

**Meeting** Council  
**Portfolio Area** Environment & Regeneration  
**Date** 29 January 2020



## COMMUNITY INFRASTRUCTURE LEVY (CIL)

### KEY DECISION

**Authors:** Tom Ridley (x2823) and David Hodbod (x2579)  
**Lead Officer:** Zayd Al-Jawad (x2257)

#### 1 PURPOSE

- 1.1 To inform Members of the key outcomes of the public examination of the Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS).
- 1.2 To provide Members with a summary of the Examiner's Report
- 1.3 To seek approval of the Charging Schedule (CS).

#### 2 RECOMMENDATIONS

- 2.1 That the outcomes of the independent examination be noted.
- 2.2 That the content of the Examiner's Report be noted (attached as Appendix A).
- 2.3 That Council :
  - (i) accepts the Examiner's modifications and recommendation to approve the Charging Schedule, and supporting Instalments Policy and Payments in Kind Policy, attached at Appendices B-D to the report
  - (ii) approves the Charging Schedule, and supporting Instalments Policy and Payments in Kind Policy, to be brought into effect on 01 April 2020

- (iii) approves the setup of an allocated financial reserve to draw down on for the CIL Officer post with an annual review

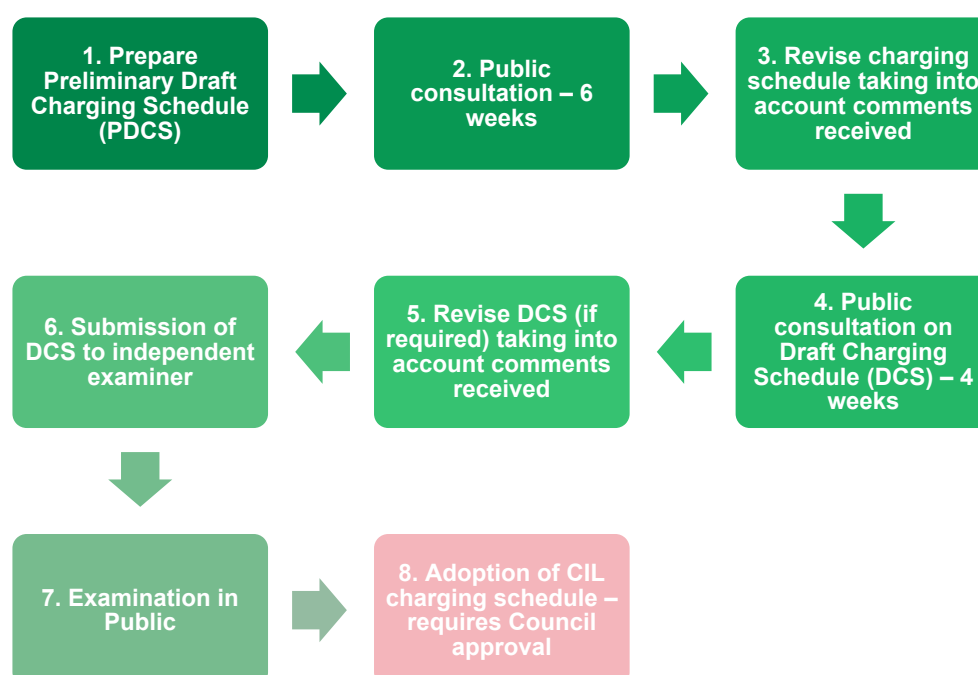
### **3 BACKGROUND**

- 3.1 The Community Infrastructure Levy (CIL) is a planning charge introduced by the Planning Act 2008, as a tool for local authorities to help deliver infrastructure to support the development of their area. It allows local authorities to raise funds from developers undertaking new building projects. The money can be used to fund a wide range of infrastructure, such as transport schemes, schools, community facilities, parks and leisure facilities, which are needed as a result of development taking place.
- 3.2 CIL is fairer, faster and more certain and transparent than the system of planning obligations (S106), which causes delay as a result of lengthy negotiations and is subject to viability. The benefit of CIL is that once it is collected it can be used to deliver any infrastructure that the Council wish – it is not ring-fenced for a specific scheme or type of project.
- 3.3 S106 would still be used for site specific mitigation, particularly for the larger schemes i.e. where a whole school is required as part of a specific development (e.g. North Stevenage and West of Stevenage) or where road/cycleway improvements are required within or in close proximity to the development. S106 is only allowed for infrastructure that is directly related to the scheme and is required in order for the development to be acceptable.
- 3.4 80% of CIL monies must be ring-fenced for larger infrastructure projects, whilst 15% is spent on community-based schemes. Officers will be looking at options for local Members and communities to be involved in putting forward such schemes. The allocation of the CIL funding to specific projects will be determined by officers, in consultation with appropriate Members. The Council's Infrastructure Delivery Plan will be updated to identify and prioritise areas that needed funding. The remaining 5% is to be used to administer CIL.
- 3.5 Local Authorities in the south-west of the county have adopted higher CIL rates than those proposed for SBC, but land values and sales are higher in these authorities which are located closer to the Greater London area, making development schemes more viable. The Independent Examiner for the SBC CIL based his assessment of the viability methodology for calculation of the recommended rates on the same national planning guidance as that used by the other Local Authorities.
- 3.6 The background to the Executive's decision to recommend that the Council adopt CIL is contained within the September 2018 Executive Report (BD03). This report also contains further details on the evidence base used to inform the proposed CIL rates which were discussed at the Examination in Public and are outlined below:

**Table 2: Proposed CIL levy rates**

Development type	CIL rate	
	Zone1: Stevenage Central	Zone 2: Everywhere else
Residential		
Market housing	£40/m <sup>2</sup>	£100/m <sup>2</sup>
Sheltered Housing	£100/m <sup>2</sup>	
Extracare housing	£40/m <sup>2</sup>	
Retail Development	£60/m <sup>2</sup>	
All Other Development	£0/m <sup>2</sup>	

- 3.7 The steps required to implement CIL are set out below.
- 3.8 Following public consultations in September 2018 and April 2019, the Draft Charging Schedule was submitted to an Independent Examiner on 2 August 2019 (approved by Executive in June 2019).
- 3.9 A public hearing session was held on 5 September 2019.
- 3.10 Executive considered the Examiner's report at its meeting on 16 December 2019 and resolved to recommend to Council that it approve the CIL Charging Schedule and supporting Instalments Policy and Payments in Kind Policy, attached at Appendices B-D to the report with effect from 1 April 2020.



## **4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS**

**Recommendation 2.1: That the outcomes of the independent examination be noted.**

- 4.1 Following approval by Executive in July 2019, the Draft Charging Schedule (DCS) was submitted to an independent examiner on 2 August 2019. Mr Philip Staddon BSc, Dip, MBA, MRTPI, of PJS Development Solutions Ltd., was appointed by the Council to examine the DCS.
- 4.2 A public hearing session was held for one day on 5 September 2019.
- 4.3 During the consultation period for the DCS, representors can request that they be notified of the submission and examination of the DCS and can request to be heard by the Examiner at a public examination hearing session.
- 4.4 Four representors made this request:
  - Hertfordshire County Council
  - Taylor Wimpey and Persimmon Homes
  - Hill Residential
- 4.5 The examination hearing session was entirely led by the Examiner, with the Council as an active participant, along with those parties listed above.
- 4.6 At the hearing session, the Examiner went through the Council's approach to growth (as set out in the Stevenage Borough Local Plan); the infrastructure required to support this growth; the viability evidence used by the Borough Council to inform the proposed CIL rates; the specific points raised by the objectors; and other matters, including the draft Instalment Policy.
- 4.7 During the session it was established that although the viability appraisal modelling and assumptions that underpins the CIL rates were correct, there was an inputting error. This was not something the Council or the Examiner was aware of, so its implications needed to be fully understood.
- 4.8 The error related to the affordable housing requirement, which had been modelled incorrectly with a mix of 30% affordable rent and 70% intermediate, as opposed to the Policy HO8 requirement of 70% affordable rent and 30% intermediate.
- 4.9 During a break in the hearing session, the Council's viability consultant re-ran the appraisals, with the corrected figures included. The re-run was also used to include infrastructure costs recently confirmed by Hertfordshire County Council specific to the West of Stevenage site. The output of this work was considered by the Examiner and those in the room. Following some initial discussions, it was agreed that a sensible way forward would be to allow all Reg 17 respondents, including those not present at the CIL examination, an opportunity to look at the revised evidence in more detail and to provide representations to the Examiner on it.
- 4.10 As a result of the revised modelling the Council asked the Examiner to recommend amendments to the proposed rates for both West and North

Stevenage, to reduce the rates for both of these sites to £40/m<sup>2</sup>. Whilst the rates for these sites were reduced, they were returned to the rates originally envisaged at the time of the Local Plan EIP.

- 4.11 It was agreed with the Examiner that a period of 2 weeks should be allowed for consultation responses to be received. The Examiner would then consider the new evidence presented, and the responses made, before finalising his report.

**Recommendation 2.2: That the content of the Examiner's Report be noted (attached as Appendix A).**

- 4.12 Following the hearing session held on 5 September 2019 and the subsequent two-week consultation, the Examiner prepared a formal report detailing the findings of his examination of the CIL charging schedule. The report contains recommendations and reasons for those recommendations.
- 4.13 The Examiner's Report was received on 06 November 2019.
- 4.14 The report concludes that, subject to certain recommended modifications, the Stevenage Borough Council Draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The required modifications relate to a reduction of the CIL to £40 per square metre in the areas covered by the Stevenage West and North of Stevenage urban extensions and, for clarity, the insertion of explanatory notes to define types of older persons' housing developments.
- 4.15 The Report concluded that the Council has complied with the legislative requirements and, subject to the recommended modifications, is able to demonstrate that it has sufficient and appropriate evidence to support the Schedule and can show that the levy rates would be set at levels that will not put the overall development of the area, as set out in the adopted Stevenage Borough Local Plan (adopted May 2019), at risk.
- 4.16 The proposals will secure a valuable and important funding stream for infrastructure necessary to support planned growth in the borough for which there is a demonstrated funding gap.
- 4.17 The report recommends the Stevenage CIL charging schedule be approved subject to the modification detailed above.
- 4.18 The full Examiner's Report is available in Appendix A.

**Recommendation 2.3: That Council:**

**(i) accepts the Examiner's modifications and recommendation to approve the Charging Schedule and supporting Instalments Policy and Payments in Kind Policy**

**(ii) adopts the Charging Schedule and supporting Instalments policy and Payments in Kind Policy at Appendix B to the report, to be brought into effect on 01/04/2020**

**(iii) approves the setup of an allocated financial reserve to draw down on for the CIL Officer post with an annual review**

- 4.19 Upon receipt of the Examiner's Report, the Council can either approve the CIL Charging Schedule, with the modifications proposed, or it must withdraw the schedule.
- 4.20 Executive's recommendation is that Council approves the CIL Charging Schedule and supporting documents at Appendix B - D to the report.
- 4.21 It is best practice to allow a certain amount of time between approval of the charging schedule and the date from which CIL will be implemented. This will allow the Council to set-up internal CIL-related procedures and to make prospective developers aware that CIL is about to be implemented and will impact upon any future schemes.
- 4.22 It is recommended that the Charging Schedule, and its associated policies, take effect from 01 April 2020. Officers will commence a review of the level of fees contained in the CIL Charging Schedule after the first year of its operation.
- 4.23 There will be an additional staff resource required (in the form of a part-time CIL officer) to manage the CIL process. In the longer term this will be funded through the 5% of CIL monies local authorities are allowed to keep to administer CIL.
- 4.24 The initial projections for the first few years following implementation are difficult to predict but have been estimated at just under £1m per annum, once fully established. This would mean resources available of £50,000 per annum to fund the additional officer post required. While this is sufficient to fund a part-time CIL officer in the medium to long term a CIL officer is required to be in post prior to the implementation of CIL, to set up systems and processes, in addition CIL income is likely to be lower during the first few years, due to instalments policies and phasing.
- 4.25 This means a supplementary estimate is required for the remainder of 2019/20 (for around £15,000) and 2020/21-2021/22 (around £21,000 per annum) to fund the officer for the initial 2-3 years, which Members are asked to approve. However, this money will be 'repaid' to the General Fund as 5% allocation is ring-fenced for this purpose and will be repaid back to the General Fund once sufficient monies are generated. It is anticipated this will then be cost neutral beyond 2021/22, however an annual review will take place to ensure the anticipated funds are being collected.
- 4.26 Based on a part-time, Grade 6 role, as a maximum estimate, the Growth Bid will be for £57,000 over the 3 year period (including all on-costs).

## **5 IMPLICATIONS**

### **Financial Implications**

- 5.1 The costs of implementing CIL will be met from the 5% CIL income the Council is allowed to keep for administration purposes in the long term (this includes the costs of Examination). In the meantime, it is being funded through the agreed departmental budget of the Planning Policy Team.
- 5.2 Financial implications relating to staffing are considered under para 4.23 to 4.26
- 5.3 Financial implications for the Council as landowner are examined further under 'Other Corporate Implications', paragraphs 5.10 - 5.13.

### **Legal Implications**

- 5.4 The preparation of Community Infrastructure Levy is given effect by the 2008 Planning Act.
- 5.5 Detailed statutory requirements for the preparation of CIL, including consultation requirements, are set out in The Community Infrastructure Levy Regulations 2010 (as amended).

### **Risk Implications**

- 5.6 As an additional cost to developers, CIL has the potential to make individual development schemes financially unviable which could impact the delivery of housing and associated necessary infrastructure across the Borough. However, the risks are minimised by proposing CIL rates that align with the viability evidence used to inform the Local Plan and subsequent updates.
- 5.7 The independent Examiner confirmed that the proposed CIL rates are set at an appropriate level that does not put the viability of schemes at risk.

### **Planning Implications**

- 5.8 Once CIL is adopted, it will constitute a new council policy and will be payable for all qualifying development.

### **Environmental Implications**

- 5.9 CIL has the potential to have a positive impact on the environment, as monies can be used towards improving/maintaining/new environmental infrastructure.

### **Other Corporate Implications**

- 5.10 CIL will be payable for all qualifying development, therefore, it has the potential to impact on council-owned land, in terms of being a consideration in sales negotiations and in being levied when developing the Council's own schemes. This includes smaller residential sites (10 or less dwellings), which were previously exempt from making developer contributions (S106). This is an additional cost and has the potential to depress land values for the

council's small sites. This is the same for larger sites, and there is a risk that developers will try to use this additional expense to negotiate down land values.

- 5.11 However, the viability evidence undertaken to inform the CIL charging rates, shows that the levy being proposed will be viable for both small and large-scale development. It will be under 3% of GDV on all sites, so very marginal overall. This takes into account land values at an appropriate market rate.
- 5.12 CIL will be payable on all development (save for those specific schemes where s106 will continue to be used) approved following its adoption, so is likely to affect any planning applications submitted from late 2019 onwards.

## **BACKGROUND DOCUMENTS**

- BD1 [Executive Report, 11 Sept 2012](#)
- BD2 [Executive Report, 15 Dec 2015](#)
- BD3 [Executive Report, 5 Sept 2018](#)
- BD4 [Stevenage Borough Infrastructure Funding Strategy, Aecom, September 2015](#)
- BD5 [Whole Plan Viability Study including Community Infrastructure Levy, HDH Planning, September 2015](#)
- BD6 [Infrastructure Delivery Plan, SBC \(most recent version, March 2017\)](#)
- BD7 [Viability Update, December 2017](#)
- BD8 [Infrastructure Funding Gap – technical paper, July 2018](#)
- BD9 [Viability Update Technical Note, January 2019](#)

## **APPENDICES**

- A SBC Community Infrastructure Levy Examiner's Report Draft
- B SBC Community Infrastructure Levy Charging Schedule
- C Instalments Policy
- D Payments in Kind Policy