

Southend-on-Sea Borough Council

Agenda
Item No.

18

Report of Corporate Director for Place

to
Cabinet
on

23 June 2015

Report prepared by: Amanda Rogers
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Community Infrastructure Levy (CIL): Adoption of Charging Schedule and associated documents

Place Scrutiny Committee
Executive Councillor: Councillor D Norman
Part 1 (Public Agenda Item)

1. Purpose of Report

- 1.1 This report makes a recommendation to the Cabinet and Council to adopt the Southend-on-Sea Borough Council Community Infrastructure Levy (CIL) Charging Schedule together with the associated documents as set out below. This follows on from the CIL Charging Schedule's successful examination by an independent Planning Inspector and the publication of the Examiner's Report on 1st June 2015, which concludes that the Draft Southend-on-Sea Community Infrastructure Levy Charging Schedule provided an appropriate basis for the collection of the levy in the Borough. It was also concluded that 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.
- 1.2 It is also recommended that consequential changes are made to the Council's Scheme of Delegation to reflect the introduction of CIL and allow for delegated decisions to be made in respect of CIL collection.

2. Recommendations

- 2.1 That all the modifications of the Examiner's Report at Appendix 1 and the revised version of the Southend-on-Sea Borough Council Community Infrastructure Levy (CIL) Charging Schedule 2015 included in Appendix 2 be agreed.
- 2.2 That Southend-on-Sea Borough Council proceeds to formally adopt the Southend-on-Sea Borough Council Community Infrastructure Levy (CIL) Charging Schedule in the format set out in Appendix 2, in accordance with the Planning Act 2008 (as amended) and CIL Regulations 2010 (as amended).

2.3 That Southend-on-Sea Borough Council agree to formally adopt the following CIL associated documents:

- **CIL Regulation 123 Infrastructure List as set out in Appendix 3;**
- **CIL Instalment Policy as set out in Appendix 4;**
- **CIL Payment in Kind and Infrastructure Payments Policy as set out in Appendix 5;**
- **Supplementary Planning Document 2: Planning Obligations 2015 as set out in Appendix 6;**
- **CIL Governance Framework as set out in Appendix 7.**

2.4 That Part 3 Schedule 3 of the Southend-on-Sea Borough Council Constitution is amended as outlined in paragraph 3.12 below to allow provisions for CIL implementation.

2.5 That the Corporate Director for Place, in consultation with the Executive Councillor for Housing, Planning and Regulatory Services, is delegated authority to deal with all necessary adoption documents, minor adjustments that may be required to the text, and other consequential matters.

3. Background

Member authorisations

3.1 Although some minor amendments have been made to the CIL documentation included in Appendices 2 to 7 of this report in preparation for adoption (changes outlined in paragraph 3.11 below) the documents are essentially the same as previously agreed by members at the following meetings of full Council.

3.2 On 18th July 2013 members of the Council initially agreed to pursue the Community Infrastructure Levy. Subsequently, an Infrastructure Delivery Plan (IDP), Viability Study, CIL Draft Charging Schedule, Draft Regulation 123 List (list of infrastructure projects to be funded by CIL) and revised Supplementary Planning Document: Planning Obligations (SPD2) was prepared.

3.3 On 17th July 2014 members of the Council agreed the Draft Charging Schedule (together with the Viability Study and Infrastructure Delivery Plan as supporting evidence) for consultation and subsequent submission to the Planning Inspectorate for independent examination. At this time, the CIL Instalment Policy and the revised Supplementary Planning Document 2: Planning Obligations was also approved for consultation.

3.4 On 23rd October 2014 members of the Council agreed the CIL Governance Framework, Regulation 123 Infrastructure List, and CIL Payment in Kind and Infrastructure Payments Policy.

Public Consultation

3.5 Three rounds of public consultation have taken place (July-Sept 2014, November-December 2014 and January-February 2015). At each stage, 10 responses, 6 responses and 5 responses were received respectively. The main

issues related to the inputs used in the CIL viability study, National Planning Policy Framework (NPPF) compliancy of the Local Plan (Development Plan), the Council's proposed Instalment Policy and position in respect of discretionary relief. Of these issues, the only matter the Examiner requested further comment on was in respect of the NPPF compliancy of the Local Plan. A formal response was submitted to the Examiner who has subsequently dealt with the matter in his report.

Examination in Public

- 3.6 The examination was dealt with as written representations as opposed to a hearing as no persons submitting representations made a request to be heard by the Examiner. The Examiner has taken all matters into account including the responses to the consultation and his report approving the Charging Schedule, with recommendations for minor modifications only, was published on the 1st June 2015.

Examiner's Report and Recommendations

- 3.7 A copy of the Examiner's Report dated 1st June 2015 is included in **Appendix 1**.

Adoption of the CIL Charging Schedule and associated documents

- 3.8 In order to introduce the levy the Council will need to adopt the CIL Charging Schedule and all associated documentation as part of the Southend-on-Sea Local Development Framework in accordance with the adoption process as set out in the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (as amended).

- 3.9 Should members agree all documentation in relation to adoption of a CIL Charging Schedule, it intended that the Charging Schedule be published on Friday 24th July 2015 to take effect on Monday 27th July 2015; the approval and publication procedures being in accordance with CIL Regulation 25 and 28.

- 3.10 The following documents are recommended for adoption:

- **CIL Charging Schedule** (Appendix 2) – sets out the rates to be charged in £/sqm;
- **CIL Regulation 123 Infrastructure List** (Appendix 3) – sets out the infrastructure projects to which future CIL income may be allocated to support growth in the Borough;
- **CIL Instalment Policy** (Appendix 4) – sets out the Council's policy for accepting CIL payments by instalment;
- **CIL Payment in Kind and Infrastructure Payments Policy** (Appendix 5) – sets out the Council's policy for accepting the offer of land or infrastructure from developers (subject to independent valuation) to provide 'in kind' infrastructure from the Regulation 123 Infrastructure List in lieu of CIL payments;
- **Supplementary Planning Document 2: Planning Obligations 2015** (Appendix 6) – sets out the Council's policy position in respect of Section 106 (S106) planning obligations and CIL;
- **CIL Governance Framework** (Appendix 7) – sets out the framework for future CIL spending/allocation.

Document modifications

3.11 Since previously approved by members only minor editorial modifications have been made to the above documents. These include corrections in page numbers/contents pages and any references to draft/proposed, which have been removed from all documents. The following modifications have also been made in preparation for adoption:

- **CIL Charging Schedule:** Minor amendments made to ensure consistent with the Examiner's recommendations as outlined in the Examiner's Report attached.
- **Supplementary Planning Document 2: Planning Obligations 2015:** First entry in table in paragraph 2.27 corrected to state that public art will only be sought in the Southend Central Area consistent with the text at paragraph 2.2; updates made to legislation and links in the appendices.
- **CIL Governance Framework:** Amended date upon which reporting arrangements will commence to April 2016 as was stated as 2019 in error; document amended to be consistent with member recommendations made at Cabinet on 23rd September 2014 including:
 - Paragraph 3.13 and Appendix 1 amended to add Group Leaders as adjudicators in respect of the Neighbourhood Allocation if no agreement is reached between the Ward Members prior to reporting back to Cabinet.
 - Appendix 2 - under the heading "NOT ELIGIBLE FOR CIL FUNDING" amended the first bullet point to read "Projects that will require a significant amount of Southend Borough Council officer time to implement unless exceptional circumstances can be demonstrated".

Proposed amendment to The Constitution

3.12 It is proposed to add the following new section to the Scheme of Delegation at Part 3 Schedule 3 of Southend-on-Sea Borough Council's Constitution to allow provisions for CIL implementation:

Authority is delegated to the Relevant Officers with regards to the **Community Infrastructure Levy** under powers as set out in Part 11 of the Planning Act (2008) (as amended), and Community Infrastructure Levy Regulations 2010 (as amended) to:

- (a) Determine the extent of chargeable development and appropriate CIL charge.
- (b) Consider applications for exemptions from the CIL.
- (c) Consider adjustments for payment in kind provisions (where relevant).
- (d) Issue CIL liability notices and demand notices.
- (e) Instigate any enforcement action relating to the recovery of CIL such as, but not limited to, issuing of CIL stop notices and warning notices (including subsequent removal of any such notices)
- (f) Receive and consider appeals in relation to liability notices etc.
- (g) Make any other relevant decisions concerning CIL providing it is in accordance with the adopted CIL Governance Framework document.

4. Other Options

- 4.1 Not to adopt the CIL Charging Schedule and associated documents but rely on S106 planning obligations to provide infrastructure to support growth. This is not recommended for as of April 2015 the provisions of the CIL Regulations 2010 (as amended) mean that local authorities are now more restricted on the nature of planning obligations, thus putting at risk the Council's ability to deliver infrastructure that is required to support growth and development in the Borough.

5. Reasons for Recommendations

- 5.1 To ensure that all appropriate documentation and procedures are in place to enable the Council to collect contributions from developers through the Community Infrastructure Levy (CIL) to fund community infrastructure to support development. And to ensure that upon receipt of CIL funding there are appropriate arrangements are in place in relation to reporting, allocation and spending in accordance with an adopted Regulation 123 Infrastructure List thus ensuring CIL funding can be used effectively to deliver infrastructure

6. Corporate Implications

6.1 Contribution to Council's Vision & Corporate Priorities

CIL income will be spent on community infrastructure that supports development in the Borough (as defined in the Council's published Regulation 123 Infrastructure List). As such, this will support a number of the Council's Corporate Priorities, including creating safer, cleaner, healthier and more prosperous communities. Pursuing CIL is therefore considered to be a key corporate priority and as such is included in the Service Plan for Planning & Transport.

6.2 Financial Implications

CIL income will not be realised immediately upon adoption of a CIL charging schedule as there will be a number of extant planning permissions granted prior to a CIL Charging Schedule being in place. Also, it is difficult to estimate with any accuracy the likely income from CIL as any estimate is highly sensitive to multiple assumptions and variables such as exemptions and deductions. However, by 2018 it is projected that the average annual CIL income will be approximately £429,000.

6.3 Legal Implications

All procedures in relation to the CIL consultation, set-up, implementation, collection and reporting must adhere to the Planning Act 2008 (as amended) and the Community Infrastructure Levy Regulations 2010 (as amended).

6.4 People Implications

It is anticipated that once operational CIL will not require additional staffing.

6.5 Property Implications

Any effect on the Council's existing property assets has been taken into consideration, for if the Council develop within the Borough the development may be CIL liable. It is considered that CIL should have a negligible impact on Council assets.

6.6 Consultation

Stakeholder engagement to date

The Infrastructure Delivery Plan (IDP) covers a full range of categories of infrastructure. During the drafting of the IDP key internal stakeholders (including Corporate Directors/Heads of Service/Group Managers and other relevant officers) and external infrastructure providers were given the opportunity to provide information relating to infrastructure projects. In addition, as part of the "Combined Policy Viability Study" produced for the Council in September 2013 a workshop was held with key stakeholders to provide opportunity to comment on the appraisal methodology and inputs to the study. These comments were reflected in the September 2013 study, which has informed the CIL Viability Study. A Developers' Forum also took place on 13th August 2014 to engage the development industry in the PDCS consultation.

Statutory public consultation

The consultations as outlined in paragraph 3.5 above have been carried out in accordance with the statutory requirements outlined in the CIL Regulations 2010 (as amended).

6.7 Equalities and Diversity Implications

The CIL Charging Schedule, IDP and revised SPD2 address how CIL income and the continuation of S106 planning obligations as appropriate will contribute towards infrastructure and other community needs made necessary by development thus taking into consideration issues of equality and diversity. An Equality Analysis was carried out. No specific impacts have been identified that require more detailed analysis or mitigating actions at this stage.

6.8 Risk Assessment

If appropriate CIL policy documents are not put in place the Council is at risk of losing the opportunity to secure valuable funding for infrastructure in the Borough. And if appropriate governance arrangements are not put in place the Council is also at risk of not being able to use any CIL receipts in an effective way as a source of funding to help deliver infrastructure to support growth; thus also being at risk of complaints in respect of how CIL is applied and funds are spent.

6.9 Value for Money

If developers provide for the impact of development through CIL and planning obligations, the Council will incur less cost for additional community infrastructure

needs. The CIL Charging Schedule and revised SPD2 are an important means of ensuring value for money for the wider community from development.

6.10 Community Safety Implications

Providing for community safety in development and its setting is one of the considerations with regard to preparation of the Regulation 123 Infrastructure List and revised SPD2. For example, the Council may request planning obligations or spend CIL funding on improvements to the public realm aimed at designing out crime.

6.11 Environmental Impact

If measures are put in place to improve communities then this can have a positive environmental impact.

7. Background Papers

The Community Infrastructure Levy Regulations 2010
The Community Infrastructure Levy (Amendment) Regulations 2011
The Community Infrastructure Levy (Amendment) Regulations 2012
The Community Infrastructure Levy (Amendment) Regulations 2013
The Community Infrastructure Levy (Amendment) Regulations 2014
The Community Infrastructure Levy (Amendment) Regulations 2015
Report to Cabinet dated 18th June 2013
Report to Cabinet dated 1st July 2014
Report to Cabinet dated 23rd September 2014

8. Appendices

Appendix 1 - Examiners report dated 1st June 2015
Appendix 2 - CIL Charging Schedule
Appendix 3 - CIL Regulation 123 Infrastructure List
Appendix 4 - CIL Instalment Policy
Appendix 5 - CIL Payment in Kind and Infrastructure Payments Policy
Appendix 6 - Supplementary Planning Document 2: Planning Obligations 2015
Appendix 7 - CIL Governance Framework