

TUESDAY, 17TH JULY 2018

REPORT OF THE PORTFOLIO HOLDER FOR HERITAGE AND GROWTH

COMMUNITY INFRASTRUCTURE LEVY

EXEMPT INFORMATION

None

PURPOSE

To consider the outcome of public consultation on the Regulation 123 List, Infrastructure Delivery Plan and Planning Obligations Supplementary Planning Document and to approve the Tamworth Borough Council Community Infrastructure Levy (CIL) Charging Schedule arising from the Planning Inspectorate's report of the examination for adoption and implementation. The Infrastructure Delivery Plan and Regulation 123 List that sit alongside the Charging Schedule to be published and a new Planning Obligations Supplementary Planning Document to be adopted.

RECOMMENDATIONS

1. Council resolves to adopt and publish the Tamworth Borough Council Community Infrastructure Levy Charging Schedule and Local Policies contained in Appendix 1 and that the Charging Schedule and Local Policies be implemented from 1st August 2018, in line with the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended).
2. Council resolves to publish the Infrastructure Delivery Plan contained in Appendix 2 alongside the CIL Charging Schedule and that arrangements for the approval of subsequent revisions to the Infrastructure Delivery Plan be considered by Cabinet.
3. Council resolves to publish the Regulation 123 List, in accordance with the Community Infrastructure Levy Regulations 2010, contained in Appendix 3, alongside the CIL Charging Schedule and that arrangements for the approval of subsequent revisions to the Regulation 123 List be considered by Cabinet.
4. Council resolves to adopt the Planning Obligations Supplementary Planning Document (2018), contained in Appendix 4 and it will be a material consideration in future decision making on planning applications.
5. Council resolves to revoke the existing Planning Obligations Supplementary Planning Document (2007) and the Open Space for New Development Supplementary Planning Document (2007).
6. Council resolves that a report will be submitted to a future Cabinet meeting to consider governance arrangements for the distribution of CIL funding.
7. Council note Appendix 6 CIL notice of adoption (required under the CIL regulations 2010); Appendix 7 notice of revocation of existing SPD's (Planning Obligations July

2007 and Open Space for New Residential Development SPD July 2007); and Appendix 8 Obligation SPD Adoption Statement (Planning Obligations 2018). The notices in Appendix 7 and Appendix 8 are required under the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and will be published following the decision of Council.

EXECUTIVE SUMMARY

The Community Infrastructure Levy (CIL) is a means of securing funding from development towards the provision of infrastructure to support the development of the Borough. Once CIL is adopted it will replace Section 106 agreements that secure developer contributions to deliver infrastructure improvements in many cases but not all. Affordable housing will continue to be secured through a Section 106 Agreement as well as any site specific mitigation measures.

The Tamworth Borough Council Draft Charging Schedule (DCS) and supporting evidence was submitted to the Planning Inspectorate in August 2017 in order to facilitate a Public Examination including a public hearing on 1st November 2017 at Marmion House. The examiner recommended that changes be made to some of the information supporting the Draft Charging Schedule (the charging rates remained as submitted) and that further public consultation on the proposed modifications to the DCS be carried out. The Council amended the schedule and consulted on it between 22nd November 2017 and 20th December 2017 during which a small number of responses were received.

The final examiners report was issued 13th February 2018 and stated "...the Tamworth Borough Council Community Infrastructure Levy Draft Charging Schedule For Submission provides an appropriate basis for the collection of the levy in the area. The Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of the area at risk".

The DCS includes policies on instalments, exceptional circumstances relief and payment in kind. The regulations allow councils to set a local instalment policy (The Community Infrastructure Levy (Amendments) Regulations 2011) to assist with development cashflow and reduce up-front costs to ensure economic viability. There is provision for providing relief where development cannot afford to pay CIL where a Section 106 Agreement exists, appropriate financial evidence showing that paying the full CIL charge would make the development unviable and that any relief would not constitute state aid. A payment in kind policy will allow the Council to receive land or items of infrastructure (subject to appropriate valuations procedures) provided by a developer in place of CIL monies. In adopting the Charging Schedule, Council will also be adopting these local policies.

The CIL Regulations require that the Tamworth Borough Council Community Infrastructure Levy is approved through a resolution of the Full Council. The Cabinet report of 5th April 2018 'CIL and Planning Obligations' requested Council to adopt the Charging Schedule as well as approval to commence consultation on the Regulation 123 List, Infrastructure Delivery Plan and Planning Obligations Supplementary Planning Document and for Council to consider adoption.

During the examination of the DCS, it was evident that the Regulation 123 List and Infrastructure Delivery Plan required further work to bring them up to date to support the DCS. Officers have updated both documents in consultation with internal service areas, Staffordshire County Council and partner organisations. The updated documents were then consulted on between 16th April 2018 and 30th May 2018. The comments received during the consultation and the responses to them, including any changes made to the documents as a result, are contained in Appendix 5. Where appropriate, the documents have been amended in light of the comments received. The Regulation 123 List can be amended should spending priorities change without the need for an examination but consultation on the changes will need to be carried out. The Assistant Director Growth and Regeneration has delegated

authority to amend and publish the Regulation 123 List under the Council's scheme of delegation.

Similarly the Planning Obligations SPD has been updated and consulted on at the same time as the Reg 123 List and IDP. The opportunity has been taken to prepare a new SPD to take account of CIL and changes to the application of Section 106 agreements and other relevant matters.

It is likely that there will be a lead in time before any money is received by the authority through CIL and some time before funds start to accumulate. The Council will be required to allocate at least 15% of Levy receipts to spend on priorities agreed with the local community. A future Cabinet report will set out the arrangements for distributing and spending CIL funds and decision making processes.

Following decision of Council, the documents will be reformatted as final documents and 'Draft' removed from them and a date of August 2018 will be attached.

OPTIONS CONSIDERED

There is no requirement to have a CIL in place and the Council could decide not to adopt CIL and continue to secure contributions through Section 106 Agreements. CIL provides a more efficient and transparent process to secure higher contributions towards vital infrastructure that also avoids pooling restrictions posed by the Section 106 agreements

RESOURCE IMPLICATIONS

The cost of preparing and submitting the Draft Charging Schedule and subsequent consultation as well as the examination in public has been funded from existing service budgets. There will be ongoing revenue implications of administering the CIL (staff time, potential purchase of new system and maintenance of) however the Council can use funds from the levy to recover the costs of administering the levy. Regulation 61, as amended by the 2014 Regulations allows the Council to spend up to 5% of the total levy receipts on administrative expenses. This is to ensure that the overwhelming majority of revenue from the levy is directed towards infrastructure provision. Where an authority spends less than its permitted allowance on administrative expenses, it must transfer the remaining allowance for use on capital infrastructure projects.

LEGAL/RISK IMPLICATIONS BACKGROUND

The Planning Act 2008 (as amended) and CIL Regulations 2010 (as amended) list the requirements for adopting a levy. The Charging Schedule has undergone an Examination by an Independent Examiner and was found to be compliant with the relevant legislation and statutory guidance. The Council has had regard to the Examiner's recommendations and incorporated them within the Charging Schedule in accordance with the Planning Act 2008 (as amended).

The CIL Regulations and Planning Practice Guidance state that the Charging Schedule shall be formally approved by a resolution of Full Council and that the resolution should include an appropriate implementation date. The proposed commencement date is 1st August 2018.

An Annual Report of CIL income and expenditure will be required and Officer's will ensure this is provided. In addition, governance arrangements will need to be considered and approved for allocation and spending of CIL funds including the neighbourhood portion that should be identified separately. This will be the subject of a future Cabinet report.

The CIL regulations also require publication, by local advertisement, of a notice of adoption of the Charging Schedule a copy of which is attached in Appendix 6. A notice of revocation of the Planning Obligations SPD (July 2007) and Open Space for New Residential

Development SPD (July 2007) is also required under the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). A copy of the notice is included in Appendix 7. An Adoption Statement relating to the Planning Obligations SPD 2018 is also required under the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and this will be published on the Council's website shortly after adoption.

SUSTAINABILITY IMPLICATIONS

The Community Infrastructure Levy with the IDP and Reg 123 List will support the development of the borough and secure necessary infrastructure investment. This will mitigate potential adverse development impact and support the principle of sustainable development as promoted within the Tamworth Local Plan and the National Planning Policy Framework.

BACKGROUND INFORMATION

REPORT AUTHOR

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LIST OF BACKGROUND PAPERS

Cabinet report 5th April 2018 – 'Community Infrastructure Levy'.

APPENDICES

Appendix 1 Tamworth Borough Council Charging Schedule and Local Policies
Appendix 2 Tamworth Infrastructure Delivery Plan
Appendix 3 CIL Regulation 123 List
Appendix 4 Planning Obligations Supplementary Planning Document 2018
Appendix 5 Summary of consultation – Planning Obligations SPD, IDP and Reg 123 List.
Appendix 6 CIL Notice of Adoption
Appendix 7 Notice Revocation of Existing SPD's
Appendix 8 SPD Notice of adoption