

COMMUNITY INFRASTRUCTURE LEVY (CIL) CHARGING SCHEDULE

Cabinet – 6 February 2014

Report of Chief Planning Officer

Status: For Decision

Also considered by: Council – 18 February 2014

This was also due to be considered by the Local Planning & Environment Advisory Committee on 22 January 2014 but the meeting was inquorate

Key Decision: No

Executive Summary:

The adoption of the CIL Charging Schedule will ensure that the Council can continue to secure funding for infrastructure to support development once greater limitations are placed on the use of planning obligations. Sevenoaks District Council has prepared a CIL Charging Schedule that takes into account the viability of development in the District and the infrastructure needed to support development. The Charging Schedule has been found sound by an independent Examiner following two rounds of public consultation and an examination.

The report recommends that the CIL Charging Schedule is adopted and sets out a timetable for the Council to begin charging CIL. Amongst other things, it also recommends that Full Council tasks the Local Planning and Environment Advisory Committee with developing CIL governance arrangements, including decisions on the prioritisation of CIL spending.

This report supports the Key Aim of Safe Communities, Caring Communities, Green Environment, Healthy Environment, Dynamic Economy and Sustainable Economy.

Portfolio Holder Cllr. Ian Bosley

Contact Officer(s) Steve Craddock (Ext. 7315)

Recommendation to Local Planning and Environment Advisory Committee:

That the recommendation to Council, below, is endorsed.

Recommendation to Cabinet:

That the recommendation to Council, below, is endorsed.

Recommendation to Council:

- (a) That the Community Infrastructure Levy Charging Schedule is adopted.
- (b) That the Community Infrastructure Levy rates are charged from 4 August 2014.
- (c) That the scheme is monitored to understand its impact on development across the District and held under review.
- (d) That all town or parish councils receive £18.75 per m² (15% of £125 per m²) of a CIL payment relating to a residential development that occurs in their area if they do not have an adopted Neighbourhood Plan at the time of development being permitted to spend on infrastructure or £31.25 per m² (25% of £125 per m²) if they do have an adopted Neighbourhood Plan, subject to caps set out in the CIL Regulations.
- (e) That the Local Planning and Environment Advisory Committee recommend, and keep under review, governance arrangements for the prioritisation of CIL.
- (f) That the Portfolio Holder is authorised to agree minor presentational changes and detailed amendments to the Charging Schedule prior to publication to assist the clarity of the document.
- (g) That the document is published on the Council's website and made available to purchase in hard copy at a price to be agreed by the Portfolio Holder.

Reason for recommendation:

The adoption of the CIL Charging Schedule will ensure that the Council can continue to secure funding for infrastructure to support development once greater limitations are placed on the use of planning obligations in April 2015. Sevenoaks District Council has prepared a CIL Charging Schedule that takes into account the viability of development in the District and the infrastructure needed to support development. The Charging Schedule has been found sound by an independent Examiner following two rounds of public consultation and an examination.

The date of implementation will allow the Council and developers time to develop and adjust to new processes and information requirements, required by the CIL Regulations. The scheme is to be kept under review to ensure that it does not have adverse impacts on the quantum and distribution of development across the District.

The set rates to be paid to town and parish councils will ensure that a town or parish council is not disadvantaged in being able to provide local infrastructure when development occurs because a lower residential CIL charge applies in its area. The tasking of the Local Planning and Environment Advisory Committee with developing governance arrangements, including mechanisms for the prioritisation of CIL expenditure, will ensure that this is a Member-led process.

Recommendations (f) and (g) allow for the details of the Council's CIL charges to be clearly communicated to developers, partner organisations and the community.

Introduction and Background

- 1 The Community Infrastructure Levy (CIL) is a new mechanism for securing contributions from developers towards the provision of infrastructure that is required to support development. In order to begin charging CIL, SDC must adopt a Charging Schedule, which sets out what developers will need to pay in £ per sq m of new buildings. Charges can be varied by area or type of development.
- 2 The Council consulted on a Preliminary Draft Charging Schedule between June and August 2012 and a Draft Charging Schedule between March and May 2013. The Draft Charging Schedule was agreed for publication and submission by Council in February 2013. It proposed the following charges:

Development Type	Area A	Area B
Residential (C3 use class)	£125 per sq m	£75 per sq m
Supermarkets and superstores(1) primarily selling convenience goods(2)	£125 per sq m	
Retail warehousing(3)	£125 per sq m	
Other forms of development	£0 per sq m	

(1) Superstores/supermarkets are shopping destinations in their own right (of 500 sq m of sales floorspace or more) where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.

(2) Convenience goods: Food and non-alcoholic beverages, Tobacco, Alcoholic beverages (off-trade), Newspapers and periodicals, Non-durable household goods.

(3) Retail warehouses are large stores (of 500 sq m of sales floorspace or more) specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering for mainly car-borne customers.

- 3 Areas A and B are set out on the map included within the Charging Schedule (appendix A). These areas are the same as those proposed during the Preliminary Draft and Draft Charging Schedule consultations.
- 4 The Charging Schedule is supported by viability evidence that considers the ability of different types of development to make CIL payments and infrastructure planning evidence that considers the types of infrastructure that may be necessary to support development in the District. This evidence was provided to Members when they considered the submission of the Draft Charging Schedule for examination in February 2013.

CIL Examination and Examiner's Report

- 5 Following the consultation on the Draft Charging Schedule, the Charging Schedule, comments received during the consultation and all of the evidence base documents were submitted for independent examination by an Examiner

appointed by the Planning Inspectorate. The examination was held on 8 October 2013.

- 6 A partnership of McCarthy and Stone and Churchill Retirement Living was the only objector to the Charging Schedule that attended the examination hearings. Their case, that the types of development that they undertake should be subject to a reduced or nil rate because they are less viable than 'standard' residential development, was not supported by the Inspector in his report following the examination.
- 7 Other parties, such as ASDA, the receivers of Tubs Hill House and Berkeley Homes relied on written representations to the examination. Their objections related to the viability of residential and retail development in the District.
- 8 One of the Examiner's statutory duties was to satisfy himself that the proposed rates were consistent with available viability evidence and would not threaten the delivery of planned development in the District. He found that:

In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Sevenoaks District. The Council has sought to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the district.

Subject to a minor presentational modification relating to the key of the map in the Charging Schedule, the Inspector found that the Charging Schedule was sound and can be adopted by the Council.

- 9 The Council is able to decide whether or not to adopt the Charging Schedule, subject to the required modification (included in the Charging Schedule at appendix A). The Council is not able to make any further changes to the detail of the Charging Schedule unless it wishes to undertake further consultation and another examination.

Date of Implementation

- 10 CIL must be applied to developments permitted after the charge comes into effect, rather than, for example, applications submitted after this date. In order to allow the Council to charge CIL, additional information will be required from applicants to allow the charge to be calculated, which will require amendments to Development Control's Validation Checklist. Sufficient time between adoption and implementation is required to ensure that the developments being determined after the implementation of CIL have been assessed against the amended Validation Checklist.
- 11 In charging CIL, the Council is required to follow a multi-stage process that links to different points in the development process, e.g. validation, decision, discharge of last pre-commencement condition and commencement. The CIL administration process is governed by approximately 100 regulations (contained in the CIL Regulations 2010, as amended in 2011, 2012 and 2013) that set out precisely what the Council must do at each stage. These regulations are due to be

amended in April 2014 when the Government will extend the ability of developers to secure reductions in CIL payments if sites have existing in-use buildings and introduce exemptions for 'self-build' residential developments, amongst other things.

12 The development or procurement of effective and robust software is considered necessary to allow the Council to implement CIL with the required levels of transparency, to prevent delays in determining planning applications and to enable accountability in the spending of CIL receipts. The potential procurement of a software solution can only take place after the Council has resolved to adopt the Charging Schedule, as it will need to be funded from the proportion of CIL that SDC can spend on CIL administration. This proportion is 5% of the annual receipts (which can be pooled over the first 3 years), which could equate to approximately £30,000 - £40,000 per annum if 165 dwellings per annum (the Core Strategy average) were to be built, once estimates for social housing relief and reductions in 'in use' floorspace have been made. In order to be fully effective the software needs to be in place when the validation requirements change.

13 For the reasons set out above, it is recommended that the Council begins charging CIL on Monday 4 August 2014, with the following milestones achieved:

Charging Schedule Adopted	18 February 2014
Software developed or procured	21 April 2014
Validation Requirements Change	5 May 2014
Charging begins on planning permissions granted on or after (13 weeks after validation requirements change)	4 August 2014

14 This timetable will also allow the Council to arrange briefing sessions with local agents and developers to ensure that they are aware of the CIL charge and the processes that must be followed.

Monitoring

15 The Council will have a legal obligation to monitor the following, once CIL is implemented:

- the money collected in the financial year;
- the total amount of money spent in the financial year;
- a summary of
 - what CIL has been spent on;
 - how much money has been spent on each scheme;
 - how much money has been spent to repay funds previously secured to forward fund infrastructure, including on interest payments; and

- how much money has been spent on administrative costs;
 - the money passed to town and parish councils; and
 - the money that remains unspent at the end of the financial year.
- 16 Town and parish councils will also have a legal obligation to monitor the CIL funds received and their expenditure, amongst other things.
- 17 In addition, it is proposed that the Council monitors the rates of development by ward across the District and compares this with historic rates of development by ward. This will allow the Council to identify what impact CIL is having on the distribution and levels of development across the District.

Payments to Town and Parish Councils

- 18 Under the CIL Regulations, town and parish councils will receive 15% of the CIL collected from development in their area (capped at £100 per existing Council Tax dwelling per annum) if they do not have a Neighbourhood Plan and 25% of the CIL collected from their area (uncapped) if they do have a Neighbourhood Plan. This money must be spent on supporting the development of an area. A higher proportion can be passed to town and parish councils but any additional funding must be spent on infrastructure.
- 19 In approving the Draft CIL Charging Schedule for publication and submission to the Secretary of State, Council resolved that 'subject to the awaited Ministerial Guidance, the Council be recommended to provide top up funding to Parishes within the £75 per sq m boundaries'. This was intended to ensure that a town or parish council in a £75 per sq m residential charging area is not disadvantaged in comparison to those in a £125 per sq m residential charging area.
- 20 Should Members still consider it beneficial to ensure that town and parish councils receive an equal amount when a CIL-paying residential development occurs in their areas then it is recommended that they all receive £18.75 per sq m (15% of £125 per sq m) of the CIL payment if they do not have an adopted Neighbourhood Plan at the time the development is permitted to spend on infrastructure or £31.25 per sq m (25% of £125 per sq m) if they do have an adopted Neighbourhood Plan. As the charge for supermarkets, superstores and retail warehouses is a standard £125 per sq m across the District, town and parish councils will receive 15% or 25% of the same sum if a development of one of these types happens in their area. This does not preclude additional funds being passed to town or parish councils if the projects proposed are given sufficiently high priority under the governance arrangements that will be developed.
- 21 In order to ensure that the town or parish council and SDC is compliant with the legislation, town and parish councils in £75/m² charging areas will need to spend the 'top up funding' (equivalent to £7.50 per sq m or £12.50 per sq m of CIL-paying residential development, depending on whether the area has a Neighbourhood Plan) on infrastructure. Officers will brief and liaise with town and parish councils on this, as part of the implementation process.

Governance Arrangements

- 22 Qualifying development is liable to pay CIL only if it is permitted after the Charging Schedule is in effect. In most circumstances, it becomes liable to pay CIL 60 days after commencement, unless the Council adopts an instalments policy (see para 24). As such, it is unlikely that significant CIL funds will be received until at least the end of 2014. Experience from CIL 'front-runner' authorities suggests that it may be even longer than this before the Council has sufficient funds to allocate to projects (to be undertaken by it or other organisations).
- 23 The period between proposed adoption and developments starting to pay CIL will allow Members and Officers time to develop governance arrangements to determine how the spending of CIL should be prioritised between competing projects. It is proposed that the Local Planning and Environment Committee is tasked with developing proposals for these governance arrangements to ensure that the process is Member-led. The work plan for the Local Planning and Environment Committee has this issue as an item on its agenda for its 25th March 2014 meeting.
- 24 As part of its consideration of governance arrangements, the Local Planning and Environment Advisory Committee should also consider the adoption of an instalments policy, which could help to improve the cash-flow, and therefore viability of larger developments.

Other Options Considered and/or Rejected

- 25 An option would be to not adopt the CIL Charging Schedule. However, from April 2015 this would severely limit the Council's ability to secure contributions from developers to infrastructure once development is permitted in the future.
- 26 There is no option to amend the Charging Schedule (except for the correction of errors or procedural information) without undertaking further research, consultation and another examination.

Key Implications

Financial

- 27 The adoption of the Charging Schedule will allow the Council to collect funds to spend on the development of infrastructure or to pass to partner organisations to spend on the development of infrastructure.
- 28 The CIL Regulations allow the Council to spend up to 5% of receipts on the administration of CIL. This proportion is 5% of the annual receipts (which can be pooled over the first 3 years), which could equate to approximately £30,000 - £40,000 per annum if 165 dwellings per annum (the Core Strategy average) were to be built, once estimates for social housing relief and reductions in 'in use' floorspace have been made.

Legal Implications and Risk Assessment Statement.

- 29 The Charging Schedule has been prepared in accordance with the relevant primary and secondary legislation, as is evident from the Examiner's decision to find the Charging Schedule sound.
- 30 The legal implications of the 'top up' payments to town and parish councils in £75 per sq m residential charging areas have been explored in the report.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	The CIL Charging Schedule will help to fund infrastructure requirements for the local community surrounding any new development. This will have a positive impact on all aspects of the community, as the fund will help to address any deficiencies.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	Yes	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		n/a

Resources

- 31 The administration of CIL is a complex and many staged process and will require resources to be dedicated to it to ensure that it is operated in an efficient and transparent manner. The CIL Regulations allow the Council to spend up to 5% of receipts on the administration of CIL. The proposed timetable for implementation takes account of the need to consider how the additional demands on resources will be managed.

Conclusions

- 32 It is recommended that the CIL Charging Schedule is adopted, subject to the recommendations set out above. The adoption of the CIL Charging Schedule will allow the Council to continue to secure contributions from development towards infrastructure required to support the development of the District, whilst ensuring that the planned level of development remains viable.

Appendices

Appendix A – CIL Charging Schedule (January 2014)

Background Papers:

Examiner's Report on the Draft Sevenoaks District
Council Community Infrastructure Levy Charging
Schedule

Mr Richard Morris
Chief Planning Officer