

**TO: OVERVIEW & SCRUTINY COMMISSION
5 SEPTEMBER 2013**

**COMMUNITY INFRASTRUCTURE LEVY UPDATE
Director of Environment, Culture & Communities**

1. PURPOSE OF REPORT

- 1.1 This report is intended to update Members on the introduction of the Community Infrastructure Levy (CIL) in Bracknell Forest and on possible changes to the CIL Regulations. It also includes a short update on Neighbourhood Plans.

2. RECOMMENDATION

- 2.1 That the Panel notes the comments received during the consultation on the Draft Charging Schedule and the provisional programme for the implementation of CIL in Bracknell Forest.**

3. REASONS FOR RECOMMENDATION(S)

- 3.1 To advise the Panel of progress on the introduction of CIL in Bracknell Forest Borough Local Plan.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The option of not introducing CIL would significantly limit the Council's ability to secure funding for infrastructure as, from April 2014, there will be a restriction on the pooling of Section 106 contributions. Earlier this year the government consulted on changes to the CIL regulations, including delaying the introduction of this restriction for a year, but the changes have yet to be confirmed. It is therefore considered important to continue to work towards the introduction of CIL as rapidly as possible.

5. SUPPORTING INFORMATION

Background

- 5.1 The Community Infrastructure Levy (CIL) is a form of development-related funding for infrastructure. It is based on payments being made by developers on the basis of a tariff charged on each square metre of net additional floorspace. The tariff rates can vary according to land use and the location within the Borough. The rates and any variations between land uses and locations must be justified on the basis that there is a gap in the availability of funding for infrastructure requiring the use of CIL and that the rates set will not make development unviable.
- 5.2 There are a number of statutory stages to be completed before CIL can be introduced. The Council has so far consulted on a Preliminary Draft Charging Schedule (PDCS) and then a Draft Charging Schedule (DCS). The comments

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received on the Draft Charging Schedule have been summarised and are attached at Appendix A.

5.3 The majority of comments were from landowners and developers arguing that the proposed rates are too high and would adversely affect viability and the delivery of development. These comments are being reviewed by the Council's viability consultants before the charging schedule is submitted for examination. A number of the comments related to the supporting documents such as the draft Regulation 123 List (which indicates those items of infrastructure for the Council intends to charge CIL).

5.4 Some of the main points raised in the comments were:

- Concern that the draft regulation 123 list could result in double counting;
- Concern that the benchmark land values are too low;
- Suggestion that BFC's proposed rates are high compared to others in the region;
- Concerns over certain assumptions used in the viability assessments;
- Suggestion that the variation in proposed rates between different zones indicates an ulterior motive in setting rates;
- Requests to make exceptional relief from paying CIL available from the commencement of charging;
- Request to include reference to infrastructure needs of Town / Parish Councils;
- Concern that there is an insufficient viability margin for some sites;
- Concern that CIL would represent a significant increase over current S106 contributions;
- Request for more detail / certainty about how Suitable Alternative Natural Greenspace (SANG) will be delivered;
- Changes should be made to charging zones;
- BFC should state that, where appropriate, land may be accepted in lieu of CIL payment in accordance with the Regulations;
- The proposed differential between small and large retail units is not permitted by the Regulations; and,
- BFC should apply a flat rate levy on all types of development across the Borough.

6. FURTHER STAGES

Submission

6.1 The next formal stage in the process will be to submit the Draft Charging Schedule and a number of supporting documents to the Secretary of State including a summary of the main points raised through consultation on the DCS. It is hoped to submit during September 2013.

Examination

- 6.2 Following submission the Planning Inspectorate will allocate an examiner and set a date for the examination. As a number of respondents to the DCS consultation have indicated that they wish to be heard by the Inspector it is likely that the examination will proceed by way of hearing sessions similar to the Site Allocations Local Plan examination, but is likely to be much shorter in duration. It is hoped that the examination would be held in November.
- 6.3 The examiner will then produce their report which (assuming no procedural errors are found and that legal requirements have been complied with), will then enable the Council to proceed to adopt the charging schedule. The Inspector can find that modifications are required to the charging schedule before it can be adopted which could include changes to proposed charging rates.

Adoption

- 6.3 Once the Inspector's report has been received, and assuming it concludes that the charging schedule is capable of providing an appropriate basis for the collection of the levy in Bracknell Forest a Council decision will then be required to adopt the Schedule. The earliest that this could be secured is likely to be January 2014.

Commencement of Charging

- 6.4 There will need to be a period following adoption of the charging schedule to enable awareness of CIL charging to be raised within the local development industry. Efforts have already been made to engage with developers through consultations on the charging schedule and a presentation to the local developers forum. Further simplified guidance will be produced and distributed before charging commences.
- 6.5 Work commenced on establishing the systems for calculating CIL liability and producing the various notices and forms required to introduce charging. The intention is to use the CIL module available for the Council's existing Uniform Planning and Building Control system to avoid duplication of data entry and ensure CIL information is effectively linked to the relevant planning application. In the run-up to the commencement of charging the system will be thoroughly tested with dummy applications. The current programme allows for the introduction of CIL by the current April 2014 deadline for pooling restrictions.

7. CHANGES IN REGULATIONS

- 7.1 The government consulted on a number of proposed changes to the CIL Regulations in the Spring of 2013. The changes proposed include:
- Extending the deadline up to which authorities may continue to pool section 106 contributions from April 2014 to April 2015;
 - Requiring charging authorities to demonstrate having struck an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy on economic viability of development across its area using relevant evidence;

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- Requiring that a preliminary list of infrastructure for which a charge will be levied (the Regulation 123 List) is published at the same time as the draft charging regime and requiring consultation on changes to the list;
- Creating facility for on and off-site land payments and/or delivery of infrastructure by a developer to be treated as benefits in kind and set off against CIL liability;
- Enabling recalculation of CIL if affordable housing quantum is varied after permission is granted;
- Adjusting the existing time-limited “vacant floorspace test” such that CIL would no longer be chargeable on buildings that are refurbished or redeveloped but only increases in floorspace under any refurbishment or redevelopment schemes;
- Extending the types of affordable housing eligible for relief from CIL to include (at the charging authority’s discretion) discount market housing;
- Extending the circumstances where exceptional circumstances relief may be applied based on CIL making development unviable beyond those developments where the amount payable under a Section 106 is greater than the CIL which would otherwise be payable;
- Introducing relief from CIL for self-build housing; and,
- Introducing transitional reliefs under which the changes proposed would not apply to authorities who have already published draft charging schedules.

7.2 The consultation closed on 28 May 2013 and resulted around 300 responses being made (including by BFC). CLG has indicated that the amended Regulations are expected to be laid in October 2013 and come into force in November 2013.

8. NEIGHBOURHOOD PLANS

8.1 As Members will be aware, a proportion of CIL received must be paid to the Town and Parish Councils. This will be 15% of receipts (subject to a cap) and in areas where a Neighbourhood Plan is in place this rises to 25% (uncapped). At present there are no Neighbourhood Plans in place and no requests have been received by the Council designate Neighbourhood Plan areas (this is the first step in the process of getting a Neighbourhood Plan in place).

8.2 Officers have had discussions with certain Town/Parish Councils and will continue to provide advice and respond to any requests for support or information as appropriate. Officers will also be giving a presentation on Neighbourhood Planning and CIL to the October meeting of the Town & Parish Council liaison group.

Background Papers

Bracknell Forest Borough Draft Charging Schedule:

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