

BODY: CABINET

DATE: 5th February 2014

SUBJECT: Eastbourne Community Infrastructure Levy (CIL) –Draft Charging Schedule

REPORT OF: Senior Head of Development

Ward(s): All

Purpose: To seek authority from Cabinet Members to publish the CIL Draft Charging Schedule for a 6 week representation period before the document is then submitted for Public Examination.

Decision type: Budget and Policy Framework

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Recommendation:

1. That Cabinet approve the CIL Draft Charging Schedule for representations to be made over a 6 week period.
2. To delegate authority to the Senior Head of Development in consultation with the Lead Cabinet Member to make minor amendments before the commencement of the 6 week representation period.
3. To delegate to the Senior Head of Development in consultation with the Lead Cabinet Member and the Local Planning Steering Group to make any necessary adjustments to the CIL Charging Schedule following the completion of the consultation before submission to the government inspectorate for the public examination.

1.0 Introduction

1.1 The Community Infrastructure Levy (CIL) allows local authorities in England and Wales (defined as Charging Authorities) to raise funds from developers undertaking new building projects. It effectively replaces much of the existing process of planning obligations commonly known as 'Section 106' agreements. The primary use of CIL is to gain financial contributions from certain types of viable development to help fund new or improved strategic infrastructure required to support the growth identified in a local authority's Core Strategy. CIL places a charge per square metre on development. It will not be the sole funding source for all infrastructure delivered, but will supplement other public sector revenue streams.

- 1.2 CIL has a number of significant advantages over the current system of Section 106 agreements, including:
- Payment is non-negotiable, which helps speed up the planning process;
 - The CIL charge is transparent and predictable, meaning that applicants will know their CIL liability prior to submitting planning application;
 - All liable developments will contribute to the cost of infrastructure provision, not just large scale development;
 - In the longer term the intention is that a proportion of CIL will be available to spend on local infrastructure priorities;
 - From April 2015¹, CIL will be the main mechanism for securing developer contributions for infrastructure to support growth. Section 106 planning agreements will be significantly scaled back after this date. However, they will still be used for site specific contributions such as affordable housing.
- 1.3 The money raised from CIL will be used to pay for infrastructure to support development, ensuring that new development bears a proportion of the cost of delivering the new infrastructure required. CIL can be spent on any community infrastructure required to support growth, provided the infrastructure is on a Council published Regulation 123 list. The Council's proposed Regulation 123 (Appendix C) infrastructure list has been published alongside the Draft Charging Schedule (DCS).

2.0 The Charging Schedule

- 2.1 The Council has prepared a Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS) which will be published for representations to be made by the local community and key stakeholders. The Charging Schedule has been revised following changes made to the proposed charges after consultation on the Preliminary Draft Schedule. A summary of the representations received and changes made are outlined in the Consultation and Cooperation Statement which is a background paper to this report. The revised charges are supported by further evidence on development viability. The DCS sets out the general explanation of CIL, the background to its preparation and the methodology used to determine the proposed CIL rates.
- 2.2 The DCS is supported by an evidence base which includes a detailed and refreshed viability assessment. The viability assessment document examines the levels of CIL that can be achieved across the Borough without affecting the overall viability of development identified in the adopted Eastbourne Core Strategy and Town Centre Local Plans. Only developments that are shown to be viable will be charged CIL.
- 2.3 The DCS is also supported by a revised and up-to-date Infrastructure Delivery Plan and accompanying Funding Gap and Section 106 Analysis document, to demonstrate that there is a funding deficit between the total cost of required infrastructure and the infrastructure already agreed for delivery and to be financed by the Council, external partners and agencies. The funding gap analysis justifies the position of the Council to move forward with a CIL charging regime.
- 2.4 Proposed CIL rates have been tested based on the full affordable housing requirements, by market value area and the requirement for Level 3/4 of the Code

¹ To be confirmed in revised CIL Legislation, to be published soon.

for Sustainable Homes. This is a key priority for the Council, conforming with the spatial development strategy as identified in the Core Strategy Local Plan, and ensuring that CIL rates are viable overall. A range of typical development types over all use classes have been tested within the viability assessment. The recommended CIL charges are reasonable and have not been set at or near to the maximum level assessed in the viability evidence. The Council considers that the proposed CIL rates will be resistant to market and policy changes, given that they have been set at an appropriate level that is viable within the current economic climate and are resilient to short term changes. They will be reviewed as circumstances dictate.

3.0 The proposed CIL charges

- 3.1 The CIL legislation does not allow for a differentiation between brownfield and greenfield land viability. Only one rate can be set for both types. Brownfield development forms a significant proportion of the Council’s spatial development strategy and therefore acts as the primary guide to setting residential CIL rates. The revised charge takes account of further viability testing to fully consider site specific abnormal costs and the reduced viability of apartment development. The revised charge ensures that the overall CIL rate for residential development is fair and robust across the whole Borough. It is not considered that the variations in residential sub-markets across the Borough are significant enough to justify a differential zone approach and as such a single rate is proposed.
- 3.2 Only residential and retail (A1-A5 Planning Use Class) developments have been assessed as viable for a CIL charge. Retail viability testing showed a wide range of proposed costs by type, but for ease and in line with planning regulations and recent case law it is proposed to have one standard charge for retail development across all of the A1-A5 retail Planning Use Classes. No other types of development will be liable for a CIL payment, and therefore will be zero rated.
- 3.3 The proposed CIL charging rates are as follows:

Type of Development (Planning Use Class)	CIL rate/sq. m for net additional floorspace
Residential (C3) *	50
Retail (A1-A5) #	80
All other uses	0

* Where there is a net gain in dwellings
 # Where the development is 100 sq. m. or greater.

Appendix B provides a map of the CIL charging area, which includes all areas of the local authority outside of the designated South Downs National Park.

- 3.4 **Phasing** - The Council consider that if a planning application is large enough to be delivered through appropriate phases, then CIL payments should be linked to these phases to ensure that development remains viable overall. The Council will negotiate relevant phasing on major applications during the determination of the planning application. Set phases and their relevant land use descriptions will need to be confirmed in an accompanying Section 106 agreement and these phasing stages will be linked to CIL liability. Therefore, the CIL charge will be calculated at each phase of the development, and will be liable for payment on commencement

of each relevant phase.

- 3.5 **Exemptions** - The Council is not proposing to introduce an exemptions policy or offer exceptional circumstances relief at this stage as the proposed charges are considered to be robust and will not affect the overall viability of liable schemes across the Borough. The Council can consider whether to offer or withdraw exceptional circumstances relief separate to the publication of the Charging Schedule so may chose to at a later date if appropriate.

4.0 Resource Implications

- 4.1 The Council has an agreed budget for progressing CIL through to adoption, which includes support by planning consultants in the preparation of viability evidence and attendance at the Public Examination. The Council is also in the process of working with Civica to fully develop CIL planning software for the Council so that on adoption the Council can collect, administer and allocate CIL payments towards infrastructure projects.

4.2 Financial

There are no direct financial implications to the Council of this report. The cost of the publication and publicity for the DCS will be met from within the existing service budget.

4.3 Legal

The DCS has been prepared in accordance with the CIL Regulations 2010 (as amended) and takes account of recent case law related to the recent examination of CIL Charging Schedules.

4.4 Staff Resources

Officers will manage the publicity and consultation arrangements for the DCS.

4.5 Equalities and Fairness Impact Assessment

A streamline assessment has been made as the CIL DCS is a technical planning document. The assessment demonstrates that there are no impacts on equalities and fairness and there are no human rights issues.

5.0 Representations Stage and Next Steps

- 5.1 In line with CIL Regulations, the Council is required to publish the DCS and invite representations to be made for at least a 4 week period. The Council has recommended a 6 week period as this is a technical planning document that will be targeted to specific stakeholders and infrastructure providers. The representation period is timetabled for Friday 14 February – 28 March 2014. A representation response form has been prepared which asks key questions relating to soundness and procedural matters. Alternatively representations can be received by letter, email or on the Council's new on-line consultation portal at www.planningpolicyconsult@eastbourne.gov.uk.

- 5.2 Once representations have been received, the Council can make a decision whether to:
- i) submit the Charging Schedule; or
 - ii) propose modifications and invite representations for a further 4 week period.

The results of the consultation will be discussed with the Local Plan Steering Group, chaired by the Cabinet portfolio holder, and agree, if necessary, any adjustments, including the need for any further consultation, to the Charging Schedule as a result of the consultation. The Charging Schedule is then submitted to an independent examiner and any representations received are forwarded for consideration at the Public Examination. It is anticipated that the Public Examination could take place as early as May/June 2014.

- 5.3 The Council will continue to formalise its procedures for collecting, spending and monitoring CIL, so that it can be implemented by Summer 2014. The Council is continuing to work closely with Civica on the development of a CIL module which can be added to the current APP/W2 system that is used to process planning applications.
- 5.4 The Charging Schedule will be presented to Planning Committee on 4 February and comments will be reported verbally to Cabinet.

6.0 Conclusion

- 6.1 The DCS has been prepared based on a comprehensive assessment of development viability across the Borough. The proposed rates are justified by evidence and ensure that they do not compromise the ability for the Council to deliver its spatial development strategy.
- 6.2 Cabinet are requested to endorse the CIL Draft Charging Schedule and give authority to publish the document for representations to be made over a 6 week period. Delegated authority is also requested for the Senior Head of Development in consultation with the Lead Cabinet Member to make minor amendments to the document before commencement of the 6 week representation period.

Craig Steenhoff
Specialist Advisor (Planning)

Background Papers:

The Background Papers used in compiling this report were as follows:

Community Infrastructure Levy Regulations (2010) [as amended]

National Planning Policy Framework CLG (2012)

Accompanying Reports/Documents:

Eastbourne Community Infrastructure Draft Charging Schedule (February 2014)

Eastbourne Infrastructure Delivery Plan (Revised, February 2014)

Eastbourne Infrastructure Funding Gap Analysis (Revised, February 2014)

Eastbourne Draft Regulation 123 Infrastructure List (Revised, February 2014)

Eastbourne CIL Viability Assessment (October 2013)

Eastbourne CIL Consultation and Cooperation Statement (February 2014)

To inspect or obtain copies of background papers please refer to the contact officer listed above.

APPENDIX A

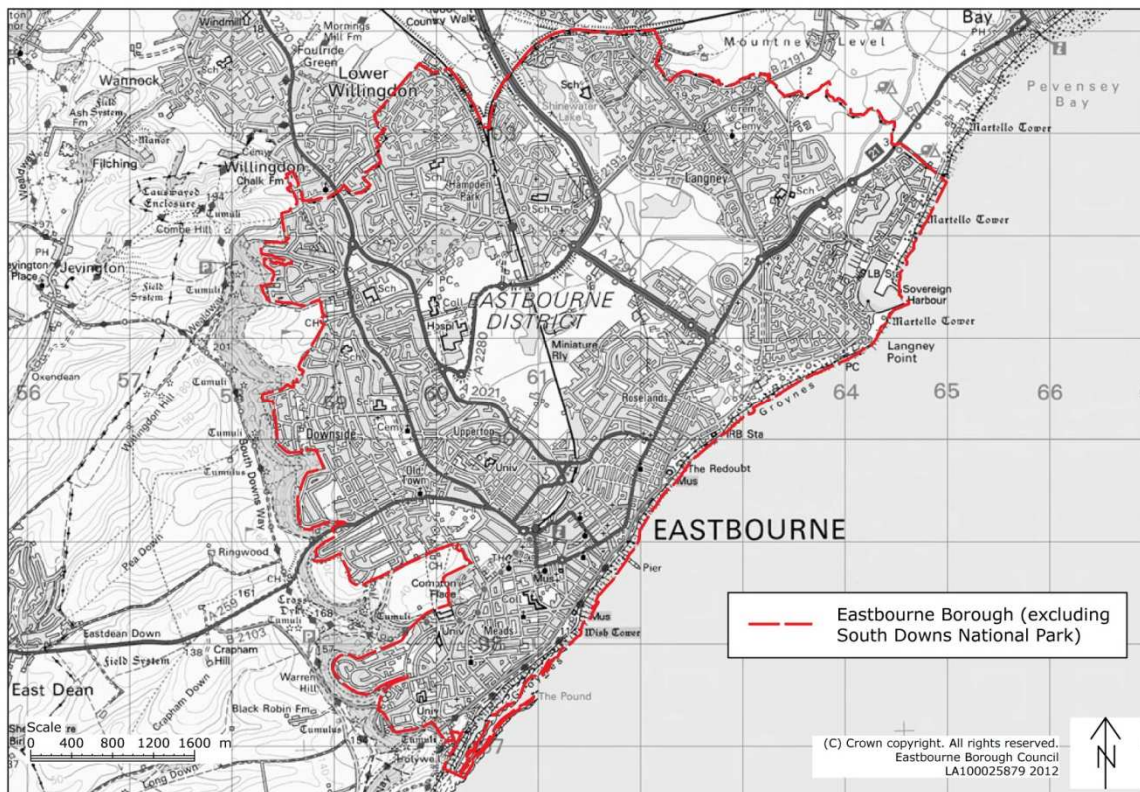
Eastbourne Community Infrastructure Levy – Draft Charging Schedule (February 2014)

Attached separately.

APPENDIX B

CIL Charging Area

The CIL Charging Area will be all areas within the local authority boundary excluding the South Downs National Park, as identified below



APPENDIX C

Regulation 123 Infrastructure List