DECISION-MAKER:		CABINET COUNCIL		
SUBJECT:		COMMUNITY INFRASTRUCTURE LEVY AND PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT ADOPTION		
DATE OF DECISION:		16 JULY 2013 17 JULY 2013		
REPORT OF:		THE LEADER OF THE COUNCIL		
CONTACT DETAILS				
AUTHOR:	**Name:**	**Jo Moorse**	**Tel:**	**023 8091 2603**
	E-mail:	**jo.moorse@southampton.gov.uk**		
Director	**Name:**	**John Tunney**	**Tel:**	**023 8091 2603**
	E-mail:	**john.tunney@southampton.gov.uk**		

STATEMENT OF CONFIDENTIALITY
None

BRIEF SUMMARY

The Community Infrastructure Levy (CIL) Regulations (as amended) came into force in April 2010 and introduced a new mechanism by which local authorities can seek developer contributions to assist in funding the infrastructure needed to support new development. The rate of CIL to be applied to new development is set out within the proposed Charging Schedule (as set out in Appendix 1).

The Charging Schedule has been informed by two public consultation exercises, a viability assessment, infrastructure needs assessment and has been scrutinised at an independent examination hearing in public (please refer to the Examiner's Report in Appendix 2). In response to the Examiners Report, the Charging Schedule has been amended accordingly from its draft form reducing the residential charge rate from £90 sq m to £70 sq m. The Charging Schedule would be supported by the Developer Contributions Supplementary Planning Document (attached as Appendix 3) to secure further contributions towards affordable housing and address the site specific impacts of new development and also an Instalments Policy (as set out in Appendix 4) which would assist with developers' cash flow in paying the CIL.

RECOMMENDATIONS:

CABINET:

(i) To recommend the Community Infrastructure Levy Charging Schedule, the statement of Statutory Compliance (contained within the Charging Schedule) and the Community Infrastructure Levy Instalments Policy (Appendices 1and 4) to Council for approval;

(ii) To approve the Developer Contributions Supplementary Planning Document (Appendix 3) and to delegate authority to the Head of Planning Transport and Sustainability to approve the necessary amendments to Appendix A: Commuted Sums Tables contained therein; and

(iii) To delegate authority to the Head of Planning Transport and Sustainability to establish the procedure, following consultation with the Leader of the Council, for how neighbourhood funding from the Community Infrastructure Levy will be allocated.

COUNCIL:

(i) To approve the Community Infrastructure Levy Charging Schedule as set out at Appendix 1 to take effect from 1st September 2013;

(ii) To approve the statement of Statutory Compliance as set out within the Community Infrastructure Levy Charging Schedule at Appendix 1;

(iii) To approve the Community Infrastructure Levy Instalments Policy at Appendix 4 to take effect from 1st September 2013; and

(iv) To delegate authority to the Head of Planning Transport and Sustainability to establish the procedure, following consultation with the Leader of the Council, for how funding bids for the Community Infrastructure Levy will be made to the Capital Board and to approve and publish the Council's Regulation 123 list.

REASONS FOR REPORT RECOMMENDATIONS

1. The 2004 Barker Review of Housing Supply noted that the lack of timely delivery of infrastructure is a key barrier to the delivery of development. The key purpose of the Community Infrastructure Levy Regulations (2010) is to raise additional revenue for such infrastructure. The Southampton Local Development Framework Core Strategy Development Plan Document (2010) sets out the growth plans for Southampton up to 2026. An assessment of the infrastructure needed to support this growth, undertaken as part of this study, highlights a significant gap between the known available sources of funding for infrastructure and its total cost. In such circumstances, the CIL Regulations make it clear that it is appropriate to introduce the CIL to ensure that new development contributes towards the infrastructure needed to support it.

2. Financial contributions would be generated by CIL liable development at a rate set out within the Charging Schedule. The Council carried out the requisite public consultation in respect to the Draft Charging Schedule which was informed and supported by viability evidence. There was a considered response to the initial proposals from various parts of the development industry. These responses were carefully considered and taken into account in the final version of the Draft Charging Schedule. In March 2013, the Draft Charging Schedule was heard before an independent examination which was held in public. The examination Inspector published his report in April 2013 which concluded that, subject to one modification in respect to reducing the rate of CIL applied to residential development, the Charging Schedule is

capable of providing an appropriate basis for collecting the Community Infrastructure Levy in Southampton and that retail and residential development will remain economically viable across most of the City. The Charging Schedule has been revised in line with the modification set out within the examination report. The charge rate is proposed for residential uses but not for commercial uses with the exception of retail uses.

3. To assist with developer cash flow and economic viability, Regulation 69(b) of The Community Infrastructure Levy (Amendment) Regulations (2011) allows CIL to be paid in instalments. The Instalments Policy sets out the level of the CIL charge, the number of instalments available for that charge and the timing of instalments for that charge.

4. The Developers Contributions Supplementary Planning Document (SPD) sets out the Council's policy for securing developer contributions for new developments and should be considered alongside the Charging Schedule. Whilst some development may only be CIL liable, other development will be CIL liable and also have to make other contributions (through a Section 106 agreement) towards, for example, affordable housing and site specific transport and access requirements. The purpose of the SPD is: to explain policies and procedures for securing developer contributions; the relationship between CIL and developer contributions; and to provide evidence and guidance about the types of contributions that will be sought in regards to this. Since CIL will provide developer contributions towards strategic infrastructure, the planning obligations sought through the section 106 process need to be scaled back to ensure there is no duplication between the two mechanisms. The new SPD addresses this.

5. Under Regulation 123 of The Community Infrastructure Levy Regulations (2010) the Council will publish a list of infrastructure projects of types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL. The Capital Board will make a decision on the infrastructure projects and types of infrastructure that will appear on this list.

6. The Capital Board will co-ordinate and determine requests for CIL funding from across the Council. Where appropriate, the Head of Planning, Transport and Sustainability will advise the Board on how these requests align with the City's Infrastructure Needs Assessment and Regulation 123 list. A more detailed process for the allocation of CIL on an annual basis will be developed, in close consultation with the Leader of the Council and the Cabinet Member for Resources. This will provide a clear and accountable way of managing the CIL allocation process.

7. The Community Infrastructure Levy (Amendment) Regulations 2013 make provision for the Council to utilise 15% of the revenue generated from CIL on neighbourhood funding, to help communities accommodate the impact of new development in their areas. The Council will retain the Levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. We are required to clearly and transparently set out our approach to engaging with neighbourhoods. This approach will be developed by the Head of Planning Transport and Sustainability in close consultation with the Leader of the Council and the Cabinet Member for Resources.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

Option 1 – Do not approve the Charging Schedule

8. This option is not recommended as the Council's ability to provide strategic infrastructure to support growth would be significantly compromised. After 2014, the Council would lose the ability to pool contributions from more than five schemes towards infrastructure. Planning contributions would be therefore be restricted to addressing site specific issues rather than towards strategic infrastructure. Furthermore, the Council has previously committed to seeking contributions through CIL and subsequently public consultation on the Draft Charging Schedule and its examination in public were undertaken.

DETAIL (Including consultation carried out)

9. The Southampton Core Strategy (2010) commits to building 16,300 new homes, 300,000 square metres of employment space (currently subject to revision) and 130,000 square metres of retail space before 2026. This level of growth will clearly require significant support from a range of infrastructure and services, including measures to enable development to respond to future challenges such as flood risk. Funding for such infrastructure can be generated from CIL. These targets are currently going through a Partial Review, the new homes target remains the same but the employment space and retail space targets have been reduced to 110,000 square metres and 100,000 square metres respectively.

10. An Infrastructure Study and Delivery Plan were prepared in response to the Community Infrastructure Regulations (2010) (as amended). The Infrastructure Study has a detailed evidence base which includes a Demographics Analysis, an Infrastructure Needs Assessment and a Viability Appraisal. The Demographics Analysis provides further detail regarding the likely growth of the City over the plan period and underpins many of the assumptions in the Needs Assessment. The Needs Assessment highlights a gap in funding between the total cost of infrastructure needed and the anticipated funding for this. It therefore concludes that the following types of infrastructure should be beneficiaries of CIL with the total estimated costs associated with providing this infrastructure also listed:

    - Strategic Transport (£431.1 million);
    - Strategic Open Space and Biodiversity (£42.9 million);
    - Strategic Flood Risk (£87.8 million);
    - Education (£24.3 million);
    - Sports, Recreational and Community Facilities (£17.0 million);
    - Health (£4.3 million) and;
    - Museums and Libraries (£3.9 million).

11. Strategic transport, strategic flood risk, open space and education represent the greatest infrastructure costs. The CIL Regulations require the Levy to be used for infrastructure needed to support new development but planning regulations provide a broad definition of infrastructure and so enable Local Authorities flexibility in deciding how to use the Levy. The Council is not rigidly

tied to committing the Levy each year towards the infrastructure identified in the Needs Assessment. Once CIL is adopted, Local Authorities are required to publish annual reports detailing the amounts collected and how and where the Levy is used.

12. The Levy would be a flat rate charge for all new floorspace created in developments of over 100 square metres. The Levy will also apply to the construction of all new dwellings, irrespective of size. The Regulations set out that affordable housing would be exempt from the charge, as would development by charities for charitable purposes. The Council may also make exceptional relief from CIL available for developments with abnormal site specific infrastructure costs, subject to the tests set out in the relevant tests being met, as set out in the CIL Regulations. Other than through this provision, CIL is not negotiable (unlike S106 Contributions).

13. For developers, CIL is clear and unambiguous in terms of what contribution will be required. For the Council, CIL provides flexibility in how the charge will be spent across the City. There is no requirement to link each CIL receipt directly to an individual development, enabling funds to be used strategically to target priority areas for infrastructure required to accommodate new development anywhere in the City. A Viability Appraisal was carried out as part of the Infrastructure Study and provides key evidence in determining the level of CIL that should be charged. The key conclusions of the Viability Appraisal were that for residential development, a charge would be viable. However, commercial uses, with the exception of retail, could not support CIL payments in the current economic climate.

14. The Examination Report concludes that the rates for retail and residential development across the City as set out within the Draft Charging Schedule are based on reasonable assumptions about current local development values and likely costs, with both retail and residential development remaining viable across most of the City. The report recommends that the residential rate is modified from £90 per sq m to £70. The Report also considers that the Council has tried to be realistic in terms of achieving a reasonable income to help address an acknowledged gap in infrastructure funding, whilst ensuring that development remains viable in the City.

15. The Examiner's Report also clarifies that developments of new student accommodation provided by commercial operators will be charged the same as other residential development within the City. The Examiner required a change to the Charging Schedule to clarify this and the Schedule has been amended accordingly.

16. The Levy will be kept under review to ensure that it is updated if market conditions change and to ensure that it remains relevant to the funding gap. The Regulations also give discretion to the authority to decide if they want to cease charging the Levy. The Levy can be terminated at any time provided that the authority formally resolves to cease charging.

17. These proposed Charge Rates (per sq m) are to be applied to the increase in gross internal floorspace of any new building or extension, if it has at least 100 sq m of gross internal floorspace or involves the creation of a dwelling (even when that is below 100 sq m):

Retail (Classes A1 – A5)	£43
Hotels (Class C1)	£0
Residential institutions (Class C2)	£0
Residential development (C3, C4 and Sui Generis Houses in Multiple Occupation	£70
Community Uses (Class D1)	£0
Business (B1, B2, B8 and other commercial uses not specified above)	£0

18. For comparison, other local authorities within the surrounding area that have adopted the CIL are currently charging the following (per sq m):

Fareham – effective since 1st May 2013

Residential falling within Class C3 (a) & (c) and C4	£105
Carehomes falling within Class C3 (b) and C2	£60
Hotels falling within Class C1	£35
Comparison retail in the centre	£0
All other retail	£120
Standing charge (applies to all other development not separately defined)	£0

Portsmouth – effective since 1st April 2012

All development unless otherwise stated	£105
Classes A1 – A5 in centre retail any size and small (<280 sq m) and out of centre retail	£53
B1 (a), B1, B2, B8 Office and Instruction	£0
Hotels Class C1	£53
Residential Institutions Class C2	£53
Community uses Class D1	£0

Havant – effective from 1st August 2013

Residential	Emsworth and Hayling Island £100 Rest of Borough £80
Hotel	£0
Industrial	£0
Offices	£0
Retail	Town Centre £0 Out of Centre > 280 sq m £80 Out of Centre < 280 sq m £40
Community uses	£0

Poole – effective since 2nd January 2013

Residential dwellings – Zone A	£150
Residential dwellings – Zone B	£100
Residential dwellings – Zone C	£75
All other development	£0

19. The CIL Regulations also make provision to introduce an Instalments Policy. This will have a positive impact on developers' cash flow and will help to ensure that development within the City remains viable. It is recommended that the Instalments Policy is approved and applied to all CIL liable development from 1st September 2013.

20. Once the Charging Schedule is adopted, it will no longer be possible to use the Section 106 agreement process to pool contributions from more than five developments. As such, a Developer Contributions Supplementary Planning Document has been produced which would secure the negotiable elements that cannot be addressed by the Levy. This would include affordable housing and the resolution of site specific issues, such as the provision of highway improvements to serve the development and make it acceptable in planning terms. The Council would continue to take matters of site specific viability into account as part of this process.

21. It is recommended that the Developer Contributions Supplementary Planning Document is adopted. This provides clarity on the expected interaction between the CIL and S106 legal agreements for site specific infrastructure, to avoid possible double counting of financial contributions.

22. The CIL Regulations (2010) require the Council to publish a list (known as the Regulation 123 List) of infrastructure projects and types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL. The Capital Board will determine the infrastructure projects and types of infrastructure that will appear on the list. It is recommended that authority is delegated to the Head of Planning Transport and Sustainability to establish the procedure for this, in close consultation with the Leader of the Council and the Cabinet Member for Resources. It is intended that the 123 list would be regularly reviewed, to ensure that it reflects the up-to-date infrastructure needs of the City.

23. As noted in paragraph 7, the Community Infrastructure Levy (Amendment) Regulations 2013 make provision for the Council to utilise 15% of the revenue generated from CIL on neighbourhood funding, to help communities accommodate the impact of new development in their areas. We are required to clearly and transparently set out our approach to engaging with neighbourhoods. This approach will be developed by the Head of Planning Transport and Sustainability in close consultation with the Leader of the Council and the Cabinet Member for Resources.

RESOURCE IMPLICATIONS

Capital/Revenue

24. The Council is able to use up to 5% of the CIL receipts to cover the costs of monitoring, administering and updating the Levy. The resources required to monitor and manage CIL will be borne by existing budgets and staffing (including a post which has been specifically set up for this purpose). Additional monitoring and administrative work will also be carried out from within existing resources. A savings proposal was approved by Council in July 2012 which was based on the anticipated additional income from infrastructure charge administration fees. As a consequence income of £50,000 in 2013/14 and £90,000 in subsequent years is now included in Environment and Transport Portfolio's base revenue budget. The Council report noted that the yield from CIL is uncertain and will depend on market recovery. The income will therefore need to be closely monitored following implementation of the process.

25. Further decision making reports will be brought forward detailing proposals for the use of the CIL generated each year.

Property/Other

26. There are no implications that arise for the Corporate Property Strategy.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

27. The Community Infrastructure Levy Regulations 2010 (as amended) are applicable as detailed in the main body of the report.

Other Legal Implications:

28. In making the proposals set out in this report the Council MUST have regard to the provisions of the Equality Act 2010 (including carrying out integrated impact assessments as appropriate), the duty under s.17 of the Crime & Disorder Act 1998 to carry out its functions having regard to the need to reduce or eliminate crime & disorder and the provisions of the Human Rights Act 1998 , in particular Article 8 (right to respect for private & family life) and Article 1 of the First Protocol (the protection of property). Any interference with the rights protected under the Act must be necessary and proportionate in the interests of a democratic society. The Council is satisfied that the proposals in the report comply with the statutory requirements set out above.

POLICY FRAMEWORK IMPLICATIONS

29. The proposed recommendations support the policies of the Council's current Local Development Framework.

KEY DECISION?	Yes
WARDS/COMMUNITIES AFFECTED:	ALL

SUPPORTING DOCUMENTATION

Appendices

1.	Community Infrastructure Levy Charging Schedule and Implementation Guide
2.	Examination Report
3.	Developer Contributions Supplementary Planning Document
4.	Instalments Policy
5.	Integrated Impact Assessment

Documents In Members' Rooms

1.	None.

Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	No

Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)