

Cabinet Report

Report of Head of Planning

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Wards affected: All

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To: Cabinet

Date: 1 October 2021

Community Infrastructure Levy (CIL) Charging Schedule – Adoption

Recommendations

To recommend Council to:

- (a) Adopt the Community Infrastructure Levy (CIL) Charging Schedule (at Appendix 2) and the CIL Instalments Policy (at Appendix 3), with an implementation date of 01 November 2021.
- (b) Delegate to the Head of Planning, in consultation with the Cabinet Member for Corporate Services and Transformation, any necessary further minor changes to the documents or a change to the implementation date for the new CIL rates.

Purpose of Report

1. To consider the Examiner's report and recommendations, following the independent Examination of the Community Infrastructure Levy (CIL) Charging Schedule, including the Examiner's required modification to the Schedule.
2. To consider the CIL Charging Schedule (as amended) and the accompanying Instalment Policy for adoption by Council on 6 October 2021.

Corporate Objectives

3. Under Theme 1 (Providing the Homes People Need) of the Vale Corporate Plan 2020 to 2024, developing a Section 106 obligations strategy and updating the council's CIL procedures are listed as actions to achieve the corporate objectives of adopting a

policy framework that ensures the homes people need can be delivered in a way that supports the environment and people living healthy lives.

Background

4. Funding for the infrastructure necessary to support new development across the District can be sought in a variety of ways. The council currently utilises the following main mechanisms for securing infrastructure contributions from developers:
 - Community Infrastructure Levy (CIL)
 - Section 106 planning obligations (S106)
5. Following the adoption of Part 1 of the Local Plan 2031 in December 2016, the council adopted its current CIL Charging Schedule and Developer Contributions SPD in September 2017, with the commencement of CIL in November 2017. The council subsequently adopted Part 2 of the Local Plan 2031 in October 2019, which included new site allocations and additional infrastructure requirements. There have also been changes to the Community Infrastructure Levy Regulations¹, including:
 - the removal of pooling restrictions for S106 obligations (i.e. the now cancelled requirement that no more than five S106 obligations can fund a single infrastructure project);
 - removing the need for a Regulation 123 list (i.e. a list of infrastructure projects to be funded by CIL as opposed to S106); and
 - introducing a new requirement to produce an annual Infrastructure Funding Statement.
6. Furthermore, it is evident that the 2017 CIL rates are not generating sufficient funds to help deliver the necessary infrastructure to support planned development. In particular, funding for education is falling short and it is now proposed, in the main, to secure education through S106.
7. In light of all the above, the council considered it was necessary to conduct a review of both the CIL Charging Schedule and Developer Contributions SPD. The CIL review has been carried out in accordance with the CIL Regulations 2010 (as amended) and a draft version of the Charging Schedule together with associated viability evidence, was approved by Cabinet for public consultation on 18 Dec 2020. The review of the Developer Contributions SPD has been completed and is the subject of a separate report which Cabinet will consider for adoption on 1 October.

Consultation and Independent Examination of the Draft Charging Schedule

8. Public consultation was carried out between 12 January and 8 February 2021. The council subsequently considered all the representations received and produced a Statement of Representations document, which provided a summary of the main issues raised by the 31 respondents and detailed the council's response on each of these issues. It also set out modifications to the Draft Charging Schedule. On 19 March 2021, the council formally submitted the Draft CIL Charging Schedule March 2021 (Submission Version, as modified) and associated evidence documents for

¹ The Community Infrastructure Levy Regulations 2010, as amended by the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019.

independent Examination. Anyone wishing to comment on the modifications was, in accordance with the Regulations, given from 19 March to 16 April 2021 to do so. Only one response was received, which just acknowledged notification, with no comments made.

9. Mr Keith Holland BA (Hons) DipTP MRTPI ARICS conducted a virtual hearing session on Thursday 27 May 2021, which followed an agenda circulated prior to the meeting. The virtual hearing was live streamed via the council's YouTube channel, to enable anyone interested to follow proceedings online.
10. The Examiner issued his report with recommendations to the council on 2 July 2021. His report has now been published on the council's website and can be found at **Appendix 1** to this Cabinet report.
11. In his report, the Examiner seeks answers to four key questions:
 - Q1 – Has the charging authority complied with the legislative requirements set out in the Planning Act and the CIL Regulations, including undertaking an appropriate level of consultation?
 - Q2 - Is the draft charging schedule supported by background documents containing appropriate available evidence?
 - Q3 - Are the proposed rates informed by and consistent with the evidence on viability across the charging authority's area?
 - Q4 - Has evidence been provided that shows the proposed rate or rates would not undermine the deliverability of the plan?
12. Mr Holland considered that the draft charging schedule complied with the CIL Regulations and national planning policy/guidance and that it was supported by detailed evidence of community infrastructure needs, underpinned by a comprehensive viability assessment. He also considered that the evidence used to inform the Charging Schedule was robust, proportionate and appropriate.
13. Overall, Mr Holland concluded that the council had provided sufficient evidence that showed the proposed rates would not threaten delivery of the Local Plan and that the draft Charging Schedule would provide an appropriate basis for the collection of CIL in the District. He therefore recommended that the draft Charging Schedule be approved.
14. The Examiner specified one modification (EM1) to the draft Charging Schedule. This reflects a request from the council to correct paragraph 5.4 and the legend to Figure 1, removing reference to 'Shippon'. In addition, 'Woolton' should read 'Wootton' in paragraph 5.4.
15. The council also asked the Examiner to consider one further modification to Table 1, to clarify that schemes of between 6 and 9 dwellings in the Area of Outstanding Natural Beauty will be charged as major development, '*where affordable housing contributions are provided*'. The Examiner included this modification as EM2 in his final report. The CIL Charging Schedule (**Appendix 2**) has been updated to incorporate these required modifications, which are simply minor corrections.

16. In light of the above, Officers recommend that the CIL Charging Schedule, as modified, is considered for adoption by Council on 6 October 2021.

CIL Instalments Policy

17. National Planning Policy Guidance (NPPG) recognises that few, if any, developments generate value until they are complete (either in whole or in phases). Regulation 69B of the CIL Regulations 2010 (as amended) consequently allows charging authorities to introduce a CIL Instalments Policy and gives each authority the freedom to decide the number of payments, the amount and when instalments are due. The council introduced a CIL Instalments Policy in September 2017 alongside the adopted CIL Charging Schedule (2017). Officers consider that administration of this policy has worked well to date and no changes are proposed, except the date of implementation, so that it is clear that the Instalments Policy will be applicable to the revised Charging Schedule, when adopted (see **Appendix 3**).

Implementation of the new CIL Rates

18. Officers consider that an implementation date of 01 November 2021 will be achievable. However, it is recommended that the Head of Planning, in consultation with the Cabinet Member for Corporate Services and Transformation, is given the power to alter this implementation date if necessary.

Options

19. Not updating the CIL Charging Schedule is an option, but this would mean relying on the current 2017 version and the council not being able to increase its CIL rates in order to contribute towards plugging the significant infrastructure funding gap that has been identified in the Vale district.

Climate and ecological impact implications

20. The district council and town or parish councils will be able to use CIL receipts to contribute towards: (i) carbon reduction measures which will help to mitigate the impact that new development and associated infrastructure has on local and global climate change; (ii) improving biodiversity, green spaces and green infrastructure; and (iii) mitigating any air quality, flood prevention and water management impacts arising from new development.

Financial Implications

21. Once adopted and implemented, the CIL Charging Schedule will help the council to secure significant funding towards necessary infrastructure in the district.

Legal Implications

22. The CIL Charging Schedule has been prepared, consulted upon and independently examined under the provisions of the CIL Regulations 2010 (as amended). There are no wider legal implications.

Risks

23. As due process has been followed (as set out in the CIL Regulations 2010, as amended) and the Draft Charging Schedule has been assessed by an independent Examiner, any risk of a legal challenge following the council's adoption and implementation of the Charging Schedule is limited.

Other implications

24. There are no other implications arising from this report.

Conclusion

25. Once the council has adopted the CIL Charging Schedule and the new CIL rates have come into force, it will sit alongside the adopted Vale of White Horse Local Plan 2031 (Parts 1 and 2) and the Developer Contributions Supplementary Planning Document and will help us deliver our development objectives and secure funding towards necessary infrastructure to support planned growth in the District.

Appendices

- Appendix 1 – Examiner's report with recommendations
- Appendix 2 – Vale CIL Charging Schedule
- Appendix 3 – Vale CIL Instalments Policy
- Appendix 4 – Consideration of the Cabinet report and appendices by Scrutiny Committee on 26 July 2021