



SHEFFIELD CITY COUNCIL

Cabinet Report

Report of: Simon Green, Executive Director, Place

Report to: Cabinet

Date: 15 April 2015

Subject: Implementing the Community Infrastructure Levy (CIL) in Sheffield

Author of Report: Richard Holmes (205 3387)

Key Decision: YES

Reason Key Decision: Affects 2 or more wards

Summary:

The CIL is a new way of seeking contributions from developers towards essential infrastructure that is required to support new development. This report seeks Cabinet approval to recommend that Full Council adopt the Charging Schedule and begin charging CIL on qualifying developments receiving planning permission from 15 July 2015.

Cabinet is also asked to approve an Instalments Policy and to offer Exceptional Circumstances Relief. It is also asked to agree to the production of a Supplementary Planning Document on CIL and planning obligations and a list of priority projects for CIL spending.

Reasons for Recommendations:

The CIL will help to deliver the city's strategic priorities for infrastructure provision, will be generated by economic and housing growth and reinvested into economic growth and infrastructure. Specifically it will:

- Be fairer, faster and more transparent than Section 106;
- Give the Council and local communities freedom to set infrastructure priorities that are justified;
- Be a predictable funding stream making infrastructure delivery more efficient;
- Give developers certainty and quicker planning decisions;
- Be more transparent and flexible than Section 106;
- Reward communities for new development through the neighbourhood portion;
- Be supported and promoted by Government.
- Focus on strategic infrastructure priorities for the city as well as local priorities through the neighbourhood portion;
- Focus on delivering new homes and businesses in the priority locations set out in the local plan;
- Generate significantly more funding than Section 106;
- Be set at a level that ensures it is affordable.

The Council is committed to charging a CIL and the Government Planning Inspector has confirmed the levels of the charge proposed are appropriate. The Council must now approve the CIL Charging Schedule at a meeting of Full Council.

Implementation of the CIL will also require details of the Instalments Policy and Relief for Exceptional Circumstances to be approved by Cabinet. It will also require clarification on how the CIL will work alongside Section 106 and how the CIL funds will be spent.

Recommendations:

That Cabinet:

- Notes the recommendations of the CIL Examiner's Report, received on 25 February 2015, that the CIL charges proposed are appropriate (with three amendments) and that the Charging Schedule be approved and resolves to recommend to Full Council that the CIL Charging Schedule is approved with an implementation date of 15 July 2015;
- Agrees to offer an Instalment Policy and Exceptional Circumstances Relief for CIL, as set out in the documents attached;
- Agrees to the production of a Supplementary Planning Document on CIL and Planning Obligations to be referred to Cabinet for subsequent approval following public consultation;

- Agrees that the Council’s Programme Boards and Outcome Boards will set the priorities for the Infrastructure Delivery Plan (IDP) and the priorities for CIL spending in support of the IDP will be set by agreeing a Regulation 123 List. Projects funded by CIL, in part or whole, will be approved by Cabinet as part of the Council’s capital and revenue financial approval procedures.
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Background Papers: CIL Examiner’s Report – see www.sheffield.gov.uk/cil
Draft CIL Charging Schedule as amended – see www.sheffield.gov.uk/cil
Draft Interim Regulation 123 List - see www.sheffield.gov.uk/cil
Proposed CIL Instalments Policy (attached)
Proposed CIL Exceptional Circumstances Relief Policy (attached)

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial Implications
YES Cleared by Paul Schofield
Legal Implications
YES Cleared by Paul Bellingham
Equality of Opportunity Implications
YES Cleared by Ian Oldershaw
Tackling Health Inequalities Implications
YES Cleared by Paul Billington
Human rights Implications
NO
Environmental and Sustainability implications
YES Cleared by Paul Billington
Economic impact
YES Cleared by Ed Highfield
Community safety implications
YES Cleared by Janet Sharpe
Human resources implications
YES Cleared by Julie Toner
Property implications
YES Cleared by Nalin Seneviratne
Area(s) affected
All
Relevant Cabinet Portfolio Lead
Leigh Bramall
Relevant Scrutiny Committee
Economic and Environmental Well-being
Is the item a matter which is reserved for approval by the City Council?
YES
Press release
YES

REPORT TO CABINET

IMPLEMENTING THE COMMUNITY INFRASTRUCTURE LEVY IN SHEFFIELD

1. SUMMARY

- 1.1 The Community Infrastructure Levy (CIL) is a new way of securing contributions from developers towards infrastructure provision through the planning system. It is a national scheme that the Government is promoting as a better way for new development to contribute towards new infrastructure, and will replace many individually negotiated planning agreements (known as Section 106 agreements). The CIL is a tariff system that local authorities can choose to charge on new developments in their area by adopting a Charging Schedule. The CIL is levied on new buildings and extensions to buildings according to their floor area. In this way money is raised from developments to help the Council pay for essential infrastructure to support these new developments. This infrastructure will include schools, transport improvements, open space and public spaces, plus any other community facilities required to ensure sustainable growth. The majority of the money received can be spent on any new infrastructure needed as a result of new development in any location. The levy will be paid by most new development, although it will only be charged on new net additional floorspace and on larger schemes (100 square metres of net non-residential additional floorspace or single individual dwellings).
- 1.2 CIL charges can vary by type and location of development, but must be based on viability. So some developments will pay more than others and some with more limited viability, such as offices and industry, will pay no CIL.
- 1.3 A CIL represents a great opportunity to focus on city-wide priorities and provide new infrastructure that is of strategic, city-wide importance. CIL funding is not restricted to individual developments or local areas, so can be targeted where it is most needed. Setting CIL infrastructure priorities will be matched with a wider Infrastructure Delivery Plan that will enable the city to focus on priorities for growth and the strategic outcomes set out in the Corporate Plan.
- 1.4 Cabinet agreed in September 2011 that the Council should work towards implementing a CIL, to ensure that major new development contributes to the provision of infrastructure improvements where viable. The CIL will relate to strategic priorities in the Sheffield Local Plan and will help to deliver the city's strategic priorities for infrastructure provision.
- 1.5 National legislation governs the process for setting up a CIL. The first stage was to produce a *CIL Preliminary Draft Charging Schedule* setting out the proposed rates that would be charged on new development. This was subject to a period of public consultation from January 2013. The Council later consulted on a *Draft Charging Schedule* and a *Revised Draft Charging*

Schedule in March and August 2014, before submitting the Draft Charging Schedule to the Government for a Public Examination led by a Planning Inspector. This took place on 6 and 7 January 2015.

1.6 Throughout the process of producing the Charging Schedule the Council has worked closely with local developers to set appropriate rates, and believe developers are generally supportive of the CIL approach. The Council has engaged specifically and directly with the Sheffield Agents' Forum, the Sheffield Chamber of Commerce and the Local Enterprise Partnership.

1.7 The benefits of CIL are that it:

- Is fairer, faster and more transparent than Section 106;
- Gives Councils and local communities freedom to set infrastructure priorities that are justified;
- Is a predictable funding stream making infrastructure delivery more efficient;
- Gives developers certainty and quicker planning decisions;
- Is more transparent and flexible than Section 106;
- Rewards communities for new development through the neighbourhood portion;
- Will raise more income than Section 106;
- Is supported and promoted by Government.

1.8 CIL is good for Sheffield because it:

- Can be focussed on strategic infrastructure priorities for the city as well as local priorities through the neighbourhood portion;
- Can focus on delivering new homes and businesses in the priority locations set out in the local plan;
- Will generate significantly more funding than Section 106;
- Has been set at a level that ensures it is affordable.

1.9 The Examiner's Report was received on 25 February 2015 and recommended that the Charging Schedule be approved with three amendments. Cabinet is now asked to recommend approval of the Draft Charging Schedule as amended following the Examiner's recommendation and refer it to Full Council in June 2015. It is then intended to begin charging CIL on development granted planning permission from 15 July 2015.

2. WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE

2.1 The Community infrastructure Levy (CIL):

“allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. The money can be used to fund a wide range of infrastructure that is needed as a result of development. This includes new or safer road schemes, flood

*defences, schools, hospitals and other health and social care facilities, park improvements, green spaces and leisure centres*¹

The Current Position – Section 106 Agreements

- 2.2 Contributions from developers towards new and improved infrastructure are currently delivered through negotiated legal agreements (Section 106) that form part of the planning application process. The Government has restricted the scope of these agreements as part of the CIL process and have now given the traditional tests for requesting obligations a statutory footing, (i.e. they must focus only on what is needed to make the individual development acceptable, such as a specific access road). The CIL is now the Government's preferred mechanism for delivering the wider infrastructure demand that new development creates, such as additional school places or open space. Section 106 has been further limited from 6 April 2015, when a restriction on pooling financial contributions from developers towards infrastructure was imposed. For these reasons CIL will be the best way of securing significant financial contributions for infrastructure from new development.

Increased Income

- 2.3 CIL is expected to deliver annual income of £3-4 million when established and between £11.3 million and £17 million by the end of 2019/20. There will be a gradual build-up of income, because payment is due on commencement of development and in instalments over two years thereafter, other than for the smallest payments. In the medium to long term, CIL is anticipated to generate significantly more funds for infrastructure compared to Section 106, as it is more efficient than the current situation where contributions are negotiated on an individual basis as developments come forward. If the Council does not adopt a CIL, the projects that can be secured through Section 106 will become much more limited. This would affect the city's ability to raise money for essential infrastructure to support growth. As the Government is promoting CIL, a decision not to adopt one could make it more difficult for the city to secure other funding from the Government towards infrastructure.

The Neighbourhood Portion

- 2.4 CIL can be spent wherever it is most needed though some will be allocated directly to the neighbourhoods where the new development takes place. This is the 'Neighbourhood Portion' and the Regulations require that this will be a minimum of 15% of the CIL received in the area. Where there is a parish council in an area, the Neighbourhood Portion must be handed over to the parish to spend on their local priorities. Where there is no parish the Council holds the CIL money on behalf of the local community, but the local community determine how it is spent.

¹ CIL Overview – Communities and Local Government, 2011.
<http://www.communities.gov.uk/publications/planningandbuilding/communityinfrastructurelevymay11>

- 2.5 In areas where there is a Neighbourhood Plan or Neighbourhood Development Order, the Regulations require that the Neighbourhood Portion will be 25%. There are currently three areas of Sheffield where a Neighbourhood Area is designated and where designated bodies are actively preparing a Neighbourhood Development Plan. These are: Stocksbridge Neighbourhood Area, proposed by Stocksbridge Town Council and designated on 28th February 2014; Dore Neighbourhood Area, designated 16th October 2014; and Broomhill, Broomfield, Endcliffe, Summerfield, and Tapton (known as BBEST), designated on 14th January 2015.
- 2.6 All of these plans are still at an early stage of gathering information and evidence, engaging with stakeholders, and developing plan objectives. Detailed timetables taking account of each required stage of the process will emerge for each area following these early stages. The 25% Neighbourhood Portion would not be available to these areas until a Plan is adopted. There are currently no proposals for Neighbourhood Development Orders in the city.

3. OUTCOME AND SUSTAINABILITY

- 3.1 The National Planning Policy Framework (NPPF) recognises that a lack of infrastructure can be a significant barrier to investment, and that priorities for infrastructure provision should be identified.

4. INSTALMENTS, EXCEPTIONAL CIRCUMSTANCES, PLANNING OBLIGATIONS, GOVERNANCE AND IMPLICATIONS

Proposed Instalments Policy

- 4.1 If the Council wishes, the CIL legislation (Regulation 69B) allows for payments to be made on a phased basis using an Instalments Policy, rather than 100% of the charge being paid on commencement of the development. The Council is proposing to offer payment of CIL in instalments as a matter of course. This will make it easier for developers to pay the charge, as receipts from new development can then be used to partly fund CIL payments. Viability work on the CIL charges assumed that an instalments policy would be in place.
- 4.2 The Instalments Policy proposed is as follows:

Chargeable Amount	Payment Due
Where the chargeable amount is less than £10,000	Payment will be required in full within 60 days of the commencement date
Where the chargeable amount is £10,000 or more but less than £50,000	Two equal instalments will be due 60 and 540 days after the commencement date
Where the chargeable amount is more than £50,000	Three equal instalments will be due after 60, 540 and 720 days after the commencement date

- 4.3 This instalments policy can apply to individual stages of a scheme where the developer chooses to develop it in phases using separate planning permissions, so there is additional flexibility in the CIL payment available for developers.

Proposed Offer of Exceptional Circumstances Relief (ECR)

- 4.4 The Council has the discretion to offer ECR where individual sites with specific and exceptional cost burdens would not be viable due to the payment of the CIL charge.
- 4.5 An objection was received during consultation on the Draft Charging Schedule from the Sheffield Housing Company on the grounds that ECR may be necessary in order to develop some of its housing sites that are financially very marginal in terms of viability.
- 4.6 Regulation 55 states that the Council may grant relief from liability to pay CIL if it appears to the Council that there are exceptional circumstances which justify doing so and the Council consider it expedient. Each case will be considered individually by the Council as part of the determination of the planning application, which retains the discretion to make judgements about the viability of the scheme in economic terms and whether the exceptional circumstances policy should apply.
- 4.7 The Government and the Council expect that these exceptional circumstances will be rare, as the CIL rates set have been set at a level where most development can afford to pay the charge and the charges include significant margins for flexibility.

Commitment to Produce a Supplementary Planning Document (SPD) on CIL and Planning Obligations

- 4.8 Once the CIL is adopted it will be the main source of funding for the provision of most infrastructure required to serve new development, significantly taking over from Section 106. The Council will therefore need to withdraw existing Supplementary Planning Guidance and Interim Planning Guidance on the provision of open space and school places through Section 106, and replace them with a Supplementary Planning Document that will focus on the delivery of the local plan policies on open space and education provision.
- 4.9 Cabinet is asked to authorise Council officers to work on the publication of this Supplementary Planning Document as soon as possible for later Cabinet approval.

Governance

- 4.10 We are required to publish a list of CIL priority projects for spending (the 'Regulation 123 List'). An Interim Regulation 123 List was approved for the CIL Examination. CIL should focus on delivering local plan priorities, so projects were chosen based on priorities for infrastructure identified in the Sheffield Local Plan Core Strategy, adopted in March 2009.

- 4.11 This report does not require Cabinet to take any decisions on CIL spending at this stage, as the proposals for funding will be brought through the Capital Approvals process and CIL money is not expected in significant amounts until 2017. Initial agreement has been given in principle to the shortlist of projects in the Interim Regulation 123 List that includes the BRT North project for which developer contributions have already been committed by Cabinet on 20 November 2013. But there will be a need for the Council to agree priorities which will require some governance arrangements to be put in place to determine how to spend the CIL revenue.
- 4.12 We are intending to publish the draft Infrastructure Delivery Plan (IDP) for consultation this year. The Regulation 123 List of CIL spending priorities will be updated for consultation at that time.
- 4.13 The Council's annual business planning process uses the Outcome Boards, comprising Members and officers, to set strategic objectives in line with the Corporate Plan priorities. The objectives are then delivered through Programme Boards, comprising officers from different services across the Council, which will commission projects, and recommend to Cabinet for inclusion in the Council's Capital Programme through the approved process. The commissioning work will be informed by the IDP which will align with, and contribute to, the delivery of the Council's Corporate Plan objectives. By adopting this approach, Cabinet will make the final decision on the use of CIL, and the Council can be assured that there is the necessary cross portfolio collaboration and consideration of needs to ensure that the overall infrastructure of the city is improved to provide the schools, transport infrastructure and neighbourhood facilities which will be needed for its projected economic growth.

Financial Implications

- 4.14 As explained in paragraph 2.3 it is expected that, once established, there will be income from a CIL around £3 to 4 million per year once the system is effectively up and running and CIL income is routinely collected (probably from 2017 onwards). Given the restrictions on Section 106 detailed earlier, this income would not be otherwise achieved without a CIL in place.
- 4.15 The CIL rates would typically amount to between one and two and a half per cent of the total costs of any new development. The rates represent a cautious approach to ensuring the right balance between achieving a reasonable CIL income and not putting overall viability at risk.
- 4.16 The Council has already incurred costs relating to CIL through officer time, commissioning the independent Viability Study and holding the CIL Examination. These operating costs will continue to be incurred as we work towards implementation of the CIL and we will also be likely to incur operational costs once CIL is adopted. However, the CIL regulations (Regulation 61) allow for up to 5% of CIL revenue to be claimed by the Council to cover these costs.

4.17 Elsewhere in England, CIL money is already being collected and spent on infrastructure projects. For example:

- Bristol City Council collected over £500,000 CIL in 2013/14 and are expecting a further £2.8 million in 2014/15. This will be allocated to a Bus Rapid Transit and Bus Link schemes being developed in 2014/15.
- Redbridge London Borough collected nearly £2 million in 2013/14, of which £1million was spent on school extensions.
- Wycombe's approved spending in 2014/15 includes £100,000 of CIL on a link road, £75,000 on town centre public realm, £84,000 for feasibility and design of a new school and £35,000 on the improvement of river banks. A further £50,000 was allocated from the neighbourhood portion for a community centre.
- Wandsworth London Borough collected £2.5 million of CIL in 2013/14. Priorities for spending are transport improvements, state education facilities, public health care facilities, public open space and sports and leisure provision.

Legal Implications

4.18 Section 205 of the Planning Act 2008 ("the 2008 Act") permitted the Secretary of State to make regulations for the imposition of a CIL and the legislative framework for such is set out in Part 11 of the 2008 Act.

4.19 On 6 April 2010 the Community Infrastructure Levy Regulations 2010 ("the Regulations") came into force which builds on the framework set out in Part 11 of the 2008 Act and introduced the ability for Local Planning Authorities to charge the levy.

4.20 As set out in this report, the Regulations permit the Council to charge CIL and govern its operation. The Charging Schedule has been prepared in accordance with the Regulations (as subsequently amended), and the 2008 Act, and has been found to be legally sound by the Independent Examiner.

4.21 The Council must ensure that its corporate procedures for the ongoing operation of charging and collecting the CIL are compliant with the requirements of the Regulations.

4.22 Section 213(2) of the 2008 Act provides that the Council can only approve the CIL Charging Schedule at a meeting of Full Council and by a majority of votes of those Members present.

Equality of Opportunity Implications

4.23 As the CIL is largely replacing the previous Section 106 system of achieving developer contributions, in itself it is equality neutral. However, when considering the benefits of a CIL that there should be more funding available and it is more flexible in what the funds can be spent on, it has the potential for positive equality impacts. Many of the infrastructure projects that a CIL would help to deliver would benefit those reliant on public services such as

state schools and public transport, as well as those living in areas where air quality is poor, for example. For this reason, CIL is considered to offer potential benefits to poorer residents and communities in Sheffield, so could have a positive equality impact.

Tackling Health Inequalities Implications

- 4.24 CIL funds could be used to deliver health services where they are classed as infrastructure, such as health centres and doctors' surgeries. This would be dependent on such infrastructure projects being prioritised, either city-wide or by the local communities using the Neighbourhood Portion.

Human Rights Implications

- 4.25 The process for implementing a CIL including public consultation conforms to national legislation that takes due account of human rights.

Environmental and Sustainability Implications

- 4.26 The National Planning Policy Framework² promotes sustainable development through three key dimensions, where the planning system has an economic, social and environmental role. Infrastructure cuts across all three of these roles and the CIL will assist in the delivery of infrastructure to aid sustainable development.

Economic Impact

- 4.27 The CIL will have a positive economic impact in generating increased funding for infrastructure that can be used in a flexible and more efficient way. Local developers and businesses have been closely involved in the process for setting CIL rates, to ensure the right balance has been struck between raising sufficient funding to deliver infrastructure priorities, whilst not being set so high that it adversely effects levels of development. Through the CIL consultation process, the Council has engaged specifically and directly with the Sheffield Agents' Forum, the Sheffield Chamber of Commerce and the Local Enterprise Partnership. Proposed rates have been adjusted through the process to ensure they are reasonable and affordable. General support from the business community is also reflected by the very small number of objectors (3 in total) present at the CIL Examination.
- 4.28 The CIL will help to deliver the city's strategic priorities for infrastructure provision, will be generated by economic growth and reinvested into economic growth and infrastructure. Effective and full economic regeneration through the provision of new homes, businesses, services and leisure cannot be achieved without adequate supporting facilities. Infrastructure connects people with these jobs and services and provides the means for these to be delivered effectively. The city's aspirations for economic growth, as set out in strategies such as the Corporate Plan, City Strategy, Economic Masterplan,

² *National Planning Policy Framework*. Communities and Local Government, March 2012 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

City Centre Masterplan and Don Valley Masterplan can only be achieved with the provision of adequate physical, social and green infrastructure.

Community Safety Implications

- 4.29 Transport improvements are expected to be a significant item of infrastructure that will be delivered through CIL and road and pedestrian safety is a key element of transport improvements.

Human Resources Implications

- 4.30 Putting the CIL in place will require significant input from Council staff, particularly in the Planning Service. However, this should lead to improved funding for infrastructure in the future, and CIL receipts can be used to cover some or all of the cost of its implementation.

Property Implications

- 4.31 The CIL will be chargeable on most new development, including buildings funded or constructed by or on behalf of the Council.
- 4.32 CIL receipts could be eligible to be spent by the Council on new buildings or structures where they are defined as infrastructure and are identified as a priority for CIL spending.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 One option is not to implement a CIL, as it is not compulsory. Some local authorities have decided not to implement a CIL at the present time, where there are no major infrastructure requirements or viability is marginal, but most councils are working on a CIL because funding for essential infrastructure is otherwise limited. As of mid-January 2015, 186 out of 326 local authorities had published a Charging Schedule (including 5 out of 8 core cities) and around 60 were already charging CIL. The CIL Examiner's report confirms that it is appropriate to implement a CIL in Sheffield.

6. REASONS FOR RECOMMENDATIONS

- 6.1 The CIL will help to deliver the city's strategic priorities for infrastructure provision, will be generated by economic growth and reinvested into economic growth and infrastructure. Specifically it will:
- Be fairer, faster and more transparent than Section 106;
 - Give the Council and local communities freedom to set infrastructure priorities that are justified;
 - Be a predictable funding stream making infrastructure delivery more efficient;
 - Give developers certainty and quicker planning decisions;

- Be more transparent and flexible than Section 106;
 - Reward communities for new development through the neighbourhood portion;
 - Be supported and promoted by Government.
 - Focus on strategic infrastructure priorities for the city as well as local priorities through the neighbourhood portion;
 - Focus on delivering new homes and businesses in the priority locations set out in the local plan;
 - Generate significantly more funding than Section 106;
 - Be set at a level that ensures it is affordable.
- 6.2 The Council is committed to charging a CIL and the Government Planning Inspector has confirmed the levels of the charge proposed are appropriate. The Council must now approve the CIL Charging Schedule at a meeting of Full Council.
- 6.3 Implementation of the CIL will also require details of the Instalments Policy and Relief for Exceptional Circumstances to be approved by Cabinet. It will also require clarification on how the CIL will work alongside Section 106 and how the CIL funds will be spent.

7. **RECOMMENDATIONS**

That Cabinet:

- 7.1 Notes the recommendations of the CIL Examiner's Report, received on 25 February 2015, that the CIL charges proposed are appropriate (with three amendments) and that the Charging Schedule be approved and resolves to recommend to Full Council that the CIL Charging Schedule is approved with an implementation date of 15 July 2015;
- 7.2 Agrees to offer an Instalment Policy and Exceptional Circumstances Relief for CIL, as set out in the documents attached;
- 7.3 Agrees to the production of a Supplementary Planning Document on CIL and Planning Obligations to be referred to Cabinet for subsequent approval following public consultation;
- 7.4 Agrees that the Council's Programme Boards and Outcome Boards will set the priorities for the Infrastructure Delivery Plan (IDP) and the priorities for CIL spending in support of the IDP will be set by agreeing a Regulation 123 List. Projects funded by CIL, in part or whole, will be approved by Cabinet as part of the Council's capital and revenue financial approval procedures.

Simon Green
 Executive Director, Place
 April 2015