

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 10 APRIL 2018

Title:

COMMUNITY INFRASTRUCTURE LEVY: APPROVAL TO SUBMIT DRAFT CHARGING SCHEDULE FOR EXAMINATION

**[Portfolio Holder: Cllr Chris Storey]
[Wards Affected: All]**

Summary and purpose:

The purpose of this report is to feedback to Members the outcome of the consultation on the Community Infrastructure Levy (CIL) Draft Charging Schedule, held in December 2017/January 2018, and to seek approval to submit the Draft Charging Schedule for Examination.

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 to support new development. 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. 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.
3. Following a first round of consultation during summer 2017, a revised Draft Charging Schedule (DCS) was published for consultation for 6 weeks consultation which ended

on 26 January 2018. The DCS sets out a range of proposed CIL charges for residential development of between £372 and £470 per square metre (except for development at Dunsfold Aerodrome, which is zero rated), as well as lower charges for older persons' housing and retail development.

Analysis of responses to Second Consultation

3. A total of 53 representations were made within the consultation period, plus 2 late responses. Attached as Annexe 1 is a summary of the main issues raised, together with the Officers' response. Officers would like to draw Members' attention to the five main themes arising:
 - The development industry considers that the proposed rates, being higher than many other authorities' rates, will affect the deliverability of housing.
 - A number of the assumptions in the viability work have been challenged, including land values, build costs and the size of sites used in the case studies.
 - Several respondents queried why Dunsfold Aerodrome had been excluded from CIL charges, with some saying that the additional 800 dwellings should be treated separately from the application scheme for 1800 dwellings.
 - Several respondents have suggested that developers should fund SANG in addition to CIL, rather than CIL money being used to fund SANG.
 - Finally, a number of respondents raised issues relating to how CIL monies will be spent.
4. Officers and Waverley's technical CIL consultants, Three Dragons, have reviewed the representations. In the light of the consultation responses, Three Dragons have revisited some of the key assumptions in the Viability Report and confirmed that they are satisfied as to the robustness of the approach. Whilst the proposed rates are higher than many other authorities' rates, they are viable, although it is acknowledged that the Council will need to manage and monitor any risk in the short term that the CIL rates could have on housing delivery, whilst the market adjusts. Three Dragons will be producing an Addendum to the Viability Report ready for the CIL examination, with the intention of assisting the Examiner through the clarification of the approach used and filling in any gaps in the information.
5. With regard to Dunsfold Aerodrome, it is not generally permissible, within the CIL Regulations, to treat different phases of a site separately in terms of CIL rates. Officers consider that there is strong evidence that for large sites the S106 regime is a better mechanism for ensuring the delivery of both the development and its supporting infrastructure.
6. With regards to the SANG comments set out in paragraph 3 above, the provision of SANG as part of the Thames Basin Heaths SPA avoidance and mitigation measures falls within the definition of infrastructure and therefore cannot be excluded from CIL. With regard to the comments made on how CIL will be spent, governance arrangements are being developed separately and are not directly related to the CIL rates in the Charging Schedule and will not, therefore, be part of the remit of the examination.

7. It has therefore been concluded that there is no need for any changes to be made to the proposed CIL rates set out in the Draft Charging Schedule that was consulted on in December 2017 and January 2018. With regard to the Charging Schedule itself, this has been slimmed down so that it only contains the key information required for the CIL Examination. This amended Charging Schedule is attached as Annexe 2. Given that the Charging Schedule has been amended, albeit that the proposed CIL rates have not changed, a Schedule of minor modifications to the Charging Schedule has also been produced and is attached as Annexe 3.
8. In addition, it is possible that the Regulation 123 infrastructure list will need to be amended to reflect representations made to the Draft Charging Schedule. This is a list of those projects or types of infrastructure that the Council intends to fund, or may fund, through the levy. The document will also set out which types of infrastructure would continue to be sought through Section 106 agreements (such as affordable housing and site specific infrastructure), therefore ensuring that there is no double counting/duplication between CIL and the scaled back S.106 regime. The Regulation 123 list is not a part of the Charging Schedule and is not examined directly. However, for transparency, Government advice (in the planning practice guidance for CIL) is that a draft should be available for Examination.
9. Three Dragons have suggested that the Council should also consider developing its supporting policies on instalments, phasing and payment in kind before submission. Whilst these are not examined, it is good practice to have drafts of these ready by the time of the examination as, for example, an instalment policy can assist the viability and delivery of development. However, this needs to be balanced with the need to secure infrastructure payments expeditiously.
9. Finally, Regulation 19 of the CIL Regulations (as amended) requires that the Council submits, alongside the Draft Charging Schedule and other submission documents, a Statement of Representations. This will set out details of the representations made to the Draft Charging Schedule and a summary of the main issues raised.

Conclusions and Next Steps

10. The Council's viability consultants, Three Dragons, have confirmed that no issues have emerged from the representations that indicate a need to change the CIL rates to be submitted for examination. It is therefore recommended that the Draft Charging Schedule can be submitted for Examination.
11. The Executive's decision will be a recommendation to Council. Subject to approval by the Council, it is anticipated that the CIL Draft Charging Schedule will be submitted for examination at the end of April / early May, with the examination hearings held in June/July 2018. The Planning Inspectorate has been appointed to provide an Examiner. A Programme Officer has also been appointed. It is anticipated that the Charging Schedule will be adopted by the Council in September or October, with implementation in December 2018. When the Council adopts the Charging Schedule, an exact date for implementation will need to be given.

Administrative and Governance arrangements for CIL

12. Alongside progressing the Draft Charging Schedule to submission and examination, officers are also putting in place appropriate resources and IT support ready for the

implementation of CIL. Recruitment for a CIL Officer is underway and it is hoped that an appointment can be made in April. Arrangements are also being made to procure a specialist CIL IT system.

13. Governance arrangements and decision-making processes need to be put in place to prioritise and agree the spending of CIL funds. The Value for Money and Customer Service Overview and Scrutiny Committee has been identified as most appropriate to lead on this piece of work. It is proposed that a report on this issue be taken to this committee in June, enabling the Committee to contribute views and suggestions about how the governance arrangements should be shaped. The report will then be considered by the Executive and Council in due course.

Recommendation

It is recommended that:

1. the Executive recommends to the Council that the Draft Charging Schedule and the Schedule of Minor Modifications be approved for submission to the Planning Inspectorate for Examination; and
2. authority be delegated to the Head of Planning Services, in consultation with the Portfolio Holder for Planning, to
 - approve any subsequent minor changes to the Draft Charging Schedule and schedule of minor modifications, and
 - approve supporting documents to be submitted, including the Draft Regulation 123 list, policies on instalments, phasing and payment in kind, the Statement of Representations and the Viability Addendum Report.

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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