

SUBJECT: COMMUNITY INFRASTRUCTURE LEVY

DIRECTORATE: COMMUNITIES AND ENVIRONMENT

REPORT AUTHOR: TOBY FORBES TURNER, PRINCIPAL PLANNING OFFICER

1. Purpose of Report

1.1 To advise Council on the current programme in respect of progressing Community Infrastructure Levy (CIL) adoption by the Authority namely:

- Recommend that Council approve the modifications as set out in the City of Lincoln Council CIL Examination Report (Appendix 1) to the Draft Charging Schedule;
- Recommend that Council Incorporate those modifications into the City of Lincoln Council CIL Charging Schedule;
- Recommend that Council adopt the amended City of Lincoln Council CIL Charging Schedule (Appendix 2);
- Recommend that the supporting policies in Appendix 3 (Regulation 123 List, Instalments and In-Kind policies) be approved by Council;
- Recommend to Council that the CIL Charging Schedule be implemented by the City of Lincoln Council on a date as soon as is practicable on or after 1 January 2018.
- Recommend that Council incorporate this additional function within its Constitution.

2. Executive Summary

2.1 Further to previous reports to both Policy Scrutiny and Executive Committees on the City Council's CIL programme, Council are requested to consider the requirements on what is effectively the final stages of CIL process-namely adoption of CIL.

2.2 Following the Examination hearing into the City Council's CIL Draft Charging Schedule which took place on Friday 3rd March 2017, the CIL Examiner produced his report on 24th May 2017 (see Appendix 1) which concluded that subject to the recommended modifications the *"The City of Lincoln Council draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area"*.

- 2.3 Following the CIL Examiner's report and subject to member approval, the City Council is therefore in a position to adopt a CIL Charging Schedule.

3. Background

- 3.1 The Authority has duties and responsibilities as Charging and Collecting Authority in the setting of a District Community Infrastructure Levy (CIL) as set out in the Community Infrastructure Levy Regulations 2010 (as amended).
- 3.2 By way of reminder, the City Council has been in the process of progressing with CIL since 2013 with the following Executive committee decisions having been taken as follows:

Committee	Date	Report Recommendation
Executive	15 April 2013	<ul style="list-style-type: none">• Approve Preliminary Draft Charging Schedule, draft instalments policy• Agree continued partnership approach to CIL• Endorse partnership approach to 123 list
Executive	25 Sept 2013	<ul style="list-style-type: none">• Approve Draft Charging Schedule (DCS) and draft 123 list for public consultation• Approval that officers continue to develop 123 list and CIL in partnership• Approval for Joint CIL exam with NKDC & WLDC
Executive	28 Sept 2015	<ul style="list-style-type: none">• Withdraw previous DCS and associated documents (as previously agreed at 23rd Sept 2013 Exec)• Approve new PDCS, charging zones, in kind policy, payments and draft 123 list
Executive	14 March 2016	<ul style="list-style-type: none">• Approve DCS and associated documents (draft 123 list, draft instalments policy, draft in kind payment policy) for formal consultation in April/May 2016• Grant delegated authority to the DCE for minor amendments to DCS and docs if required prior to consultation
Executive	April 2016	<ul style="list-style-type: none">• Approve City of Lincoln DCS for consultation May 2016 and associated documents, 123 list, instalments, in kind payment• Approve aligned CIL with NKDC & WLDC

Executive	26 September 2016	<ul style="list-style-type: none"> That authority be delegated to the Chief Executive to authorise specified officers to attend at any examination hearing into the CIL Draft Charging Schedule to make representations on behalf of the Authority to support the progress of the CIL Draft Charging Schedule through the examination process
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- 3.3 The Examination hearing into the City of Lincoln Council CIL Draft Charging Schedule took place on 3rd March 2017. At the hearing session, the CIL Examiner explored a list of mandatory questions to satisfy himself that the CIL rates proposed met legislative requirements and are set at a viable rate. His findings, which he presented in a non-technical summary at the start of the City of Lincoln CIL Examination report were:

“This report concludes that subject to recommended modifications the City of Lincoln Council draft Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

In summary 5 modifications are recommended to the Draft Charging Schedule as follows:

- Provide additional inset maps at a larger scale showing the location of the sustainable urban extensions;*
- Amend the rate for new residential development in Zone 1 to £25 per square metre;*
- Amend the rate for new residential development in Zone 2 to £20 per square metre;*
- Amend the description of Zone 2 to read “Developments at Western Growth Corridor and North East Quadrant sustainable urban extensions”; and*
- Add a column for apartments and deleting the text “Applicable to whole district” from the header.*

Subject to these modifications the Council is able to demonstrate that it has sufficient, appropriate evidence to support the Schedule. The Schedule will strike an appropriate balance between the desirability of funding necessary infrastructure whilst ensuring that it does not put at risk the viability of development in the area as set out in the Central Lincolnshire Local Plan.”

- 3.4 The recommended revised CIL charging rates are therefore as follows:

For Residential Development

Zone 1:	Lincoln Strategy Area	£25 per square metre
Zone 2:	SUE's (WGC & NEQ)	£20 per square metre

For Convenience Retail

£40 per square metre

- 3.5 The modifications to the CIL proposed rates were not unexpected and are in line with those that were recommended by the CIL Viability Study Consultants. It is therefore recommended that the modifications above are incorporated into the CIL Charging Schedule in order to meet the legislative requirements of section 212 of the Planning Act (2008) and thus allowing the Charging Schedule to be Adopted.
- 3.6 Members should note that the Examiner's report is not binding. However, the CIL Charging Schedule will not be legally compliant without the recommended modifications being incorporated.
- 3.7 Following the Examiners report, officers in liaison with colleagues from West Lindsey, North Kesteven and Lincolnshire County Council have produced some indicative projected CIL income figures based on the revised CIL rates. These figures are based on many assumptions including forward projecting housing delivery rates and therefore they should not be taken out of context e.g. development rates taking place over the next 18 years which could be higher or lower than assumed.
- 3.8 For the City it is estimated that CIL income will be in the region of £7.9M (up to 2036) which equates to approximately £440,000 per year. The majority of that £440,000 will be used to contribute to agreed Central Lincolnshire Strategic Infrastructure priorities, the Lincoln Eastern Bypass and secondary education to support the planned Growth (Regulation 123 List). CIL Regulations allow charging authorities to use up to a maximum of 5% of the funds from CIL to recover the costs of administering the levy.
- 3.9 CIL regulations (Reg 59A) require that 15% of CIL receipts (25% where there is a neighbourhood plan in place) are passed onto local council's e.g. Parish or Town Councils. Where there are no local council's as in the City, CIL Regulation 59F requires the Local Authority to use 15% of CIL to support the development of the relevant area by funding the *"the provision, improvement, replacement, operation or maintenance of infrastructure"* or *"anything else that is concerned with addressing the demands that development places on an area"*.
- 3.10 For the City, officer's estimate that in the region of £1.18M (up to 2036) will be generated from CIL income which will be available to distribute to support local infrastructure work. A decision needs to be made about how in practical terms the funds are distributed in the City and a report with options on how funds could be managed and spent will be presented to Executive in early 2018.
- 3.11 Looking at how other Local Authorities in a similar position to the City have dealt with the process, Sheffield City Council has decided to allocate local CIL income to individual Wards and made use of Local Area Partnerships as a mechanism for making decisions on how to spend the funds. In Camden following consultation with local communities, ward members produced Local CIL Priority Lists for each ward which guided future spending of local CIL funds. A decision on administration

options for the community proportion will be subject to a further Report to Members.

- 3.12 The CIL recommendations were approved by Executive at their meeting on 30 October 2017 (see Appendix 4) and CIL went before Policy Scrutiny Committee at their meeting on 10th October 2017 (see Appendix 5). Planning Committee also considered the CIL paper at their meeting on 11th October (see Appendix 6).

4.0 **Implementation of CIL**

- 4.1 Subject to Council adopting CIL, it is required to;

- Set a formal implementation date;
- Publish the charging schedule and Examiner's report on its website and in Council Offices and Local Access points; and
- Give notice to the public, including press advertisement, other authorities and CIL consultation respondents of its intention to commence charging CIL and where the Charging Schedule information can be inspected.

- 4.2 The Charging Schedule can be implemented as soon as practicable following adoption. However there are a number of issues for Members to consider.

- 4.3 Firstly, administrative and procedural processes will need to be implemented before CIL can be accurately and legally collected. Much of this is around the accurate notification, calculation, collection, distribution and monitoring of CIL. Implementation of CIL will fall to officers within the Development Management Team as it makes practical sense to align CIL charging, collection, monitoring and enforcement with Development Management functions. Members should note there will be a need to review the Constitution and a CIL Enforcement Policy will need to be produced.

- 4.4 Secondly there will be a number of submitted planning applications with S106 agreements in draft stage that will become liable to pay a CIL charge at implementation, even though the application was submitted before the CIL regime was in place. This could be considered unreasonable by applicants, if sufficient time is not given between adoption and implementation. Also there is a risk that it could lead to a flurry of rushed applications being submitted 'last minute' to beat the CIL implementation deadline.

- 4.5 Thirdly, CIL has been developed with the other Central Lincolnshire Charging Authorities (North Kesteven and West Lindsey District Councils). It would therefore seem appropriate to work to as closely an aligned implementation date as possible across the three Central Lincolnshire Charging Authorities if possible. North Kesteven adopted CIL in July 2017 and West Lindsey are targeting adoption for Nov 2017. The City's CIL report recommending adoption will be going before Executive on 30th October then Full Council on 5th December 2017.

- 4.6 It is suggested that a reasonable period of notice between adoption and implementation is considered, which would mean implementation is likely to be in January 2018. This will allow sufficient time for advertising and notification of developers about to submit a planning application. The 13 week lead in time will

also allow major planning applications, particularly for those where the process of S106 negotiations have commenced, to be determined. However, the final implementation date will be influenced by the desire to be aligned with the other Central Lincolnshire Charging Authorities as much as possible.

- 4.7 Finally, it is worth bearing in mind that the government commissioned an independent review of CIL in November 2015 *“to assess the extent to which CIL does or can provide an effective mechanism for funding infrastructure, and to recommend changes that would improve its operation in support of the government’s wider housing and growth objectives”*. The review was informed by the research undertaken by Three Dragons / University of Reading and a consultation questionnaire. The research examined the amount of revenue CIL is raising, the types of development that are paying CIL, impacts on viability and the operation of the neighbourhood share of CIL.
- 4.8 The independent review group submitted their report to ministers in October 2016 and considered four possible options going forward-do nothing, abolition, minor reform of CIL and more extensive reform. The panel favoured the option of more extensive reform and specifically recommended that CIL should be replaced with a hybrid system of a broad and low level ‘Local Infrastructure Tariff (LIT) and Section 106 for larger developments.
- 4.9 Government are set to announce how they intend to reform CIL in the forthcoming Autumn Statement due in November 2017 and clearly this will have implications for all Local Authorities including the City and members will be kept informed on the situation and identify what action may need to be taken.

5. Strategic Priorities

5.1 Let’s drive economic growth

The Central Lincolnshire Local Plan is a ‘growth led’ plan providing a positive planning framework to promote and support sustainable growth of the City and its local economy with CIL being a key component in the provision of funds to provide infrastructure to support growth.

5.2 Let’s reduce inequality

The Local Plan objectives support the reduction of poverty and disadvantage. In line with Regulation the authority will be required to pass a ‘meaningful’ proportion of CIL receipts to suitable neighbourhood groups for use on infrastructure identified as important by the local community. Where there are no established Local Councils, District Councils are asked to spend this in consultation with local communities.

5.3 Let’s deliver quality housing

Growth and development of the general housing market is a positive step in increasing the supply of all forms housing. The CIL Regulations provide for full relief from the CIL charge for any part of a development which is affordable housing (and includes social and affordable rent and shared ownership).

5.4 Let's enhance our remarkable place

Implementation of CIL will help support the development of the City and ensure contributions toward infrastructure can be used to improve Lincoln as a place.

6. **Organisational Impacts**

6.1 Finance (including whole life costs where applicable)

The agreement of projects within the Regulation 123 list will remove the ability to raise Section 106 funding for these projects. Section 106 agreements will continue to be used for direct mitigation of site-specific impacts while CIL income will be used to fund the delivery of larger strategic items as identified on the Regulation 123 list.

6.2 Legal Implications including Procurement Rules

Subject to adoption and the implementation date, CIL becomes a mandatory charge on all eligible development. The Council has; and will need to, comply with the 2008 Planning Act and 2010 CIL Regulations (as amended), in the implementation, collection, monitoring and distribution of CIL, and amend the Constitution to include this function.

6.3 Land, property and accommodation

CIL will be applicable on all eligible development once adopted.

6.4 Human Resources

The recommendations in this report, if approved, will require time officer time to implement which is able to be resourced in the current structure.

6.5 Equality, Diversity & Human Rights

Equality implications have been carefully considered. Whilst a full assessment has not been carried out the introduction of CIL helps to support and deliver sustainable growth and development in the city. It is therefore promoting equal access to housing and employment and has no negative impact on those who exhibit a protected characteristic.

7. **Risk Implications**

7.1 (i) Options Explored

A not adopting CIL option has been considered through the Central Lincolnshire Strategic Group (CLSG) and the recommendation to not proceed with this option agreed, on the basis that such would significantly weaken the ability to support the infrastructure needs resulting from the planned Growth in the Central Lincolnshire, particular in respect of delivery of the Eastern Bypass and Secondary School provision.

7.2 (ii) Key risks associated with the preferred approach

The key risk of implementing a CIL charge is the potential negative impact such may have on development delivery. The current charge rates have been set in the context of a comprehensive viability assessment and developer consultation and are viewed as viable in the current market. These rates have subsequently been found appropriate and proportionate by the CIL Examiner. Rates of development will be monitored and reported annually in the Authority Monitoring Report post adoption of CIL, and any review of the CIL charge considered if required.

8. Recommendations

Council is recommended to:

- Approve the modifications as set out in the City of Lincoln Council CIL Examination Report (Appendix 1) to the Draft Charging Schedule;
- Incorporate those modifications into the City of Lincoln Council CIL Charging Schedule;
- Adopt the amended City of Lincoln Council CIL Charging Schedule (Appendix 2);
- Approve the supporting policies in Appendix 3 (Regulation 123 List, Instalments and In-Kind policies);
- Implement the CIL Charging Schedule on a date as soon as is practicable on or after 1 January 2018.
- Incorporate this additional function within its Constitution.

Is this a key decision? Yes

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? 6

List of Background Papers: None

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