

**BRISTOL CITY COUNCIL
CABINET
23 February 2012**

REPORT TITLE: Community Infrastructure Levy

Ward(s) affected by this report: Citywide

Strategic Director: Graham Sims – Strategic Director,
Neighbourhoods and City Development

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**Report signed off by
Executive Member:** Councillor Anthony Negus

Purpose of the report:

This report seeks approval to issue a Community Infrastructure Levy (CIL) Draft Charging Schedule for Bristol for publication and consultation. It also provides a summary of the responses received following completion of the CIL Preliminary Draft Charging Schedule consultation, and identifies infrastructure schemes that could be included in the Council's draft Regulation 123 list.

RECOMMENDATION for Cabinet approval:

That Cabinet approve the CIL Draft Charging Schedule for publication and consultation under Regulation 16 of the Community Infrastructure Levy Regulations 2010.

The proposal:

1. Central Government enacted regulations in 2010 that fundamentally changed the way Section 106 planning obligations operate. The regulations require planning obligations to be scaled back to cover only site-specific obligations and affordable housing. From April 2014, tariff based approaches will no longer be allowed, and nor will the pooling of more than five Section 106 contributions. The regulations also introduced CIL, which is the government's preferred mechanism for securing developer contributions towards infrastructure to support the growth of an area.
2. Bristol is one of the government's CIL Frontrunners and is likely to be one of the early implementers of CIL.
3. CIL is a levy that is calculated as a charge per square metre of new building, which will be payable by most new development. CIL rates must be set based on economic viability alone. They cannot be used to promote policy, and therefore we could not set an artificially low rate of CIL in the Enterprise Zone, for example, as this would give rise to notifiable State Aid. Similarly we could not set a disproportionately high rate for specific developers or types of development.

4. A revised planning obligations SPD will be adopted and implemented simultaneously with CIL. This approach will provide clarity and transparency to communities and developers as to what infrastructure will be covered by CIL and what will still be required through planning obligations.
5. During 2012, the government will provide further detail about the level of the “meaningful proportion” of CIL that is to be made available to local communities for them to spend on locally important infrastructure schemes. It is important to note that this report does not deal with the “meaningful proportion”. However the issue will be considered by Cabinet later in the year, once amended regulations that set out the parameters within which the “meaningful proportion” must be set, are in place.
6. The programme for the implementation of CIL includes the following stages:

Stage	Date(s)
CIL Preliminary Draft Charging Schedule Consultation	28 November 2011 – 20 January 2012
Cabinet approval to publish CIL Draft Charging Schedule	23 February 2012
CIL Draft Charging Schedule statutory four week consultation	2 March 2012 – 30 March 2012
Submission of CIL Draft Charging Schedule to Planning Inspectorate	Week Commencing 16 April 2012
CIL Examination	June / July 2012
Receipt of Examiners Report	August / September 2012
Full Council Adoption of CIL	October 2012
Implementation of CIL	December 2012 / January 2013

7. Consultation on the CIL Preliminary Draft Charging Schedule ran for an eight-week period ending on 20 January 2012.
8. 37 consultation responses were received, many of which related to matters prescribed by the CIL Regulations, which are outside the Council’s control. There were a number of responses claiming that CIL would adversely impact on development, but which did not provide any evidence to substantiate their claim. Responses were also received relating to how CIL should be spent. Importantly, a number of responses were received that contained evidence to challenge our proposed rates. These responses have been analysed by officers and the Council’s viability consultant; BNP Paribas, and the following changes to the Draft Charging Schedule are proposed:
 - All uses falling within Classes C2, C2A and D1 of the Planning Use Classes Order are included in the £0 rate. This would mean that all development necessary for the provision of services normally provided by the public sector would be exempt from CIL. This includes development such as Schools, Hospitals, Police / Fire / Ambulance Stations, Doctors Surgeries, Care Homes, Detention Centres, Libraries, Places of Worship, Law Courts etc. Such development generally requires public subsidy and is therefore not economically viable. Consequently, a £0 CIL rate is appropriate.
 - For residential development, all of Easton and Ashley Wards and the majority of Lawrence Hill ward are moved from the Inner Zone to the Outer Zone. During the consultation, evidence was provided to show that residential development

values in these areas are noticeably lower than in the remainder of the Inner Zone, and bear closer relation to the values achieved in the Outer Zone. A map showing the revised residential charging zones is attached as Appendix A.

9. The residential amendments identified above will ensure that there is a sufficient “viability buffer” in place in Easton, Ashley and areas of Lawrence Hill wards, and that the proposed CIL rate is more reflective of the viability of residential development in these areas. This ensures that the charging of CIL will not have an overall adverse impact on the viability of residential development in these areas of the city and will not stop it coming forward.
10. The reduction of the CIL rate for Easton, Ashley and areas of Lawrence Hill is estimated to reduce total CIL revenues by approximately £0.5 million over the proposed five-year life of the Charging Schedule, and CIL receipts during this period are now anticipated to be in the region of £13,500,000.
11. The revised Draft Charging Schedule is set out in the table below

BRISTOL CITY COUNCIL CIL CHARGING SCHEDULE	
Development Type	CIL Rate/m²
Residential (Class C3) Inner Zone	£70
Residential (Class C3) Outer Zone	£50
Commercial (Classes B1, B2 and B8)	£0
Hotels	£70
Retail	£120
Student Accommodation	£100
Residential and Non-residential Institutions (Classes C2, C2A, D1) and development by the emergency services for operational purposes	£0
Other chargeable development	£50

12. Following Cabinet approval, the CIL Draft Charging Schedule will be published for a four-week statutory consultation as required by Regulation 17(3) of the Community Infrastructure Levy Regulations 2010, after which it will be submitted for independent examination.

Regulation 123 List

13. Regulation 123 of the 2010 Community Infrastructure Levy Regulations puts in place measures to stop Councils “double charging” developers. Put simply, once CIL is implemented, Councils will not be able to secure Section 106 contributions for infrastructure that they propose to fund through CIL.
14. In order to provide transparency, Councils are required to produce a list (Regulation 123 List) identifying the infrastructure that they propose to apply the strategic element of CIL to. This list is not required to be in place until CIL is implemented. However, advice received through the CIL Frontrunners Programme and the Planning Inspectorate, is that it would be beneficial for Councils to set out a draft Regulation 123 list and publish this alongside the CIL Draft Charging Schedule. This enables the CIL Examiner to be confident that the Council had considered how they might apply CIL funding, and provides confidence to the development industry that the funding will be applied appropriately.

15. Once CIL is implemented, the Regulation 123 List must be available to view on the Councils website. It is not set in stone, and can be changed as funding streams and priorities change, without the need for any further examination.
16. A draft Regulation 123 list has been produced and is contained in Appendix B. It is proposed that this list is published alongside the CIL Draft Charging Schedule.
17. With the exception of Strategic Flood Defence measures, the projects set out in the draft Regulation 123 list are all identified as priorities in the Investment Framework. In addition, CIL has been identified as a source of funding for the major transport schemes in the Cabinet report of 1 September 2011.
18. It should be noted, however, that the anticipated level of CIL receipts (£13,500,000) would not, of itself, result in the delivery of any of the schemes identified in the draft list, and that meaningful levels of CIL receipts will not start to be received until the 2013/14 financial year.

Consultation and scrutiny input:

a. Internal consultation:

The preparation of CIL has been subject to widespread internal consultation including colleagues in Development Management, Housing and Property Services. SLT have also been consulted on the proposed approach.

CIL in general, and the CIL Preliminary Draft Charging Schedule have been considered by the Sustainable Development & Transport Scrutiny Commission at their meetings of 14 September 2011 and 1 December 2011.

b. External consultation:

The CIL Preliminary Draft Charging Schedule has already been subject to an eight-week period of consultation from 28 November 2011 to 20 January 2012. The CIL Draft Charging Schedule will be subject to a further four-week consultation from 2 March 2012 to 30 March 2012.

Other options considered:

Two alternative options were considered and discounted. These were as follows:

Not to introduce CIL. This approach would result in the level of developer contributions that the Council could secure reducing by approximately 70% from April 2014. This is because the Council would not be able to use a tariff-based approach after that date, and it would only be able to secure funding for site-specific mitigation. There would be no developer funding available for infrastructure projects to support growth. Given the significant shortfall in funding for infrastructure projects, and the potential for CIL to be used to contribute towards such projects, the option of not introducing CIL was discounted, as it would have a significant adverse effect on Council funding streams for the delivery of infrastructure.

To introduce CIL nearer the April 2014 deadline. This approach would involve considerable risk, as if delays meant that Bristol was unable to introduce a CIL until sometime after April 2014, developers would take the opportunity to delay submission of applications to the period between April 2014 and the adoption of CIL. This would be done in the knowledge that Bristol did not have a CIL in place and that planning obligations had been scaled back, meaning that development would have to make only a minimal contribution through planning obligations. Consequently, this approach was also discounted as it was considered more appropriate to bring CIL forward sooner rather than later, in order to avoid the risk of delays meaning that the April 2014 deadline was missed.

Risk management / assessment:

RISK ASSESSMENT							
The risks associated with the implementation of the <i>Community Infrastructure Levy decision</i> :							
No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK		RISK CONTROL MEASURES Mitigation (ie controls) and Evaluation (ie effectiveness of mitigation).	CURRENT RISK		RISK OWNER
		(Before controls)			(After controls)		
		Impact	Probability		Impact	Probability	
1	Successful challenge at independent examination by the development industry that the CIL charges are set too high	High	High	Provision of robust viability advice from consultants that have acknowledged experience in the provision of such advice and have a detailed understanding of land values in Bristol, and the Bristol property market	High	Low	JC
2	Significant decreases in land values and property prices following the introduction of CIL, making development unviable	Medium	Low	The viability advice has enabled the Council to ensure that it is not proposing to set CIL at the upper margin of viability. This allows for significant decreases in land values and property prices before CIL impacts on the viability of development It is intended that Bristol's CIL will be revised on a five yearly basis to take account of changing circumstances.	Low	Low	JC
3	Significant increases in land values and property prices following the introduction of CIL, resulting in the Council securing lower levels of CIL than could be achieved	Low	Low	Significant land value increases such as during the period 2002-07 are unlikely due to tighter banking controls. CIL is not flexible enough to deal with such increases. In order to deal with such a situation, the Council would need to introduce a revised CIL, which would require further viability, consultation / engagement and examination in public. It is intended that Bristol's CIL will be revised on a five yearly basis to take account of changing circumstances.	Low	Low	JC

RISK ASSESSMENT							
The risks associated with not implementing the <i>Community Infrastructure Levy decision</i> :							
No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK		RISK CONTROL MEASURES Mitigation (ie controls) and Evaluation (ie effectiveness of mitigation).	CURRENT RISK		RISK OWNER
		(Before controls)			(After controls)		
		Impact	Probability		Impact	Probability	
1	Developer contributions will be limited to those secured through Section 106 Agreements. From April 2014, Section 106 is being substantially scaled back to cover only site-specific measures and the provision of affordable housing. Not implementing CIL would result in a very significant reduction in the level of developer contributions secured in future years.	High	High	Production of a Planning Obligations Supplementary Planning Document will enable the Council to maximise the remaining opportunities allowed for by the scaled back Section 106 regime. However, this will only have a minimal impact and would not provide effective mitigation for not having implemented CIL	High	High	JC/ZW?

Public sector equality duties:

Before making a decision, section 149 of the Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

i) eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.

ii) advance equality of opportunity between persons who share a relevant protected characteristic and those do not share it. This involves having due regard, in particular, to the need to:

- remove or minimise disadvantage suffered by persons who share a relevant protected characteristic.

- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);

- encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

This report only seeks approval to publish and consult on the CIL Draft Charging Schedule. The regulations controlling the implementation of CIL require that it is based solely on an area wide assessment of the economic viability of development across the city. The CIL Draft Charging Schedule consultation will seek views from all bodies and individuals contained in the Bristol Development Framework (BDF) database, which includes all known equality groups active in the Bristol area. It is not considered that the consultation requires a full EqIA. The subsequent spending of CIL receipts may require a full EqIA, however this would be dealt with as the appropriate infrastructure schemes came forward. The EqIA Screening Form was completed in accordance with advice given by Jane Hamill (City Development Equalities Impact Advisor) and is contained in Appendix C.

Environmental checklist / eco impact assessment

There are no significant environmental impacts arising directly from this report, which seeks approval to publish and consult on a CIL Draft Charging Schedule.

Indirectly, impacts arise from the proposed Regulation 123 list, which contains large-scale infrastructure projects. All of these schemes either have or will have their own assessment and mitigation processes using existing measures, for example Eco Impact Assessments, statutory Environmental Impact Assessments and Planning controls. It is noted that the CIL will not, of itself, result in the delivery of any of these schemes, so the CIL is not considered to be generating additional environmental impacts.

Advice given by Steve Ransom, Environmental Performance Programme Co-ordinator on 25 January 2012

Resource and legal implications:

Finance

a. Financial (revenue) implications:

The costs of setting up, consulting on and administering CIL can be recouped from future CIL receipts as set out in Regulation 61 (1) and (3) of the Community Infrastructure Levy Regulations 2010. Therefore the revenue implications of CIL are that it will be cost neutral.

Advice given by Mike Harding, Finance Business Partner (Neighbourhoods and City Development) on 23 January 2012

b. Financial (capital) implications:

CIL receipts are anticipated to be as per the table contained in Paragraph 10 of this report.

Advice given by Mike Harding, Finance Business Partner (Neighbourhoods and City Development) on 23 January 2012

c. Legal implications:

Matters relating to the introduction and implementation of CIL are set out in Part 11 of the Planning Act 2008, and Section 212 in relation to the Charging Schedule (as amended by the Localism Act 2011), and the Community Infrastructure Levy Regulations 2010.

Regulation 14 to Part 3 of the 2010 Regulations requires that in setting CIL, local authorities must aim to strike what appears to them to be an appropriate balance between the desirability of funding infrastructure from CIL, and the potential impacts of the imposition of CIL on the economic viability of development across the area. The CIL Viability Study, undertaken for the Council by BNP Paribas, considers the level of appropriate CIL charges against their impact on the economic viability of development.

Regulations 16 and 17 to Part 3 require that local authorities publish their CIL Draft Charging Schedule and invite representations for a period of no less than four weeks prior to submitting it for examination. The timetable set out in the report is in accordance with the regulations.

Advice given by Dawn Leamon, Senior Solicitor (Planning) on 10 February 2012

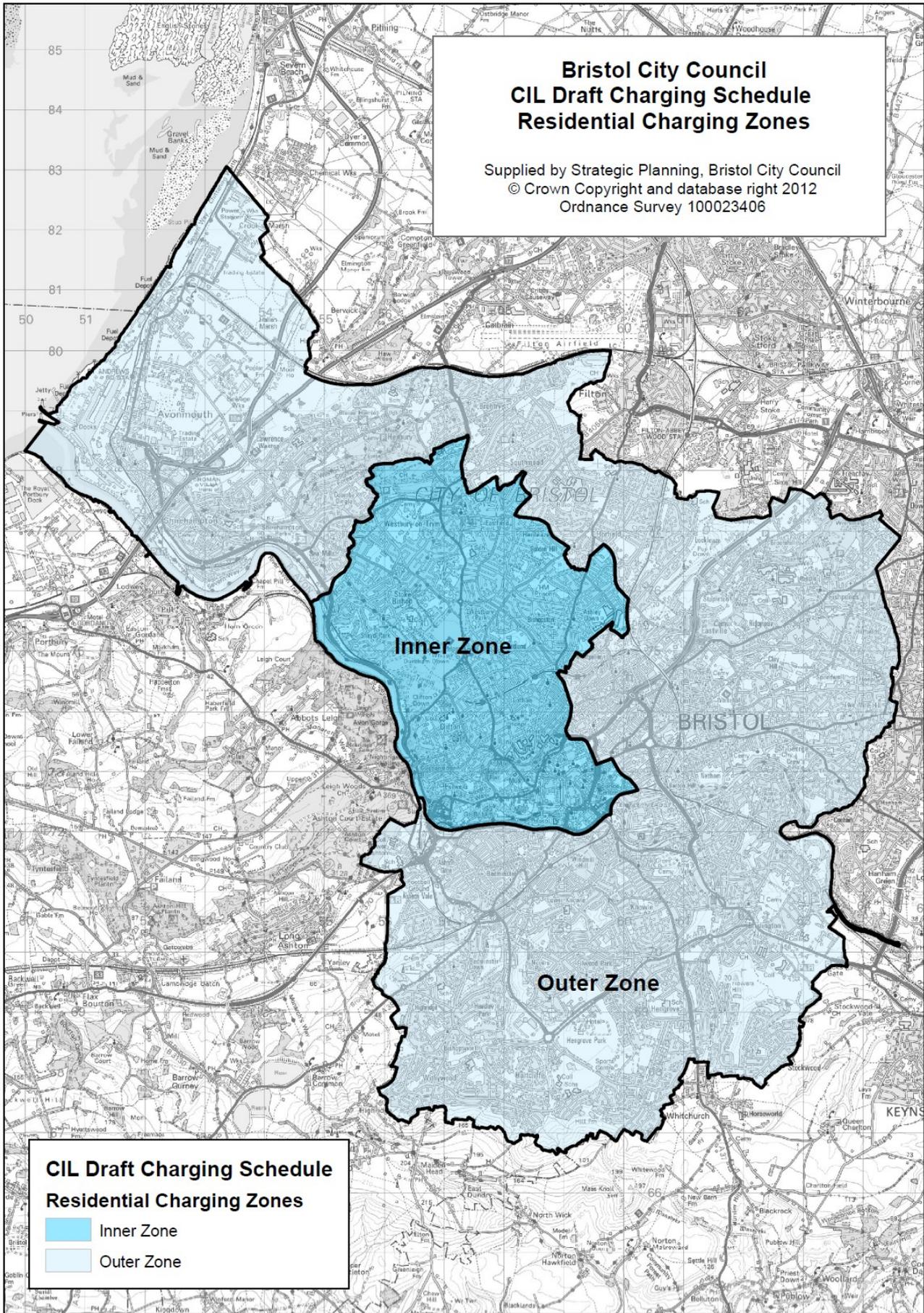
d. Land / property implications: Not Applicable

e. Human resources implications: Not Applicable

Appendices:	Appendix A:	Map identifying CIL Residential Charging Zones
	Appendix B:	Draft Regulation 123 List
	Appendix C:	EqIA Screening Form

Access to information (background papers):

CIL Viability Study (BNP Paribas) – November 2011





Draft Regulation 123 List

The following table comprises Bristol City Council's Draft Regulation 123 List. It includes the infrastructure that the Council currently considers it is likely to apply CIL revenues to. However, it is important to note that Bristol is not due to implement CIL until late 2012 / early 2013, and therefore the contents of the Regulation 123 List may change depending upon the following:

- changes to local or national funding streams that may occur prior to the CIL implementation date;
- the requirements of regulations governing the level of the "meaningful proportion" of CIL that is to be passed to local communities

Infrastructure currently considered likely to benefit from the application of CIL funding

Bus Rapid Transit (Ashton Vale to Bristol Temple Meads and City Centre)

South Bristol Link

Bus Rapid Transit (North Fringe to Hengrove)

Existing Parks and Green Spaces identified in the Parks and Green Spaces Strategy

School Schemes set out in the Schools Organisation Strategy

Infrastructure to support the regeneration of Lockleaze

Infrastructure to support the regeneration of Knowle West

Strategic Flood Defence measures

A final version of the Regulation 123 List, which will take account of any issues mentioned above, will be published on the Council's website immediately prior to the CIL implementation date.



Appendix C

Bristol City Council Equality Impact Assessment Form

Consultation on the proposed level of a Community Infrastructure Levy (CIL) for Bristol

Directorate:	Neighbourhoods and City Development
Service:	Strategic Planning Team – City Development
Lead officer:	Jim Cliffe
Start date for EqIA:	16 January 2012
Estimated completion date:	8 February 2012

Step 1 – Use the following checklist to consider whether the proposal requires an EqIA

1. What is the purpose of the proposal?

The purpose of the Cabinet Report is to seek approval to publish and consult on a CIL Draft Charging Schedule prior to it being submitted to the Planning Inspectorate for independent examination. Once implemented, CIL will result in an income stream being secured for the delivery of infrastructure projects.

	Yes	No
2. Could this be relevant to our public sector equality duty to: a) Promote equality of opportunity b) Eliminate discrimination c) Promote good relations between different equalities communities?		✓

If you have answered 'no' to question 2, please describe your reasons

Approving the CIL Draft Charging Schedule for consultation has no direct equalities impacts itself, however it is recognised that there could potentially be impacts as the projects to be funded from CIL monies are developed and implemented. To mitigate this all known equalities groups included in the Bristol Development Framework consultation database will therefore be included in the consultation process.

3. Could the proposal have a positive effect on equalities communities?		✓
Please describe your initial thoughts as to the proposal's positive impact Not applicable at this stage please refer to question 2 above.		
4. Could the proposal have a negative effect on equalities communities?		✓
Please describe your initial thoughts as to the proposal's negative impact Not applicable at this stage please refer to question 2 above.		

Additional comments

Whilst it is deemed unnecessary to proceed with further sections of this EqIA it is recognised and noted that there could be potential impacts for equality groups as the projects to be funded from CIL monies are developed and implemented. To mitigate this all known equalities groups included in the Bristol Development Framework consultation database will therefore be included in the consultation process.

The EqIA has been signed off at this stage based on the comments above.

Service Director: 

Equalities Adviser: Jane Hamill

Date: 8/2/12

Date: 8 February 2012