

## **Report to Cabinet**

**Subject:** Review of Community Infrastructure Levy (CIL)

**Date:** 31 January 2019

**Author:** CIL Officer

### **Wards Affected**

All

### **Purpose**

To provide information for Cabinet with regards to the commencement of a review of Community Infrastructure Levy (CIL).

### **Key Decision**

This is a Key Decision.

### **Recommendation(s)**

#### **THAT:**

- a) Cabinet to support the review of the Community Infrastructure Levy (CIL) in accordance with the Inspector's recommendation.

### **Background**

- 1.1. The Planning Act 2008 introduced the Community Infrastructure Levy ("CIL") as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. CIL came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010.
- 1.2. Following an independent examination in March 2015 and approval at full Council on 15 July that year, the Gedling Borough Council Community

Infrastructure Levy Charging Schedule came into effect on 16 October 2015.

1.3. The CIL has been in operation for three years in the Borough and has collected to date receipts totalling over £800k. In January 2019, the CIL receipts will surpass £1million. CIL receipts are collected to be used in the following ways:-

- 5% CIL Administration Costs
- 15% CIL Neighbourhood Proportion (25% in those parts of the Borough where there is a Neighbourhood Plan)
- 80% CIL Regulation 123 Projects (70% in those parts of the Borough where there is a Neighbourhood Plan)

At this time the Council's Regulation 123 List confirms the intention to fund the Gedling Access Road; Secondary School Contributions linked to the development of the Gedling Colliery and Top Wighay Strategic Sites; and the Gedling Country Park Visitor Centre.

1.4. As part of the Inspector's Report (dated May 2015) into the examination of the Council's Community Infrastructure Levy, the examiner recommended that *"it would be prudent for the Council to review the Charging Schedule within 3 years of adoption to ensure that the overall approach taken remains valid, that development remains viable and that an appropriate balance is being struck."*

1.5. The recommendation of the Inspector is also considered to be in accordance with Government guidance. The CIL Planning Practice Guidance (Paragraph: 043 Reference ID: 25-043-20140612) identifies that

*"Charging authorities must keep their charging schedules under review and ensure that levy charges remain appropriate over time."*

*Charging authorities may revise their charging schedule in whole or in part. Any revisions must follow the same processes as the preparation, examination, approval and publication of a charging schedule (as specified under the Planning Act 2008, particularly sections 211 to 214 as amended by the Localism Act 2011 and the levy Regulations)."*

1.6. In spring 2018, the government held a consultation on the future of

developer contributions which suggested some technical revisions be made to the legislation that governs the implementation, examination and operation of CIL.

1.7. Alongside the recent Autumn budget, the Government published their response to the consultation on reforms to developer contributions (which included the Community Infrastructure Levy).

1.8. The Government have identified reforms in relation to CIL that could affect the review of a CIL Charging Schedule, these include:

- Removing the requirement for councils to subject their draft CIL charging schedule to two separate rounds of consultation in all cases.
- Removing restrictions on how planning obligations can be used, so that local authorities have greater flexibility to secure the funds they need to deliver infrastructure.

1.9. It should be noted that new legislation will be required to implement all of the changes set in the Government's response to the consultation document. The Government are planning to consult on draft regulations later this year.

## **Proposal**

1.10. It is proposed that a review of CIL is conducted in line with the Inspector's recommendation and Government guidance. The review of the CIL would see the following areas of the CIL Charging Schedule considered:-

- Review of the per m<sup>2</sup> rates charged for different types uses and zones.
- Review of the boundaries of the different charging zones.
- Review of all uses classes to test whether development is viable with a CIL charge.
- Review of the Council's Regulation 123 List.

- Review of the Council’s Instalment Policy.
- 1.11. In support of this process the Council’s evidence base will be required to be updated to ensure that the review of the CIL is carried out to account for changes in market conditions, and remain relevant to the funding gap for infrastructure needed to support the development of the area. At this time the evidence base in support of the CIL Review will be required to cover:
- Viability Assessment
  - Construction Cost Study
  - Property Value Study
  - Update of the Infrastructure Delivery Plan (identifying funding gaps)
- 1.12. With the potential for the government to update the CIL legislation, the review of the CIL will be carried out in accordance with whatever legislation governs the CIL at that time. Based upon the existing regulations and guidance related to the review of a CIL Charging Schedule a review could be completed based upon the following timeframes:

**Draft Timetable for CIL Review**

<b>Stage</b>	<b>Timeframe</b>
Update of Evidence Base	Spring 2019
Publish and Consult on Preliminary Draft CIL Charging Schedule	Spring 2019
Publish Draft CIL Charging Schedule	Winter 2019
Submit Charging Schedule for Examination	Spring 2020
CIL Examination	Summer/Autumn 2020
Adopt and Implement Revised Charging Schedule	Spring 2021

- 1.13. The above timetable and evidence base is draft and based upon current requirements of the CIL regulations. Muted changes to the legislation that governs CIL would suggest that the process to review a CIL Charging Schedule may be reduced and require lesser resources if implemented.

### **Alternative Options**

- 1.1. Two alternative options are potentially available to pursue.
- 1.2. Firstly, not to carry out a review of the CIL Charging Schedule. This approach could see the Council open to challenge in the long term with levy rates open to question if they do not reflect market conditions. Two potential consequences are that the Council do not collect appropriate contributions to support infrastructure needs that reflect the market in an area, or, that rates become too high such that it renders development not viable in certain areas and zones.
- 1.3. Secondly, the Council can choose to stop charging the levy and may do so at any time by making a formal resolution to do so. If an authority ceases to charge, any levy liability relating to a development that has not yet commenced will be dissolved, and no levy will be payable for it. The consequence of such a decision would create further funding gaps and affect the delivery of key strategic projects where expected CIL monies are already a part of funding package to deliver these infrastructure projects. At this time the Gedling Access Road and Secondary School Contributions related to the Gedling Colliery and Top Wighay Farm Strategic Sites are already reliant on the CIL Strategic Funding pot.

### **Financial Implications**

- 1.4. The process of commencing a review of the CIL at this time will not see the immediate requirement for additional funding.
- 1.5. Where possible, the use of the existing CIL Officer's time and resource will be used to review the CIL charging schedule and evidence base to keep additional external costs to a minimum.

1.6. The preparation and review of some of the evidence base documents and the eventual examination of a reviewed CIL Charging Schedule will have to be carried out by external bodies. Estimated costs of the process are as follows.

#### **Estimate of costs**

Evidence Base Review and Update	£20-25K
Examination	£10K

1.7. The requirements of the CIL review and costs are to be scoped further as part of the commencement, taking account of any changes in legislation.

1.8. Any additional budget requirement will be funded from earmarked reserves..

1.9. There is opportunity for the update of evidence base to support a number of pieces of work and provide value for money. An update of viability evidence is also required to support the preparation and review of the Affordable Housing Supplementary Planning Document (SPD). The SPD was adopted in December 2009 and in view of the revised National Planning Policy Framework published in July 2018 will require updating.

#### **Appendices**

N/A

#### **Background Papers**

**CIL Planning Practice Guidance** - <https://www.gov.uk/guidance/community-infrastructure-levy>

**Gedling Borough Council CIL Charging Schedule** - [http://www.gedling.gov.uk/media/Charging%20Schedule%20\(Adoption%20July%202015\).pdf](http://www.gedling.gov.uk/media/Charging%20Schedule%20(Adoption%20July%202015).pdf)

**Ministry of Housing, Communities & Local Government Response to Consultation on Supporting housing delivery through developer contributions October 2018** - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/752183/Developer\\_Contributions\\_Government\\_Response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752183/Developer_Contributions_Government_Response.pdf)

#### **Reasons for Recommendations**

- a) To ensure that Members are aware of the commencement of a review into the Community Infrastructure Charging Schedule, a strategically important funding mechanism for infrastructure in Gedling.