

Summary Sheet

Council Report

Cabinet and Commissioners' Decision Making Meeting – 14 November 2016

Title

Rotherham Community Infrastructure Levy (CIL)

Is this a Key Decision and has it been included on the Forward Plan?

Yes, and has been included on the Forward Plan

Strategic Director Approving Submission of the Report

Damien Wilson, Strategic Director, Regeneration & Environment

Report Author(s)

Andy Duncan, Planning Policy Manager, Planning, Regeneration & Transport

Ward(s) Affected

All wards

Summary

The report seeks approval for the adoption of Rotherham's Community Infrastructure Levy (CIL). This is a new means of securing funding for the infrastructure required as a result of development proposed in the Council's Local Plan. An independent examination has been held into the CIL Charging Schedule, which sets out the rates the Council proposes to charge qualifying development. The examiner has concluded that the Council's proposals strike an appropriate balance between funding infrastructure via the levy and the potential effects on the economic viability of development in the Borough. Having passed examination, the Council can now progress to adopt and implement the Levy.

Recommendations

1. That the Rotherham CIL Charging Schedule be approved and recommended to Council to be adopted, with a provisional implementation date of 6 April 2017.
2. That the Rotherham CIL Instalments Policy be approved.
3. That the procurement of appropriate software to implement and monitor the CIL charge be approved, subject to the Council's normal procurement policies.

List of Appendices Included

Appendix 1: Rotherham CIL Charging Schedule
Appendix 2: Rotherham CIL Regulation 123 List
Appendix 3: Rotherham CIL Instalments Policy

Background Papers

Examiner's report on Rotherham CIL Charging Schedule:

<http://rotherham.objective.co.uk/file/4110121>

Consideration by any other Council Committee, Scrutiny or Advisory Panel

The Rotherham CIL Charging Schedule was considered by Overview and Scrutiny Management Board at its meeting on 4 November 2016.

Council Approval Required

Yes

Exempt from the Press and Public

No

Title

Rotherham Community Infrastructure Levy (CIL)

1. Recommendations

- 1.1 That the Rotherham CIL Charging Schedule be approved and recommended to Council to be adopted with a provisional implementation date of 6 April 2017.
- 1.2 That the Rotherham CIL Instalments Policy be approved.
- 1.3 That the procurement of appropriate software to implement and monitor the CIL charge be approved, subject to the Council's normal procurement policies.

2. Background

- 2.1 Rotherham's Community Infrastructure Levy (CIL) will help to secure funding to support local infrastructure required as a result of development proposed in Rotherham's Local Plan. Introduced via the Planning Act 2008, CIL will largely replace Section 106 financial contributions that are negotiated on a site-by-site basis as part of securing planning permission. Section 106 will still be used, where appropriate, to secure affordable housing and on-site mitigation of any negative impacts of development.
- 2.2 CIL is mandatory for certain types of development and is charged on a pounds sterling (£) per square metre rate of new development floorspace. The CIL rates, set out in a charging schedule (**Appendix 1**), are dependent on development type and geographical location.
- 2.3 The charging schedule is accompanied by a "Regulation 123" list (**Appendix 2**) which sets out what types, or specific items, of infrastructure the Council may fund, in whole or in part, from CIL income. If an item is listed in the Regulation 123 list to be funded via CIL, the Council cannot then require funding for the same item via Section 106. This prevents double charging via both CIL and Section 106 payments.
- 2.4 It is proposed to offer payment of the CIL charge by instalments (**Appendix 3**).
- 2.5 Rotherham's CIL has been prepared in tandem with the Local Plan. An Infrastructure Delivery Study established what infrastructure would be required to support the Local Plan's proposals for new development. Revenue from CIL has to be ring-fenced for infrastructure but the Council has flexibility to determine what its priority infrastructure projects should be to help deliver the development in the Local Plan.
- 2.6 Further studies into the economic viability of development in the Borough have led to two periods of consultation on the Council's CIL proposals. The latest, on a CIL Draft Charging Schedule (approved by Cabinet 05/11/2014, minute C89 refers), was undertaken between 24 November 2014 to 5 January 2015. An earlier CIL Preliminary Draft Charging Schedule was published in August 2013 and subject to public consultation between 5 August and 7 October 2013. As part of the CIL production process two developer workshops were held on 12 December 2012 and 19 June 2014.

- 2.7 This process culminated with the submission and examination of the CIL by an independent planning inspector. The CIL was submitted for examination by the Council on 12 February 2016 (approved by Council 27/1/16, minute 121 refers), with the examination being held on 28 April 2016.

3. Key Issues

Adoption

- 3.1 The Council has carried out public consultation on the CIL Draft Charging Schedule and has amended the document as a result. The planning inspector has examined the schedule and has found the document to be sound, subject to some modifications which are set out in the examiner's report. In summary, these relate to some wording changes to clarify the definition of certain types of development and to replace the maps in the draft document with clearer versions. These modifications have been made to the CIL Charging Schedule.

Implementation

- 3.2 Before implementing the CIL Charging Schedule it must first be adopted by the Council. Following adoption, the Council can then determine a date for the charging schedule to come into force.
- 3.3 A project group is working on the practicalities of implementing the charging schedule. This primarily involves the Planning, Finance and Legal services. The Council will also need to implement a robust software system for the collection, recording and monitoring of CIL income. As such, the Council's Procurement service is assisting.
- 3.4 Bearing in mind the time for the formal approval process, the technical work that is required to implement the charge, the level of staff resource available and other work priorities (for instance, the ongoing independent examination of the Local Plan), the earliest realistic date to begin charging is 6 April 2017. Officers are working to this date. This will allow the necessary time to procure, install and test the CIL software; train staff in its use and the CIL generally, implement cross-service working protocols; and, raise awareness with developers and planning agents that the CIL charge will commence.

Monitoring and spending CIL income

- 3.5 A Council Infrastructure Delivery Group made up of members and senior officers will oversee the implementation of the CIL Charging Schedule. This group will also monitor the income received from the charge and consider the infrastructure that should be funded by such income. The reporting and approval route for spending decisions will need to be agreed.

4. Options considered and recommended proposal

- 4.1 The Council could decide not to adopt the CIL Charging Schedule. This would retain reliance on ad hoc Section 106 agreements from developments. As of April 2015, local authorities can no longer "pool" Section 106 receipts from different developments or types of development. This restricts the future income the Council

can expect from Section 106 and is in line with the Government's intention that Section 106 agreements should be phased out.

4.2 In contrast, implementing CIL has many benefits, including:

- It is fairer and more transparent – the charge will be spread over more developments and developers will know the charge in advance.
- It gives the Council and local communities the freedom to set infrastructure spending priorities.
- It provides a more predictable funding stream – unlike the uncertainty of Section 106 agreements that must be justified on a case by case basis.
- It gives developers more certainty and quicker planning decisions – developers can factor the CIL charge into land purchase decisions and avoid lengthy Section 106 negotiations.
- The neighbourhood portion of CIL income rewards communities that accept new development – a proportion of CIL income goes directly to parishes where new development occurs, helping to fund new infrastructure decided by local people.
- At the same time the Council can focus spending on strategic infrastructure by using CIL income (in whole or part) rather than being reliant on Section 106 agreements.
- Implementation of CIL is supported and promoted by Government.
- The CIL rates are set at an affordable level to avoid harming development viability.

4.3 It is recommended that the Council adopt and implement the CIL Charging Schedule.

5. Consultation

5.1 Consultation on the CIL Charging Schedule was carried out in line with legislative requirements. This has entailed two periods of public consultation:

- CIL Preliminary Draft Charging Schedule (5 August – 7 October 2013)
- CIL Draft Charging Schedule (24 November 2014 – 5 January 2015)

5.2 Both consultations were targeted primarily at developers and their agents and infrastructure providers, but also councillors, parish councils, other local authorities and the public. The consultation periods were supplemented by two developer workshops on 12 December 2012 and 19 June 2014.

5.3 Following the independent examination of the CIL Charging Schedule, at the examiner's request the Council carried out further consultation on some additional viability evidence and amended definitions for certain types of development. This consultation ran from 9 to 23 May 2016.

6. Timetable and Accountability for Implementing this Decision

- 6.1 The table below sets out the timescale and accountability for implementing the recommendations in this report:

Stage	Date	Accountability
Report to Cabinet/ Commissioners' Decision Making Meeting regarding approval of the CIL Charging Schedule	14 November 2016	Cabinet/ Commissioners
Report to Council regarding adoption of the CIL Charging Schedule	25 January 2017	Council
Implementation of the CIL Charging Schedule	6 April 2017 (provisional)	Planning Policy/ CIL Project Group

7. Financial and Procurement Implications

- 7.1 In the majority of cases, CIL charges will replace the amounts currently paid by developers via Section 106 agreements so most developers are not likely to notice a difference in cost. However, developments that have been below current Section 106 size thresholds will now be required to make a contribution towards cumulative infrastructure costs.
- 7.2 It is important to stress that, although significant, CIL revenue will only help to contribute towards total infrastructure costs. In the early years of the CIL charge, revenue will remain relatively modest and is likely to play a more important role in helping to release other funding sources. In the later years of the Local Plan period as larger residential developments are built out, CIL income is projected to average around £1.3m per annum. As the economy improves there may be scope to revise the CIL charging rates.
- 7.3 The Planning Service has met the costs associated with the production of the Community Infrastructure Levy, including its consultation, from existing budgets. Legal Services (statutory costs) have covered the costs of the examination, including the appointment of an examiner. The CIL Regulations allow for up to 5% of CIL income to be used for the preparation and ongoing administration of CIL which, in the first three years of CIL implementation, can be pooled on a rolling basis to meet the initial preparation and set-up costs. It is intended that the Council will employ this provision.
- 7.4 The cost of any software system the Council's purchases to implement and monitor the CIL charge can also be recouped from CIL income as described above. Finance and Procurement Services are represented on the CIL project group.

8. Legal Implications

- 8.1 This report and appendices have been agreed with Legal Services. The adoption and implementation of CIL will require ongoing support from Legal Services to ensure the

Council meets the requirements of the appropriate regulations. Legal Services are represented on the CIL project group.

9. Human Resources Implications

- 9.1 The implementation of CIL will require a dedicated officer to ensure charges are levied at the appropriate rate and at the correct stage in the development process. Ensuring charges are paid on time will require close working between the Planning, Legal and Finance services. Discussions are ongoing over how such a post will be provided, whether by reassignment of an existing officer or a new post. CIL income can be used towards the cost of this post.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 Provision of new school places at named schools is included in the CIL Regulation 123 List as infrastructure that may be funded by CIL income. Continuing close working between the Planning and Education services will be required to prioritise and programme such spend as appropriate. This will be overseen by the Council's Infrastructure Delivery Group.

11. Equalities and Human Rights Implications

- 11.1 There are no equalities or human rights implications associated with adoption of the CIL Charging Schedule.

12. Implications for Partners and Other Directorates

- 12.1 The CIL will enable the Council to help fund infrastructure, provided by a range of services, both within and beyond the Council. Preparation of the Levy, and its supporting evidence base, has involved significant collaboration with other internal Council services and various external bodies responsible for the provision of infrastructure. It is essential this joint working continues to enable the infrastructure needs of development to be identified in advance of its implementation. It will also be important to ensure that the CIL rates remain appropriate given the need to respect economic viability trends, be they better or worse than those at the time of CIL preparation.
- 12.2 The Council will need to establish mechanisms to identify its priorities for spend of CIL income in the most efficient manner, to achieve timely and relevant infrastructure.
- 12.3 It is proposed that prioritisation of CIL revenue spend on items shown on the Regulation 123 List will be guided by an Infrastructure Delivery Group. This will also be informed by liaison with developer and infrastructure service providers to help support the delivery of the Local Plan.
- 12.4 Recommendations on the priorities for CIL spend, and the rationale behind these decisions, including linkages with the Council's capital strategy process, will be reported to future meetings.

13. Risks and Mitigation

13.1 The Community Infrastructure Levy is one of the key funding mechanisms that can help fund the infrastructure needed to deliver the development proposed in Rotherham's Local Plan.

13.2 Failure to introduce a local CIL could restrict the Council's ability to ensure that new development contributes to strategic infrastructure, such as transport and education. This type of infrastructure is most likely to be affected by the limitation on pooling Section 106 obligations which came into force nationally in April 2015. It is a priority that Rotherham adopts its CIL Charging Schedule as soon as practically possible.

13.3 The Sheffield City Region Devolution Deal may potentially result in future proposals for a City Region-wide Community Infrastructure Levy. At present though, there are no firm proposals for this and the introduction of a CIL remains a decision for individual councils.

14. Accountable Officer(s)

Damien Wilson
Strategic Director of Regeneration & Environment

Approvals Obtained from:-

Strategic Director of Finance and Customer Services:-
Jonathan Baggaley, Finance Manager

Director of Legal Services:-
Sumera Shabir, Planning Solicitor

Head of Procurement (if appropriate):-
Kerri Moxon, Procurement Category Manager

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