

WELWYN HATFIELD BOROUGH COUNCIL  
CABINET PLANNING AND PARKING PANEL – 14 DECEMBER 2017  
REPORT OF THE EXECUTIVE DIRECTOR (PUBLIC PROTECTION, PLANNING AND GOVERNANCE)

COMMUNITY INFRASTRUCTURE LEVY PRELIMINARY DRAFT CHARGING SCHEDULE CONSULTATION

**1 Executive Summary**

- 1.1 The Community Infrastructure Levy (CIL) is a locally set planning charge which local authorities can choose to implement to raise contributions from new housing and other development towards the delivery of necessary supporting infrastructure.
- 1.2 In order to implement CIL the Council must follow a series of steps set out in the CIL Regulations 2010 (as amended). The first statutory step is to publish a Preliminary Draft Charging Schedule for consultation setting out the type of development which is proposed to be liable for the levy and the proposed charging rates.
- 1.3 In accordance with the Council's Local Development Scheme a CIL Preliminary Draft Charging Schedule was prepared in early 2017. This was approved for public consultation by Cabinet on 4 April 2017 and a six week public consultation subsequently took place from 15 May 2017 to 26 June 2017.
- 1.4 This report summarises the responses received to the consultation on the Welwyn Hatfield CIL Preliminary Draft Charging Schedule and sets out the proposed next steps for progressing the Welwyn Hatfield Community Infrastructure Levy.

**2. Recommendations**

- 2.1 That this Panel notes the responses received to the recent consultation on the Welwyn Hatfield CIL Preliminary Draft Charging Schedule.
- 2.2 That this panel agrees the proposed next steps and that the timetable for progressing the Welwyn Hatfield Community Infrastructure Levy should be developed to co-ordinate with the Local Plan timetable.

**3 Background**

- 3.1 The Community Infrastructure Levy (CIL) is a locally set planning charge which local authorities can choose to implement to raise contributions from new development towards the delivery of necessary supporting infrastructure.
- 3.2 Local authorities are the charging authority for CIL and are responsible for setting CIL charges. Councils that wish to charge the levy must prepare a Charging Schedule which sets out the charge per square metre that will apply to new development.

- 3.3 When setting charges, a charging authority is required by the CIL Regulations to strike an appropriate balance between the desirability of funding required infrastructure delivery using CIL (in whole or in part), other actual and expected sources of funding and the potential effects of CIL on the economic viability of development.
- 3.4 In order to implement CIL the Council must follow a series of steps set out in the CIL Regulations 2010 (as amended). A preliminary draft charging schedule is a document which sets out the charging authority's initial proposals for the levy, for public consultation. The authority must take into account the comments it receives when firming up its proposals in the form of the draft charging schedule. This document must then be subject to a further period of statutory consultation before going forward for inspection.
- 3.5 In accordance with the Council's Local Development Scheme, which sets out a work programme relating to the planning documents that will be prepared as part of the Local Plan, a CIL Preliminary Draft Charging Schedule was prepared for consultation in early 2017. This was informed by key evidence relating to infrastructure needs in the borough and economic viability of development to contribute to infrastructure through payment of CIL. The Welwyn Hatfield CIL Preliminary Draft Charging Schedule set out the Council's initial proposals for the levy including proposed charging rates.
- 3.6 CIL contributions received by the Council must be spent on infrastructure. The Council is required by CIL regulations to produce a list of all infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL. This is called the Regulation 123 List. In accordance with best practice as detailed in National Planning Policy Guidance, an Initial Draft Regulation 123 List was prepared to accompany the Preliminary Draft Charging Schedule,
- 3.7 On 16 March 2017 the Cabinet Housing and Planning Panel recommended to Cabinet that the CIL Preliminary Draft Charging Schedule and accompanying Initial Draft Regulation 123 List be agreed for six weeks of public consultation. On 4 April 2017 Cabinet approved these documents for a six week public consultation. This took place from 15 May 2017 to 26 June 2017.

## **4 Explanation**

- 4.1 The Council consulted on a CIL Preliminary Draft Charging Schedule from 15 May 2017 to 26 June 2017
- 4.2 Comments were invited on the following documents:
- CIL Preliminary Draft Charging Schedule
  - Initial Draft Regulation 123 List
  - CIL Viability Study November 2016
  - Strategic Sites Testing Update December 2016
- 4.3 The consultation was advertised as follows:
- Notifications were sent to individuals and organisations on the Council's Local Plan consultation database by email or by letter in accordance with their stated preference for being contacted

- Public notices were placed in the Welwyn Hatfield Times and Hertfordshire Mercury
- The Council issued a press release and advertised the consultation on its website

4.4 In addition, the Council hosted a stakeholder workshop on 23 May 2017. This was an invitation only event which sought to involve key stakeholders in the consultation in a meaningful way. A full range of stakeholders attended including representatives from the County Council, neighbouring authorities, town and parish councils, developers, house builders, and business representatives.

4.5 The following tables sets out the breakdown of consultation respondents:

	Number of individuals who responded	Number of organisations who responded
Letter	1	0
Email	6	26
Online via Objective	2	4

4.6 A total of 39 responses were received. The main issues raised together with changes sought are summarised in Appendix 1. Key themes were as follows:

- Individuals broadly supported the introduction of CIL. A number indicated that they would prefer that CIL was based on the true cost of providing infrastructure to support new development rather than the available viability to contribute to infrastructure once account has been had to all other development costs.
- Developers and housebuilders did not express opposition to the principle of CIL but they did challenge the evidence and assumptions used to calculate the proposed residential charges, which they consider to be too high. A number of respondents stated that assumptions about what is an acceptable developer profit were too low and that benchmark land values used in the viability assessment were too low and did not reflect market rates.
- Detailed representations were submitted in respect of the strategic development sites identified in the Local Plan. These expressed concerns about the viability assumptions and evidence used as well as the interpretation of viability testing into proposed CIL charges.
- A number of organisations considered that the level of proposed CIL or residential uses will exacerbate the under-delivery of housing and affordable housing within the borough and ultimately risk delivery of the emerging Local Plan.
- The County Council identified risks relating to the Council's proposal that strategic sites (excepting North West Hatfield) should contribute to infrastructure through both CIL and Section 106. Representations relating to

the strategic sites sought more detail in connection with the Council's proposed approach to developer contributions on these sites.

- The Charging Schedule should provide detailed definitions so it is clear which uses fall into which charging category.
- A number of comments said the Council should exempt further uses from paying CIL on viability grounds including sports, leisure, cultural and community facilities
- Broad support for the Council to introduce a CIL instalment policy
- Broad support from the development industry for the Council to introduce a discretionary relief policy where the Council has the power to exempt a scheme from paying CIL when they meet specified criteria
- The Council should give further consideration to its Regulation 123 List and publish further information around its CIL spending plans and proposed approach to using CIL and Section 106 in a complementary way.

## **5 Next Steps**

- 5.1 Comments received during the consultation have been collated and summarised in a Consultation Summary (Appendix 1). Detailed consideration will be given to the feedback received and whether changes are required to the current proposals. Further advice will be sought from BNP Paribas, an expert consultancy who have been commissioned to prepare viability evidence and provide advice to support the implementation of CIL in the borough. Once officers are clear on the question of whether any changes are justified to the schedule, a Draft Charging Schedule will be prepared for public consultation and presented to this panel for its consideration.
- 5.2 The Council's adopted Local Development Scheme April 2017 indicated that a Draft Charging Schedule would be prepared in the period July 2017 to September 2017 and that public consultation would take place between October and December 2017. This timetable was originally designed to coincide with the anticipated receipt of the Local Plan Inspector's Report and the adoption of the Local Plan. The timetable has been extended to enable the Council to consider the CIL and planning obligations announcement which the Government indicated would form part of its Autumn Budget in November 2017. Further it is considered appropriate that the timetable should be extended in order that the Draft Charging Schedule can take account of the inspector's findings in relation to the examination of the Local Plan.
- 5.3 In late 2015 the Department for Communities and Local Government (DCLG) established an independent group to conduct a review of CIL. A consultation was carried out to help assess the extent to which CIL does or can provide an effective mechanism for funding infrastructure. The independent group subsequently prepared a report of their findings which was submitted to DCLG in October 2016 for their consideration. The review was published on 7 February 2017 alongside the Housing White Paper. The review's key recommendation was that the Government should replace CIL with a hybrid system of a broad and low level Local Infrastructure Tariff and Section 106 for larger developments. The Government's Housing White Paper, published in February 2017, set out the intention to deliver an

improved approach to developer contributions stating that the Government would examine the options for reforming the system of developer contributions including ensuring direct benefit for communities, and will respond to the independent review and make an announcement at part of the Autumn Budget 2017. The Autumn Budget was announced on 22 November and contained a short section on developer contributions. This set out that the Department for Communities and Local Government would hold a consultation on an improved approach to planning obligations. However crucially it appears that the Government has no intention of replacing CIL with an alternative mechanism for collecting developer contributions. Rather the approach appears to be a focus on improving CIL so that it can better deliver its original objectives. On the basis that CIL is set to remain it is proposed to continue with CIL implementation in the borough.

- 5.4 The Council's Local Plan was submitted to the Planning Inspectorate for examination on 15 May 2017. An inspector was subsequently appointed and the Stage 1 and Stage 2 first hearing sessions took place in September and October respectively. The timetable for the Stage 3 and Stage 4 sessions is currently under discussion. Planning Practice Guidance published by the Government advises that charging schedules should be consistent with, and support the implementation of, up-to-date relevant plans. The National Planning Policy Framework states that, where practical, charging schedules should be worked up and tested alongside the Local Plan. In this context it is proposed that the most appropriate time to publish a Draft Charging Schedule would be once the Local Plan Inspector has made it clear what modifications to the plan will be required in order to make it sound.
- 5.5 At the time of preparation of this report, the timetable for Local Plan examination hearings and eventual publication of the Inspector's findings is under review. As the CIL timetable is required to co-ordinate with the Local Plan timetable, no firm dates for progress on CIL are proposed at present, but these will be the subject of a further report to this Panel in due course.

## **6 Link to Corporate Priorities**

- 6.1 The Council's Business Plan 2015-2018 contains corporate priorities to meet the borough's housing need, help build a strong local economy, protect and enhance the environment and maintain a safe and healthy community. Consultation on a Preliminary Draft Charging Schedule was the first step in introducing a CIL charge, the eventual implementation of which will deliver funding from new development to carry out a wide range of infrastructure projects that support growth and benefit the local community.

## **7 Legal Implications**

- 7.1 The Community Infrastructure Levy (CIL) is a locally set planning charge first introduced by the Planning Act 2008 (as amended) which came into force in 2010 with the publication of the CIL Regulations 2010 (as amended). Whilst the Government encourages Local Authorities to introduce CIL in their area, there is no statutory duty to implement CIL. Where a Council is minded to implement CIL in its area this must be done in accordance with the CIL Regulations 2010 (as amended).

## **8 Financial Implications**

8.1 There are no financial implications as a result of this report. The preparation of a CIL Charging Schedule forms part of the agreed work programme for the Council's Planning Policy and Implementation Team as set out in the Local Development Scheme approved by Cabinet on 4 April 2017.

8.2 The eventual implementation of CIL has potential to generate substantial funding to deliver infrastructure necessary to support new development in the borough.

As the Council progresses closer towards implementing CIL there will be a need to establish clear governance arrangements for the collection, spending, monitoring and management of CIL funds. The establishment and subsequent carrying out of CIL related processes will have resource implications for both the Planning and Finance teams. Once CIL is in place, the CIL Regulations do however enable the Council to retain up to 5% of CIL revenue towards evidenced administration costs.

## **9 Risk Management Implications**

9.1 Where a Council is minded to implement CIL in its area this must be done in accordance with the CIL Regulations 2010 (as amended). At examination the Council must demonstrate that it has taken account of relevant consultation responses in the development of the Charging Schedule. In addition it must be demonstrated how the Charging Schedule is consistent with and supportive of up-to-date relevant plans. The proposed next steps in respect of the Council's Draft Charging Schedule will ensure that the Council is able meet both of these tests when the final CIL Charging Schedule assessed by an independent examiner.

## **10 Security and Terrorism Implications**

10.1 There are no security or terrorism implications arising from this report.

## **11 Procurement Implications**

11.1 There are no procurement implications arising directly from this report.

11.2 The Council has already engaged consultant BNP Paribas to support the development of a CIL Charging Schedule.

## **12 Climate Change Implications**

12.1 No climate change implications have been identified resulting from this report.

## **13 Policy Implications**

The Welwyn Hatfield Preliminary Draft Charging Schedule was a consultation document. It did not propose any immediate change in Council policy, rather it set out the Council's intended approach to implementing CIL in the borough. The authority must take into account the comments it received from the consultation when preparing a Draft Charging Schedule. This document must then be subject to a further period of statutory consultation before going forward for examination.

## **14 Equalities and Diversity**

- 14.1 An Equalities Impact Assessment (EIA) was not carried out in relation to the CIL Preliminary Draft Charging Schedule as this was a document for consultation and does not involve any immediate change of policy.
- 14.2 Consultation responses in respect of the CIL Preliminary Draft Charging Schedule did not highlight any equalities or diversity issues.

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### **Appendices:**

Appendix 1: CIL Preliminary Draft Charging Schedule Consultation Summary

### **Background Documents:**

1. Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule Consultation - Report to Cabinet Housing and Planning Panel on 16 March 2017.