

APPENDIX ONE –COMMUNITY INFRASTRUCTURE LEVY

PROPOSED ALLOCATION PROCESS

Background and Summary

1. This Appendix sets out proposals for the allocation of CIL for consideration by Executive.
2. Development can bring many benefits to the borough in the form of new affordable homes, jobs and community facilities. It can also provide substantial levels of funding to mitigate the impact of development and support the delivery of new infrastructure. Historically this funding has been secured through Section 106 agreements. However, on 1 September 2014 the Council adopted its Community Infrastructure Levy (CIL) Charging Schedule. CIL will largely replace Section 106 funding, although Section 106 agreements will still be used to secure benefits such as affordable housing, affordable workspace, student bursaries, carbon-offsetting payments and training.
3. The transition from Section 106 to CIL provides an opportunity to reconsider how the council allocates developer contributions. At a time when the council is facing a further period of unprecedented financial pressures, it is clearly desirable that (wherever possible and lawful) this funding is used to deliver the council's corporate priorities and to protect poor and vulnerable residents from the impacts of Government cuts and continuing austerity.

Community Infrastructure Levy (CIL)

4. The purpose of CIL is to secure funding from new development to improve and increase the capacity of local infrastructure to support growth.
5. Following its adoption on 1 September 2014, CIL will in most cases replace the use of Section 106 contributions for securing developer funding for infrastructure investment. CIL will be a more effective source of infrastructure funding compared with contributions negotiated under Section 106 agreements as CIL rates are non-negotiable and apply to a greater number of developments. This provides greater certainty to both the developer and the council.
6. Whilst the development industry was originally in favour of CIL, some developers are now lobbying Government for its relaxation. The Government appears to be receptive towards many of the arguments being made by developers. It is therefore possible that the review of CIL currently being undertaken by Government could see changes to the rules around this source of funding, possibly suppressing the amounts that may be collected.
7. One change already announced by the Government that may impact on CIL income is the requirement in the Housing and Planning Bill for English planning authorities to promote the supply of 'starter homes'. Starter homes are new dwellings that should be made available to first time buyers under the age of 40 at a discount of at least 20% of the market value and up to £450,000 in London. As Government considers these homes to be a form of 'affordable housing' they would not be CIL liable.
8. Most developments comprising one or more new residential units or an additional 100 sqm or more of floorspace will be charged CIL. For most schemes, payment of CIL will be due on implementation of the development. Implementation may take place up to three years after planning permission is

granted. For large developments such as Mount Pleasant, partial payments will commence on implementation with further amounts paid in instalments as separate phases of the development are built out.

9. Due to the time lag in implementing consented development, CIL funds have been slow to arrive since the adoption of Islington's CIL in September 2014. It is expected that CIL income will reach its full potential from about 2017/18 onwards (or three years after the adoption of CIL – the point at which permissions granted after the adoption of the Charging Schedule expire).
10. As CIL income begins to reach its peak, Section 106 infrastructure contributions will gradually taper off, although Section 106 agreements will continue to be used where possible to secure affordable housing, site-specific infrastructure and other non-infrastructure requirements that cannot be addressed through CIL. This frequently includes contributions for local employment and training, Code of Construction Practice monitoring and carbon offsetting.
11. CIL funding must be used to pay for the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of an area. This means that **CIL income can normally only be used to fund the operation and maintenance of capital infrastructure, but not for other revenue funding purposes¹**.
12. CIL is a relatively flexible funding source because the projects that it funds do not need to be directly related to the specific development from which the money came (as is the case with Section 106 infrastructure contributions). However, under the CIL Regulations, a minimum of 15% of funding (and 25% where a Neighbourhood Plan is in place) must be spent in the same area as the development and must be subject to local consultation. The potential use of this 'local CIL funding' is also broader – as well as 'the provision, improvement, replacement, operation or maintenance of infrastructure', it can be spent on '*anything else that is concerned with addressing the demands that development places on an area*'. This element of CIL can therefore be used to meet additional costs associated with running a new or improved facility, or the provision of enhanced services **that directly address additional demand associated with new development.**

Developing a new allocation process for CIL

13. The adoption of CIL provides the council with an opportunity to take a more strategic approach to funding infrastructure projects particularly where this will reduce the need for cuts. The current Government 'rules' around the expenditure of this funding are briefly summarised below.

15% to be spent in the Local Area

14. As noted above, DCLG CIL Guidance (2014) states that charging authorities should use existing community consultation and engagement processes to ensure that the use of 'local CIL funds' (15% of receipts or 25% where a Neighbourhood Plan is in place) reflects priorities expressed by local communities. In Islington these allocations can therefore continue to be made based on projects that have been prioritised by Ward Councillors in their Ward Improvement Plans (as long as any allocations are in line with the relevant criteria set out above).
15. Where a Neighbourhood Forum with a Neighbourhood Plan is in place it would be beneficial for the council to work with the Forum to see whether there is potential to align their priorities with those strategic projects identified by the council and those identified in Ward Improvement Plans. To date only the Mount Pleasant Neighbourhood Forum has met the legal criteria for designation. The council has also received proposals for Neighbourhood Forums for Archway, Crouch Hill and Kings Cross. To be eligible for CIL a Neighbourhood Forum has to prepare a Neighbourhood Plan and take it through an Examination in Public by an independent Inspector. Following this the Plan is subject to a local referendum where it must be supported by a majority of the local residents who vote in the referendum.

¹ CIL Regulations 2010 (as amended) Regulation 59 and CIL Guidance 2014 p38.

85% Strategic CIL (or 75% if there is an adopted Neighbourhood Plan)

16. Whilst Section 106 funds are closely tied to the local area around the relevant development and are often directed towards specific types of infrastructure, there is the potential to direct a greater proportion of CIL funds towards more strategic infrastructure priorities. This is particularly important where increased demand arises from population growth and the council has not currently allocated capital funding to meet this demand.
17. Following the principles set out above, the proposed process for allocating CIL is outlined below. This process has been discussed with various Members during recent months through a number of different forums. It should be noted that the proposed level of 'local' CIL is high in Islington. It appears that neighbouring boroughs are proposing that only 15% of CIL is allocated at a local level (in line with the minimum levels set by the regulations). Only Camden has gone above this level by indicating that 25% of CIL will be allocated at a local level (putting ward councillors on a par with Neighbourhood Forums).

PROPOSED CIL ALLOCATION PROCESS

CIL Allocation Process

5% of CIL will be used for the introduction, collection and allocation of CIL.

18. The council is legally entitled to pay for the cost of adopting and administering CIL through CIL receipts. The work of the council in calculating, charging, collecting and allocating CIL is therefore funded entirely through CIL.
19. It has been proposed by Members that further allocations will be made as follows:
 - 15% of local CIL (i.e. the 'reasonable proportion to be spent in the local area') – to continue to be allocated via Ward Improvement Plans and at the discretion of Ward Councillors subject to the relevant legal criteria set out in paragraph 12 above (unless there is a Neighbourhood Plan in place in which case 25% is allocated by the Neighbourhood Forum).
 - A further 35% of local CIL to continue to be allocated via Ward Improvement Plans and at the discretion of Ward Councillors subject to the legal criteria set out in paragraph 11 above (unless there is a Neighbourhood Plan in place in which case 25% will remain to be allocated by Ward Councillors). This can only be spent on projects included on the strategic infrastructure list. Some of this funding may be distributed to other wards to ensure that all wards are guaranteed a minimum level of funding. Where money is redistributed it can only be spent on projects contained in the strategic infrastructure list.
 - 50% of strategic CIL will be allocated by the Council to projects listed on the Strategic Infrastructure Priority List. Final formal allocations of the strategic 50% of CIL will be made as part of annual financial outturn reports presented to Executive each May.