

Cabinet Planning and Parking Panel
16 July 2024

WELWYN HATFIELD COUNCIL

* Reporting to Cabinet

Minutes of a meeting of the WELWYN HATFIELD COUNCIL CABINET PLANNING AND PARKING PANEL held on Tuesday 16 July 2024 at 7.30 pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors R.Platt (Chair)
L.Gilbert (Vice-Chairman)

K.Thorpe, S.Bonfante, S.Goldwater, T.Kingsbury,
G.Michaelides, L.Musk, P.Shah, M.Hobbs, J.Quinton
and J.Cragg

OFFICIALS C Carter, Assistant Director (Planning)
PRESENT: M.Pyecroft, Principal Planner (Implementation)
M.Wilson, Planning & Policy Implementation Manager
R.Misir, Senior Democratic Services Officer

113. APOLOGIES & SUBSTITUTIONS

An apology for absence was received from Councillor S Thusu, for whom Councillor J Cragg attended as a substitute.

114. MINUTES

The minutes of the meeting held on 20 June 2024 were approved as a correct record.

115. NOTIFICATION OR URGENT BUSINESS TO BE CONSIDERED UNDER ITEM 7

There were no items of urgent business.

116. DECLARATION OF INTERESTS BY MEMBERS

Councillor T Kingsbury declared an interest as a Member of Hertfordshire County Council.

117. PUBLIC QUESTION TIME AND PETITIONS

There were no public questions or petitions.

118. COMMUNITY INFRASTRUCTURE LEVY (CIL) - MODIFICATIONS TO DRAFT CHARGING SCHEDULE

The Principal Planner (Implementation) introduced the report. In November 2023, Cabinet Planning and Parking Panel (CPPP) recommended to Cabinet that consultation on a Community Infrastructure Levy (CIL) draft charging schedule take place; Cabinet agreed the recommendation and consultation took place between 10 January – 28 February 2024. It was now proposed that modifications be made to the draft charging schedule.

CIL was a way of raising money from development to fund necessary infrastructure and largely replaced the current S106 arrangements. It was based on a levy rather than being negotiated on a case by case basis; charges were made on a square meter basis determined ahead of time on viability, and the Council had employed a viability consultant for advice. CPPP had previously recommended that the draft charging schedule to be consulted on had three zones with different rates based on viability and a smaller rate for all other development. Two sites were designated 'identified sites' where it was felt retaining S106 was appropriate due to their complexity. There had been 22 responses to the consultation as a result of which officers had identified some proposed changes as follows:

- Designation of the Wheat Quarter as an identified site, so collection of funds and delivery of infrastructure would continue via a S106 rather than through use of a CIL. This was due to its complexity, the fact that there were existing permissions, the site had been partly delivered and there were some unusual costs associated with the site. This would be consistent with the approach taken with the two previously identified sites.
- To bring clarity to the status of community and not for profit organisations: such organisations would be exempt from CIL. This was in response from a representation from Sport England and an example was cited whereby a community sports club that wished to build a new pavilion changing room would originally have incurred a CIL charge but this would be removed if the proposed modification was agreed.
- In terms of town centre issues, some changes of use on existing properties that required planning permission would be liable for CIL if they had not previously been in lawful use for six consecutive months within three years prior to a proposed change of use under the original schedule. This could discourage reoccupation within the Council's corporate objective of supporting town centres so it was proposed these properties be zero rated. Officers drew attention to the specific wording relating to this set out in paragraph 3.11 of the report.

If the modifications were agreed, a very focused consultation on the changes proposed would take place as soon as possible followed by the charging schedule being submitted for examination, and the schedule would then be brought back to members for adoption.

Cabinet Planning and Parking Panel
16 July 2024

Officers also advised that unlike S106 agreements where payments were made directly to Highways, Education etc, CIL monies would be paid directly to the Council which would be responsible for its distribution. A report that set out governance arrangements for payments would be considered by members later in the year.

A member asked how the three charging zones had been determined. Officers advised this was based on viability; the viability consultant the Council had used had considered data such as what developments were coming forward, build costs and returns etc and then determined what they felt to be a suitable viability rate.

A member queried whether CIL would be applied to smaller schemes such as four or five dwellings. Officers confirmed it would apply to all developments with the exception of those that were exempt; it was proposed that smaller developments would be charged at the highest rate as developments of 10 units or fewer were not required to provide affordable housing.

A member asked whether the exemption in relation to community/ not for profit organisations related to the company or the actual development. Officers noted that not for profit was defined in a footnote in Appendix A of the report as 'an organisation that conducts business for the benefit of the general public and all money earned by/donated to the organisation is used to pursue the organisation's objectives/ causes.' This was defined as medical, health and emergency services; development used wholly or mainly for the purpose of education as a school, college or higher education institute; and community, sport and leisure facilities.

There was a query about whether officers felt there might be a loophole in relation to the town centre issues noted above. Officers said that some neighbouring local authorities had been charging CIL for some years; there was a network of planning staff who regularly shared information about planning obligations and CIL etc and staff would be tapping into their knowledge.

A member supported the principle of charging smaller (under 10) dwellings at the highest rate, noted this was a little at odds with government guidance and sought confirmation that there was scope for this to be reviewed if necessary. Officers advised that the guidance had come from the last government rather than the current one and added that this would be considered by the examiner during the course of the examination.

Responding to a question about whether a developer could challenge a CIL charge and say the costs would make a development unviable, officers said CIL was a fixed non-negotiable charge on development coming forward. The charging rates had been deliberately set at a level that was determined not to make most schemes unviable and that would be a key test for the examiner.

Cabinet Planning and Parking Panel
16 July 2024

A member asked whether areas without a parish council or neighbourhood plan were disadvantaged in respect of CIL in comparison to those that did. Officers advised that a proportion of CIL, known as Neighbourhood CIL (NCIL), had to be spent on local priorities and for areas with a parish or town council, this proportion of the CIL would be passed to them. To incentivise the preparation of neighbourhood plans, the neighbourhood portion of CIL increased from 15% of local CIL receipts (with some caps) for areas without a neighbourhood plan, to 25% (without a cap) for areas with a neighbourhood plan. In areas without a parish or town council, such as Welwyn Garden City, national guidance set out that local communities should be consulted on expenditure of the proportion of CIL funds that would otherwise have been passed to a parish or town council. Councils did this in different ways, for example, one local authority undertook a consultation exercise to establish community priorities to guide the allocation of NCIL funds and set these out in a document. These were matters that would be set out in a future report about governance and spend of CIL.

A member asked how residents in Welwyn Garden City would be consulted given they did not have a parish council. Officers said that proposed CIL governance arrangements would be set out in a future report.

A member asked whether developments that were zero rated might still be liable for S106. Officers said this would be considered on a case by case basis.

RESOLVED

(Unanimous):

CPPP recommended to Cabinet:

- a) That it noted the summary of the recent CIL consultation and that a focused re-consultation on proposed changes to the draft charging schedule take place as soon as possible; and
- b) That, in line with the Cabinet decision of December 2023, subject to there being no further changes to the draft charging schedule as a result of that consultation, the charging schedule be submitted for examination
- c) For the decision to be taken by the Executive Member using their delegated powers under paragraph 18.1(b) of the Cabinet procedure rules.

Meeting ended at 7.56 pm