

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 28 NOVEMBER 2017

Title:

COMMUNITY INFRASTRUCTURE LEVY: DRAFT CHARGING SCHEDULE

[Portfolio Holder: Cllr Chris Storey]

[Wards Affected: All]

Summary and purpose:

The purpose of this report is to set out the Council's approach to collecting developer contributions towards infrastructure. The report seeks approval to consult on the draft charging schedule and sets out the proposed next steps leading to the adoption of the CIL Charging Schedule and its implementation.

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

The implementation of CIL will support the corporate priorities relating to Community Wellbeing, Environment and Value for Money.

Financial Implications:

CIL will make an important contribution towards the funding of infrastructure supplied by Surrey CC and Waverley to support new developments. Waverley would benefit from a contribution towards administrative costs, and parishes would receive a contribution to use within the parish. Further investigation will take place to refine the processes which are covered in this report. The suggested CIL contribution is approximately 3 times the previous PIC contribution.

Legal Implications:

The comments set out in this report are a comprehensive assessment of the relevant issues and no further comment is therefore required.

Introduction

1. The Community Infrastructure Levy (CIL) is a tariff system that enables contributions to be collected from development towards infrastructure projects in the form of a rate charge per square metre (m²) of additional internal floorspace for different types of development. CIL will largely replace 'Section 106' developer contributions, although these will still be used for site-specific infrastructure and to provide affordable housing. There are some mandatory exemptions from CIL, including affordable housing, self build housing and development of less than 100m².
2. Unlike planning obligations, there are no restrictions on where or on which infrastructure projects CIL funds can be spent, provided the type of project has been set out in the Regulation 123 list. There is no statutory requirement for local authorities to adopt CIL. However, CIL Regulations that came into force in 2015 have limited the opportunity for the Council to pool developer contributions towards infrastructure using conventional Section 106 agreements. Members will recall that

the Government indicated in the Housing White Paper earlier this year that it was examining the options for reforming CIL and that it would make an announcement in the Autumn Budget Review. No decision has yet been made. However, whatever decision is reached, it would take some time for the necessary changes to come into effect and so the Council has decided to continue to progress CIL in the meantime.

3. The Council has to prepare a CIL Charging Schedule, which will outline what we are proposing to charge. This has to go through two stages of consultation, before being considered at an independent examination.
4. A report was taken to the Corporate Overview and Scrutiny Committee on 20 March this year on a prospective CIL rate. At that meeting, the Committee raised a number of comments and concerns, which officers and the consultants sought to address. Following the Corporate O & S meeting, the consultants undertook some further viability modelling, particularly in relation to flats, taking account of changes in house prices. The consultants identified a CIL rate for residential development that could be applied across the Borough. A report was then taken to the Environment Overview and Scrutiny Committee on 22 May 2017 to seek Members' views on the Preliminary Draft Charging Schedule (PDCS). The Committee recognised the need to proceed to the formal consultation stage on the CIL PDCS, and agreed that the proposed PDCS was suitable for this purpose. On 6 June 2017, the Executive approved the Preliminary Draft Charging Schedule for consultation.

Consultation on the Preliminary Draft Charging Schedule

5. The Council consulted on the Preliminary Draft Charging Schedule in June and July this year, based on updated viability evidence produced by consultants Three Dragons and Troy Planning. This set out a range of proposed CIL charges, with a suggested base rate for residential development of £433 per square metre (with certain exemptions), reduced to £405 psm where development must contribute towards Suitable Alternative Natural Greenspace (SANG) and increased where there is no affordable housing.
6. A total of 38 responses were received from a range of stakeholders, including developers, infrastructure providers, parish councils and members of the public. A table is attached (Annexe 1) that summarises these responses and provides a response to each one. In particular,
 - Several developers suggested that the rates proposed are too high (for example in comparison to rates proposed in 2012 and those set in nearby local authorities) and that this will affect the viability (and hence deliverability) of schemes.
 - The promoters of Dunsfold Aerodrome requested that given the significant Section 106 package for the 1,800 home planning application, that both this phase and the second phase (remaining 800 homes) should fall outside of the CIL regime.
 - Some providers of retirement housing expressed concern over the proposed charge for development falling with Use Class C2 such as Care Homes and Nursing Homes and suggested that such uses should not be charged CIL.
 - There was general support for CIL from the parish councils that responded, although some queried how CIL funds raised would be directed to the towns and villages affected by the developments.

Provisional results from the revised modelling work

7. Three Dragons have now reviewed the viability evidence base, including updating costs and land values and undertaking further viability modelling.
8. The following table sets out the proposed revised CIL rates. The consultants have recommended that CIL rates decrease slightly from the rates previously consulted on.

Use	Provisional revised CIL rate for DCS	CIL rates in the PDCS (May 2017)
Residential dwellings – schemes of more than 10 units	£395 per sq. m (where there is no SANG/SAMM tariff) £372 per sq. m (where the SANG/SAMM tariff is charged)	£433 per sq. m (where there is no SANG/SAMM tariff) £405 per sq. m (where the SANG/SAMM tariff is charged)
Residential dwellings – schemes of 10 or less	£452 per sq. m (where there is no SANG/SAMM tariff) £435 per sq. m (where the SANG/SAMM tariff is charged)	£470 per sq. m (where there is no SANG/SAMM tariff) £449 per sq. m (where the SANG/SAMM tariff is charged)
Dunstable allocation	£0 per sq. m	Not specified
Older person housing (sheltered and assisted living/extra care) with affordable housing	£118 per sq. m (where there is no SANG/SAMM tariff) £100 per sq. m (where the SANG/SAMM tariff is charged)	Included within the residential dwelling categories above
Older person housing (sheltered and assisted living/extra care) without affordable housing	£280 per sq. m (where there is no SANG/SAMM tariff) £268 per sq. m (where the SANG/SAMM tariff is charged)	Included within the residential dwelling categories above
Small Convenience Store	£75 per sq. m	£75 per sq. m
Supermarket	£65 per sq. m	£65 per sq. m
Town Centre Retail	£25 per sq. m	£25 per sq. m
Out of Centre Retail	£95 per sq. m	£95 per sq. m
All other uses	£0 per sq. m	£0 per sq. m

9. The updated evidence shows that build costs have increased recently, but that the price of dwellings has increased by a greater amount. There is also more evidence on land values. The CIL Regulations state that in setting a charge, local authorities should strike a balance between the desire to fund infrastructure and development viability and that the CIL charge should not push the margins of viability or place at serious risk the delivery of development. The previous rates were based on having a 'buffer' (between the absolute maximum that could theoretically be charged and the proposed CIL rate) of 40%. In order to address the developers' concerns over viability but also to ensure that we do not compromise or put at risk the delivery of new development, for the above rates this buffer has been increased slightly to 50%. However, it is important to note that the suggested revised rates would still be greater than those charged by nearby local authorities and would raise around £40,000 per dwelling, about three times the amount achieved through PIC (Planning Infrastructure

Contributions), the Council's previous approach to seeking infrastructure contributions.

10. One important decision is whether Dunsfold Aerodrome new settlement (strategic allocation SS7 in Local Plan Part 1) should be 'zero rated' for CIL due to the infrastructure that has been secured through a Section 106 agreement. The consultants have concluded that the allocated site would not be able to viably support any CIL.
11. It is recommended that there should be a new lower rate for older persons' housing, as the revised modelling shows higher build costs for sheltered and assisted living/extra care housing. This rate would vary, depending on whether affordable housing is provided. It is also recommended that the rates for retail development should not change from those previously proposed. As before, there could be no CIL charged on offices, industrial or warehouse development, due to evidence on their viability.
12. As Members are aware, part of the Borough falls within 5km of the Thames Basin Heaths Special Protection Area (SPA). As previously indicated, it is proposed that there would be a slightly lower rate of CIL where a SANG (Suitable Alternative Natural Greenspace) / SAMP (Strategic Access and Management and Monitoring) tariff would be charged under the Section 106 agreement. Contributions towards SANG form part of the approach to mitigating the effects of additional housing on the Thames Basin Heaths SPA. The SANG contribution is for the ongoing management and maintenance of the Farnham Park SANG. SAMP is a contribution to Natural England towards the access management and maintaining work for the SPA itself. The proposed reduced CIL rate where a SANG/SAMP contribution has to be paid reflects the viability implications of this additional cost to the developer. Neither the consultation responses nor the updated viability evidence have indicated that there should be any change to our approach to SANG/SAMP for the CIL. Natural England made no comment to our approach. This position is supported by legal officers.

Next Steps

13. The consultants have produced a Draft Charging Schedule (DCS) (Annexe 2) which sets out the proposed CIL rates and where these will apply, including any sites that will be exempt from CIL. This includes an updated version of the Regulation 123 infrastructure list. The consultants have also produced a Viability Report, which is available to view on the website as Annexe 3.
14. The consultants presented their findings to the Environment Overview and Scrutiny Committee meeting on 13 November, with all Members invited. It should be noted that Annexes 2 and 3 have been updated since the Overview and Scrutiny meeting. This report now seeks approval to consult on the DCS. Subject to this decision, consultation is expected to start in December 2017. The Planning Inspectorate has strongly advised that as this consultation would cover the Christmas and New Year period, it should run for six weeks rather than the minimum period of four weeks. However, if the Local Plan Part 1 Inspector's Report is not received in November, as expected, then this could affect the timing of the DCS consultation, as the Local Plan and CIL are closely linked.
15. Following this consultation, officers and the consultants will review representations made and consider whether any further modifications are required to the Charging

Schedule before submission for examination. A report will be taken to Members of the Executive at this stage to provide feedback on the outcome of the consultation and to seek approval to submit the charging schedule for its Examination. An examiner will be appointed and hearing sessions arranged. It is anticipated that the examination would take place in April 2018, with the examiner's report received in May 2018, with adoption in June 2018. However, these timescales are provisional pending adoption of Local Plan Part 1, and are subject to the outcome and timing of the CIL examination process.

16. The Charging Schedule must then be formally approved by a resolution of Full Council. The Council will need to decide when CIL will come into effect. There will need to be a time gap between approval of the CIL and its implementation, to give the development industry a reasonable opportunity to adapt to the new charge and also for the Council to ensure internal administrative arrangements are in place. Based on the experience of nearby LPAs, the period between adoption and implementation is expected to be around 3-4 months.

Governance arrangements

17. As the Council progresses towards the CIL Examination and adoption, further consideration is being given to the arrangements for collecting CIL once the charging schedule is implemented, and for spending CIL, including governance arrangements. For example, suitable IT will be needed to help monitor collection and spending, and the necessary staff resources identified. The Council is allowed to spend up to 5% of levy receipts on administrative expenses.
18. Governance arrangements and political processes will need to be put in place to agree how to prioritise the use of CIL and the allocation of funds. The development of these arrangements will include mechanisms for engaging relevant bodies, including Surrey County Council, which has a key role in delivering transport and education infrastructure, and the town and parish councils. It should be noted that 15% of CIL revenue is paid directly to parish councils where the development takes place. This is capped at £100 per existing council tax dwelling each year but this rises to 25% (uncapped) where there is a 'made' neighbourhood plan in place. Some nearby local authorities, such as Havant Borough Council, have CIL Funding Decision Protocols in place.

Environment Overview and Scrutiny Committee

19. The Environment Overview and Scrutiny Committee met on 13 November and received a presentation from the consultants. All members of the Council were invited to attend and participate in consideration of the DCS.
20. The Committee endorsed the overall approach set out in the Draft Charging Schedule, with the following specific observations and recommendations:
 - Members recommended development of a policy on Discretionary Relief from CIL charges, and in particular felt that this should include supported housing for adults with disabilities.
 - Members were concerned that there was no scope to charge CIL on dwellings arising from conversions of offices or light industrial units to residential under permitted development rights. This was being promoted by the Government, and in

Godalming over 24% of housing completions were from office conversions, but there was no affordable housing and no contribution to infrastructure.

- The Committee recommended that the Council makes strong representations to the Government on the implications of the CIL Regulations in relation to conversions.
- The Committee noted that CIL would be adopted too late to benefit Cranleigh, and the Neighbourhood Plan would not deliver the financial dividend it might have done. Whilst the Committee noted that infrastructure contributions linked to major schemes in Cranleigh had been secured through Section 106 Agreements, it still agreed that the Governance arrangements for prioritising spend against CIL receipts should recognise the extraordinary level of development permitted in and around Cranleigh.
- The Committee recognised that an infrastructure funding gap was a requirement for producing a CIL charging schedule, but felt that the Council needed to have a strategic approach to identifying how to bridge this gap. The Committee also felt that there needed to be contingency planning in relation to the Dunsfold Park application being refused.
- The Committee suggested that the Regulation 123 List should include some provision for health facilities.
- The Committee suggested that officers explore the approach by Hart in relation to SANG.

21. Some of the comments made at the Overview and Scrutiny Committee will be dealt with in the governance arrangements report that will be considered by the Overview and Scrutiny Committee and the Executive in the near future.

Recommendation

It is recommended that

1. the CIL Draft Charging Schedule, attached as Annexe 2, be approved for the purpose of consultation; and
2. authority be delegated to the Head of Planning Services, in consultation with the Portfolio Holder for Operational Planning, to approve any subsequent minor changes to the Draft Charging Schedule, including the draft instalments policy, and other supporting documents, before consultation commences.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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