

7 March 2012		ITEM 13 01104098
<b>Cabinet</b>		
<b>THE COMMUNITY INFRASTRUCTURE LEVY – PR ELIMINARY DRAFT CHARGING SCHEDULE</b>		
Report of: Councillor A Smith, Portfolio Holder for Housing and Regeneration		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Key	
Accountable Head of Service: Andy Millard, Head of Planning and Transportation		
Accountable Director: Bill Newman, Director of Sustainable Communities		
This report is Public		
<p><b>Purpose of Report:</b></p> <p>Further to the decision of Cabinet on 18 February 2011 that the Council proceed to adopt the Community Infrastructure Levy, this report:</p> <ul style="list-style-type: none"> <li>• Provides members with a briefing on the conclusions drawn in relation to appropriate levy charges following the commissioning of viability appraisals.</li> <li>• Seeks agreement to a suggested basis for a Preliminary Draft Charging Schedule.</li> <li>• Seeks agreement to the consultation period in relation to this Schedule.</li> <li>• Advises members, in the light of the conclusions drawn in relation to appropriate levy charges, that levy receipts cannot be relied upon to meet the total infrastructure costs associated with the growth agenda enshrined in the Council's adopted Core Strategy. Therefore decisions will need to be made about how the substantial remaining infrastructure funding gap will be addressed by other means available to the Council in order that the growth agenda is matched by the provision of necessary infrastructure.</li> </ul>		

**EXECUTIVE SUMMARY**

On 18 February 2011 Cabinet resolved that Thurrock Council proceed to adopt the Community Infrastructure Levy (CIL) as the principal means by which developer contributions towards infrastructure will be collected in Thurrock. As the first stage of that process, viability appraisals have been carried out in relation to residential and commercial development to inform the drawing up of suggested charging rates and

charging areas. Cabinet is asked to agree these rates and areas as the basis for consultation on a Preliminary Draft Charging Schedule.

The prospect that CIL receipts will only make a relatively small contribution to the funding of Thurrock's overall infrastructure needs, and the uncertainty about the future scale of funding from the public purse highlights the pressing need for the Council to set out a clear strategy about how the remaining infrastructure funding gap will be addressed by the various means available to the Council.

**1. RECOMMENDATIONS:**

**That Cabinet**

- 1.1 **Agree the charging rates detailed in the report as the basis for the production of the Council's Preliminary Draft Charging Schedule.**
- 1.2 **Agree that authority to finalise the precise boundaries of the charging areas be delegated to the Director of Sustainable Communities, in liaison with the Portfolio Holder for Housing and Regeneration.**
- 1.3 **Agree that the Council undertake consultation on the Preliminary Draft Charging Schedule for a period of six weeks.**
- 1.4 **Agree that a further report be made on the means available to the Council for funding infrastructure provision to ensure that progress on delivering the growth agenda is commensurate with the necessary infrastructure.**

**2. INTRODUCTION AND BACKGROUND:**

- 2.1 On 18 February 2011 Cabinet resolved that Thurrock Council proceed to adopt the Community Infrastructure Levy as the principal means by which developer contributions towards infrastructure will be collected in Thurrock, and that the necessary viability assessment be undertaken to inform the setting of a Charging Schedule.
- 2.2 As referred to in the report of 18<sup>th</sup> February the first formal stage towards the adoption of a Charging Schedule is the production of a Preliminary Draft Charging Schedule for consultation purposes. This is to be followed in due course by consultation on a final Draft Charging Schedule and examination by an independent examiner, possibly to include a hearing if persons request the right to be heard. The Examiner will approve, modify or reject the Draft Charging Schedule. Once any recommended modifications have been addressed by the Council it may then proceed to adopt the Charging Schedule by a resolution of Full Council. The Council will also need to publish a list of infrastructure projects or types of infrastructure that the Council intends will or may be funded by the levy.
- 2.3 A charging authority must aim to strike what appears to it to be an appropriate balance between the desirability of funding infrastructure from the levy and the

potential effects taken as a whole of the imposition of the levy on the economic viability of development across its area. The preparation of a Charging Schedule should be informed by 'appropriate available evidence'. The Council's Infrastructure Prioritisation and Implementation Programme report of 2010 (which informed the Council's Core Strategy) itemises some £727m of capital infrastructure costs and estimates some £560m of revenue costs. It assumes that current forms of infrastructure funding (public and private) will remain inadequate to meet the infrastructure needs associated with the planned levels of growth in Thurrock. It is difficult to come to any firm conclusions about the extent of likely funding streams during the current downturn in the economy and beyond, but it can reasonably be assumed that there will be a funding gap that CIL could help meet.

- 2.4 A charging authority's proposed CIL rate, or rates, should appear reasonable given the available evidence but there is no requirement for a proposed rate to exactly mirror the evidence. Guidance states that '*There is room for some pragmatism.*' Charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area. Charging authorities should also take into account other development costs arising from existing regulatory requirements including Development Plan policies relating to affordable housing. Charging authorities should also seek to illustrate that their proposed charging rates would be robust over time. In setting a CIL rate charging authorities will need to bear in mind that the economic circumstances and land values could change significantly during the lifetime of the charging schedule.
- 2.5 Charging authorities can set differential CIL rates for different geographical zones provided that those zones are defined by reference to the economic viability of development within them. The regulations also allow charging authorities to articulate differential rates by reference to different intended uses or development (for example residential and commercial development) provided that the different rates can be justified by a comparative assessment of the economic viability of those categories of development. Charging authorities that plan to set differential rates should seek to avoid undue complexity. They should not set a zero rate for a particular zone or category of development unless this is justifiable in economic viability terms which would require evidence of very low, zero or negative viability across that zone or category of development. They should not seek to exempt individual development sites from CIL through setting a differential rate. CIL is based upon broad assessments and it will not be appropriate to seek to draw zones on the basis of individual sites. Resulting charging schedules should not impact disproportionately on a particular sector or small group of developers. Differential rates must be set in such a way so as not to give rise to notifiable State aid – one element of which is selective advantage.
- 2.6 The regulations make certain requirements about who the charging authority should consult on a Preliminary Draft Charging Schedule including persons who are resident or carrying on business in the area. No minimum length of consultation is stipulated although guidance encourages authorities to consult for at least six weeks in order to ensure that local communities and stakeholders have sufficient opportunity to make their views known.

**3. ISSUES AND/OR OPTIONS:**

- 3.1 The Council has commissioned viability assessment work to help inform the setting of a charging schedule with separate exercises undertaken for residential and commercial developments. At the outset it was assumed likely that respective development economics would justify differential rates and charging areas rather than a single Thurrock wide charge for all development types, and that has been the finding. The viability appraisals commissioned by the Council reflect the current economic downturn and can be considered robust on the assumption that the future trend will be towards improving economic conditions.
- 3.2 This work has been based in part on residual land valuation exercises where development costs and profit are deducted from total development value to arrive at a price that could be paid for land. This is then compared with the alternative or existing use value to determine whether a land owner is likely to sell a site for development purposes. Such exercises show whether there is scope for deducting a rate of CIL before it is no longer worth a site owner disposing of a site. Such exercises must come with a 'health warning'. They have to make broad assumptions about hypothetical costs of a hypothetical development on a hypothetical site or a sample of typical sites, and they are sensitive to the assumptions made about the variables. They assume that funding for developers is available. To these exercises have been added some 'real world' considerations about commercial development including recognition of the relatively narrow range of development that has historically taken place in Thurrock.

**Residential development**

- 3.3 The assessment work for residential development builds on the work originally undertaken to inform the formulation of the Council's Core Strategy affordable housing policy CSTP2. This policy states that the Council will seek to achieve, where viable, 35% affordable housing on all new developments capable of accommodating 10 or more dwellings or sites of 0.5 ha or more, or an equivalent financial contribution on sites below these thresholds. The original work modelled 16 development scenarios distinguishing between brownfield and greenfield sites, high/medium and low market demand areas, and site size – small (15-48 units) medium (50-199) large (200-499) and supersized (500+). For the current exercise 6 of these scenario can in practice be discounted – all those 4 involving greenfield releases in low demand areas, and large and supersized greenfield sites in high demand areas. This is because none of these scenario are envisaged in the Council's Core Strategy beyond those sites having planning permission which will likely not be subject to CIL when it is introduced.
- 3.4 The low demand areas included a substantial proportion of Thurrock including East Tilbury, parts of Grays, South Stifford, West Thurrock and Purfleet.

- 3.5 The modelling suggests that in current market conditions with a rate as low as £10 per square metre (psm) gross internal floorspace 7 out of 10 scenarios would be unviable (even with only 15% affordable housing being provided).
- 3.6 In order to reflect the state of the market, the original modelling assumed new build property prices at 15% off their previous peak. However the Council's first charging schedule would not be introduced for some time and would likely be in force for some years after over. The view can reasonably be taken that the housing market will by then have improved from its current position and that this should be reflected in the viability assessment. Consequently further analysis has been undertaken assuming that property prices recover to a point midway between their current level and their previous peak. In these circumstances 4 of 10 scenarios would still be unviable at a combination of £10/psm and 15% affordable housing. This would remain the case at a rate of £19/psm, but at £38/psm one further scenario becomes unviable.
- 3.7 However looking at the impact on broad development scenarios is of limited value in assessing the impact of possible charging rates on development in Thurrock. A better picture can be obtained by looking at identified housing sites, where they are located (in low or high/medium areas), the numbers of dwellings expected on each, and when they are expected to be developed.
- 3.8 Sites identified for implementation in the 0-5 year period mostly have the benefit of permission and thus would likely not be subject to CIL. Therefore it would be appropriate to look at the 6-10 year period sites as they are likely to be the ones that the Council's first Charging Schedule would apply to. It is likely that the Council would wish to adopt a different charging schedule by the time sites in the 11-15 year period might come forward, at the very least in order to reflect any changes in the affordable housing funding regime and the more onerous costs of complying with policy requirements in relation to the Code for Sustainable Homes which will then apply.
- 3.9 The Core Strategy indicates that 18,300 dwellings are planned for over the 15 year period from 2011. Of these officers estimate that somewhere in the region of 9,700 would fall within the 6-10 year period.
- 3.10 Converting scenarios to actual numbers shows that at a rate of £10/£19 psm and 15% affordable somewhere in the region of 4,612 dwellings might be unviable. This is nearly half the number for the 6-10 year period and some 25% of the total plan period housing supply. This is a substantial number and justifies the setting of a nil rate in low demand areas where the greater part of this number would arise. Somewhere in the region of 150 dwellings in high/medium demand areas might still be prejudiced at these rates. This is considered to be tolerable being less than 1% of the plan period housing supply.
- 3.11 Increasing the rate to £38 psm at 15% affordable housing might mean somewhere in the region of a further 370 dwellings or 2% of the total would be unviable. However this would bring about a near doubling of the receipts likely to arise from CIL during the 6-10 year period.

- 3.12 Officers consider the potential loss of 3% of housing numbers from adopting a nil rate in low demand areas and £38 psm in high/medium to be a reasonable balance between the desirability of funding infrastructure from the levy and the potential effects on the economic viability of development across Thurrock.
- 3.13 The viability work has looked at what might happen if the rate was to be raised to £76 psm. This rate might further reduce housing numbers by somewhere in the region of 2,300 units. Therefore under this level of charging a total of 2,820 dwellings would likely be unviable or some 15% of the plan period housing numbers. This is considered a poor balance between CIL receipts and economic development.
- 3.14 There is of course one way in which higher rates could be supported, namely if the affordable housing element of schemes were to be allowed to be correspondingly reduced further. Clearly this is a matter of judgement, but seeking to maximise CIL receipts while achieving so little affordable housing is considered to be undesirable when the identified need is so great.
- 3.15 In conclusion in relation to residential development, it is suggested that a nil rate is appropriate for low demand areas and a £38/psm rate for the remainder of Thurrock. Were these rates to be adopted but turn out to be unduly pessimistic the Council would at least have the comfort of knowing that any improvement in individual site viability would be reflected in a higher proportion of affordable housing being achieved. The boundaries between the low and medium/high demand areas used in the assessment work need a degree of fine tuning before being formally consulted on.

#### **Non residential development**

- 3.16 For non-residential development the viability considerations again suggest the adoption of differential rates based on geographical areas and development type with positive rates being charged in three 'prime' areas:- the Lakeside Basin and other parts of West Thurrock and Purfleet; Tilbury Port and neighbouring commercial land; and London Gateway and neighbouring land. However expectations about the likely receipts that might arise from these areas have to be tempered by knowledge that proposals already having planning permission when the Council adopts its Charging Schedule would not be subject to CIL. As with residential charging areas, there is a need for some fine-tuning of the boundaries of the charging areas suggested in the viability assessment.
- 3.17 It is considered appropriate to charge a positive rate in relation to only a small number of development types taking place within the suggested prime areas. For all other development types both inside and outside these areas a nil rate is considered appropriate. In essence this is because locations outside the prime areas are not so attractive. There are some development types in some localities that have not featured at all or very little in the development history of Thurrock over the last 25 years or so suggesting an absence of market demand even during past economic 'booms'. Lower rental values

affect the ability to be able to afford to pay a rate of CIL. The suggested rates are:-

Use	Prime	Rest of Thurrock
A1 retail, A3 restaurants and cafes, A4 drinking establishments, A5 hot food takeaways, casinos, retail warehouse clubs	£150 psm	Nil
A2 financial and professional services, B1b research, B1c and B2 industry, B8 warehouses, hotels, car showrooms	£25 psm	Nil
All other non-residential uses	Nil	Nil

**4. CONSULTATION (including Overview and Scrutiny, if applicable)**

- 4.1 The Community Infrastructure Levy was the subject of a report to Planning Transport and Regeneration Overview and Scrutiny Committee to 1 February 2011.
- 4.2 Formal consultation on the Preliminary Draft Charging Schedule will follow the agreement to the recommendations contained in this update.

**5. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT**

- 5.1 Subject to decisions as to how the proceeds of the levy may be spent the provision of various types of infrastructure funded by the levy could assist with the priorities of improving the education and skills of local people; to encourage and promote job creation and economic prosperity; and to ensure a safe, clean and green environment.

**6. IMPLICATIONS**

**6.1 Financial**

Implications verified by: **Sean Clark**  
 Telephone and email: **01375 652010**  
**sclark@thurrock.gov.uk**

Depending on the type of infrastructure items to be funded, levy receipts may reduce the financial pressures on the Council as a service provider. The ability to use a proportion of the revenue arising from the levy to cover administrative costs will be of benefit to the Council. The report is also clear that the CIL alone will not be sufficient to deliver the infrastructure that Thurrock requires and so further investigation into various funding streams will be required.

6.2 **Legal**

Implications verified by: **Remi Aremu (Planning Solicitor)**  
 Telephone and email: **01375 652994**  
**Raremu@thurrock.gov.uk**

The charging schedule will sit within the Local Development Framework but will not form part of the statutory development plan nor will it require inclusion within the Local Development Scheme. The Council will also no longer need to negotiate large numbers of Section 106 agreements but will be responsible for the collection and administration of funds in accordance with the CIL Regulations.

6.3 **Diversity and Equality**

Implications verified by: **Samson DeAlyn**  
 Telephone and email: **01375 652472**  
**sdealyn@thurrock.gov.uk**

Adoption of the levy would allow the Council and potentially local neighbourhoods, to target the resulting revenue stream towards those types of infrastructure considered necessary to meet the needs of different areas. This is a key point in terms of delivering equality and diversity through the Council's services. Consequently the levy is potentially a very positive development. An Equality Impact Assessment should be undertaken and all equality considerations taken into account, as part of the process leading to adoption.

6.4 **Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

To the extent that crime reduction, health, the pursuit of sustainable development and environmental improvement will be assisted by the provision of additional infrastructure funded by the levy charged at the suggested rates there will be beneficial effects.

7. **CONCLUSION**

- 7.1 The suggested levy rates and charging areas are pragmatic and are informed by appropriate available evidence. They strike a balance between the two desires of maximising receipts in order to help fund infrastructure and the wish to see Thurrock develop in the way envisaged in the recently adopted Core Strategy.
- 7.2 The suggested rates provide a suitable basis for the first stage of consultation forming part of the process leading to adoption.



7.3 The suggested rates are comparatively modest and while receipts will be entirely dependant upon how much development comes forward it is possible to say with some certainty that the operation of CIL on the suggested basis will make a relatively small contribution towards meeting the infrastructure funding gap that will exist over the period of the Core Strategy. Assuming that growth takes place as envisaged the worst case scenario is that total CIL receipts over the plan period might only be in the region of £22-30m. It is unfeasible that any future changes in development economics and in particular the general relationship between development value and existing/alternative land values will so fundamentally shift as to permit the Council to review its CIL charges upwards to provide a different magnitude of funding.

7.4 Consequently the Council needs to be clear about how the remaining funding gap will be addressed to ensure that the growth agenda is matched by the provision of necessary infrastructure. At present the public purse is constrained for the period of the current Comprehensive Spending Review in response to the current economic downturn. While it can reasonably be expected the economy will improve in the long term it would clearly be unwise to assume that Thurrock's infrastructure needs will be satisfactorily addressed as part of any significant increase in the future funding of local authorities by way of central Government grant or particular funding programmes. This means the Council will need to consider how other potential sources of funding should be marshalled towards infrastructure provision including that which might arise from business rate retention, prudential borrowing and Tax Increment Financing.

**BACKGROUND PAPERS USED IN PREPARING THIS REPORT:**

- Thurrock CIL Viability Assessment of Non Residential Land Uses.
- Thurrock CIL Residential Viability Assessment.
- The Community Infrastructure Levy Regulations 2010 as amended.
- Community Infrastructure Levy Guidance: Charge setting and charging schedule procedures. Department of Communities and Local Government. 2010

**APPENDICES TO THIS REPORT:**

None.

- Appendix 1 – Map depicting CIL Residential Charging Areas
- Appendix 2 – Map depicting CIL Non Residential Charging Areas

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## **DECISIONS TAKEN at the meeting of Cabinet held on 7 March 2012**

**The last day for call-in of the following decisions is 5pm on Friday 16 March 2012**

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**Present:** Councillors John Kent (Leader and Chair), Val Morris-Cook (Deputy Leader and Vice Chair); Oliver Gerrish, Tony Fish (until 7.30 pm), Barbara Rice, Andy Smith and Phil Smith

**Apologies:** Councillor Lynn Worrall

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### **1 TO APPROVE THE MINUTES OF THE MEETING OF CABINET HELD ON 22 FEBRUARY 2012**

The Minutes of the Cabinet Meeting held on 22 February 2012 were approved as a correct record.

### **2 DECLARATIONS OF INTEREST**

Councillor Fish declared a personal and prejudicial interest in Item 19, Alternative Budget Proposals 2012/2013, in his capacity as Chair of the Board of Trustees of Transvol. He indicated that he would leave the meeting during consideration of this Item.

Councillor P Smith declared a personal interest in Item 14, Local Sustainable Transport Fund Programme 2012/13, in that his wife is an employee of Thurrock Council.

### **3 URGENT ITEMS OF BUSINESS, WITH THE CONSENT OF THE LEADER**

There were none.

### **6. BRIEFINGS ON POLICY, BUDGET AND OTHER ISSUES**

### **13 DECISION NO 01104098 – The Community Infrastructure Levy – Provisional Draft Charging Schedule**

#### **RESOLVED**

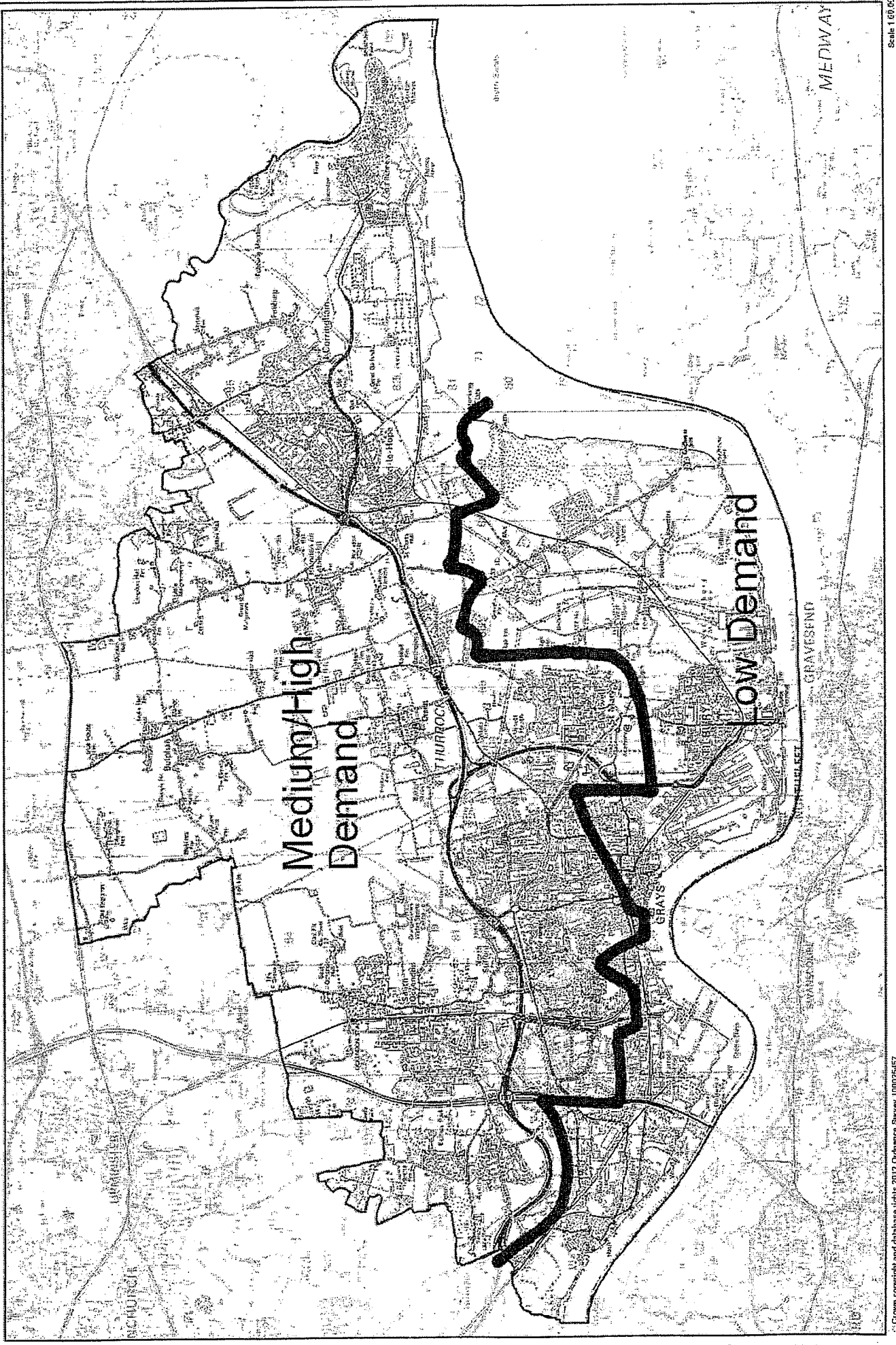
- 1.1 That Cabinet agreed the charging rates detailed in the report as the basis for the production of the Council's Preliminary Draft Charging Schedule.**
- 1.2 That Cabinet agreed that authority to finalise the precise boundaries of the charging areas be delegated to the**

**Director of Sustainable Communities, in liaison with the Portfolio Holder for Housing and Regeneration.**

- 1.3 That Cabinet agreed that the Council undertake consultation on the Preliminary Draft Charging Schedule for a period of six weeks.**
- 1.4 That Cabinet agreed that a further report be made on the means available to the Council for funding infrastructure provision to ensure that progress on delivering the growth agenda is commensurate with the necessary infrastructure.**

Reason for Decision - as stated in the report  
This decision is subject to call-in

# CIL Residential Charging Areas





# CIL Non Residential Charging Areas

