

Adoption and Implementation of the Community Infrastructure Levy Charging Schedule.

Director of Growth and Localism

This report provides an update to the Cabinet decision taken at the May 2013 meeting regarding the Community Infrastructure Levy. The report considers the factors that have changed or have been clarified since the May 2013 meeting and recommends the Council formally adopts the Charging Schedule proposed by the independent examiner. It is proposed that the Council implements the CIL charging regime on 1st May 2014.

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1. Background

- 1.1. The community infrastructure levy is a levy that Councils can choose to charge on new developments in their area. CIL is designed to be fairer, faster and more transparent than the previous system of agreeing planning obligations between local councils and developers. The Government sees the advantages of CIL as that it::
- Gives local authorities the freedom to set their own priorities for what the money should be spent on
 - Gives local authorities a predictable funding stream that allows them to plan ahead more effectively
 - Gives developers much more certainty from the start about how much money they will be expected to contribute
 - Makes the system more transparent for local people, as local authorities have to report what they have spent the levy on each year
 - Rewards communities receiving new development through the direct allocation of a proportion (15% or 25% depending on whether a Neighbourhood Plan is in place) of levy funds collected in their area
- 1.2. At its meeting In May 2013 Cabinet considered the outcome of the examiner's report on the Council's proposed charging schedule in relation to the Community Infrastructure Levy. Cabinet resolved to recommend to Council to adopt and introduce CIL subject to:
- Counsel advice on S106 and CIL implications for funding infrastructure.
 - Partnership and parish discussions .finalising the Reg 123 list for South Norfolk
 - alternative funding of infrastructure items and

- pooling and application of receipts

2. Current Position and Issues

- 2.1. Taking in turn each of the topics listed in paragraph 1.2

Counsel Opinion

- 2.2. Officers instructed Counsel to seek clarification on the extent to which we could redefine the Reg 123 List (which itemises what infrastructure will be funded through CIL and what will continue to be delivered through S106). The advice we received was that the Council had limited scope to change the draft Reg 123 list that was put to the examiner. It was Counsel's opinion that if we transferred items we would be vulnerable to legal challenge when we sought to collect CIL.

Partnership and parish discussions finalising the Reg 123 list for South Norfolk

- 2.3. Officers have been in detailed discussions with Norwich City and Broadland Councils on the content of the Reg 123 list. These discussions have been undertaken in the context of the Greater Norwich City Deal and advantages for the three authorities in to pooling CIL receipts to fund infrastructure. Key for us has been ensuring the Long Stratton Bypass figured in the highest category of priority. Norwich and Broadland have both adopted a Reg 123 list that includes all the items that we would want on our list. This list is based on the infrastructure requirements of the agreed in the adopted Joint Core Strategy. The advantage for adopting the same list is that it will give greater flexibility in delivering strategic infrastructure that serves the whole greater Norwich area (such as schemes within the Norwich Area Transport Strategy and green infrastructure projects).
- 2.4. The CIL regulations have also confirmed the amount of CIL that will be forwarded to the Parish and Town Councils (25% for parishes with an adopted Neighbourhood Development Plan and 15% for the others). Negotiation around the City Deals means it is less likely that we will expect the Parishes to make significant contributions towards strategic infrastructure.
- 2.5. We are currently preparing a protocol for parish and town councils which will govern arrangements for passing on CIL. This will set out how and when payments will be made, and will include variations to allow us to reflect the preferences of parish and town councils. We also intend to run briefing sessions for parish and town councils to inform them how the new system will operate and on what they can spend the money.

Alternative funding of infrastructure items

- 2.6. There has been a very significant development in this area arising from the City Deals' negotiations. The Department for Transport has indicated that it funds junction improvements as part of its A47 strategy. This means the junctions at Longwater, Thickthorn and NRP/Watton Road will be upgraded at no cost to the district, and take around £60 million off the infrastructure list.
- 2.7. One other element of the City Deal is the preferential rates for borrowing from the Public Works Loan Board, £20 million as a loan facility for local infrastructure. This allows developers to deliver infrastructure at early stages, and the loans will be administered along the lines of the New Anglia LEP's Growing Places Fund. An example the fund is that it could help the promoters of the housing land at South Wymondham deliver the subway/bridge access improvement at an earlier stage of the development.

- 2.8. There will also be a strategic infrastructure fund of £60 million (again a preferential interest rate for a loan). This fund will be used to help the early implementation of the strategic infrastructure needed for growth, which could be serviced through CIL receipts. This is available to deliver the strategic infrastructure listed in the Joint Core Strategy, which will bring forward growth and bring benefits to existing residents.

Pooling and application of receipts

- 2.9. As mentioned in the previous section, the alternative funding secured through City Deals enables the County Council to borrow money at a preferential rate of interest, which will be funded through CIL payments. To give greatest flexibility to delivery of growth SNC has long been an advocate of pooling CIL. This pooling is on the assumption that each district will, over the Joint Core Strategy period, receive investment at least equivalent to its CIL income. Negotiations on governance arrangements are ongoing, and until concluded the council will collect and retain CIL payments.

3. Proposal and Reasons

- 3.1. As explained in paragraph 1.2, Cabinet has resolved to adopt the charging schedule, as proposed by the examiner who conducted the examination in public, subject to the four points addressed in section 2 of this report. It is considered that these issues have been adequately addressed and that the Council can now agree a date to implement the agreed Charging Schedule.
- 3.2. Since May 2013 there has been a significant change in the regulations governing CIL. The report to Cabinet in May 2013 reflected that as from 1 April 2014 there would be severe restrictions on how Councils could use S106. This regulation has changed, and the deadline for introducing these restrictions is now 1 April 2015. While this gives some flexibility in introducing the charging schedule, undue delay will not help us maximise the potential of the City Deal arrangements.
- 3.3. Another consideration that the Council must take into account when determining the introduction of CIL is the impact on outstanding planning applications. CIL will be liable on all planning permissions for qualifying development post implementation date. There are several applications for large strategic sites that have reached an advanced stage in S106 negotiations, and it would be sensible to determine these applications under the S106 system. We have assessed the current list of outstanding planning applications and have concluded that an implementation date of 1 May 2014 would allow for the advanced proposals to be determined before CIL is introduced.
- 3.4. The introduction of CIL is a major change in how the Council will secure infrastructure. This change has implications for future applicants for planning permission and will be an additional source of funding to town and parish councils for the provision of local infrastructure. Given the scale of the change, it is proposed to organise briefing sessions for members, planning agents and others who make planning applications and, town and parish councils. We have already started to alert people that it is likely the Council will introduce CIL in correspondence on informal enquiries. We will also be informing those with outstanding applications that there is likelihood that CIL will apply at the time their application is determined.
- 3.5. The proportion of CIL payable to town and parish councils allows local bodies to

provide local facilities. In many cases, the CIL receipts can be used to attract further match funding. The current year's capital programme includes funding of £150,000 to support Neighbourhood Projects. In future years it is anticipated that following the adoption of CIL parishes will be able fund capital projects from their share of the CIL income.

4. Other Options

- 4.1. Council could decide not to adopt the CIL Charging Schedule. This would mean that as from April 2015 the Council would be restricted in its ability to pool S106 contributions to infrastructure items. This is likely to present difficulties in securing large items of infrastructure that serve several developments. Not adopting would also mean the Council could miss out on funding opportunities presented by the Greater Norwich City Deal.

5. Relevant Corporate Priorities

- 5.1. Enhancing our quality of life and the environment we live in. The Community Infrastructure Levy should enable the more timely delivery of significant infrastructure ahead of, or in line with housing and community development.
- 5.2. Promoting a thriving local economy. The introduction of the Community Infrastructure Levy is designed to support growth and the local economy.
- 5.3. Supporting communities to realise their potential.. The Reg 123 list includes the essential community infrastructure associated with the growth plans embodied in the Joint Core Strategy.
- 5.4. Driving services through being businesslike, efficient and customer aware. Financial and planning processes are ready to be implemented in readiness for the introduction of the Levy.

6. Implications and Risks

- 6.1. Financial – there will be financial implications for the Council as it will be accepting the responsibility for delivering infrastructure. However, this risk needs to be balanced against not adopting CIL, which could result in essential infrastructure not being provided as a result of restrictions on the use of the alternative S106 process.
- 6.2. Legal – the CIL Charging Schedule has been through the regulatory process. There will be a requirement to expedite outstanding S106 negotiations, which is being addressed by NPLaw. Officers are putting in place the administrative system that will be needed to ensure the billing and collection process is robust and enforceable.
- 6.3. Risks – the financial risk is identified in paragraph 6.1. The risk of not adopting could mean that the Council will not gain the benefits presented by the Greater Norwich City Deal, which in turn could mean we do not secure infrastructure. This could result in a reduction in economic growth and undermine the co-ordination and phasing of development proposed in the Council's local plan.

7. Conclusion

- 7.1. CIL presents an opportunity for the Council operate a system that will:
 - Secure funding for essential infrastructure;

- Allow more influence on the priorities for infrastructure;
- Give more certainty to the private sector in delivering economic growth; and,
- Provide funds to town and parish councils, allowing them to provide local infrastructure.

Cabinet has already resolved to recommend the adoption of CIL, subject to the four issues detailed in section 2 of this report. These issues have been resolved to a point whereby the Cabinet resolution can be put to Council, and it is proposed to adopt and introduce the CIL Charging Schedule on the 1st May 2014.

8. Recommendations

Recommendation from Cabinet 7 May 2013 (see appendix for Cabinet report)

TO RECOMMEND THAT COUNCIL:

1. Adopts the South Norfolk's Community Infrastructure Levy Charging Schedule (Appendix A of the 7 May 2013 Cabinet report), as modified by the Examiner's Report (Appendix B of the 7 May 2013 Cabinet report), in accordance with Section 213 of the Planning Act 2008 and Regulation 25 of the Community Infrastructure Levy Regulations 2010 (as amended 2011 and 2012), subject to:
 - a) satisfactory progress on matters listed in para. 8.3 of the report (as addressed in this report) and
 - b) agreement of the specified date at which the charging schedule takes effect (proposed in this report to be 1 May 2014)
2. Adopts a Community Infrastructure Levy payment installment policy (detailed at Appendix C of the 7 May 2013 Cabinet report).
3. Acknowledges that under Regulation 55, Community Infrastructure Levy Regulations 2010 (as amended 2011 and 2012), discretionary relief for exceptional circumstances will **not** be granted.
4. Endorses the withdrawal of support and implementation of 'Infrastructure, Service and Amenity Requirements for New Development Norfolk County Council Standards (updated 2013)
5. Endorses the delegation to South Norfolk District Council of collection of Community Infrastructure Levy from Norfolk County Council on its own development matters.