



Agenda for a meeting of the Executive to be held on Tuesday, 7 March 2017 at 10.30 am in Committee Room 1 - City Hall, Bradford

Members of the Executive

LABOUR
Hinchcliffe (Chair)
V Slater
I Khan
Ross-Shaw
Ferriby
Jabar

Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
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- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.

From:

Parveen Akhtar
City Solicitor

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To:



A. PROCEDURAL ITEMS

1. DISCLOSURES OF INTEREST

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

Notes:

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.*
- (4) Officers must disclose interests in accordance with Council Standing Order 44.*

2. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic Director or Assistant Director whose name is shown on the front page of the report.



If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Jill Bell - 01274 434580)

3. **RECOMMENDATIONS TO THE EXECUTIVE**

To note any recommendations to the Executive that may be the subject of report to a future meeting. (Schedule to be tabled at the meeting).

(Jill Bell - 01274 434580)

C. **PORTFOLIO ITEMS**

<p style="text-align: center;">REGENERATION, PLANNING & TRANSPORT PORTFOLIO</p>

(Councillor Ross-Shaw)

4. **REVIEW OF THE OPERATION AND EFFECTIVENESS OF THE 12 MONTH TRIAL BAN OF PAVEMENT OBSTRUCTIONS**

1 - 26

The report of the Strategic Director Place (**Document “BM”**) updates the Executive on the effectiveness and practicality issues of the 12 month trial ban on pavement obstructions in Bradford City Centre, Saltaire, Ilkey and on A647 Leeds Road between Thornbury Gyratory and Bradford City Centre.

On the basis of the trial’s findings a number of potential options for the continuation, revocation or amendment of the policy related to pavement obstructions in the future are presented for the Executive’s consideration and determination.

Recommended –

Executive approve the retention of the pavement obstruction ban with the following modifications:

- a) **The current trial zone ban areas be retained;**
- b) **Arrangements to allow licensing of pavement obstructions be incorporated into the Council’s approach.**
- c) **That the development of details of the licensing arrangements including the approval of policy for**



determining locations suitable for placement of obstructions and levels of license fee to be charged be delegated to the Strategic Director: Place in consultation with the Portfolio Holder.

(Environment & Waste Overview & Scrutiny Committee)

(Richard Gelder – 01274 436703)

5. THE APPROVAL AND IMPLEMENTATION OF THE BRADFORD DISTRICT COMMUNITY INFRASTRUCTURE LEVY (CIL) CHARGING SCHEDULE.

27 - 66

The Community Infrastructure Levy (CIL) is intended as a means of contributing to the funding of infrastructure required to support growth in the District and deliver the policies and proposals in the Local Plan, including the Core Strategy and other Development Plan Documents. It replaces part of the system of Planning Obligations (Section 106 Agreements), the scope of which has been restricted since 6 April 2015 with regard to pooling of developer contributions. The CIL will help to meet the District's priorities by generating funding to provide infrastructure while being set at appropriate rates that will continue to attract investment, create jobs, and deliver new housing.

The purpose of the report of the Strategic Director Place (**Document "BN"**) is for members to note the recommendations of the CIL Examination Report and to seek the formal approval of the CIL Charging Schedule (as set out in Appendix 2 of this report) by a resolution of the Full Council on 21 March 2017 with a commencement date of 1 July 2017. Members are also requested to note and approve the associated policies and documents alongside the CIL Charging Schedule. Appendices to this report contain the Regulation 123 List (Appendix 3), Instalments Policy (Appendix 4) and Exceptional Circumstances Policy (Appendix 5).

Leading up to the anticipated approval and commencement of the CIL, work will be progressed in relation to the roll out of the levy. This work relates to two broad areas, namely, the introduction of appropriate procedural measures for the day-to-day operation of the levy, and the establishment of governance arrangements for the subsequent spend of CIL monies collected. In relation to this matter Members are requested to note that a CIL Governance Report was taken to the Council's Governance and Audit Committee on 28 February 2017.

Recommended -

- (1) That the Executive, having considered the recommendations in the CIL Examination Report approve Option 1 as set out in Document "BN", and recommend to Council the formal approval and implementation of the**



Bradford District Community Infrastructure Levy Charging Schedule (as set out in Appendix 2 of Document “BN”) with a commencement date of 1 July 2017

- (2) That the Executive note and approve the content of the CIL Regulation 123 List, Exceptional Circumstances Policy and Instalments Policy and the Assistant Director (Planning, Transportation and Highways) in consultation with the relevant portfolio holder be authorised to revise any of these policies and as required in line with the relevant regulations.
- (3) That the Executive note that a CIL Governance Report was taken to the Council’s Governance and Audit Committee on 28 February 2017.

(Regeneration & Economy Overview & Scrutiny Committee)

(Bhupinder Dev – 01274 432012)

6. **WEST YORKSHIRE+ TRANSPORT FUND - HARROGATE ROAD / NEW LINE JUNCTION AND HARD INGS ROAD IMPROVEMENT, KEIGHLEY COMPULSORY PURCHASE ORDER (HIGHWAYS ACT 1980) AMENDMENT** 67 - 86

The report of the Strategic Director Place (**Document “BO”**) seeks Executive’s approval to:

- Modifications to the CPO boundary plans previously approved for the West Yorkshire+ Transport Fund schemes of Harrogate Road / New Line junction Improvement and Hard Ings Road Improvement, Keighley;
- The use of powers under Section 40 of the Road Traffic Regulation Act 1984 (RTRA); and
- Advertise the disposal of existing public open space and the appropriation of replacement public open space on the Harrogate Road / New Line scheme.

Finally, in recognition of the on-going nature of the land assembly negotiations for these projects the report seeks Executive’s approval to the delegation of the determination of any further amendments to the extents of the CPO to the Strategic Director of Place in consultation with the Portfolio Holder.



Recommended –

- (1) That the Executive resolve as follows:-**
- a) That a Compulsory Purchase Order be made under Section 239, 240, 246, 250 and 260 of the Highways Act 1980, Section 40 of the Road Traffic Regulation Act 1984 and the Acquisition of Land Act 1981 to be known as the City of Bradford Metropolitan District Council (Harrogate Road / New Line Junction Improvement Scheme) Compulsory Purchase Order 2017 for the compulsory purchase of land and rights required for the construction of the Harrogate Road / New Line junction as shown on revised drawing no: R/PTH/MH/103196/CPO-6A (the ‘Order Land’) annexed to this report.**
 - b) That the boundary plan previously approved by Executive on the 12th January 2016 in relation to the City of Bradford Metropolitan District Council (A650 Hard Ings Road Improvement Scheme, Keighley) Compulsory Purchase Order 2017 for the compulsory purchase of land and rights required for the construction of the proposed Hard Ings Road highway improvement scheme be amended, as shown on the revised drawing no: PTH/HS/103197/CPO-01B (the ‘Order Land’) annexed to this report.**
 - c) That the previous CPO resolutions inconsistent herewith be and are hereby rescinded**
 - d) That the details of the above Compulsory Purchase Order resolutions be placed on the Register of Local Land Charges.**
 - e) The Compulsory Purchase Orders be submitted to the Secretary of State for Transport for confirmation at the earliest possible opportunity.**
 - f) That in the event of a further modification to the extent of the Order Land as a result of on-going negotiations the authorisation of any further amendments to the CPO boundary be delegated to the Strategic Director of Place in consultation with the Portfolio Holder, Regeneration, Planning & Transport in the interests of expediency.**
- (2) That the Executive declares surplus to requirements for community use an area of land used for recreation comprising in the whole some 338 square metres (or**



thereabouts) of land shown edged red on Plan A annexed to this report and agrees, in principle, that the land may be used instead to facilitate a proposed highway widening scheme along Harrogate Road / New Line, Greengates, Bradford.

- (3) That the intention to provide replacement land comprising 1,249 square metres (or thereabouts) of land shown shaded green on Plan B annexed hereto for the highway widening scheme, be approved pursuant to Section 122(2A) of the Local Government Act 1972 in order to replace the public open space land needed for the road widening.
- (4) That consideration of any objections received to both published notices described in 10.2 and 10.3 above on whether the open space land should be permitted to be used for the road widening scheme and the replacement land appropriate from highway purposes to community use, be delegated for decision to the Executive Portfolio Holder for Regeneration, Planning and Transport and the Strategic Director: Corporate Services.

Environment and Waste Management Overview & Scrutiny Committee)

(Richard Gelder – 01274 437603)

7. **BRADFORD CITY CENTRE - PROPOSED AMENDMENTS TO ON-STREET VEHICLE PARKING CHARGES AND CHANGES TO SOME DESIGNATED PAY AND DISPLAY AND LIMITED WAITING BAYS.** 87 - 98

The report of the Strategic Director Place (**Document “BP”**) considers the objections received to the proposals to extend the hours of on-street parking charges to 8a.m – 6p.m on Monday to Saturday (currently 10a.m – 4.30p.m) and to introduce a fixed £1 charge on Sundays in pay and display bays within Bradford city centre.

The report also considers the objections received to introduce pay and display bays on Canal Road, Valley Road, Bolton Road and Mill Street, which are currently designated as limited waiting parking bays, and to a proposal to provide a bus bay on Upper Piccadilly.

Recommended -

- (1) That Executive approves the introduction of the revised on-street parking charges as described in Document “BP”, with the exception of the implementation of a £1 Sunday flat rate charge to some “top of town” streets, namely North Parade, Northgate, Rawson Road, Godwin Street and Darley Street, where regeneration proposals may affect on-street



parking provision, as referred to in section 2.5 of Document “BP”. The proposed bus bay on Upper Piccadilly be approved.

- (2) That all objectors be notified of the Executive’s decision.

(Environment and Waste Management Overview & Scrutiny Committee)

(Richard Gelder – 01274 437603)

B. STRATEGIC ITEMS

LEADER OF COUNCIL & CORPORATE

(Councillor Hinchcliffe)

8. **MITIGATING THE IMPACTS OF WELFARE REFORM ON THE POOREST FAMILIES AND SUPPORTING PARENTS TO ACCESS EMPLOYMENT THROUGH THE AWARD OF DISCRETIONARY HOUSING PAYMENTS**

99 - 114

The report of the Strategic Director Corporate Services (**Document “BQ”**) outlines how Discretionary Housing Payments could be used to mitigate the impacts of the further benefit cap on the District’s poorest households and to support people into employment.

Recommended -

- (1) That the DHP policy be amended as set out in appendix A to Document “BQ” to prioritise families by extending the period that the DHP can be awarded to ensure more stability of tenure. And- so that where appropriate, an adult or both adults from a household applying for a DHP are encouraged to undertake skills training or access other work-orientated support.
- (2) That Council officers responsible for skills and training programmes and other work-orientated programmes (such as Skills for Bradford, Get Bradford Working) work with officers in Revenues and Benefits to investigate and, if viable and cost neutral, share their client data subject to the consent of the data subject or otherwise in accordance with the requirements of the law for the purpose of:
 - (1) Identifying parents and other adults who could benefit from provision aimed at supporting them into work or full employment.



- (3) That Executive instructs the Strategic Director of Corporate Services to involve the relevant Portfolio Holders and the Council's Anti-Poverty Champion in any further development of the DHP Policy.**
- (4) That Council officers in Revenues and Benefits Service ensure that Discretionary Housing Payments are promoted to parents through schools and through other locations in the district to ensure parents are aware of the support available and how to apply for it.**
- (5) That the Chief Executive provide a wider report for the Executive at the earliest time on how the impact of welfare changes can be mitigated on the poorest families and how parents can be supported to access employment**

(Corporate Overview & Scrutiny Committee)

(Martin Stubbs/Helen Johnston – 01264432056/434401)

THIS AGENDA AND ACCOMPANYING DOCUMENTS HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER



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Report of the Strategic Director of Place to the meeting of Executive to be held on Tuesday 7th March 2017

BM

Subject:

Review of the operation and effectiveness of the 12 month trial ban of pavement obstructions.

Summary statement:

This report updates the Executive on the effectiveness and practicality issues of the 12 month trial ban on pavement obstructions in Bradford City Centre, Saltaire, Ilkey and on A647 Leeds Road between Thornbury Gyratory and Bradford City Centre.

On the basis of the trial's findings a number of potential options for the continuation, revocation or amendment of the policy related to pavement obstructions in the future are presented for the Executive's consideration and determination.

Steve Hartley
Strategic Director of Place

Portfolio:

Regeneration, Planning & Transport

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Overview & Scrutiny Area:

Environment & Waste



EXECUTIVE SUMMARY

1. A trial ban on the placing of obstructions on pavements in Bradford city centre, Saltaire, Ilkley and on the A647 Leeds Road between Thornbury gyratory and Bradford city centre was introduced in January 2016 following its approval by Executive. For the past twelve months businesses failing to comply with the ban have been subject to enforcement action by Council officers to remove obstructions to the highway. A series of enforcement days were held over 4 separate occasions throughout 2016 which saw a 95% level of compliance with the ban within each of the trial areas.
2. During the trial information was gathered in relation to various metrics of the approach which identified the following issues:
 - a) Levels of compliance with the ban and the costs of its enforcement;
 - b) Issues of parity in enforcement in between the different areas and types of areas;
 - c) Difficulties in identifying the extents of highway / private curtilage;
 - d) Specialist difficulties associated with the Saltaire World Heritage Site; and
 - e) Alternative approaches to advertising of businesses.Each of these metrics is explored in greater detail within the report.
3. During the operation of the ban staffing resources equivalent to 2.52FTEs were allocated to activities associated with its operation at a staff and plant cost of £61,400. Further extension of the ban would place increasing pressures on reducing budgets within the Planning, Transportation & Highways Service.
4. The ban was reviewed by the Health and Social Care Overview & Scrutiny Committee in December 2016 who made the following recommendation to Executive:

Following completion of the trial ban of advertising boards Executive approve the formalisation of the ban across all clearly defined urban centres of the district.

5. This report therefore presents a number of options for Executive's consideration in relation to the future operation of any ban including:
 - a) Retain the ban in the current 4 areas;
 - b) Retain the ban but widen to include other urban centres;
 - c) Increase the ban to include all roads and pavements within the district;
 - d) Revert to the previous Code of Practice approach; and
 - e) Retain a modified ban with an element of licensing of obstructions.
6. The costs of 5(b) and 5(c) have been calculated based on the experience gained during the trial and further work has been done on considering the licensing option as has the potential for income from the licensing proposal under 5(e). Based on this work the report therefore recommends that Executive:
 - a) Retaining the ban across the trial zones with arrangements to allow licensing of pavement obstructions included.
 - b) That the development of the licensing arrangements be devolved to the Strategic Director: Place in consultation with the Portfolio Holder.

1. SUMMARY

1.1. This report updates the Executive on the effectiveness and practicality issues of the 12 month trial ban on pavement obstructions in:

- a) Bradford City Centre;
- b) Saltaire;
- c) Ilkley; and
- d) A647 Leeds Road between Thornbury gyratory and Bradford City Centre.

which was introduced in January 2016.

1.2. Based on the evidence which has been collated during the trial in relation to the effectiveness of the policy, the level of observed compliance, complexities of enforcement and impact on businesses within the trial zones the report considers options for the continuation, revocation or amendment of the policy in the future for Executive's determination.

2. BACKGROUND

2.1. At its meeting of 6th February 2014 the Health and Social Care Overview and Scrutiny Committee considered a report into the Council's current arrangements for dealing with obstructions on the highway under Section 137 of the Highways Act 1980. The Health and Social Care Overview and Scrutiny committee resolved that:-

Resolved -

That the Council be urged to use its best resources to bring about a change in the Authority's available powers to deal more effectively with obstruction of the highway and that all the relevant policies be referred for consideration by the Council's Executive.

2.2. Following this resolution a report outlining potential options for improving compliance with highway law in relation to pavement obstructions was presented to Executive for consideration on 16 October 2014. Executive resolved that:

Resolved –

That a report be presented to Executive with further information and options on the Council's approach to dealing with pavement obstruction on the highway.

2.3. This report outlining detailed options for the potential approach to dealing with pavement obstructions was presented to Executive on 13 October 2015. Executive resolved inter alia that:

Resolved –

(1) That the introduction of a zero tolerance approach in three district centres of Bradford City Centre, Saltaire and Ilkley and along the A647 Leeds Road between Thornbury Gyratory and Bradford City Centre be

approved for the initial trial period of twelve months commencing in January 2016.

- (2) That prior to the implementation of the trial ban reasonable steps be taken to contact all local businesses within the zones likely to be affected to advise of the Council’s intentions and the effective date of the implementation of the ban. That in the period running up to the introduction of the trial in January 2016 all businesses be offered appropriate advice and support in relation to making alternative arrangements for their advertising.**
 - (3) That training sessions for the Council’s Warden Service be arranged by the Council’s Mobility & Inclusion officer to ensure that enforcement staff possess an appropriate basic understanding of differing disabled people’s access needs prior to the commencement of the trial.**
 - (4) Subject to the performance of this trial in addressing the concerns of disabled user groups, a further report be presented to the Health and Social Care Overview & Scrutiny Committee to review the findings of the trial and make recommendations as to any amendment to the scope of the zero tolerance policy following the initial trial period.**
- 2.4. Prior to the implementation of the trial Council Wardens undertook a survey of all the areas identified in the Executive resolution to identify businesses that were utilising advertising boards and shop displays on adopted highway in order that a list of business names and addresses could be compiled. In November/December 2015 letters advising businesses of the introduction of the ban and its extents were issued over a four week period commencing on 21 November by Council wardens. This notification resulted in 34 businesses contacting the Council to express their concerns about the potential impact of the ban on their trading.
- 2.5. In line with Executive’s resolution the Council’s Mobility & Inclusion Officer undertook a series of training briefings with Council Wardens to increase awareness difficulties experienced by disabled highway users, together with briefing wardens on how the enforcement of the ban would operate. As part of this briefing a number of operational issues were identified including:
- a) How the enforcement of the ban would operate amongst staff from Neighbourhoods and Highways Services.
 - b) How Wardens would have access to appropriate information related to identifying areas of adopted highway whilst out on patrol.
 - c) The arrangements for collation of evidence necessary to support the potential removal of advertising boards which had previously been warned of their contravention of the ban; and
 - d) The ability of the service to effectively commence the ban on all areas in January 2016.

2.6. Following these discussions the trial ban was introduced in Bradford city centre on 4th January 2016 and rolled out, in sequence, to Saltaire, Ilkley and Leeds Road corridor over the following eight week period. It was agreed that the enforcement protocol for the ban would comprise the following actions:

- a) Wardens would patrol the area of the ban and where any advertising boards were found to be in contravention of the ban a warning sticker would be affixed to the advertising board. Photographic evidence of the board, its location and the presence of the warning sticker would be taken and details passed to the Mobility & Inclusion officer.
- b) All queries from businesses related to issues of advertising boards being placed on private land rather than adopted highway were passed to Highways Service who undertook checks of the Council's adoption records in an attempt to clarify the highway status of the location in question. Where advertising boards were found to be located on private land an appropriate record of this was placed on the enforcement record submitted by the Wardens in order to avoid removal of any boards not on highway.
- c) Each trial zone would receive a number of enforcement visits where advertising boards which had not been removed after the issue of warning notices would be physically removed. Each visit would occur two weeks after the warning notice was affixed to the advertising board or warning letters were issued to businesses.
- d) Advertising boards which were removed would be taken to one of the Council's depots (Wakefield Road or Stocksbridge) for temporary storage. The facility was provided, via the Council's website, for businesses to recover confiscated advertising boards upon payment of a release fee (£200).

2.7 In accordance with Executive's resolution (as described in paragraph 2.3 (4)) a report on the findings of the trial was presented to the Health and Social Care Overview & Scrutiny committee on the 8th December 2016. The committee considered the findings of the trial as reported and heard representations from both the business community and disabled user groups before resolving, inter alia as follows:-

Resolved –

(1) That the Committee recommend to Executive that:

- a) Following completion of the trial ban of advertising boards Executive approve the formalisation of the ban across all clearly defined urban centres of the district.**
- b) That opportunities for additional signposting in the District, including, for example the Instaplanta scheme, and possible measures to deal with other pavement obstructions be investigated by officers in conjunction with local businesses including those affected by the loss of advertising boards.**

- c) A further approach is made to all businesses within the trial zones to seek information in relation to the impact of the ban on trading levels prior to Executive's consideration of the ultimate approach.**

3. OTHER CONSIDERATIONS

Pre-trial Situation

- 3.1. Prior to the introduction of the ban an audit of the numbers of advertising boards on the highway was undertaken by Council wardens. Within Bradford city centre 120 advertising boards were located within the trial zone, whilst in the smaller Ilkley zone some 132 advertising boards were identified as being placed on the highway. Within Saltaire the level of advertising boards identified was 47 and along the Leeds Road corridor only 17 boards were recorded. The numbers of businesses with more than one advertising board were similarly more prevalent in the small urban centres of Ilkley and Saltaire. Photographs of examples of advertising board placement observed during this audit are included in Appendix B of this report.

Level of Compliance during the Trial

- 3.2. Each of the four trial zones were subject to three enforcement action days comprising activities as outlined in paragraph 2.5.d)2.5.d) above. In general a two week period was observed between the issue of warning notices and the subsequent enforcement action in order to allow businesses to comply with the requirements of the ban (i.e. the removal of the advertising board).
- 3.3. As anticipated the first phase of enforcement resulted in the largest number of removals of advertising boards with a total of 42 advertising boards being removed, however due to difficulties in arranging police attendance no removals took place during the first phase of enforcement in both Saltaire and Ilkley. On this phase the 21% of the boards which were issued with a warning notice in Bradford city centre were ultimately removed whilst in contrast over 70% of the boards issued with a warning on Leeds Road corridor ended up being removed. Following the enforcement in Bradford city centre a number of advertising boards had to be returned free of charge to businesses as they had been incorrectly removed without previously being subject to a warning notice.
- 3.4. The second phase of enforcement in all four zones was more co-ordinated based on the experience of the previous enforcement action and took place in May 2016. The overall numbers of advertising boards issued with a warning notice on this occasion had reduced from 316 to 69 (a 78% reduction in infringements) and of these boards ultimately subject to removal drastically fell to 17 (a 60% reduction). Following this phase of enforcement each zone was again monitored as to the level of compliance achieved and maintained. In September 2016 the levels of advertising boards re-appearing within Bradford City Centre were noticed to have increased and therefore the third phase of enforcement was arranged for October 2016.
- 3.5. In the third and final phase of enforcement the levels of contraventions in Bradford city centre had increased with 12 warning notices issued (an increase

of 6 notices over the phase 2 levels) whilst in Ilkley, Saltaire and Leeds Road corridor the trend of reduced contraventions with a minor decrease in the number of warning notices being issued was recorded. In this phase only 11 advertising boards were removed from all zones with the largest number being removed from Ilkley. Of all the advertising boards removed there have been no requests made for the return of any advertising board.

- 3.6. Overall, as a result of the three phases of enforcement the numbers of advertising boards which could be subject to enforcement within each of the trial zones was observed to reduce indicating a broad level of compliance with the ban had been achieved. The full detailed analysis of activities is included in Appendix A of this report.

Difficulties in Relation to Adopted Highway & Highway Records

- 3.7. One key difficulty which was identified with ensuring effective and appropriate enforcement of the ban related to the availability and accuracy of highway records for the trial areas.
- 3.8. Whilst the Council's records of adopted / un-adopted highways are currently stored in its computerised graphical information system (GIS) this information was not available to the wardens whilst on patrol. Because this information could not be accessed by wardens broad training on identification of areas of highway and possible private land was provided sufficient to ensure that the majority of locations where boards were observed could be appropriately assessed by the wardens prior to any enforcement action taking place. The warden's confidence with the application of this training was identified as a continuing concern during the early stages of the trial as unlike enforcement of parking restrictions where there is a clear contravention of a restriction (e.g. parking on a double yellow line), the extent of the highway is generally not as obvious on site. As a result of this continuing concern the approach was adopted to have all advertising boards issued with warning notices and any appeals to these notices would be referred to highway officers for determination.
- 3.9. As a result of this approach a number of businesses contacted the Council to contest that their advertising boards were placed on private land rather than adopted highway. In general this belief arose from the respective property deeds which showed ownership of land extending to the moiety of the road. To resolve each complaint highways officers had to undertake an extensive search of highway records to determine the actual line of highway in the immediate vicinity. These searches were often protracted given the need to refer to historic plans where the Council's electronic GIS records were inconclusive and in a small number of cases the records and street infrastructure were ambiguous such that a determination of highway status currently remains unresolved.

Alternative Advertising Approaches

- 3.10. As part of the initial notification letter regarding the introduction of the trial businesses within each of the zones were offered advice on possible alternative advertising solutions which they may wish to explore in place of the use of advertising boards. Details of how to access potential sources of advice on the internet including:

- a) the Council's Shop Front Design Guide;
- b) Saltaire Shop Front Design Guide; and
- c) The Communities & Local Government – Outdoor Advertisement and Signs: A Guide for Advertisers publications

were included within the letter. These publications suggested a range of potential alternative approaches which could be adopted to the design of the front of shops, which would be acceptable to the Council, to increase the visibility of businesses on the streetscape.

3.11. During the trial some alternate methods of advertisement of businesses' presence were observed, particularly within Bradford city centre including the use of members of shop staff advertising the location of their business to passing shoppers during peak trading hours through handheld signs. Information relating to alternative communication channels used by local businesses affected by the trial was sought as part of the feedback exercise undertaken to review the impacts of the trial.

3.12. Officers also became aware of an alternative advertising scheme which is operated in both Kirklees and Leeds by a company called Instaplanta. This scheme provides advertising space within a fixed item of street furniture (a standard design wooden planter as shown in Photograph 1) which is located in an appropriate location which will have previously been subject to a detailed risk assessment by a Council highways officer. Under this scheme the company identify appropriate locations around the district where a planter could be placed without causing an obstruction to pedestrians or obscuring vehicle sight lines and offer advertising space on the planter to small local businesses for an annual fee. From this fee the maintenance of the planting, including watering and replacement of bedding flowers is undertaken at no cost to the Council.

It is suggested that a trial of the Instaplanta scheme be implemented within the urban centres of Bradford City Centre, Ilkley and Keighley for a period of twelve months and that subject to satisfactory performance of this trial delegated authority be given to the Strategic Director in consultation with the Portfolio Holder to approve further urban centres where the scheme may be adopted.



Photograph 1: A Typical Instaplanta Installation

Saltaire World Heritage Site (WHS) Issues

- 3.13. Following the introduction of the trial in Saltaire the World Heritage Site Officer (WHSO) also reviewed its operation within the context of the WHS and the Access Audit Report which was undertaken in August 2014. The WHSO noted a number of issues related to accessibility within Saltaire which the trial did not address including:
- a) Enforcement of the ban has not been as equitably applied as believed as a number of non-retail businesses who use advertising boards are perceived to have escaped enforcement action.
 - b) Obstructions on the pavement outside Gordon Terrace tend to be caused largely by unlicensed pavement café tables and chairs rather than advertising boards.
 - c) Traders in Saltaire face additional challenges to providing alternative advertising for their businesses whilst still complying with the restrictions associated with the WHS status of Saltaire. Businesses could be encouraged to consider developing schemes such as those in Keighley where groups of traders pool their advertising funds and co-operatively decide how to advertise through either printed media, on-line services or physical means. Similarly, the previously trialled Saltaire Traders Loyalty Card scheme could be reinstated.

Experience of disabled users

- 3.14. As evidenced by the meetings of the Health and Social Care Overview & Scrutiny committee on 1st September and 8th December where representatives of the disabled community and their associated organisations presented their perspective on the trial the general feedback in relation to the introduction of the ban has been unanimously positive. Many disabled users are now able to move around the pavements of the district with increased confidence due to the removal of the temporary obstructions which were caused by advertising boards.
- 3.15. However, there remains frustration amongst these groups that this approach has not been rolled out across this District and that the trial itself has not been confirmed as continuing.

Experience of Businesses

- 3.16. The greatest proportion of complaints from businesses within the trial zones related to the impact of the introduction of the ban on their trading through loss of footfall. Of the complaints and objections during the trial 13 businesses in Bradford city centre, 10 Ilkley businesses, 10 businesses in Saltaire and one business on Leeds Road raised this issue as a particular concern, together with seeking clarification as to why the ban was introduced by the Council.
- 3.17. All businesses contacting the Council were asked in the responses back to their complaint if they would be willing to share details of their financial accounts both

pre-trial and during the trial in order that a comparison of the impact of the loss of income could be made. This request resulted in one business providing unsubstantiated evidence to officers relating to the impact of the ban on their business trading.

- 3.18. Another concern raised by businesses within the trial zones related to the equity of enforcement of the ban within the vicinity of their business. Businesses perceiving that their neighbours were not receiving the same level of enforcement treatment reported contraventions of the ban to the Council with requests for action. However, where the Council was perceived as being slow to take action it was noted that this led to a number of complying businesses returning to the use of advertising boards.
- 3.19. Following the consideration of this issue by the Health and Social Care Overview & Scrutiny committee in December 2016 and in response to their resolution a standardised questionnaire was developed and issued to businesses by post and email in December 2016. Across all of the trial zones a total of 386 questionnaire letters were issued together with 36 email questionnaires. This approach has resulted in 10 responses from businesses representing a return rate of 2.3%. The summary of the feedback received from this consultation is shown in Appendix C of this report.
- 3.20. Of these responses all bar two were from businesses in Ilkley where the greatest use of advertising boards was observed prior to the start of the trial; the other returns included a single from Saltaire and one from Bradford City Centre. There have been no returns received from businesses on the Leeds Road corridor.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1. As has been noted previously the Council currently employs a single Highway Enforcement Officer who in addition to having responsibility for dealing with the enforcement of highway obstructions also deals with enforcement of all other aspects of general highway legislation. Funding for enforcement of highways legislation derives from existing revenue budgets. Under the recent restructure of the Planning, Transportation & Highways Service an additional Highway Enforcement Officer post was added to the structure bringing the total Highway Enforcement resource to 2FTE's although at the time of writing this report it remains unfilled.
- 4.2. Enforcement of the trial during the past 12 months has required redirection of a significant level of staff resources to administer the scheme as well as to undertake enforcement activities both from within the Planning, Transportation & Highways Service and Neighbourhood Service. The level of resources which has been applied to this trial equates to an average requirement of 2.52FTE's per year (including resources necessary for the 4 enforcement days) and represents a revenue staff and plant cost of £61,400 during the life of the trial.
- 4.3. Sustaining, or increasing, this level of resource, in the future is likely to become increasingly difficult in the face of reducing Council budgets. Therefore, any expansion into wider areas of the district will need to have due regard to the associated resource requirements and their funding.

- 4.4. Based on the details of officer time spent on operation of the trial it is predicted that expanding the ban to other urban centres would require resources equivalent to 4FTE's per year with a revenue cost of approximately £200,000p.a. whilst expansion to the whole district would require resources equivalent to 4.67FTE's and funding of £287,000p.a. to operate.
- 4.5. Introduction of a licensing arrangement allowing businesses to legitimately place one advertising board on the highway in a pre-agreed location could potentially be used to off-set the running costs of on-going enforcement. Based on a potential level of 25% of businesses taking up a license an annual cost of £182 per permit (equivalent to £3.50 per week) would cover the costs of running the scheme.
- 4.6. It is worthy of note the final sanction for repeated breaches of section 137 Highways Act 1980 is by way of criminal prosecution for a summary offence before the Magistrates court . The offence carries a level 3 (£1,000) fine. To date no prosecutions have been necessary due to the forced or voluntary removal of the A Board advertising signs by the Council's enforcement action. However ultimately some prosecutions may be required which will have staff resource implications for the Council's Legal service.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1. Responsibility for maintaining the safe operation of the highway under Section 130 of the Highways Act 1980 rests with the Council as local Highway Authority. Licencing of trading activities on consent and licensed streets is the responsibility of the Council's licensing team who consult with highways about each application for a new consent or license.
- 5.2. The close working relationship which has been established between the officers of Planning, Transportation & Highways Service and Neighbourhood Services (both of which are now under the Department of Place) has helped ensure that this trial has delivered the level of compliance described previously. The trial has demonstrated that whilst Council wardens are able to perform the function of the "eyes and ears" of the Council and issue appropriate warning notices to businesses contravening the trial ultimate responsibility for co-ordination of positive enforcement action remains with Highways officers.

6. LEGAL APPRAISAL

- 6.1. The Council has a dual role in the control of obstructions arising from advertisements on the highway, that of:

Local Planning Authority who have the powers and duties under the Town and Country Planning Act 1990 (as amended)

As the Local Planning Authority the Council is responsible for the day-to-day operation of the advertisement control system, and for deciding if a particular advertisement should be permitted or not. The advertisement control system in England are part of the planning control system. The present regulations are contained in the Town and Country Planning (Control of Advertisements) Regulations 2007. It should be noted that A-boards located on private land

contained within the forecourt of a premises will require neither express consent under the planning system nor approval under the Highways Act as these are deemed to have consent under the deemed consent provisions.

The Council as **Highway Authority** has powers and duties under the Highways Act 1980 (the 1980 Act) and responsibility for street scene enforcement.

The Council is under a duty to maintain the use of public highways in its district under the provisions of section 41 the 1980- Act which is augmented by section 149 Equality Act 2010 mentioned in Para. 7.1 below.

The Council has power to order by notice the removal of obstructions under s143 and 149 of the 1980 Act.

The offence of 'obstruction of the public highway' arises under section 137 of the 1980 Act. The presence of 'A boards' or other types of advertising which causes an obstruction to the general public may subject to sufficient evidence give rise to the commission of this offence.

The option of licensing " A Board" obstruction which is contemplated by option 5 below is lawful subject to the matters below.

The Council as highways authority can licence an obstruction to a public highway only if it is no more than a minor inconvenience to the use of the highway. Primarily a highway is a route which all persons can use to pass and re pass along as often and whenever they wish without hindrance and without charge. This definition includes the road or carriageway and the footway or pavement and bridleways and footpaths. In order to preserve these rights of way it is necessary to ensure that they are not obstructed either wilfully or without consideration.

Sections 115A to K of the 1980 Act permits features and structures to be licensed so long as they do not obstruct or endanger pedestrians; eg those with impaired vision, those using wheelchairs and parents with prams.

Further legal advice on this issue needs to be sought and a policy approved prior to any licences been issued.

7. OTHER IMPLICATIONS

7.1. EQUALITY & DIVERSITY

Section 149 of the Equalities Act 2010 states that the Council must, in the exercise of its functions, have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and other conduct prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) Foster good relations between such persons.

Having due regard to (a) above involves having due regard, in particular, to the need to remove or minimise disadvantages suffered by persons who share a relevant protected characteristic and take steps to meet the needs of persons who share a relevant protected characteristic that are different from those who do not share it. A relevant protected characteristic is defined as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In the case of the issue of highway obstructions the most relevant characteristic would be visually impaired or blind persons, those with mobility issues, the elderly and parents with young children in prams or push chairs.

By the development of the various policies and Codes of Practice described in this report the Council has endeavoured to established balanced criteria which are fair to licence holders of existing street trading licences and pavement cafes, future applicants for consents, owners and occupiers of business premises fronting onto the highway, all customers and persons who will be using the streets concerned for any lawful purpose, (including those with special requirements).

7.2. SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications arising from matters contained in this report.

7.3. GREENHOUSE GAS EMISSIONS

There are no apparent greenhouse gas emission impacts arising from the contents of this report.

7.4. COMMUNITY SAFETY IMPLICATIONS

As the Highway Authority the Council has a statutory duty to protect the rights of its citizens to the safe use and enjoyment of the highway.

Obstructions to the highway invariably can interfere with this enjoyment to varying degrees depending upon the size of the obstruction and its actual location. As the local Highway Authority the Council has the power to remove obstructions and prosecute through the Courts persistent or intransigent offenders.

7.5. HUMAN RIGHTS ACT

A fair balance must be struck between the rights of property owners to make beneficial use of their properties and any need to restrict such rights in the overall public interest.

By the development of the various policies and Codes of Practice described in this report the Council has endeavoured to established balanced criteria which are fair to licence holders of existing street trading licences and pavement cafes, future applicants for consents, owners and occupiers of business premises fronting onto the highway, all customers and persons who will be using the streets concerned for any lawful purpose, (including those with special

requirements).

7.6. **TRADE UNION**

There are no Trade Union implications arising from this report.

7.7. **WARD IMPLICATIONS**

Activities associated with the removal of obstruction of the highway impact on all wards within the District. However, given the nature of most obstructions being centred in retail centres activity tends to be concentrated in the city centre and outlying town and village centres.

8. **NOT FOR PUBLICATION DOCUMENTS**

None.

9. **OPTIONS**

9.1. There are a number of options which the Executive may consider as the potential permanent approach to dealing with advertising boards and shop displays on the District's highway network including:

a) **Retain ban in current form** – the current four enforcement zones of the trial have demonstrated a significant reduction in the numbers of advertisement boards on the highway. Initial problems associated with the introduction of the trial in each zone have now by in large been resolved although a few land ownership issues still remain unresolved, particularly around Ilkley. However, the four zones which were initially selected may no longer represent the key “hot spots” of the district.

b) **Retain ban with modification** – The four enforcement zones which were initially selected by Executive have demonstrated that in general the greatest proliferation of advertising boards is centred in urban centres. The numbers of boards on Leeds Road corridor for example are significantly lower than those found in Saltaire. Therefore the Executive may wish to retain the ban in urban centres and expand these to include other urban centres whilst allowing advertising boards on the connecting transport network.

Within the definition of urban centres the following areas of the district could be identified:

Baildon, Bingley, Bradford City Centre, Greengates, Haworth, Ilkley, Keighley, Queensbury, Saltaire, Shipley, Silsden, Thornton and Wyke.

Adopting such an approach would ensure that the maximum benefit of enforcement can be achieved whilst minimising the on-going revenue costs to the Council.

c) **Expand the ban to whole district** – The Executive may feel that the benefits demonstrated by the trial are such that for the sake of consistency the ban should be extended to include all roads and urban

centres within the district. However, the revenue costs and staff time associated with this option will place an excessive burden on existing staff resources and revenue budgets and may lead to unrealistic expectations being raised with disabled interest groups in relation to the level of enforcement that the Council can realistically provide.

- d) **Revert to previous Code of Practice approach** – This is the least favourable option from the perspective of disabled users who have enjoyed the benefit of obstruction free footways that have been established by the trial. Whilst a limited introduction of advertising boards would be welcomed by some businesses the complexities of enforcement of this policy are well known and as such long-term continued compliance with the requirements of the code is unlikely to be maintained.
- e) **Retain the ban with modification and the introduction of licencing in selected areas** – This option would involve retention of the ban on pavement obstructions in the trial zone areas but would allow businesses to apply for a license to display a single advertising board adjacent to their business premises. The income from these licenses could provide an appropriate revenue stream to fund the necessary staff resources to enforce this policy.

Benchmarking the level of licensing with adjacent West Yorkshire Authorities results in a base level of licence charge of £105 for a single advertising board per year. At this level of cost the income from advertising board applications based on the four priority zones alone would be sufficient to fund a further full-time Highway Enforcement Officer but insufficient to provide funding for the levels of resources required for an expansion of the ban.

- 9.2. The Executive may choose a different permutation of the above options as its recommended approach. Appropriate officer advice on the merits of any approach proposed will be given to the Executive as appropriate.
- 9.3. The Executive may also wish to consider endorsing the recommendation of the Health and Social Care Overview & Scrutiny committee in relation to the use of alternative advertising approaches as described in this report as a way of assisting businesses affected by the loss of advertising boards.

10. RECOMMENDATIONS

- 10.1. Executive approve the retention of the pavement obstruction ban with the following modifications:
 - a) The current trial zone ban areas be retained;
 - b) Arrangements to allow licensing of pavement obstructions be incorporated into the Council's approach.
 - c) That the development of details of the licensing arrangements including the approval of policy for determining locations suitable for placement of obstructions and levels of license fee to be charged be delegated to the

Strategic Director: Place in consultation with the Portfolio Holder.

11. APPENDICES

- 11.1. Appendix A – Record of Advertising Board enforcement action.
- 11.2. Appendix B – Examples of obstructions of streets pre- the trial.
- 11.3. Appendix C – Questionnaire Response Summary.

12. BACKGROUND DOCUMENTS

- 12.1. Highways Act 1980
- 12.2. Local Government (Miscellaneous Provisions) Act 1982
- 12.3. Statutory Instrument 2004 No. 3701
- 12.4. Town and Country Planning Act 1990 (as amended)
- 12.5. Countryside and Rights of Way Act 2000
- 12.6. Report of the Strategic Director (Regeneration) to the Health and Social Care Overview & Scrutiny Committee to be held on 8th December 2016, Review of the Operation of the Council's 12 month trial ban of pavement obstructions.
- 12.7. Report of the Assistant Director Environmental & Regulatory Services to the meeting of Regulatory and Appeals Committee to be held on 28 August 2013, Proposed changes to the current street trading restrictions within the Bradford District and adoption of a district wide street trading policy.
- 12.8. Report of the Strategic Director, Regeneration & Culture to the meeting of Health & Social Care Overview & Scrutiny Committee to be held on 6 February 2014, The Council's approach to dealing with 'A' boards and other obstructions on the highway under the Highways Act 1980.
- 12.9. 'A' Boards and Shop Pavement Displays as Obstruction on the Public Highways report to Environment and Waste Management Overview and Scrutiny Committee, 1 September 2011.
- 12.10. 'A' Boards and Shop Pavement Displays as Obstruction on the Public Highways report to Executive on 4 February 2011
- 12.11. 'A' Boards and Shop Pavement Displays as Obstruction on the Public Highways report to Environment & Waste Management Overview and Scrutiny Committee, 18 January 2011.
- 12.12. City of Bradford Metropolitan District Council Transportation, Design & Planning Director Decision Sheet 80/04
- 12.13. City of Bradford Metropolitan District Council Transportation, Design & Planning Director Decision Sheet 17/05

- 12.14. Report of the Transportation, Design & Planning Director to the meeting of Executive 17 October 2005.
- 12.15. Minutes of Executive's meeting held on Monday 17 October 2005
- 12.16. Kent City Council A-Board Guidance and Application Form
- 12.17. A-Boards on the Highway – Policy and Guidance, Kirklees Metropolitan Council, October 2014
- 12.18. Kirklees Metropolitan District Council Cabinet Report, 17 December 2013, Proposed controls on street based advertising such as A-boards and goods for sale
- 12.19. Who Put That There! The barriers to blind and partially sighted people getting out and about, February 2015, RNIB Campaigns.

Record of Enforcement Activities / Actions

Bradford City Centre

Date	Action	Quantity
Phase 1		
21/11/15	Street Warden Audit & Warning Notices Issued	120
21/03/16	Enforcement Action / Removals	25
Phase 2		
13/05/16	Street Warden Audit & Warning Notices Issued	6
	Warning Letters Issued	7
25/05/16	Enforcement Action / Removals	4
Phase 3		
05/10/16	Street Warden Audit & Warning Notices Issued	12
20/10/16	Enforcement Action / Removals	4
	New Warning Notices Issued	5

Ilkley

Date	Action	Quantity
Phase 1		
16/11/15	Street Warden Audit & Warning Notices Issued (see note 1)	132
Phase 2		
13/05/16	Street Warden Audit & Warning Notices Issued	11
	Warning Letters Issued	19
25/05/16	Enforcement Action / Removals	5
Phase 3		
05/10/16	Street Warden Audit & Warning Notices Issued	10
20/10/16	Enforcement Action / Removals	6

Saltaire

Date	Action	Quantity
Phase 1		
15/12/15	Street Warden Audit & Warning Notices Issued (see note 1)	47
Phase 2		
13/05/16	Street Warden Audit & Warning Notices Issued	6
	Warning Letters Issued	10
24/05/16	Enforcement Action / Removals	4
Phase 3		
05/10/16	Street Warden Audit & Warning Notices Issued	5
20/10/16	Enforcement Action / Removals	1

Leeds Road Corridor

Date	Action	Quantity
Phase 1		
22/12/15	Street Warden Audit & Warning Notices Issued	17
28/03/16	Enforcement Action / Removals	12
Phase 2		
13/05/16	Street Warden Audit & Warning Notices Issued	6
	Warning Letters Issued	4
25/05/16	Enforcement Action / Removals	4
Phase 3		
05/10/16	Street Warden Audit & Warning Notices Issued	0
20/10/16	Enforcement Action / Removals	0
	New Warning Notices Issued	2

Notes:

1. Enforcement action was not undertaken during this phase of the trial due to difficulties associated with co-ordination of Council and police resources.

Examples of Placement of Advertising Boards (pre-trial)



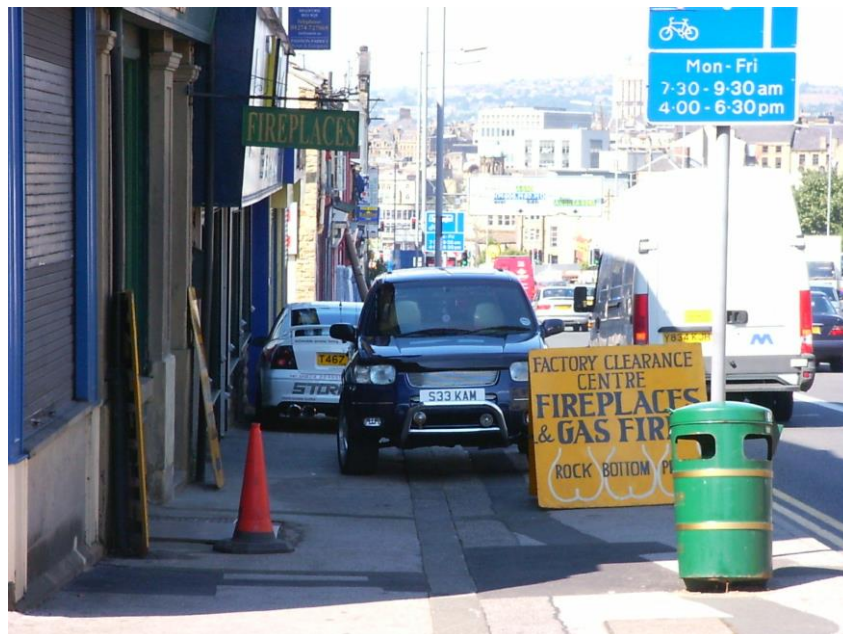
Photograph 2: The Grove, Ilkley (Source: Bradford Association of Visually Impaired (BAVIP))



Photograph 3: Leeds Road, Ilkley (Source: Bradford Association of Visually Impaired (BAVIP))



Photograph 4: Ivegate, Bradford



Photograph 5: Leeds Road Corridor

TRIAL ZONE AREA: Ilkley

Total Returns: 8

Business A – Food Supplies

- Prior to the trial Business A used a single advertising board (0.5m x 1.0m) adjacent to their shop entrance.
- They were aware of the Council's Code of Conduct in relation to the usage of advertising boards and confirmed that they held appropriate third party public liability insurance for the use of advertising boards.
- They were not subject to previous enforcement action / complaints prior to the ban's introduction
- During the trial they did not have any advertising boards removed by the Council.
- No financial information was given in the return due to concerns about confidentiality with the exception of advertising costs which during the period of the ban had doubled in value.
- Alternative advertising was used including social media, local magazines and support for local events. These were not perceived to have been as useful as advertising boards as the owner perceived that the advertising board was also used to indicate that the business was open.

Business B – Charity

- Prior to the trial Business B used a single advertising board (0.8m x 0.5m) adjacent to their shop entrance.
- They were aware of the Council's Code of Conduct in relation to the usage of advertising boards and confirmed that they held appropriate third party public liability insurance for the use of advertising boards.
- The company had previously been subject to enforcement action by the Council but were aware of the Council's previous Code of Practice.
- During the trial they did not have any advertising boards removed by the Council.
- No financial information was given in the return.
- Alternative advertising was used by displaying the company name on a board in the nearby car park. However, this was not perceived to be as effective as the advertising board as it was only visible to cars entering the car park.

Business C – Charity

- Prior to the trial Business C used advertising board(s) (0.8m x 0.5m) on land adjacent to their shop.
- They were aware of the Council's Code of Conduct in relation to the usage of advertising boards and confirmed that they DID NOT hold appropriate third party public liability insurance for the use of advertising boards.
- They were not subject to previous enforcement action / complaints prior to the ban's introduction
- During the trial they did not have any advertising boards removed by the Council.
- Financially information presented records a net downturn of trade of 14% over pre-trial levels.

- No alternative advertising was considered / used during the trial as the company believed that this was too expensive.

Business D – Food Retail

- Prior to the trial Business D used two advertising boards (4ft x 2ft) at locations remote from their shop entrance.
- They were unaware of the Council's Code of Conduct in relation to the usage of advertising boards and confirmed that they did not hold appropriate third party public liability insurance for the use of advertising boards.
- They were not subject to previous enforcement action / complaints prior to the ban's introduction
- During the trial they did not have any advertising boards removed by the Council.
- No financial information was given in the return. However information on trading levels by month was provided which demonstrated a general downward trend in the numbers of transactions during the period of the trial.
- Alternative advertising was used including social media, local magazines and newspaper advertising. These alternatives were not perceived to have been as useful as the "free" advertising boards. Comments highlighted that businesses not located on the main streets see the use of advertising boards as essential to attracting passing trade.

Business E – Fashion Retail

- Prior to the trial Business E used one advertising board (0.8m x 0.5m) outside the shop entrance.
- They were unaware of the Council's Code of Conduct in relation to the usage of advertising boards and confirmed that they did hold appropriate third party public liability insurance for the use of advertising boards.
- They were not subject to previous enforcement action / complaints prior to the ban's introduction
- During the trial they did not have any advertising boards removed by the Council.
- Financial returns for an equivalent four month period between 2016, 2015 and 2014 show a net reduction of 6.7% trading values in 2016 over 2015 however a net increase in trading of 7.2% when compared to 2014 values. However, the business does point out that prior to the trial's introduction the business was growing year on year and hence comparison between 2016 and 2014 figures should be considered within this context.
- Alternative advertising was used including radio advertising, increased expenditure on social media, Google advertising and use of local magazines and newspaper advertising. These alternatives were not perceived to have been as useful as the "free" advertising boards. Comments highlighted that businesses not located on the main streets see the use of advertising boards as essential to attracting passing trade.

Business F – Food Retail

- Prior to the trial Business F used one advertising board (0.8m x 0.5m) within the shop entrance.
- They were aware of the Council's Code of Conduct in relation to the usage of advertising boards and confirmed that they did hold appropriate third party public liability insurance for the use of advertising boards.

- They were not subject to previous enforcement action / complaints prior to the ban's introduction and also held an café license.
- During the trial their advertising board was subject to removal but was recovered by a staff member prior to removal by the Council.
- No financial information was given in the return.
- Comments highlighted that businesses used the advertising board to advise passing trade that they were open.

Business G – Clothing Retail

- Prior to the trial Business G used two advertising boards (0.8m x 0.5m) outside the shop entrance (located in an arcade) and one at the entrance to the arcade.
- They were unaware of the Council's Code of Conduct in relation to the usage of advertising boards and confirmed that they did hold appropriate third party public liability insurance for the use of advertising boards.
- They were not subject to previous enforcement action / complaints prior to the ban's introduction
- During the trial they did not have any advertising boards removed by the Council.
- Detailed financial information was not provided by the business however levels of transactions between July and August for 2015 and 2016 were given showing a 13 – 22% drop in the volume of transactions.
- Alternative advertising was considered but the cost of placing an advertisement in the local paper was considered too expensive. Comments were also made that most visitors to the premises do not buy the local paper also.

Business H – Retail (Other)

- Prior to the trial Business H used one advertising board (0.85m x 0.6m) which was placed in alternative locations on the Grove (outside WH Smiths) or in front of "The Moors Shopping Centre".
- They were unaware of the Council's Code of Conduct in relation to the usage of advertising boards and confirmed that they did hold appropriate third party public liability insurance for the use of advertising boards.
- They were not subject to previous enforcement action / complaints prior to the ban's introduction
- During the trial they did not have any advertising boards removed by the Council.
- The business believes that the impact of the trial has not had a detrimental impact on their trading however recent changes to their premises to expand the trading space may have offset any impact. The business has advised that whilst the number of transactions during the trial has decreased the value of each transaction has increased.
- The business already used social media but during the trial expanded into paid advertising and including adverts in lifestyle publications in Leeds and surrounding area. The use of social media and advertising requires shoppers to research the business before shopping in Ilkley and the loss of advertising boards in the area is believed to have led to a missed opportunity to catch passing trade.

Business J – Retail (Other)

- Prior to the trial Business J used four advertising boards (1m x 0.6m) which were placed immediately outside the shop, two in the car park and one on The Grove.
- The business confirmed that they were unaware of the Council's Code of Conduct in relation to the usage of advertising boards but confirmed that they did hold appropriate third party public liability insurance for the use of advertising boards.
- They were not subject to previous enforcement action / complaints prior to the ban's introduction
- During the trial they did not have any advertising boards removed by the Council.
- The business believes that the impact of the trial has resulted in a loss of £1,000 per week between January – November and £8,000 per week in December. However, no evidence was presented to allow verification of these figures.
- The business increased investment in social media but during the trial as well as expanding into radio advertising, Google advertising and magazine/press advertising. The business believes that these channels are not as good as advertising boards as they had previously used their advertising boards to direct customers to their premises.

TRIAL ZONE AREA: Bradford City Centre

Total Returns: 1

Business A – Food Retail

- Prior to the trial Business A used two advertising boards (4ft x 2ft) at locations within 1 metre of their shop entrance.
- They were unaware of the Council's Code of Conduct in relation to the usage of advertising boards and confirmed that they did not hold appropriate third party public liability insurance for the use of advertising boards.
- They were not subject to previous enforcement action / complaints prior to the ban's introduction
- During the trial they did not have any advertising boards removed by the Council.
- The limited financial information provided indicated that the business spent the same amount on advertising in the 12 months of the ban as in the preceding 12 month period.
- Alternative advertising was used including social media, leaflets and newspaper advertising. These alternatives were not perceived to have been as useful as the use of advertising boards as they were not as easy for shoppers to see.

TRIAL ZONE AREA: Saltaire

Total Returns: 1

Business A – Takeaway Food

- Prior to the trial Business A used advertising board(s) on footway adjacent to their shop.
- They were aware of the Council's Code of Conduct in relation to the usage of advertising boards and confirmed that they did hold appropriate third party public liability insurance for the use of advertising boards.
- Prior to the ban they had not received any complaints about the placement of their advertising

board and were not subject to previous enforcement action.

- During the trial they did not have any advertising boards removed by the Council.
- Financially information presented records a net downturn of trade of 8% over their 2015 trading levels and 4% over their 2014 trading levels.
- Alternative advertising was used including social media and leaflet. These were not considered as effective as advertising boards as they did not attract passing trade which forms a significant part of their trade.

TRIAL ZONE AREA: Leeds Road Corridor

Total Returns: 0

Report of the Director of Department of Place to the meeting of the Executive to be held on 7th March 2017

Subject: The approval and implementation of the Bradford District Community Infrastructure Levy (CIL) Charging Schedule.

BN

Summary statement:

The Community Infrastructure Levy (CIL) is intended as a means of contributing to the funding of infrastructure required to support growth in the District and deliver the policies and proposals in the Local Plan, including the Core Strategy and other Development Plan Documents. It replaces part of the system of Planning Obligations (Section 106 Agreements), the scope of which has been restricted since 6 April 2015 with regard to pooling of developer contributions. The CIL will help to meet the District's priorities by generating funding to provide infrastructure while being set at appropriate rates that will continue to attract investment, create jobs, and deliver new housing.

The purpose of this report is for members to note the recommendations of the CIL Examination Report and to seek the formal approval of the CIL Charging Schedule (as set out in Appendix 2 of this report) by a resolution of the Full Council on 21 March 2017 with a commencement date of 1 July 2017. Members are also requested to note and approve the associated policies and documents alongside the CIL Charging Schedule. Appendices to this report contain the Regulation 123 List (Appendix 3), Instalments Policy (Appendix 4) and Exceptional Circumstances Policy (Appendix 5).

Leading up to the anticipated approval and commencement of the CIL, work will be progressed in relation to the roll out of the levy. This work relates to two broad areas, namely, the introduction of appropriate procedural measures for the day-to-day operation of the levy, and the establishment of governance arrangements for the subsequent spend of CIL monies collected. In relation to this matter Members are requested to note that a CIL Governance Report was taken to the Council's Governance and Audit Committee on 28 February 2017.

Steve Hartley
Strategic Director of Place

Portfolio: Regeneration, Planning & Transport

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Overview & Scrutiny Area:
Regeneration and Economy



1. SUMMARY

- 1.1 The Community Infrastructure Levy (CIL) is intended as a means of contributing to the funding of infrastructure required to support growth in the District and deliver the policies and proposals in the Local Plan, including the Core Strategy and other Development Plan Documents. It replaces part of the system of Planning Obligations (Section 106 Agreements), the scope of which has been restricted since 6 April 2015 with regard to pooling of developer contributions. It should be noted that under the new system S106 planning obligations will still remain for site specific infrastructure provision required to make a development acceptable in planning terms, for example affordable housing and highway safety. The CIL will help to meet the District's priorities by generating funding to provide infrastructure while being set at appropriate rates that will continue to attract investment, create jobs, and deliver new housing.
- 1.2 The Council has previously agreed to progress setting a CIL charge on new development to help fund infrastructure needed to support growth in the District. There have been various stages of formal consultation on the Bradford District CIL as required by the CIL Regulations, followed by a public examination in October 2016. The Council has received the CIL Examination Report in December 2016. The Examination Report (Appendix 1 of this Report) recommends that the Bradford District CIL charging Schedule may be approved subject to two modifications necessary to meet statutory requirements
- 1.3 The purpose of this report is for members to note the recommendations of the CIL Examination Report and to seek the formal approval of the CIL Charging Schedule (as set out in Appendix 2 of this report) by a resolution of the Full Council on 21 March 2017 with a commencement date of 1 July 2017. Members are also requested to note and approve the associated policies and documents alongside the CIL Charging Schedule. Appendices to this report contain the Regulation 123 List (Appendix 3), Instalments Policy (Appendix 4) Exceptional Circumstances Policy (Appendix 5).
- 1.4 Leading up to the anticipated approval and commencement of the CIL, work will be progressed in relation to the roll out of the levy. This work relates to two broad areas, namely, the introduction of appropriate procedural measures for the day-to-day operation of the levy, and the establishment of governance arrangements for the subsequent spend of CIL monies collected. In relation to this matter Members are requested to note the contents of the CIL Governance Report that was taken to the Council's Governance and Audit Committee on 28 February 2017.
- 1.5 This report does not make any recommendations on spending priorities or local apportionment of CIL monies, as these are separate matters and not directly concerned with the approval of the Charging Schedule itself. The Council will continue to work in partnership with parish councils and local communities to explore the opportunities for maximising the available resources to best meet needs, including through neighbourhood planning.



2. BACKGROUND

- 2.1 Section 206 of the Planning Act 2008 confers the non-mandatory power on Local Authorities to introduce a new charge on different types of new development in their area, known as 'Community Infrastructure Levy' (CIL). The proceeds of this charge will be spent on infrastructure needed to support growth in the District, a proportion of which must be passed to local communities where development has taken place.
- 2.2 The Council has progressed work towards adoption of a CIL charging schedule for the Bradford District. The CIL Charging Schedule has been prepared in accordance with the Planning Act 2008 and the CIL Regulations 2010 (as amended). The CIL Draft Charging Schedule (DCS) was approved by a meeting of the Council's Executive on 3 November 2015 and approved by meeting of Full Council on 8 December 2015. Following a public consultation period, the Council submitted the CIL DCS to the Secretary of State on 11 May 2016 for independent examination.
- 2.3 The CIL examination hearing was held on 4 October 2016. Following the examination, the Council received the Examiner's Report on the Examination of the Draft CIL Charging Schedule for the Bradford District in December 2016. This report recommends that the Bradford CIL Charging Schedule be approved, subject to two modifications considered necessary to meet statutory requirements. The Examiner's modifications are set out in Appendix 1 of this report. These modifications have been made to the final CIL Charging Schedule (as set out in Appendix 2 of this report).

3. KEY CONSIDERATIONS

CIL Examination Report

- 3.1 The CIL Examination Report concludes that the Draft Bradford District CIL Charging Schedule provides an appropriate basis for the collection of the levy in the area and is recommended for approval, subject to two modifications considered necessary to meet statutory requirements. These modifications have been recommended by the CIL Examiner to satisfy the requirements of Section 212 of the 2008 Act and meet the criteria for viability in the CIL Regulations 2010 (as amended). The CIL Examination Report including a non-technical summary is set out in Appendix 1 of this report.
- 3.2 The two modifications necessary to meet statutory requirements are summarised as follows:
- That the CIL charge for residential development in Zone 4 (main urban areas around Bradford and Keighley) is reduced from £5 to £0 per square metre
 - That the CIL charge for residential development (zones 1-3) excludes specialist older persons' housing

A map showing the CIL Charging Zones is provided on page 11 of the CIL Charging Schedule (Appendix 2 of this Report). The following is the Bradford District CIL



Charging Schedule proposed in response to the CIL Examination Report issued by The Planning Inspectorate.

Type of Development	Charging Schedule CIL Charging Rates (per sq. m)
Residential- Zone 1 (C3) ¹	£100
Residential - Zone 2 (C3) ¹	£50
Residential - Zone 3 (C3) ¹	£20
Residential - Zone 4 (C3)	£0
Retail warehousing ² - Central Bradford	£85
Large Supermarket (>2000 sq m)	£50
All other uses not cited above	£0
<p>¹ Excludes specialist older persons' housing (also known as Sheltered/Retirement/Extra Care) defined as residential units which are sold with an age restriction typically to the over 50s/55s with design features, communal facilities and support available to enable self-care and independent living.</p> <p>² Retail warehouses are usually large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods. They can be stand-alone units, but are also often developed as part of retail parks. In either case, they are usually located outside of existing town centres and cater mainly for car-borne customers. As such, they usually have large adjacent, dedicated surface parking.</p>	

CIL is forecast to generate £24.4million over the 15 year plan period based on the Bradford CIL Charging Schedule rates above. However, this is dependent on commencement of developments on sites in the emerging Bradford District Local Plan.

- 3.3 An impact of the Examiner's modifications will be to reduce the potential amount CIL income that the District could collect, as any residential development occurring in zone 4 (main urban areas of Bradford and Keighley and surrounding areas) and



specialist older person housing across the rest of the District will be excluded from paying a CIL charge. Based on the assumption that the total number of new homes as set out in the Council's emerging Core Strategy will be delivered over the next 15 years, it is estimated that reducing the £5 per square metre charge in zone 4 to zero could result in a loss of approximately £10.6 million in CIL receipts over the next 15 years. However, the CIL Examiner's view is that the proposed £5 residential CIL charge in zone 4 is likely to impact significantly on the delivery of sites in this area. Consequently, setting the CIL charge at zero in zone 4 is unlikely to significantly reduce CIL income.

- 3.4 A further impact of a zero residential charge in zone 4 will be that residential developments in zone 4 will not directly contribute to the neighbourhood proportion of CIL monies collected that must be allocated to local communities in areas where a development takes place (15% or 25% depending on whether a Neighbourhood Plan is in place). However, it should be noted that the overall pooled CIL pot collected from new development across the rest of the District will be available to be spend on infrastructure to support growth (including in areas with a zero CIL rate) alongside a variety of other infrastructure funding sources. Following the implementation of CIL the Council will still be able to secure planning obligations for site specific matters required to make a development acceptable in planning terms and for affordable housing, where viable. Also it should be noted that the delivery of new housing will generate future funding for the Council in the form of the New Homes Bonus, which may be used to fund infrastructure or other appropriate projects, as considered necessary.
- 3.5 Charging zone 4 includes the main urban areas of Bradford and Keighley and the Council's two priority regeneration and housing growth areas of Bradford City Centre and the Shipley and Canal Road Corridor. A zero residential CIL charge in zone 4 will ensure that the viability and delivery of residential development in these areas will not be threatened by the introduction of a CIL charge and will therefore support the regeneration and t delivery of new residential development in these areas, in line with the Council's ambitions and policies.

CIL Approval and Implementation

- 3.6 To meet statutory requirements, the Bradford District CIL Charging Schedule must include the two specified modifications in the CIL Examination Report (set out Appendix 1 of this report) in order to be formally approved and implemented. If these modifications are not made in accordance with the Examiner's recommendations then the Charging Schedule submitted by the Council for independent Examination cannot be approved and implemented. The Council is under no statutory obligation to adopt the charging schedule at this time.
- 3.7 For the CIL to come into effect in the District the CIL Charging Schedule must be formally approved by a resolution of the Full Council and include an appropriate commencement date, following approval. It is intended that a report will be taken to the meeting of the Full Council on 21 March 2017 recommending that the final CIL Charging Schedule (including the modifications made in line with the Examiner's Report) be formally approved by a resolution of the Full Council with a



commencement date of the 1 July 2017.

- 3.8 Upon commencement the CIL must be collected, administered and spent in accordance with the statutory requirements. Leading up to the anticipated adoption of the CIL Charging Schedule, work will be progressed in relation to the roll out of the levy. This work relates to two broad areas, namely, the introduction of appropriate procedural measures for the day-to-day operation of the levy, and the establishment of governance arrangements for the subsequent spend of CIL monies collected. In relation to this matter Members are requested to note the contents of the CIL Governance Report that was taken to the Council's Governance and Audit Committee on 28 February 2017.
- 3.9 This report does not make any recommendations on spending priorities or local apportionment, as these are separate matters and not directly concerned with the approval of the Charging Schedule itself. Officers will continue to work in partnership with parish councils and local communities to explore the opportunities for maximising the available resources to best meet needs, including through neighbourhood planning.

4. OTHER CONSIDERATIONS

- 4.1 The CIL Examination Report recommends an early review of the Charging Schedule should take place due to particular circumstances including changing market conditions, possible increases in the viability of developments within the Residential Charging Zones and further progress on the emerging Local Plan to ensure that CIL charges remain appropriate over time. Following commencement of the CIL the Council will monitor and keep the charging schedule under review to ensure that levy charges remain appropriate over time.
- 4.2 The charging schedule may be revised in whole or in part at any time. However, any revisions must follow the same processes as the preparation, examination, approval and publication of a charging schedule (as specified under the Planning Act 2008, as amended by the Localism Act 2011, and the CIL Regulations). If following approval and implementation of the CIL Charging Schedule the Council wishes to stop charging the levy it may do so at any time by making a formal resolution to do so.

5. FINANCIAL & RESOURCE APPRAISAL

- 5.1 There will be accounting and financial implication with regard to implementing, administering and collecting of CIL as outlined in the report to Governance & Audit Committee on 28 February 2017. The accounting and financial mechanisms required to administer CIL will be in place fully in advance of the 1 July 2017 implementation date for CIL. The Council, as the charging authority will be able to use funds from the levy to recover the costs of administering the levy, with the regulations permitting them to use up to 5 per cent of their total receipts on administrative expenses to ensure that the overwhelming majority of revenue from the levy is directed towards infrastructure provision.



- 5.2 To ensure that the levy is open and transparent, charging authorities must prepare short reports on the levy. Charging authorities must publish a report on their website by 31 December each year, for the previous financial year. Parish, town and community councils must also report on their levy income and spending. The CIL Regulation set out what charging authorities must include in this report.

6. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 6.1 The continued delivery of new development including additional housing is recognised as a critical factor to the future regeneration of the District and to meet demands for an increased population and address the need for new housing in all areas of the Bradford district. There is a risk that as a result of the Council not having an adopted CIL Charging schedule that the District does not maximise contributions towards infrastructure provision.
- 6.2 The Bradford District CIL has considered by the Governance and Audit Committee before the adoption of a CIL Charging Schedule to fully consider risk management and governance issues.

7. LEGAL APPRAISAL

- 7.1 The Bradford District CIL Charging Schedule has been prepared in line with the appropriate, legislation (UK and EU), regulations and guidance.
- 7.2 In accordance with the CIL Regulations 2010 (as amended) the CIL charging schedule must be formally approved by a resolution of the full council of the charging authority. The resolution should include an appropriate commencement date, following or on approval.
- 7.3 The CIL charging schedule takes effect at the beginning of the day specified for that purpose in the charging schedule. The charging schedule may not take effect any earlier than the day after the day on which it is published. A charging schedule issued by a charging authority has effect until—
(a) the beginning of the day on which that charging authority determines that it should cease to have effect; or
(b) the end of the day before the day a revised charging schedule issued by that charging authority takes effect.

8. OTHER IMPLICATIONS

8.1 EQUALITY & DIVERSITY

- 8.1.1 In writing this report due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups. It is not however considered that any issues with regard thereto are raised by approval of the charging schedule as set out in the recommendations of this report. The provision of new funding within the district benefits all sectors of the community and meets objectives to promote equality and diversity.



8.1.2 The CIL charging schedule was subject to an initial Equalities Impact Assessment (EqIA) during its production.

8.2 SUSTAINABILITY IMPLICATIONS

8.2.1 There are no direct sustainability implications arising from this report. The provision of infrastructure projects funded by the CIL will support the delivery of necessary local and District wide infrastructure and would be likely to help mitigate the impact of development on the environment and potentially lead to opportunities for delivering improved sustainability outcomes through the delivery of new and improved infrastructure.

8.3 GREENHOUSE GAS EMISSIONS IMPACTS

8.3.1 At this stage there are no expected impacts on the Council's own and the wider District's carbon footprint and emissions from other greenhouse gasses.

8.4 COMMUNITY SAFETY IMPLICATIONS

8.4.1 There are no direct community safety implications arising from this report.

8.5 HUMAN RIGHTS ACT

8.5.1 There are no direct human rights implications arising from this report.

8.6 TRADE UNION

8.6.1 There are no trade union implications arising from this report.

8.7 WARD IMPLICATIONS

8.7.1 The allocation of CIL money will be spent on infrastructure provision on a planned basis benefitting individual Wards and through the allocation of the neighbourhood proportion of CIL monies (15% or 25% if an area has an adopted neighbourhood plan) where development has taken place.

8.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

8.8.1 None

9. NOT FOR PUBLICATION DOCUMENTS

9. None

10. OPTIONS

10.1 Option 1 –the Bradford District CIL Charging Schedule (as set out in



Appendix 2 of this Report) is recommended to be formally approved by a resolution of the Full Council with a commencement date of 1 July 2017

For the Bradford District CIL Charging Schedule to come into effect it must be formally approved by a resolution of the Full Council, and include an appropriate commencement date following, or on, approval. The CIL Examination Report recommends the CIL Charging Schedule be approved subject to two modifications necessary to meet statutory requirements.

10.2 Option 2 – The CIL Charging Schedule in Appendix 1 is not recommended for approval by Full Council and will not be commenced in the District in its current form.

The Council are under no statutory obligation to approve the final CIL charging schedule (Appendix 2 of this Report), however it is considered that not implementing CIL is not a sensible scenario, particularly given the need to maximise contributions towards infrastructure delivery. It should be noted that there is no option 3 for any further changes to the CIL Charging Schedule outside a formal review and revision of the CIL Charging Schedule which must follow the formal process in line with the CIL Regulations.

The Executive and Full Council are recommended to approve the CIL Charging Schedule (as set out in Appendix 2 of this Report) in line with Option 1 above as it is considered the most expedient way of implementing CIL and securing CIL revenues, whilst minimizing harm that could be caused in undermining the property market where development viability is marginal.

11. RECOMMENDATIONS

11.1 That the Executive, having considered the recommendations in the CIL Examination Report approve Option 1 as set out in this report, and recommend to Council the formal approval and implementation of the Bradford District Community Infrastructure Levy Charging Schedule (as set out in Appendix 2 of this Report) with a commencement date of 1 July 2017

11.2 That the Executive note and approve the content of the CIL Regulation 123 List, Exceptional Circumstances Policy and Instalments Policy and the Assistant Director (Planning, Transportation and Highways) in consultation with the relevant portfolio holder be authorised to revise any of these policies and as required in line with the relevant regulations.

11.3 That the Executive note that a CIL Governance Report was taken to the Council's Governance and Audit Committee on 28 February 2017.

12. APPENDICES

Appendix 1– CIL Examination Report
Appendix 2- Bradford District CIL Charging Schedule
Appendix 3- Regulation 123 List



13. BACKGROUND DOCUMENTS

Report of the Executive 3 November 2015 entitled “Bradford District Community Infrastructure Levy (CIL) – Draft Charging Schedule”.

Report to Governance & Audit Committee on 28 February 2017 entitled “Bradford District Governance Arrangements for the Bradford District Community Infrastructure Levy (CIL) charging schedule”.





Report to the City of Bradford Metropolitan District Council

by Louise Nurser

an Examiner appointed by the Council

Date: 20 December 2016

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT BRADFORD DISTRICT COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 11 May 2016

Examination hearing held on 4 October 2016

File Ref: PINS/W4705/429/8

Non Technical Summary

This report concludes that the Draft Bradford District Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of the area at risk.

Two modifications are needed to meet the statutory requirements. These can be summarised as follows:

- That the CIL charge for 'Residential- Zone 4 (C3)' is reduced from £5 to £0 per square metre (psm).
- That the CIL charge for 'Residential- Zones 1- 3 (C3)' includes a footnote excluding specialist older persons' housing.

The specified modifications recommended in this report are based on matters discussed during the public hearing sessions and do not significantly alter the basis of the Council's overall approach or the appropriate balance achieved.

Introduction

1. This report contains my assessment of the Draft Bradford District Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008. It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance (Community Infrastructure Levy Guidance – June 2014).
2. To comply with the relevant legislation the local charging authority has to submit a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district. The basis for the examination, on which hearings sessions were held on 4 October 2016 is the submitted schedule of 11 May 2016, which is effectively the same as the document published for public consultation 14 December 2015¹.
3. The Council proposes CIL charges for residential development throughout the Metropolitan District.
4. The proposed CIL charges for 'residential' development relate to four market zones identified on a map in the Draft Charging Schedule. Zone 1 relates to the high value market areas that include the rural villages of Burley in Wharfedale, Menston, Ilkley and Addingham to the north of the Metropolitan District; a CIL charge of £100 psm is proposed in this zone. Zone 2 covers the areas such as Baildon, parts of Bingley and Silsden and the rural villages to

¹ CIL/001

the west of the District such as Laycock and Oldfield; a CIL charge of £50 psm is proposed in this zone. Zone 3 includes areas such as the northern part of Shipley, Haworth, Oxenhope and the southern part of Silsden and Wilsden; a CIL charge of £20 psm is proposed in this zone. Zone 4 relates to the urban areas of Bradford, Keighley and the surrounding villages; a CIL charge of £5 psm is proposed in this zone.

5. On the 11 May 2016, the Court of Appeal judgment (*Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441*) was issued. This related to the circumstances in which contributions for affordable housing and tariff-style planning obligations should not be sought. I queried whether the judgement would have any implications on the viability of development within the district and therefore whether any changes were proposed to the submitted Draft Charging Schedule.
6. The Council referred me to its response to questions raised by the Examining Inspector (EI) into the draft Core Strategy, relating to the implications of the judgement to the Council's draft affordable housing policy (H011). This included a modification, which was accepted by the EI to increase the size of the site threshold to 11 units or more in Burley-in-Wharfedale and the villages of Haworth, Oakworth, Oxenhope, Denholme, Cullingworth, Harden, Wilsden and Cottingley, leaving the threshold at 15 units elsewhere in the district. The impact of increasing the threshold at which affordable housing contributions would be required from 5 to 11 units, would increase the viability buffer of smaller developments.
7. A charge of £50 per square metre (psm) is proposed for supermarkets above 2000 sqm throughout the Metropolitan District, and a charge of £85 psm for retail warehousing within Central Bradford.
8. For completeness, the Draft Charging Schedule (DCS) lists zero rated CIL charges for 'all other uses not cited above'.

Is the charging schedule supported by background documents containing appropriate available evidence?

9. The draft Local Plan for the Bradford District Core Strategy Development Plan Document (draft CS) has been independently examined and found sound, subject to a number of Main Modifications. The prime focus of the settlement strategy is to concentrate development in the regional city of Bradford, with Shipley and Lower Baildon, followed by the main local focus for development within the Principal towns of Ilkley, Keighley and Bingley, and the Local Growth Centres of Burley-in-Wharfedale, Menston, Queensbury, Thornton, Steeton with Eastburn, and Silsden. Smaller scale development is proposed in the Local Service Centres of Addingham, Baildon, Cottingley, Cullingworth, Denholme, East Morton, Harden, Haworth, Oakworth, Oxenhope, and Wilsden.
10. On 10 October 2016, the Minister of State (Housing and Planning) issued a Holding Direction under powers contained in Section 21A of the Planning and Compulsory Purchase Act 2004 to prevent the formal adoption of the plan. This was to allow the Secretary of State to consider a number of issues including the proposed release of green belt land, particularly around

Wharfedale before the supply of brownfield land is exhausted; efforts made under the Duty to Co-operate to meet Bradford's housing needs; and the appropriate location for housing to alleviate housing need and contribute to the regeneration of Bradford City Centre. The implication of this is, until the Council is informed otherwise, the Council is unable to further progress the draft Core Strategy.

11. The letter was received the week after the hearings into the CIL were held. All parties were informed of the letter and comments were requested on its significance to the progress of the CIL². I note that an unavoidable impact is delay in the adoption of the draft Core Strategy, and depending on the Secretary of State's conclusions, potential intervention. This may, or may not, result in changes to the draft Core Strategy. Nonetheless, one of the central issues in my consideration of the Community Infrastructure Levy is the quality and robustness of the evidence which has been submitted to justify the rates set out in the Draft Charging Schedule and the assumptions underpinning the viability evidence. The Holding Direction letter does not refer to matters which would have a direct impact on policy costs, and therefore potentially alter the financial viability of future developments. Therefore, these costs are likely to remain constant. Moreover, the substantive submitted viability evidence is based on historic figures. Consequently, I am satisfied that the Holding Direction and the absence of an adopted Core Strategy do not present an obstacle to the progression of the CIL regime.
12. In addition, the Council has submitted two Area Action Plans for examination: the Bradford City Centre and the Shipley and Canal Road Corridor Action Area Plans. Joint hearings took place in mid-October. However, further hearings are provisionally scheduled early in 2017 to consider flood risk matters. The main objective of both plans is to provide a development plan framework in order to realise the regeneration objectives of the CS, including the provision of substantial numbers of housing on previously developed land. A Land Allocations development plan document is also in the early stages of preparation.
13. In terms of statutory provisions, there is nothing contained within either The Planning Act 2008 or The Localism Act 2011 that makes having an up to date and adopted Plan in place a prerequisite of the implementation of a CIL regime. Many of the Councils that have adopted CIL to date have the benefit of recently examined and adopted plans, whilst others have submitted their CIL proposals for examination alongside their development plans (as suggested in paragraph 175 of the Framework). These scenarios are at the ideal end of the spectrum and ensure, in theory at least, that the CIL proposals are conceived in terms of the most up to date strategic policy framework defining the 'development of an area'³ that CIL is intended to support. However, not all prospective charging authorities will be able to present a CIL schedule alongside freshly adopted local plans, due to either the inevitably long gestation period and/ or, in the case of Bradford, if they encounter complexities and delays in the process. Therefore, I consider that it would be appropriate for the Bradford CIL to be adopted in advance of the CS.

² CIL/EX019

³ S.205(2) of The Planning Act 2008

Infrastructure planning evidence

14. The emerging development plans are supported by the Local Infrastructure Plan⁴ (LIP). This has been produced in conjunction with the relevant infrastructure providers. However, it is envisaged to be a 'live' document and, of necessity, includes varying levels of detail. This is because of the length of the time span of the Local Plans, and the variety of funding sources. As such, amendments will be made to it, as and when greater detail is known about specific infrastructure requirements, costs, bidding programmes, and funding streams, or in response to inevitable changing circumstances over the plan period. The most recent version of the LIP was published in March 2016 and includes all the infrastructure and funding information referred to within the two AAPs.
15. I note that criticisms have been made of the lack of detail relating to infrastructure requirements, for example, in relation to flood risk mitigation measures in Silsden. However, there is no evidence before me to suggest that the projects within the document do not represent, as far as possible, an accurate, up to date assessment of the range of infrastructure required to support development across the Metropolitan District. Moreover, for the purposes of my examination of the DCS, my remit is restricted to consideration of whether there is a district wide funding gap which justifies the collection of Community Infrastructure Levy, and whether the proposed rates would undermine the development strategy as a whole, rather than considering in detail whether appropriate levels of infrastructure will be forthcoming in particular locations. Moreover, given the 'live' nature of the document it is open to the Council, to add to, and refine the list as necessary and appropriate.
16. The Council has produced a draft Regulation 123 List (CIL/006) which sets out the categories of development that are to be funded, or part funded through CIL receipts. Within the same document a list sets out where s106 obligations are to continue to be requested. The draft Regulation 123 list appears broad brush in nature with the potential for ambiguity. Whilst I am familiar with the list, consideration of the detail of its contents is not part of my examination of the DCS. However, the Council has committed to updating the list on an annual basis, and has suggested that it would be willing to provide a detailed document on the continued use of S106 obligations prior to the implementation of the DCS. I would strongly suggest that this be progressed and any consequential amendments to the Regulation 123 list be made, so that for example, it is clear how the funding of green space to mitigate the impacts of development on Natura 2000 sites is considered.
17. The Council forecasts that the expected costs of the required infrastructure to support the growth envisaged in the development plans will be around £762 million. The LIP identifies potential funding of around £73 million to be sourced from both the public and private sector, supported by site specific Section 106 contributions. However, this still leaves a funding gap of around £689 million or around a 90% shortfall between the cost of forecast infrastructure and anticipated income.

⁴ CIL/EX009 Local Infrastructure Plan March 2016 Update

18. At the CIL rates set within the Draft Charging Schedule, it is estimated by 2030 that CIL receipts would generate up to £43 million, or 6% towards the funding gap. In the light of the information provided, the proposed charge would therefore make only a modest contribution towards filling the likely funding gap. Nevertheless, the figures demonstrate the need to levy CIL.

Economic viability evidence

19. The Council commissioned a CIL Viability Assessment⁵, dated June 2015 to support the Council's Preliminary Draft Schedule.
20. The Council has used the standard residual valuation approach for both the housing and commercial developments. In other words, if after subtracting all the costs of development, including an adequate developer's profit from the gross development value of the land, the land is worth more than the benchmark site value, then there is overage or headroom for CIL to be collected.
21. Site value thresholds were discounted by 20% to take into account the impact of the introduction of CIL on land values. Due to limited transactions the evidence for site values is considered to be 'somewhat anecdotal'⁶ relying on a limited number of sites⁷, discussion with, and formal consultation with local developers and agents. However, for the purposes of high level CIL testing I consider this to be a reasonable approach.
22. However, the Council has for the most part taken a conservative approach in its assumptions. For example, an allowance for site abnormalities, of at least 10%, has been included within all viability calculations. Generally, such costs are considered to be, by definition, out of the ordinary and site specific, and therefore not included within calculations to set district wide CIL rates. Construction costs were based on BCIS data July 2014 weighted to Yorkshire and Humber region and included a 15% uplift for site externals. The original data was subject to sensitivity testing to reflect increases in construction costs.
23. An addendum to this evidence was published in December 2015⁸ in response to matters raised through the consultation on the Preliminary Draft Schedule and this subsequently informed the submitted DCS. The addendum included amongst others, amended assumptions relating to house size, and housing mix, site changes in sale prices, yields and build costs. During the examination a VA of older persons' specialist housing was provided.
24. Following my request, further alterations were made in September 2016 to provide measurements in metric values and to include an additional appendix setting out the average house price data which had been used to underpin the 5 value band areas⁹ for residential properties.

⁵ CIL/003

⁶ CIL/003 paragraph 4.1.9 page 26

⁷ CIL/EX011 Appendix 3 Benchmark Land Value Evidence

⁸ CIL/004

⁹ CIL/EX011

25. A number of hypothetical residential and commercial developments were tested using the assumptions set out in the viability evidence, including consideration of emerging policy costs. These were then compared against 'real world' sites as a sense check. Generally, industry standard costs have been used as a means of testing the viability of the proposed CIL rates.

Residential modelling

26. Housing density rates are set at 35 dwellings per net ha. Professional fees and contingency fees together are calculated as 11% of construction costs. Marketing, sales, agent and legal fees are set at 3.5% of revenue, and an allowance for purchasers' costs of 5.8% of the purchase price and finance at 6.5% were all factored into the calculation of the viability of the housing development. A mix of housing types was tested. The modelling assumed that residual S106 planning agreement costs would be limited to £1000 per unit on all sites. I find all of the assumptions and rates appear to be generally reasonable.
27. The proportion of affordable housing is consistent with the provisions of Policy H011 of the emerging CS, as proposed to be modified¹⁰. Transfer values are based at 50% of Open Market Area in the highest value areas and 65% elsewhere and have been subject to sensitivity testing. However, following the 2016 Housing and Planning Act, the impact of Starter Homes should be to increase the development value of affordable housing schemes.
28. Profit levels of 20% of Gross Development Value (GDV) for market dwellings and 6% of GDV for affordable housing are at industry standard.
29. Residential site value thresholds relate to 5 value bands, representative of typical net land costs in different parts of the district. The thresholds take into account an uplift to provide an incentive to sell. From the evidence before me these appear justified and based on appropriate evidence.
30. Likely sales values were based on second hand house prices between April 2011- March 2014 defined by post code areas¹¹, and limited new build schemes, net of sales incentives. New build evidence was sourced but this is of necessity limited. I consider this approach to be robust and based on the evidence available.
31. Alterations in sales values were factored into the October 2015 data and detailed data was supplied in relation to Crack Lane Wilsden. However, changes in inputs can have significant impacts on the viability of schemes. Therefore, I have taken these additional figures into account in my consideration of the robustness of the CIL rates, as illustrations of how changes in assumptions, can alter the headroom available within developments.
32. The two worst performing value bands were merged as the original CIL viability evidence demonstrated that there was no difference in the strength of the two zones in relation to the commercial viability of residential

¹⁰ CIL/EX003

¹¹ CIL/EX011 Appendix 5

developments¹².

33. A 350 room flatted scheme of student housing, and a 60 bed care home were tested. Older persons' specialist housing was modelled taking into account the particular sales and design considerations peculiar to this element of the housing market.
34. The approach for residential modelling appears on the whole to be reasonable and based on appropriate available evidence.

Commercial modelling assumptions

35. The Council tested assumed typologies for a wide range of commercial developments. These included industrial/warehouse, office, leisure, hotel, and restaurants. Assumptions relating to density, yields, build costs, rents and developers' profits were amended following consultation responses on the Preliminary DCS in relation to retail warehousing. Further evidence relating to increased rental values and build costs for large supermarkets has also been provided. However, the allowance for site abnormalities at 20% of build costs has been reduced to either 10% or none. I consider this approach to be generally appropriate.

Conclusion

36. The draft Charging Schedule is supported by detailed evidence of community infrastructure needs. I consider following my examination that the evidence provided and assumptions made within the modelling, together with the geographical distribution of the sites which have been tested and used as comparator evidence are generally proportionate, broadly reasonable and robust. Consequently, I conclude that the charging schedule is supported by background documents containing appropriate available evidence.

Are the charging rates informed by and consistent with the evidence?

CIL rates for residential development

Zone 1- £100 psm;

37. Zone 1, includes the high value market areas of the rural villages of Burley in Wharfedale, Menton, Ilkley and Addingham. The revised VA demonstrated that the difference between the residual site value and site threshold value, which is the maximum amount that a development can withstand in terms of a CIL payment, often known as 'headroom', reduced from around £532 to £324 psm. This indicates that the available headroom for CIL could reduce by 81% or, using the revised figures, by 69%, and the CIL charge at £100 psm would still remain viable. During the hearing representatives of a consortium of local housebuilders clarified that their main concern was the lack of consistency from Registered Social Providers in relation to the transfer values and tenure of affordable housing. The Council committed to provide further guidance on

¹² CIL/003 Bradford Community Infrastructure Levy Viability Evidence June 2015, page 62 Figure A6; Council's Response to the Examiner's Initial Observations On the Submitted Bradford Community Infrastructure Levy page 2 CIL/EX004; and Amended Version of Report September 2016 CIL/EX011 Appendix 5.

transfer values through the provision of a Supplementary Planning Document to support the draft Core Strategy affordable housing policy, and made reference to the ability to negotiate the form of tenure that is most appropriate to the viability of the scheme. As a result of which, the Consortium accepted the viability of the CIL figure as being appropriate. Moreover, even if transfer values reduce by 15% as set out in the Council's rebuttal proof, developments should still enjoy headroom of £256 psm¹³.

38. I note that there are concerns relating to infrastructure requirements within the area, and possible variations in costs related to site specific S106 contributions. However, I have not been provided with evidence to suggest that the viability of developments would be prejudiced to the extent that development would not come forward.
39. I have suggested elsewhere that once the Site Allocations development plan is further progressed that the Charging Schedule be reviewed. This would give the opportunity to reappraise assumptions in the context of more detailed development proposals and make any consequential increase or decrease in CIL rates based on viability evidence.

Zone 2- £50

40. Zone 2 includes Baildon, parts of Bingley and Silsden, and the rural villages to the west of the District such as Laycock and Oldfield. At the proposed CIL rate of £50, it provides for healthy headroom ranging from £228 psm to £129 psm (78% to 61%). This falls to £88 (43%), if transfer values reduce by 15%. Nonetheless, this remains a significant buffer.

Zone 3- £20

41. Zone 3 includes areas such as the northern part of Shipley, Haworth, Oxenhope and the southern part of Silsden and Wilsden; a CIL charge of £20 psm is proposed in this zone. At the proposed CIL rate of £20 the headroom varies between £61 and £50 (67% to around 60%). However, if the transfer values are reduced by 15% the headroom reduces to around £23 (13%). Whilst this level of headroom is lower than that generally considered as good practice in the context of CILs, given the conservative approach to site costs, including provision for site abnormalities, development would be unlikely to be put at risk.
42. The Parish Council were concerned that the levels at which CIL was to be set were considerably under that which development could stand and cited the Crack Lane site in Wilsden where sales values and the housing mix generated greater profits than previously modelled. However, by their very nature CIL rates must take a broad brush approach. Therefore, there will be anomalies where individual sites, or pockets of development, achieve considerably higher or lower values than expected. I have also been referred to the issue of whether the A6034 should provide a boundary between different charging zones. Where CIL charges are differentiated geographically boundaries are required. Therefore, whilst there may be sites where similar headroom is achieved on one side of the road as the other, a pragmatic approach is

¹³ CIL/EX016 page 2

required, and is reasonable. Moreover, as set out above, housing within Zone 3 is more sensitive to changes in inputs. Therefore, a conservative approach to setting a CIL rate appears reasonable and founded on evidence.

Zone 4 - £5

43. Zone 4 relates to the urban areas of Bradford, Keighley and the surrounding villages. It includes two value areas (4 and 5) in both of which the original VA indicates that development could not viably pay CIL.
44. It has been argued that a £5 psm charge is nominal and that as a percentage of development costs it is minimal. The original VA study demonstrated that in both value areas there was no headroom for CIL as residual site values were less than the benchmark site value¹⁴. The recent viability evidence demonstrates that viability within Zone 4 is dependent on an increase in sales values. Moreover, as an illustration of the sensitivity of such sites to changes in development costs, I am aware that were transfer values to be reduced, this positive return of £29 psm would alter to a negative value of -£7 psm¹⁵. Therefore, I consider there is a significant risk that in applying this charge, the development strategy of the Council to regenerate and build on brownfield land would be compromised. I cannot agree that the imposition of a charge of £5 psm would not 'realistically put delivery at risk'¹⁶ given that what viability there is, is dependent on increased sales values, and elsewhere within the wider zone the costs of development are consistently greater than the benchmark site value. Therefore, the proposed CIL charge would potentially result in marginally viable development becoming unviable.
45. I note that the Council has taken a very conservative approach to the buffers which are already built into its viability assessments. It may be that, in the future, sales values will continue to increase. However, I must consider the appropriateness of the CIL rates on the evidence before me. Consequently, I conclude that setting a rate of £5 psm within this zone would not be consistent with the viability evidence¹⁷.
46. I therefore recommend that the rate should be reduced to nil (**EM1**). According to the Council's estimates this would reduce forecast CIL income over the plan period by around £10.6 million¹⁸, or around a quarter. However, given the limited viability of the proposed sites, and that the imposition of a CIL charge is likely to impact significantly on the delivery of the sites, the level of forecast CIL revenues from the two value areas appears overly optimistic. Consequently, in reality, setting the charge at zero is unlikely to significantly reduce CIL income.

Care homes and student accommodation

47. The VA testing of care homes demonstrated that currently the residual site value would be less than the benchmark level for care homes and thus a CIL

¹⁴ CIL/003 Page 36 Paragraph 5.4

¹⁵ CIL/EX016 Page 2

¹⁶ CIL/EX012 Page 13

¹⁷ Planning Practice Guidance ID 25-021-20140612

¹⁸ CIL/EX016 Table 1

charge cannot be viably paid by such development.

48. The evidence suggests that there would be negative residual land values for student accommodation. There is little likelihood of further student housing being developed in the future unless directly promoted by the University¹⁹, which is located within Zone 4. Therefore, as I recommend that the levy for residential development be reduced to nil within Zone 4 there would be no requirement to make reference to student accommodation as a separate category within the Charging Schedule.

Specialist retirement housing

49. It had been argued that the Council had not adequately taken into account the increased costs associated with this form of housing. Following my request a meeting took place between the Representor and the Council's consultants. As a result of this, the viability evidence was reappraised using standard inputs for such accommodation. Following this, the evidence demonstrated that in value areas 2-5 developments would be unviable²⁰. Within the highest value area 1, headroom of £223 was demonstrated. However, given that such schemes often compete with higher value developments the Council's consultants concluded that it would be reasonable to justify an exemption against the imposition of CIL in the higher value areas²¹. This conclusion appears sensible.
50. It was agreed within a Statement of Common Ground²² that a footnote be applied to the CIL rate for residential developments exempting specialist older persons' accommodation from the charge. Since this modification is supported by the additional viability testing, I therefore recommend that the rate for specialist older persons' housing should be reduced to nil **(EM2)**.

Commercial rate

Zero-Rated commercial development

51. The VA testing²³ of industrial/ warehouse, restaurants, office, leisure and hotel developments demonstrated that none of the development types would be able to support any form of CIL. Therefore, the zero rate is appropriate.

Retail development

52. The Council tested a number of scenarios ranging from a small store at 350 sq m to a large supermarket of up to 4000 sqm. Only, the large supermarket and open A1 retail warehousing exhibited any viability. Rental values and yields within Central Bradford show a positive return for retail warehousing with headroom of around 60%. This contrasts with other retail parks within the district, which using the assumptions provided, are unable to demonstrate a development profit, and therefore cannot sustain any CIL charge. Therefore, the imposition of a CIL rate at £85 psm within Central Bradford, with a nil

¹⁹ CIL/003 Page 126

²⁰ Appendix 2 *ibid*

²¹ CIL/EX012 Paragraphs 3.3 and 3.4 Appendix 2

²² CIL/EX017

²³ CIL/003

charge elsewhere, as delineated on the accompanying Map, is appropriate and consistent with the evidence.

53. Using the most recent viability evidence, the ability of the large supermarket to absorb CIL at £50 psm is constrained unless allowance for site abnormalities is excluded from the calculation. I concluded in paragraph 22 above, that abnormalities are meant to be just that. Therefore, for the purposes of high level testing the proposed CIL rate at £50 psm is consistent with the evidence.

All other uses

54. In order to achieve clarity and to avoid undue complexity the Council has not tested or considered further uses. Moreover, there is no evidence that such uses would make up a significant component of planned development. I conclude that this is the appropriate approach.

Conclusion

55. Therefore, I conclude from the evidence before me, that the charging rates are informed by, and broadly consistent with the evidence, except in relation to my conclusions relating to housing within Zone 4, and specialist older persons' housing throughout the District.

Does the evidence demonstrate that the proposed charge rate would not put the overall development of the area at serious risk?

56. The Council's decision to set the rates set out within the Draft Charging Schedule is broadly based on reasonable assumptions about development values and likely costs, subject to making the modifications set out in Appendix A.
57. The evidence suggests that residential and commercial development will remain viable across most of the area if the charge is applied subject to the proposed modifications.

Other Matters

58. A number of matters were raised in relation to the collection, and distribution of CIL receipts. For instance, how the CIL receipts are to be shared and spent within the community, for example with the Parish and Town Councils. Whilst, clearly very important matters, these are not matters over which I have any influence and are restricted by the provisions of the CIL regulations. Nonetheless, I would strongly suggest that the Council takes the opportunity to work closely with Parish and Town Council representatives to ensure that there is clarity of expectations. On a more general note, the Council should make every effort to provide information on the mechanics of the collection, and spending of CIL receipts. This would be of benefit to all those involved in the development industry in Bradford, including the general public, Parish and Town Councils, and infrastructure providers.

Conclusion

59. In setting the CIL charging rate the Council has had regard to detailed

evidence on infrastructure planning and the economic viability evidence of the development market in the City of Bradford Metropolitan District. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the authority area. However, in addition to the modifications set out below, I consider it appropriate, given the particular circumstances that have been highlighted through this examination, such as possible significant increases in viability of developments within the Residential Charging Zones, as well as the uncertainty around the emerging Local Plans, that an early review of the Charging Schedule should take place.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the emerging Core Strategy and Local Infrastructure Plan and is supported by an adequate financial appraisal.

60. I conclude that subject to the modifications set out in Appendix A the Draft Bradford District Community Infrastructure Levy Charging Schedule satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Charging Schedule be approved.

Louise Nurser

Examiner

This report is accompanied by:

Appendix A (attached) – Modifications that the examiner specifies so that the Charging Schedule may be approved.

Appendix A

Modification recommended by the examiner so that the charging schedule may be approved.

Examiner Modification (EM) Number	Reference	Modification
EM1	Draft Charging Schedule Proposed CIL Charging Zone 4	Amend from £5 to £0 and make consequential changes to the key.
EM2	Draft Charging Schedule Proposed CIL Charging Zones 1-3	Insert footnote 'Excludes specialist older persons' housing (also known as Sheltered/Retirement/Extra Care) defined as residential units which are sold with an age restriction typically to the over 50s/55s with design features, communal facilities and support available to enable self-care and independent living.'

Local Plan for the Bradford District

Bradford District Community Infrastructure Levy (CIL)

Charging Schedule



Community Infrastructure Levy Charging Schedule

Approved by Full Council on **[date to be inserted following full council approval]**

Charges Implemented on **1 July 2017**

Under the Planning Act 2008 and
Community Infrastructure Levy Regulations 2010 (as amended)

The City of Bradford Metropolitan District Council is a charging authority for the purposes of Part 11 Section 206 of the Planning Act 2008 and may therefore charge the Community Infrastructure Levy in respect of development in the Bradford District.

Contents

i. Statement of Statutory Compliance	4
1. Introduction	5
2. General Principles	5
3. Planning Obligations (Section 106 Agreements) and CIL	6
4. Development Liable for CIL	7
5. Calculating the CIL Charging Rates	8
6. Evidence Documents for CIL	9
7. The Charging Schedule Rates and CIL Charging Zones Map	10
8. The Regulation 123 List	12
9. Exemptions and Payment Terms	13
10. Review of the Charging Schedule	16
Appendix A. – Calculating the CIL Change	17

i. Statement of Statutory Compliance

The Community Infrastructure Levy Charging Schedule has been approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012, 2013, 2014 and 2015) and Part 11 of the Planning Act 2008 (as amended by Part 6 of the Localism Act 2011).

In setting the levy rates, the City of Bradford Metropolitan District Council has struck an appropriate balance between:

a) the desirability of funding from CIL in whole or in part the actual and estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding, and

b) the potential effects, taken as a whole, of the imposition of CIL on the economic viability of development across the District.

This Charging Schedule was approved by Bradford Council on [date to be inserted following full council approval]

This Charging Schedule will come into effect on 1 July 2017

1. Introduction

- 1.1 The Community Infrastructure Levy (CIL) is a levy that local authorities can choose to charge on new developments in their area. The money can be used to support development of the area by funding the infrastructure that the Council, local communities and neighbourhoods deem as necessary.
- 1.2 The City of Bradford Metropolitan District Council (the Council) is a charging authority for the purposes of Part 11 Section 206 of the Planning Act 2008 and may, therefore charge the Community Infrastructure Levy in respect of development in the Bradford District. This document is the Charging Schedule for the Bradford District Community Infrastructure Levy (CIL). The document sets out the Charging Schedule, the general principles of CIL and its links to Section 106 planning obligations. It has been prepared in accordance with the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 as amended by the Community Infrastructure Levy (Amendment) Regulations 2011, 2012, 2013, 2014 and 2015

2. General Principles

- 2.1 The CIL is a tariff system that local authorities can choose to charge on new development in their area by setting a Charging Schedule. The Charging Schedule will sit alongside the Bradford District Local Plan, but will not form part of the statutory development plan.
- 2.2 Once adopted, CIL is fixed, non-negotiable and enforceable. CIL will be charged on new development. It is charged per square metre on net additional gross internal floor-space of development. CIL is not charged on affordable housing and buildings used for charitable purposes.
- 2.3 The amount payable will be set at the time planning permission is granted and payment will be due at the commencement of development. Larger

amounts will be payable in instalments over fixed time periods, in-line with any instalment policy.

- 2.4 The process for setting and implementing the Charging Schedule is set out in the CIL Regulations 2010, together with subsequent amended CIL Regulations in 2011, 2012, 2013, 2014 and 2015. Under the CIL Regulations restrictions have come into force for existing planning obligations (Section 106 agreements) from April 2015. This will significantly restrict the current use and pooling of planning obligations.

3. Planning Obligations (Section 106) and CIL

- 3.1 The CIL is intended to provide infrastructure to support the development of an area rather than making an individual planning application acceptable in planning terms, which is the purpose of a planning obligation (Section 106 Agreement). CIL can be collected on a range of developments and then 'pooled' in the style of a tariff. The pooled levy can then be spent on a range of infrastructure, providing greater flexibility in the delivery of local infrastructure.
- 3.2 CIL will not fully replace planning obligations. The existing Section 106 (S106) system will remain in place, but has been scaled back to ensure that CIL is the key mechanism for pooled infrastructure funding. Planning obligations will continue to be the primary mechanism for securing affordable housing through the planning system. In addition, they will still be used to mitigate the direct impact of the development proposed, for site specific measures to make a development acceptable in planning terms.
- 3.3 The CIL Regulations restrict the use of planning obligations to ensure that developments are not charged twice for the same infrastructure type or project (i.e. through both a planning obligation and a CIL charge). The Council is therefore required to publish a list of infrastructure it intends to fund via CIL (Regulation 123 list), to accompany the Charging Schedule. When a CIL charge is introduced S106 requirements will only be used for

those matters directly related to a specific site and which are not set out in the 123 list. Furthermore, from April 2015 the Council can only pool a maximum of five planning obligations towards a particular piece or type of infrastructure, dating back to 6 April 2010.

4. Development Liable for CIL

- 4.1 The levy is generally payable on the following types of development:
- Development comprising 100 square metres or more of new gross internal floor area.
 - Development of less than 100 square metres of new floor space that results in the creation of one or more dwellings.
 - The conversion of a building that is no longer in lawful use.
- 4.2 The owner of land is liable to pay the CIL, unless another party claims liability such as a developer or planning applicant. This is in-keeping with the principle that those who benefit financially from planning permission being granted should share some of that gain with the community. That benefit is transferred when the land is sold with planning permission, which also runs with the land.
- 4.3 The levy's charges will become due from the date that a chargeable development is commenced. The definition of commencement of development for the levy's purposes is the same as that used in planning legislation, unless planning permission has been granted after commencement. When planning permission is granted, the Council will issue a liability notice setting out the amount of the levy that will be due for payment when the development is commenced, the payment procedure and the possible consequences of not following this procedure.

5. Calculating the CIL Charging Rates

- 5.1 The local authority must demonstrate that new or improved infrastructure is needed to support development in their area and what other sources of funding are available. It must also show a funding gap for the necessary infrastructure that demonstrates the need to put in place the levy.
- 5.2 In setting rates in a charging schedule the local authority must also have regard to the potential effects of the imposition of CIL on the economic viability of development across its area and, in its informed judgement, strike an appropriate 'balance' between the desirability of funding infrastructure from the levy and the potential impact on viability.
- 5.3 A charging authority must set out its levy rate(s) in a charging schedule. In order to set the CIL rates the Council has considered evidence on the infrastructure requirements and viability of development across the District. Based on this evidence the Council has made a reasoned judgement as to the appropriate level at which to charge CIL.
- 5.4 The Council submitted the CIL Draft Charging Schedule for independent examination on 11 May 2016. The CIL examination hearing was held on 4 October 2016 and the examination report was received by the Council in December 2016. The examination report recommended approval of the Charging Schedule, subject to two modifications considered necessary to meet statutory requirements. Subject to these modifications the examination concluded that the Bradford District CIL Charging Schedule satisfies the requirements of Section 212 of the 2008 Planning Act and meets the criteria for viability in the CIL Regulations 2010 (as amended). The modifications have been made to the final CIL Charging Schedule. The CIL examination report is available to view on the Council's website: www.bradford.gov.uk/planningpolicy

6. Evidence Documents for CIL

6.1 The following supporting evidence documents informed the production of the Charging Schedule and were made available for inspection / comment:

- Bradford Community Infrastructure Levy Viability Evidence (DTZ, June 2015)
- Bradford CIL Viability Evidence Update (Cushman & Wakefield (formerly DTZ), December 2015)
- Local Infrastructure Plan (CBMDC, June 2015, December 2015 and March 2016 Updates)
- Council responses to representations on the Preliminary Draft Charging Schedule (CBMDC, 2015).
- Council response to representations on the Draft Charging Schedule (CBMDC, 2016).
- Draft Regulation 123 List (CBMDC)

6.2 The Council submitted the Draft Charging Schedule for examination on 11 May 2016. During the examination period further evidence was presented by the Council and considered as part of the examination.

6.3 All the evidence documents are available on the Council's website:
www.bradford.gov.uk/planningpolicy

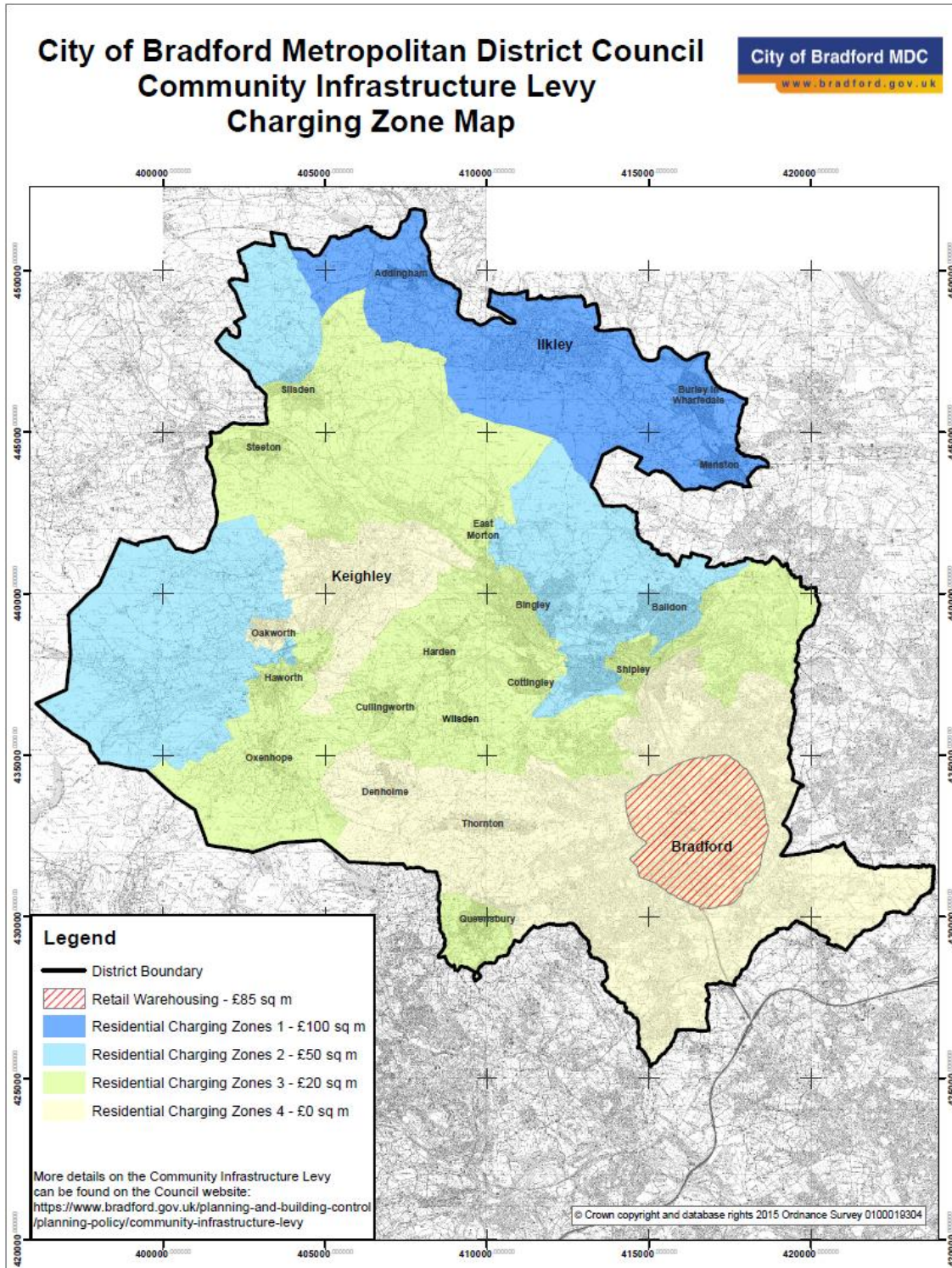
7. The Charging Schedule Rates

7.1 The Council's charging rates are set out in the table below. The Charging Schedule is primarily concerned with the rates proposed rather than the Council's mechanism for allocating the revenue.

Type of Development	Charging Schedule CIL Charging Rates (per sq. m)
Residential- Zone 1 (C3) ¹	£100
Residential - Zone 2 (C3) ¹	£50
Residential - Zone 3 (C3) ¹	£20
Residential - Zone 4 (C3)	£0
Retail warehousing ² - Central Bradford	£85
Large Supermarket (>2000 sq m)	£50
All other uses not cited above	£0
<p>¹ Excludes specialist older persons' housing (also known as Sheltered/Retirement/Extra Care) defined as residential units which are sold with an age restriction typically to the over 50s/55s with design features, communal facilities and support available to enable self-care and independent living.</p> <p>² Retail warehouses are usually large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods. They can be stand-alone units, but are also often developed as part of retail parks. In either case, they are usually located outside of existing town centres and cater mainly for car-borne customers. As such, they usually have large adjacent, dedicated surface parking.</p>	

7.2 The residential and retail warehousing charging zones are shown on the CIL charging zone map. An interactive version of the map is also available on the Council's website at: www.bradford.gov.uk/planningpolicy

CIL Charging Zone Map



8. Regulation 123 List

- 8.1 The Council is required to set out a list of those projects or types of infrastructure that it intends will be, or may be, wholly or partly funded through the CIL. The list does not identify priorities for spending within it, or any apportionment of the CIL funds across the District, and does not signify a commitment from the Council to fund the projects listed through the CIL.
- 8.2 The list is based on the infrastructure requirements set out in the Local Plan Core Strategy and the Council's updated infrastructure planning evidence (LIP). The Regulation 123 List is available to view on the Council's website at: www.bradford.gov.uk/planningpolicy
- 8.3 The Council will review this list at least once a year, as part of the monitoring of CIL collection and spend, and any changes to the list will be justified, clear and subject to appropriate local consultation.
- 8.4 The Council will work with local communities and Parish, Town and Community Councils to agree local priorities for spend. The 'meaningful proportion' held by local communities may be spent on items on the Regulation 123 List, but it does not have to be, provided that it meets the requirement to support the development of the area.
- 8.5 Once the neighbourhood portion of the CIL income has been allocated to the relevant neighbourhood in which the development has taken place, the remaining CIL money will be pooled and spent on strategic infrastructure priorities to support growth and economic development in the District. The infrastructure spending priorities will be informed by the Regulation 123 list. The predicted CIL income will not meet the estimated infrastructure funding gap. Therefore, CIL money will be spent on infrastructure priorities in conjunction with other sources of funding.
- 8.6 The CIL Regulation 123 restricts the use of Section 106 (S106) Obligations to ensure that individual developments are not charged for the

same infrastructure through the duplication of developer contributions. A S106 contribution cannot be made towards infrastructure projects on the Regulation 123 List.

- 8.7 From 6 April 2015, the use of S106 has been scaled back. S106's will still be used to provide affordable housing contributions and site specific matters to make a development acceptable in planning terms. S106 obligations will need to meet the tests in CIL Regulation 122 and 123. There will be a limit of pooling five separate obligations dated back to 6 April 2010 for an infrastructure project or type of infrastructure.
- 8.8 For clarity, the Council will publish a list that will outline the matters that will continue to be secured through S106 Obligations.

9. Exemptions and Payment Terms

- 9.1 The CIL Regulations (as amended 2015) exempt the following from paying the CIL:
- Where the gross internal floor area of new buildings or extensions would be less than 100 square metres (unless the development will result in the creation of one or more dwellings).
 - Development by registered charities of their own land to be used wholly or mainly for their charitable purposes.
 - The conversion of any building previously used as a dwelling house to two or more dwellings.
 - Floorspace resulting from a change of use development where part of the building has been in continuous lawful use for at least six months in the three years prior to the development being permitted.
 - Development of buildings and structures into which people do not normally go (e.g. pylons, wind turbines, electricity sub stations).
 - Buildings into which people go only intermittently for the purpose of maintain or inspecting fixed plant or machinery.
 - Residential extensions, annexes, houses and flats which are built by "self-builders".
 - Social Housing (that meets the relief criteria set in the Regulations).

- A building for which planning permission was granted for a limited period.
- Vacant buildings brought back into the same use.
- Where the levy liable is calculated less than £50 overall.
- Specified types of development as set out in the charging schedule which the Council has decided should be subject to a zero charge rate.

Exceptional Circumstances Relief

9.2 The CIL Regulations allow for the Council to provide further relief, at their discretion, to avoid rendering a site with specific and exceptional cost burdens unviable, should circumstances arise. The Council do not have to offer this relief, but if it chooses to do so, it must adopt a discretionary relief policy. This is not part of the charging schedule and may be published at a different time. Exceptional circumstances should be rare and should not constitute state aid. The Exceptional Circumstances Relief Policy can be viewed as a separate document available on the Council's website. It should be noted that the power to offer relief can be deactivated once a charging schedule is in place, in line with the CIL Regulations.

Phased Payments of CIL

9.3 The CIL Regulations allow for the Council to make provisions for phased payments of CIL. A phased payment approach and / or an instalment policy helps developers with cash flow, assisting in making more development viable, therefore, helping the charging system to be flexible. Phased payments can be permitted where a planning application is subdivided into phases for the purpose of the levy. This is expected to be especially useful for large scale development, which are likely to be brought forward in a number of phases. Each phase would be a separate chargeable development and therefore liable for payment in line with any instalment policy in force. The principle of phased delivery must be

apparent from the planning permission. Bradford Council as a charging authority will consider offering phased payments.

Instalments Policy

- 9.4 The Council may adopt an instalments policy which allows developers to pay their CIL charge in instalments to provide flexibility in the CIL charging regime. Without such a policy, the whole of the CIL charge is liable on the commencement of development. Instalment policies can assist with development viability and delivery by improving the cash flow of a development (as the CIL payment is not paid upfront).
- 9.5 The details of any instalments policy will be set out in a separate document. Any instalments policy is required to be published on the Council's website; and can be revised, or withdrawn as appropriate, in-line with the CIL Regulations.

Payments in Kind

- 9.6 The CIL Regulations allow for the Council to accept payments in kind, in the form of land or infrastructure, to be offset against the CIL liability where agreed by the Council as more desirable instead of monies. The value of both land and infrastructure payments must be equal to the value of the land / infrastructure required.
- 9.7 This must only be done with the intention of using the land to provide, or facilitate the provision of, infrastructure to support the development of the area. The Council does not have to adopt a payment in-kind policy, but should it choose to do so, it must publish a policy document which sets out conditions in detail. This is not part of the charging schedule and may be published separately.
- 9.8 Where a levy is to be paid as land or infrastructure, a land or infrastructure agreement must be entered into before development commences. This

must include the information specified in CIL Regulations and be provided to the same timescales as cash payments. This may be by way of instalments if applicable and practicable. Land paid in kind may contain existing buildings and structures, and land or infrastructure must be valued by an independent valuer who, in the case of land, will ascertain its open market value, and in the case of infrastructure the cost (including related design cost) to the provider. This will determine how much liability it will off-set.

- 9.9 Where land is required within a development to provide built infrastructure to support that specific development, it will be expected that any land transfer will be at no cost to the Council and will not be accepted as a CIL payment in kind.

10. Review of the Charging Schedule

- 10.1 Charging authorities must keep the charging schedule under review and ensure that levy charges remain appropriate over time and may revise the charging schedule in whole or in part. Any revisions must follow the same processes as the preparation, examination, approval and publication of a charging schedule (as specified under the Planning Act 2008, particularly sections 211-214 as amended by the Localism Act 2011 and the CIL Regulations). If the Council wishes to stop charging the levy it may do so at any time by making a formal resolution to do so.
- 10.2 Government does not prescribe when reviews should take place. National Planning Practice Guidance advises that charging authorities should take account of market conditions and infrastructure needs and consider linking a review of their charging schedule to any substantive review of the evidence base for the Local Plan. At this time the Council is unable to set a date for the review of the rates, but it is anticipated that this will be linked to the future progress on the Local Plan. Details of any forthcoming review of the rates will be published on the Council's website, along with the appropriate consultation.

Appendix A.

Calculating the CIL Charge (Regulation 40 as amended)

Key points in calculating the CIL charge:

- The collecting authority must calculate the amount of CIL payable (“chargeable amount”) in respect of a chargeable development in accordance with the CIL Regulations.
- The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.
- Where that amount is less than £50 the chargeable amount is deemed to be zero.
- The relevant rates are the rates, taken from the relevant charging schedules, at which CIL is chargeable in respect of the chargeable development.
- CIL is charged on the net floor area (gross internal area) of development chargeable.

1. The amount of CIL charge must be calculated by applying the following formula:

$$\text{CIL Charge} = \frac{R \times A \times I_p}{I_c}$$

Where:

A = the deemed net area chargeable at rate R, calculated in accordance with the section below;

I_p = the index figure for the year in which planning permission was granted

I_c = the index figure for the year in which the charging schedule containing rate R took effect

R = the relevant chargeable rate

If it is necessary to apply several rate(s) to a chargeable development, the total amount will equal the sum of the amounts of CIL charge calculated at each relevant rate.

The index is the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors: the figure which should be used for a given year is the figure for 1st November of the preceding year.

2. Calculation of net chargeable area, A

A is calculated by:

$$\text{Net Chargeable Area (A)} = \frac{\text{GR} - \text{KR} - \{ \text{GR} \times \text{E} \}}{\text{G}}$$

Where:

GR = the gross internal area of the part of the chargeable development chargeable at rate R

G = the gross internal area of the chargeable development

KR = the aggregate of the gross internal areas of the following:

- (i) retained parts of in-use buildings, and
- (ii) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;

E = the aggregate of the following:

- (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development, and
- (ii) for the second and subsequent phases of a phased planning permission, the value Ex (as determined under below), unless Ex is negative, provided that no part of any building may be taken into account under both the above.

Ex is calculated by:

$$\text{EP} - (\text{GP} - \text{KPR})$$

Where:

EP = the value of E for the previously commenced phase of the planning permission;

GP = the value of G for the previously commenced phase of the planning permission; and

KPR = the total of the values of KR for the previously commenced phase of the planning permission.

Produced by the
City of Bradford Metropolitan
District Council



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Community Infrastructure Levy: Draft Regulation 123 List

Community Infrastructure Levy Regulation 123 provides for the Council to set out a list of those projects or types of infrastructure that it intends will be, or may be, wholly or partly funded through the CIL.

In order to ensure that individual developments are not charged for the same infrastructure items through both Section 106 Agreements and the CIL, a S106 contribution or a S278 agreement cannot then be made towards an infrastructure item already on the List. The Draft Regulation 123 List is provided as part of the consultation on the CIL Draft Charging Schedule.

Education including primary and secondary provision
Sustainable transport improvement schemes except where improvements are required as a direct result of development <ul style="list-style-type: none"> • Improvements to strategic pedestrian and cycle routes • The Public Right of Way network • Station improvements
Green infrastructure and public greenspace (e.g. improvements to open space), except for on-site provision required by Core Strategy policies
Habitat mitigation including Suitable Alternative Natural Greenspace, except for on-site provision required by Core Strategy policies
Community sports and recreation facilities (e.g. children’s and young people’s play areas, playing pitches), except improvements which are directly related to a development.
Cultural facilities (e.g. libraries, built community space), except improvements which are directly related to a development.
Public realm improvements, except for on-site provision or where this is required as a direct result of an adjacent development
Environmental improvements (e.g. recycling, local flood risk alleviation, pollution abatement), except improvements which are directly related to a development.
Cemeteries
District heating networks
Community safety and health projects, including <ul style="list-style-type: none"> • Emergency services (police, fire, ambulance) • Public health facilities

The above list is based on the infrastructure requirements set out in the Local Plan and the Council's infrastructure planning evidence. The list does not identify priorities

for spending within it, or any apportionment of the CIL funds across the District, and does not signify a commitment from the Council to fund the projects listed through the CIL.

The Council will review this list at least once a year, as part of monitoring of CIL collection and spend, and any changes will be justified and subject to appropriate local consultation. The Council will work with local communities and parish/town councils to agree local priorities for spend. The 'meaningful proportion' held by local communities can be spent on the Regulation 123 List, but it does not have to be.

Continued use of Section 106 Obligations

For clarity, the list below provides an outline of the matters which will continue to be secured through S106 or S278 Agreements, meeting the planning obligation tests as set out in the NPPF and CIL Regulations 2010 (as amended):

- Affordable Housing
- Employment and skills agreement e.g. local employment, training or apprentice contracts
- Site specific matters needed to make the development acceptable in planning terms including (but not exhaustive):
 - Highway works: access into the site, local junction / highway improvements
 - Sustainable transport: New bus connections or services, cycle / pedestrian routes and connections if directly related to the development, metro cards, cycle parking/storage, travel plans and monitoring fee / coordinator posts
 - On-site drainage and flood requirements
 - On-site renewable energy, sustainable construction and efficient use of resources policy requirements
 - On-site greenspace provision and public realm improvements
 - On-site designing out crime measures
 - Air quality mitigation measures
 - On-site bin provision for new developments

S106 contributions cannot be sought for specific infrastructure projects on the 123 List. From April 2015 S106 contributions can only be pooled for up to five separate planning obligations dated back to 6 April 2010 for an infrastructure project or type of infrastructure. Any planning obligation must meet the tests in Regulation 122.

Community Infrastructure Levy (CIL): Draft Instalments Policy

PLEASE NOTE: The Council are considering introducing an instalments policy. This draft policy is provided for comment as part of the CIL Draft Charging Schedule consultation. Any approved version will be placed on the Council's website following adoption of the CIL by the Council.

The responsibility to pay the levy, also known as a CIL liability, is with the landowner of the site on which the proposal granted planning permission (and subject to the levy) is to be situated. The CIL regulations define 'the landowner' as a person who owns a 'material interest' in the relevant land to be developed.

This Draft Instalments Policy is made in line with Regulation 69B and 70 of the CIL regulations 2010 (as amended) and is as follows:

- a) This instalments policy will take effect on the adoption of CIL by the Council.
- b) Payment days (the day on which an instalment payment will be due) are calculated from the commencement of development on site. This date will be taken to be the date advised by the developer in the Commencement Notice as laid out in CIL regulation 67.
- c) Payment of instalments are as follows:

Instalments Provision	
Total CIL Liability	Proportion Payable and Payment Period
£0 - 24,999	Full payment within 3 months of the commencement date.
£25,000 - £149,999	50% at 6 months after the commencement date 50% at 12 months after the commencement date
£150,000 and above	25% at 6 months 25% at 12 months 25% at 18 months after the commencement date 25% at 24 months after the commencement date

In order to be eligible to pay a CIL liability by instalments all relevant statutory forms (including the Assumption of Liability form and the Commencement Notice) must be submitted to the Council prior to the commencement of the chargeable development and all payments must be made in accordance with this CIL instalment policy and other regulatory requirements. Where these requirements are not met the unpaid balance of CIL liability becomes payable in full immediately as laid out in CIL regulation 70(8)(a).

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Community Infrastructure Levy (CIL): Draft Exceptional Circumstances Relief Policy

PLEASE NOTE: The Council are considering introducing an Exceptional Circumstances Relief policy. This draft policy is provided for comment as part of the Draft Charging Schedule consultation. Any approved version will be placed on the Council's website following adoption of the CIL by the Council.

This Policy document gives notice that City of Bradford Metropolitan District Council has determined to make relief for exceptional circumstances available in the Bradford District with effect from (insert date) ,in accordance with Regulations 55 to 58 of the Community Infrastructure Levy Regulations 2010 (as amended).

This document sets the policy criteria for exceptional circumstances.

- Use of an exceptional circumstances policy enables the Council to avoid making individual sites with specific and exceptional cost burdens unviable should exceptional circumstances arise. It is a mechanism to enable growth and deliver development where CIL and S106 conflict. The Regulations state that the Council may grant full or partial relief from liability to pay CIL if it appears to the Council that there are exceptional circumstances which justify doing so, and the Council considers it expedient to do so. However, there is no statutory definition of what constitutes the economic viability of a development. Each case will be considered individually by the Council, which retains the discretion to make judgements about the viability of the scheme in economic terms and whether the exceptional circumstances policy applies.
- The Council expects that this policy will be rarely used because the Bradford District CIL rates have been set to already take into account viability issues, development costs, and full policy requirements across the District. This includes that it is reasonable to assume that any S106 signed by an applicant reflects viability of the scheme, including consideration of the CIL rates applicable at the time.
- Before granting exceptional circumstances relief for an individual scheme, the Council also has to be satisfied that the relief would not constitute notifiable State Aid. The State Aid requirements do allow small amounts of public funding (i.e. exceptional circumstances relief) to a single recipient, called the de minimis block exemption. The de minimis threshold is set at 200,000 euros over a rolling three fiscal year period (gross before tax or any other charge). The threshold applies cumulatively to all public assistance received by the organisation from all sources across the UK. Therefore the threshold does not just apply to each individual development. Recipients are responsible for keeping records of any de minimis aid they receive over any rolling three fiscal year period.
- The CIL Regulations specify the requirements that must be met in making the exceptional circumstances assessment: Reg 55(3) A charging authority may grant relief for exceptional circumstances if –

(a) It has made relief for exceptional circumstances available in its area; (b) A planning obligation under S106 of TCPA 1990 has been entered into in respect of the planning permission which permits the chargeable development; and (c) The charging authority- (i) Considers that to require payment of the CIL charged by it in respect of the chargeable development would have an unacceptable impact on the economic viability of the chargeable development, and (ii) Is satisfied that to grant relief would not constitute a State aid which is required to be notified to and approved by the European Commission.

- In addition, City of Bradford Metropolitan District Council may make a judgement in individual cases that exceptional circumstances are not solely based on economic viability. Even where the CIL may give rise to an unacceptable impact on the economic viability of the chargeable development, the Council may also require demonstration of wider regeneration benefits and/or the need for the applicant to show that a particular site has to be brought forwards imminently for wider benefits.
- The person claiming relief must be an owner of a material interest in the relevant land. A claim for relief must be submitted in writing on the appropriate form and be received and approved by the Council before commencement of the chargeable development. It must be accompanied by:
 - a) An assessment carried out by an independent person of the economic viability of the chargeable development and the cost of complying with the planning obligation,
 - b) An explanation of why payment of the chargeable amount would have an unacceptable impact on the economic viability of that development,
 - c) An apportionment assessment (if there is more than one material interest in the relevant land), and,
 - d) A declaration that the claimant has sent a copy of the completed claim form to the owners of the other material interests in the relevant land (if any).

For the purposes of point a) an independent person is a person who is appointed by the claimant with the agreement of the Council and who has appropriate qualifications and experience. It is expected that the claimant will be responsible for any remuneration required by this independent person.

- A chargeable development ceases to be eligible for relief for exceptional circumstances if, before it commences, there is a disqualifying event as laid out below:
 - a) Charitable or social housing relief is granted,
 - b) The site (or part of the site) is sold, or,
 - c) The development does not commence within 12 months.
- It should be noted that the CIL Regulations give the Council the ability to withdraw this policy at any time with two weeks notice. This could occur, for example, if it is considered that the policy is being misused, including if too many applicants apply for relief without proper exceptional circumstances applying.

Report of the Strategic Director – Place to the meeting of Executive to be held on 7th March 2017

BO

Subject:

West Yorkshire+ Transport Fund - Harrogate Road / New Line Junction and Hard Ings Road Improvement, Keighley Compulsory Purchase Order (Highways Act 1980) Amendment.

Summary statement:

This report seeks Executive's approval to:

- Modifications to the CPO boundary plans previously approved for the West Yorkshire+ Transport Fund schemes of Harrogate Road / New Line junction Improvement and Hard Ings Road Improvement, Keighley;
- The use of powers under Section 40 of the Road Traffic Regulation Act 1984 (RTRA); and
- Advertise the disposal of existing public open space and the appropriation of replacement public open space on the Harrogate Road / New Line scheme.

Finally, in recognition of the on-going nature of the land assembly negotiations for these projects the report seeks Executive's approval to the delegation of the determination of any further amendments to the extents of the CPO to the Strategic Director of Place in consultation with the Portfolio Holder.

Steve Hartley
Strategic Director: Place

Portfolio:

Regeneration, Planning & Transport

Report Contact: Richard Gelder
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Overview & Scrutiny Area:

Environment & Waste



1. SUMMARY

1.1. This report seeks Executive's approval to:

- a) Modifications to the CPO boundary plans previously approved for the West Yorkshire+ Transport Fund schemes of Harrogate Road / New Line junction Improvement and Hard Ings Road Improvement, Keighley which are necessitated through on-going development of scheme proposals;
- b) The use of powers under Section 40 of the Road Traffic Regulation Act 1984 (RTRA) to facilitate the compulsory acquisition of land for the purposes of replacement car parking facilities on the Harrogate Road / New Line scheme; and
- c) Advertise the disposal of existing public open space and the appropriation of replacement public open space on the Harrogate Road / New Line scheme.

1.2. Finally, in recognition of the on-going nature of the land assembly negotiations for these projects the report seeks Executive's approval to the delegation of the determination of any further amendments to the extents of the CPO to the Strategic Director of Place in consultation with the Portfolio Holder.

2. BACKGROUND

2.1. A pre-requisite for lodging any Compulsory Purchase Order with the Secretary of State is that the Council must demonstrate vis-à-vis that it has:

- a) Approved the use of all appropriate and necessary powers associated with the CPO, rather than relying on general powers of CPO.
- b) Accurately identified all land interests/properties which are to be included within the CPO boundary.

This report is therefore presented to Executive to ensure that both these pre-requisites can be complied with prior to submission of the CPOs for both named schemes to the Secretary of State.

Harrogate Road / New Line Junction

2.2. During the past fourteen months (since the December 2015 resolution) extensive and often complex negotiations have continued to take place with the potentially affected land owners in order that the necessary parcels of land and access rights can be acquired without recourse to CPO processes. Throughout this process advice on the potential financial cost of acquisition of property has been supplemented by consideration of compensation payments for businesses adversely affected by the proposals. In a number of cases the level of compensation payment to which a business may be entitled far outweighs that of the value of actually purchasing the land concerned. Therefore Officers have reviewed the previous CPO boundary to identify any additional areas of land whose acquisition could be used to mitigate compensation payments.

- 2.3. In addition to the mitigation of compensation a number of alterations to the extents of the CPO previously approved by Executive were made because of the following reasons:
- a) Review of the extent to which it is necessary to include in the CPO sufficient land to carry out the works (i.e. to facilitate working space), to obtain title to land and permanent rights to support the scheme; and
 - b) Identification of areas of contested land under adopted highway which are un-registered with the Land Registry.
- 2.4. In general the proposed changes to the CPO boundary extents for the reasons above have resulted in three parties being removed from the CPO process, the scope of land for a number of existing parties increasing to take account of the working space and registered title of highway land issues and one new parcel of land being introduced into the CPO scope.
- 2.5. Whilst Executive has previously approved the use of the requisite powers under Sections 239, 240, 246 and 250 of the Highways Act 1980 in relation to the CPO the omission of powers under Section 40 of the Road Traffic Regulation Act 1984 from the previous resolution prevents the Council from acquiring land to provide compensatory off-street parking; this is seen as essential to mitigation of a number of compensation issues.

Hard Ings Improvement, Keighley

- 2.6. In relation to the revised CPO red line boundary for the Hard Ings Road improvement scheme, Keighley this was a result of:
- a) Continued design and detailed assessment of requirements for temporary working space and long-term rights;
 - b) Clarification of ownership boundaries and rights of adjoining land owners and occupiers resulting from the on-going land referencing process and enquiries with affected parties; and
 - c) Clarification of the ownership of and rights over areas of highway forming part of the former trunk road network.
- 2.7. The A650/A629 was formally trunk road managed by the Department for Transport. Following de-trunking in 2008 this is now a local road managed by the Council as Highway Authority, however title of the land on which the road is situated is still registered to the Secretary of State for Transport and has not yet been transferred to the Council. The land referencing exercise undertaken in preparation for the Hard Ings Road CPO has identified that parts of this land are also unregistered and in 'unknown ownership' and that adjoining businesses along part of the A629 have Rights that could be temporarily affected by construction works. The original CPO boundary plan excluded the former trunk road land. Given the complexities which have been identified it is therefore seen as expedient to include the trunk road land in the CPO boundary.

3. OTHER CONSIDERATIONS

- 3.1. In considering whether to confirm a CPO the Secretary of State will need to be convinced that there is a compelling case in the public interest for compulsory acquisition as use of such powers are to be considered a matter of last resort. Members should reach a similar decision before authorising its making on the balance of the information contained in this report.
- 3.2. The boundary of the CPO's Order Land is shown outlined in red on the Plans in Appendices 1 and 2. All necessary land and rights within the red line boundary which need to be acquired for the scheme will be acquired under the CPO to provide a clean title to the land. This includes land, buildings, plant, equipment, cables, pipes, rights and interest under, on and over the land.
- 3.3. An Order Map and Schedule of Ownerships has been drafted following a land referencing exercise, and will be finalised and published as part of the process for preparing the Order.
- 3.4. If the CPO resolutions are made, this will be recorded in the Local Land Charges Register and disclosed on searches.

Statement of Reasons for the Compulsory Purchase Order

- 3.5. Although the Statement of Reasons document is non-statutory, this is an important document and is served with the statutory notices when the Order is made. It describes the land within the Order boundary, gives an outline of the case for the acquisition and of the proposed use and development, with details of the planning position, special considerations (e.g. listed buildings) policies and views of government departments, proposals relocation and details of any related order such as Highway Stopping Up and Closures.
- 3.6. At this stage of the process, in accordance with Government guidance, a draft statement of reasons for the CPO has been prepared. A final statement will be produced and will be served on Landowners with the statutory notices when the Order is actually made.

Public Open Space

- 3.7. As part of the Harrogate Road / New Line project an area of existing public open space adjacent to New Line which is currently in the ownership of the Council will need to be incorporated into the road widening scheme. Land which is in the ownership of the Council should not in practice be placed in the CPO unless there is an impediment in title which needs to be compulsorily acquired. As no such impediment exists for Council needs to make provision to dispose of the land for the road widening by relying on the provisions of the Local Government Act 1972 which also obviates the need to otherwise apply to the Secretary of State for Communities and Local Government for a dispensation that special Parliamentary procedures (which can be protracted) would necessitate. The land in question is shown on Plan A in Appendix 3.
- 3.8. To compensate for the disposal of public open space land associated with paragraph 3.7 above which was previously acquired for highway improvement

purposes, which will be surplus to requirements for the road widening scheme is proposed to be appropriated from highway use to community use to regulate its designation. This appropriation requires an advertisement process under Section 122 (2A) of the Local Government Act 1972. Land to be appropriated is shown on Plan B in Appendix 4 annexed to this report.

New Line Retail Park

- 3.9. As part of the proposed Harrogate Road / New Line CPO the acquisition of one of the ground floor units of the New Line Retail Park (NLRP) has been identified as a method of providing replacement off-street parking for visitors to the centre. The Council's consultants have considered the prospect and implications of acquiring the land at either the side or frontage of the Nursery to provide approximately 3-4 car replacement parking spaces to serve the NLRP as a potential alternative to the proposed approach. Lengthy discussions spanning many months, coupled with significant time and effort, have been devoted to trying to acquire car spaces from the Nursery and its landowner by agreement. Unfortunately, neither the Nursery (the tenant) or its landlord are prepared to entertain any arrangement whereby any of the Nursery car parking spaces (either at the side or the front of the Nursery building) are sold or shared with the NLRP. Furthermore, the use of the Nursery's side parking spaces could have caused problems with occupiers of the rear industrial units, who have expressed concern about the number of additional car movements which may have been created and the possible encroachment on their own parking area. As a result of the consultant's negotiations it is clear that the Nursery is not prepared to countenance the loss of spaces not just to the side but to the frontage of the Nursery.
- 3.10. The option to include the acquisition of parking areas adjacent to the Nursery under the proposed Compulsory Purchase Order is specifically prohibited under CPO rules which do not permit the acquisition of land from one landowner to compensate another land owner, unless it can be shown to be in the greater public interest.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1. The funding for the Harrogate Road / New Line scheme is derived from two principle sources, (i) the West Yorkshire+ Transport Fund and (ii) private developer contributions via a Section 106 obligation on a 70%/30% split basis. Funding for the A650 Hard Ings Road project is solely derived from the grant funding from the West Yorkshire+ Transport Fund.
- 4.2. Through securing Gateway 1 approval in December 2014 funding of £198,000 was allocated to develop the detailed design and specification for the Harrogate Road / New Line scheme through to Gateway 2 whilst funding of £420,000 was allocated to the Hard Ings Road Improvement scheme for the same purpose. However, in light of the requirement for both projects to be subject of CPO processes further funding for development to Gateway 2 will be sought from the Combined Authority.
- 4.3. It is very difficult to estimate the costs associated with the CPO process due to the number of third party variables over which the Council has no control. On the

basis that there is likely to be a Public Inquiry, costs are likely to range for £80,000 to £160,000 for this aspect alone. This estimate of costs would cover surveyors, solicitors, barristers, land referencer's fees but does not cover any references to Lands Tribunal in respect of compensation. The lower cost estimate assumes that elements of the CPO process are undertaken in-house.

- 4.4. An Exceptions Report is currently being prepared for the West Yorkshire Combined Authority seeking additional funding to cover the cost associated with both the additional time taken on land negotiations as well as the potential CPO costs.
- 4.5. The staff resources and specialist technical services required to develop the scheme referred to in this report are funded through the scheme budget.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1. Responsibility for the governance of this project rest with the West Yorkshire Combined Authority (WYCA) and is controlled under their Assurance Framework. A rigorous project management system is in place for all West Yorkshire+ Transport Fund projects based around the OGC PRINCE2 (Projects in Controlled Environments) and MSP (Managing Successful Programmes) methodologies. The scheme described in this report will be subject to these processes.
- 5.2. Both projects programmes key dates demonstrate that both schemes can be delivered by the 2019/2020 deadline. However, it also shows that there may be risks to the project associated with a CPO process becoming drawn out and extended. The additional delay and risk of this has been incorporated within the project's risk log and will be closely monitored throughout the processes associated with achieving Gateway 2 approval.

6. LEGAL APPRAISAL

- 6.1. The Council should use a specific power of compulsory purchase where available rather than a more general power. It is possible that the Council could use those powers contained in the Town & Country Planning Act 1990 in respect of the general economic wellbeing of the area but, as this is a highways issue, the Highways Act powers are appropriate.
- 6.2. It has been pointed out that the use of compulsory purchase powers should be considered as a matter of last resort and that a compelling case in the public interest must be made out. Members are advised that acquisition by negotiation should continue and that the making of a resolution, or indeed the CPO itself does not require that these be discontinued. Circular 06/2004 states:

“Before embarking on compulsory purchase and throughout the preparation and procedural stages, an acquiring authority should seek to acquire land by negotiation where practicable. The compulsory purchase of land is intended as a last resort in the event that attempts to acquire by agreement fail. Acquiring authorities should nevertheless consider at what point the land they are seeking to acquire will be need and, as a contingency measure, should plan a compulsory purchase timetable at the same time as conducting negotiations.

Given the time which needs to be allowed to complete the compulsory purchase process, it may be more often sensible for the acquiring authority to initiate the formal procedures in parallel with such negotiations”.

It is therefore legally correct (subject to other issues) to authorise a CPO while negotiations are proceeding.

7. OTHER IMPLICATIONS

7.1. EQUALITY & DIVERSITY

Due consideration has been given in writing this report to the Council’s duties under Section 149 of the Equalities Act 2011.

The introduction of pedestrian facilities at this junction will improve the accessibility of the local area and will particularly benefit disabled people.

7.2. SUSTAINABILITY IMPLICATIONS

The improvement of the Harrogate Road / New Line junction will support the future housing requirements for the District.

Improvements to the traffic flow on Harrogate Road will assist in reducing the level of harmful pollutant emissions from vehicles on this busy road and the A657 New Line. Similar benefits will apply to the Hard Ings Road Improvement scheme.

Introduction of dedicated cycle facilities throughout the junction will assist in encouraging greater use of cycling through on both the Harrogate Road and New Line corridors and Hard Ings Road.

7.3. HUMAN RIGHTS ACT

The Human Rights Act 1998 places direct obligations on public bodies such as the Council to demonstrate that the use of compulsory purchase powers is in the public interest and that the use of such powers is proportionate to the ends being pursued.

It is acknowledged that the compulsory acquisition of the Order Land could amount to an interference with the human rights of those with an interest in the Land. These rights include those under Article 1 of the First Protocol of the European Convention on Human Rights (“ECHR”)(which provides that every natural or legal person is entitled to peaceful enjoyment of his possessions) and Article 8 of the ECHR (which provides that everyone has the right to respect for his private and family life, his home and his correspondence).

In this instance the Council considers that there is a compelling case in the public interest for compulsory acquisition of the Order Land that should outweigh such rights, and therefore the use of compulsory purchase powers in this matter is proportionate. Without the use of these powers it is possible that all of the land necessary to deliver the scheme may not be available within a reasonable

timescale, which would compromise the delivery of the junction improvement and the extensive benefits for both travellers and the local community that the scheme provides.

7.4. TRADE UNION

There are no Trade Union implications arising from this report.

7.5. WARD IMPLICATIONS

The Harrogate Road / New Line scheme lies within the Idle & Thackley and Eccleshill wards. The Hard Ings Road Improvement lies within the Keighley Central ward. Members and the local community have been consulted on the current scheme proposals and will similarly continue to be consulted as the scheme reaches appropriate stages of development.

Where the council has been able to identify individual property owners it has made contact directly prior to the preparation of this report. Where the Council has currently been unable to identify property owners letter drops to individual properties have been made advising of the Council's intentions in relation to this scheme and seeking commencement of negotiations.

8. NOT FOR PUBLICATION DOCUMENTS

8.1. This report contains exempt information. Exempt information is included in Appendix 1 and 2 and is not for publication. The exempt information is under the following category (identified in amended schedule 12A of the Local Government Act 1972):

S(3) Information relating to the financial or business affairs or a particular person including the authority holding the information.

9. OPTIONS

9.1. There are a number of potential options available to Executive for each of the issues presented in this report, namely:

- a) Approval or rejection of the modification of the CPO boundaries as shown in Appendices 1 and 2 of this report - Approval of the modifications would allow both schemes to progress to a slightly modified programme towards CPO and their ultimately delivery. Currently, both schemes are running two months behind their original programmes as a result of the necessity to amend their CPO details. Alternatively were Executive minded to refuse the modifications proposed such a decision would jeopardise the delivery viability of the schemes which ultimately could potentially see the scheme funding from WYCA being withdrawn.
- b) Approval or rejection of the introduction of powers under Section 40 of the Road Traffic Regulation Act 1984 - Approval of the use of these powers would allow delivery of mitigation proposals associated with off-street parking provision to be incorporated into the CPO. Such an approach would help mitigate the ultimate compensation payable by the Council to

affected businesses in the area. Alternatively, were these powers not conferred further negotiation would be essential to try to mitigate the financial impacts to the scheme of not being able to address parking issues. Ultimately, it is unlikely that such negotiations would be able to provide equivalent mitigation to the replacement of off-street parking proposed.

- c) Delegation of determination of further modifications to the CPO details - Whilst the schemes are nearing a design freeze to allow deposit of the CPO with the Secretary of State it is possible that further minor amendments could be required to the CPO boundary details contained in this report. Were Executive minded to delegate consideration of such a modification to the Strategic Director and Portfolio Holder any such required amendments to the CPO boundary could be resolved with minimal further delay to the programme being incurred. However, were Executive not minded to delegate these matters then a further potential 2 – 3 month delay could be incurred to the overall project programme jeopardising the Council's ability to deliver a scheme by 2019/20 as required under the terms of the Growth Deal.

10. RECOMMENDATIONS

10.1. That the Executive resolve as follows:-

- a) That a Compulsory Purchase Order be made under Section 239, 240, 246, 250 and 260 of the Highways Act 1980, Section 40 of the Road Traffic Regulation Act 1984 and the Acquisition of Land Act 1981 to be known as the City of Bradford Metropolitan District Council (Harrogate Road / New Line Junction Improvement Scheme) Compulsory Purchase Order 2017 for the compulsory purchase of land and rights required for the construction of the Harrogate Road / New Line junction as shown on revised drawing no: R/PTH/MH/103196/CPO-6A (the 'Order Land') annexed to this report.
- b) That the boundary plan previously approved by Executive on the 12th January 2016 in relation to the City of Bradford Metropolitan District Council (A650 Hard Ings Road Improvement Scheme, Keighley) Compulsory Purchase Order 2017 for the compulsory purchase of land and rights required for the construction of the proposed Hard Ings Road highway improvement scheme be amended, as shown on the revised drawing no: PTH/HS/103197/CPO-01B (the 'Order Land') annexed to this report.
- c) That the previous CPO resolutions inconsistent herewith be and are hereby rescinded
- d) That the details of the above Compulsory Purchase Order resolutions be placed on the Register of Local Land Charges.
- e) The Compulsory Purchase Orders be submitted to the Secretary of State for Transport for confirmation at the earliest possible opportunity.

- f) That in the event of a further modification to the extent of the Order Land as a result of on-going negotiations the authorisation of any further amendments to the CPO boundary be delegated to the Strategic Director of Place in consultation with the Portfolio Holder, Regeneration, Planning & Transport in the interests of expediency.
- 10.2. That the Executive declares surplus to requirements for community use an area of land used for recreation comprising in the whole some 338 square metres (or thereabouts) of land shown edged red on Plan A annexed to this report and agrees, in principle, that the land may be used instead to facilitate a proposed highway widening scheme along Harrogate Road / New Line, Greengates, Bradford.
- 10.3. That the intention to provide replacement land comprising 1,249 square metres (or thereabouts) of land shown shaded green on Plan B annexed hereto for the highway widening scheme, be approved pursuant to Section 122(2A) of the Local Government Act 1972 in order to replace the public open space land needed for the road widening.
- 10.4. That consideration of any objections received to both published notices described in 10.2 and 10.3 above on whether the open space land should be permitted to be used for the road widening scheme and the replacement land appropriate from highway purposes to community use, be delegated for decision to the Executive Portfolio Holder for Regeneration, Planning and Transport and the Strategic Director: Corporate Services.

11. APPENDICES

- 11.1. Appendix 1 – Drawing No. R/PTH/MH/103196/CPO-6A, CPO Order Land for Harrogate Road / New Line Improvement Scheme
- 11.2. Appendix 2 – Drawing No. PTH/HS/103197/CPO-01B, CPO Order Land for the A650 Hard Ings Road Improvement Scheme, Keighley
- 11.3. Appendix 3 – Harrogate Road / New Line - Public Open Space (Plan A)
- 11.4. Appendix 4 – Harrogate Road / New Line - Public Open Space (Plan B)

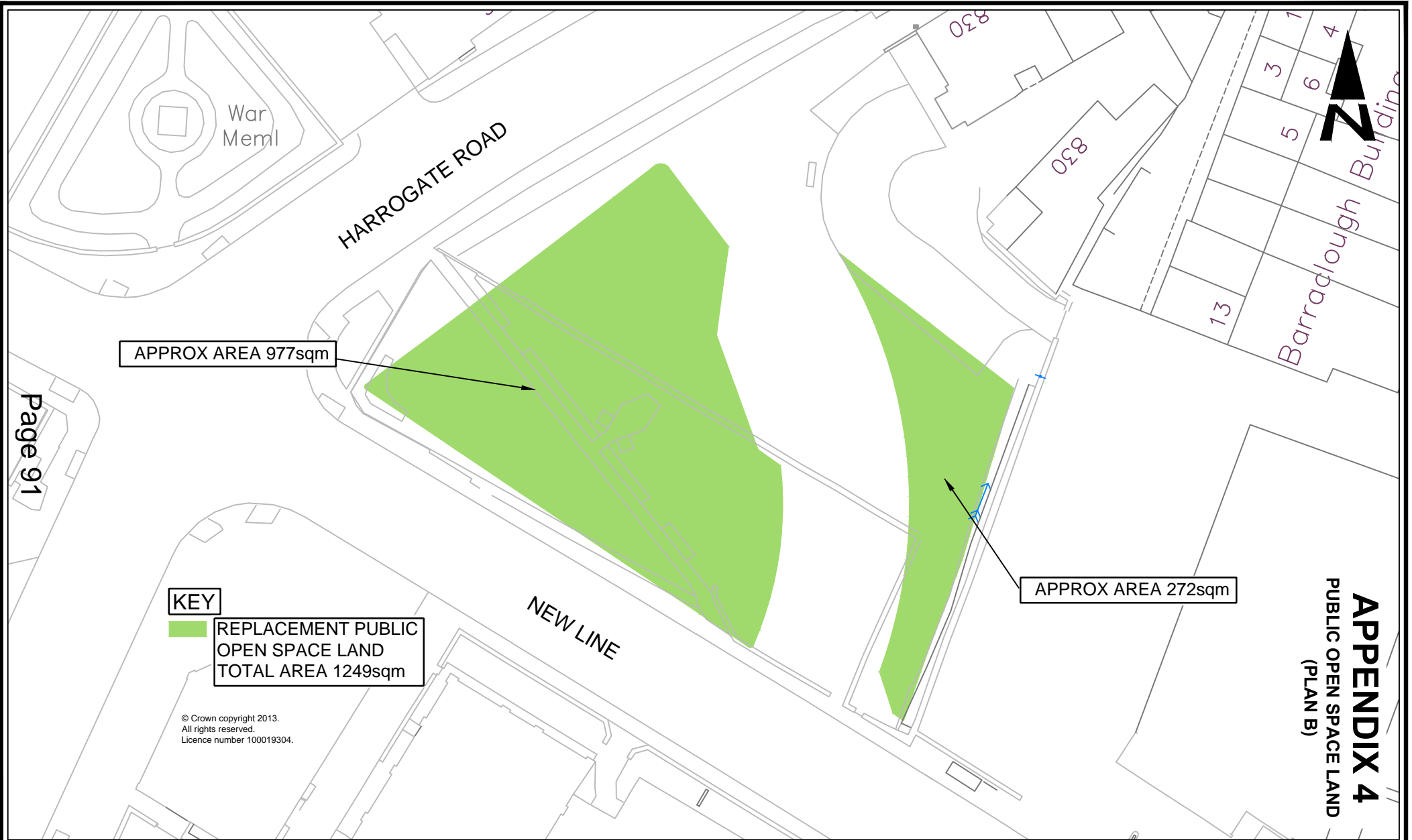
12. BACKGROUND DOCUMENTS

- 12.1. Scheme Files – 102581 & 103196
- 12.2. West Yorkshire Combined Authority Gateway 1 submission – Harrogate Road / New Line Junction.
- 12.3. West Yorkshire Combined Authority Gateway 1 submission – Hard Ings Road Improvement.
- 12.4. Report to Executive 2 October 2012 - West Yorkshire+ Transport Fund
- 12.5. Report to Council 10 October 2012 – West Yorkshire+ Transport Fund
- 12.6. Report to Executive 5 March 2013 – West Yorkshire+ Transport Fund

- 12.7. Report to Council 18 March 2013 – West Yorkshire+ Transport Fund
- 12.8. Report to Executive 15 January 2015 – West Yorkshire+ Transport Fund, Harrogate Road / New Line junction.
- 12.9. Report to Executive 21 July 2015 – West Yorkshire+ Transport Fund, Hard Ings Road Improvement, Keighley.
- 12.10. Report to Executive 5 December 2015 – West Yorkshire+ Transport Fund - Harrogate Road / New Line Junction Improvement Update and Compulsory Purchase Order (Highways Act 1980).
- 12.11. Report to Executive 12 January 2016 – West Yorkshire+ Transport Fund – Hard Ings Road Improvement Update and Compulsory Purchase Order (Highways Act 1980).
- 12.12. Report to Executive 14 June 2016 – West Yorkshire+ Transport Fund – Compulsory Purchase Order and Side Road Order Powers under Highways Act 1980.

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Page 91

APPROX AREA 977sqm

APPROX AREA 272sqm

KEY
 REPLACEMENT PUBLIC OPEN SPACE LAND
 TOTAL AREA 1249sqm

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APPENDIX 4
 PUBLIC OPEN SPACE LAND
 (PLAN B)

City of Bradford MDC www.bradford.gov.uk Department of Place Strategic Director: Steve Hartley	Design Office: Planning, Transportation & Highways Service Highway Design Unit 4th Floor Britannia House Hall Ings Bradford BD1 1HX	Project HARROGATE ROAD / NEW LINE JUNCTION IMPROVEMENT SCHEME	Design ADM Scales @ A4 1:500	Drawn ADM Approved RG	Checked HB	Released ADM Date FEB 17	Drawing Title REPLACEMENT PUBLIC OPEN SPACE LAND
		Client A Original Revision	ADM 21.02.17 Inits Date	Engineer to Contract	Drawing No. R/PTH/MH/103196/LA-34A		

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Report of the Strategic Director (Place) to the meeting of the Executive to be held on 7th March 2017

BP**Subject:**

Bradford City Centre - Proposed amendments to on-street vehicle parking charges and changes to some designated pay and display and limited waiting bays.

Summary statement:

This report considers the objections received to the proposals to extend the hours of on-street parking charges to 8a.m – 6p.m on Monday to Saturday (currently 10a.m – 4.30p.m) and to introduce a fixed £1 charge on Sundays in pay and display bays within Bradford city centre.

The report also considers the objections received to introduce pay and display bays on Canal Road, Valley Road, Bolton Road and Mill Street, which are currently designated as limited waiting parking bays, and to a proposal to provide a bus bay on Upper Piccadilly.

Steve Hartley
Strategic Director (Place)

Portfolio:

Regeneration, Planning and Transport

Report Contact: Richard Gelder
Highway Services Manager
Phone: (01274) 437603
E-mail: richard.gelder@bradford.gov.uk

Overview & Scrutiny Area:

Environment and Waste Management

1. SUMMARY

- 1.1 This report considers the objections received to the proposals to extend the hours of on-street parking charges to 8a.m – 6p.m on Monday to Saturday (currently 10a.m – 4.30p.m) and to introduce a fixed £1 charge on Sundays in pay and display bays within Bradford city centre.
- 1.2 The report also considers the objections received to introduce Pay and Display bays on Canal Road, Valley Road, Bolton Road and Mill Street, which are currently designated as Limited Waiting parking bays, and to a proposal to provide a bus bay on Upper Piccadilly.

2. BACKGROUND

- 2.1 At its meeting of 25th February 2016 Full Council considered a report on Executive's budget for 2016/17 and 2017/18. At this meeting Council made the following resolution regarding the budget:

Resolved –

- 1.1 (e) **That the Executive's amended service saving proposals for 2017/18 as detailed in the amended Appendix E to Council Document "R" be approved, requiring the Chief Executive, Strategic Directors and Directors to take necessary action during 2016/17 to ensure that these savings are fully achievable for 2017/18.**

Part of these proposals consisted of changes to on-street parking charges in Bradford city centre, comprising:

- The extension of on-street charging hours from 8a.m to 6p.m.
 - The introduction of a Sunday flat rate charge of £1.
- 2.2 On-street parking charges in Bradford city centre currently operate between 10a.m and 4.30p.m Monday to Saturday. These charges were originally designed to encourage shoppers into the city centre either before or following the charging period. However, wardens have reported that many of the premium on-street spaces are being taken up by owners and workers at the adjacent businesses for convenience parking, effectively reducing parking availability to visitors for shopping purposes.
 - 2.3 The current charging hours allow each pay and display space to be occupied until midday for a fee of £1.40 and all day for £4.90. The Council's off-street city centre car parks are currently charged at £4 per day, meaning that for an additional 90p per day, it is possible to park on-street outside businesses all day. It is felt that the proposed extension of on-street charging hours will encourage business owners and workers to use central off-street car parks, as the introduction of extended parking charges would result in a cost of £7 for all day parking, thereby freeing up spaces on-street for shoppers to park.

- 2.4 The proposal to increase the on-street charging hours would also achieve some consistency with other local authorities within West Yorkshire, as highlighted in the table below, which shows that all the other authorities operate on-street charges between the hours of 8a.m and 6p.m.

Authority	Charge per hour	Maximum stay	Operational hours	Evening charge	Sunday charge
Leeds	£1.70 – £3.00	2hrs	8-6 Mon - Sun	£2.00 Mon - Sun	£1/4hrs - £4 over 4hrs. £2 evening charge
Wakefield	90p	1hr	8-6 Mon – Sat	No	No
Kirklees	£1.00 for 45mins	90mins	8-6 Mon-Sat, Sun from 12pm	No	£1.00 per visit
Calderdale	£1.00	1/2/4hrs	8-6 Mon - Sat	No	No
Bradford	70p	2hrs	10 – 4:30 Mon - Sat	No	No

- 2.5 A streetscape regeneration scheme for the "top of town" is currently being developed which includes proposals for modifications to North Parade, Northgate, Rawson Road, James Street, John Street, Godwin Street and Darley Street. The nature of the regeneration proposals being considered may have implications for the revision to parking charges proposed within this report.
- 2.6 Following an initial informal consultation process, objections to the proposals were received from the Bradford District Chamber of Trade on 17 June 2016, and these are detailed in Appendix 2. Other objections were received following the advertisement of the Traffic Regulation Order, which was advertised between 25 January and 15 February 2017, and these are also detailed in Appendix 2.
- 2.7 A consultation on the parking review for the Canal Road area (to include Canal Road, Valley Road, Bolton Road and Mill Street) was also undertaken during July 2016. This initial review proposed that existing limited waiting bays on Bolton Road be changed to become pay and display bays between the hours of 8a.m - 8p.m Monday to Saturday (currently 10a.m - 4.30p.m), and 11a.m - 5p.m on Sunday, and

that existing limited waiting bays on Canal Road and Mill Street be amended to become pay and display bays with the same charging hours, but also allowing permit parking between 4.30p.m – 8p.m Monday to Friday and all day Saturday and Sunday. The reasoning behind the extension in charging hours on these streets was to mirror the opening times of The Broadway shopping centre, and to encourage shoppers to use the centre car park rather than parking on-street in a developing residential area.

- 2.8 The Canal Road parking review also included amendments to several specific parking bays within the city centre generally, to facilitate requests made by current occupiers of adjacent buildings. Included within these proposals was the introduction of a bus bay outside No.42 Piccadilly adjacent to Auburn House, which is now occupied by Hft, a national charity providing services for people with learning disabilities. The proposed bus bay would replace a length of existing pay and display parking, with the resultant loss of two spaces.
- 2.9 An objection to the Canal Road parking review was received from the Bradford District Chamber of Trade on 8th September 2016, and these are also detailed in Appendix 2.
- 2.10 A subsequent review of the initial proposals for the Canal Road area, taking into account the Bradford District Chamber of Trade's objections, amended the on-street parking charging hours so that they were consistent with the wider city centre area, whilst still allowing permit parking on both Canal Road and Mill Street. The amended proposals are shown on Dwg. No. TDG/TCHW/41112/CANAL RD AREA/TRO-5A in Appendix 1.

3. OTHER CONSIDERATIONS

- 3.1 There are no other considerations at this time.

4. FINANCIAL & RESOURCE APPRAISAL

4.1 Financial Appraisal

- 4.1.1 The income received from on-street pay and display charges in Bradford city centre in the financial year 2015/16 was £435,365. The projected income if all the existing bays are extended to 8a.m to 6p.m will be an additional £100K and the projected income for the introduction of a £1 fixed Sunday charge will be an additional £40K, both these figures being based on surveys of current usage.
- 4.1.2 In the financial year 2015/16, £305,475 (70% of the total revenue) was derived from the streets that are the subject of the objection received from the Bradford District Chamber of Trade. If the objection is upheld, it is estimated that the Council will generate £42K of the £140K detailed in 4.1.1 above.
- 4.1.3 Estimated costs associated with the amendments to the city centre due to this on-street parking review will be £30K, comprising of £19K for new pay and display machines for Canal Road, Valley Road, Bolton Road and Mill Street, £3K for software alterations to existing pay and display machines and £8K for the replacement of sign plates, and these costs will be met from existing financial resources.

4.2 Resource Appraisal

4.2.1 The scheme can be delivered through the use of existing resources.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

5.1 There are no perceived risks arising out of the implementation of the proposed recommendation.

6. LEGAL APPRAISAL

6.1 The City Solicitor has confirmed that there are no specific legal issues arising from this report. The course of action proposed is in general accordance with the Council's powers as Highway Authority.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

This review has considered the views of all people within the Community including those with special needs.

7.2 SUSTAINABILITY IMPLICATIONS

There are no sustainability implications arising from this report.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are no direct implications arising from this report.

7.4 COMMUNITY SAFETY IMPLICATIONS

There are no direct implications arising from this report.

7.5 HUMAN RIGHTS ACT

There are no direct implications arising from this report.

7.6 TRADE UNION

There are no direct implications arising from this report.

7.7 WARD IMPLICATIONS

There are no Ward or area implications

8. NOT FOR PUBLICATION DOCUMENTS

8.1 None.

9. OPTIONS

- 9.1 There are a number of options which Executive may wish to consider in relation to this matter, including:
- (a) Over ruling the objections received to the proposals and approving their introduction as proposed.
 - (b) Uphold the objections received from the Bradford District Chamber of Trade, whereby the shopping streets of Kirkgate, Westgate, Manor Row, Cheapside, North Parade, Sunbridge Road (from its junction with Godwin Street to City Park) and Bank Street (from its junction with Market Street to its junction with Hall Ings) continue as pay and display charging hours between 10a.m – 4.30p.m Monday - Saturday, with no charges on a Sunday. The limited waiting bays on Canal Road, Valley Road, Bolton Road and Mill Street remain as the existing restriction, but still allow for permit parking. The proposal to provide a bus bay on Upper Piccadilly be rejected.
 - (c) Uphold the objections received from the other objectors outlined in Appendix 2, whereby no changes are made to existing on-street parking charges to the streets at the “top of town”.
 - (d) Or to approve various elements of option 9.1(a), (b) and (c) above as the Executive determines is appropriate.

10. RECOMMENDATIONS

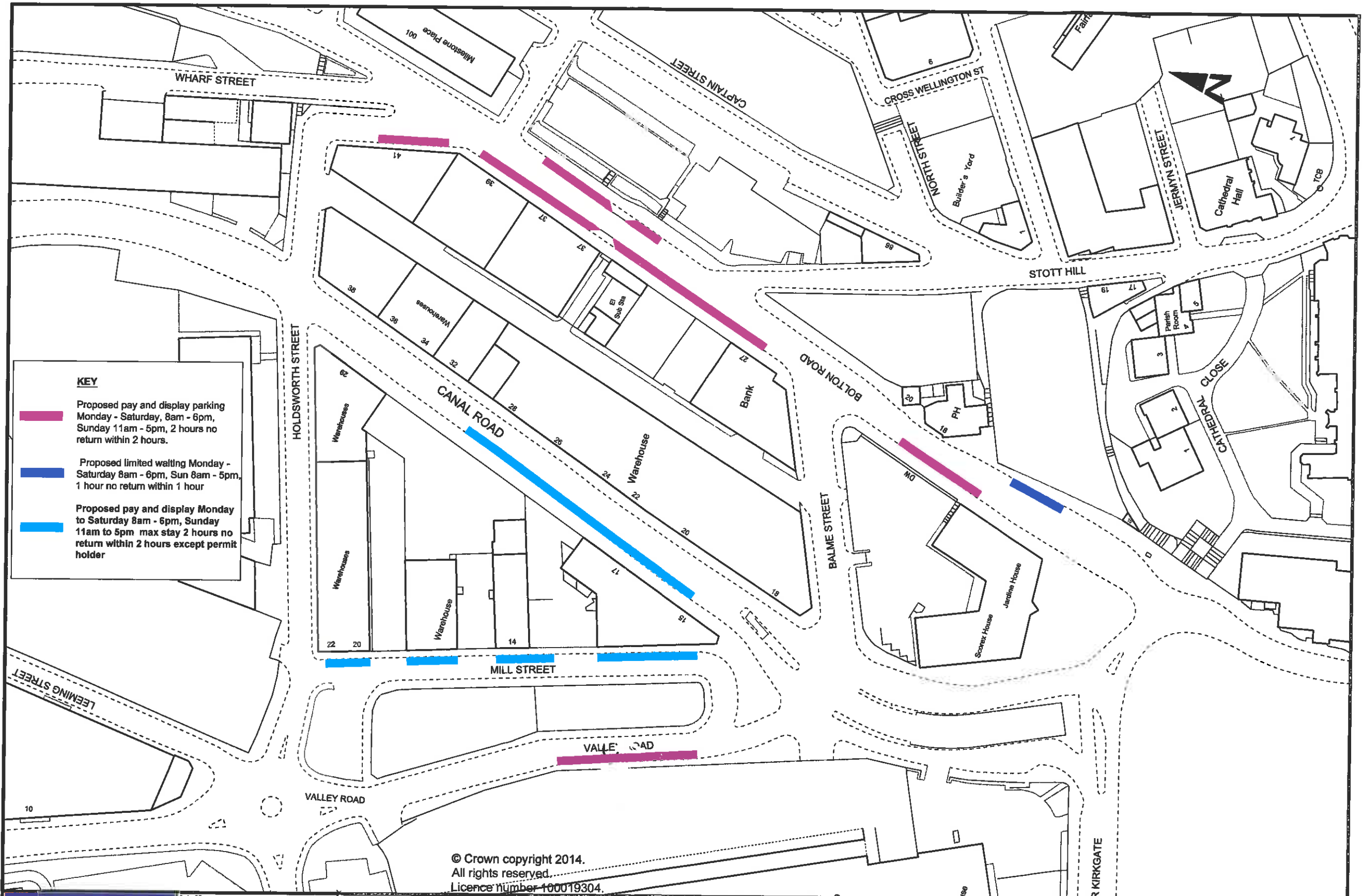
- 10.1 That Executive approves the introduction of the revised on-street parking charges as described in this report, with the exception of the implementation of a £1 Sunday flat rate charge to some “top of town” streets, namely North Parade, Northgate, Rawson Road, Godwin Street and Darley Street, where regeneration proposals may affect on-street parking provision, as referred to in section 2.5 of the report. The proposed bus bay on Upper Piccadilly be approved.
- 10.2 That all objectors be notified of the Executive’s decision.

11. APPENDICES

Appendix 1: Dwg. No. TDG/TCHW/41112/CANAL RD AREA/TR0-5A
Appendix 2: Table listing objections received and officer comments.

12. BACKGROUND DOCUMENTS

- 12.1 Decision Sheet 53/16: Parking review of Bradford city centre to include amendments and hours of charging in pay and display bays.
- 12.2 Decision Sheet 49/15: Parking review of Little Germany and Wapping, Bradford to include amendments of on-street restrictions to take account of the adjacent Broadway Centre opening hours
- 12.3 Decision Sheet 48/15: Traffic Regulation Order – introduction of a bus bay parking space outside No.42 Piccadilly, Bradford.



KEY

- Proposed pay and display parking
Monday - Saturday, 8am - 6pm,
Sunday 11am - 5pm, 2 hours no
return within 2 hours.
- Proposed limited waiting Monday -
Saturday 8am - 6pm, Sun 8am - 5pm,
1 hour no return within 1 hour
- Proposed pay and display Monday
to Saturday 8am - 6pm, Sunday
11am to 5pm max stay 2 hours no
return within 2 hours except permit
holder

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City of Bradford MDC
www.bradford.gov.uk
Department of Regeneration and Culture
Strategic Director: Barra Mac Rualri RIBA FRSA

Design Office
Transportation and Highways Service
Traffic & Highways Unit
4th Floor
Britannia House
Hall Ings
Bradford
BD1 1HX

Project
**CANAL ROAD AREA, BRADFORD
PROPOSED PARKING REVIEW**

Client

A	Original	MAG	07/16
	Revision	Inits	Date

Design	Drawn	Checked	Released
SJ	SJ	CB	CB
Scale(s) @ A3	Approved	Date	
1:1000	CB	07/15	
Engineer to Contract			
C P LEACH CEng MICE			

Drawing Title
TRAFFIC REGULATION ORDER PLAN

Drawing No.
TDG/THCW/41112/CANAL RD AREA/TRO-5A

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Objectors Concerns	Officer Comments
<p>City Centre Parking Review</p>	
<p>The Bradford District Chamber of Trade objected to the charging hours being increased to pay and display bays on Darley Street, Godwin Street, James Street, Kirkgate, Westgate, Manor Row, Cheapside, North Parade, Sunbridge Road (from its junction with Godwin Street to its junction with City Park) and Bank Street (from its junction with Market Street to its junction with Hall Ings), as they class these streets as being of prime importance as quick turn around spaces for shoppers, and consequently they are crucial to encouraging shoppers into the top end of the city centre. The objection also stated that, in the opinion of the Bradford District Chamber of Trade, that this viewpoint was particularly important at this time, as Darley Street in particular is decimated by the influx of empty properties due to businesses re-locating into the new Broadway centre. Businesses currently located around the Kirkgate Centre and right up to North Parade and the Oastler Market are looking to all parties to maintain and increase footfall to those areas, and an increase in charging hours would create a further negative effect for them to contend with.</p>	<p>The proposals to increase on-street pay and display charging hours in Bradford city centre conform to the decision made by full Council on 25th February 2016 to increase charging hours for on-street parking in pay and display bays in Bradford city centre.</p> <p>.</p> <p>The streets listed in the objection comprise the majority of the city centre area, not just the top end of town. The only city centre streets not included within the objection where on-street pay and display parking exists are Vicar Lane, Bridge Street, Sharpe Street and small lengths of Bank Street, Broadway and Hall Ings.</p>
<p>The Bradford District Chamber of Trade also objected to the proposal to implement a Sunday flat rate charge of £1, as this would create a negative effect when shoppers are deciding where they choose to visit on a Sunday. This is particularly important when the Council (and others) have organised specific events taking place in the city centre on a Sunday, and the success of that event depends upon the support of visitors to the city centre (especially important on the build-up to Christmas when shoppers choose to visit an out of town facility where they would continue to enjoy free parking facilities).</p>	<p>The proposals for a Sunday flat rate charge of £1 conform to the decision made by full Council on 25th February 2016 to increase charging hours for on-street parking in pay and display bays in Bradford city centre.</p>
<p>The Bradford District Chamber of Trade suggested that, instead of justifying increasing the on-street parking hours to be consistent with other neighbouring local</p>	<p>This is a suggestion rather than an objection to the subject matter of this report, so is noted only.</p>

authorities which offer a more attractive shopping offer, the Council should reduce or remove parking charges, which might result in the positive effect of increasing visitor footfall to Bradford, which every business could enjoy

Two objections have been received from businesses on North Parade with regard to both the extension of on-street parking charging hours to 8a.m-6p.m Monday to Saturday and the £1 flat rate charge on a Sunday. The objectors state that the proposals would affect post work trade during the week, which peaks between 5p.m and 6p.m, and customer feedback has indicated that customers would be less likely to visit their businesses should the charging hours be extended.

In addition, the £1 flat rate Sunday charge would also have an adverse effect, as this is the quietest day of the week on North Parade, with car parking spaces being freely available throughout the day, and a charge would prove to be a financial disincentive to customers, who will choose to drive past the street rather than park up and frequent the businesses.

The objectors state that the blanket imposition of the on-street parking charge proposals will punish traders generally at the “top of town”, and they have worked hard to establish their businesses during the past few years. The proposals will only dissuade customers from visiting and could potentially destroy their businesses.

The objectors suggest that the on-street parking charges to the “top of town” be deferred until the future of the markets area is decided, and footfall figures to the area show a significant increase.

An objection was received from the Bradford Civic Society to the implementation of extended parking restrictions to the “top of town”, which could potentially kill the burgeoning tea time, after-work and Sunday trade., which still needs careful nurturing after years of decline to encourage further growth.

The proposals to increase on-street pay and display charging hours in Bradford city centre conform to the decision made by full Council on 25th February 2016 to increase charging hours for on-street parking in pay and display bays in Bradford city centre.

The proposals to increase on-street pay and display charging hours in Bradford city centre conform to the decision made by full Council on 25th February 2016 to increase charging hours for on-street parking in pay and display bays in Bradford city centre.

Simes Street, signed by thirty petitioners, which objected to the proposals to extend the on-street parking hours, stating that The Bazaar already struggles to attract custom and the business survives on trade generated by customers who visit the premises whilst free parking is in operation i.e after 4.30p.m and on Sundays. As this is the only business in this part of the city that opens until 7p.m and on Sundays, they state that they would be the business most affected by the proposals.

Canal Road Area Parking Review

The Bradford District Chamber of Trade oppose any extension to the on-street parking charge hours on Canal Road, Valley Road, Bolton Road and Mill Street as it would have an adverse impact on commuters wishing to visit the city centre during both the daytime and early evening, thereby having a negative effect on the local economy. In addition, the Chamber of Trade were of the opinion that not everybody parking on these streets would be visiting The Broadway, and as such, a charging regime that finished at 8p.m would have a detrimental effect on any motorists wishing to visit their chosen venues in the evening which commenced before 8p.m.

The Bradford District Chamber of Trade also opposed the proposed bus bay on Piccadilly, stating that for most hours of the working day the bus bay would not be used, and preventing ordinary vehicles from using the pay and display bay would affect the efficiency of a much used on-street parking facility for people visiting businesses in the city centre.

display charging hours in Bradford city centre conform to the decision made by full Council on 25th February 2016 to increase charging hours for on-street parking in pay and display bays in Bradford city centre.

The parking review of the Canal Road area initially proposed to introduce pay and display parking in the limited waiting bays on Canal Road, Valley Road, Bolton Road and Mill Street between the hours of 8a.m – 8p.m Monday to Saturday and 11a.m – 5p.m on Sunday. Following the objection received from the Bradford District Chamber of Trade, an amendment was made to change the charging hours to 8a.m – 6p.m Monday to Saturday to bring consistency between the affected streets and the wider city centre area.

No.42 Piccadilly is currently occupied by Hft, a national charity that provides services for people with learning disabilities throughout England. The facility at Piccadilly provides day service for up to 27 people, Monday to Friday. The people that attend Piccadilly all use a wheelchair and have profound and complex health needs and require one to one support from staff. All of the people that are supported by Hft use PTS transport or specially adapted transport with tail lifts that can park as close as possible to the building. Currently the afore-mentioned vehicles have to double park in Piccadilly causing problems to other road users.

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Report of the Strategic Director of Corporate Services to the meeting of Executive to be held on 7 March 2017.

BQ

Subject:

Mitigating the impacts of welfare reform on the poorest households and supporting people to access employment through the award of Discretionary Housing Payments.

Summary statement:

The report outlines how Discretionary Housing Payments could be used to mitigate the impacts of the further benefit cap on the District's poorest households and to support people into employment.

Stuart McKinnon-Evans
Director of Corporate Services

Portfolio:

**Leader/
Regeneration, Planning and Transport**

Report Contact: Martin Stubbs/Helen
Johnston
Phone: (01274) 432056 and 434401
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helen.johnston@bradford.gov.uk

Overview & Scrutiny Area:

Corporate



1. SUMMARY

- 1.2 The report outlines how Discretionary Housing Payments could be used to mitigate the impacts of the further benefit cap on the District's poorest households and to support people into employment.

2. BACKGROUND

- 2.1 The Government's welfare reforms have meant reductions in income for some of Bradford's residents. These reforms continue, with the reduced benefit cap introduced in Bradford in January 2017 and the limit to benefit for families having a third or subsequent child from April 2017. Whilst previous reforms have had an impact on families in the District, these will be specifically targeted at families.
- 2.2 The Centre for Regional Economic and Social Research report published in March 2016 found that 83 per cent of the loss from the post-2015 welfare reforms (£10.7bn a year by 2020-21) can be expected to fall on families with dependent children. On average, couples with two or more dependent children will lose £1,450 a year while lone parents with two or more children will lose £1,750 a year.

The Uneven Impact of Welfare Reform - March 2016
Centre for Centre for Regional Economic and Social Research
Sheffield Hallam University

- 2.3 Bradford District Plan 2016- 2020 describes the local commitment to supporting children to reach their potential, in terms of their health and well-being, education and employment. Supporting the poorest families to secure the resources available to help them provide a secure and stable home for their children is one way in which this commitment can be met.
- 2.4 Council of the 13 December 2016 requested the Chief Executive bring a report to Executive on how the impact of welfare changes can be mitigated on the poorest families and how parents can be supported to access employment.
- 2.5 Changes in funding of the Discretionary Housing Payment award from 1 April 2017 present an opportunity to consider how families could be supported now. A further report will be brought to Executive on other actions recommended once the newly formed Anti-Poverty Co-ordination Group has deliberated on the matter.
- 2.6 Corporate Overview and Scrutiny Committee of the 2 February 2017 received a report for information and comment as follows:
- 2.6.1 Discretionary Payments – An update on the support provided by the Council to financially vulnerable residents through the Discretionary Housing Payments (DHP) scheme and the Assisted Purchase Scheme (APS) during the period 1 April 2016 to 31 December 2016.

This report is provided as a background document to this report.



3. OTHER CONSIDERATIONS

Anti-Poverty Co-ordination Group

- 3.1 The overarching multi-partner Anti-Poverty Co-ordination Group that met for the first time on 14 February 2017 has been established to implement a number of the recommendations from the Bradford Scrutiny Poverty Review and consider interventions that will help to alleviate poverty in the district.
- 3.2 The Council Member Anti-Poverty Champion is Cllr Cath Bacon and the group is chaired by the Regeneration, Transport and Planning Portfolio Holder, Cllr Alex Ross-Shaw. The group will, over the coming months, develop a strategic framework and delivery plan.
- 3.3 The Group will work with the Chief Executive to provide the wider report to Executive that will consider how the impact of welfare changes can be mitigated on the poorest families and how parents can be further supported to access employment.

Reduction in welfare benefit cap

- 3.4 From January 2017, government implemented a further welfare benefit cap. This limits total benefit payments to a maximum of £20,000 per annum for families where the parent or parents are not in paid employment.
- 3.5 The initial benefit cap of a maximum of £23,000 had impacted on the income of families in Bradford where there were three or more children who are relying wholly on welfare benefits. This initially affected around 250 families, but settled at around 150 when the new cap was introduced
- 3.6 The latest reduced cap is now impacting further on the incomes of families with three or more children, who are reliant wholly on welfare benefits. Around 850 of the Districts families are now affected which means that at least 2,550 children are affected.
- 3.7 Those people receiving welfare benefits who are in employment for 16 hours or more per week, and couples where one is in employment for at least 16 hours and the other for at least eight hours per week, are not subject to the benefit cap.
- 3.8 Therefore the principal mitigation against welfare changes and being subjected to the benefit cap for the poorest families is to support those parents into paid employment.
- 3.9 There is local capacity to provide opportunities for skills training and other work-orientated support to those eligible to benefit from it.
- 3.10 The two child limit will not reduce the benefit entitlement of any family, but will mean



families having a third or subsequent child after 1 April 2017, will not receive any increase in benefit because of the additional child (except Child Benefit)

Discretionary Housing Payments (DHP)

3.11 Government provides funding to Local Authorities to administer the DHP scheme.. The table below shows how much Bradford Council has received in the last 5 years and what is expected in 2017/18.

	Government grant	Council top up	Amount to spend
12/13	£477,525		£477,525
13/14	£1,232,165		£1,232,165
14/15	£1,175,028		£1,175,028
15/16	£890,006	£300,000	£1,190,006
16/17	£1,108,611		£1,108,611
17/18*	£1,400,000		

* anticipated

3.12 The DHP Scheme provides additional support with housing costs for people in need and who are in receipt of Housing Benefit or Universal Credit (where this includes the housing element). The current Bradford Council DHP policy is available at Appendix A.

3.13 DHPs are paid to make up a shortfall between the amount of rent of a property and the amount of housing benefit payable. A DHP may cover the whole or part of the shortfall and is assessed against the available income within a household.

3.14 Whilst DHP is a national scheme, the legislation allows individual local authorities to develop the scheme to support local housing needs and priorities. Bradford's current policy supports:-

- Families with children of school age (and especially those in their GCSE years) where their homes have been deemed to be larger than their family is allowed for housing benefit purposes.
- People in social sector housing whose rented homes are deemed larger than allowed for housing benefit purposes and who have placed themselves on the housing list with the intention of securing 'suitably sized' accommodation.
- Those in rented accommodation where there is a shortfall between the Local Housing Allowance (LHA) and the rent payable.
- Absent parents who have contact with their children and where the single person housing allowance would not cover the cost of suitable accommodation that would allow the children to have access to their parent.



- People moving into work so that they can maintain their tenancy during a transitional period.
 - Disabled people who have had adaptations made to their property and where it would be more costly to move to another property.
- 3.15 Given the temporary nature of the funding, DHP's have always been used as a short-term measure, allowing residents some time to adjust their circumstances to fit their income. With the exception of those living in adapted accommodation because of their condition, they are usually, but not always, awarded for between three and twelve months.
- 3.16 The report to the Council's Corporate Overview and Scrutiny Committee on 2 February 2017 provided further details about Bradford's current scheme and suggested changes that could be made to reflect the evolving reforms. Since this report more data is now available which demonstrates:-
- 1,809 households have been supported so far this year and £867k awarded.
 - Of these households, 689 have children (with £281k awarded) and 1,220 have no children (with £586k awarded).
 - Of the total, 963 or 53% are being supported due to the social sector size criteria (also known as the Bedroom tax), but of these only 256 have children.
 - This situation is even more marked in the private sector, where 758 households have been supported this year, because of a shortfall due to the Local Housing Allowance, with 249 of these having children.
 - Further, of all awards, only 134 are made because of disabled adaptations
- 3.17 The reported increase in funding, the imminent pressure on households with children and the limited support for that group the current policy has provided, means it is appropriate for the Executive to consider its current DHP policy.

Options for consideration are to:

- 3.18 Amend the DHP Policy to:
- (1) Prioritise DHP awards to families by extending the period that the DHP can be awarded to them to ensure more stability of tenure. Currently DHPs are generally awarded for between three and twelve months.
 - (2) Where appropriate, encourage an adult or both adults from a household applying for a DHP to undertake skills training or access other work-orientated support. The benefit cap does not apply to:
 - Single parents in receipt of benefits who work for 16 or more hours per



week

- Parents who live as a couple, where one parent works at least 16 hours and the other for at least eight hours per week respectively.
- 3.19 Whilst funding is expected to increase for 2017/18, it will not be limitless, so any change to the DHP policy could affect other groups who currently receive an award. From the information available, households without children or disabled people make up 60% of all awards.
- 3.20 Not changing the local DHP policy, would mean that Council's resolve to support the poorest families would need to be met through other interventions. However, to date use of the DHP has been the main tool to mitigate against welfare changes.
- 3.21 DHP awards would continue to be monitored and reported to ensure that those people applying for them with protected characteristics were not adversely affected through any policy change.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 The Government announced that £800 million in Discretionary Housing Payment funding will be available to residents and administered by Local Authorities over the next five years, with £150 million of this funding earmarked for 2017/18
- 4.2 An announcement of the amount to be awarded to Bradford Council for 2017/18 is expected soon and indications are that it will increase.
- 4.3 Council's are able to add their own funding to support DHPs, but due to funding constraints the Council has not done so since 2015/16
- 4.4 DHP applications are accepted throughout the year and awards (and the length of awards) are made from a fixed amount of funding. The Council will have to continue to prioritise spend in line with policy for the whole year.
- 4.5 Capacity exists within skills training and other work-orientated provision. Any additional referrals and take up of provision will be met from within existing resources.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 The continuing rollout of Universal Credit means that measures need to be in place to guard against overpayments of DHP. In some cases this means that awards are made for shorter periods of 3 months
- 5.2 Changes to local DHP policy in relation to prioritising families and imposing a condition on payment of the award will mean that further pressure could be placed on resources for managing and administering the scheme.



6. LEGAL APPRAISAL

- 6.1 Legislation supporting DHPs is contained in the Discretionary Financial Assistance Regulations 2001. Whilst broad discretion is allowed, decisions must be made in accordance with ordinary principles about good decision making. In particular, the Council has a duty to act fairly and consistently and in accordance with the public sector equality duty under Section 149 Equality Act 2010.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

- 7.1.1 The introduction of the further benefit cap has a greater adverse impact on families in our district who have three or more children and who are wholly reliant on welfare benefits for their income. As such the Council can take action to mitigate impacts against this group.
- 7.1.2 The predominant criteria for eligibility for a DHP is based on need and income.
- 7.1.3 The expected increase in Government funding for DHP awards in 2017/18 will be available to support the change in DHP award priorities.
- 7.1.4 An Equality Impact Assessment has been undertaken in relation to the proposed policy change and is available at Appendix B.

7.2 SUSTAINABILITY IMPLICATIONS

- 7.2.1 DHPs support people to remain in their homes and within their established communities with access to their social and community support networks.
- 7.2.2 They are used to support children's education during critical times, such as during GCSEs, to enable parents to provide a stable home location ensuring children do not have to move schools.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are no greenhouse gas emissions impacts.

7.4 COMMUNITY SAFETY IMPLICATIONS

Supporting families and other residents to remain in their homes where they have established social, community and support networks supports their own perceptions of safety and security.

7.5 HUMAN RIGHTS ACT

Bradford Council's DHP scheme complies with both the Discretionary Payments



2001 legislation and the best practice guide.

7.6 TRADE UNION

None at this time

7.7 WARD IMPLICATIONS

People awarded DHPs or undertaking skills training or other work-oriented provision may be residing in wards across the district.

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

Not applicable

8 NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

9.1 Accept the proposal as set out within this report to amend the DHP Policy to:

- (1) Prioritise DHP awards to families by extending the period that the DHP can be awarded to them to ensure more stability of tenure. Currently DHPs are generally awarded for between three and twelve months
- (2) Where appropriate, encourage an adult or both adults from a household applying for a DHP to undertake skills training or access other work-orientated support.

9.2 Not accept the proposal as set out within the report (maintaining the current local policy for DHP awards)

10. RECOMMENDATIONS

10.1 That the DHP policy be amended as set out in appendix A to prioritise families by extending the period that the DHP can be awarded to ensure more stability of tenure. **And- so that** where appropriate, an adult or both adults from a household applying for a DHP are encouraged to undertake skills training or access other work-orientated support.

10.2 That Council officers responsible for skills and training programmes and other work-orientated programmes (such as Skills for Bradford, Get Bradford Working) work with officers in in Revenues and Benefits to investigate and, if viable and cost



neutral, share their client data **subject to the consent of the data subject or otherwise in accordance with the requirements of the law** for the purpose of:

- (1) Identifying parents and other adults who could benefit from provision aimed at supporting them into work or full employment.
- 10.3 That Executive instructs the Strategic Director of Corporate Services to involve the relevant Portfolio Holders and the Council's Anti-Poverty Champion in any further development of the DHP Policy.
 - 10.4 That Council officers in Revenues and Benefits Service ensure that Discretionary Housing Payments are promoted to parents through schools and through other locations in the district to ensure parents are aware of the support available and how to apply for it.
 - 10.5 That the Chief Executive provide a wider report for the Executive at the earliest time on how the impact of welfare changes can be mitigated on the poorest families and how parents can be supported to access employment

11. APPENDICES

- 11.1 Appendix A - Current Discretionary Housing Payments Policy with proposed changes
- 11.1 Appendix B - Equality Impact Assessment on the proposed DHP Policy

12. BACKGROUND DOCUMENTS

- 12.1 [COSC 2 February 2017 - Discretionary Payments](#)
- 12.2 [COSC 2 February 2017 - Bradford Scrutiny Poverty Review - Recommendations progress report](#)
- 12.3 [The Uneven Impact of Welfare Reform - Sheffield Hallam University - March 2016](#)
- 12.4 [Bradford District Plan 2016 - 2020](#)



Discretionary Housing Payments Policy

Discretionary Housing Payments (DHPs) are payments that can be made to those who require financial assistance in addition to Housing Benefit (HB) and Universal Credit (UC) in order to meet Housing Costs.

The scheme is administered under The Discretionary Financial Assistance Regulations 2001 (SI 2001/1167).

The main aspects of the scheme are:

- The amount of the fund and the maximum amount that can be added by the local authority in any given financial year are limited by the Secretary of State.
- A person must have a liability to pay rent to live in the dwelling and be entitled to HB or the Housing Element of UC in order to be considered for an award of a DHP.

The scheme is totally discretionary; no claimant has a statutory right to a payment.

Policy Aims

- **To make and keep rental accommodation in the Bradford District affordable. The introduction and control of a maximum weekly award will ensure rents above market value are not supported by the fund.**

Additionally no award of Discretionary Housing Payment will be made to those in excessively expensive accommodation. Instead the fund will be used to help them relocate to cheaper accommodation.

- **Prevent unnecessary homelessness, especially families and vulnerable groups.**

The fund will be used to help claimants remain in their home and homeless claimants secure new appropriate accommodation. This is provided that the property is both suitable for their needs and the rent charged is at an acceptable level.

Prioritise DHP awards to families in appropriate cases by extending the period that the DHP can be awarded to ensure more stability of tenure. Currently DHPs are generally awarded for between three and twelve months.

The length of award would depend on an individual family's circumstances e.g. .a family with three children where two are in the second year of their GCSE courses and the third will be starting their GCSEs the following year could have an award made to cover the whole period until all three children have completed their GCSE courses.

Once an award comes to an end, a further application can be submitted.



Help claimants live in accommodation appropriate to the needs of their household.

The assessments will take account of the households current and future needs. This will mainly include disabled adaptations, children's education and additional rooms for foster carers.

- **To ensure any disruption caused by welfare reform, to a child's education, is minimised.**

Prioritise DHP awards to families_in appropriate cases by extending the period that the DHP can be awarded to ensure more stability of tenure. Currently DHPs are generally awarded for between three and twelve months.

- **Assist vulnerable groups to live and remain in suitable accommodation.**

Special consideration will be given to those in accommodation that has been adapted or is specifically suitable for their medical needs

- **To help claimants avoid long term dependency on Welfare Benefits.**

DHPs cannot be considered as a permanent arrangement and normally awards should not exceed 52 weeks.

Where appropriate, encourage an adult or both adults from a household applying for a DHP to undertake skills training or access other work-orientated support.

- **Complement and interface with other discretionary schemes administered by the local authority.**

Policy Limitations

- The weekly maximum amount of DHP in addition to HB and UCH must not exceed the claimant's liability for rent.
- The maximum weekly award of DHP is limited to £50.00 unless the period of payment is less than 13 weeks and the total award is equal to or less than £650.00.

Exceptions to the maximum weekly amount are only permitted as described in the working practice. Where claimants have been affected by the Benefit Cap the



maximum weekly amount may be increased.

- Unless the Claimant/Household meets one of the Policies priorities, no award of DHP shall exceed 26 weeks.
- The weekly maximum amount of DHP in addition to HB and UCH must not exceed the claimant's liability for rent.
- The maximum period of any single award is 26 weeks if the household is over accommodated by 2 or more bedrooms. Repeat awards will only be made as specified in the working practice. **This aspect of the policy would be reviewed to ensure it reflects the revised policy to prioritise and support families' to provide stable and secure homes for their children.**



Equality Impact Assessment Form

Department	Corporate Services	Version no	V0.00
Assessed by	Paul Bland	Date created	17/02/2017
Approved by	Martin Stubbs	Date approved	17/02/2017
Updated by	Helen Johnston	Date updated	17/02/17
Final approval		Date signed off	

The Equality Act 2010 requires the Council to have due regard to the need to

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups

Section 1: What is being assessed?

1.1 Name of proposal to be assessed.

Discretionary Housing Payments (DHP) Policy proposals.

1.2 Describe the proposal under assessment and what change it would result in if implemented.

DHP provide additional support with housing costs for people in need and who are in receipt of Housing Benefit or Universal Credit (where this includes the housing element).

DHPs are paid to make up a shortfall between the amount of rent of a property and the amount of housing benefit payable. The DHP may cover the whole or part of the shortfall and is assessed against the available income within a household. Whilst DHP is a national scheme, the legislation allows individual local authorities to develop the scheme to support local housing needs and priorities.

The options to amend the current policy include:

- Prioritise families by extending the period that the DHP is awarded to ensure more stability of tenure. Currently DHPs are generally awarded for between three and twelve months.



- Where appropriate, make an award conditional on an adult from the household undertaking skills or accessing other work-orientated support. People in receipt of benefits who work for 16 or more hours per week do not have their benefit capped.

Whilst funding is expected to increase, it will not be limitless, so any change to the DHP policy could impact on other groups who currently receive an award. From the information available, households without children or disabled people make up 60% of all awards.

Not changing the local DHP policy, would mean that Council's resolve to support the poorest families would need to be met through other interventions. However, to date use of the DHP has been the main tool to mitigate against welfare changes.

DHP awards would continue to be monitored and reported to ensure that those people applying for them with protected characteristics were not adversely affected through any policy change.

Section 2: What the impact of the proposal is likely to be

- 2.1 Will this proposal advance equality of opportunity for people who share a protected characteristic and/or foster good relations between people who share a protected characteristic and those that do not? If yes, please explain further.**

Yes

Linking any award to an adult from the household undertaking skills or accessing other work-orientated support will have the potential to have a positive effect on those households on a low income and offer a way out of the negative effects of being on a low income

- 2.2 Will this proposal have a positive impact and help to eliminate discrimination and harassment against, or the victimisation of people who share a protected characteristic? If yes, please explain further.**

Yes

Prioritising families will have the effect of creating stable tenancies which will have a positive effect on those children in the household who will be able to establish themselves as part of a school and community.

- 2.3 Will this proposal potentially have a negative or disproportionate impact on people who share a protected characteristic? If yes, please explain further.**

No

- 2.4 Please indicate the level of negative impact on each of the protected characteristics?**

(Please indicate high (H), medium (M), low (L), no effect (N) for each)



Protected Characteristics:	Impact (H, M, L, N)
Age	L
Disability	N
Gender reassignment	N
Race	N
Religion/Belief	N
Pregnancy and maternity	N
Sexual Orientation	N
Sex	N
Marriage and civil partnership	N
Additional Consideration:	
Low income/low wage	N

2.5 How could the disproportionate negative impacts be mitigated or eliminated?
 (Note: Legislation and best practice require mitigations to be considered, but need only be put in place if it is possible.)

N/A

Section 3: Dependencies from other proposals

3.1 Please consider which other services would need to know about your proposal and the impacts you have identified. Identify below which services you have consulted, and any consequent additional equality impacts that have been identified.

Health and Wellbeing and Childrens Services

Section 4: What evidence you have used?

4.1 What evidence do you hold to back up this assessment?

Data collected over several years on the administration of DHP schemes and those households who have been assisted.

4.2 Do you need further evidence?



No

Section 5: Consultation Feedback

5.1 Results from any previous consultations prior to the proposal development.

N/A

5.2 The departmental feedback you provided on the previous consultation (as at 5.1).

N/A

5.3 Feedback from current consultation following the proposal development (e.g. following approval by Executive for budget consultation).

N/A

5.4 Your departmental response to the feedback on the current consultation (as at 5.3) – include any changes made to the proposal as a result of the feedback.

N/A

