

Gloucester City Council

Meeting:	Cabinet	Date:	19 July 2017
Subject:	Community Infrastructure Levy – Draft Charging Schedule: Proposed Statement of Modifications		
Report Of:	Cabinet Member for Housing and Planning		
Wards Affected:	All		
Key Decision:	Yes	Budget/Policy Framework:	No
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Appendices:	Appendix 1 - Proposed Statement of Modifications		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To seek approval of the Community Infrastructure Levy –Draft Charging Schedule: Proposed Statement of Modifications for public consultation purposes.

2.0 Recommendations

- 2.1 **Cabinet** is asked to **RESOLVE** that:

- (1) The Community Infrastructure Levy Proposed Statement of Modifications at Appendix 1 be **APPROVED** for public consultation.
- (2) It delegates authority to the Corporate Director/Head of Planning, in consultation with the Portfolio Holder for Housing and Planning to amend the Proposed Statement of Modifications at Appendix 1 and prepare any further statements of modification that may be required following the JCS hearings and/or any further viability assessments undertaken.
- (3) The Corporate Director/Head of Planning be authorised to agree the date of public consultation(s) with Cheltenham Borough and Tewkesbury Borough Councils.
- (4) The Corporate Director/Head of Planning, following the conclusion of the public consultation(s), be authorised to compile and submit responses received to the CIL Examiner for examination.

3.0 Background

- 3.1 The Joint Core Strategy (JCS) authorities (Tewkesbury, Cheltenham and Gloucester) have been working towards adopting a Community Infrastructure Levy (CIL) alongside the JCS. CIL will allow the Councils to raise funds from developers undertaking new developments to fund a wide range of infrastructure that is needed to support new development such as road improvements and schools. As almost

all development has some impact on the need for infrastructure, services and amenities CIL is a more effective, quicker and fairer system to fund new infrastructure. CIL will replace the majority of Section 106 Planning Obligations; however, S106 will still be used to deliver affordable housing provision and site-specific mitigation measures. For Strategic Allocations, the majority of required infrastructure will still be funded through the S106 Planning Obligations process.

3.2 The proposed CIL rates for the JCS area are set out within the Draft Charging Schedule which was submitted to the Planning Inspectorate for Examination on 29 July 2016. An independent Planning Inspector has been appointed to preside over the Examination into the CIL Charging Schedule; this is the same Inspector who is dealing with the Joint Core Strategy (JCS). The CIL Hearings will take place sometime after the conclusion of the JCS Hearings.

4.0 Amendments Required Following the JCS Hearings

4.1 Following the hearings on the JCS in 2016, the Planning Inspector published an Interim Report. This report set out that in order for the JCS to be found sound further work was required and a number of recommendations were made. This included:

- Increasing the level of housing provision from 30,500 to 35,175; and
- The deletion of the North Churchdown and Leckhampton. strategic allocations from the plan.

In October 2016, it was confirmed that the majority of MOD Ashchurch would no longer be available for development for at least the next ten years.

4.2 With the removal of these three sites as strategic allocations and the increase in the required housing provision the following sites have been added as strategic allocations within the JCS Proposed Main Modifications. These are:

- West Cheltenham
- Twigworth
- Winnycroft

4.3 Winnycroft was previously identified as a site for housing development through the Local Plan but was not identified as a strategic allocation. These additional sites had not been assessed in terms of the level of infrastructure required, their viability or their ability to pay a CIL charge in the Draft Charging Schedules that were submitted to the CIL Examiner, with those Draft Charging Schedules having reflected the strategic allocations as existing prior to the Proposed Main Modifications JCS.

4.4 The JCS authorities commissioned Peter Brett Associates (PBA) to complete a viability study on these additional sites in consultation with developers. However, at the time of when this work was commissioned, a planning appeal was underway on part of the Winnycroft site and the site was not assessed in the initial viability report. The recent appeal decision concluded that while S106 contributions were required, site viability could not support the provision of affordable housing. PBA has since been commissioned to undertake a viability study of the Winnycroft strategic

allocation and this is currently in hand. Appendix 1 indicates the potential CIL rate applied to all Strategic Allocations and anticipated affordable housing provision based on JCS requirements, but this will be confirmed in the near future when the consultant's final viability work on Winnycroft is concluded.

5.0 Proposed Modifications to the Draft Charging Schedules

5.1 Given the changes to the JCS strategic allocations, the Draft Charging Schedules for each JCS Authority require amending before an Examination can take place. The JCS authorities have received legal advice setting out that the most appropriate way forward is to produce a 'Statement of Modifications' to each Draft Charging Schedule before the examination and to consult on these statements for a period of four weeks. The statement contained within Appendix 1, sets out the following modifications:

- The addition/deletion of strategic allocations as recommended by the JCS Inspector.
- The inclusion of maps showing the boundaries of Strategic Allocations (as required by the CIL Regulations).
- A section setting out how the CIL charge will be calculated (as required by the CIL Regulations).

6.0 Next Steps

6.1 Once the three councils have each approved the Statement of Modifications for their respective Draft Charging Schedules the proposed timetable is as follows:-

- Consultation for four weeks commencing – late July/early August 2017
- Examination – anticipated October 2017
- Adoption – January 2018.

7.0 Implementation and Resourcing

7.1 In order to implement CIL the JCS authorities will be required to implement a system for the collection and administration of CIL to include the recruitment of two officers to manage CIL and S106 planning obligations; the financial costs associated with this are estimated to equate to £60,000 for each authority.

7.2 The CIL Regulations allow Councils to claw back reasonable costs in preparing and implementing CIL, by allowing them to reclaim 5% of the total CIL revenue for the first three years that CIL is levied for this purpose. In addition to this, the CIL Regulations make provision for councils to use up to 5% of each year's CIL revenue to offset the CIL administrative costs of charging a CIL for that year which will be used to cover the additional staff costs for the collection and administration of CIL. This covers the years following the initial three year period and can continue to be recovered for as long as the CIL is being charged.

7.3 In considering the relative costs of preparing CIL, it should be noted that they will have to be borne 'up front', the retrieval of these costs will only be realised once the CIL regime is implemented.

7.4 The JCS Authorities projections for CIL income is in the region of £13 million in the first three years and therefore the additional cost of a new system and additional staff resources should be able to be retrieved during that period.

8.0 Other Options Considered

8.1 At the early stages of considering CIL, an option not to implement CIL and continue to rely only on negotiations of S106 was investigated. However, the restrictions put in place which limit the ability to pool receipts from S106 would be likely to result in the loss of resources to fund identified infrastructure needs. The use of CIL would address this loss of resources towards the funding gap for future infrastructure.

9.0 Financial Implications

9.1 The cost of implementing CIL going forward has been estimated at £180,000 between the three Joint Core Strategy (JCS) authorities, shared equally between the partner authorities. Each council's contribution will cover the following requirements:

- Staffing costs - £30,000
- IT system costs - £30,000

9.2 The CIL Regulations provide for Charging Authorities to recover their administrative costs from CIL income, up to a total of 5% of the annual CIL income. In addition, before adoption set up costs can be included in this recovery. As the CIL income in the first few years most likely will be variable, the 5% is averaged over the remaining time of the first year from implementation, plus the next full 3 years. The anticipated CIL income over the first three years between the JCS authorities is estimated to be in the region of £13 million. The fourth year therefore, is the first year where the 5% administrative costs will be an 'annual amount'.

(Financial Services have been consulted in the preparation of this report).

10.0 Legal Implications

10.1 The formal procedure for the setting and adoption of CIL charges is set out in Part 11 of the Planning Act 2008 and the Community Infrastructure Regulations 2010 (the requirements of which, so far as they relate to the drafting of the charging schedule, are known collectively as "the drafting requirements"). Under the drafting requirements, a Charging Authority (the local planning authority) which proposes to charge CIL must, after having prepared and consulted upon a Preliminary Draft Schedule, prepare a Draft Charging Schedule (DCS) and then formally publish the DCS together with the appropriate available evidence on infrastructure costs, other funding sources and economic viability for consultation for a minimum period of four weeks. After the close of the consultation process, the Charging Authority must then submit the DCS for public examination before an independent person.

10.2 There is a "Statement of Modifications" process available in respect of amending a DCS prior to submission to examination and the process is also utilised in respect of proposed modifications to a DCS subsequent to submission. The statement of modifications must be sent to each of the consultation bodies that were invited to make representations on the Preliminary Draft Charging Schedule and must be

published on the local planning authority's website. Substantive changes should be avoided, unless they have been sufficiently consulted upon: with Charging Authorities taking steps they consider necessary to inform people who were invited to make representations on the DCS that the statement of modifications has been published.

- 10.3 Anyone who makes representations about a DCS must, if that person so requests at the time of making a representation on the DCS, be heard by the examiner. Similarly, a period of four weeks is to be available for any person to make representations and requests to be heard on any published modifications. The examination will consider whether the drafting requirements have been complied with, including whether there has been due regard to the actual and expected costs of infrastructure, economic viability of development and other actual and expected sources of funding for infrastructure.

(Legal Services have been consulted in the preparation of this report).

11.0 Risk Management Implications

- 11.1 Failure to develop a CIL Charging Schedule would reduce the Council's ability to ensure that new development contributes proportionately to infrastructure provision in the longer term. The Council will also continue to utilise Section 106 agreements to secure appropriate infrastructure contributions.
- 11.2 Failure to adopt a CIL in the longer term means that the Council could be disadvantaged by the changes to Section 106 which took effect on 6 April 2015, which limit the pooling of contributions for the infrastructure needed to support new development, and could result in a significant loss of contributions towards infrastructure until such time as a CIL is adopted.

12.0 People Impact Assessment (PIA)

- 12.1 The preparation of a new planning document can have both positive and negative social impacts on local communities. The CIL DCS seeks to provide appropriate and necessary infrastructure for the needs of the City's communities. PIA will also be ongoing through the preparation of the Development Plan.

13.0 Asset Based Community Development (ABCD) Considerations

- 13.1 The production of a CIL Charging Schedule will allow the Council to identify specific infrastructure requirements to support the development of communities.

14.0 Other Corporate Implications

Community Safety

- 14.1 None.

Sustainability

- 14.2 The development of the CIL would take into account the three dimensions of sustainable development set out in the National Planning Policy Framework (NPPF):

- An economic role – contributing to building a strong, responsive and competitive economy.
- A social role – supporting strong, vibrant and healthy communities.
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment.

Staffing and Trade Union

14.3 The CIL regime will require new monitoring and management systems to ensure effective operation. The CIL management fee of up to 5% of receipts could be utilised to provide additional staff resource.

Background Papers : None