

THURSDAY 29TH SEPTEMBER 2016**REPORT OF THE PORTFOLIO HOLDER FOR REGENERATION****COMMUNITY INFRASTRUCTURE LEVY****EXEMPT INFORMATION**

None

PURPOSE

Further to the Cabinet report of 2nd April 2015, an update is provided for members on recent changes to national planning guidance.

Following consultation on the Community Infrastructure Levy Draft Charging Schedule, to seek approval to submit the Draft Charging Schedule to the Planning Inspectorate for examination.

RECOMMENDATIONS

- 1) **That Community Infrastructure Levy rate within the Draft Charging Schedule be increased from £35 per sq m to £68 per sq m for residential development of between 3 and 10 units**
- 2) **That care homes, retirement and extra care schemes providing housing for older people are not required to contribute to a CIL**
- 3) **That the Draft Charging Schedule and associated documents are approved for submission to examination**

EXECUTIVE SUMMARY

At its meeting on 2 April 2015, Cabinet approved the Draft Charging Schedule (DCS) for a six week public consultation to be conducted after the Local Plans hearing sessions in June 2015. The consultation took place between 23 October 2015 and 4 December 2015 and a total of 18 representations were received.

The Draft Charging Schedule sought to address concerns raised through the preliminary draft charging schedule consultation through appropriate amendments. The main issues raised through the Draft Charging Schedule representations are summarised below;

Main Issues

- Previous suggestions to help relieve traffic and encourage cycling and pedestrians has not been included
- Unreasonable to charge residents an extra charge
- Previous comments of impacts and improvements on the strategic road network not included on the Regulation 123 list
- Generic funding areas are not sufficiently specific
- Confirmation required that the Infrastructure Delivery Plan has been updated after the completion of the Tamworth Sports Strategy
- The Regulation 123 List should detail more specific projects devised in co-operation with the County Council
- The Evidence does not accurately reflect the viability of the Dunstall Farm scheme
- The Charging Schedule would result in double counting in relation to the Dunstall

Farm scheme

- The Evidence utilises limited and/or incomplete figures on retail therefore the retail rate is flawed
- The retail levy is too onerous for developers resulting in harm to investment and job creation in Tamworth
- Communal Floorspace provision used to test the viability of sheltered/retirement housing has been underplayed
- Testing the viability of a 30 unit extra care scheme not in line with the RHG guidance and results in sales values in excess of what is to be expected for a non-premium extra care development
- The 25% premium of extra care accommodation over sheltered/retirement housing should not be limited to an uplift of sales value per m² but to the entire unit

What are they asking us to change?

- Document should acknowledge the role of infrastructure providers in reaching any decision on the appropriateness of the Payment in Kind policy in any given situation
- Include examples of what may be included in the Exceptional Circumstances policy in relation to the long term viability of heritage assets
- The R123 List should refer to the conservation and enhancement of Tamworth's historic environment
- Provide clarification that planning obligations and S106 will continue to offer opportunities for funding improvements to mitigations of adverse impacts on the historic environment
- Include station enhancement in addition to any highways or Green Infrastructure works
- Clarification that CIL is not expected to address any compensatory provision
- Updated Viability Study to include Rent to Buy and Starter homes
- Include a policy requiring a CIL Review every 3 years or where there's been a 10% change in house prices
- Drainage and flood alleviation projects to be included on the R123 List with the consideration of the relationship with the use of S106
- Include additional clarity that CIL payments will not be sought outside the Borough
- Dunstall Farm scheme should be added to the exempt CIL list
- Retail data should be reassessed with complete figures with more variety of retail units outside the Town Centre
- The non-food retail rate should be set at £70 per sq.m and the food retail rate should be set below £100 per sq.m in line with CIL rates for surrounding areas
- Set a cap of £100,000 on monies that can be contributed by out of centre retail developments
- Amend wording of the Discretionary Relief policy to provide certainty relief will be provided in appropriate circumstances
- Amend wording of paragraph 5.2 to read "Council will offer a process"
- Amend wording of paragraph 5.3 to read "Council will offer to accept payment in kind"
- Viability Study should include a communal floorspace provision of 25%

A copy, in full, of each representation will be forward to the Planning Inspectorate in line with regulations. These representations have been considered in the Whole Plan Viability, Affordable Housing and CIL Addendum report, 2015. The next step in the establishment of CIL is the submission of the CIL Draft Charging Schedule to the Planning Inspectorate for examination. Two representations on the Draft Charging Schedule requested to be heard at examination. As such the examination is likely to comprise hearing sessions.

There is an amendment proposed for smaller residential schemes of between 3 and 10 units. The Draft Charging Schedule proposed a flat rate of £35 per sq. m. for residential schemes of 3 or more units in line with the Affordable Housing and CIL Study 2014. The requirement for Affordable Housing contributions will be removed from schemes between 3 and 10 units to accord with the NPPF. This change was modelled within the Affordable Housing and CIL study Addendum 2015 and it recommended an uplift to the CIL rate for smaller

developments after consideration of different typologies. The CIL headroom rates were assessed against a 40%, 50% and 60% buffer to arrive at a CIL rate, consequently, the CIL rate will be altered to a level of between £54 and £82 per sq.m. for these smaller schemes. It is proposed that a rate of £68 per sq m is applied as it lies between the lower and higher rate. Further details on the proposed revised Affordable Housing policy are provided in a separate report also on this agenda.

The Addendum Report gave further consideration to the impact of CIL on specialist housing being care homes, retirement dwellings and extra care schemes. Additional testing was carried out of housing for older people to reflect anticipated stronger future markets for this type of housing and the business models behind the different types of schemes. It was concluded that retirement dwellings and extra care schemes could support a contribution to CIL whereas a care home would not be able to contribute. However, a further viability test was undertaken and the PBS Technical Note May 2016 advises that retirement and extra care developments should also not be required to contribute to CIL. Planning obligations for these schemes would be better secured through a Section 106 agreement.

The proposed amendments to the Preliminary Draft Charging Schedule (extracted from PBA - Whole Plan Viability, Affordable Housing and CIL Study Addendum 2015) as well as further recommendations provided in PBA Review and technical note dated 26th May 2016 are shown in Table 1 together with the proposed rates:

Table 1: Proposed CIL Contributions

Land use Category	Criteria	Previous CIL rate per square metre	Recommended CIL rate per square metre
Residential	Applicable to one or two unit residential schemes.	£0	£0
Residential	Applicable to all schemes with between 3 and 10 units except those which are exempt from CIL charge in the PDCS (Oct 2014)	£35	£68
Residential	Applicable to all schemes with 11+ unit except those which are exempt from CIL charge in the PDCS (Oct 2014)	£35	£35
Specialist residential (Retirement dwellings, Care Homes and Extra care)		£35	£15* £0
Care homes		£0	£0
Out of Centre retail	Out of centre is defined as comparison and convenience retail development located outside of Tamworth Town Centre, local centres and neighbourhood centres as defined in the policies map and town centre inset map of the Tamworth Local Plan 2006- 2031	£200	£200
All other development	None	£0	£0

*amendment proposed in 2015 Addendum, revised in 2016 Technical Note

OPTIONS CONSIDERED

The Whole Plan Viability, Affordable Housing and CIL Study by Peter Brett Associates, April 2014 and the Addendum 2015 have taken into account the Local Plan and its requirements.

Responses to the Draft Charging Schedule were considered by Peter Brett Associates in a Technical Note dated 26th May 2016. Having obtained further information in respect of viability for retirement and extra care units it was recommended that along with care homes, retirement and extra care developments should not be required to contribute to a CIL. This amendment would provide greater assurance to this sector and infrastructure contributions would be better gained through section 106 negotiations.

Retail warehousing in out of centre locations were similarly reassessed and the advice from PBA was that there was no viability reason to change the rate for retail warehousing (out of centre).

RESOURCE IMPLICATIONS

The submission of the CIL and supporting documents require no further resource implications above those currently identified within the service area. The examination in public entails a cost and staff resources which are identified within the service area.

LEGAL/RISK IMPLICATIONS BACKGROUND

Currently planning obligations are secured through Section 106 Agreements and should be directed to relevant projects and locations. The restrictions related to these agreements could in effect limit the amount of monies the Council can collect to mitigate the effects of development.

Delays will be experienced should the CIL be rejected by the examiner as well as impacts on reputation. These have been mitigated by selecting experienced viability consultants who have set out their recommendations and proposed levels of tariffs. In addition, they have tested further scenarios to reflect comments received.

SUSTAINABILITY IMPLICATIONS

The CIL Regulation 123 list has been drawn from the Infrastructure Delivery Plan which is part of the Local Plan. This list includes infrastructure which will make improvements for local communities across Tamworth.

BACKGROUND INFORMATION

The Community Infrastructure Levy (CIL) enables Local Authorities in England and Wales to raise funds from developers undertaking new building projects in their area. CIL came into force in April 2010 and funding secured through CIL can be used to fund infrastructure provision or improvement required as a result of development. This includes new or safer roads schemes, flood defences, schools, hospitals and other health and social care facilities, park improvements, green spaces and leisure centres. The Regulations also restrict the use of Section 106 to collect developer contributions and importantly, Affordable Housing is excluded from CIL and will continue to be secured through Section 106's.

In order to adopt a CIL, the NPPF requires that an 'up to date' Local Plan has been adopted by the local authority. Tamworth Borough Council is classed as the 'Charging Authority' and is able to put in place a 'Charging Schedule' which sets out rates (in £'s per sq.m.) that the Levy is charged for different types of development. Tamworth Borough Council will also be the 'Collecting Authority' and will have responsibility for issuing liability, commencement and

demand notices. The Council will also have Enforcement Powers used in instances where for example the required Levy has not been paid. The Council will also have to decide what infrastructure to fund and when. This will require a governance structure that will be developed and a report brought to Cabinet to authorise the arrangements for decision making and implementation. The Planning Advisory Service has offered free support to help draft the procedures and processes.

The CIL will allow greater scope and flexibility in receiving financial contributions and directing them to projects and locations that are identified at a strategic level. Section 106 Agreements will continue to be used to deal with site specific issues and assist in ensuring individual developments are acceptable to local planning authorities and communities.

REPORT AUTHOR

Sushil Birdi – Senior Planning Policy and Delivery Officer x279

LIST OF BACKGROUND PAPERS

Cabinet Report 2nd April 2015 – Community Infrastructure Levy
Whole Plan Viability, Affordable Housing & CIL Study 2014 and Addendum, 2015
Peter Brett Associates Technical Note 26th May 2016
CIL Draft Charging Schedule Statement of Consultation
Tamworth Borough Council Local Plan 2006-2031, Adopted 23rd February 2016

APPENDICES

None

This page is intentionally left blank