

Report to Cabinet

Subject: Community Infrastructure Levy Draft Charging Schedule

Date: 19th June 2014

Author: Planning Policy Manager

Wards Affected

Borough-wide.

Purpose

To seek comments and endorsement from Cabinet on:

- (a) the revised Draft Charging Schedule (June 2014) and associated documentation; and
- (b) approval to issue a revised Draft Charging Schedule for consultation.

Key Decision

This is a Key Decision.

Background

1. The Community Infrastructure Levy is a charge levied on new buildings and extensions to buildings according to their floor area and the money raised from the development helps to pay for the infrastructure to ensure the Borough grows sustainably.
 2. The intention is for Community Infrastructure Levy and planning obligations to play complementary roles. Community Infrastructure Levy will provide infrastructure to support the development of an area. The levy cannot be expected to pay for all of the infrastructure required but it is expected to make a significant contribution. S.106 obligations will provide site specific impact mitigation to make individual developments acceptable in planning terms and to provide affordable housing. **Appendix A** "Operation of Community Infrastructure and section 106" provides a more detailed explanation of how the two systems will operate.
 3. The Borough Council is also aiming to introduce a protocol for addressing cross boundary impacts of new development. This document sets out the principles guiding how Gedling Borough will work with its neighbouring authorities and the County
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Council when dealing with section 106 planning obligations relating to development which would have an impact on the services and facilities in a neighbouring authority.

4. The Levy takes effect through a Charging Schedule which sets out the rate or rates of charge. The first public stage in preparing this document was the Preliminary Draft Charging Schedule and consultation took place in the autumn of 2012.
5. The Charging Schedule relies on two important pieces of evidence – infrastructure planning and a viability assessment of the impact of the proposed rate of Community Infrastructure Levy on development in the Borough Council's area. The Infrastructure Development Plan sets out the range of infrastructure required to support the Aligned Core Strategies. The viability assessment must show that the proposed rate of Community Infrastructure Levy can be borne by most development without making the project commercially unviable.

Consultation Responses to the Preliminary Draft Charging Schedule

6. The six week consultation on the Preliminary Draft Charging Schedule concluded in October 2012, with 30 respondents making over 150 comments. These comments were previously reported to Cabinet in September 2013 and the following key issues were raised:
 - Community Infrastructure Levy was welcomed as a means of securing delivery of necessary infrastructure required to support growth;
 - It was questioned how the charges compared to other districts;
 - It was suggested that a Supplementary Planning Document would be helpful;
 - Strategic Housing Land Availability Assessment should be used to establish an accurate estimate of potential Community Infrastructure Levy revenue from residential sites;
 - Importance of publishing a draft regulation 123 list alongside the next Draft Charging Schedule to identify what infrastructure is included to be funded by Community Infrastructure Levy was stressed;
 - Planning Obligations should remain the primary mechanism for delivering affordable housing;
 - The importance of including a review mechanism for Community Infrastructure Levy as part of annual monitoring was stressed;
 - It was considered that the Community Infrastructure Levy viability assessment for employment uses should be reworked;
 - There were concerns that appropriate sports infrastructure needs will not be identified and included as part of the investment schedule as assessments are out of date;
 - The importance of including a breakdown of what developer assumptions have been taken into account was stressed; and
 - No certainty has been given that Community Infrastructure Levy payments will be spent and what the priorities are.
7. A summary of the main issues raised by the consultation and the officer response is outlined in the 'Report of Responses' attached in **Appendix B**.

Proposal – Changes to the Preliminary Draft Charging Schedule

8. The Draft Charging Schedule was originally issued for consultation in October 2013. The key issues raised from this consultation are summarised in **Appendix C**. There have, however, been significant changes in circumstances following the conclusion of this consultation, with further amendments to the Community Infrastructure Levy Regulations 2010 which came in force in February 2014. The regulations have confirmed that authorities are now required to strike an appropriate balance between the desirability of funding infrastructure through CIL and impacting on development viability. This is much more specific as the previous regulations had said only that Councils “must aim” to strike this balance. In combination with the review of the distribution of housing supply in the Aligned Core Strategy it was concluded that it would be appropriate to review the Draft Charging Schedule and consequently to issue a revised Draft Charging Schedule for a further round of consultation.
9. Proposed changes to the Community Infrastructure Levy Residential Charging Zones and charging rate which were issued in the October 2013 consultation remain. These comprise:
 - the inclusion of the whole of Bestwood Village within zone 1, previously the northern section was included within zone 2;
 - Inclusion of Mapperley Plains ward within zone 2, previously it was within zone 3;
 - Inclusion of Gedling ward within zone 2, previously within zone 3; and
 - The inclusion of Teal Close wholly within zone 1, previously it was split between zones 1 and 3.
10. In terms of the charging rate, it is proposed to continue with the residential CIL levels of £45 per square metre for Zone 2 and £70 per square metre for Zone 3. In terms of the commercial zone, food retail generates high positive residual values in both the urban and rural zones and therefore it is considered not appropriate to geographically differentiate in levels of value across the Borough. This, alongside realistic drafting of the Regulation 123 list, will provide a clear strategic infrastructure delivery strategy which does not threaten new development in the Borough. This issue is explained further in Appendix D ‘Viability Assessment’.
11. The ‘Draft Charging Schedule’ is attached at **Appendix E** and includes the proposed plan of the charging zones and rates.
12. One further supporting document to accompany the Draft Charging Schedule is ‘The Infrastructure Delivery Plan and the Existence of a Funding Gap’, available at **Appendix F**. CIL is intended to assist in filling the funding gap that remains once existing funding sources (to the extent they are known) have been taken into account. If no gap exists then the requirement for introducing the levy would come under serious scrutiny. This document confirms the existence of a funding gap. The document sets out the CIL contributions that the Council could expect to receive over the life of the Aligned Core Strategy based on a number of assumptions about the location and size of future dwellings. Table 2 of this document highlights those projects that have been identified in the Infrastructure Delivery Plan.

13. The Community Infrastructure Levy delivers additional funding for charging authorities to carry out a wide range of infrastructure projects that support growth and benefit the local community. The Levy cannot be expected to pay for all of the infrastructure required, but is expected to make significant contribution. Regulation 123 of the Community Infrastructure Regulations provides for the Borough Council to set out a list of those projects or types of infrastructure that it intends to fund through the levy.
14. The proposed draft Regulation 123 list forms part of **Appendix E**. The list has been revised since the consultation in October 2013 in view of the results of the revised viability assessments and evidence as submitted to the Aligned Core Strategies hearing sessions in December 2013. The revised revenue income from Community Infrastructure Levy has reduced to £7.2 million. This is due to a number of factors but primarily relates to the reduction in the anticipated number of planning applications which will be determined post April 2015 (the anticipated adoption date for CIL) which will be CIL liable.
15. The recommendation is to continue to prioritise the Gedling Access Road on the Regulation 123 list in order to help deliver the new access road and bypass to the east of Gedling village which would enable the Gedling Colliery/Chase Farm site to be developed. The GAR currently has a funding gap of £6.2million.
16. The earlier draft of the R123 list, which was issued in October 2013, indicated that Top Wighay Farm would not be viable if full education contributions were required through s106. It was therefore viewed prudent at that time to include the secondary school on the list of projects on the R123 list. However, the additional viability modelling undertaken changed the affordable housing tenure mix on the site which has aided deliverability whilst still maintaining the affordable housing percentage of 30%. The modelling concluded that Top Wighay Farm is viable and deliverable with a full s106 education contribution. The anticipated timing of the outline application for Top Wighay Farm is also a material consideration as it is expected that the application will receive a grant of outline planning permission before the introduction of CIL. It is also noted that through the early consultation on the Draft Charging Schedule Ashfield District Council indicated that the secondary school should be funded by s106 monies and therefore should be removed from the R123 list.
17. The Regulations are fundamentally clear that CIL is intended to assist in filling the funding gap that remains for infrastructure once funding sources have been taken into account. In view of the proposed deletion of the secondary school for Top Wighay Farm from the draft list it is therefore necessary to include additional projects which are strategic in nature but are directly related to the delivery of development within the Borough.
18. Further strategic projects for inclusion on the draft R123 list include the proposed Gedling Colliery Park Visitor Centre which is directly related to the proposed development at Gedling Colliery/Chase Farm and associated increase in demand for recreational facilities in the area. This area will form an important part of the Green Infrastructure network.
19. The regeneration of Arnold Town Centre is also considered a priority for the Borough and plays a significant role in the local economy. As much housing as is feasible has

been located within and adjoining the urban area of the Borough and this will therefore have an impact on the centre. It is important that the centre continues to act as a focus for community life and help ensure the continued vibrancy and prosperity of the centre. The role of sporting facilities is vitally important in creating sustainable and healthy neighbourhoods. The phased programme of improvement for Arnold Leisure Centre is therefore considered an appropriate project for inclusion on the draft R123 list.

20. One further project for inclusion is related to the proposed development in the key settlement of Calverton, aiming to ensure the protection of the prospective Special Protection Area which will require careful management including mitigation measures as set out in the Habitats Regulation Assessment Screening Report.
21. It is important to appreciate that the draft Regulation 123 list is a draft list and has been informed by the appropriate available evidence but should evolve in response to the consultation. Changing circumstances, such as the availability of different funding opportunities, may result in the need to review the list. If such a revision was considered necessary then it would be subject to further consultation.

Exceptional Circumstances Relief

22. The Borough Council has also considered whether it would be appropriate to include **Exceptional Circumstances Relief** within the Draft Charging Schedule and it continues to be the view that the use of section 106 agreements would be a better mechanism to review individual development sites and the associated contributions. Further information on 'Exceptional Circumstances Relief' is attached at **Appendix G**.

Equalities Impact Needs Assessment

23. To comply with the public sector equality duty an Equality Impact Assessment (Section 1(1) of the Equality Act 2010) has been carried out on the Draft Charging Schedule. The Assessments shows that the Community Infrastructure Levy will have a positive impact on the protected characteristics as it will increase the funds available for infrastructure in the Borough. No amendments are needed to the Draft Charging Schedule.

Next Steps

24. Subject to Cabinet approval it is proposed to issue the revised Draft Charging Schedule for a six week period of consultation during late summer 2014. It will be published together with the Statement of Representations Procedure (attached as **Appendix H**) and also with the available evidence on infrastructure, economic viability and the representations received and officer responses to the Preliminary Draft Charging Schedule consultation. The consultation period and availability of documents will be advertised locally and consultees can make representations within this period and may also request to be heard by the examiner.
25. The Draft Charging Schedule along with the documents attached as appendices to this report (with the exception of appendices A and H which are for information only) would then need to be formally submitted to the Planning Inspectorate in the winter of 2014 and the examination would then take place in the spring of 2015. Following

receipt of the examiner's report the Borough Council would need to approve the final version of the Charging Schedule.

26. It is also the intention to draft a Supplementary Planning Document on CIL which will address the complex management and implementation issues of CIL.

Alternative Options

27. Local Authorities do not have to use Community Infrastructure Levy but from April 2015 they will be limited by the Community Infrastructure Levy Regulations from leveraging general contributions from new development for community infrastructure.
28. One option is not to progress CIL. However, if CIL is not progressed then there is less opportunity to fund strategic infrastructure (which is more difficult to fund through traditional s106 agreements).
29. Other options would be to introduce different levels of CIL, either higher or lower than the rates proposed. However, CIL has to be justified by appropriate evidence to demonstrate that the rates proposed are viable. As such, if rates were higher then this would prevent sites from coming forward for development. If rates were lower then this would not generate sufficient funding to bring forward the required infrastructure.

Financial Implications

30. The new Community Infrastructure Levy guidance issued in December 2012 is more specific about what needs to be presented at examination and that more pre examination input will be required. Currently the Borough has allowed for a two day examination but the new guidance has confirmed that any person must be heard before the examiner at the Community Infrastructure Levy examination if they have requested to be heard. Attendance at the examination was previously by the invitation of the Inspector.
31. The cost of the examination and associated tasks is likely to be in the region of £10,000 although in view of the review of the guidance it would not be unreasonable to anticipate an increase on that amount. However, the implementation of the Community Infrastructure Levy will allow the Borough Council the opportunity to start collecting revenue towards the necessary infrastructure. The cost of the examination will be met from the Efficiency and Innovation Reserve and the likely costs can be contained in this budget.
32. The Community Infrastructure Liability will be calculated when planning permission is issued. The trigger for payment is the commencement of development, with some payments being made through instalments.
33. Implementing Community Infrastructure Levy requires an up-front injection of time and money but it is anticipated that the Borough Council should see an increase in revenue after Community Infrastructure Levy partially replaces section 106.
34. Members have previously agreed that the implementation and future project management of Community Infrastructure Levy may require the appointment of a

senior member of staff who could coordinate a range of activities across a number of service areas including:- development management; planning enforcement; finance; land charges and legal.

35. As noted in the cabinet report in September 2013 communities that draw up neighbourhood plans will receive 25 percent of the planning levy charged on new developments in their area. Neighbourhoods without a neighbourhood plan but where Community Infrastructure Levy is still charged will receive a 15 percent share of the revenue from development in their area but this will be capped at £100 per council tax dwelling.

Appendices

- Appendix A Operation of CIL and Section 106
- Appendix B Report of Responses
- Appendix C Key Issues – Draft Charging Schedule Consultation, October 2013
- Appendix D Viability Assessment
- Appendix E Draft Charging Schedule
- Appendix F The Infrastructure Delivery Plan and the Existence of a Funding Gap.
- Appendix G Exceptional Circumstances Relief
- Appendix H Statement of Representation Procedure

Background Papers

- Equalities Impact Assessment
- Protocol for Addressing Cross Boundary Impacts of New Development

Recommendations

THAT:

- (i) The revised Draft Charging Schedule and Regulation 123 List together with the supporting documentation attached to the report be published for a period of six weeks to allow for public representations.
- (ii) The Statement of the Representations Procedure be approved.
- (iii) The Portfolio Holder for Leisure and Development considers the evidence and

representations received and be authorised to approve any changes the Council would propose to make in light of those representations.

- iv) The Draft Charging Schedule, Regulation 123 List, supporting documentation and representations received together with the changes the Council would propose to make in light of those representations will be submitted to the Planning Inspectorate for examination.

Reasons for Recommendations

- 1. The production of a Community Infrastructure Levy has been previously recommended by Cabinet in accordance with the Community Infrastructure Levy Regulations 2010.