for the transfer of CIL revenue from the collecting authority to the charging authority the right ones?*

In London this would be monthly to the Mayor for transportation. There will be heavy administrative burdens on both the collecting authority and the Mayor in processing this every month. The council proposes requiring charging authorities to be required to transfer the funds not less than every quarter. This allows them to transfer more frequently if required but does not requirement to do so.

33. *Do you think that the final regulations should provide for the payment of CIL in-kind?*

34. *If you think they should, can you suggest how CIL could be paid in-kind without incurring the difficulties outlined above?*

Final regulations need to provide for CIL in-kind payments. In-kind CIL payments should be considered as the provision of public infrastructure either as shown or similar to the charging schedule, with the costs identified in it plus 10%. The provision of this infrastructure usually at the end of construction reflects a 10% surcharge equivalent of 5 per annum, over the average 2 years of construction.

35. *Should payment by instalments be provided for in the final CIL regulations in addition to the ability to pay CIL by phases of development? How should the instalments be structured?*

Regulations for the instalment of payments should be provided for as most large complex developments will be phased. Set timescale instalments such as on implementation at the start of each phase, with the proportional amount of CIL. This should allow for cash-flow and phasing issues to be addressed, while giving clarity and encouraging all of the development to come forward.

36. *Do you agree that payment on account should not be provided for in the final CIL regulations?*

Strongly agree.

37. *Should the collecting authority be under a duty to remove the charge automatically on payment of the full CIL liability?*

Strongly agree.

38. *Should the draft regulations be amended to require collecting authorities to have to issue a warning to liable parties(..) before being able to impose a late payment surcharge?*

Charging authorities should only have to issue a warning prior to the six month surcharge. It is the responsibility of the developer to pay the charge not the authority to request it.

39. *Are the means of recovering CIL debts sufficient or would further methods such as the ability to impose attachment of earning orders be helpful?*

They are sufficient.

40. *Should the Government provide for specific enforcement measures in regulation to allow collecting authorities to penalise and deter breaches of condition for relief?*

Yes.

41. *Is a bespoke compensation regime required for CIL where enforcement action is inappropriately taken or would the Ombudsman route suffice?*

A bespoke compensation regime is required to clearly identify when inappropriate taken action has occurred and the professional recourse available for both sides.

42. *Do you have comments on any other matters raised in Chapter 4 which are not covered by the questions above?*

No.

43. *What do you think about the Government's proposals as set out in draft regulation 94 to scale back the use of planning obligations?*

44. *Do you think the wording of each of the five tests as set out in draft regulation 94 is appropriate? Is each of the five test meaningful and workable in practice or could any be expressed in a better way?*

This approach is flawed. The reason case law only recognises it as a consideration is that it is virtually impossible to accurately define what is 'reasonable' and what is 'required' when considering the mitigation required for new developments. How many people in a new development will require a new drop kerb to be installed, can you say definitely 27 residents but not 26? The regulations need to either be totally revisited or left as they are with the caveat that it is 'unreasonable' for them to apply where it is covered by CIL.

45. *Do you think that a transitional period beyond the commencement of CIL regulations in April 2010, would be required to restrict use of planning obligations to the Circular 05.05, and if so what should it be and why is such a period required?*

The proposal to require planning obligations to be pared back if and when CIL is established within 2010-2012 is not supported. The evidence base for this time would either establish a low level due to historically low growth and land values or at a normal level prohibiting growth in the first few years. The Council proposes a longer 5 year window to allow CIL to be adequately established with sufficient policy and evidence from a more stable economic time, prior to removing the vital planning obligations tool.

46. *Do you agree that a scale back of planning obligations as set out in draft regulation 94 should apply universally across England and Wales regardless of whether a local authority has CIL or not?*

No, we do not agree. Local authorities should be given the choice, otherwise CIL is mandatory. As long as it is clear you can not have old style planning obligations and CIL, the choice is best left to the local authority.

47. *Should a scale back of the use of planning obligations go further and prevent the future use of planning obligations for pooled contributions and tariffs.*

If local authorities are given the choice of CIL or old style planning obligations, yes.

48. *Do you think the Government's proposal to provide an additional legal criterion to restrict the use of planning obligations to address planning impacts 'solely' caused by a CIL chargeable development is workable in practice? If not please state why not. Can you think of an alternative which would have the same affect?*

Circular 1/97 and 05/05 have shown that it is not workable in terms of restricting the use of planning obligations. 05/05 would need to be updated and specify the level of unreasonableness in planning terms, unfairness etc. For example it would have to state something along the lines of: Where there is sufficient impact from the proposed development that on it's own it has a negative impact on the social, environmental or physical infrastructure that would not provide a sustainable development and for which a level of mitigation is available and reasonable to seek in planning terms.

49. *What transitional period, beyond the commencement of CIL regulations in April 2010 would be required to restrict use of planning obligations to mitigate impacts 'solely' caused by CIL chargeable development.*

Until the charging authority has adopted CIL charges in place, to a maximum of 5 years

50. *Do you agree that a restriction of planning obligations to prevent their use for pooled contributions or tariffs should apply universally across England and Wales regardless of whether a local authority has a CIL or not.*

No, it is unfair and would prohibit the authority in seeking required mitigation. There will be a direct loss of infrastructure income.

51. *What transitional period in London do you think would be required before a scale back of the use of planning obligations which prevented the use of pooled contributions and tariffs could take effect, to ensure a smooth transition from the existing to the new planning obligations regime taking account of the need to use planning obligations form Crossrail purposes.*

Given much of our work will be closely linked to what and when the Mayor introduces CIL, a longer period is certainly required of at least 5 years.

52. *In revising Circular 05/05 in the light of CIL. What further policy or areas of clarification do you think might be required with regards to the use of planning obligations?*
53. *Do you think any further guidance (additional to a revised Circular 05/05) is required to support the use of planning obligations or CIL, and if so who would be best to provide it.*

Further clarification from CLG is required for using planning obligations, with more examples and a best practice guide. A similar best practice guide from CLG or PAS would be good for CIL. If CLG is not explicitly

clear as to how it will work in practice then chagrining authorities will struggle.

54. *Do you have comments on any other matters raised in Chapter 5 which are not covered by the questions above?*

None.

Conclusions

3.14 In conclusion, the Council welcomes the proposed details of CIL and its regulations. There are a number of concerns around the Mayor of London's role and the future of planning obligations that need to be resolved first. This causes further concern given the April 2010 deadline for introducing CIL. This report highlights the amendments and clarification sought by the Council. Much will depend upon the amendments achieved after this consultation.

4.0 Financial Implications

4.1 The council's Core Strategy and Infrastructure and Investment Framework has considered the amount of new development proposed and its impacts. The existing S106 system brings in £3-4million a year for infrastructure in the borough to address some of the impact of new development. If this were to stop there would be a clear short fall in income which would need to be addressed. Equally should CIL increase or decrease from the current level of income there will also be direct impacts upon the service provision and Council resources that rely upon this income.

5.0 Legal Implications

5.1 Under the current proposals, the existing S106 system will be come obsolete after 2012, leaving CIL and a pared back S106 as the only options for securing infrastructure from planning applications. While there is no legal requirement upon a LPA to introduce CIL, post 2012, the existing S106 planning policies guidance will require updating if it is to carry any legal weight in securing infrastructure. The current details of CIL are out to consultation and this report covers the matters the Council will highlight in it's response.

6.0 Diversity Implications

6.1 None

Background Papers


- Detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy: Consultation - Partial Impact Assessment
- Detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy: Consultation - Draft Regulations and Reference documents
- Detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy: Consultation

Contact Officers

Any person wishing to inspect the above papers should contact Zayd Al-Jawad at Brent's Planning Service , Zayd.AL-Jawad@brent.gov.uk, 020 8937 5018

Chris Walker
Chief Planner

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	<p style="text-align: center;">Planning Committee 21st October 2009</p> <p style="text-align: center;">Report from the Chief Planner</p>
<p>For Information</p>	<p style="text-align: right;">Wards Affected: ALL</p>
<p style="text-align: center;">DRAFT REVISED LONDON PLAN – PUBLIC CONSULTATION BY THE MAYOR OF LONDON</p>	

1.0 Summary

- 1.1 This report explains that the Mayor of London’s draft new London Plan has been published for public consultation. Officers will provide a verbal report to Committee and will circulate a brief summary of the key issues to Members.

2.0 Recommendations

- 2.1 That the Planning Committee notes the key points made by the Mayor in proposing changes in strategic planning in London.

3.0 Detail

Introduction

- 3.1 On Monday October 12th 2009 the Mayor of London published a draft revised London Plan. This proposes a new spatial development strategy and it is one of three key documents (alongside the Mayor’s Transport Strategy and Economic Development Strategy) that set out his strategy for development in London. As well as being the overall strategic plan for London, providing the strategic context for Brent’s own plans (Local Development Framework) and for the Mayor’s own decisions on strategic planning applications, it also legally forms part of the development plan for each London borough and has to be taken into account in determining planning applications. A full copy can be viewed on the Mayor’s website at:

<http://www.london.gov.uk/mayor/publications/2009/05/london-plan-.jsp>

- 3.2 It is important that the Council responds to the consultation, either in support of aspects of the Plan that will benefit the borough or with objections where conflicts with Brent’s objectives have been identified.

It is intended that a report setting out Brent's proposed response be brought to Planning Committee for approval on 10th December.

4.0 Financial Implications

- 4.1 There are no financial implications arising directly from this report, although a review of London-wide planning policy is likely to require a review of Brent local development plan policy, with its associated costs, in the longer term.

5.0 Legal Implications

- 5.1 The London Plan, called a Spatial Development Strategy, forms part of the development plan for the borough and must be taken into account in determining planning applications. When a revised London Plan is adopted, estimated to be early 2012, it will mean that Brent's own LDF will have to be in general conformity with it, and may necessitate a review of any Development Plan Documents adopted by Brent by that time. In the meantime the London Plan as adopted in February 2008 remains, along with Brent's UDP, the statutory basis for determining planning applications.

6.0 Diversity Implications

- 6.1 Full statutory public consultation will be carried out by the Mayor on the review of the London Plan and it is likely that the review will include an Equalities Impact assessment.

Background Papers

Planning for a Better London, July 2008


The London Plan (Consolidated with Alterations since 2004), Feb 2008

A new plan for London, April 2009

Contact Officers

Any person wishing to inspect the above papers should contact Ken Hullock, Planning Service, X5309, ken.hullock@brent.gov.uk

Chris Walker
Chief Planner

	<p style="text-align: center;">Planning Committee 21st October 2009</p> <p style="text-align: center;">Report from the Chief Planner</p>
For action	Wards Affected: ALL
London Strategic Housing Land Availability Assessment : implications For Brent	

1.0 Summary

- 1.1 This Report informs Members of the outcome of the London Strategic Housing Land Availability Assessment (SHLAA) recently undertaken to identify land and buildings suitable for new housing development in Brent. The SHLAA's evaluation of Brent's potential new housing capacity will inform the proposed 'New London Plan' housing target for Brent for the period 2011 - 2021. The provisional findings of the SHLAA indicate that Brent's new annual housing target should remain virtually the same as its current London Plan target of 1,120 homes.

2.0 Recommendations

- 2.1 That the Planning Committee agrees that the SHLAA outcome represents an acceptable basis for negotiating Brent's new London Plan housing target with the Mayor of London.

3.0 Detail

Introduction

- 3.1 Local Planning Authorities are required, by Planning Policy Statement 3, Housing (PPS 3), to undertake a Strategic Housing Land Availability Assessment (SHLAA) to inform the preparation of their Local Development Framework (LDF) and, in particular, their housing land supply and annual new housing target. A similar requirement applies to the Mayor's preparation of a 'New London Plan' (see Report on this agenda), which will set the new housing target for each borough.
- 3.2 The boroughs are therefore required to actively assist the Mayor and the Greater London Authority (GLA) in undertaking the London

Strategic Land Availability Assessment 2009 (London SHLAA). An element of the Housing and Planning Delivery Grant was conditional on the GLA certifying that the borough had actively participated in the London SHLAA. The Government Office for London (GOL) further advised that the boroughs' active participation in the London SHLAA would satisfy the PPS 3 requirement, and so the boroughs would not have to undertake their own SHLAA.

The SHLAA Methodology

- 3.3 The most important part of the SHLAA involved assessing the potential housing capacity of large sites (more than 0.25 ha size). This evaluation was undertaken using a GLA hosted IT system and sites database. Brent Planning Officers evaluated 359 sites and assessed that 88 have a potential capacity to sustainably provide substantial new housing schemes, in accordance with Brent's land use strategy and planning policies. The sites considered unsuitable for new housing development are mostly located in employment areas, accommodate key community facilities (education and health etc) or provide essential open space. Others on the GLA supplied list had already been developed for housing.
- 3.4 The SHLAA concluded that the evaluated sites have the capacity to provide at least 8,365 self contained (s/c) homes (flats and houses) during the primary period (New London Plan) 2011 – 2021. The overall SHLAA evaluation period runs from 2009 to 2031. It is important to appreciate that this is very much a minimal capacity figure as the SHLAA employs a very conservative methodology; which operationally discounts' substantially potentially higher housing capacities, by modelling very significant 'constraints' (such as, potential townscape and other environmental factors). Potential development constraints which might be resolvable through the individual site design and development process.
- 3.5 The SHLAA further assessed the potential housing capacity of small sites (under 0.25 ha) through an historical trend extrapolation study which indicated that such sites might provide a further 1,906 s/c homes during the period 2001 -2021. Combining these large and small sites outputs provides a minimal annual potential capacity of 1,021 s/c homes. This figure, which will inform the New London Plan's s/c homes target, would represent a 12% increase on the current London Plan's 915 homes
- 3.6 The SHLAA has also assessed that Brent has the potential capacity to annually provide 29 non self contained homes (in Houses in Multiple Occupation and Hostels), representing a 71% decrease on the current London Plan sectoral target (100). And that Brent should be able to secure the re-occupation of 61 vacant s/c homes annually, representing a 41% decrease on the current London Plan sectoral target (103).

The London SHLAA Outcome; Implications For Brent

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- 3.7 Brent's participation in the London SHLAA to the satisfaction of both the GLA and GOL should place the Council in a favourable position at the forthcoming Examination In Public of the LDF Core Strategy (see Report on this agenda).
- 3.8 It is not unreasonable to infer that the above SHLAA outcomes will be generally incorporated into the proposed New London Plan, which will replace the current London Plan, probably in 2011 (see Report on this agenda). On this basis, Brent's annual housing target would be 1,117 additional homes, representing a decrease of 0.3% on the current London Plan target (1,120).
- 3.9 Brent would therefore be one of the only five boroughs to have a standstill/decreased housing target, as most other boroughs are likely to have significantly increased targets. However, Brent's current position should be seen in the context of the previous London Housing Capacity Study 2005 which resulted in a 90% increase on our previous London Plan s/c homes sectoral target (from 482 to 915).
- 3.10 A reasonably achievable London Plan housing target would be beneficial to the Council as it would not only reinforce Brent's land use strategy to prevent the loss to housing development of existing employment and open space sites. But could also generate additional Government grant for meeting and exceeding our housing target. For example, the Planning Service is likely to be awarded additional Housing and Planning Delivery Grant for having consistently exceeded the current London Plan target (915). And the Local Area Agreement National Indicator 154 Additional Homes (s/c) is based on this same target.

Conclusion

- 3.11 The London SHLAA has been undertaken in a process which has been mutually beneficial to both the GLA and the Council, particularly as it is likely to result in a reasonably achievable New London Plan housing target.

4.0 Financial Implications

- 4.1 No negative financial implications are likely to directly arise from the London SHLAA. As already noted, the undertaking of the London SHLAA, a statutory obligation, has been financially assisted through a special Housing and Planning Delivery Grant allocation. While the resulting amenable housing target could generate further Government funding.

5.0 Legal Implications

- 5.1 Both the GLA and GOL appear to be satisfied that the Council has satisfactorily fulfilled its statutory obligations to identify an adequate

supply of land suitable for new housing development through its active participation in the London SHLAA.

6.0 Diversity Implications

6.1 None discernible.

Background Papers

- London's Housing Capacity 2009 : Study Overview and Participant Guide (GLA, 2009)

Contact Officers

Any person wishing to inspect the above paper should contact Michael Maguire at Brent's Planning Service, michael.maguire@brent.gov.uk, 020 8937 5310.

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