



AGENDA ITEM:

**EXECUTIVE OVERVIEW & SCRUTINY
COMMITTEE: 24 February 2022**

CABINET: 8 March 2022

Report of: Corporate Director of Place and Community

Relevant Portfolio Holder: Councillor Gaynar Owen

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**SUBJECT: REVIEW OF THE COMMUNITY INFRASTRUCTURE LEVY (CIL)
CHARGING SCHEDULE**

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To seek approval for officers to commence work on a review of the Community Infrastructure Levy (CIL) Charging Schedule.

**2.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW & SCRUTINY
COMMITTEE**

2.1 That the Committee consider the content of this report and that the agreed comments of Executive Overview and Scrutiny Committee be passed to Cabinet for their consideration.

3.0 RECOMMENDATION TO CABINET

3.1 That Cabinet, having regard to the contents of this report and to the agreed comments of Executive Overview and Scrutiny Committee, give approval for officers to commence work on a review of the West Lancashire Community Infrastructure Levy Charging Schedule.

4.0 BACKGROUND

- 4.1 Almost all development in the Borough either benefits from infrastructure or influences the need for infrastructure, services and amenities. It is only fair, therefore, that new development should contribute towards the cost of the infrastructure that it uses / its occupants use, and that some of the financial gain arising from the granting of planning permission should be shared with the communities affected by that development. Requiring contributions from new development can thereby help fund some of the infrastructure needed to make growth sustainable. These 'developer contributions' typically take the form of Planning Obligations (or 'Section 106 Agreements') and / or the Community Infrastructure Levy.
- 4.2 The Community Infrastructure Levy (CIL) is a planning charge, introduced by the Government through the Planning Act 2008, to help local authorities in England and Wales fund the delivery of infrastructure to support the development of their areas. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010 (as amended). CIL was designed to give developers greater certainty about what monies they will be expected to contribute, and to enable Councils to use the resulting revenue on infrastructure to support sustainable communities. Charging is made possible through the production and adoption of a CIL Charging Schedule, which sets out the charges for the local authority area. These charges can be based on development type, location and size.
- 4.3 When deciding the Levy rates, a local authority must strike an appropriate balance between the additional investment needed to support new development and the potential effect of the Levy on the viability of developments. This balance is at the centre of the charge-setting process. The process for preparing a Charging Schedule is similar to the process for preparing relevant plans and ideally should support strategic thinking – linking the use of the Levy to planning for new development (i.e. the Local Plan).
- 4.4 The CIL Regulations prescribe the requirements and stages to introduce a CIL Charging Schedule. These involve a series of formalised processes, including collection of a range of evidence, community consultation for at least 4 weeks on a draft Charging Schedule, and an Examination in Public undertaken by a Government-appointed Planning Inspector. Subject to a favourable recommendation by the Inspector, and following adoption by the Council, the CIL Charging Schedule then becomes a standard charge, consistently applied to qualifying new development, with no negotiation permitted between the Local Authority and developer to reduce the charge.

The 2014 West Lancashire CIL Charging Schedule

- 4.5 The Council originally agreed to pursue the introduction of a CIL charge in 2011; viability evidence was procured in 2012; a Charging Schedule was developed (prepared, consulted upon, and submitted) in 2013; and a public examination and adoption of the Schedule by the Council took place in 2014. CIL took effect on all qualifying new developments from 1 September 2014.

- 4.6 Between 1 September 2014 and 31 March 2022, the Council has collected almost £15 million of CIL monies from new developments across the Borough – over half of that stemming from sites allocated in the current Local Plan. As a result, CIL has clearly demonstrated itself to be a financially important tool for supporting the delivery of infrastructure and, with it, the ability of the Council to meet its wider objectives in improving local communities.

Preparing a new CIL Charging Schedule

- 4.7 Charging Schedules should be consistent with, and support the implementation of, up-to-date relevant plans - in this Council's case, the West Lancashire Local Plan. CIL, by its very nature, is inextricably linked to local planning as its very purpose is to help fund infrastructure required to support growth identified within the Local Plan. Whilst Charging Schedules are not formally part of the relevant plan, charging schedules and relevant plans should inform and be generally consistent with each other. Where practical, it is beneficial to undertake infrastructure planning for the purpose of plan-making and setting the Levy at the same time.
- 4.8 This relationship – between the Local Plan and CIL charging rates – is clearly of key relevance as West Lancashire Borough Council continues to progress with a new Local Plan to 2040. CIL charging rates must be carefully and considerately set, based on economic viability testing of different development types in different locations across the Borough so as to understand the level of financial contributions that are viable for each Use Class and location. This viability testing will be significantly influenced by policies within the Local Plan and the financial burdens resulting from the policies.
- 4.9 Since the adoption of the current Local Plan in 2013, there has been a range of changing policy requirements at national level – for example, new requirements for biodiversity net gain and the need to address the climate emergency – and ever-pressing issues to address in local policy, including affordable housing and energy efficiency in new buildings.
- 4.10 All of these competing demands, policy obligations, and financial obligations need to be carefully assessed and balanced to ensure viability. For example, if CIL rates are too high, this may act as a disincentive to developers resulting in less new housing being built, Local Plan housing targets not being met and potential income from the New Homes Bonus being reduced. Viability testing and evidence are key to ensuring CIL rates are set correctly; this will ultimately be tested by the Planning Inspector at the CIL Charging Schedule Examination.
- 4.11 In addition to viability considerations, when setting or reviewing a CIL Charging Schedule, local authorities need to collect an evidence base relating to the infrastructure required to deliver the proposed growth (of the relevant plan). In doing so, the Charging Authority should have regard to the actual and expected cost of infrastructure, other actual or expected sources of funding for infrastructure, and the actual and expected administrative expenses in connection with the Levy. Local authorities must identify what funding is available from existing sources to pay for the required infrastructure and then identify any subsequent 'gaps' in funding that CIL then be anticipated to fill, at least in part.

5.0 CURRENT POSITION

- 5.1 The Council prepared information on infrastructure needs, costs and a funding gap for the current CIL CS, in connection with supporting the current Local Plan, and has continued to maintain a list of required infrastructure schemes and their costs, where known, through the Infrastructure Delivery Schedule (IDS).
- 5.2 As the emerging Local Plan progresses, a new Infrastructure Delivery Plan (IDP) will need to be prepared, as part of the Plan's evidence base, in order to identify the existing infrastructure capacity, opportunities and constraints in relation to the growth proposed in the new Local Plan. As part of that, the IDS will continue to be maintained and updated in relation to all new infrastructure requirements so as to provide evidence of any continuing funding gap.
- 5.3 At Examination, the Charging Authority should use its Infrastructure Funding Statement to set out the projects or types of infrastructure that are proposed to be funded in whole or in part by the Levy. The list of projects or types of infrastructure may already have been examined through a plan examination, in which case the purpose of providing it for the CIL Examination should be only to provide evidence of the infrastructure funding gap, not to re-examine the list.
- 5.6 The details of the timing for the CIL Charging Schedule Examination (i.e. the latter stage of the process) still need to be determined. The Examination could be held alongside the Local Plan Examination, subject to notifying the Secretary of State (in accordance with CIL Regulation 22), or it could be held following an adoption of the Local Plan. This decision is for Senior Officers and Members to make, most likely once departmental reorganisation is confirmed and implemented and staffing resources are determined and in place.
- 5.7 There is also the possibility that, in the future, CIL will adapt into an Infrastructure Levy. Whilst the Planning for the Future White Paper (August 2020) suggests an Infrastructure Levy will be a national obligation on all councils, it is likely that rates will need to continue to be set locally and so any work on viability should not be abortive. Central Government has advised that until such time as it announces details of the new Levy, local authorities should continue to progress CIL review work as under current requirements (the same is the case for Local Plan preparation).
- 5.8 To summarise:
- A CIL Charging Schedule must ensure that a CIL charge is set at the correct level, based on (a) viability evidence which must also consider, reflect and incorporate all other policy requirements, and (b) evidence on infrastructure needs / costs which are necessary to support the growth set by the relevant Plan.
 - As the viability of a CIL charge is inexorably linked to local planning policies, the preparation of a new Local Plan provides an appropriate and timely opportunity to review the CIL Charging Schedule. The principle of undertaking a review of the CIL Charging Schedule alongside the preparation of a new Local Plan is thus established.

- This report therefore seeks Cabinet approval for officers to begin an 'in principle' review of the CIL Charging Schedule, to ensure it can be appropriately considered and viability tested against emerging Local Plan policies and growth / infrastructure requirements as the new Plan takes shape. However, the programming details of the CIL Charging Schedule review (in particular the timing of the Examination) will need to be determined in future once resources are confirmed. These details can be then reported to / agreed by Members at that time.

6.0 SUSTAINABILITY IMPLICATIONS

- 6.1 There are no direct implications for sustainability from the recommendations in this report. Ultimately, setting an appropriate CIL charge(s) should help deliver sustainable development in West Lancashire.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 The new Local Plan will be produced by the Council's Strategic Planning, Regeneration & Implementation Team (or its successor following the planned Council reorganisation). A review of the CIL Charging Schedule will require a robust viability study to be prepared by suitably qualified consultants; it will also require an Examination in Public (both at cost to the Council). Input from various sections of the Council (as well as external stakeholders and partners) will also be needed.
- 7.2 The costs of preparing a review of the CIL Charging Schedule will be covered by existing general revenue budgets.

8.0 RISK ASSESSMENT

- 8.1 A new CIL Charging Schedule will ultimately be subject to an Examination in Public to ensure that all the correct procedures have been followed in preparing the document. The Examination will also assess whether the document can be considered "reasonable" or not. In the event that the Council elects not to pursue a review of the CIL CS, there is a risk that CIL rates will be set at an inappropriate level with the effect of limiting the amount of infrastructure that may be funded and delivered in the future through development, with subsequent impacts on the sustainability of the Borough's communities. Failing to have appropriately-set CIL rates could also impact on development viability and hamper the Council's ability to deliver its housing requirements. By commencing a review of the CIL Charging Schedule at this point, the above risks can be minimised.

9.0 HEALTH AND WELLBEING IMPLICATIONS

- 9.1 There are no direct implications for health and wellbeing from the recommendations in this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

This report does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

Appendices

None.