

WANDSWORTH BOROUGH COUNCIL

STRATEGIC PLANNING AND TRANSPORTATION OVERVIEW AND  
SCRUTINY COMMITTEE – 24TH JANUARY 2012

EXECUTIVE – 30TH JANUARY 2012

Report by the Director of Environment and Community Services on proposals to submit a modified Community Infrastructure Levy (CIL) Draft Charging Schedule for Examination.

SUMMARY

Background. Proposals to advance the introduction of the Community Infrastructure Levy (CIL) in Wandsworth were approved in June 2011 (Paper No. 11-498). The report provides a summary of the responses received during the public consultation on the Draft CIL Charging Schedule, and seeks approval for publication of a Statement of Modifications to the Draft Schedule, and submission of the schedule, as amended, for independent Examination prior to formal adoption by the Council. Approval is also sought on several ancillary matters with regards the administration of CIL.

Policy. Policy IS7 of the adopted Core Strategy commits the Council to having a CIL charging schedule/Planning Obligations Supplementary Planning Document in place during 2012. CIL was introduced in the Planning Act 2008, as modified by the Localism Act 2011.

Issues/Proposals. Consultation on a Draft CIL Charging Schedule took place between 24th June – 22nd July 2011. An amended schedule, taking account of the responses received, is attached for approval. Following consideration of the responses, an amendment to the Draft Charging Schedule is proposed in the Statement of Modifications. The primary change being a reduction in the charge for retail and office development, from £100 per sq.m. to £0 per sq.m. in wider Wandsworth, reflecting further evidence commissioned by the Council from BNP Paribas Real Estate. The Council is required to publish its Statement of Modifications for comments on the changes, alongside submission of the Draft Charging Schedule for Examination.

There are several issues that the Council should consider with regards to the administration and operation of CIL. These matters do not form part of the Examination of the schedule, and the Council is able to amend its position in future where appropriate. However, an agreed Council position on these matters may prove useful during the Examination. Approval is sought on matters relating to claims for relief from CIL, administration requirements for the collection of CIL and the decision making process to be used to allocate CIL funds to projects.

Director of Finance Comments. Based on current projections the proposal to reduce the CIL charge for retail and office development in the “Wider Wandsworth” area is estimated to reduce CIL income by £500,000 p.a. Due to the recommended changes and the required Examiners report the introduction of the Wandsworth CIL has been delayed reducing the income from CIL in 2012/13.

GLOSSARY

CIL	Community Infrastructure Levy
DCLG	Department of Communities and Local Government
DCS	Draft Charging Schedule
DIFS	Development Infrastructure Funding Study
EIA	Equality Impact Assessment
GLA	Greater London Authority
LDF	Local Development Framework
PDCS	Preliminary Draft Charging Schedule
S106	Section 106 of the Town and Country Planning Act 1990
SPD	Supplementary Planning Document
TfL	Transport for London
VNEB	Vauxhall Nine Elms Battersea

1. **Recommendation.** The Strategic Planning and Transportation Overview and Scrutiny Committee are asked to support the recommendations in paragraph 3 of the report.
2. If the Overview and Scrutiny Committee approve any views, comments or additional recommendations on this report, these will be reported to the Executive or the appropriate regulatory and other committees for their consideration.
3. The Executive is recommended to :
  - (a) approve the Statement of Modifications to the CIL Draft Charging Schedule as set out in paragraphs 11 to 17 and attached as Appendix 1 of this report;
  - (b) instruct the Director of Environment and Community Services to submit the amended CIL Draft Charging Schedule, as attached in Appendix 2 to this report, for independent Examination;
  - (c) agree to the development of proposals for a policy to allow ‘Discretionary Charitable Relief’ as set out in paragraphs 26 to 27;
  - (d) agree not to implement an ‘Exceptional Circumstances Relief’ on CIL liabilities in special cases, as set out in paragraphs 28 to 31 of this report, but to keep the need for such a policy under review;
  - (e) agree the adoption of an instalments policy as set out in paragraphs 32 to 33 of this report;
  - (f) agree the proposed operational arrangements for CIL as set out in paragraphs 34 to 36 of this report; and
  - (g) agree the proposed governance arrangements for CIL expenditure, as set out in paragraphs 37 to 44.

4. **Background.** Following the Government's announcement to retain the Community Infrastructure Levy (CIL) in March 2011, approval was given by the Executive (Paper No. 11-244) for the development of a CIL Preliminary Draft Charging Schedule (PDCS) for the Borough. Following consultation on the PDCS, approval was given (Paper No. 11-498) to undertake public consultation on the Draft Charging Schedule (DCS). It is recommended that a modified DCS be submitted for Examination, for implementation at the earliest opportunity.
5. CIL legislation came into force in April 2010. It allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area, with a Charging Schedule reflecting different levels of economic viability. The money can be used to fund a wide range of infrastructure that is needed as a result of development. The implementation of a CIL charging schedule is essential to ensure the financing of infrastructure to support the future development of the Borough set out in the Council's adopted Core Strategy.
6. CIL will replace a significant proportion of infrastructure funding which is currently negotiated through Section 106 (S106) planning obligation agreements. Once an authority has a CIL charging schedule in place the use of S106 agreements is limited to site specific mitigation and the provision of affordable housing. This should simplify and fast-track the process of negotiating S106 agreements. It is proposed that the Council should adopt a Planning Obligations Supplementary Planning Document (SPD) alongside CIL, to provide clarity around developer contributions once CIL is published (adopted). Consultation on the draft Planning Obligation SPD took place in October 2011. The amended Planning Obligations SPD to be recommended for adoption will be reported to the same Committee as the proposal to publish the CIL Charging Schedule following receipt of the Examiner's report.
7. London is unique, in that in addition to the boroughs, the Mayor can impose a CIL Levy. The Mayor's DCS underwent Examination in November/December 2011 and is anticipated to be adopted by 1st April 2012. In addition to any local levy, the Council is responsible for collection of Mayoral CIL in the Borough, and administrative procedures are being put in place ahead of the expected implementation.
8. **Wandsworth CIL.** The Council is required to undertake two rounds of public consultation on a CIL charging schedule prior to submitting it for independent Examination. Consultation on the second round (the DCS) ended on 22nd July 2011. If the Council submits the Wandsworth DCS for Examination following approval by the Executive, it is anticipated that the Council will be able to begin to levy CIL in Autumn/Winter 2012.
9. **Consultation on the Wandsworth DCS.** 23 responses were received to the Consultation, with 12 of the responses submitted on behalf of the development industry. A statement of consultation summarising responses will be available in the Members' Room prior to Committee. In general, respondents were content with the CIL proposals, with a few important caveats. Some

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respondents raised concern over the viability of the charges, with particular regards to town centre redevelopment.

10. The majority of comments related to the management of CIL, such as the need for an instalments policy allowing CIL to be paid in phases. Another common request was clarification on how the Council will continue to operate planning obligations through Section 106 once CIL is adopted. These are not issues that should concern the Examination, however clarity on these matters would strengthen the Council's position, allay developers/land owners concerns and help build confidence and certainty in relation to the prospects for the future development of the Borough.
11. **Proposed Amendments to the DCS.** In line with guidance from the Department for Communities and Local Government (DCLG), the Wandsworth CIL charging schedule is based on a simple hierarchy of economic viability for broad development types. DCLG have advised that variance in charges should be kept to a minimum, as a complex range of charges would make the Examination more complex and could be more difficult to defend. In the DCS, the Council's proposals were based on three bandings:
  - (a) 'full charge' – Residential
  - (b) 'reduced charge' – Commercial (Office / Retail)
  - (c) 'minimal charge' – all other development (a nil charge but still required to collect the Mayor's charge)
12. This approach has been applied across the whole of "Wider Wandsworth", with the exception of the Roehampton area where a minimal rate is proposed for all development (reflecting the low economic viability of developing in the area). The charges in Nine Elms are consistent with the 'Development Infrastructure Funding Study' (DIFS) which is already used as the basis of the S106 tariff in Nine Elms as set out in the Council's Site Specific Allocations Document.
13. Respondents to the consultation indicated that the proposed charges for commercial uses would negatively impact on town centre redevelopment proposals, where the economic viability of commercial development was considered to be lower. The Borough Valuer supported the representations made, particularly with regard to retail and office development in town centres and the Wandsworth Business Partnership endorsed this view at their meeting in November. To ensure that the rates proposed in the DCS were appropriate, BNP Paribas Real Estate were commissioned by the Council to undertake further economic viability research in relation to retail and office development in the Borough and their report was received in December 2011.
14. The analysis undertaken by BNP Paribas Real Estate indicated that a charge for commercial of up to £100 per sq.m. could be viable in Putney and Clapham Junction, however this level of charge would not be viable in other centres, with a charge of up to £50 per sq. m. being the highest level which could be viable for retail development in other town centres and for offices in Wandsworth, with a nil charge for offices in Balham and Tooting. Given the uncertainty about the prospects for future growth in the economy it is felt that

the highest level of charges indicated by BNP Paribas could be challenging in terms of viability in the future, which would hamper commercial development in the Borough. In the light of the representations and the additional evidence provided by BNP Paribas, it is therefore proposed to amend the DCS to include Commercial development within the ‘minimal charge’, reducing the CIL rate from £100 per sq.m. to £0 per sq.m. across the Wider Wandsworth area. The respective rates in Nine Elms (£100 per sq.m.) and Roehampton (£0 per sq.m.) will remain unchanged. Whilst this change will reduce the amount of CIL collected by an estimated £500,000 p.a., this amendment would ensure that development across the Borough would not be put at serious risk, a key test at Examination. The Proposed Modified CIL Draft Charging Schedule is detailed in [Appendix 1](#) to this report and the Council’s and the Mayor’s currently proposed CIL charges are set out in Table 1 below

**Table 1. Wandsworth and Mayoral Proposed CIL Charges.**

<b>£ per sq m (Gross Internal Area Floorspace)</b>					
	<b>Floorspace</b>	<b>Nine Elms A</b>	<b>Nine Elms B</b>	<b>Roehampton</b>	<b>Rest of Borough</b>
<b>Wandsworth</b>	Residential	575	265	0	250
	Office or Retail	100	100	0	0
	Education or Health	0	0	0	0
	Other	0	0	0	0
<b>Mayoral</b>	Residential	50	50	50	50
	Office or Retail	50	50	50	50
	Education or Health	0	0	0	0
	Other	50	50	50	50
<b>Total</b>	Residential	625	315	50	300
	Office or Retail	150	150	50	50
	Education or Health	0	0	0	0
	Other	50	50	50	50

15. If the Examiner’s report into the Mayor of London’s CIL (paragraphs 20 – 21) recommends that Wandsworth is moved into the central charging band, it is proposed that the Wandsworth CIL rates for Nine Elms should be adjusted accordingly so that the total amount of CIL, Wandsworth plus Mayoral, remains the same and reflects the amount equivalent to the full Vauxhall Nine Elms Battersea (VNEB) Development Infrastructure Funding Study tariff recommendation. Without this adjustment there would be an increase in the funding gap for infrastructure in VNEB.
  
16. In Wider Wandsworth and Roehampton it is proposed that the rates should remain at the levels indicated in the Draft Charging Schedule, as amended in paragraph 14. This would help to ensure that developments in Wider Wandsworth and Roehampton remain viable, throughout the current period of economic uncertainty. Further details of the Mayoral CIL is provided in paragraphs 20 to 21 below.
  
17. Some additional amendments to the DCS are also proposed, including minor corrections and clarifications. These do not alter the proposed levy but are included in a ‘Statement of Modifications’ ([Appendix 1](#)) which the Council is

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required to publish alongside the amended DCS (Appendix 2) on submission for Examination. The proposed changes will require a further four week consultation period, to provide representors with an opportunity to express a 'right to be heard' at Examination in relation to the modifications.

18. **Equality Impact Assessment.** The Equality Act 2010 requires that the Council when exercising its functions must have "due regard" to the need to eliminate discrimination, to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. As such an Equality Impact Assessment (EIA) has been undertaken on the CIL proposals. The EIA identified no adverse impact and a copy will be available for inspection in the Members' Room prior to Committee.
19. **Timetable for the introduction of a CIL Charging Schedule.** An updated timetable for the introduction of the Council's CIL Charging Schedule is set out below. The timescale for adoption will depend on when the Council receives the Examiner's report as CIL requires Full Council resolution prior to implementation. CIL Examinations that have taken place to date have been much quicker than LDF Examinations, with approximately 4 months between submission and receipt of Examiner's report. This timeframe may vary as a result of the additional consultation which the Council is required to undertake in relation to its Statement of Modifications and depending on whether the Examination is conducted by written representations or includes formal public hearing sessions. A precise timescale will only be available once the Council submits its charging schedule for Examination. It is estimated that the Planning Inspectorate's costs for the Examination will be between £10,000 and £20,000, dependent upon its duration, with additional costs of up to £5,000 relating to the appointment of a Programme Officer.

Table 1 – Timetable for the introduction of the Wandsworth CIL Charging Schedule

Submission of Charging Schedule for Examination	February 2012
Four week consultation on 'Schedule of Modifications'	February 2012 to March 2012
Examination of CIL Charging Schedule	March 2012 to May/June 2012
Report to Full Council	July or October 2012*
CIL Charging Schedule Effective	September or December 2012*

\* - dependent on the duration of the Examination/receipt of the Examiner's report.

20. **Mayoral CIL.** The Mayor's CIL is due to be adopted by 1st April 2012 and his DCS proposes a charge of £50 per sq.m. on all development in Wandsworth, which will contribute towards the provision of Crossrail. The Mayor has proposed that education and health will be exempt from the Mayoral CIL. As required by legislation, the Wandsworth DCS has been developed to take account of the Mayor's CIL; this ultimately reduces local CIL revenue that otherwise would be available for expenditure in Wandsworth. The Council made representations requesting a number of changes to the Mayor's proposals including moving Wandsworth to the

middle charging band of £35 per sq.m. and exempting VNEB from the Mayor's charge or using the Mayoral CIL to help fund the Northern Line Extension in addition to Crossrail. The Mayoral CIL Examination report is expected to be available by late January 2012, the conclusions will be verbally reported at the Committee meeting if available.

21. It is anticipated that the Mayor of London will begin to levy CIL from 1<sup>st</sup> April 2012. Since the Council is designated as the 'Collecting Authority' for the Mayor's CIL, it will be required to collect the Mayoral CIL as soon as the Mayor's charging schedule is effective; the Council is permitted to retain 4% of the Mayor's charge to cover administration costs. Council officers have joined an Advisory Group coordinated by Transport for London (TfL) and the Greater London Authority (GLA) to identify appropriate mechanisms for the collection of CIL. Although liability is assumed once full planning permission is granted, payment only becomes due on commencement of development. It is therefore expected that administrative burden will be relatively small to begin with, increasing over the course of the year. However, there is a significant amount of work to do to set up systems and procedures ahead of implementation to ensure that CIL can be collected once due and a Council CIL Project Group is to be established – see 'collecting CIL' below.
22. **Operation and administration of CIL.** There are several issues that the Council will need to consider, which relate to:-
  - (a) 'Charging CIL' –allowing CIL to be paid in instalments and offering relief on CIL liability
  - (b) 'Collecting CIL' – administrative requirements for the collection of CIL
  - (c) 'Spending CIL' – the approach the Council will take to allocating CIL funds
23. These matters lie outside of the Charging Schedule, and are not required for the independent Examination. However, agreement on these issues will provide clarity to developers, and are also necessary to ensure the Council manages CIL in an efficient manner. These issues can be revised by the Council at any time in the future. In addition, the Localism Act 2011 makes provision for further possible changes to the CIL Regulations, most notably:
  - (a) the inclusion of revenue items within the scope of CIL expenditure (i.e. on-going funding of services);
  - (b) the flexibility to use CIL to support the delivery of affordable housing in addition or in place of Section 106 agreements;
  - (c) a proportion of CIL funding raised to be retained for use by the 'neighbourhood' where the charge was levied.
24. **Charging CIL.** Once adopted, the CIL rates set out in the Charging Schedule are levied on all new development over 100 sq.m. (other than buildings into which people do not normally go, or only go into intermittently for the purpose of inspecting or maintaining fixed plant or machinery) and on any residential developments resulting in the creation of a new unit. Once an authority adopts CIL it must charge it on all qualifying developments. Unlike Section 106 agreements, which are a discretionary power available to the

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Council, CIL is effectively a local tax which must be applied universally. However, the Regulations governing the charging of CIL do allow some local flexibility within the given parameters of the Regulations. As there are currently no proposals by the Government to regulate the use of CIL, the responsibility to interpret and adhere to the Regulations rests solely with the Council.

25. The CIL Regulations require the Council to offer mandatory relief for affordable housing provision and development by charities for a charitable purpose. The Regulations also allow the Council to offer discretionary relief, on the basis of investment activity by a charity and where the charging of CIL would make a development proposal economically unviable. It is for the Council to determine whether it offers either of these discretionary relief types. If the Council seeks to adopt such a procedure it must publish a policy on the matter, which would not be part of the Charging Schedule. As such, offering relief can be introduced or withdrawn by the Council at any time. While it is ultimately for the Council to determine such a policy, some principles are set out in the CIL Regulations.
26. **Discretionary Charitable Relief.** Two forms of discretionary charitable relief are allowed in the Regulations. In the first, relating to investment activities, the organisation applying for relief must be a recognised charitable institution and the development must be both owned solely by the charity(ies) and the whole or greater part of the chargeable development will be held by the charity(ies) as an investment from which the profits will be used for charitable purposes. The second form of charitable relief, relates to occasions where charitable development would normally be exempt from CIL, but the exemption would constitute State aid. Discretionary charitable relief could support the ability of charities to subsidise the redevelopment or re-provision of facilities, through developing part of their sites for market/commercial development. However, given the limitations in the Regulations, the number of occasions where this might apply is expected to be limited.
27. If the Council decides to offer discretionary charitable relief, it has to fulfil a number of requirements, including issuing a policy statement setting out the circumstances in which discretionary charitable relief will be granted. It is proposed that a policy in relation to discretionary charitable relief should be reported to a future meeting of the Committee.
28. **Exceptional Circumstance Relief.** Relief can only be offered where the applicant enters into a S106 agreement for on-site infrastructure. The cost of complying with the S106 must be considered greater than the CIL charge and meeting the cost of CIL and the S106 would have to be proven to make the development economically unviable. Offering 'exceptional circumstances' relief could be important, in ensuring that developments with significant on-site infrastructure requirements remain deliverable. Offering exceptional circumstances relief is bound by several procedural barriers, most notably to prevent it constituting State aid. This should only be offered as a final resort once other considerations such as a reduction in the level of S106 requested has been exhausted.

29. The availability of such a procedure is likely to attract a noticeable amount of requests with differing levels of validity. This could result in a considerable additional administrative burden. At the Examination into the Mayoral CIL the Mayor indicated he did not intend to introduce Exceptional Circumstances Relief due to the limited circumstances where it would apply and the additional administrative burden it would place on boroughs collecting CIL.
30. As stated above, following the introduction of CIL, S106 agreements can only be used for site specific mitigation and affordable housing. S106 agreements cannot be used for infrastructure that could be funded through CIL. An alternative approach that would enable the Council to address the rare instances where it viewed the circumstances to be truly exceptional, would be to amend its list of infrastructure to be funded through CIL to include that relevant to the development in question.
31. The CIL Regulations allow the introduction of an Exceptional Relief Policy at any time. Given the points raised above, it is proposed not to introduce an Exceptional Relief Policy at the current time, but that the impact of the introduction of CIL and the potential benefits or otherwise of introducing an Exceptional Relief Policy should be kept under review.
32. **Payment by instalment.** As a default, CIL is to be paid in full within 60 days of development commencement. However, the Council is permitted to develop an ‘instalments policy’, allowing staged payments. Developers who propose to build in distinct phases are allowed to treat each phase as ‘commencing development’. For example, the development at Battersea Reach would have been able to claim several different payment triggers for individual building blocks, based on approval of separate details following outline permission. In contrast future development at Market Towers would trigger the CIL payment in its entirety on commencement due to the single development footprint.
33. An instalment policy could allow developers to pay the CIL amount over a set period of time. The regulations enforce a common instalments policy in each borough for both the Mayoral and borough CIL. This is drafted such that the Mayor will be bound by any instalments policy adopted by a borough, but the Mayor’s policy applies where there is no borough CIL instalments policy. The GLA/TfL CIL Collection and Implementation Advisory Group consulted with boroughs and has proposed a cross-London approach to instalments policies. Although the Council is not bound to accept the proposal, ensuring consistency across London is likely to be preferable for developers. Given the additional administrative costs which will be borne by boroughs in collecting payments by instalment, it is recommended that the Council adopts the GLA/TfL instalment policy set out below which is straightforward and likely to generate minimal additional costs, whilst providing some flexibility for larger schemes. The operation of the instalments policy can be kept under review and can be amended by the Council at any time.
  - (a) Developments with a CIL liability value <£500,000 should make a single payment not more than 60 days after commencement.
  - (b) Developments with a CIL liability value >£500,000 should have the option to make two payments:

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- The greater of £500,000 or half the value of the total payment 60 days after commencement; and
- The remainder 240 days after commencement (i.e. 180 days + 60 days allowance).

Under the CIL Regulations, the dual payments would apply to each phase of large qualifying developments subject to a separate detailed planning permission.

34. **Collecting CIL.** A Council CIL Project Group is to be formed to ensure that collection mechanisms and procedures are established prior to the implementation of the Mayoral CIL. Collecting CIL will require seamless interaction between planning and financial systems. The CIL Project Group will need to finalise the procedures to be adopted but it is initially proposed that Planning Services oversee the process from submission of planning application to informing the Finance Department of charges to be collected post commencement of the relevant scheme. This would include calculation of charge, notice of liability, possible appeal and notice of commencement. Responsibility would then pass to the Finance Department for issue of demand notice, collection and recovery action.
35. Work is on-going to establish the most effective way of administering CIL and the Council CIL Project Group will include a wider range of representatives as necessary to ensure that all CIL requirements are taken into account including: Planning Services (policy, development management, administration), Finance Department, Land Charges, Legal, Audit and Corporate IT. System requirements are also under development to ensure that necessary information can be collected and notices can be received, issued and documented with a clear audit trail. As a minimum, a minor upgrade to the current planning applications system is anticipated to be required at a cost in the region of £2,000.
36. To ensure successful implementation of CIL, training sessions will need to be held for Planning Service and Finance Department staff and information and assistance made available to developers and applicants. The Council's CIL webpage will be developed to link to and complement the Planning Portal and Mayoral CIL online resources and communications are planned to increase awareness of the levy, particularly ahead of the Mayoral CIL adoption.
37. **Spending CIL.** The current Regulations require the Council to spend CIL on, or towards, capital infrastructure to support or mitigate growth. The definition of 'infrastructure' is left to be defined by the Council, as is the decision on whether the proposed infrastructure is required for the purpose of growth.
38. The Council is to list the schemes it has identified for the purposes of spending CIL (known as a 'Regulation 123' list). This list can be amended at any time by the Council, the Regulations only require that the Council publish the list and report any changes (via the Council's website). The Council will however not be able to request contributions from S106 agreements for any scheme it has identified as being funded from CIL.

39. The list of infrastructure projects that was published alongside the 'Draft Charging Schedule' was intended to demonstrate that there is a need to charge CIL in Wandsworth (i.e. that mainstream funding will not deliver the infrastructure required to allow growth). The Council is not obligated to adopt these schemes in the eventual list of schemes it proposes to fund from CIL.
40. Unlike financial contributions secured under S106, there is no 'time limit' associated with CIL payments. The Council is free to pool CIL for larger items of infrastructure that may not be delivered until some time in the future. In consequence, the Council will need to consider the balance it seeks between delivering priorities in the short term (first five years) with developing a cash flow to enable the delivery of larger or higher priority projects in the long term.
41. Whilst the changes to the CIL Regulations currently being considered by the Government include the ability for local authorities to spend CIL towards the provision of affordable housing, it is proposed that the Council should continue to use S106 agreements for the provision of affordable housing. This reflects the Council's policy of providing affordable housing on-site on the majority of relevant schemes. It also reflects the fact that the Council's CIL rates were not calculated to include the provision of affordable housing, and would have been much higher had they done so. Using CIL towards affordable housing, at the CIL rates proposed, would effectively lead to a reduction in the amount of funding available to support the provision of essential infrastructure.
42. In order to ensure that expenditure of CIL is managed in such a way that it provides for infrastructure required to enable growth, it is recommended that the Council build on existing governance structures. It is recommended that spending priorities to be funded from CIL be co-ordinated by the Director of Finance and when approved included in the revision of the Capital Programme reported to the Finance and Corporate Resources OSC in the September cycle. The Planning Service would be pro-active in advising other departments within the Council on schemes that are recommended to ensure future growth.
43. The Council needs to give special consideration as to how it will manage the provision of infrastructure in the Nine Elms area. The Council has already agreed to keep CIL receipts raised in Nine Elms for allocation to infrastructure identified in the Vauxhall, Nine Elms and Battersea (VNEB) DIFS, which includes the extension of the Northern Line to Battersea Power Station. It is proposed that the VNEB Strategy Board should be consulted on and provide comments to the Director of Finance on the initial allocation of CIL in Nine Elms.
44. In terms of reporting, it is recommended that the CIL priorities for the Nine Elms, and for 'Wider Wandsworth' when approved at Finance and Corporate Resources OSC are listed separately in the Capital Programme. Further recommendations on the process of allocating funds will be provided in future Committee reports. The Council is required to monitor and report annually on the collection and spending of their levy. Additionally, it is recommended that the Council undertakes to review CIL every two to three years in order to

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ensure the levy continues to be viable, reflects the prevailing economic circumstances and is supporting growth as intended.

45. **Local Neighbourhood retention.** The Localism Bill made provision for amendment of the CIL Regulations to require a set proportion of CIL receipts to be spent within the local ‘neighbourhood’. The draft 2012 CIL Regulations indicate that in areas such as Wandsworth which do not have parish councils, it is proposed that the local authority should determine the neighbourhood boundaries, and that expenditure by the local authority within the neighbourhood should be informed by local consultation. Given the lack of democratically accountable neighbourhood bodies in such areas, local authorities are not required to pass these funds to another body. Spending a proportion of the funds within the neighbourhood where it was collected is likely to foster a more positive local view to development. However, the development industry is concerned that this could reduce funding for strategic infrastructure, if the amount to be spent locally is set too high.
46. In its response to the recent consultation on CIL regulation amendments, the Council has suggested that around 5% of CIL revenues should be spent on projects within the neighbourhood. Whilst it is recognised that this is relatively low, it reflects the fact that it may be necessary to devote a large proportion of receipts to “strategic” projects, including for example the removal of the Wandsworth One Way system, rail capacity enhancements and secondary school provision. These projects may be put at risk if the proportion to be spent within the neighbourhood itself is set at too high a level. Amended Regulations are expected in Spring 2012 and will provide further clarity in relation to these requirements.
47. **Comments of the Economic Development Officer.** CIL is in effect a tax on development with the proceeds used to fund an agreed programme of infrastructure. The tax is set locally and retained by the Council. However, setting a new tax is not the usual way to go about creating new commercial space within which new business activity can take place.
48. Nevertheless, the provision of infrastructure is essential for the delivery of essential services and transport structures to support viable communities and local economies. The construction of much-needed infrastructure (e.g. Northern Line Extension or Wandsworth One Way System) for new developments requires the contribution of funds both from the public and the private sectors.
49. Therefore, setting the tariff for CIL at its correct level is a very delicate decision to take. The challenge is to ensure that the value of the contributions required from new developments is set at an appropriate level to stimulate the local property market so that over a period of time sufficient contributions are received from developers to fund essential infrastructure to stimulate further developments.
50. The proposals set out in this report assumes that market rents in each town centre for retail and office space is the same and that there is enough value in all future commercial developments to be able to make a CIL payment.

51. However, the appetite by developers to build new retail and office space is distinctly limited. Unlike the residential property market in Wandsworth, there is not much obvious current demand by developers to build new commercial floorspace. New commercial space tends to be provided in primarily residential led mixed use developments. This can sometimes be followed by requests for change of use from commercial to residential. The new developments coming forward in Upper Richmond Road, Putney (an established office location) are a good example of what the property market wants to provide – i.e. largely residential led developments with some retail, food and drink and small office space.
52. Moreover, the retail sector is very weak at present and all the indicators suggest that it will remain so for some time ahead. Even before the recession, promoting retail development in each of the town centres was an uphill struggle. Moreover, there are few obvious easily developable sites in each of the five town centres. Any impediment to retail development in town centres will tend to put Wandsworth at a disadvantage compared to other areas.
53. Therefore, in the first instance, the Council could consider setting a nil CIL levy for all commercial developments in all the town centres in the Borough or as a minimum a nil rate in Tooting and Balham where the commercial market is at its weakest in the Borough.
54. **Comments of the Borough Valuer.** Demand for office space from major occupiers has been reducing over the last 20 years in all of suburban London, and as a result new office developments have been generally unviable in most of the Borough, other than when subsidised by residential development or when a particular individual locality specific requirement has existed. It therefore seems unlikely that the imposition of CIL on office development would yield much at all other than in the Nine Elms area and it is likely to be of little real impact on development.
55. The imposition of CIL on new retail space would be of more concern for the town centres when there is a need to promote development of the type of spaces suited to modern retailers, at a time when town centre retailing is having to adjust firstly to increasing competition from on line retailing and secondly to decreasing overall retail demand in the economy. This is of particular concern in Tooting town centre where the Council has previously sought to bring about improvements in the retail environment to match the population profile of the area. The reduction in the CIL tariff proposed to £0 per m<sup>2</sup> in respect of new retail space other than Nine Elms or Roehampton is welcomed.
56. It is considered that the significant collection of CIL will be almost exclusively from residential development which sector has been noticeably resilient in the economic turbulence of the last 3 years.
57. **Comments of the Director of Housing.** The Director of Housing notes that the CIL requirements do not apply to the provision of affordable housing which will still be secured through Section 106 planning obligation agreements. This is welcome in that it will continue to enable the negotiation of the financially viable maximum reasonable level of affordable housing.

## *CIL Update*

Paragraph 44 confirms that the CIL will be reviewed every 2-3 years which will provide an opportunity to assess the impact of the CIL on affordable housing provision.

58. The early adoption of a CIL schedule will provide a greater level of certainty for developers and set out clearly infrastructure priorities, the delivery of which will improve neighbourhoods and support new development. Given the significant infrastructure requirements for the Borough it is not anticipated that CIL will be available to support affordable housing delivery. However, funding options and maximising use of available resources will continue to be explored given the significant reductions in affordable housing grant levels and the high demand for low cost family housing.
59. The Director of Housing notes that around 5% of CIL revenues should be spent on projects within neighbourhoods and would hope that consideration is given to the benefit that such payments could have to local council residents in terms of the provision of social and community infrastructure. It is also welcome that the CIL charge for Roehampton has been set at a £0 per sq.m. which it is hoped will stimulate development and regeneration in the area.
60. **Comments of the Director of Finance.** Following responses from the consultation on the Draft CIL Charging Schedule it is proposed to reduce the CIL charge for retail and office development in the “Wider Wandsworth” area from £100 per sq.m. to £0 per sq.m. Based on current projections this is estimated to reduce CIL income by £500,000 p.a.
61. The Localism Act 2011 has amended the CIL regulations to allow funding of on-going revenue costs from CIL income. This would need to be considered with other priorities for the use of total CIL resources.
62. The original timetable for the introduction of the Wandsworth CIL estimated a start date of May 2012, but due to the recommended changes and the required Examiners report this has been put back to nearer the end of the year. This delay will result in a reduction in CIL income in 2012/13. The Council is required to submit its Statement of Modifications for examination which will give rise to Planning Inspectorate and Programme Officer costs of up to £25,000. These costs will need to be contained within existing Planning Service revenue budgets.
63. The Wandsworth CIL will of course apply to sites where the Council submits a planning application prior to disposal. The impact of the CIL will effectively be to diminish the Capital receipt received by the amount paid payable in CIL payments. This will have the impact of diminishing the available capital resources available to the Council. It could have a particular impact on sites where the Council is disposing of an asset or part of a site in order to refurbish or rebuild another asset. In those circumstances, it is proposed that the CIL be earmarked as a capital resource to fund Council expenditure on infrastructure including expenditure on the renewal and refurbishment of related sites.

### **Appendices:**

- 1) Statement of Modifications

2) Proposed Modified CIL Draft Charging Schedule

**Copies available in Members' Room prior to Committee**

- 3) DCS Statement of Consultation
- 4) BNP Paribas Assessment of Economic Viability
- 5) DCS Equality Impact Assessment

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The Town Hall  
Wandsworth  
SW18 2PU

A G McDONALD  
Director of Environment and  
Community Services

16th January 2012

**Background papers**

The following background papers were used in the preparation of this report:

- 1. Wandsworth Local Development Framework Core Strategy, Adopted October 2010
- 2. Wandsworth Statement of Community Involvement, Adopted April 2007
- 3. Vauxhall Nine Elms Battersea Development Infrastructure Funding Study, Final Report October 2010
- 4. Wandsworth Affordable Housing Economic Viability Assessment, August 2009
- 5. SI 2010 No. 948, The Community Infrastructure Regulations 2010
- 6. S1 2011 No. 987, The Community Infrastructure Regulations 2011
- 7. SI 2004 No. 2204, The Town and Country Planning (Local Development) (England) Regulations 2004
- 8. BNP Paribas Real Estate: Assessment of economic viability of proposed Community Infrastructure Levy rates for commercial development in Wandsworth 2011
- 9. Representations made by Wandsworth in relation to the Mayoral CIL 2011

If you wish to inspect any of these papers, please contact Martin Howell; Tel: 020 8871 6647; email [mhowell@wandsworth.gov.uk](mailto:mhowell@wandsworth.gov.uk).

All reports to Overview and Scrutiny Committees, regulatory and other committees, the Executive and the full Council can be viewed on the Council's website ([www.wandsworth.gov.uk/moderngov](http://www.wandsworth.gov.uk/moderngov)) unless the report was published before May 2001, in which case the Committee Secretary (Mr. M Newton – 020 8871 6488; email [mnewton@wandsworth.gov.uk](mailto:mnewton@wandsworth.gov.uk)) can supply it if required.

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