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| Subject: | Community Infrastructure Levy - Detailed proposals and draft regulations for reform: Consultation | | |
| Date of Meeting: | 2 February 2012 | | |
| Report of: | Strategic Director, Place | | |
| Contact Officer: | Name: | Mike Holford | Tel: 29-2501 |
| | Email: | mike.holford@brighton-hove.gov.uk | |
| Key Decision: | No | | |
| Ward(s) affected: | All | | |

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Community Infrastructure Levy (CIL) allows local authorities to choose to charge a levy on new development in their area in order to raise funds to meet the associated demands placed on the area and to enable growth. The money raised must be used to provide infrastructure to support the development of the area. There will still be a role for site specific planning obligations (section 106 agreements) in order to deal with specific site impacts. The November meeting of this CMM agreed to produce a CIL for the City.
- 1.2 A Government consultation sought views on a number of detail matters. Of relevance to the City Council are proposals to hand a proportion of CIL receipts to neighbourhoods and to allow receipts to be used to provide affordable housing. The response was to be reported to the 22 December 2011 meeting for approval prior to submission. Unfortunately that meeting needed to be cancelled. The response has therefore, been sent in order to meet the consultation deadline of 30 December 2011. It was sent as an officer's response and formal Cabinet member endorsement is now sought at this meeting.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member for Planning, Environment, Economy and Regeneration endorses the Council officer's response to the Government's consultation on the Community Infrastructure Levy - Detailed Proposals and Draft Regulations for Reform (as set out in this report and appendix).

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Community Infrastructure Levy came into force in April 2010. CIL allows local authorities to raise funds from developers undertaking new building projects in their area. The money raised must be used to fund a wide range of infrastructure that is needed as a result of development.

- 3.2 The Government consulted on a number of detailed proposals affecting CIL with a closing date for comments of 30th December 2011. The most important proposals are on implementing neighbourhood funds and whether CIL receipts should be used to provide affordable housing. The consultation questionnaire with the proposed detailed response from the council is set out in the appendix to this report.
- 3.3 **Neighbourhood Funds:** The Government is proposing to use powers contained in the Localism Bill to require charging authorities (e.g. the City Council) to allocate a meaningful proportion of the revenue generated from CIL to the local elected council (parish/town council) for the area where the development takes place. The Government states that these neighbourhood funds form an important part of their objective to strengthen the role and autonomy of neighbourhoods. Where no parish council exists the Government proposes that the charging authority will retain the funds and should engage with their communities in determining how to spend those receipts. The consultation notes that passing a meaningful proportion of the funds to neighbourhoods.
- 3.4 **Comment:** The City Council agrees in principle that the maximum amount should be passed on/spent within local communities. However, the City Council is concerned that if there is an expectation that a specified amount has to be passed on annually this might seriously limit the amount of funding that is required to fund strategic infrastructure that is critical for development. Alternatively, on some occasions where no critical strategic infrastructure is required there might be more CIL receipts that can be passed to the local level. The City Council therefore, believes that no percentage should be set. In the spirit of localism the amount to be passed to neighbourhoods should be a matter for consultation between the charging authority and parish council/neighbourhoods. The Government could usefully emphasis that the priority must be on delivering critical infrastructure be that strategic or at the local level to enable development and growth to take place.
- 3.5 **Affordable Housing:** Currently, the CIL regulations provide that CIL receipts may not be spent on affordable housing. Affordable housing may still be provided through planning obligations as it will normally be expected to be provided on site. The consultation comments that there are circumstances where on-site provision may not be the most effective or efficient means to deliver local policies for affordable housing. The consultation is asking for view on providing local authorities with an option to use CIL to deliver affordable housing where there is robust evidence that doing so would demonstrably better support its provision and offer better value for money.
- 3.6 **Comment:** The City Council does not support the ability of using CIL receipts for affordable housing as the Council believes that this would further dilute the ability of CIL receipts to be used for critical infrastructure. Furthermore, if this ability is introduced the Council believes that this maybe used as an argument for not providing affordable housing on site, contrary to the aim of providing balanced sustainable communities. The City Council believes that in Brighton & Hove where housing sites are in short supply, on the rare occasions that it is more efficient and effective to provide affordable housing off-site this is better achieved by planning obligations.

3.7 Further more detailed responses to the questions raised in the consultation are set out in the appendix.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 The City Council is responding as a consultee to this Government consultation.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 Any costs associated with preparing the response to the Government's consultation relates to officer time and has been met from within existing Planning revenue budgets.

Finance Officer Consulted: Name Karen Brookshaw Date: 18/11/11

Legal Implications:

5.2 None arising from the report. However if there may be implications for the way in which affordable housing is secured or provided if the affordable housing proposals are implemented.

Lawyer Consulted: Name Alison Gatherer Date: 9/12/11

Equalities Implications:

5.3 The Government consultation documents and the council's responses seek to take into account equalities issues.

Sustainability Implications:

5.4 Sustainability considerations are central to the planning system.

Crime & Disorder Implications:

5.5 None arising specifically from this report. However, CIL receipts could be used to fund measures to increase community safety.

Risk and Opportunity Management Implications:

5.6 None arising from the report, but if the consultation proposals are implemented this could affect the provision of infrastructure to support development in the City.

Public Health Implications:

5.7 None identified

Corporate / Citywide Implications:

- 5.8 None arising specifically from the report, but if the consultation proposals are implemented this could affect the provision of infrastructure to support development in the City.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 None required. Not responding to the consultation documents is not considered appropriate in view of the importance to future development in the City.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 To gain formal approval of the Council's response to the Government consultation on the Community Infrastructure Levy - Detailed proposals and draft Regulations for Reform previously sent as an officer response to meet the closing date of 30th December 2011.

SUPPORTING DOCUMENTATION

Appendices:

1. Community Infrastructure Levy - Detailed Proposals and draft Regulations for Reform - Questionnaire

Documents in Members' Rooms

None

Background Documents

1. Community Infrastructure Levy Detailed Proposals and draft Regulations for Reform Consultation - Department for Communities and Local Government October 2011

Questionnaire

About you

i) Your details:

| | |
|---------------------------------------|--|
| Name: | Michael Holford |
| Position: | Strategic Planning and Monitoring Manager |
| Name of organisation (if applicable): | Brighton & Hove City Council |
| Address: | Hove Town Hall Norton Road Hove BN3 3BQ |
| Email: | Mike.holford@brighton-hove.gov.uk |
| Telephone number: | 01273 292501 |

ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

Organisational response

Personal views

iii) Please tick the box which best describes you or your organisation:

District Council

Metropolitan district council

London borough council

Unitary authority/county council/county borough council

National Park Authority

The Broads Authority

The Mayor of London

Parish council

Community council

Welsh Authority

- Non-Departmental Public Body (NDPB)
- Planner
- Professional trade association
- Land owner
- Housing association/RSL
- Private developer/house builder
- Developer association
- Voluntary sector/charity
- Community Land Trust
- Rural housing enabler
- Other

| | |
|-------------------|--|
| (please comment): | |
|-------------------|--|

**iv) What is your main area of expertise or interest in this work
(please tick one box)?**

- Chief Executive
- Planner
- Developer
- Surveyor
- Member of professional or trade association
- Councillor
- Housing provision
- Planning policy/implementation
- Environmental protection
- Other

| | |
|-------------------|--|
| (please comment): | |
|-------------------|--|

v) Do your views/experiences mainly relate to one or more specific regions within England and Wales, to one or both countries?

- South West
- South East
- East
- East Midlands
- West Midlands
- North West
- Yorkshire & Humberside
- North East
- London
- All of England
- Wales
- Other

| | |
|--|--|
| (please comment): | |
| Specific local area (please comment): | |

Would you be happy for us to contact you again in relation to this questionnaire?

Yes No

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Chapter 1: Neighbourhood funds

Question 1:

Should the duty to pass on a meaningful proportion of levy receipts only apply where there is a parish or community council for the area where those receipts were raised?

Yes No

Comments

Should apply in all areas. However, the precise percentage should be as a result of discussions between the charging authority and local communities rather than being set nationally. It is very important that the Government should put the emphasis on CIL being put towards infrastructure that is critical to enable development to go ahead rather than who spends it. If a specific amount has to be handed down annually this could undermine the provision of infrastructure that is critical for development to go ahead.

Question 2:

Do you agree that, for areas not covered by a parish or community council, statutory guidance should set out that charging authorities should engage with their residents and businesses in determining how to spend a meaningful proportion of the funds?

Yes No

Comments

Agree, however, the City Council does not agree that it would be appropriate to specify a minimum percentage for the reasons set out in answer to question 1.

Question 3:

What proportion of receipts should be passed to parish or community councils?

Comments

Inappropriate to specify a percentage for the reasons set out in answer to Question 1.

Question 4:

At what level should the cap be set, per council tax dwelling?

Comments

See answer to Question 1.

Question 5:

Do you agree that the proposed reporting requirements on parish or community councils strike the right balance between transparency and administrative burden?

Yes No

Comments

No further comments

Question 6:

Draft regulation 19 (new regulation 62A(3)(a)) requires that the report is to be published on the councils website, however we recognise that not all parish or community councils will have a website and we would welcome views on appropriate alternatives.

Comments

Suggest that information could be published on the Charging Authorities website and in its Annual Monitoring Report where a local planning authority.

Question 7:

Do you agree with our proposals to exclude parish or community councils' expenditure from limiting the matters that may be funded through planning obligations?

Yes No

Comments

Yes, this would unduly constrain/complicate matters for parish or community councils.

Question 8:

Do you agree with our proposals to remove the cap on the amount of levy funding that charging authorities may apply to administrative expenses?

Yes No

Comments

No further comments

Chapter 2: Affordable housing

Question 9:

Do you consider that local authorities should be given the choice to be able if they wish to use levy receipts for affordable housing?

Yes No

Comments

The City Council does not support the ability of using CIL receipts for affordable housing as the Council believes that this will further dilute the ability of CIL receipts to be used for critical infrastructure. Furthermore, if this ability is introduced the Council believes that this might be used as an argument for not providing affordable housing on site, contrary to the aims to provide balanced sustainable communities. The City Council believes that in Brighton & Hove where housing sites are in short supply on the rare occasion that it is more efficient and effective to provide affordable housing off-site this is better achieved by planning obligations.

Question 10:

Do you consider that local authorities should be given the choice to be able if they wish to use both the levy and planning obligations to deliver local affordable housing priorities?

Yes No

Comments

See answer to Question 9

Question 11:

If local authorities are to be permitted to use both instruments, what should they be required to do to ensure that the choices being made are transparent and fair?

Comments

If these changes are implemented, where affordable housing is being provided via a planning obligation the use of CIL receipts for affordable housing on the same site could be excluded.

Question 12:

If the levy can be used for affordable housing, should affordable housing be excluded from the regulation that limits pooling of planning obligations, or should the same limits apply?

Yes No

Comments

It is assumed that should both planning obligations and CIL be able to be used for delivering affordable housing, planning obligations would be used for on-site delivery and CIL for off-site. In this instance the issue of pooling planning obligations doesn't apply. However, for clarification, affordable housing should be excluded from the regulation that limits pooling of planning obligations otherwise this could severely limit the ability to secure on-site affordable housing.

N.B. It is not possible to answer this question yes/no as there are two options in the question.

Chapter 3: Mayoral Development Corporations

Question 13:

Do the proposed changes represent fair operation of the levy in Mayoral Development Corporation areas?

Yes No

Comments

No comment

