

# Cabinet Report



Listening Learning Leading

Report of Head of Planning

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To: CABINET

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## Community Infrastructure Levy Charging Schedule

### Recommendations

Cabinet is asked to consider this report and the modified South Oxfordshire Community Infrastructure Levy (CIL) Charging Schedule and associated documents, and subject to agreed cabinet changes, refer the CIL charging schedule and associated documents to Council with the following recommendations:

- (a) to adopt the modified South Oxfordshire Community Infrastructure Levy (CIL) Charging Schedule with an effective implementation date of 1 April 2016;
- (b) to not introduce a policy for Discretionary Relief in Exceptional Circumstances
- (c) to approve the following CIL associated documents;
  - CIL Regulation 123 Infrastructure List
  - CIL Instalment Policy

### Purpose of Report

1. To consider the South Oxfordshire Community Infrastructure Levy (CIL) Charging Schedule and associated documents, listed below, for adoption. The CIL incorporates the modifications recommended by the Examiner. If adopted, CIL would come into effect on 1 April 2016.

Associated CIL documents include:

- CIL Regulation 123 Infrastructure List
- CIL Instalment Policy

## Corporate Objectives

2. Meeting housing need and securing sufficient financial contributions from developments to deliver essential infrastructure is an objective set out in the council's Corporate Plan (2012-2016). The proposed Community Infrastructure Levy Charging Schedule will help to achieve this objective.

## Background

3. On 12 February 2015 Cabinet approved the Draft Charging Schedule together with supporting evidence for consultation and subsequent submission to the Planning Inspectorate for independent examination.
4. A public hearing into the Draft Charging Schedule was held on 29 July 2015. During the hearing the Examiner asked for additional information in relation to housing densities, garage provision in Didcot, residential viability buffer, student accommodation and office development. Officers produced that information and undertook public consultation for a period of four weeks. We received six representations, which were forwarded to the Examiner for consideration.
5. Since previously approved by councillors only minor editorial modifications have been made to the Draft Charging Schedule and Regulation 123 list. These include points of clarification and a modification to the proposed charging zone map to address an error in relation to the Didcot charging zone boundary. We received six representations to the modifications to the charging zone map, which again were forwarded to the Examiner for consideration.
6. The Examiner has taken all matters into account, including the responses to the consultations, and issued her Report (Appendix 1) on the Council's CIL Charging Schedule on 17 December 2015 recommending adoption, subject to the following modifications:
  - Amending the Charging Schedule to specifically exclude student halls of residence from the CIL residential charge
  - Amending the proposed rate for offices (including research and development) from £35 per square metre (psm) to £0 psm
  - Amending the definition of 'small centre retail' development to 'other retail development' for clarification purposes.
7. The modifications are based on matters discussed during the public hearing and do not significantly alter the basis of the council's overall approach.
8. The CIL Charging Schedule has now been amended to incorporate the Inspector's modifications and is included at Appendix 2.
9. The following is a summary of the key points of the Examiner's report:
  - The Examiner agrees with the council's approach for an early review of the Charging Schedule alongside adoption of the new Local Plan 2031. Nevertheless, in the interim period the Core Strategy is sufficiently up to date and provides an appropriate basis to implement CIL.
  - The funding gap is sufficient to demonstrate the need to levy CIL.

- The Examiner considers the Draft Regulation 123 list to be clear with regard to the type of infrastructure that would be supported by CIL, and the use of planning obligations (S106) for the three Core Strategy allocated strategic housing sites.
- Although the Draft Regulation 123 list is generic this would not hinder infrastructure delivery. The legislative requirements on the use of planning obligations, would in themselves, help to ensure they are appropriately applied and that no 'double-dipping' (duplication of contributions from S106 monies and CIL for the same piece of infrastructure) occurs.
- The viability work shows that retirement housing, care homes and student halls of residence would be unable to support CIL charges.
- Whilst retirement housing and care homes were set at a zero CIL rate, the Draft Charging Schedule did not specifically exclude student halls from a residential CIL rate. This form of development is now to be excluded from the residential CIL rate and a footnote should be added.
- With regard to office development the viability testing shows that schemes with a rental value below £20 per square foot (psf) would be unable to support a CIL charge. Further evidence indicates that outside the Henley area, office rental values achieved over the last few years have fallen short of the base level of £20 psf. Therefore office development in many parts of the district where growth is planned would not support the CIL rate. The Examiner recommends a zero rate to be applied for office development, to ensure that the viability of schemes is not compromised and delivery affected.
- The proposed CIL charge of £70 psm for large retail development is reasonable and would not put such development at risk across the district. The Examiner supports the zero charge for small scale retail development but for clarification recommends that the definition is modified to 'Other retail development'.
- The proposed zero CIL rate for hotel and industrial/warehousing development is justified.
- The proposed charging zone (as modified) is reasonable and proportionate, including the amalgamation of three residential charging zones into two.
- The proposed zero CIL rate for the three Core Strategy strategic housing sites is supported by evidence.
- A number of representations suggest that the zero CIL rate should be widened to all strategic sites of 500+ dwellings that come forward. However the council is planning an early review of CIL (in line with the new Local Plan) and strategic sites tend to have a long lead-in time, and in the light of this the Examiner concluded that the proposed zero CIL rate, as applied to only the three strategic sites, is appropriate.
- The viability study shows sizeable buffers above the proposed CIL rates for most typologies (1 to 250 units). In some cases viability may be challenging on brownfield sites in the lower value areas and that some flatted schemes of 25 units may not be viable. However, the council expects the majority of development to come forward on greenfield sites, and involve the provision of houses rather than flats. The Examiner was therefore satisfied that the proposed £85/£150 psm charge would be justified, and would not significantly affect overall housing supply in the district as a whole.
- Overall the viability evidence used to inform the Charging Schedule is reasonable, proportionate and appropriate. The charging rates would not put overall development of the area at risk.

10. Alongside the CIL Charging Schedule the Council's Regulation 123 List (Appendix 3) and Instalment Policy (Appendix 4) has been subject to public consultation and independent examination. The Regulation 123 List is a list of infrastructure projects and types of infrastructure that may be funded in whole or in part by CIL monies. The list will need to be updated on a regular basis. It should be noted that inclusion on the list does not guarantee that CIL monies will in the future be allocated to the project; however CIL monies cannot be allocated to a project that is not included on the list. The Regulation 123 list has been updated to correspond with the Section 106 Supplementary Planning Document. .
11. The Council is responsible for spending CIL and the final responsibility for CIL spending decisions will rest with Cabinet. Experience from elsewhere suggests that CIL receipts will take some time to build up as CIL is only paid following commencement of development. It is therefore intended to use CIL Year 1 monies (2016-17) to develop arrangements for CIL spending decisions in consultation with infrastructure delivery partners including Oxfordshire County Council. Details of the CIL spending strategy will be the subject to a separate report later this year.
12. The Instalment policy remains unchanged from the draft, except minor changes have been made to clarify when this policy does apply.

#### Exceptional circumstances relief

13. The CIL Regulations allow for the Council to provide further relief, at their discretion. The Charging Schedule has been designed with safeguards and sufficient buffers. However, there may be exceptional circumstances where a specific scheme (such as brownfield development in the lower land value area or flatted development) would not be viable if it is required to meet the full CIL charge in addition to delivering on-site infrastructure (secured through S106) and providing affordable housing.
14. The Council do not have to offer this relief, but if they choose to do so, they must adopt a discretionary relief policy. The Draft Charging Schedule advised that 'the Council has not made a formal decision on whether it will offer discretionary relief in accordance with the CIL Regulation'. It is recommended not to offer such a policy at this point in time and to review the position at the next CIL review. A Statement to this effect will be published on the website (Appendix 5).

#### Business as usual

15. CIL Regulation 123 places a limit on the number of S106 planning obligations that can be collected to fund infrastructure. Since April 2015 no more than five S106 obligations can be pooled towards a type of infrastructure or infrastructure project. Without a CIL Charging Schedule in place the council would be limited by the pooling restrictions in funding and providing infrastructure as set out below under the heading of 'Risks'.

### **Financial Implications**

16. There are no direct resource implications in relation to the adoption of the Charging Schedule. There are likely resource implications for the collection/administration of the levy. Additional resources will be required in the planning registration team as the levy is calculated on floorspace, which will need to be checked/measured in each

case. This additional resource can be funded as part of the CIL administration charge.

## **Legal Implications**

17. There are no legal implications other than satisfying the CIL Regulations 122 and 123.

## **Risks**

18. Since April 2015, S106 agreements have to be considered in light of the CIL Regulations, where pooling applies. It is important for the council to implement the CIL Charging Schedule to ensure infrastructure can be provided/funded in the future.

## **Other implications**

19. In line with our public sector equality duties of the Equality Act 2010, we have reviewed the CIL charging schedule documents. Officers do not believe the charging schedule discriminates against any groups of people by the virtue of their protected characteristic.

## **Conclusion**

20. The Examiner's concluded that the proposed CIL rates for residential development and large retail (supermarkets, superstores and retail warehouses) are viable. Officers propose to adopt the CIL Charging Schedule which would take effect on 1 April 2016. An Adoption Statement will be published on the website (see Appendix 6).

## **Appendices**

- Appendix 1 - Examiner's report
- Appendix 2 - CIL Charging Schedule
- Appendix 3 - Regulation 123 List
- Appendix 4 - Instalment policy
- Appendix 5 - Discretionary Relief for Exceptional Circumstances Statement
- Appendix 6 – Adoption Statement