

Meeting Executive
Portfolio Area Planning and Regulation
Date 5 September 2018



COMMUNITY INFRASTRUCTURE LEVY (CIL)

KEY DECISION

1 PURPOSE

- 1.1 To provide Members' with an overview of the Community Infrastructure Levy (CIL) and the evidence that forms the basis for it.
- 1.2 To seek Members' approval for two rounds of consultation on the Preliminary Draft Charging Schedule (PDCS) and subsequently the Draft Charging Schedule (DCS), with delegated powers to the AD: Planning and Regulation, in consultation with the Portfolio Holder: Environment and Regeneration, to make any necessary changes to take into account feedback received.

2 RECOMMENDATIONS

- 2.1 That the updated evidence base for CIL be noted.
- 2.2 That the draft Preliminary Draft Charging Schedule (attached as Appendix 1) be approved.
- 2.3 That public consultation on the Preliminary Draft Charging Schedule for a period of six weeks commencing 12 September 2018 be approved.
- 2.4 That delegated powers be granted to the Assistant Director; Planning and Regulation, in consultation with the Portfolio Holder for Environment and Regeneration, to make such amendments as are necessary in the final preparation of the Preliminary Draft Charging Schedule.

- 2.5 That delegated powers be granted to the Assistant Director; Planning and Regulation, in consultation with the Portfolio Holder for Environment and Regeneration, to consider consultation responses received in relation to the Preliminary Draft Charging Schedule and make such amendments as are necessary to subsequently prepare the Draft Charging Schedule.
- 2.6 That public consultation on the Draft Charging Schedule for a period of four weeks commencing 16 November 2018 be approved.

3 BACKGROUND

- 3.1 The Community Infrastructure Levy (CIL) is a planning charge introduced by the Planning Act 2008, as a tool for local authorities to help deliver infrastructure to support the development of their area. It allows local authorities to raise funds from developers undertaking new building projects. The money can be used to fund a wide range of infrastructure, such as transport schemes, schools, community facilities, parks and leisure facilities, which are needed as a result of development taking place.
- 3.2 CIL is fairer, faster and more certain and transparent than the system of planning obligations (S106), which causes delay as a result of lengthy negotiations and is subject to viability. The benefit of CIL is that once it is collected it can be used to deliver any infrastructure that the Council wish – it is not ring-fenced for a specific scheme or type of project and is not subject to the pooling restrictions of S106.
- 3.3 S106 would still be used for site specific mitigation, particularly for the larger schemes i.e. where a whole school is required as part of a specific development (e.g. North Stevenage and West of Stevenage) or where road/cycleway improvements are required within or in close proximity to the development. S106 is only allowed for infrastructure that is directly related to the scheme and is required in order for the development to be acceptable.
- 3.4 The Executive originally resolved to prepare a CIL for Stevenage in September 2012. However, subsequent evidence-gathering led to the conclusion that, at the time, this would not represent the best approach for Stevenage. In May 2013, it was determined that the preparation of a CIL Charging Schedule for Stevenage Borough not be proceeded with during 2013 or 2014. It was agreed that maintaining the status quo – the use of s106 for all contributions - would be the best way forward. It was agreed that the position would be formally reviewed in 2015.
- 3.5 Following the 2013 decision, circumstances changed:
- The role of developer contributions continued to be subject to debate and evolution. The CIL Regulations were first introduced in 2010 and have been updated every year since. The government has made it clear that CIL, as a floorspace charge for infrastructure, is the preferred method of infrastructure funding.
 - The most pressing of the changes are the restrictions to s106 agreements that came into force in April 2015, widely known as the 'rule of 5'. This places significant restrictions on the number of s106 contributions that can be pooled together to fund any given project.

Since April 2015, a maximum of five s106 contributions secured since April 2010 can be pooled together. By contrast, CIL is not subject to any such restrictions.

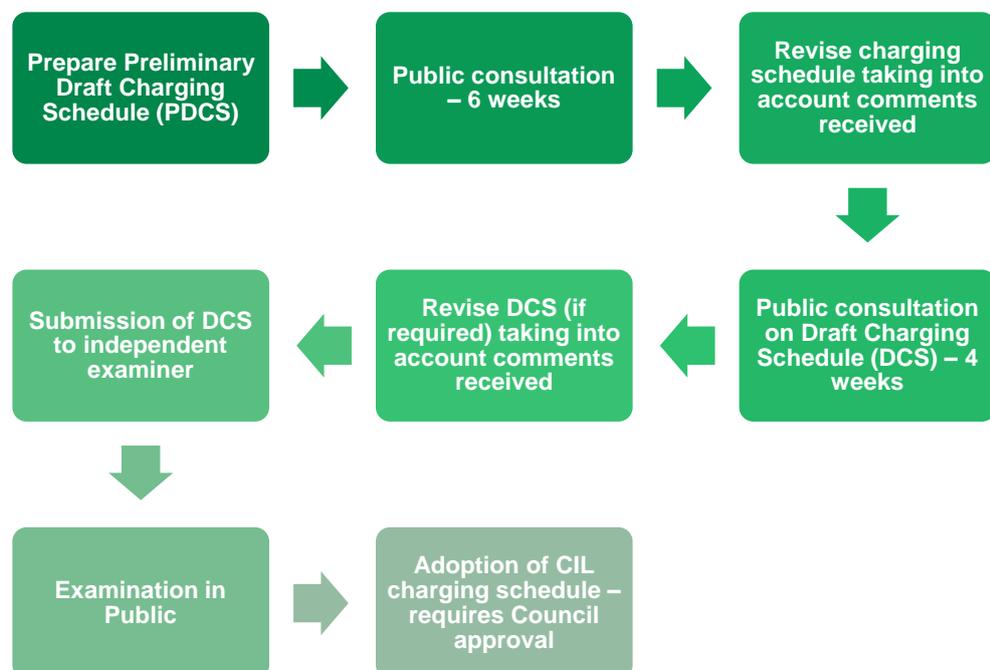
- In addition to this, the council commissioned further evidence to support the Local Plan, which identified that there were significant signs of recovery in the Borough housing market and, as such, both the prospective local plan policies and CIL could be supported in Stevenage.

3.6 Taking these changes in circumstances into account, it was resolved at Executive in Dec 2015, that a Community Infrastructure Levy (CIL) for Stevenage be prepared with a Preliminary Draft Charging Schedule (PDCS) to be reported to the Executive in June 2016 (in line with the submission of the Local Plan).

3.7 The priority has been the Local Plan. However, having reviewed the market, it is considered that now is the time to progress with the implementation of CIL.

3.8 In preparation for this, an update to the Council's 2015 Viability Study was commissioned in December 2017. This takes into account the most up-to-date data to assess viability across the Borough and recommends the levels of CIL that could be charged (whilst not threatening the ability of sites to come forward).

3.9 The steps required to implement CIL are set out below. The PDCS has been drafted for approval. The next stage in the process is to carry out public consultation on the schedule.



4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

Recommendation 2.1: That the updated evidence base for CIL be noted.

- 4.1 It is essential that key decisions are made on an informed basis and in light of the relevant statutory framework(s) and facts.
- 4.2 It is important that rates proposed follow the evidence. The rates set must not threaten the ability to develop viably the sites and scale of development identified in the Local Plan.
- 4.3 Government guidance recommends that the evidence on infrastructure needs should be drawn directly from the infrastructure planning that underpins the Development Plan. The following documents, which were produced to support and inform the Local Plan, provided the evidence base to demonstrate that CIL is viable in principle:
- Stevenage Borough Infrastructure Funding Strategy, Aecom, September 2015
 - Infrastructure Delivery Plan, SBC (rolling document)
 - Whole Plan Viability Study including Community Infrastructure Levy, HDH Planning, September 2015
- 4.4 It was on this basis that Executive approved the preparation of CIL in 2015.
- 4.5 An update to the Whole Plan Viability Study was commissioned in December 2017. This identified improvements in viability across the town, in part due to redevelopments in town centre. The evidence shows house prices have increased by 20% on average, but that new build flats in the town centre have increased significantly more. It increased the recommended levy rates from £0/m² in town centre to £40/m² and the housing rates elsewhere from £40/m² to £100/m². Officers are comfortable that these rates can be justified at Examination using this evidence base.
- 4.6 Charging authorities are also required to demonstrate a funding gap, to show that CIL is required to meet infrastructure needs. The Infrastructure Delivery Plan (IDP) (last updated in March 2017) identifies the infrastructure required in order to support the delivery of the Local Plan. A Funding Gap Technical Paper (July 2018) has been produced in order to further examination the findings of the IDP and to more accurately assess the funding gap. The assessment excludes certain schemes, such as those that are desirable and not essential/critical, those that are required to meet existing needs and are not as a result of Local Plan growth, and those for which costs are unknown etc. The paper identifies a funding gap of around £89 million (see Appendix 1 of the technical paper for further details on how this has been calculated).
- 4.7 The IDP is a rolling document, so this reflects the situation at a particular point in time. The Council will continue to proactively bid for external funding opportunities and other ways to fill the funding gap, in addition to CIL income.

Table 1: Infrastructure funding gap

Infrastructure type	Costs (in millions)		
	Total	Other sources of funding	Funding gap
Mobility	£124.8	£109.3	£15.5
Education	£62.4	£28.0	£34.4
Healthcare	£34.2	£0.0	£34.2
Green Infrastructure	£1.6	£0.0	£1.6
Community/leisure	£6.7	£3.0	£3.7
	£229.7	£140.3	£89.4

- 4.8 Members are requested to formally note the evidence used to inform the PDCS and particularly the CIL rates proposed within it.

Recommendation 2.2: That the draft Preliminary Draft Charging Schedule (attached as Appendix 1) be approved

- 4.9 Authorities wishing to implement CIL must produce a charging schedule setting out the levy rates for their area(s). The PDCS firstly sets out who is liable to pay CIL. 'Chargeable development' is defined as:
- All new buildings, but excluding those into which people do not usually, or only occasionally, go (e.g. only to inspect machinery or structures such as electricity pylons or substations)
 - Developments of 100m² or more (additional gross internal floorspace)
 - The creation of one or more additional dwellings (even if the gross internal floorspace is less than 100m²)
 - Some developments not requiring planning permission (permitted development) will also be liable for CIL if they do not fall into the exemption criteria.
- 4.10 CIL is not charged on affordable housing, buildings used for charitable purposes, and self-build housing.
- 4.11 The PDCS then goes on to summarise the evidence base used to inform the schedule (as explained further in para's 4.2 to 4.6).
- 4.12 The key piece of evidence being the update to the viability study, which assesses the viability of different types of developments based on current market values and costs, and recommends the CIL rates officers are proposing, as follows:

Table 2: Proposed CIL levy rates

Development type	CIL rate	
	Zone1: Stevenage Central	Zone 2: Everywhere else
Residential Market housing	£40/m ²	£100/m ²
Sheltered Housing		£100/m ²
Extracare housing		£40/m ²
Retail Development		£60/m ²
All Other Development		£0/m ²

- 4.13 As explained in para 4.5, updated evidence has allowed officers to increase the proposed residential CIL rates to £40/m² within Stevenage Central and £100/m² elsewhere. The viability evidence is clear that there is no scope to introduce CIL for employment uses at this point in time. This recognises that much of the employment development coming forward in the Borough is 'user led' being brought forward by businesses that will use the eventual space for operational uses, rather than for investment purposes. It is clear that employment development is challenging in the current market, but it is improving.
- 4.14 It is important to note that the Council's CIL income will not be sufficient to fund all infrastructure needed to support the plan. Initial calculation estimates show CIL will bring in around £1.4m per year, so around £18m for the remaining plan period, and will not be at a level to fund the gap of £89m identified (see para 4.6). The Council will still be reliant on external funding to support growth.
- 4.15 It would be a risk to push rates above those which the evidence shows to be viable. There is a need to get the right balance between encouraging housing delivery and regeneration, but also ensuring the Council can provide the infrastructure needed to support this growth.
- 4.16 Officers have compared our proposed rates to those, either consulted upon or adopted, for the rest of Hertfordshire. Whilst the proposed levy rates for residential floorspace are slightly lower than the Hertfordshire average, this does include some areas where the market is better across the authority as a whole (such as St Albans), which pushes up the figures significantly, so this is not unexpected. The CIL rates can be reviewed if viability improves in the future, which is likely, particularly for the town centre.

Table 3: Comparison with other Herts authorities

Authority	Draft / Adopted?	Date	Residential CIL rates (£/m ²)		Retail CIL rates (£/m ²)	
			Lower Value area	All other areas	floorspace ≥ 280sqm	floorspace < 280sqm
Stevenage	n/a	n/a	£40	£100	£60	
Broxbourne	n/a	n/a				
Dacorum	Adopted	Feb-15	£0-£100	£150-£250	£150	£0
East Herts	Draft	Sep-15	£40-£50	£100-£200	£80	
Hertsmere	Adopted	Sep-14	£120	£180	£80	
North Herts	Draft	Feb-13	£80	£120	£120	£60
St Albans	Draft	Feb-14	£170		£125	
Three Rivers	Adopted	Feb-15	£120	£180	£60	£0
Watford	Adopted	Apr-15	£120		£120	£55
Welwyn Hatfield	Draft	May-17	£50-£100	£230	£85	£0
Average across other Herts authorities			£97.50	£168.75	£89	£50

- 4.17 CIL will provide the Council with an increase in developer contributions, as well as the increased flexibility in spending the money. For a development of two houses outside of the town centre, for example, the Council would charge a CIL contribution of around £17,000 (based on average size property of 85m²). This would be non-negotiable. In general terms, for a site of this size, the Council would not get any S106 contributions at present.
- 4.18 The costs of administering CIL will be funded directly from the levy (up to 5% of total receipts is permitted for this use). A further 15% of CIL is required to be passed to the parish/town council within which the development will take place – as SBC do not have Parishes, the requirement is to consult with the community within the local area on how they wish to see this money spent. The Government has signalled intent to move away from using the council tax base as the way of calculating New Homes Bonus (NHB), and to use the new Housing Delivery Test (HDT) set out in the National Planning Policy Framework instead. This could result in lower NHB income. Local CIL monies could be used to provide alternative funding for the CNM programme. Arrangements for exactly how this might work will require further consideration.
- 4.19 The governance arrangements for spending the remaining CIL money will also require further discussion at a later stage, but it is common for a Member-led Committee to be established, to consider schemes submitted by relevant officers. Decisions on spending should be guided by existing SBC strategies, i.e. the Infrastructure Delivery Plan and our Green Travel Plan, and those of our partners i.e. HCC's Local Transport Plan. But ultimately the responsibility is with SBC to determine how the money is spent.

- 4.20 Further discussions will also be required internally to discuss the processes for administering CIL.
- 4.21 It is proposed that recommendations on these issues are brought to Executive when approval is sought to submit CIL for Examination.

Recommendation 2.3: That public consultation on the Preliminary Draft Charging Schedule for a period of six weeks commencing 12 September 2018 be approved.

Recommendation 2.4: That delegated powers be granted to the Assistant Director; Planning and Regulation, in consultation with the Portfolio Holder for Environment and Regeneration, to make such amendments as are necessary in the final preparation of the Preliminary Draft Charging Schedule.

- 4.22 Levy rates must be set in consultation with local communities and developers.
- 4.23 It is recommended that public consultation commence on 12 September 2018, for a period of 6 weeks. The consultation would close on 24 October 2018.
- 4.24 The consultation will be publicised by a range of measures. This will include:
- Placing the PDCS and supporting documents on the Council's web-site for the duration of the consultation;
 - Notifying everyone on the local plan consultation database by e-mail or letter;
 - Making hard copies of the PDCS available at the Customer Service Centre and at the town's two libraries;
 - Use of social media, such as the Council's Facebook and Twitter feeds;
- 4.25 The draft PDCS is appended to this report. However, it may be necessary to make minor changes to it during its final preparation. This might incorporate cosmetic adjustments, the correction of any typographical errors and any minor factual changes.
- 4.26 It is recommended that any such amendments be approved via delegated powers.

Recommendation 2.5: That delegated powers be granted to the Assistant Director; Planning and Regulation, in consultation with the Portfolio Holder for Environment and Regeneration, to consider consultation responses received in relation to the Preliminary Draft Charging Schedule and make such amendments as are necessary to subsequently prepare the Draft Charging Schedule.

Recommendation 2.6: That public consultation on the Draft Charging Schedule for a period of four weeks commencing 16 November 2018 be approved.

- 4.27 Once the PDCS consultation has been undertaken, the next step is for a Draft Charging Schedule (DCS) to be prepared. This should take into account any comments received.
- 4.28 It is proposed that any responses received in response to the PDCS consultation, be collated and considered by officers in the first instance.
- 4.29 Due to the fact that the charging schedule is a relatively short document and is based entirely on a robust evidence base, and taking into account the experience of other authorities, officers are not expecting huge numbers of responses to the consultation.
- 4.30 As such, it is proposed that the responses are reported to the Assistant Director; Planning and Regulation and the Portfolio Holder for Environment and Regeneration, with recommendations on how (if) the charging schedule should be revised to take these comments into account. It is recommended that any such amendments be approved via delegated powers.
- 4.31 It is recommended that public consultation on the DCS commences 16 November 2018, for a period of 4 weeks. The consultation would close on 14 December 2018. The public consultation will be publicised in line with the proposed methods outlined in para 4.23 of this report.
- 4.32 Following this consultation, a report will come back to Executive (scheduled for early 2019) to request approval to submit the final charging schedule to an examiner. The charging schedule must then be examined in public by an independent person appointed by the charging authority.
- 4.33 The decision to adopt CIL will need to be taken at Council following receipt of the Examiner's report. This is likely to be around spring 2019.
- 4.34 CIL will be payable on all eligible development approved following its adoption, so is likely to affect any planning applications submitted from early 2019 onwards.

5 IMPLICATIONS

Financial Implications

- 5.1 The costs of implementing CIL will be met from the 5% CIL income the Council is allowed to keep for administration purposes in the long term (this

includes the costs of Examination). In the meantime, it is being funded through the agreed departmental budget of the Planning Policy Team.

- 5.2 There will be a requirement to consider how CIL is administrated internally and the governance around how it is to be spent. It is proposed that discussions are held internally and recommendations are brought to Executive when approval is sought to submit CIL for Examination.
- 5.3 Financial implications for the Council as landowner are examined further under 'Other Corporate Implications', paragraphs 5.13 - 5.15.

Legal Implications

- 5.4 The preparation of Community Infrastructure Levy is given effect by the 2008 Planning Act.
- 5.5 Detailed statutory requirements for the preparation of CIL, including consultation requirements, are set out in The Community Infrastructure Levy Regulations 2010 (as amended).

Risk Implications

- 5.6 There are no significant risks associated with carrying out consultation on CIL.
- 5.7 Risks may arise at the next stage, when Executive is asked to approve the submission of the final charging schedule – this will require Examination by an independent inspector. The risks are minimised by proposing CIL rates that align with the viability evidence used to inform the Local Plan (and any subsequent updates).

Policy Implications

- 5.8 Consider whether there are any Policy implications - if none, delete this heading and paragraph

Planning Implications

- 5.9 Once CIL is adopted, it will constitute a new council policy.

Environmental Implications

- 5.10 CIL has the potential to have a positive impact on the environment, as monies can be used towards improving/maintaining/new environmental infrastructure.

Staffing and Accommodation Implications

- 5.11 The Planning Policy Team currently consists of two full-time professional staff, with one vacancy currently being filled via an agency contract. This is sufficient to implement CIL.
- 5.12 Consideration will need to be given as to whether resources within the existing Planning Policy, Development Management Team and Technical Support are sufficient to manage CIL, once adopted. If additional resource is

required, this can be funded through the 5% of CIL monies local authorities are allowed to keep to administer CIL.

Other Corporate Implications

- 5.13 CIL will be payable for all qualifying development, therefore, it has the potential to impact on council-owned land, in terms of being a consideration in sales negotiations and in being levied when developing the Council's own schemes. This includes smaller residential sites (10 or less dwellings), which were previously exempt from making developer contributions (S106). This is an additional cost and has the potential to depress land values for the council's small sites. This is the same for larger sites, and there is a risk that developers will try to use this additional expense to negotiate down land values.
- 5.14 However, the viability evidence undertaken to inform the CIL charging rates, shows that the levy being proposed will be viable for both small and large-scale development. It will be under 3% of GDV on all sites, so very marginal overall. This takes into account land values at an appropriate market rate.
- 5.15 CIL will be payable on all development approved following its adoption, so is likely to affect any planning applications submitted from early 2019 onwards. This may include SG1, if a planning application has not been approved. The levy rates in the central area are much lower than elsewhere to take into account the fact that margins are tighter here.

BACKGROUND DOCUMENTS

- BD1 [Executive Report, 11 Sept 2012](#)
- BD2 [Executive Report, 15 Dec 2015](#)
- BD3 [Stevenage Borough Infrastructure Funding Strategy, Aecom, September 2015](#)
- BD4 [Whole Plan Viability Study including Community Infrastructure Levy, HDH Planning, September 2015](#)
- BD5 [Infrastructure Delivery Plan, SBC \(most recent version, March 2017\)](#)
- BD6 [Viability Update, December 2017](#)
- BD7 [Infrastructure Funding Gap – technical paper, July 2018](#)

APPENDICES

- A [Preliminary Draft Charging Schedule \(PDCS\), July 2018](#)