

North Somerset Council

REPORT TO THE COUNCIL

DATE OF MEETING: 18TH JULY 2017

SUBJECT OF REPORT: APPROVAL AND PUBLICATION OF CHARGING SCHEDULE FOR COMMUNITY INFRASTRUCTURE LEVY (CIL)

TOWN OR PARISH: ALL

OFFICER/MEMBER PRESENTING: EXECUTIVE MEMBER FOR STRATEGIC PLANNING, HIGHWAYS AND TRANSPORT

KEY DECISION: NO

RECOMMENDATIONS

That the Council:

- i. Note the Planning Inspectorate (PINS) Report on the Examination of the Draft North Somerset Council Community Infrastructure Levy Charging Schedule, attached at Appendix A.
- ii. Approve the publication of the North Somerset Council Community Infrastructure Levy Charging Schedule, as modified by the Examiner and attached at Appendix B, subject that authority shall be delegated to the Director of Development and Environment to make minor changes to the Schedule to correct errors and/or improve presentation.
- iii. Agree that the Charging Schedule shall take effect from 18th January 2018.
- iv. Note the draft Regulation 123 List attached at Appendix C setting out the infrastructure that may in future be funded through the CIL.
- v. Delegate authority to the Director of Development and Environment, in consultation with the Executive Member for Strategic Planning, Highways and Transport to:
 - a. Amend, finalise and publish a final Regulation 123 List.
 - b. Make future amendments to the Regulation 123 List, where appropriate and in compliance with any regulatory requirements.
 - c. Prepare and publish any other supporting documentation required to facilitate the operation of the CIL.
- vi. Approve the CIL Equalities Impact Assessment at Appendix D.
- vii. Commit to a review of the Community Infrastructure Levy Charging Schedule once a revised Local Plan (or equivalent document) has been adopted.

1. SUMMARY OF REPORT

- 1.1 This report recommends adoption of a Community Infrastructure Levy (CIL) Charging Schedule for North Somerset, with a commencement date of 18th January 2018. It requests delegation of authority to the Director of Development and Environment in consultation with the Executive Member for Strategy Planning, Highways and Transport to finalise documentation associated with the CIL, including a Regulation 123 List that sets out the infrastructure that may in future be funded using the CIL.

2. POLICY

- 2.1 The introduction of a Community Infrastructure Levy (CIL) will support the delivery of the Core Strategy and Infrastructure Delivery Plan. Policy CS34 states that the CIL will be used as a mechanism for the collection of development contributions. This supports the Council's corporate priority of creating quality places.
- 2.2 The proposals in this report are in line with the Community Infrastructure Levy Regulations 2010 and subsequent amendments and with the National Planning Policy Framework and Guidance.

3. DETAILS

CIL examination and modifications to Charging Schedule

- 3.1 The Community Infrastructure Levy (CIL) enables local planning authorities to raise funds from developers undertaking new building projects in their area to provide infrastructure needed to support development. CIL will not be the sole funding source for development-related infrastructure but will partially replace S106 agreements and supplement other funding streams. Previous reports have set out the principles and operation of the CIL.
- 3.2 The introduction of a CIL has required two sets of public consultation and an Examination in Public by an independent inspector. The Examination in Public was held on 28th February 2017 and the examiner's report is attached for information at Appendix A.
- 3.3 The examiner's report recommended approval of North Somerset's proposed CIL rates, subject to a number of modifications:
- Introduce a definition of Strategic Development Areas (SDAs) within North Somerset, to which the relevant CIL charge will apply.
 - Introduce a charge of £20 psm for residential development within SDAs within Zone B.
 - Introduce a charge of £40 psm for residential development within SDAs within Zone C.
 - Introduce a definition of use class C2 extra-care homes

- Introduce a zero charge for use class C2 extra-care homes across the District.
- Introduce a commitment for the Council to review the CIL once a revised Local Plan (or equivalent document) has been adopted.

3.4 The reasons for these modifications are set out in the examiner’s report and are the result of extensive discussion during the consultation and examination stages.

3.5 The final draft Charging Schedule is attached at Appendix B. For ease of reference, the table below sets out the rates approved by PINS:

Location(s)	Development type (use class)	CIL charge £/m²
Zone A: Weston Town Centre	Residential (C3/C4).	0
Zone B: Outer Weston: sites	Residential (C3/C4) development on sites designated as Strategic Development Areas.	20
	Residential (C3/C4) development on sites not designated as Strategic Development Areas.	40
Zone C: Rest of District	Residential (C3/C4) development on sites designated as Strategic Development Areas.	40
	Residential (C3/C4) development on sites not designated as Strategic Development Areas.	80
All (zones A, B, C)	Extra-care (C2) housing.	0
	Purpose-built student accommodation / halls of residence.	40
	Large-scale retail (A1/A2/A3/A4/A5): more than 280m ² net sales area.	120
	Small-scale retail (A1/A2/A3/A4/A5): less than 280m ² net sales area.	60
	Commercial (B1/B2/B8).	0
	All other qualifying development.	0

3.6 The definition of Strategic Development Areas (SDAs) approved by PINS and proposed to be adopted is:

- *“The Weston Villages, as defined in the Weston Villages Supplementary Planning Document (SPD), or as amended through subsequent planning policies; and/or*
- *Individual development sites of 500 or more dwellings; and/or*

- *Any other strategic sites or SDAs identified in an appropriate planning policy by NSC.”*

Strategic Development Areas are expected to face proportionately more substantial S106 planning obligations than other smaller forms of development and this is the reason for the lower CIL rates. The increased emphasis on S106 to deliver infrastructure for SDAs is reflected in a revised Regulation 123 List (see below).

- 3.7 Extra-care (C2) housing is defined as “*accommodation available to rent or buy for older people or others in need of care and which meets the following criteria:*
- *Residents are subject to an assessment of minimum care needs to establish eligibility to buy or lease a property; and*
 - *Residents are required to purchase a ‘minimum care package’ as a condition of occupation, to include at least 2 hours of domiciliary care per week focused on the health and social care needs of those residents; and*
 - *The development has a minimum non-saleable floorspace in excess of 30% of gross internal area.”*

Commencement of CIL charges

- 3.8 The Council is asked to approve the CIL Charging Schedule for publication and to confirm the date on which it will take effect. This is proposed to be 18th January 2018.
- 3.9 The financial impacts of the delay before implementation should be minimal, as developments will continue to be required to make full S106 contributions until such time as CIL is put in place. Whilst some developments will pay more under CIL, some may pay less, for example developments within nil rated zones. An ongoing reliance on S106 contributions creates some risks relating to the pooling of obligations, but officers believe these can be managed in the short-term.
- 3.10 The proposed delay between publication and the Charging Schedule taking effect is for a number of reasons:
- To allow time for resources and systems to support CIL operation (including new software) to be put in place. These are expected to be funded from the 5% of CIL allowed to be used for administrative costs.
 - To enable a transition period between S106 and CIL, in particular to respond to anticipated pressure to conclude S106 agreements from current planning applications in advance of CIL implementation, and to allow time for the transfer of data from the existing S106 database into the new CIL software.
 - To ensure all parties are fully briefed and trained in the new systems prior to implementation, including members, officers, developers, agents, affordable housing providers and Town and Parish Councils (who will receive a share of CIL income).

- 3.11 New software will be installed for planning applications in the late summer/early autumn and officers are keen to avoid the risks that could occur if attempting to implement two significant system changes simultaneously.

Regulation 123 List and use of CIL

- 3.12 In establishing a CIL, the Council must provide guidance as to what will be funded through CIL and what through S106, as it is not permitted to charge developers twice for the same infrastructure. This is achieved through the publication of a "Regulation 123 List".
- 3.13 The Regulation 123 List sets out the infrastructure that *might* be funded through CIL and by default, any infrastructure on the list cannot then be funded through S106 obligations.
- 3.14 A draft Regulation 123 list is attached for reference at Appendix C. This has been amended from the draft approved by the Executive when submitting proposals for examination. It now places a greater emphasis on delivery through S106 from Strategic Development Areas in line with the reduced CIL rates that would apply.
- 3.15 The list can be further amended at any time, subject to a clear explanation of reasons and "appropriate local consultation". Items should not be removed from the list just so that they can fund the item through a new S106 agreement. Where a change to the list would have a very significant impact on the viability evidence that supported examination of the charging schedule, this should be made as part of a review of the charging schedule.
- 3.16 The Council is asked to delegate authority to the Director of Development and Environment, in consultation with the Executive Member for Strategic Planning, Highways and Transport, to finalise and publish the final Regulation 123 List and to consult on and approve any future amendments to the list.

Future review of charging schedule

- 3.17 In the light of forthcoming changes to North Somerset's development policies (such as the emerging Joint Spatial Plan), the examiner's report requires that the Council shall commit to review the CIL once a revised Local Plan (or equivalent document) has been adopted.
- 3.18 The examiner states that the review should consider the implications for CIL of any additional growth that is proposed, in particular if new strategic developments are identified. However, the review may conclude that no changes to the rates are required and if this is the case, the Council would not be required to resubmit rates for further examination and the originally approved Charging Schedule would continue to have effect.

Governance of CIL expenditure

- 3.19 CIL expenditure will be governed by the Council's normal financial procedures. Services seeking to receive a share of funding will be required to secure formal approval through Director, Executive and/or Council processes, depending on the level of funding required. Oversight will be provided by the Investment and Infrastructure Board or other appropriate body and reported to the Executive and Council as part of normal budget/MTFP procedures. An annual report on income and expenditure will be published as required by legislation.
- 3.20 A share of CIL will be passed directly to the Town or Parish Council in which development is taking place. This is 15% for most areas, or 25% for areas with an adopted Neighbourhood Plan. Town and Parish Councils will be briefed on regulations relating to the expenditure of their share of CIL income, but ultimately it will be their own responsibility to ensure compliance.

4. CONSULTATION

- 4.1 The CIL Charging Schedule has been subject to two rounds of public consultation as well as a public examination. Proposals have been subject to extensive internal consultation and have been discussed at various stakeholder forums including those for Town & Parish Councils and Planning Agents.

5. FINANCIAL IMPLICATIONS

- 5.1. The adoption of a CIL is necessary for the Council to fund strategic infrastructure to support development. Rates are proposed in line with regulations and government guidance and have been approved by PINS.
- 5.2 The CIL will assist with the delivery of infrastructure to support Core Strategy delivery, but is not expected in itself to fund all of the infrastructure required or to eliminate the infrastructure funding gap. A multi-faceted approach bringing together a wide range of funding sources including S106 agreements, external grants and NSC's own resources will be required. The Council's Medium Term Financial Plan assumes a combined CIL and S106 income of around £2m/year. The CIL element of this will take time to build up, as it is payable only on the commencement of development by applications determined after the implementation date. It is expected to raise less than £100k in the first year of operation and that it will be 2 – 5 years before a full income stream is forthcoming.
- 5.3 The implementation of a CIL will bring additional administrative costs as the charge will be applied to all development. These costs are expected to be met through the 5% of CIL permitted to be used to meet administrative costs.
- 5.4 It is anticipated that there will be pressure on Development Management and legal teams to complete S106 agreements/planning permissions in the run up

to the adoption of a CIL. Officers are aware of this potential pressure and are working with members, services and partners to minimise the impact.

6. RISK MANAGEMENT

6.1 Key risks are that:

- CIL rates are set too high and compromise the delivery of the Core Strategy and five-year housing supply. This was a key aspect of consultation and examination of proposed rate. The examiner's report concludes that the rates are unlikely to threaten the viability of the majority of development.
- CIL rates are set too low and compromise the delivery of the infrastructure required to support Core Strategy delivery. As above, the CIL will only meet a proportion of costs and is one of several funding streams that will be required to support infrastructure delivery. This issue is subject to ongoing monitoring by NSC's Investment & Infrastructure Board.
- Opportunities to collect CIL from developments are missed due to the time required before the Charging Schedule takes effect. Any such losses are expected to be minimal and to be compensated for through S106 income where appropriate. Officers have recommended a commencement date that they believe to be as early as possible whilst allowing a realistic time period for preparatory work to be carried out.
- Government changes lead to the abolition of CIL or significant amendments to its operation: there is little that can be done to reduce this risk. Officers will input into consultations where appropriate and report to the Executive/Council if and when future changes are required.

7. EQUALITY IMPLICATIONS

7.1 A draft Equalities Impact Assessment for the CIL was produced and consulted upon as part of the Draft Charging Schedule consultation. A revised version taking into account consultation comments and changes made through the examination process is attached at Appendix D. The Council is asked to approve the final document.

8. CORPORATE IMPLICATIONS

8.1 The introduction of a CIL would have significant corporate implications in providing funding for new/improved infrastructure across a range of services and partners.

9. OPTIONS CONSIDERED

9.1 The main options considered are:

- To proceed with the adoption and commencement of CIL charges as modified by the Examiner, as recommended by this report.

- To withdraw from the process of introducing a CIL: this is not recommended, as it will reduce the Council's ability to secure the delivery of infrastructure to support development, in particular due to restrictions on the pooling of S106 planning obligations.

AUTHORS

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BACKGROUND PAPERS

Appendices

Appendix A: Planning Inspectorate Report on the Examination of the Draft North Somerset Council Community Infrastructure Levy Charging Schedule.

Appendix B: North Somerset Council Community Infrastructure Levy Charging Schedule, plus appendices.

Appendix C: Regulation 123 List.

Appendix D: CIL Equalities Impact Assessment.

Background information

Materials and responses from the CIL consultation and examination processes can be accessed via www.n-somerset.gov.uk/cil

The CIL Regulations 2010 (amended) can be viewed at:
<http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>

National Planning Policy Guidance on CIL can be found at:
<https://www.gov.uk/guidance/community-infrastructure-levy>. This is a useful resource providing guidance on CIL charge-setting and operation.