

<b>Subject:</b>	<b>Adoption of Brighton &amp; Hove City Council Community Infrastructure Levy (CIL) Charging Schedule and Commencement Date</b>		
<b>Date of Meeting:</b>	<b>7 May 2020</b> 14 May 2020 - Council		
<b>Report of:</b>	<b>Executive Director, Economy, Environment &amp; Culture</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Sandra Rogers</b>	<b>Tel: 01273 292502</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

## **FOR GENERAL RELEASE**

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

- 1.1 This report seeks formal approval for the first Brighton & Hove Community Infrastructure Levy (CIL) Charging Schedule. The report advises that, subject to Council adoption on 14 May, CIL will commence from 5 October 2020.
- 1.2 The report summarises the preparation process that has been required to produce the CIL Charging Schedule (attached as Appendix 2) and the stages of consultation and formal examination that have been involved.
- 1.3 The report also outlines and seeks approval for the constitutional changes required to administer CIL and other developer contributions.
- 1.4 Further reports providing an update on arrangements taking place to implement CIL (e.g. updated technical guidance for S106/CIL and governance) will be brought to a future meeting of the Tourism, Equalities Communities & Culture Committee.

### **2. RECOMMENDATIONS:**

*That the Tourism, Equality, Communities and Culture Committee:*

- 2.1 Notes the receipt of the CIL Examination Inspector's Final Report recommending approval for the Brighton & Hove CIL Charging Schedule is approved.
- 2.2 Recommends that the CIL Charging Schedule is referred to Full Council for formal adoption.
- 2.3 Recommends that the constitutional changes required to administer CIL and other developer contributions as set out in section 4 and Appendix 3 of this report are referred to Full Council for approval.

*That Full Council:*

- 2.4 Adopts the Brighton & Hove CIL Charging Schedule and authorises a CIL commencement date of 5 October 2020.
- 2.5 Approves the constitutional changes required to administer CIL and other developer contributions as set out in Section 4 and Appendix 3 of this report.

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

- 3.1 CIL is a non-negotiable charge that local authorities can levy on new development. The charge must be set out in an adopted charging schedule and may differ for different types of development. The charge is set on a £/sqm basis and can be levied for a single dwelling unit or for 100sqm net additional floorspace. There are certain exemptions from CIL (which are clearly set out in CIL Regulations) and these include affordable housing, self-build housing, residential extensions, annexes and development by charities.
- 3.2 The proceeds from CIL must be spent on infrastructure (new provision, replacement, improvement and/or maintenance) required to support planned new development set out through the adopted City Plan. To put in place a CIL, a local authority must carry out consultation on a Draft Charging Schedule and a formal examination is then required in accordance with the Planning Act 2008.
- 3.3 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”). Consultation responses on the PDCS then informed the preparation of a Draft Charging Schedule which was agreed for consultation in March 2018. The Preliminary and Draft Charging Schedules were supported by a bespoke CIL Viability Study (and updates) and a draft *Regulation 123 List*<sup>1</sup> setting out the types of infrastructure suitable for CIL funding. Consultation on the Draft Charging Schedule took place between 28 March and 13 June 2018.
- 3.4 At this stage, 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 (PBSA). It was also 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 viability issues and abnormal development costs.

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<sup>1</sup> Requirement for a Regulation 123 List was removed by the changes to the CIL Regulations in September 2019. An Annual Infrastructure Funding Statement is now required which will cover both CIL and other Developer Contributions.

- 3.5 In November 2018, the TD&C Committee agreed a Statement of Modifications to the Draft Charging Schedule prior to its submission for formal examination. 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 was to acknowledge viability considerations across the wider area and significant infrastructure requirements associated with planned development.
  - 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 charging rate and a reduced, separate rate proposed for Extra Care/Assisted Living developments.
  - 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.
- 3.6 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. 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:
- 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. These were agreed by the CIL Examiner and consultation on the modifications took place 17 July – 11 September 2019.
- 3.7 The council received the CIL Examiner's Final Report 7 February (attached for information at Appendix 1). The recommendation was to approve the charging schedule with the proposed modifications.
- 3.8 The CIL Charging Schedule with proposed modifications sets out CIL levy rates for the following types of development, as follows:

Residential – C3 Use Class

- Zone 1 - £175 sqm

- Zone 2 - £150 sqm
- Zone 3 - £75 sqm

C2 – Extra Care / Assisted Living

- Zones 1 and 2 only - £100 sqm

Nil CIL charge zone (zero rated sites):

- DA2 – Brighton Marina, Gas Works and Black Rock
- King Alfred/RNR site, Hove
- Brighton General Hospital
- Sackville Trading Estate/Coal Yard, Hove

Purpose Built Student Accommodation / Purpose Built Shared Living

- Citywide - £175 sqm

Retail – Larger Format – Retail warehousing/Supermarkets

- City wide - £100 sqm

Retail – Other Retail Units Development

- Citywide - £50 sqm

#### **4. Constitutional Changes required to administer CIL**

- 4.1 This Committee is also asked to consider the matter of the administrative arrangements that are necessary to permit the levying of CIL and other developer contributions. This is key in order to permit the new CIL regime to be administered (i.e. for it to be charged and collected) from 5<sup>th</sup> October 2020 onwards.
- 4.2 The Committee is asked to recommend to Council that it approve amendments to the scheme of Delegations to Officers in Part 6 of the Councils Constitution, this is to permit the Executive Director – Economy, Environment and Culture to levy and collect CIL. The proposals in respect of CIL are limited to the delegations considered necessary to administer the CIL regime. The suggested wording set out at Appendix 3 refers to ‘developer contributions’; a term which also includes S106 contributions and thereby brings all developer contributions into line with arrangement for CIL, for clarity and consistency.
- 4.3 For clarity, this Committee is not being asked to consider the governance options for spending CIL receipts at present. This is because significant CIL receipts are not anticipated for some considerable time. This topic will be the subject of a future report to this Committee in the next 12 months.

#### **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 summarises the progress that has been made on preparing a CIL Charging Schedule for Brighton & Hove and advises that formal adoption by the Council is required in order to commence and implement CIL. A full programme of work has been ongoing to set up all necessary guidance, administrative and financial systems and processes for CIL implementation and the proposed commencement date is 5 October 2020.
- 7.2 With receipt of the CIL Examiner's Final Report recommending approval, the Council may now formally adopt the CIL Charging Schedule.

## **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 have been met from existing revenue budgets within the City Development and Regeneration Division. A report to Tourism, Equalities, Communities & Culture Committee in September 2019 noted £0.158m of costs relating to the implementation stage of the CIL Charging Schedule, which will be funded from an approved allocation of the council's Modernisation Fund.
- 8.2 Once a scheme is implemented there will be ongoing costs associated with administration of the scheme, including checking the amount of CIL payable, 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 on expenses in connection with the initial set-up and ongoing operation of the CIL scheme. It is anticipated that this administration fee will be sufficient to fund these ongoing costs in accordance with CIL Regulations.
- 8.3 The current forecast value of receipts the council may receive from the implementation of the CIL is estimated at around £2 million per annum over the plan period to 2030, however this is dependent on the type and size of developments and therefore the annual amounts received are likely to vary significantly from year to year. Income from Section 106 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 infrastructure income.

- 8.4 CIL receipts will be an important source of income for funding infrastructure in the city, and consideration will need to be given to ensure that the use of receipts is compatible with the aims and objectives of the council as well as being compliant with CIL Regulations. Governance options for the spending of CIL receipts are to be considered at a later date.

*Finance Officer Consulted: Steven Bedford*

*Date: 23/03/20*

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.
- 8.7 In order for officers to administer CIL the changes to the Constitution set out in paragraph 4. of this report would need to be made.

*Lawyer Consulted:*

*Hilary Woodward*

*Date: 13/3/20*

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 Examiners Final Report
2. CIL Draft Charging Schedule
3. Proposed new delegation to Executive Director – Economy, Environment and Culture.

### **Background Documents**

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.