

REPORT FOR: PLANNING COMMITTEE.

Date of Meeting: 14th March 2012

Subject: Scheme of Delegation

Responsible Officer: Stephen Kelly - Divisional Director of Planning

Exempt: No

Enclosures: Appendix 1: Revised Draft Scheme of Delegation (to follow)
Appendix 2: Mayors CIL guidance sheet (to follow)

Section 1 – Summary and Recommendations

This report seeks approval to expand the scheme of officer delegation to enable the Planning Service to meet the forthcoming obligations in respect of the Collection of the Mayor of London's Crossrail Community Infrastructure Levy (CIL) that comes into effect on 1st April 2012.

The report also uses the opportunity provided by the Committees examination of the scheme of delegation, to update part 1 of the scheme (planning applications) to enable the Divisional Director of Planning to grant extensions of time to the time limit for implementation of any non-controversial planning permissions granted on or prior to 1st October 2009, whether the original permission was granted under delegated powers or not.

Recommendation

That the revised scheme of delegation (appendix 1) be adopted.

Section 2 – Report

2.1 Background

Under powers set out in Part 11 of the Planning Act 2008, and Community Infrastructure Levy Regulations 2010 (as amended), The Mayor of London has resolved to introduce a Community Infrastructure Levy (CIL) for the whole of London, from 1st April 2012. The Mayors CIL is to support the delivery of Crossrail. Whilst the Mayor of London is able to charge a levy the LB Harrow is the “collection authority” under the Regulations for all payments in Harrow.

The liability to pay the Mayors CIL falls upon any qualifying development that is granted planning permission on or after the 1st April 2012. The setting and collection of CIL is governed by legislation and regulations. This report seeks authority to expand the existing scheme of delegation from the Planning Committee, to enable officers to effectively implement the CIL Regulations to collect the Mayors CIL without recourse to the Planning Committee.

Following the adoption of a revised scheme of delegation on 22nd December 2011, this report seeks to use the opportunity created by the proposed amendments to correct an anomaly in the scheme of delegation that prevents any decision being able to be taken under delegated power on an application which had earlier been considered by the planning committee (even where that decision would otherwise fall within the scheme of delegation).

2.2 Overview

The setting and collection of a charge under CIL is covered by primary legislation (set out in the Planning Act 2008 and by Regulations (2010 and 2011). These regulations are supplemented by guidance.

Harrow Council are required, by the Mayor of London’s Crossrail CIL, to collect and pass on (minus allowable deductions) the funds recovered through the Crossrail CIL. In order to perform this role, the Charging Authority has responsibility for determining, serving notices and collecting funds (and hearing appeals) in accordance with the provisions within the regulations.

The current scheme of delegation, covering the operation of the Planning and Building Control function, including enforcement, was adopted prior to the finalization of the CIL regulations. The officer scheme of delegation accordingly contains no specific provisions enabling officers to collect monies, enforce and entertain appeals in accordance with obligations under the CIL regulatory framework. If officers are to effectively administer the CIL, and meet statutory procedural requirements, delegation of the Councils function to officers will be required.

It is accordingly proposed that the scheme of delegation, adopted in December 2011, be amended to incorporate the appropriate officer delegations within a new part 4. The delegation would enable officers to:

- Determine the extent of chargeable development and appropriate CIL charge (Regulation 40)
- Consider application for exemptions from the CIL (Regulation 41-58)
- Consider adjustments for payment in kind provisions – where relevant (Regulation 73)
- Determine the appropriate installments provisions (in accordance with the GLA scheme) (regulation 69B)
- Issue CIL liability notices (regulation 65) and demand notices (Regulation 69)
- Issue assumptions of Liability Notices and consider associated appeals (Regulations 114)
- Serve notice of deemed commencement/commencement notices as required (Regulation 67)
- Receive and consider appeals in relation to liability notices etc (regulation 114)
- Undertake the service of enforcement notices, including Stop notices in respect of non-payment of CIL and the subsequent removal of such notices.
- Institute recovery action and associated surcharges as per the Mayors CIL (Regulation 89-94)

The liabilities, exemptions, penalties, installments provisions and surcharges etc are largely contained within the Mayors Published Charging Schedule. Accordingly, officer delegation would be applied within a clear, London Wide charging regime where discretion by the Authority was limited. The regulations nevertheless require the performance of procedures within the CIL process to a specified timescale that is inconsistent with the operation of the Planning Committee.

This report also seeks the opportunity provided by the required changes, to expand the delegation to officers under Part 1 Paragraph 17 to enable officers to determine applications that seek to extend the time for commencement of all non controversial planning permissions, where the permission was granted on or before 1st October 2009 (at present only minor and householder applications can be dealt with in this way).

The revised scheme of delegation required to effect the CIL is appended to this report. Harrow, alongside all other London Boroughs is working closely with the Mayors office to establish clear procedures and protocols for the operation of the regulations across London, with the intention of ensuring a consistent and clear process across the capital. For that reason, the scheme of delegation is both broad (reflecting the ongoing development of these protocols) and is likely to be reviewed again, and to evolve over the coming 12 months, alongside the development of a local Harrow CIL, proposed for April 2013. which will largely replace S106 as a tool for infrastructure funding in the Borough.

Section 3 – Financial Implications

The changes to the scheme of delegation proposed will enable the Council to effectively and efficiently fulfill its statutory obligations in respect of the collection and payment to the Mayor, of the Cross rail CIL. The CIL regulations enable the Council to retain up to 4% of the charge collected to cover the costs of management and administration of the process. The cost of amending the scheme of delegation, are being covered from within existing budgets. The wider costs of implementing the Mayors CIL, which will require new IT and specialist resources are being funded by Planning Delivery Grant over the next 12 months and will be the subject of an information report to the Committee in April.

The changes to Part 1 of the scheme of delegation will act to reduce the costs to the Council of making planning decisions on non-controversial cases. Work undertaken as part of the CIPFA/Planning Advisory Service national benchmarking project suggests that the difference in cost between planning decisions made by the Planning Committee and an application determined under delegated powers is around £700. Whilst the number of cases affected by the change in delegation provisions is relatively small, less than 50 per year, the impact of the change will nevertheless be positive, although not cashable.

Section 4 – Corporate Priorities

The introduction and effective operation of the process to collect the Mayors CIL will enable the Council to minimize the impact and disruption to businesses and residents who, through new development, are liable to pay the new Levy. The proposals therefore indirectly contribute to the corporate commitment to support town center businesses whilst enabling the continued delivery of new homes and development across the borough to meet long-term spatial and socio-economic objectives spelt out in the recently adopted core strategy.

Name: Jennifer Hydari	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 2 March 2012		
Name: Matthew Adams	x	on behalf of the Monitoring Officer
Date: 5 March 2012		

Section 5 - Contact Details and Background Papers

Contact: Stephen Kelly – Divisional Director Planning
Tel: 020 8736 6149

Background Papers: Mayors CIL
Planning Act 2008
Community Infrastructure Levy regulations 2010
Community Infrastructure Levy (Amendment) regulations 2011