

<b>DECISION-MAKER:</b>	CABINET
<b>SUBJECT:</b>	COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE: CONSULTATION
<b>DATE OF DECISION:</b>	21 AUGUST 2012
<b>REPORT OF:</b>	CABINET MEMBER FOR RESOURCES
<b>STATEMENT OF CONFIDENTIALITY</b>	
Not Applicable	

### **BRIEF SUMMARY**

The Community Infrastructure Levy (CIL) Regulations 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.

As part of the new regulations, a detailed Infrastructure Needs and Delivery plan has been produced for Southampton which assesses the level of infrastructure required and the funding available for this. In order to provide one avenue of funding towards new strategic infrastructure, it is proposed to introduce a Charging Schedule for the Community Infrastructure Study. The Charging Schedule would also need to be supported by a new Planning Obligations Supplementary Planning Document to secure further developer contributions towards affordable housing and address the site specific impacts of new development.

Subject to the outcome of the public consultation exercise and the Examination of the Charging Schedule, both documents could come into effect by January 2013.

### **RECOMMENDATIONS:**

- (i) To approve the Draft Community Infrastructure Levy Charging Schedule and Implementation Guide (as set out in Appendix 1) for public consultation, with a charge of £90 per square metre for new residential development and £43 per square metre for retail development, and to delegate authority to the Senior Manager: Planning, Transport and Sustainability to carry out the necessary public consultation;
- (ii) To delegate authority to the Senior Manager of Planning Transport and Sustainability, following consultation with the Cabinet Member for Resources, to make minor editing changes to the Charging Schedule and supporting evidence approved by the Cabinet prior to submission to the Secretary of State; provided these do not change the overall direction, shape or emphasis of the document and do not raise any significant new issues; and
- (iii) To delegate authority to the Senior Manager of Planning Transport and Sustainability to submit the Charging Schedule and supporting evidence for the Community Infrastructure Levy to the Planning Inspectorate for Examination.

## 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 is to raise additional revenue for 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 Community Infrastructure Levy to ensure that new development contributes towards the infrastructure needed to support it.
2. Prior to the adoption of the Charging Schedule, the Regulations require a further public consultation exercise to be carried out. Pending the outcome of this formal consultation exercise, the Regulations also specify that before the Charging Schedule can be adopted as policy, it needs to be submitted along with supporting evidence to an independent body for examination. In this case, that body would be the Planning Inspectorate.

## ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. Option 1 – Do Nothing  
This option is not recommended as the Council's ability to provide strategic infrastructure to support growth would be significantly compromised. Furthermore, 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.
4. Option 2 – Use of geographically variable CIL rates  
Throughout the City there is variation in the land values between different areas. The CIL Regulations include the provision to set different rates in different areas. This approach would be particularly useful for larger authorities, which can incorporate both urban and rural areas and therefore incur very different development costs and yield very different values. As a smaller and solely urban authority, it is considered that the variations between the different areas within Southampton are not so significant as to warrant setting variable CIL rates. In addition to this, the creation of different charging zones can never be precise and therefore lead to ambiguity for sites that lie on or adjacent to zone boundaries. Instead, the approach is recommended to set a slightly lower CIL rate which would account for any variation between areas.
5. Option 3 – Introduce a notional low charge for non-viable developments  
The viability work that has been carried out indicates that with the exception of retail, non-residential uses would struggle to bear the Levy. These uses do clearly place a burden on infrastructure, particularly in terms of transportation. It is possible to set a notional low CIL rate for these uses in recognition of the viability issues whilst enabling some contribution to be made towards infrastructure. Since the viability work carried out clearly indicates that the

viability of non-retail, commercial uses would be compromised by CIL, a zero rate is considered to be the most appropriate. If adopted, the Charging Schedule would need to be regularly reviewed to ensure that it reflects changing market conditions.

6. Option 4 – Increase or decrease the proposed charges

When setting the CIL rate, the Regulations require a balance to be struck between the effect of the charge on the economic viability of an area and the estimated cost of infrastructure taking into account other sources of funding available. The CIL Regulations do not permit any other factors to influence the setting of the chargeable amount. The charges set out in paragraph 14 below have been arrived at following the assessment of the impact on economic viability, the infrastructure need and funding gap. As such, it is not advised to either set the rate any higher or lower than is currently proposed.

**DETAIL (Including consultation carried out)**

7. The Southampton Core Strategy Development Plan Document (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.

8. The key objective of the Infrastructure Study and Delivery Plan is to respond to the Community Infrastructure Levy Regulations 2010 by:

- (i) identifying the infrastructure required by the City to support the growth identified in the Core Strategy;
- (ii) identifying the likely costs for infrastructure;
- (iii) assessing whether the cost of infrastructure could be covered by known funding streams; and
- (iv) in the absence of sufficient infrastructure funding, to include a mechanism for the introduction of CIL through the draft Charging Schedule and a new Planning Obligations SPD.

9. 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:

- Strategic Transport;
- Strategic Open Space;
- Public Realm;
- Strategic Flood Risk;
- Education;
- Sports, recreational and community facilities;
- Health; and
- Museums Libraries and the Arts.

10. Strategic transport, strategic flood risk, open space and education represent the greatest infrastructure costs, together accounting for over 90% of the indicative CIL Charging Schedule. 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.
11. In accordance with the Regulations, the Levy would be a flat rate charge for all new floor space created in developments over 100 square metres and the construction of all new dwellings. The Regulations set out that affordable housing would be exempt from the charge, as would development by charities for charitable purposes.
12. Unlike the Section 106 process, CIL is not negotiable and there is no mechanism within the current Regulations to enable the Levy to be reduced depending on site specific viability issues of developments. As such, the Viability Appraisal carried out as part of the Infrastructure Study provides key evidence in determining the level of CIL that should be charged. The Viability Appraisal is a high level study which establishes what level of CIL development in the City could bear, without prejudicing new development through excessive planning contributions. It is not the purpose of the document to ensure that all developments will be viable following the adoption of CIL since clearly, due to difficult economic times, some developments will not be viable even before CIL is adopted. Rather, the Viability Assessment establishes a level which would not jeopardise the majority of development within the City.
13. The key conclusions of the Viability Appraisal were that for residential development, a charge would be viable, but commercial uses with the exception of retail, could not support CIL payments in the current economic climate. The Viability Appraisal is clearly a snapshot in time and will need reviewing on a regular basis to ensure that the Levy reflects any future uplift or downturn in the market.
14. To provide a clear and manageable system, it is recommended that the Levy be introduced on a City wide basis. The Draft Charging Schedule proposes the following charges for new development:
  - £90 sq.m for residential development, where there is a net gain of 1 or more dwellings.
  - £43 per sq.m for retail development, where there is a net gain of 100 sq.m of floorspace;
  - £0 per sq.m for hotel uses;
  - £0 per sq.m for community uses;
  - £0 per sq.m for other commercial development and;
  - £0 per sq.m for residential institutions.

15. For developers, the key benefit of a Levy approach is that it is clear and unambiguous as to what level of contributions will be required of them. This in turn would provide more certainty in the planning process and reduce delays associated with the negotiation of contributions. For the Council, the Community Infrastructure Levy provides increased flexibility in how the charge is managed and spent. The CIL is also fairer in that it applies to all new development over 100 sqm (subject to specific exemptions) whereas Section 106 agreements only apply to larger schemes. The Council would therefore be able to use contributions more strategically to target at priority areas of infrastructure. It would also encourage a more joined up approach to the delivery of infrastructure. Furthermore, it would be possible to raise revenue towards areas of infrastructure which previously did not benefit from planning contributions, such as education and strategic flood defences.
16. Once the Charging Schedule is adopted, it would no longer be possible to use the Section 106 process to pool contributions from more than five developments. As such, a draft Planning Obligations 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.
17. The Infrastructure Study has been produced in consultation with the relevant teams of the Council responsible for the delivery of infrastructure. This includes transportation, housing, open spaces and education. In addition to this, a preliminary public consultation was carried out in December 2011. This consultation process included notifying local residents groups, neighbouring authorities, relevant bodies such as the Environment Agency, and local developers, agents and architects. A total of 21 responses were received to this consultation exercise with the main responses being from the development industry. The common issues raised by responders can be summarised as follows:
  - The viability study was not up-to-date.
  - The application of a single CIL rate across the City would compromise development in less profitable parts of the City.
  - The introduction of CIL would exacerbate existing viability issues currently experienced in the City.
18. In response to the comments raised to the initial consultation process, the Viability Appraisal has been updated to ensure that it reflects the current economic situation within the City. The level of charge has been reduced from that proposed prior to the initial consultation, to that set out in paragraph 14, above. Initially, a charge of £105 per square metre for residential uses, £90 per square metre for retail and £10 per square metre for other commercial uses were proposed. In addition to this, the viability work was also extended to examine hotel and residential institutional uses, although this revealed that these uses could not support CIL at this time.

19. It is therefore considered that the proposed CIL level strikes an appropriate balance between infrastructure need and economic viability and the Charging Schedule should now be progressed towards adoption.

## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

20. 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 progress the Charging Schedule and Supplementary Planning Document will be borne by existing budgets and staffing (including a post which was specifically set up for this purpose). Most of the additional monitoring and admin work will be carried out from within existing resources.
21. It should be noted that further decision making reports will be brought forward detailing proposals for the use of the CIL generated each year.

### **Property/Other**

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

## **LEGAL IMPLICATIONS**

### **Statutory power to undertake proposals in the report:**

23. The Community Infrastructure Levy Regulations 2010 are applicable.

### **Other Legal Implications:**

24. 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 and Disorder Act 1998 to carry out its functions having regard to the need to reduce or eliminate crime and disorder and the provisions of the Human Rights Act 1998, in particular Article 8 (right to respect for private and 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.

## **POLICY FRAMEWORK IMPLICATIONS**

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

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**KEY DECISION?** Yes

<b>WARDS/COMMUNITIES AFFECTED:</b>	ALL
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## SUPPORTING DOCUMENTATION

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

### **Appendices**

1.	Draft Community Infrastructure Levy Charging Schedule and Implementation Guide
2.	Draft Planning Obligations Supplementary Planning Document
3.	Integrated Impact Assessment

### **Documents In Members' Rooms**

1.	None
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### **Integrated Impact Assessment**

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	Yes
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### **Other Background Documents**

**Integrated 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)

1.	The Community Infrastructure Levy Regulations 2010	
2.	Knight Frank Viability Assessment 2012-	
3.	Southampton City Council Infrastructure Study and Delivery Plan 2011	
4.	Southampton Demographic Forecast 2011	