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| SUBJECT: | <i>Community Infrastructure Levy (CIL) Draft Charging Schedule</i> |
| REPORT OF: | <i>Councillor Peter Martin, Portfolio Holder for Planning & Economic Development, Chiltern District Council</i> <i>Councillor John Read, Portfolio Holder for Planning & Economic Development, South Bucks District Council</i> |
| RESPONSIBLE OFFICER | <i>Cathy Gallagher, Interim Head of Planning & Economic Development</i> |
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| WARD/S AFFECTED | <i>All</i> |

1. Purpose of Report

1.1 To recommend the Community Infrastructure Levy (CIL) Charging Schedules, attached as Appendix 1, are adopted for publication and implementation by Full Council. This follows the successful examination in public which took place on 5 November 2019 and the Examiners report, attached as Appendix 2, which was received on 13 December 2020.

RECOMMENDATIONS

- 1. Cabinet recommends that Council adopts the Charging Schedule and implements the Community Infrastructure Levy on 17 February;**
- 2. Delegates to the Acting Chief Executive in consultation with the Portfolio Holder for Planning and Economic Development the decision on whether to accept an offer of transfer of land in payment or part payment of a CIL liability;**
- 3. Delegates to the Acting Chief Executive in consultation The Portfolio Holder for Planning and Economic Development any decisions required for Parts 7 Application of CIL, Part 8 Administration of CIL, Part 9 Enforcement of CIL and Part 10 Appeals;**
- 4. Delegates to the Acting Chief Executive in consultation with the Portfolio Holder for Planning and Economic Development and the Head of Legal and Democratic Services the decision to take proceedings in relation to any CIL offence; and**
- 5. That these delegations novate to the relevant officers and Portfolio Holders of Buckinghamshire Council.**

2. Reasons for Recommendations:

2.1 The Councils are required to adopt and publish the Community Infrastructure Levy Charging Schedules in order to implement the charge. The Councils need to authorise officers of the Council to ensure that the implementation and of CIL is effective. These delegations will also be required to implement CIL in the former Chiltern and South Bucks Councils' geographies from vesting day for Buckinghamshire Council -1 April 2020.

3. Content of Report

Background

3.1 The Community Infrastructure Levy (CIL) 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 Districts grow sustainably. CIL applies to all development of 100 square metres or more and to all net new homes.

3.2 The CIL Draft Charging Schedule (DCS) consultation ran from 7 June to 23 August 2019 and attracted a total of 50 representations. These were submitted by members of the public, parish councils, charities, developers and public service providers. The representations were summarised by the Councils for the Independent Planning Examiner, Mr Geoff Salter.

The representations can be viewed in ED015 [here](#).

3.3 The Councils, as required by the CIL regulations, also took account of those representations and provided comments to the examiner on whether the Councils considered if any modifications should be made to the DCS. The Councils' officers, in consultation with the Portfolio Holders for Planning and Economic Development, determined that no modifications should be made to the DCS. The representations, summaries, comments and the DCS evidence base were subsequently submitted by the councils to the Examiner through the Programme Officer, Mr Ian Kemp on 20 September 2019.

3.4 The Examiner called an Examination in Public hearing which took place on 5 November 2019. At this hearing the Councils proposed a clarification to the definition of the category 'large sites' within the DCS. On receipt of this the Examiner invited all 50 representors to comment on the clarification. This consultation ran from 11 November to the 25 November 2019 and attracted a total of 5 comments as follows:

- a - Denham Parish Council stated that they had no issue with the clarification but raised a matter on S106 planning obligations which has been forwarded to the appropriate Development Management officers;
- b- Lichfields for Berkeley Homes provided support for the clarification;
- c- Natural England stated that the clarification did not pose any risk or opportunity in relation to their statutory purpose;
- d- Troy Planning and Design for Chalfont St Peter Parish Council which provided some challenges to the concept of zero rating, viability and related matters; and
- e- The Department for Education welcomed the removal of the 4,000 / 40,000 square metre criteria through the clarification but retained their objection to the charge of £35 per square metre for education development.

The representations can be viewed in ED019 a, b, c, d, e [here](#).

- 3.5 Following receipt of these comments the Examiner issued his report on 13 December 2019, attached as Appendix 2, which included agreement for the insertion of the clarification of 'large sites' into the final Charging Schedules. The final Charging Schedules are required to go to the Planning and Economic Development Policy Advisory Groups and Cabinets to seek adoption for implementation by both Councils. The clarification on 'large sites' has been inserted and the DCS has been updated to reflect it will be the 'Charging Schedules' rather than a DCS upon adoption; the Charging Schedules are attached as Appendix 1.

The Charging Schedules

- 3.6 CIL is intended to sit alongside Section 106 planning obligations and other legal agreements in order to fund new infrastructure to support development. CIL and other means of securing developer contributions will operate together, on the basis that, generally, Section 106 agreements would be used to secure new infrastructure that is required to support individual development schemes (including on-site facilities) and CIL would be used to fund new infrastructure that is required to support a number of developments.
- 3.7 The introduction of CIL has been closely aligned to the progress of the Joint Local Plan. In order to justify the introduction of CIL, it is a requirement for the Local Planning Authority to prepare up to date infrastructure evidence. This evidence has been prepared jointly in support of both the CIL and the Local Plan. The progression of the Charging Schedules has been in parallel with the production of the Local Plan and the successful introduction of CIL prior to the Local Plan Examination in Public is sound underpinning evidence for the new National Planning Policy Framework requirements for Local Plan allocations to be considered viable at the Plan making stage.
- 3.8 The benefits of implementing CIL include:

- There is no time limit to spend the Council's proportion of CIL receipts and funds can be deployed with a degree of flexibility in supporting delivery of infrastructure across a wider area than S106 contributions, which are usually tied to site specific mitigation matters;
- Except for certain exemptions, contributions from CIL will be received from all residential schemes, not just those of 10 homes or more;
- A proportion of CIL receipts must be spent within the relevant town or parish where the CIL liable development takes place. In all parishes 15% of CIL receipts will be passed to the relevant town or parish council for them to spend on local infrastructure projects. Where these town or parish councils have a made Neighbourhood Plan, they will receive 25% of relevant CIL receipts.

3.9 Councils are required by government to publish an Annual Funding Statement. This requires the co-operation of town and parish councils because the statement declares how much money has been received, how much has been spent and what item of infrastructure it has been spent on. In terms of town and parish council receipts these need to be spent within 5 years of receipt or the levy proceeds will need to be returned to the levy collecting authority. The first funding statement will be due in December 2020 and will be the responsibility of Buckinghamshire Council as the levy collecting authority to produce.

3.10 CIL receipts can be spent on strategic infrastructure and local infrastructure. In addition, the district councils can retain up to 5% of the levy received to fund and meet the establishment costs and on-going administration of CIL. It is unlikely that the Councils will receive significant levy receipts in first few years of operation, this is not un-typical, the funds will grow over time to be used, for example, to deliver or match fund capital projects.

Instalment Policy and Payment in Kind Policy

3.11 The CIL liability will be confirmed when planning permission is granted. Therefore, sites that already have the benefit of planning permission, both Outline and Full, will not be liable to pay CIL. The trigger for payment is within sixty days of the commencement of development, however if agreed by the Council payments can be made through instalments. The Councils *CIL Payments Installments* policy is set out in Appendix 4 of the Charging Schedules. The Councils *Payments in Kind* policy is set out in paragraph 4.4.4 of the Charging Schedules.

4. Options

4.1 The adoption of CIL by the Council will enable developments that currently do not pay an infrastructure contribution, to be subject to a CIL charge.

4.2 The alternative option is not to introduce CIL, which will forego this source of infrastructure funding.

5. Corporate Implications

5.1 Financial

Once CIL is adopted and introduced by the Council it will lead to developments needing to pay a sum of money equivalent to their CIL liability, which can be used to support infrastructure investment across the area. The CIL Regulations also allow 5% of CIL receipts to be used by the Council to recover CIL establishment costs and ongoing administrative costs, once implemented.

5.2 Legal

5.2.1 The introduction of CIL is a prescribed statutory process, so must be developed and implemented in accordance with the Government's CIL Regulations. There are rights of appeal against the Councils decisions in relation to CIL Charges to the Valuation Office Agency and to the Planning Inspectorate regarding surcharges.

5.2.2 The decision to adopt CIL would vest in and transfer to Buckinghamshire Council on vesting day and CIL would continue to be administered by Buckinghamshire Council in accordance with the CS. The new Council's Constitution would make provision for the relevant Officer decision making powers.

5.3 And where appropriate: Crime and Disorder, Environmental Issues, ICT, Partnership, Procurement, Social Inclusion, Sustainability

After adoption and when enough funds have been collected, CIL receipts can be used to fund a range of infrastructure requirements in accordance with the Councils' priorities, including community cohesion, health and wellbeing, environmental improvements and sustainability.

8. Links to Council Policy Objectives

8.1 The introduction of CIL will contribute to the achievement of Chiltern and South Bucks Councils' business plan for 2019/2020, by providing resources to help conserve the environment and promote sustainable economic growth.

9. Next Steps

9.1 If the recommendations are agreed by Cabinet, adoption and implementation of CIL will be considered by Full Council.

**Chiltern & South Bucks Councils
Cabinet**

Meeting Dates:
**7 January 2020
& 10 January 2020**

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| Background Papers: | <u>Appendices</u> 1) CIL Charging Schedule. 2) Examiners Report |
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