

WELWYN HATFIELD BOROUGH COUNCIL  
CABINET PLANNING AND PARKING PANEL – 18 FEBRUARY 2025  
REPORT OF THE ASSISTANT DIRECTOR (PLANNING)

COMMUNITY INFRASTRUCTURE LEVY (CIL)

**1 Executive Summary**

- 1.1 The Community Infrastructure Levy (CIL) was introduced by the government in 2010 as a mechanism to fund the infrastructure required to deliver Local Plan growth strategies.
- 1.2 This report sets out the outcomes of the examination of the council's Community Infrastructure Levy (CIL) and seeks to formally approve and publish the Council's CIL Charging Schedule, in accordance with Regulation 25 of the CIL Regulations 2010 (as amended). The report advises that, subject to council adoption on 12 March 2025, the Welwyn Hatfield CIL Charging Schedule will take effect on the 01 October 2025. This date is informed by an ongoing programme of work to set up all necessary guidance, administrative and financial systems and processes for CIL implementation.
- 1.3 The report summarises the preparation process that has been required to produce the CIL Charging Schedule and the stages of consultation and formal examination that have been involved. The report sets out how formal adoption by the council is now required in order to commence and implement CIL.
- 1.4 Once CIL is brought into effect, the Council will become a 'CIL Charging Authority' and 'CIL Collecting Authority'. Moving forward it will be important for Members to approve the governance arrangements for the prioritisation and spending of CIL receipts. This report provides Members with an update as to the consideration of governance arrangements and a commitment for this to be the subject of a future committee report within the next 12 months.

**2 Recommendation**

- 2.1 That Cabinet Planning and Parking Panel recommends to Cabinet and Council that:
  - a. The Community Infrastructure Levy Charging Schedule (Appendix A) is adopted with a target implementation date of 01 October 2025
  - b. The Instalment Policy (Appendix B) is adopted with a target implementation date of 01 October 2025.
  - c. Delegate authority to the Assistant Director (Planning), in consultation with Executive Member, for any necessary further minor editorial changes to the Charging Schedule or Instalment Policy and a change to the implementation date if necessary.
  - d. Governance options and arrangements for the priorities and spending of 'Strategic CIL' receipts be brought to CPPP and Cabinet in the next 12 months.
  - e. The 'Neighbourhood Proportion' of CIL be set at 25% (uncapped) for all Parish and Town Councils regardless of whether a Neighbourhood Plan is in place.

### **3 Explanation**

- 3.1 The Community Infrastructure Levy (CIL) was introduced by the government in 2010 as a mechanism to fund the infrastructure required to deliver Local Plan growth strategies. 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 The council has identified a corporate priority to adopt a CIL for the borough. CIL will help secure infrastructure investment alongside new development identified in the council's local development plan. Resource to progress CIL to submission has been prioritised following local plan adoption in October 2023.
- 3.3 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.
- 3.4 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 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.

#### **CIL Examination**

- 3.5 The purpose of the examination of the CIL Charging Schedule was to ensure that the proposed Charging Schedule sets an appropriate balance between helping to fund necessary new infrastructure in the area, and the potential effects of the charge on the economic viability of development across the borough. This test is set out in the CIL Regulations 2012 (as amended), with additional guidance set out in the associated national Planning Practice Guidance.
- 3.6 The examination of CIL commenced in October 2024 upon submission of the draft Charging Schedule. On 09 December 2024, a public hearing session took place in the Council Chamber, as part of the Examination of the CIL Charging Schedule. In its opening statement the council emphasised the importance of securing CIL as a key priority, driven by the need to ensure that much needed infrastructure and other facilities to support future development are provided in a timely fashion. The hearing session largely focused on interrogation of the viability evidence.
- 3.7 Receipt of the Inspector's Report (provided in full at Appendix C) on the 07 January 2025 and marked the closure of the CIL examination. The Inspector's Report concludes: *"that the Draft Welwyn Hatfield Borough Council Community Infrastructure Levy Draft Charging Schedule provides an appropriate basis for the collection of the levy in the area. The Council has provided sufficient evidence that shows the proposed rates would not threaten delivery of the Local Plan"*. It recommends, *"the Draft Charging scheduled be approved"*.
- 3.8 Given the findings of the Examiner's Report, there are no reasons why the council should not proceed to formal adoption of its CIL Charging Schedule (provided in full at Appendix A). In accordance with the CIL Regulations 2010 (as amended), Regulation 25, the

Council has prepared an Adoption Statement for the Charging Schedule (as set out at Appendix D).

### **Instalment Policy**

- 3.9 The CIL Regulations require full payment of any contribution in full within 60- days, unless there is an instalment policy in place, increasing the cost of development at an expensive time in the development process when the ground works are normally being carried out and well before any receipts from sales or rent. The introduction of an instalment policy spreads that cost, reducing the borrowing burden on the developer and improving development viability.
- 3.10 Regulation 69B of the CIL Regulations allows the council to put in place an instalment policy at any time. It is allowed to alter that instalment policy as it wishes but must allow 28-days between an instalment policy coming into effect and a replacement of it.

### **Implementation of CIL**

- 3.11 CIL can only be charged on sites which are granted planning permission after the Charging Schedule becomes effective. The effective date is the date from which the Levy is implemented. Any CIL liable applications decided from that date will be issued a CIL Liability Notice. The charge is payable upon commencement of the development. All customers of the Council will therefore need to be aware of the requirements of the CIL Regulations 2010 (as amended), relevant to their proposed development. A lack of understanding and clarity regarding CIL processes could result in customers being required to pay surcharges or to pay the full CIL amount in full. Therefore, time is required to ensure that the introduction of CIL is clear and well explained in advance of it coming into effect.
- 3.12 It is best practice to allow a certain amount of time between approval of the charging schedule and the date from which CIL will be implemented. This will allow the Council to set-up internal CIL-related procedures and to make prospective developers aware that CIL is about to be implemented and will impact upon any future schemes.
- 3.13 It is recommended that the Charging Schedule, and its associated policies, take effect from 01 October 2025 (target date). Officers will commence a review of the level of fees contained in the CIL Charging Schedule after the first year of its operation.
- 3.14 A shorter timeframe would risk a rush to prepare the public, and agents for the introduction of CIL. This can result in a loss in public trust and errors being made which could result in unnecessary appeals and other complications.

### **Governance arrangements**

- 3.15 For clarity, Members are not being asked to consider the governance options for spending CIL receipts at present. This is because a meaningful amount of CIL receipts are not anticipated for some considerable time.
- 3.16 Assuming Members approve the adoption and implementation of CIL as set out within the recommendation, developments will be liable for CIL from the 01 October 2025. However, as set out previously, CIL only becomes payable upon commencement of development, which can take up to three years.
- 3.17 There will be a sufficient lag between implementation of CIL charging processes and the receipt of CIL monies to identify strong governance arrangements which will ensure that

spend is effective and efficient in delivering infrastructure that responds to the council's priorities. It is recommended in this report that this topic be the subject of a future report to Members in the next 12 months.

#### **4 Background Information**

- 4.1 CIL is a non-negotiable charge that local authorities can levy on new development. The charge must be set out in an adopted charging schedule and may differ for different types of development. The charge is set on a £/sqm basis and can be levied for a single dwelling unit or for 100sqm net additional floorspace and over. There are certain exemptions from CIL (which are clearly set out in CIL Regulations) and these include affordable housing, self-build housing, residential extensions, annexes and development by charities. However, exemptions and relief from CIL require prospective developers to make an application to the Council, in accordance with the CIL Regulations 2010 (as amended).
- 4.2 Following the adoption of the Welwyn Hatfield Local Plan, the council has been in a strong position to progress the production of a CIL Charging Schedule. CIL provides a mechanism to obtain additional infrastructure funding, alongside other funding such as Section 106 agreements (S106).

#### **How the levy works alongside Section 106 contributions**

- 4.3 Planning obligations (funding agreements between the local planning authority and the developer) will continue to play an important role in helping to make individual developments acceptable. The CIL is intended to provide infrastructure to support the development of an area rather than to make individual planning applications acceptable in planning terms. As a result, there may still be some site specific impact mitigation requirements without which a development should not be granted planning permission (e.g. affordable housing, local highway and junction improvements and landscaping). Therefore, there is still a legitimate role for development planning obligations to enable a local planning authority to be confident that the specific consequences of development can be mitigated.

#### **How the funds are distributed**

- 4.4 Welwyn Hatfield Borough Council is the relevant 'charging authority', and it is the responsibility of the charging authority to collect and distribute all CIL funds. The council may retain up to 5% of CIL receipts to cover the costs of administering CIL.
- 4.5 The Local Planning Authority decides how to spend CIL on infrastructure across their area. However, it must allocate the 'Neighbourhood Portion' of CIL to Parish and Town Councils where they exist, for them to spend on infrastructure or anything else that addresses the demands that development places on an area. Communities in areas without a parish or town council where CIL chargeable development has taken place should be consulted on the use of a proportion of the CIL receipts from that development, to influence its use in the area.
- 4.6 The amount of the Neighbourhood Portion varies depending on whether there is a Neighbourhood Development Plan (NDP) in place that has been through a successful referendum and has been agreed as part of planning policy or 'made' by the local authority. In areas where this has happened 25% of the levy collected from development within the Neighbourhood area is available and elsewhere it is 15%. The increase in the CIL proportion for areas with a neighbourhood plan in place is often cited as a reason by parish/town councils for their preparation of a neighbourhood plan.

- 4.7 In areas that have parish/town councils these CIL funds are paid directly to Parishes. In areas without parish or town councils, the Neighbourhood Portion is retained by the local authority and should be spent locally, following consultation with the community.

**Figure: relationship between the levy and neighbourhood plans in England**

Parish council	Neighbourhood plan	Levy
✓	✓	25% uncapped, paid to parish each year
✓	X	15% capped at £100/dwelling (indexed for inflation), paid to parish each year
X	✓	25% uncapped, local authority consults with community about how funds can be used, including to support priorities set out in neighbourhood plans
X	X	15% capped at £100/dwelling (indexed for inflation), local authority consults with community to agree how best to spend the neighbourhood funding

Paragraph: 145 Reference ID: 25-145-20190901

- 4.8 As evidence from the table above (extract from the Planning Policy Guidance), the relationship between the levy and Neighbourhood plans results in a complex arrangement for the transfer of money to Parish and Town Councils.
- 4.9 It is proposed that the 'Neighbourhood Proportion' of CIL be set at 25% (uncapped) for all Parish and Town Councils regardless of whether a Neighbourhood Plan is in place. This will simplify the transferring of the neighbourhood proportion of CIL (taking place twice a year).
- 4.10 An increase in the Neighbourhood Proportion of CIL is sometimes cited as one of the reasons for Parish/Town councils to prepare Neighbourhood Plans. Neighbourhood planning is resource intensive for those who prepare the plans and for the Local Planning Authority. The proposal for all Parish and Town Councils to receive 25% (uncapped) Neighbourhood Proportion may assist in their decision making whether to process a Neighbourhood Plan.
- 4.11 Having set aside any administrative costs and the local element of the receipt, the council can determine how funds are distributed between organisations and projects. In accordance with the recommendation of this report it is proposed options for the spending of CIL receipts and associated governance be brought back to committee in the next 12 months.
- 4.12 Funding obtained through the levy must be used towards infrastructure which supports growth in the area and should be used based on the needs for new and improved infrastructure in the borough.
- 4.13 It is the Council's responsibility to report on CIL income each year through the Infrastructure Funding Statement. This must outline the extent of CIL funds which have been received, how received CIL funds are being used, and how future CIL funds are proposed to be used in the future.

## **Indexation**

- 4.14 CIL Charging Authorities are required to apply an annually updated index of inflation, meaning CIL charges are index linked and will change annually on 1 January in accordance with the RICS Community Infrastructure Levy (CIL) Index, which is the index specified by the CIL Regulations.

## **5 Other Options Considered**

- 5.1 The council could decide not to bring the CIL Charging Schedule into effect. However, this would mean the council not being able to introduce CIL rates in order to contribute towards plugging the significant infrastructure funding gap that has been identified in the borough. This would not align with the council's corporate priority to implement CIL nor the overriding strategy set out in the local plan

## **6 Legal Implication(s)**

- 6.1 The preparation of Community Infrastructure Levy is given effect by the 2008 Planning Act. Detailed statutory requirements for the preparation of CIL, including consultation requirements, are set out in The Community Infrastructure Levy Regulations 2010 (as amended).
- 6.2 Following the adoption of a CIL in an area, there is a legal requirement on a developer to pay the levy for liable development. The adoption of a CIL could reduce the use of Section 106 agreements in the area. Arrangements will need to be put in place in respect of the transfer and use of CIL funds to third parties.
- 6.3 There will be a sufficient lag between implementation and the receipt of monies to identify strong governance arrangements which will ensure that CIL spend is effective and efficient in delivering infrastructure that responds to the council's priorities.

## **7 Financial Implication(s)**

- 7.1 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.
- 7.2 Adopting a Community Infrastructure Levy (CIL) will mean that the Council will in time be in receipt of significant funding from development, with which it is required to deliver, or fund the delivery, of infrastructure to help implement the Council's Local Plan.
- 7.3 A robust governance process with transparency and oversight is very important in ensuring that any schemes are delivered in line with the Council's priorities and in the most efficient and effective way.
- 7.4 **Potential Income:** It is anticipated that CIL could raise in the order of £40m towards infrastructure funding in the borough, this is based on the contributions that could be made by allocated sites within the local plan that have yet to receive planning permission, it does not include an estimate for windfall development.<sup>1</sup>
- 7.5 It should be noted there are a number of other assumptions and caveats that have had to be applied when calculating this figure (including but not limited to average dwelling sizes, development type, development quantum), therefore this should be treated as

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<sup>1</sup> [CIL011 - Welwyn Hatfield CIL Infrastructure Funding Gap Assessment](#)

an indicative estimate of CIL contributions. Final future CIL contributions will vary depending on the final approved development mix and designs.

- 7.6 It should however be noted that CIL becomes liable on those developments granted after the implementation of CIL, and only at commencement. Only around 10% of developments commence within one year of permission being granted. Most commence within two to three years. There will therefore be a lag in terms of the receipts received in the first few years.
- 7.7 **Cost to date:** The principal costs associated with CIL to date relate to the CIL Viability Assessment and the Examination of the Draft Charging Schedule.
- 7.8 **Cost of Implementation:** Separately, there is a cost associated with implementing and managing CIL. Experience from other authorities indicates that this could require at least one dedicated CIL officer to administer the levy and procurement of a suitable supporting software system/database. Existing budgets have been identified to meet the cost of implementation. It should be noted that charging authorities can utilise funds from the levy to recover the costs of administering the levy, with the regulations permitting use of up to 5% of their total receipts on administrative expenses

## **8 Risk Management Implications**

- 8.1 As an additional cost to developers, CIL has the potential to make individual development schemes financially unviable which could impact the delivery of housing and associated necessary infrastructure across the Borough. However, the risks are minimised by proposing CIL rates that align with the viability evidence used to inform the Local Plan and subsequent updates. The independent Examiner confirmed that the proposed CIL rates are set at an appropriate level that does not put the viability of schemes at risk.

## **9 Security & Terrorism Implication(s)**

- 9.1 There are no security and terrorism implications.

## **10 Procurement Implication(s)**

- 10.1 There are no procurement implications arising from this report. The Council's procurement processes will be followed by any projects which the Council itself is delivering but this report is about putting in place governance arrangements.

## **11 Climate Change Implication(s)**

- 11.1 There are no direct climate change impacts from this report though as noted earlier in the report, the Council could choose to set aside a proportion of CIL income to fund climate change related projects.

## **12 Policy Implications**

- 12.1 Once CIL is adopted, it will constitute a new council policy and will be payable for all qualifying development from its implantation date.

## **13 Human Resources Implications**

- 13.1 Work on the Community Infrastructure Levy (CIL) is part of the Planning Policy team's core work. Work on assessing applications will be required from other colleagues as set out in this report, but this should be within the work of these teams.

## **14 Link to Corporate Priorities**

14.1 The adoption of the Community Infrastructure Levy (CIL) is major project on the councils Business Plan 2024-25. Delivery of CIL is linked and grouped under key priority of 'Homes to Be Proud Of'. The subject of this report is also linked to the Council's agreed Corporate Priorities of running an effective council and creating opportunities for our communities.

## **15 Equalities and Diversity**

15.1 The report does not propose changes to existing Welwyn Hatfield Borough Council service-related policies or the development of new service-related policies. Accordingly, an Equalities Impact Assessment has not been completed.

### **Appendices:**

Appendix A: Welwyn Hatfield CIL Charging Schedule

Appendix B: Welwyn Hatfield CIL Instalment Policy

Appendix C: Welwyn Hatfield CIL Charging Schedule Examination – Inspector's Final Report, January 2025

Appendix D: Welwyn Hatfield CIL Charging Schedule Adoption Statement

Appendix E: Guidance Note for Town & Parish Councils