

APPENDIX D

WAVERLEY BOROUGH COUNCIL

EXECUTIVE - 6 NOVEMBER 2012

Title:

COMMUNITY INFRASTRUCTURE LEVY

[Portfolio Holder: Cllr Bryn Morgan]

[Wards Affected: All]

Summary and purpose:

The purpose of this report is to recommend that the Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule be agreed for the purposes of public consultation. This sets out the Council's proposed approach to collecting developer contributions which will replace the 2008 Planning Infrastructure Contributions SPD. The intention is to adopt a Community Infrastructure Levy (CIL) Charging Schedule by April 2014.

How this report relates to the Council's Corporate Priorities:

CIL will have an important role in supporting and delivering Corporate Priorities through promoting improvements to local transport and infrastructure.

Equality and Diversity Implications:

None

Environment and Climate Change Implications:

None

Resource/Value for Money Implications:

Viability work has been undertaken by consultants and there will be costs involved in holding an independent examination in public. The CIL Regulations allow authorities to use up to five per cent of CIL receipts on the expenses of setting up, reviewing and ongoing costs of administration and enforcement. It is estimated that CIL will raise approximately £23million to 2028.

Legal Implications:

The ability to set a CIL charge is given by the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended).

1. Introduction

- 1.1 The emerging Core Strategy outlines the Council's commitment to providing infrastructure to support the new development proposed. The Community Infrastructure Levy (CIL) is a new tariff system which enables contributions to be collected from development towards infrastructure projects. It will, for the

most part, replace the existing system of securing contributions through planning obligations and in particular the Planning Infrastructure Contributions SPD (PIC). Unlike planning obligations, there is no restriction on where or on what infrastructure projects CIL funds can be spent, provided projects have been identified by the Borough Council.

- 1.2 There is no statutory requirement for local authorities to adopt CIL. However, the CIL Regulations restrict the use of planning obligations after April 2014 and as such if CIL is not in place by this date, the Borough Council will not be able to secure infrastructure funding from development in the majority of cases.

2. Setting the charge

- 2.1 The Preliminary Draft Charging Schedule sets out the approach taken by the Council in setting its proposed rate of CIL. The CIL Regulations state that in setting a charge local authorities should strike a balance between a desire to fund infrastructure through CIL and development viability. Therefore a CIL charge should not push the margins of viability or place at serious risk the delivery of development across the Borough. In justifying CIL charges, the Council must demonstrate an infrastructure funding gap and that the charges set are viable.

- 2.2 In terms of CIL and the evidence base in the Infrastructure Delivery Plan, the Preliminary Draft Charging Schedule has estimated that at best, the infrastructure funding gap to 2028 is around £32m which includes taking into account other potential sources of infrastructure funding.

- 2.3 The Borough Council commissioned a viability assessment by Roger Tym & Partners to accompany consultation of a preliminary draft charging schedule. Based on the viability evidence, the following CIL charges for consultation are proposed: -

- Residential - £160 per square metre
- Retail - £87 per square metre
- All other development – No CIL charge

- 2.4 It is estimated that CIL will raise approximately £23million to 2028 which accounts for some 72% of the total infrastructure funding gap.

- 2.5 A Preliminary Draft Charging Schedule, based on the above charges, has been produced for consultation along with a viability study. The consultation document which contains the Preliminary Draft Charging Schedule is attached as Annexe 1.

- 2.6 Although CIL will make a significant contribution to the infrastructure requirements generated by new development, core public funding will continue to bear the main burden for infrastructure funding. CIL is intended to contribute to the 'funding gap' that remains once existing sources of funding have been taken into account.

- 2.7 CIL is not intended to meet this funding gap in full and should be seen as a mechanism for reducing the amount between the cost of delivering improvements to infrastructure and the funding available from mainstream sources. It is expected that there will need to be some prioritisation of projects, taking into account whether a project is essential or desirable. Essential projects are those that would otherwise prevent development from happening while desirable projects provide additional facilities that take account of the proposed level of development but do not prevent it from occurring. CIL should be able to address in funding gap associated with essential infrastructure. In view of the legal position in terms of the Habitats Regulations, the only essential infrastructure in the Borough that would prevent development is for Thames Basin Heaths and Wealden Heaths SPA mitigation.
- 2.8 When setting CIL, the Council cannot set a level of CIL that is greater than this funding gap. If it were to set a rate that would deliver a higher amount of income than the gap then the charge would not be considered reasonable and in accordance with CIL Regulations. To assess the potential of different rates in addressing the funding gap it has been necessary to estimate the amount of additional floorspace that is likely to be delivered over the next ten years. In arriving at this figure past permissions have been analysed which shows that the average additional floorspace for every new residential unit is just over 72m².
- 2.9 The viability evidence suggests setting a rate between £150 and £170 per m² to ensure that future development and the delivery of affordable housing are not compromised. In setting the rate at £160 per m², officers have also taken account of the fact that since 2008 contributions towards infrastructure have been sought from new development through the Planning Infrastructure Contributions SPD.
- 2.10 This level of charge is estimated to deliver approximately £23million of CIL over the Core Strategy period. Whilst this is below the funding gap highlighted earlier, setting a rate higher than this is not supported on viability grounds and could potentially compromise the delivery of housing, including affordable housing. Setting a rate too high would in all probability mean that the Council's charging schedule would be found unreasonable and dismissed by the inspector at the examination.

3. Governance

- 3.1 Although no governance issues are associated with the consultation of a Preliminary Draft Charging Schedule, there are many facets of CIL which will require further consideration such as future governance arrangements dealing with the possible transfer of CIL funds to County and Parish Councils.
- 3.2 It should be noted however, that as the charging authority, it is the Borough Council who controls the CIL fund and has ultimate responsibility in determining the infrastructure projects on which CIL will be spent. Whilst an

update to the CIL Regulations may specify the amount of CIL funds to be transferred from the Borough to Parish Councils, there is unlikely to be any guidance on how much should be transferred from Borough to County Councils.

- 3.3 Other governance arrangements include, deciding on which infrastructure projects to spend CIL, transitional arrangements towards CIL implementation and updating the Borough's Infrastructure Delivery Plan (IDP) which was produced for the Core Strategy.
- 3.4 Securing avoidance measures for the Thames Basin Heaths SPA in the form of Suitable Accessible Natural Greenspace (SANG) and the Wealden Heaths SPA through the Hindhead Avoidance Strategy, would, given the current Regulations have to be collected through CIL once a charging schedule is in place. In order for the Borough Council to fulfil its obligations under the Habitats Regulations, it will be necessary to ensure a mechanism is in place which guarantees that sufficient CIL funds are directed to SPA avoidance measures.
- 3.5 The Strategic Access Management and Monitoring (SAMM) element of Thames Basin Heaths mitigation is the second part of a two pronged approach to mitigating the potential adverse effects of residential development on the SPA as set out in Council's Thames Basin Heaths SPA Avoidance Strategy (2009) and the emerging Core Strategy Policy CS18: Thames Basin Heaths SPA. Whilst the first part, SANG, will be collected through CIL, SAMM will continue to be collected through planning obligations as it does not fall within the definition of infrastructure.
- 3.6 It should be noted that planning obligations and conditions can also be used to secure scheme specific items of infrastructure necessary to address the direct impact of a development. In particular, affordable housing will continue to be secured through planning obligations.

4. Next Steps

- 4.1 The consultation will run for 6 weeks from 8 November to 21 December 2012. Following this consultation, any comments received will need to be considered and, if necessary, a revised charging schedule produced. A further consultation on a Draft Charging Schedule will be required for 4 weeks. It is the Draft Charging Schedule that is submitted for independent examination after consultation. A sound Core Strategy is required in order to adopt CIL. It is anticipated that the draft charging schedule will be submitted for examination in summer 2013 with implementation in late 2013/early 2014.
- 4.2 At this time the Executive is asked to note the governance issues arising from CIL and the indicative timetable for implementation as set out in the table below.

4.3 Members should note that the Government is currently consulting on whether to allow authorities to include affordable housing within CIL. The implications are currently being considered by officers.

Procedure	Indicative Timetable
Consultation on Preliminary Draft Charging Schedule	November/December 2012
Report to Executive on Governance Issues	March 2013
Executive agrees Draft Charging Schedule for consultation in March/April 2013	March 2013
Consultation on Draft Charging Schedule	March/April 2013
Submission of Draft Charging Schedule for Examination after agreement from Executive and Full Council	July 2013
Examination of Charging Schedule by independent Inspector	September 2013
Adoption by Executive & Full Council	February 2014
Implementation	April 2014

5. Conclusion

5.1 In setting out the Preliminary Draft Charging Schedule, officers consider that the proposed charges strike a balance between a desire to fund infrastructure through CIL and development viability based on the available evidence at the time.

Recommendation

That the Executive approve the CIL Preliminary Draft Charging Schedule for public consultation.

Background Papers

- Waverley Borough Council Community Infrastructure Levy Preliminary Draft Charging Schedule
- Waverley Borough Council Community Infrastructure Levy Viability Study Final Report

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