

**COMMUNITY INFRASTRUCTURE LEVY (CIL) – PUBLIC CONSULTATION DOCUMENT AND PRELIMINARY DRAFT CHARGING SCHEDULE**

**Cabinet - 14 June 2012**

Report of the: Deputy Chief Executive and Community and Planning Services Director

Status: For Decision

Also considered by: Environment Select Committee – 29 May 2012  
LDF Advisory Group – 7 June 2012

Key Decision: Yes

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**Executive Summary:**

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 prepare a Charging Schedule, which will set out what developers will need to pay in £ per sq m of new buildings and any variations by area or type of development. The consultation document at Appendix B to this report would form the first formal stage in the Council's preparation of CIL. It is proposed that this should be subject to a 6 week consultation between June/July and August 2012.

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**This report supports the key aims of a green environment and safe and caring communities of the Community Plan**

Portfolio Holder Cllr. Mrs Jill Davison

Head of Service Group Manager Planning – Alan Dyer

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**Recommendation to Cabinet:**

(a) Cabinet agree that the CIL Preliminary Draft Charging Schedule Consultation Document be published for consultation;

(b) the Portfolio Holder be authorised to agree minor presentational changes and detailed amendments, including any minor changes to the proposed charging levels as a result of the completion of the CIL Viability Study, prior to publication to assist the clarity of the document; and

(c) copies be made available for sale at a price to be agreed by the Portfolio Holder.

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**Reason for recommendation:**

To ensure that the Council is able to progress the CIL Charging Schedule in accordance with the Local Development Scheme

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**Introduction**

- 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 prepare a Charging Schedule, which will set out what developers will need to pay in £ per sq m of new buildings and any variations by area or type of development. The consultation document at Appendix B to this report would form the first formal stage in the Council's preparation of CIL. Consultation at this stage would give stakeholders and the public an early opportunity to comment on the proposed CIL charges and some of the issues that the Council must consider in preparing the Charging Schedule and operating CIL. Members, stakeholders and the public will have another opportunity to comment on these proposals and any revisions before the Council submits the Charging Schedule for independent Examination.

**National Policy and Legislation**

- 2 Appendix D to this report provides an introduction to CIL. It provides a summary of national policy and legislation, which is highly prescriptive about matters such as how CIL must be charged, who CIL is paid to, what the receipts can be spent on, what types of development are automatically exempt, and what types of development councils can offer relief or exemptions to.
- 3 In drafting a CIL Charging Schedule, a charging authority must be able to show that the charge would not make the overall scale of development proposed in the District unviable. The Council has commissioned a CIL Viability Assessment to consider what level CIL could be set at in different parts of the District for different types of development. This assessment is now sufficiently complete to allow this consultation document to be considered by Members and will be published alongside the consultation document. In setting the CIL Charge, the Council is not required to consider the viability of all development sites and it is recognised that it may lead to some developments not proceeding at the time or the form anticipated by a developer, or at all. This does not make a Charging Schedule unsound.
- 4 A charging authority must also show that a funding gap exists that needs to be met to deliver the infrastructure required to support development. In doing this, the authority must take account of other mainstream funding sources that are, or are expected to become, available. This may include an increase in Council Tax receipts or Grant as a result of the additional number of households. Further detail on how the Planning Policy team have identified schemes that could be funded through CIL is set out in the 'Infrastructure' section, below. The funding gap must exceed or match the charging authority's forecast receipts from CIL.
- 5 How a charging authority decides to balance the aim of securing as much money for infrastructure as possible against the aim of ensuring that development

remains viable is up to the authority to decide. The level of charge proposed in the consultation document seeks to balance these aims. The proposed charge is not set at the limits of viability to ensure that some flexibility is built in to allow for any changes in viability considerations over time and in the case that any assumptions in the viability assessment do not entirely accurately reflect the situation 'on the ground'.

## The Consultation Document

- 6 The consultation document sets out an initial proposal for the level that CIL could be set at. This proposal is based on the CIL Viability Assessment that the Council has undertaken and the engagement with infrastructure providers that is detailed in a subsequent section. The proposed rates of CIL are:

Development Type	Area A	Area B
Residential	£125 per sq m	£75 per sq m
Large Retail – Supermarkets and Retail Warehouses	£125 per sq m	
Small Retail – Convenience stores and town centre comparison retail	£50 per sq m	
Other forms of development	£0 per sq m	

A map of the different areas is set out in appendix A to this report.

- 7 A nil charge has been set out for some uses, including offices, warehousing, hotels, residential care homes and agricultural buildings, because the Viability Assessment concludes that the development of units in that use would be at a significant risk of not being viable if a CIL charge was to be levied. To propose higher rates than the Viability Assessment finds would be viable would be highly likely to lead to the CIL Charging Schedule being found unsound at Examination.
- 8 The different areas have been identified on the basis of the findings of the viability assessment. In accordance with the CIL guidance, these areas are intended to be broad areas where the majority of developments would remain viable with this level of charge. In reality, viability will vary from site to site and road to road. However, it is not possible to consider viability at such a detailed level in advance of development proposals being prepared. Preparing a CIL Charging Schedule on this basis is therefore not possible.
- 9 The document also seeks views on a number of the issues that the Council will need to address in operating CIL. This includes sections and consultation questions on whether the Council should offer relief from CIL in exceptional circumstances, for investment developments by charities (as opposed to development of facilities to be used for charitable purposes, which are already exempt). Policies on these issues do not need to be set out at the time that the Council adopts the Charging Schedule and do not need to be subject to Examination. If the Council were to offer exemptions in exceptional circumstances there are stringent regulations governing when this relief can be offered and it is for the Council to ensure that any exemption is compliant with EU State Aid legislation. The offer of exemptions in exceptional circumstances is not comparable with the flexibility and negotiation that is available on the Core

Strategy affordable housing policy (SP3) and it is anticipated that this policy will be applied very rarely, if at all.

- 10 Other issues on which views are sought in the consultation document include the priority types of infrastructure that the Council should be allocating receipts to, the need for an instalments policy, monitoring arrangements and the soundness of the assumptions used in CIL Viability Assessment.
- 11 It is proposed that the consultation document is published alongside the final version of the CIL Viability Assessment and the draft CIL Infrastructure Plan.

### Forecast Receipts

- 12 The receipts that are generated by CIL are dependent on a number of factors, including:
  - The amount of development that comes forward and where it occurs;
  - The amount of affordable housing, which is offered 100% relief from CIL, that is secured on development sites;
  - The size of dwellings built; and
  - The floorspace of existing buildings on development sites that have recently been in use (for 6 of the previous 12 months) as this is subtracted from the new floorspace to be developed when CIL is calculated.
- 13 The uncertainty created by these factors makes it difficult to predict annual receipts that will be generated from CIL. However, as a very rough estimate, it is predicted that SDC may receive approximately £5-6 million over the period 2014 (when it is assumed the Charging Schedule will be adopted) to 2026 (which is the end of the Core Strategy Plan Period). This figure has not been adjusted for inflation, which will be applied automatically under CIL, in line with the All-in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors.

### CIL Viability Assessment

- 14 The CIL Viability Assessment (Background Paper 1) has considered the viability of a range of different types of development (a summary is set out in the draft Consultation Document – Appendix B), using a residual land valuation model. The approach taken seeks to ensure that after development costs, including developers profit (20%), the provision of affordable housing and CIL, are taken into account, the residual value left in the overall value of development is sufficient to ensure that land can be purchased at a reasonable price. Research undertaken by the consultants and information from the Valuation Office Agency, RICS and the Land Registry has been used in assessing what overall values of development should be considered and what reasonable purchase prices for development land are in the District. A range of other sources, including consultation with a number of developers and agents, have been used to identify reasonable figures for other elements of the assessment, such as build costs.

### Infrastructure Planning

- 15 CIL receipts can only be spent on infrastructure that is required to support new development. It can not be used to fund projects that are only required as a result

of existing deficiencies. CIL receipts can be spent on the provision, improvement, replacement, operation or maintenance of infrastructure. A list of indicative types of infrastructure for which CIL can be used is set out in the Planning Act 2008 and is cited in the proposed consultation document (Appendix B).

- 16 An Infrastructure Delivery Plan was prepared to identify the infrastructure projects that relevant organisations considered to be necessary to deliver the level of development proposed in the Core Strategy or resolve existing deficiencies. Using this as a starting point, the Planning Policy Team has been engaging with infrastructure providers, including SDC teams, to identify schemes that they consider are to be necessary to support development and could be funded through CIL. The results of this engagement are set out in full in the draft CIL Infrastructure Plan (Appendix C) and summarised in the proposed consultation document (Appendix B) and have been used to identify a funding gap of approximately £24,000,000. The draft Infrastructure Plan is based on the initial view of infrastructure providers on the schemes required and not a robust assessment of the necessity of the schemes suggested or the appropriate split between contributions from CIL and other funding available for providing services for existing communities. It is likely that this process, which will be completed through further engagement during and after the consultation, will significantly reduce the funding gap. For example, removing a flood defence scheme in Edenbridge, which may be considered to be required more to protect existing dwellings than new development, would reduce the estimated funding gap to £13,000,000.
- 17 Suggestions of indicative projects that could be undertaken by SDC have been put forward by SDC teams. These include the possible redevelopment of Whiteoak Leisure Centre, providing community development services to integrate new residents into the District, outdoor gym facilities and new and/or improved Youth Zone vans and services. There will be opportunities to refine these schemes and develop new ones as the preparation of the Charging Schedule progresses and following its adoption. Estimated funding gaps for delivering these projects have also been provided and total approximately £4,600,000. These costs should be treated as purely indicative. Unless these schemes are prioritised above all others, CIL will meet only a percentage of the funding gap identified for SDC schemes.
- 18 Whilst the work undertaken to date provides a necessary part of the evidence base, the Council does not need to specify how it will spend CIL receipts at the outset. This can be determined on the basis of local priorities when receipts are received. The list of infrastructure projects identified in the consultation document should, therefore, only be treated as indicative.
- 19 The Government's view is that the Community Infrastructure Levy should support and incentivise new development by placing control over a meaningful proportion of the funds raised with the neighbourhood where development takes place. The CIL Regulations 2012 are expected to require a percentage of CIL receipts received from a development to be transferred to the relevant town or parish council. Therefore, the draft Infrastructure Plan, to be published alongside the consultation document, includes town and parish councils' views on projects that should be undertaken.

20 All schemes in the draft Infrastructure Plan have been categorised into:

- ‘potential strategic schemes for CIL funding’, which are those schemes considered to support the broad distribution of development proposed in the Core Strategy and have been used to identify the funding gap;
- ‘potential local schemes for CIL funding’, which are those schemes that town and parish councils would like to see developed and are likely to be appropriate uses of the CIL receipts to be paid directly to them; and
- ‘other schemes’, which are schemes where more information is required, a commitment from the responsible organisation is required, or the scheme is not an appropriate use of CIL.

### Implementation

21 The consultation document proposes that the Council will consider the need to publish guidance for developers and agents on how CIL will be implemented once the Charging Schedule is adopted in late 2013, if further guidance is considered to be required in addition to what is available at a national level. It is also proposed that an implementation plan be developed to address issues such as monitoring processes and the prioritisation of schemes. Views are also requested on whether SDC should allow CIL to be waived in exceptional circumstances, which are allowed but are tightly controlled by legislation, and whether it should develop an instalments policy.

### Consultation

22 It is proposed that the Consultation Document should be subject to consultation between June/July and August 2012. The Planning Policy team will consider organising an Agents Forum with planning agents to brief them on the proposals and to give them the opportunity to provide informal feedback. Given the scope of the consultation document, it is not proposed that any public consultation events will be held, other than making the document available to view and publicising it on the Council’s website, through the local press and by writing to stakeholders and individuals on the LDF mailing list.

### Timetable

23 The Council’s timetable for preparing a CIL Charging Schedule, as set out in the Local Development Scheme is:

Consultation on preliminary draft ends	July or August 2012
Consultation on draft Charging Schedule	December 2012 – January 2013
Submission of draft Charging Schedule for Examination	April 2013
Examination of draft Charging Schedule	August 2013
Adoption of Charging Schedule	December 2013

## Other Options Considered and/or Rejected

- 24 The Council could choose not to prepare a CIL Charging Schedule. However, this is likely to lead to less funding being secured for infrastructure required to support development. The Council would need to rely on using planning obligations, which will have a more limited scope for securing contributions towards infrastructure after April 2014.
- 25 The Council could choose to propose a higher or lower CIL Charge. However, the proposed charge is based on evidence that it would not make the scale of development proposed in the Core Strategy unviable. There is a significant risk that a higher CIL charge would be found unsound by an independent Examiner. A lower charge, including a standard rate across the District, would mean that less money would be available to be spent on infrastructure to support development.

## Key Implications

### Financial

- 26 Budgetary provision has been made for the cost involved in preparing the Community Infrastructure Levy through the LDF budget. The CIL Regulations allow for the Council to use receipts secured through CIL to pay for its administration.

### Community Impact and Outcomes

- 27 The CIL Charging Schedule will assist the Council in securing contributions from developers to the provision of infrastructure required to support development.

### Legal, Human Rights etc.

- 28 The Preliminary Draft Charging Schedule (included in the consultation document) will be consulted upon and revised, if necessary, in accordance with the relevant legislation and national policy.

### Equality Impacts

- 29 An Equality Impact Assessment of the CIL Charging Schedule will be carried out prior to submission of the schedule for examination.

### Sustainability Checklist

- 30 The adoption of a CIL Charging Schedule will ensure that the Council can implement Core Strategy Policy SP9, which aims to ensure that development is supported by sufficient infrastructure. This is important in ensuring that development comes forward in a sustainable manner. CIL Charging Schedules do not need to be subject to Sustainability Appraisal.

## Conclusions

- 31 The Preliminary Draft Charging Schedule provides an opportunity for interested organisations and the public to comment on the initial proposals for how CIL may be charged in Sevenoaks District. Any issues raised at this stage can be taken

into account in drafting the pre-submission consultation version of the Charging Schedule later in 2012.

### **Risk Assessment Statement**

- 32 The Preliminary Draft Charging Schedule has been prepared in accordance with national policy and legislation.
- 33 If the Preliminary Draft Charging Schedule is not approved for consultation then the Council will not be able to prepare the Charging Schedule in accordance with the Local Development Scheme. This may lead to it being adopted after the restrictions on the pooling of planning obligations come into force (April 2014), which would mean that contributions from some developments towards necessary infrastructure would not be able to be secured during this time.

### **Appendices**

Appendix A – Map of different residential charging zones

Appendix B – CIL: Preliminary Draft Charging Schedule: Consultation Document

Appendix C – Draft CIL Infrastructure Plan

Appendix D – An Introduction to the Community Infrastructure Levy

### **Background Papers:**

1. CIL Viability Assessment Draft Report

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