

Report to Cabinet

22 September 2016

By the Cabinet Member for Planning and Development



Horsham
District
Council

Not Exempt

Community Infrastructure Levy – Summary of Consultation Responses and Recommended Changes

Executive Summary

Horsham District Council invited representations on its Community Infrastructure Levy (CIL) Draft Charging Schedule in line with the requirements of Regulation 16 of the CIL Regulations 2010 (as amended), from 6 May to 17 June 2016. The relevant evidence supporting the Draft Charging Schedule was published alongside and comments were invited. A total of 24 people or organisations responded.

A single issue was raised, which could be resolved, but would require more than a minor change to the Draft Charging Schedule. This was the request by a developer that another strategic site in the District should have a zero CIL charge as the developers are concerned that there is no flexibility in the CIL Draft Charging Schedule or the current regulations that would allow for them to amend their applications, if needed in the future, to effectively deliver the site. Whilst the Council resolution on 24 February 2016 approving the Draft Charging Schedule for consultation gave the Cabinet Member for Planning and Development delegated authority to agree minor editorial changes, the change required to address the issue for the existing strategic sites would be more than minor editorial changes, **although the rate and the amount of CIL that would be generated would remain unchanged as the infrastructure would be delivered through Section 106 agreements as is currently planned.**

The principle of this proposed modification to allow an additional strategic site – (Kilnwood Vale) to have a zero CIL charge is explained and presented in this report for Cabinet approval. Additional evidence has been produced to support and test the viability of this proposal. This evidence as well as the detailed wording of the change to the document will be subject to targeted public consultation before submission of the CIL Draft Charging Schedule, Proposed Modifications (and any comments on the Proposed Modifications) for examination by an independent Examiner. The Examination could then take place directly following the consultation on the Proposed Modifications.

As the Proposed Modifications aim to address this main issue as well as minor issues raised during the preparation of the Draft Charging Schedule, the Council would have done all it could to minimise the length of the examination and ensure that the adoption of it's CIL charge in a timely way.

Recommendations

Cabinet is asked to approve the following recommendations:

- i) That an additional strategic site (Kilwood Vale) should be zero rated for CIL.
- ii) That the Proposed Modification in recommendation (i) is subject to 4 weeks consultation, prior to submission for Examination.
- iii) That the Cabinet Member for Planning and Development has delegated authority to agree minor editorial changes.

Reasons for Recommendations

- i) To take into account issues raised during the consultation period that would address concerns about the deliverability of a key allocation within the HDPF and lead to the Examiner finding CIL appropriate for adoption by the Council.
- ii) To ensure that the Examiner has clarity on any outstanding issues prior to his examination. Note that the 4 week consultation period on proposed modifications is a requirement of the CIL Regulations.
- iii) To undertake minor editorial or typographical amendments.

Background Papers

Appendix 1 - Draft Charging Schedule (May 2016) – showing suggested amendments.

Appendix 2 - CIL Draft Charging Schedule, Consultation Report Statement of Representations (Regulation 19)

Appendix 3 – Statement from Dixon Searle Partnership, September 2016

Draft Charging Schedule (including the Regulation 123 list) (May 2016)

Infrastructure Delivery Plan (May 2016)

Draft Planning Obligations & Affordable Housing SPD (May 2016)

Preliminary Draft Charging Schedule July 2014

Wards affected: All.

Contact: Dr Chris Lyons, Director of Planning, Economic Development & Property, Julia Dawe, Planning Policy Advisor.

Background Information

1 Introduction and Background

- 1.1 The Horsham District Planning Framework (HDPF) was adopted in November 2015 so the Council is looking to develop its Community Infrastructure Levy (CIL) that will set a charge on new development to help fund infrastructure set out in the Local Plan. Horsham District Council invited representations on its Community Infrastructure Levy (CIL) Draft Charging Schedule in line with the requirements of Regulation 16 of the CIL Regulations 2010 (as amended), from 6 May to 17 June 2016. This was the second and final statutory consultation stage required before the document is submitted for Examination by an independent Examiner. The Draft Charging Schedule addressed the following matters which had arisen since the publication of the Preliminary Draft Charging Schedule:
- It took account of the comments made at the previous consultation stage, which were incorporated, where possible in the Draft Charging Schedule and accompanying consultation documents.
 - It had updated viability evidence produced by a different company (Dixon Searle Partnership - current consultants).
 - Took account of the adopted strategy in the HDPF.

2 Relevant Council policy

- 2.1 In March 2012 the Government published the National Planning Policy Framework (NPPF). One key element of the NPPF is to ensure that sufficient infrastructure such as transport, community, leisure, health and education have been identified to support new development and that the development identified in the Development Plan is viable. CIL was introduced by the Planning Act 2008 and its application in subsequent CIL Regulations issued in 2010 and amended thereafter, is a tool which local authorities can choose to charge on new development within its area, when it is viable to do so.
- 2.2 The HDPF sets out what development is likely to come forward over the Plan period to 2031. The CIL charge ensures that an appropriate levy is set to ensure that the plan is economically viable and sufficient infrastructure is identified to deliver the proposed development.

3 Details

- 3.1 Horsham District Council invited representations on its CIL Draft Charging Schedule in line with the requirements of Regulation 16 of the CIL Regulations 2010 (as amended), from 6 May to 17 June 2016. Consultation responses were received from 24 people or organisations. These were from 5 statutory consultees including West Sussex County Council, 9 developers, 7 Parishes or Neighbourhood Councils, and 3 residents. A summary of the key issues raised during the consultation and commentary on the requested changes on the Draft Charging Schedule are;
- Developers made various observations about strategic sites and their viability. The developers of Kilnwood Vale requested that their site should be zero rated.

This would require a change to the CIL - Draft Charging Schedule by inserting a reference to this site to be zero rated. This would be a more than minor editorial change.

- Some residents and Parishes/Neighbourhood Councils queried how the funding gap will be addressed. This is an information sharing issue rather than a requested change to the document. This could be addressed by producing further information and minor editorial changes to the CIL Draft Charging Schedule and supporting documents.
- The zero charging rate for the strategic site at land north of Horsham was both supported and opposed. This matter and these opinions will be considered as part of the Examination; therefore no changes are required.
- Clarification was sought on various matters, including how CIL works alongside Neighbourhood Planning. To address this there could be minor editorial changes to the documents to make this matter clearer. Various points were raised, generally from the development industry, about the wording or implementation of certain procedures such as payment in kind, instalments polices and commencement definitions. These points will be considered as part of the Examination and therefore no changes are required.

3.2 Comments were also received on the supporting evidence that were more technical or seeking clarification:

- **Viability evidence** - a resident commented that the figures had varied from previous information and believed that some of the assumptions were erroneous.
- **Infrastructure Delivery Plan (IDP)** - some items on the IDP were supported and some further updates were suggested. As this is a live list, the IDP submitted for examination will be up to date, taking into account the latest projects and developments.
- **Draft Planning Obligations and Affordable Housing Supplementary Planning Document** – Comments sought clarification about the availability of viability assessments for development and the wording of the affordable housing section.

All of these issues can be addressed by minor changes to wording or clarification in the supporting documents.

3.3 The detailed changes that are recommended are now inserted in the Draft Charging Schedule (Appendix 1) and all the changes are set out in the Statement of Representations appended to this report (Appendix 2). The main change, as per the first bullet point in paragraph 3.1 is for the Kilnwood Vale strategic site to be zero rated; a change which is supported by the independent expert view of viability consultants Dixon Searle Partnerships, as set out in the statement attached at Appendix 3. This is because it already has a Section 106 agreement which is delivering the required infrastructure that is necessary to deliver this development and was not therefore intended to attract CIL payments. This proposed change is to ensure that the delivery of this key strategic site is not held up if there are any future amendments to the original planning permission. If this site were zero rated for CIL, in the event of them needing new planning permission, which is possible given the extended build-out period of this strategic site, the original section 106 agreement would simply be updated. This is considered to be a more efficient

mechanism than charging CIL and then calculating the necessary discount to the amended section 106 agreement and more importantly, it guarantees the delivery of essential infrastructure.

- 3.4 Whilst the Council resolution on 24 February 2016 approving the Draft Charging Schedule for consultation gave the Cabinet Member for Planning and Development delegated authority to agree minor editorial changes, the change required to address the issue of this strategic site would be more than a minor editorial change. **The rate per square metre charge for CIL in the District would remain unchanged and there would be no change to the amount of CIL collected as a result of the proposed changes.**
- 3.5 All comments and suggested major and minor changes are detailed in the attached Regulation 19 Statement of Representations in Appendix 2.

4 Next Steps

- 4.1 The Proposed Modifications to the CIL Draft Charging Schedule as informed by further advice, to add the Kilnwood Vale site to the CIL Zone 2 on the map to be zero rated for CIL, have now been produced.. These Proposed Modifications and the supporting evidence will be subject to targeted public consultation for a four week period, following which they will be submitted to the Examiner along with any comments received.
- 4.2 The revised Draft Charging Schedule, its supporting documents, including the Proposed Modifications and comments received, and the Regulation 19 Statement of Representations will be submitted for Examination to a CIL Examiner. The Examiner will consider the modifications proposed to the Draft Charging Schedule. There may also be other modifications that arise during the course of the Examination. If the CIL Examiner considers that the Draft Charging Schedule (with any Proposed Modifications) is an appropriate basis for CIL in the district, it will be recommended for adoption.

5 Views of the Planning and Development Policy Development Advisory Group and Outcome of Consultations

- 5.1 The views of the Planning and Development Policy Development Advisory Group have been sought and they endorsed the recommendation that changes should be made to the Draft Charging Schedule to address the concerns of consultees, particularly the issue of the deliverability as reported to this Cabinet meeting. Such changes to the CIL Charging Schedule are in common with a number of other authorities with approved strategic development sites.
- 5.2 The Monitoring Officer and the Director of Corporate Resources have been consulted about the proposed changes and are supportive of these as there is no change to the CIL rate and the overall amount of CIL estimated to be collected would remain unchanged.

6 Other Courses of Action Considered but Rejected

- 6.1 The Council could decide not to address the concerns raised and not put forward any changes. This may lead to an extended or even suspended Examination or, at worse, the CIL Charge being found unsound.

7 Resource Consequences

- 7.1 The adoption of CIL is important to help fund infrastructure needed to support growth in the area. It is considered that the Council has greater control over how and when CIL is spent compared to Section 106 agreements.
- 7.2 Preparation of the Proposed Modifications to the Draft Charging Schedule will be funded within existing budgets, including consultancy support where required.
- 7.3 Although not directly a Horsham District Council financial matter it should be noted that part of the funds raised can be used by local communities to address the impacts of new development in their neighbourhood (essentially 15% of receipts to Parish Councils and 25% where a Neighbourhood Plan is made).
- 7.4 There are no staffing consequences resulting from this decision.

8 Legal Consequences

- 8.1 There are no legal implications of this report.

9 Risk Assessment

- 9.1 There are no risks identified at this stage provided that Proposed Modifications are put forward as part of the Examination and that they are subject to public consultation. There may be a six week period when the decision to adopt the CIL may be judicially reviewed. Once this time has elapsed after the CIL will be fully operative.

10 Other Considerations

- 10.1 There are no Crime & Disorder; Human Rights; Equality & Diversity or Sustainability consequences resulting from this decision.