

DIRECTOR DECISION – DD137

Title: Community Infrastructure Levy Viability Report Evidence Base and Support

Executive Summary:

The Community Infrastructure Levy (CIL) is a planning charge that can be used by Local Planning Authorities when they have adopted a CIL Charging Schedule to help fund infrastructure to support development in their area.

OPDC is seeking to commission a CIL Viability Report to assess appropriate CIL rates for different forms of development with the OPDC area. This report will provide evidence to support OPDC's Draft CIL Charging Schedule which will be subject to a public consultation and Examination in Public before it can be adopted. The consultants commissioned to produce the CIL Viability Report will be retained to support OPDC in responding to representations made in the consultation and support OPDC in defending its Draft CIL Charging Schedule at the Examination in Public.

Decision:

That the Director of Planning approves:

- Expenditure of up to £50,000 on external consultancy services to produce a Community Infrastructure Levy (CIL) Viability Report and provide ongoing support to OPDC in setting and adopting an appropriate CIL Charging Schedule to help fund infrastructure required to support development in the Local Plan.

AUTHORISING DIRECTOR

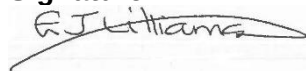
I have reviewed the request and am satisfied it is correct and consistent with the OPDC business plan and priorities.

It has my approval.

Name: Emma Williamson

Position: Director of Planning

Signature:



Date: 11.12.2020

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1 Introduction and background

- 1.1 The Community Infrastructure Levy (CIL) is a planning charge, introduced initially by the Planning Act 2008, as a tool for Local Planning Authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010 (as amended).
- 1.2 The levy only applies in areas where a Local Planning Authority has consulted on, and approved, a CIL charging schedule which sets out its levy rates and has published the schedule on its website.
- 1.3 OPDC consulted on a Preliminary Draft Charging Schedule in October 2017. Work on this was paused due to the ongoing review of the Community Infrastructure Levy regulations.
- 1.4 Work is now progressing on OPDC's Infrastructure Delivery Plan. OPDC will need to ensure that this infrastructure can be viably funded. Alongside planning obligations secured through Section 106 of the Town and Country Planning Act 1990 (as amended), CIL will form a key component of the wider funding package needed to deliver this infrastructure and any other external funding sources which OPDC may apply for to enable development to come forward.
- 1.5 Adopting a CIL regime would provide more certainty to developers on planning costs. That certainty can be taken into account at the beginning of the development process, so when land is acquired, when negotiations are happening relating to land value, it can be taken into account and there should not be any further major negotiations relating to infrastructure contributions unless there is a specific infrastructure item that the development needs to provide.
- 1.6 Adopting a CIL regime would also provide the local community with a clear and understandable mechanism of how the developer can pay its fair share in providing necessary infrastructure to support development.
- 1.7 The first step in adopting a CIL regime is to develop the evidence base to support this. This requires the procurement of suitably qualified consultants to produce a Draft CIL Viability Report which will set appropriate CIL rates in a Draft Charging Schedule for the OPDC area.
- 1.8 The Draft CIL Viability report and Draft Charging Schedule will then be subject to a public consultation before it is submitted to the Planning Inspectorate for Examination in Public before it can be adopted by OPDC. The consultants will be retained to support OPDC in responding to representations made in the consultation and through the Examination in Public. The total cost of this work is estimated to be £50,000.

2 Objectives and expected outcomes

- 2.1 This decision is seeking approval to engage suitably qualified consultants to undertake research and produce a CIL Viability Report setting out appropriate CIL rates for different forms of development with the OPDC area. This will provide robust evidence to underpin a draft CIL Charging Schedule which will be subject to public consultation before it is submitted to the Planning Inspectorate for Examination in Public.
- 2.2 The expected outcomes are:
 - To provide a Viability Report to support consultation on the Draft Charging Schedule;

- To ensure that the OPDC CIL rates that are recommended strike an appropriate balance between the desirability of funding (in whole or in part) the estimated total cost of infrastructure required to support the development of the area, taking into account other actual and expected sources of funding and the overall potential effects of CIL on the viability of development across the area, in accordance with the CIL Regulations; and
- To contribute to the successful adoption of a CIL Charging Schedule for the OPDC area and therefore assist in the delivery of infrastructure to support the regeneration of Old Oak and Park Royal.

3 Equality comments

3.1 The general duty to promote equality arising from the Equalities Act 2010 (the 'Act') requires OPDC to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic (being age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

3.2 The Viability Report will provide evidence to support the adoption of the OPDC CIL Charging Schedule and ensure that the OPDC CIL rates are set at an appropriate level that enable the delivery of infrastructure alongside affordable housing for those in housing need. This will contribute towards advancing equality of opportunity as set out in paragraph 3.1(ii) above.

3.3 Monies raised through CIL will be used to fund new physical and social infrastructure in the OPDC area. New social infrastructure will include provision of new schools, health, community and leisure facilities. New physical infrastructure will help to connect the OPDC area with surrounding communities, which will enable the easy movement of people to and from the area, improving access to employment opportunities, open space and social infrastructure. Delivering new physical and social infrastructure that is accessible for all will contribute towards advancing equality of opportunity as set out in paragraph 3.1(ii) above.

4 Other considerations

4.1 Suitably qualified viability consultants will be procured through a competitive tender process managed by TfL in accordance with the OPDC Contracts and Funding Code. Consultants will be shortlisted through a selection criterion, including price and quality.

4.2 The contract will be managed by the Principal Housing Officer with oversight from the Head of Planning Policy.

4.3 The government has proposed in its August 2020 "Planning for the Future" White Paper that CIL and section 106 are replaced with a nationally set, value-based flat rate charge to be known as the Infrastructure Levy. An alternative option outlined in the White Paper is that the Infrastructure Levy will be voluntary, and the rate will continue to be determined locally.

4.4 The proposals for planning reform would require primary legislation followed by secondary legislation and it is not clear at this stage if or when CIL will be replaced by an Infrastructure Levy.

Given the need for greater certainty of infrastructure funding it is recommended that OPDC progresses with developing a CIL regime. If at a future date the government does implement an Infrastructure Levy OPDC will have evidence from the CIL Viability Report to support appropriate local rates.

5 Financial comments

- 5.1 Expenditure of up to £50,000 will be funded from the 2020/21 and 2021/22 CIL Budget which sits within the Planning directorate.
- 5.2 Further expenditure and contract variations are subject the Corporation's decision-making process.
- 5.3 Please ensure that any Procurement undertaken is in line with the Corporation's Procurement Guidance and that the Contracts and Funding Code is adhered to.

6 Legal comments

- 6.1 Legal comments are not required for contract under £50,000.

7. Planned delivery approach and next steps

Activity	Timeline
Procurement of consultant/contract	December 2020
Production of Draft Viability Report	February 2021
Approval of Draft Charging Schedule for consultation	May 2021
Consultation	June 2021
Examination in Public	Summer/Autumn 2021
Adoption of Charging Schedule	Early 2022

Appendices and supporting papers:

Appendix 1- draft service specification

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the OPDC website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

Note: This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:**Is the publication of Part 1 of this approval to be deferred? YES**

If YES, for what reason:

This decision includes an overall budget for procuring consultants to provide a CIL Viability Report and expert advice. It is important that the budget is not disclosed in advance of this as it could result in consultants inflating the price. This decision should not be published until the consultant has been appointed.

Until what date: (a date is required if deferring) March 2021

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – YES/NO

ORIGINATING OFFICER DECLARATION:

[DO NOT DELETE CONTEXT IN THIS BOX]

Drafting officer
to confirm the
following (✓)

Drafting officer:

Chloe Horner has drafted this report in accordance with OPDC procedures and confirms that:

✓

Finance advice:

The Finance team have commented on this proposal, and this decision reflects their comments

✓

Legal advice:

The Legal team have commented on this proposal, and this decision reflects their comments.

✓

CHIEF FINANCE OFFICER:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature



Date 14/12/20

