

Subject:	Community Infrastructure Levy – Preliminary Draft Charging Schedule		
Date of Meeting:	21 September 2017		
Report of:	Executive Director, Economy Environment & Culture		
Contact Officer:	Name:	Clare Flowers	Tel: 01273 290443
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 This report provides an update on the preparation of a Community Infrastructure Levy (CIL), as previously agreed by Economic Development & Culture Committee (ED&C) on 22 September 2016, and seeks approval to consult on a Preliminary Draft Charging Schedule (PDCS) underpinned by the findings of a bespoke CIL Viability Study.

2. RECOMMENDATIONS:

2.1 That the committee notes the findings and recommendations of the CIL Viability Study 2017.

2.2 That the committee agrees to publish the Preliminary Draft Charging Schedule listed in Appendix 1 for formal consultation, as required under the CIL Regulations 2010 (as amended), for an eight week period and to authorise the Head of Planning to make any necessary minor editorial/grammatical amendments to the Preliminary Draft Charging Schedule prior to consultation.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 In September 2016 ED&C Committee resolved that work commence on a CIL charging schedule for Brighton & Hove, noting that a key stage was to 'Publish a PDCS for consultation following committee resolution'.

3.2 A CIL Viability Study has been carried out by consultants to underpin the PDCS. The study has found that new-build residential development; purpose built student housing; and new retail floor space could all bear a CIL charge within a recommended charging range. Other uses have been recommended for a zero charge.

3.3 In accordance with CIL Regulations, the CIL charge will be payable on new residential units and new development creating over 100 sq. m of net additional

floorspace. Exceptions include new affordable housing units, self-build housing and development by charities.

Viability Study

- 3.4 The viability study has used an established, well recognised approach and has considered an appropriate range of development scenarios representative of residential and commercial development likely to come forward in the city. Viability considerations are based upon policy-compliant development including affordable housing provision, with a contingency allowance for site specific s106 planning obligations and/or other site-specific matters not accounted for through other study assumptions.
- 3.5 The full range of parameters put forward in the Viability Report as potential charging rates are shown in Appendix 2 (Executive Summary of the Viability Study) in the table 'CIL charging rates parameters – Recommendations Summary'. A significant buffer has been included in this parameter range to allow for adjustments in economic circumstances as required by national planning guidance.
- 3.6 Due to the range of residential values throughout the city, the Viability Report recommendations are to seek differential residential CIL charges based on 3 geographical zones, which will be consistent with the District Valuer Services (DVS) zones for affordable housing financial contributions (a map of the proposed zones is included within PDCS – Appendix 1). Findings demonstrated no clearly justifiable approach to zone non-residential development rates. Therefore city wide charging rates are suggested for both retail and purpose built student housing.

Proposed CIL rates set out in PDCS

- 3.7 The proposed levy rates indicated in the table below are based upon the findings of the CIL viability study.

Use	Location	Levy (£/sq. m)
Residential - applies to C3 and C2 use classes	Zone 1	175
	Zone 2	150
	Zone 3	75
Zones shown on Map in PDCS Appendix 1		
Purpose Built Student Housing - City Wide	City Wide	250
Retail – Larger format – Retail warehousing / Supermarkets	City Wide	100
Other shopping units development	City Wide	50
All other development uses	City Wide	0

- 3.8 National planning guidance sets out that an appropriate balance must be struck between securing additional infrastructure investment to support development

and potential detrimental effects on the viability of developments and that local authorities should exercise judgement with this balance in mind.

3.9 To this end, the proposed charging rates for new residential and retail development are at the lower end of the parameter range of the viability study. This is to secure a predictable longer term infrastructure funding stream; implement a charge that will complement development viability and provide a lower risk approach to supporting overall delivery of residential and retail development. This approach also:

- Acknowledges that the majority of development within the city takes place on brownfield sites which may have existing site specific development constraints in conjunction with higher land values based on existing/ former/ potential uses;
- Recognises the importance of small sites to residential delivery in the city; the fact that smaller schemes can have higher build costs; and that single-unit residential development can be more marginal in terms of viability;
- Allows a better fit with CIL rates on the city boundary with Lewes District Council at Saltdean;
- Future proofs, as far as practicable in CIL terms, the viability of citywide development in the event of significant changes to market circumstances such as an economic downturn, high fluctuations in development costs, sales revenues etc.

3.10 The viability study indicates that generally strong viability is associated with purpose built student housing. With no affordable housing requirements associated with this development type, it is considered that the higher end of the parameter range is included in the PDCS. Student housing built by universities on their own land would not be subject to CIL charges as charitable institutions.

CIL funding and Infrastructure provision

3.11 Infrastructure is taken to mean any service or facility that supports the council area and its population and includes transport, education, health, social infrastructure, green infrastructure, public services, utilities and flood defences.

3.12 A Regulation 123 list will be prepared to indicate infrastructure projects that the local planning authority intends to fund through the levy. A Regulation 123 list can be amended on a regular basis and should be subject to appropriate local consultation, without requiring a revision in the charging schedule. A draft list will be drawn from items within the Infrastructure Development Plan (IDP) update that was agreed by this Committee on 22 June 2017. This draft list is required to demonstrate that there is a funding gap between existing funds to bring forward infrastructure on the list and the total costs of that infrastructure provision. This draft list will be drawn up in consultation with members, and will be required to support the CIL Draft Charging Schedule consultation in spring 2018 and through examination.

- 3.13 CIL regulations require that a meaningful proportion of revenue raised by development is allocated back to those neighbourhoods /parish councils. Rottingdean Parish Council will receive their own portion of CIL to directly spend on infrastructure they have identified, and Neighbourhood Forums have an influence over how their received funds are spent in their area. This returned portion will be 15%, capped at £100 per existing council taxed dwelling; with an adopted neighbourhood development plan in place the portion received is increased to an uncapped 25%.

Scaling back s106 planning obligations

- 3.14 On introduction of CIL there will be a scaling back of s106 obligations to those which only relate directly to a specific site and which are not set out in the Regulation 123 list. This is to prevent 'double-dipping' – charging for infrastructure both through CIL and s106. The PDCS suggests current s106 areas to be scaled back with the introduction of CIL. Further to consultation responses, a draft annex to the Developer Contributions Technical Guidance will be prepared to support the CIL Draft Charging Schedule consultation in Spring 2018 and through examination.

Consultation on the PDCS

- 3.15 The statutory requirements for the PDCS consultation are set out in Regulation 15 of the CIL Regulations 2010 (as amended). The consultation period is not prescribed in these regulations and in this case it is recommended that the consultation should be open for a period of eight weeks. The consultation will include developers, planning agents and landowners; parish councils and neighbourhood forums; adjoining and nearby local authorities; business groups, voluntary, community, amenity and civic bodies on the planning database; relevant utilities and statutory undertakers; universities and other higher education establishments; a press and social media release. The document will be available for comment on the council's Consultation Portal for the duration of the consultation.
- 3.16 Responses to the PDCS consultation will be reviewed and a revised Draft Charging Schedule with supporting documents to include a draft annex for Developer Contributions Technical Guidance and a proposed Regulation 123 infrastructure list; will be brought back to TD&C Committee for committee resolution to allow a second round of statutory consultation in accordance with regulation 16 of the CIL Regulations (as amended).
- 3.17 Once CIL is adopted it is a non-negotiable charge on all eligible development. It is likely that the final CIL charging schedule will be reviewed after a period of 3-5 years depending on prevailing market circumstances.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 As noted above, the PDCS could propose higher charging rates allowed for within the parameters of the Viability Report, as shown in Appendix 2. However CIL rates cannot be negotiated once adopted. Therefore, bearing in mind the range of sites and circumstances in the city, it is considered that the proposed rates:

- Represent a more suitable overall balance and provide for a steady funding stream for infrastructure;
- provide resilience with respect to overall viability considerations over time as well as other planning policy requirements for development, including a scaled-back use of s106 where necessary on a site by site basis.

Consultants undertaking the viability study support the inclusion of the lower rates in the PDCS for these reasons.

- 4.2 As noted by ED&C in 2016, without an agreed CIL Charging Schedule, the provision of required city infrastructure will go into decline due to pooling restrictions around s106 collection introduced in April 2015.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Adopted BHCC Statement of Community Involvement (SCI) (2015) sets out how the council will consult when preparing CIL. The SCI has been prepared in accordance with the key principles of the Community Engagement Framework.
- 5.2 In preparing the background CIL Viability Study, key stakeholder lists were supplied by the council to viability consultants who used these lists in their initial consultation exercise in April/May 2017 to help inform the viability study and included RSPs, agents, developers, house builders, their consultants and others.
- 5.3 CIL Charging Schedule preparation requires two formal stages of consultation at PDCS Stage and Draft Charging Schedule (DCS) Stage. The DCS and representations made in relation to this DCS will then be submitted to an external examiner in accordance with the Planning Act 2008 (as amended) and the CIL Regulations 2010 (as amended). Anyone that has made representations on the DCS has a right to be heard by the examiner.

6. CONCLUSION

- 6.1 The report recommends the findings and recommendations of the CIL viability study are noted; that the charging schedule rates and zones map of the PDCS are agreed; and the PDCS document is approved for a statutory consultation exercise required under the CIL Regulations 2010 (as amended) for an eight week consultation period. It is considered that the proposed rates strike the right balance between securing additional infrastructure investment to support development and development viability in terms of overall delivery of the City Plan, in compliance with national guidance. Amendments to the PDCS will be considered by this committee in response to relevant consultation responses as part of the next stage of CIL – the Draft Charging Schedule.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The staff time and consultation costs arising from the report recommendations will be met from existing revenue budgets within the City Development and Regeneration department.
- 7.2 Once a scheme is implemented, there will be ongoing costs connected with advising developers of their liability, collecting, monitoring, reporting and enforcing the scheme. An impact assessment by the Department for Communities and Local Government from 2011 estimated that the annual ongoing cost of the scheme to a local authority outside of London will be up to £0.076m.
- 7.3 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. Consideration has therefore been given to the costs of administration in setting rates to maximise cost recovery.
- 7.4 The current forecast value of receipts the council may receive from the implementation of the CIL is £2 million per annum over the plan period to 2030. However income from S106 contributions will reduce as a consequence. It is anticipated that overall the income from CIL contributions will be at least the same as current S106 contributions.
- 7.5 CIL receipts will be a potentially important source of income for funding infrastructure in the City, however consideration has also been given to ensure that the charges are compatible with the aims and objectives of the council.

Finance Officer Consulted: Gemma Jackson

Date: 25/08/17

Legal Implications:

- 7.6 Regulation 15 of the Community Infrastructure Levy Regulations 2010 (as amended) provides that a charging authority proposing to issue, or revise, a charging schedule must prepare a preliminary draft charging schedule for consultation. As pointed out in the report, the legislation does not specify a time period for such consultation: however the proposed period of eight weeks would be reasonable.
- 7.7 Regulation 15 requires that adjoining local authorities and parish councils, residents and businesses within the charging authority's area must be consulted as well as such voluntary bodies and bodies representing business interests as the charging authority considers appropriate. The charging authority must take into account any representations made before it publishes its draft charging schedule.
- 7.8 It is not considered that the recommendation of the report raises any adverse human rights implications.

Lawyer Consulted:

Hilary Woodward

Date: 04/08/17

Equalities Implications:

- 7.9 An equalities impact assessment will need to be prepared alongside a CIL Charging Schedule. Income raised from CIL will go towards funding infrastructure necessary to support new development and communities.

Sustainability Implications:

- 7.10 Income raised from CIL will go towards funding infrastructure necessary to support new development and communities and should therefore have a positive impact in terms of sustainability incomes

Any Other Significant Implications:

7.11 Corporate / Citywide Implications

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. Preliminary Draft Charging Schedule, September 2017
2. Executive Summary of the Community Infrastructure Levy (CIL) Viability Study - Final Report 2017

Documents in Members' Rooms

1. Community Infrastructure Levy (CIL) Viability Study – Final Report 2017, DSP

Background Documents

1. City Plan Part One
2. Infrastructure Delivery Plan Update 2017, Annex 2 to the City Plan
3. Developer Contributions Technical Guidance 2017
4. Statement of Community Involvement 2015

