

<b>Subject:</b>	<b>Update on Community Infrastructure Levy – Process for Approval and Implementation</b>		
<b>Date of Meeting:</b>	<b>12 September 2019</b>		
<b>Report of:</b>	<b>Executive Director, Economy, Environment &amp; Culture</b>		
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<b>Ward(s) affected:</b>	<b>All</b>		

## **FOR GENERAL RELEASE**

### **1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The purpose of this report is to update Committee Members on the progress being made to bring forward a Community Infrastructure Levy (CIL) Charging Schedule for Brighton & Hove.
- 1.2 The report outlines progress made since the formal submission of the Council's Draft Charging Schedule in January 2019 and outlines the key areas of work that are required to set up and implement CIL for commencement in 2020.

### **2. RECOMMENDATIONS:**

- 2.1 That the Committee notes the progress made towards adopting a CIL Charging Schedule; that the CIL Examiner's report is anticipated by the end of 2019 and that adoption by Full Council is required to commence CIL next year.
- 2.2 That the Committee notes and endorses the programme of work required for CIL implementation; noting that some work streams (IT, Recruitment and Governance) are required to commence ahead of formal Council adoption to ensure that the operational requirements for CIL implementation in Spring 2020 can be delivered.
- 2.3 That the committee notes that Policy & Resources Committee approval of one-off resources of £0.158m, via the Targeted Budget Management reporting process, will be required to enable implementation of the scheme.

### **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 Community Infrastructure Levy (CIL) is a charge that local authorities can levy on new development. The proceeds from CIL can be spent on infrastructure to support the needs of development anywhere in the city. To put in place a CIL, a local authority has to carry out consultation on a draft charging schedule and a formal examination is required in accordance with the Planning Act 2008.

- 3.1 Brighton & Hove City Council decided to commence work on the preparation of CIL following a committee resolution in 2016. Consultation took place in 2017 on a Preliminary Draft Charging Schedule (PDCS) in accordance with the Community Infrastructure Levy Regulations 2010 (“the CIL Regulations”).
- 3.2 Consultation responses on the PDCS then informed the preparation of a Draft Charging Schedule which was agreed for consultation in March 2018. The Tourism, Development and Culture (TD&C) committee also agreed to submit the Draft Charging Schedule for Examination subject to the need for modifications to be made.
- 3.3 The Draft Charging Schedule supported a (geographically) zoned CIL charge for residential development (C3/C2) and CIL charges for retail development and Purpose Built Student Accommodation. At this stage, it was agreed that two strategic sites should be identified for nil-rating (the King Alfred/LNR site in Hove and the Inner Harbour site at the Brighton Marina) due to key viability issues and abnormal development costs. The Draft Charging Schedule was supported by a bespoke CIL Viability Study and a draft Regulation 123 Infrastructure List setting out a framework of citywide infrastructure types suitable for CIL funding. Consultation on both documents was undertaken between 28 March and 13 June 2018.
- 3.4 In November 2018, the TD&C Committee agreed a Statement of Modifications to the Draft Charging Schedule prior to its submission for formal examination by an independent CIL Examiner. The key modifications at this stage were to:
  - a) Expand the Brighton Marina Inner Harbour nil CIL category to cover the wider City Plan Part One Development Area Policy DA2 to include the Outer Harbour, the Gas Works and Black Rock sites. This change was to acknowledge viability considerations across the wider area and significant infrastructure requirements associated with planned development in the development area.
  - b) Nil CIL rate the Brighton General Hospital due to the required provision of the D1 Health Hub and development viability considerations.
  - c) Distinguish between types of C2 (Residential Institution) provision for CIL charging purposes. C2 was removed from the C3 (general residential) charging rate and a reduced, separate rate proposed for Extra Care/Assisted Living developments<sup>1</sup>.
  - d) Include Purpose Built Shared Living (PBSL) comprising cluster type accommodation and/or studio units commensurate with Purpose Built Student Accommodation (PBSA) standards alongside the CIL charge rate for PBSA.
- 3.5 The Draft Charging Schedule and the Statement of Modifications were submitted for formal examination by an independent CIL Examiner in January 2019. A public hearing session took place on 2 April 2019.
- 3.6 Following the public hearing, the CIL Examiner requested the Council and its viability consultants to undertake further work to address several matters debated at the public hearing. These matters included:

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<sup>1</sup> NB: All forms of affordable housing are exempt from CIL.

- a) Whether the Sackville Trading Estate and Coal Yard site in Hove should be nil CIL rated due to viability concerns;
- b) Whether the Toads Hole Valley site to the north of the city should be nil rated due to viability concerns;
- c) Whether the proposed rate for Extra Care / Assisted Living was justified by the available viability evidence; and
- d) Clarification of wording regarding Retail categories for CIL charging.

3.8 The results of that further work, which included further viability review and assessment, concluded that the Sackville Trading Estate & Coal Yard site in Hove should be nil rated; that the Toads Hole Valley site did not justify nil rating; that the proposed CIL rate for Extra Care/Assisting Living development was justified but that the definition for this form of development required further clarification. Council officers suggested additional modifications to address these matters.

3.8 In July 2019, the CIL Examiner agreed main modifications to the Draft Charging Schedule and asked the Council to undertake consultation on his behalf. The Charging Schedule with proposed modifications is appended to this report. Consultation on the main modifications took place 17 July – 11 September 2019.

#### **Next Steps for CIL – Approval of the CIL Charging Schedule**

3.7 The table below provides an indicative timetable for the approval of the CIL Charging Schedule. Provided the Examiner’s Report recommends approval, the Council can move to formal adoption of the CIL Charging Schedule at Full Council:

<b>Date</b>	<b>Key Stage</b>
July 2019 – September 2019	Consultation on Main Modifications.
November/December 2019	Publication of Examiner’s recommendations – Examiner’s Report.
February – April 2020	Following committee resolution, submit CIL Charging Schedule for approval by a resolution of Full Council and indicate CIL Commencement Date.

#### **4. CIL Set Up and Implementation – Work Streams Required**

4.1 Officers have identified a number of key work streams that are required to ensure that CIL can be implemented in an effective and timely manner following a positive Council resolution early next year. At this point, officers are working to a CIL commencement date of 1 June 2020, based on Council adoption April 2020.

4.2 It is important to note that some of these work streams will have a financial cost implication (for 2019/20 and 2020/21), which will need to be planned for and met ahead of the formal adoption and commencement of CIL. Up to 5% of CIL receipts can be recovered towards the set up and running costs of CIL but there will be a need to forward fund some of the following:

- a) ICT and CIL software required to install and operate CIL and ensure effective linkages to other financial systems in the Council e.g. Civica Financials and Land Charges and administer S106 monitoring;
- b) Staff Resource to operate and administer CIL;
- c) Governance arrangements for CIL – allocation and spending of CIL receipts; and
- d) Communications and training.

The total estimated implementation costs are £158,100 over 2019/20 and 2020/21.

### **ICT installations and CIL Software required to operate CIL**

- 4.3 The Council does not have a suitable ICT database to administer, manage and monitor CIL liabilities, collection and expenditure (including the annual statements of expenditure required under the legislation.) The Council's current planning software provider, Uniform does not provide a solution, but has a partnership with Exacom, who provide bespoke software solutions for both CIL and S106.
- 4.4 The key benefits of the Exacom system include:
  - It can be easily integrated with the existing Planning Service Uniform modules and other core BHCC systems (e.g. Civica, TLC Land Charges,) as necessary
  - System configuration to process CIL liable planning applications as a workflow that follows the required processes laid down by the legislation;
  - The provider ensures that the system maintains functionality to capture all data and reporting required by central government;
  - Exacom can provide initial training and ongoing support to ensure that the system is properly configured to meet the legislative requirements.
- 4.5 The Exacom system is currently used by 119 local authorities in England & Wales. It also has a S106 module which is also proposed to be acquired, which will improve the efficiency and reporting of these agreements.
- 4.6 The alternative would be to develop a bespoke BHCC database system in house. This has been discounted in the evaluation process due to the high cost and the lack of resource availability to design, write, test and refine/maintain an in-house system and the need to have a system in place early next year to trial prior to CIL commencement.

### **Staff Resource to operate and administer CIL**

- 4.7 The management, administration and governance of CIL will require additional staff resources in the Planning Service. It will be necessary to establish a small CIL team to administer, manage and report on CIL receipts and annual spending alongside the continuing S106 monitoring function. The ongoing costs of these additional resources can be funded (up to 5% in total) through the revenue generated from the levy.

- 4.8 The implementation team have undertaken several visits to other Sussex local authorities and each have their own standalone CIL teams. It is anticipated that CIL will generate circa £2M per annum in liabilities when fully running. This would generate circa £100k (at 5%) to support the funding of the team and the associated operating costs. It will be necessary to commence the HR processes in Autumn 2019 for the new team to be trained and in place early next year ready for CIL commencement.

### **Governance arrangements for CIL**

- 4.9 The revenue from the levy must be used to support the planned development of the city by funding the provision, replacement, operation or maintenance of infrastructure. It is important to note that certain elements of spend are prescribed by the CIL Regulations. In brief:
- a) Administration costs – up to 5% CIL receipts can be spent to cover the charging authority's set up and running / administration costs of CIL e.g. staffing, software;
  - b) Neighbourhood portion – between 15–25% of CIL receipts received (per planning application) must be allocated back to those local areas where development takes place (15% where there is no made Neighbourhood Plan and 25% where there is a made Neighbourhood Plan); it will then be for the Council to liaise with local groups/forums to decide how this neighbourhood portion is to be spent. Only where there is a Parish Council does the council actually transfer CIL monies. At the present time there are no made Neighbourhood Plans in the city.
  - c) The remaining 70-80% 'strategic pot' of CIL income can then be spent on infrastructure that has been identified as required to support planned development as set out in the City Plan. This 'strategic pot' could be further divided to key areas of infrastructure provision if desired.
- 4.10 CIL governance describes the way in which CIL income is managed and spent. CIL will not generate enough funds to completely cover the cost of new infrastructure needed to fully support planned development in the city. As such, there will be competing demands for this funding. It is therefore important to ensure that there are robust, accountable and democratic structures in place to ensure the spending of CIL funds are prioritised in the right way.
- 4.11 It is suggested that a CIL Infrastructure/Management Board (or similar) will need to be set up to manage the process for making decisions on how CIL income is spent across the city both in terms of the 'neighbourhood portion' and the 'strategic pot'. In outline, this is likely to require an annual prioritisation and assessment process to be set up and agreed.
- 4.12 Officers will bring a further report to this committee setting out recommendations for governance options ahead of CIL commencement.

### **Communications & Training**

- 4.13 The implementation of CIL will result in more planning applications being required to pay a financial contribution to the city's infrastructure and different processes for allocating and spending those contributions. It will therefore be

necessary to ensure that both the development industry and a range of other organisations are effectively reminded, briefed and updated on the implementation progress over the next 9 months. A CIL Communications campaign will be designed to address these issues.

## **5. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 5.1 To progress a CIL Charging Schedule through to approval there are no alternative options but to comply with the relevant legislation. An agreed CIL Charging Schedule will provide a funding stream to help ensure that appropriate infrastructure investment is made across the city.

## **6. COMMUNITY ENGAGEMENT & CONSULTATION**

- 6.1 The adopted BHCC Statement of Community Involvement (SCI) (2015) sets out how the council will consult when preparing CIL. Consultation on the Preliminary Draft Charging Schedule, the Draft Charging Schedule and the Main Modifications have been carried out in accordance with the appropriate CIL Regulations and the SCI. The SCI has been prepared in accordance with the key principles of the Community Engagement Framework.

## **7. CONCLUSION**

- 7.1 This report sets out the progress made on preparing a CIL Charging Schedule for Brighton & Hove and indicates that formal adoption by the Council will be required in order to commence and implement CIL. Officers are currently working to a commencement date of 1 June 2020 and therefore the report also sets out the key work streams required to be progressed in order to effectively implement the scheme.

## **8. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 8.1 Staff time and consultation costs arising from the preparation and examination stages of the CIL Charging Schedule to date have been met from existing revenue budgets within the City Development and Regeneration division. It is anticipated that there will be further set-up costs of approximately £0.158m relating to the work streams as outlined in the main body of report and that these additional costs will be funded from the council's Modernisation Fund subject to approval of Policy & Resources Committee. This approval will be sought as part of the Targeted Budget Monitoring (TBM) reporting process. Implementation costs will be spread over 2019/20 and 2020/21 but the exact timing of implementation and therefore split of costs over the two years is dependent on consultation and approvals.
- 8.2 As outlined in the main body of the report, once a scheme is approved and implemented there will be ongoing costs in terms of checking the amount of CIL payable on applications, advising developers of their liability, collecting, monitoring, reporting and enforcing the CIL scheme. CIL regulations allow charging authorities to use up to 5% of CIL receipts to fund expenses in

connection with the ongoing costs of operation of the CIL scheme, and it is anticipated that this income will be sufficient to fund the ongoing costs highlighted above, estimated at approximately £0.100m per annum, after 3 years of operation. The scheme is expected to be self-funding within 5 years and thereafter to generate ongoing surpluses.

- 8.3 The current forecast value of receipts the council may receive from the implementation of the CIL is approximately £2 million per annum over the plan period to 2030. CIL receipts will therefore be a potentially important source of income for funding infrastructure in the city, however consideration has also been given to ensure that charges are compatible with the aims and objectives of the council. Income from S106 contributions are likely to reduce as these are scaled back to reflect the CIL charging arrangements, however, it is anticipated that this reduction will be at least offset by CIL income.

*Finance Officer Consulted: Steven Bedford*

*Date: 02/09/2019*

Legal Implications:

- 8.5 The CIL Charging Schedule has been progressed in accordance with the relevant legislation, as referred to in the body of the report.
- 8.6 Section 213 of the Planning Act 2008 provides that a charging authority may only approve a charging schedule if the Examiner so recommends. That section also requires that approval must be by a majority of votes of members present at a meeting of the authority, namely Full Council.

*Lawyer Consulted: Hilary Woodward*

*Date: 25/7/19*

Equalities Implications:

- 8.7 An Equalities Impact and Outcome Assessment (EIA) has been prepared alongside the CIL Draft Charging Schedule and is available on the council's website. The EIA was updated at the submission stage of the process. Income raised from CIL will go towards funding infrastructure necessary to support new development and communities.

Sustainability Implications:

- 8.8 CIL receipts will help to fund infrastructure necessary to support new development and sustainable communities and should therefore have a positive impact in terms of sustainability outcomes. A Strategic Environmental Impact (SEA) screening opinion for this CIL concluded that a SEA is not required.

Any Other Significant Implications:

Corporate / Citywide Implications

- 8.9 Implementation of CIL will help to deliver the policies and objectives of the City Plan and other agreed strategies in the city.

## **SUPPORTING DOCUMENTATION**

### **Appendices**

1. CIL Draft Charging Schedule / Main Modifications as consulted upon (July 2019)

### **Background Documents**

1. All background documents associated with the preparation of the CIL Draft Charging Schedule are available to view on the Council's CIL Examination web pages.