

**North Tyneside Council
Report to Phil Scott, Head of Housing,
Environment and Leisure
Date: 4 April 2018**

**Title: Submission of Draft
Community Infrastructure Levy
Charging Schedule and proposed
modifications for examination**

Portfolio: Housing and Transport

**Cabinet Member: Councillor John
Harrison**

Report from Service Area: Environment, Housing and Leisure

**Responsible Officer: Phil Scott – Head of Environment,
Housing and Leisure** **Tel: (0191) 643 7295**

Wards affected: All Wards

PART 1

1.1 Executive Summary:

CIL is a charge that can be levied against development to support the provision of infrastructure. Cabinet on 14th August 2017 approved for consultation a Community Infrastructure Levy (CIL) Draft Charging Schedule, the second and final phase of consultation following publication of a Preliminary Draft Charging Schedule in February 2017. At its meeting on 14 August 2017 Cabinet also agreed that following consultation the Head of Environment, Housing and Leisure would have delegated power to make modifications to the CIL Draft Charging Schedule and submit the modifications and draft charging schedule for examination.

Following consultation a number of comments were received and a range of proposed modifications has been identified. The Authority now needs to agree those modifications and submit the CIL Draft Charging Schedule to the Planning Inspectorate for examination.

In addition the Authority needs to review its priorities for infrastructure delivery and the specific infrastructure that would be funded by monies raised through CIL.

1.2 Recommendations:

It is recommended that:

- (1) the proposed modifications to the Community Infrastructure Levy Draft Charging Schedule, 2017 are agreed; and
- (2) the Community Infrastructure Levy Draft Charging Schedule 2017 and proposed modifications are submitted to the Planning Inspectorate for Examination.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 4 December 2017.

1.4 Council Plan and Policy Framework

The Local Development Scheme sets out the timetable for the production of the Authority's Local Plan and its other supporting documents including the Community Infrastructure Levy. Collectively, these are key mechanisms to delivering a number of the objectives of the "Our North Tyneside Plan", including:

- Our people will be listened to, and involved by responsive, enabling services;
- Our places will be great places to live, and attract others to visit or work here;
- Our economy will grow by building on our strengths and having the right skills and conditions to support investment; and
- Our partners include police, fire and rescue, NHS, the voluntary sector, schools and businesses.

A further range of adopted policy documents and strategies highlight key principles that should drive the Authority's approach to infrastructure delivery. The strategic context establishes in particular commitment to sustainable growth to meet the needs of the Borough and region; enhancement of our environment; support for active lifestyles, health and wellbeing; and delivery of high quality and affordable housing. This strategic context includes:

- The North Tyneside Local Plan 2017
- Housing Strategy 2016 to 2021 'A Great Place to Live'
- Transport Strategy 2017 to 2032 'North Tyneside on the Move'
- The Joint Strategic Needs Assessment
- Joint Health and Wellbeing Strategy
- The North East Strategic Economic Plan (SEP)
- Authority Investment Plan

1.5 Information

1.5.1 Background

1.5.2 At its meeting of 14 August 2017 Cabinet considered the Community Infrastructure Levy (CIL) Draft Charging Schedule and agreed a number of delegations to Officers to enable agreement of possible modifications and allow CIL to be submitted for examination. In full this delegation stated:

- (1) *authorise the Head of Environment, Housing and Leisure in consultation with the Cabinet Member for Housing and Transport, the Cabinet Member for Finance and Resources, the Deputy Mayor and the Head of Law and Governance to:*
- i) make additional (minor) modifications to the Community Infrastructure Levy Draft Charging Schedule following formal consultation,*
 - ii) submit the Community Infrastructure Levy Draft Charging Schedule with additional modifications to the Secretary of State,*
 - iii) make any further additional and major modifications necessary to the Community Infrastructure Levy Draft Charging Schedule during its examination, and*

iv) undertake required public engagement arising as a result of additional and major modifications if made to the Community Infrastructure Draft Charging Schedule as a result of (3)iii above)

1.5.3 The decisions reported here relate to (4) i) and 4 ii) of the above decision.

1.5.4 The proposed modifications

1.5.5 Making modifications to CIL can be proposed by the Authority for a number of reasons including:

- In response to objections from respondents to the previous consultation and during the Public Examination (including from the Inspector);
- To respond to new or emerging evidence, changes to national legislation and policy;
- To update key data on matters like development viability, and
- To correct typographical errors or errors with images and maps.

1.5.6 The proposed minor modifications proposed in this report are considered necessary to improve clarity or understanding of the document and to respond to comments received. The proposed “Schedule of modifications” is set out at Appendix 1. The comments received as part of consultation on the CIL Draft Charging Schedule and officer responses are set out at Appendix 2.

1.5.7 Consideration of minor modifications

1.5.8 The consultation to establish proposed minor modifications to the CIL, determined by the decision of Cabinet on 14 August 2017, took place through communication in December 2017 and January 2018 and at a meeting on 13 February 2018 attended by the Cabinet Member for Housing and Transport, the Deputy Mayor, the Cabinet Member for Finance, the Head of Environment, Housing and Leisure, and the relevant officers representing the Head of Law and Governance and the Head of Finance.

1.5.9 At this meeting attendees discussed the reasoning and merits for making each proposed minor modification and agreed their proposed inclusion as part of the documents to be submitted for examination. An outline of the proposed modifications was distributed to the above consultees on 2 January 2018. A draft proposed schedule of modifications was distributed on 15 January 2018 with a further update distributed on 13 February. Following discussion at the Local Plan Steering Group Meeting of 13 February 2018, a final proposed schedule of modifications was distributed on 16 February to all members of the Local Plan Steering Group. Following the Local Plan Steering Group meeting of 19 March 2018 agreement for submission of the Community Infrastructure Levy and proposed modifications was confirmed.

1.5.10 The next steps

1.5.11 Following agreement of the proposed modifications the Draft Charging Schedule and the proposed modifications will be submitted by the Authority to the Planning Inspectorate for examination. An independent Inspector will be appointed to carry out an examination in public upon the proposed CIL charge. Following this examination and receipt of a positive report from the Inspector the Authority would be in a position to adopt the proposed CIL. The Planning Act 2008 establishes that the Local Planning Authority is the decision maker in establishing the CIL Charge. The proposed CIL will therefore be referred by Cabinet to Full Council for adoption.

1.5.12 Table 2 sets out the anticipated key stages in preparation of the CIL. As a result of the nature of responses to the CIL Draft Charging Schedule and the addition of the step to obtain final approval for adoption of CIL by Full Council the estimated timetable to adoption of CIL has been extended from March 2018, as reported to Cabinet in August 2017, to July 2018.

Table 1: Community Infrastructure Levy Programme

April 2018 Submission to the Planning Inspectorate for examination	Following public consultation and review of proposed Charging Schedule, submission to the Planning Inspectorate for examination.
April 2018 to September 2018 Examination and Adoption	Examination programme and receipt of Inspector's Report dependent upon Planning Inspectorate. Cabinet to agree the proposed final CIL Charging Schedule and refer the CIL to Full Council for adoption.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

To agree with the recommendations as set out at paragraph 1.2 of this Officer Delegated Power report.

Option 2

To agree in part to the recommendations in paragraph 1.2 of this Officer Delegated Power report subject to amendment to the proposed modifications schedule or proposed submission to the Planning Inspectorate.

Option 3

To reject the recommendations set out at paragraph 1.2 of this Officer Delegated Power report.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

- i) The development of a CIL Charging Schedule would enable the Authority to ensure that new development contributes proportionately to strategic infrastructure provision.
- ii) The charging schedule set out with proposed modifications is set at a level that reflects the priority infrastructure the Authority can best deliver via the mechanism of CIL payments and has been tested as economically viable through the North Tyneside Area Wide Viability Assessment. The assessment is prepared in accordance with the national planning guidance provided by CLG and RICS guidance. The core assessment is based upon a development appraisal model developed by the HCA – now Homes England. The robustness of the Viability Appraisal has previously been subject to scrutiny in terms of its robustness by the independent planning inspector through examination of the Local Plan and will be scrutinised by an independent Planning Inspector during examination of the CIL.

- iii) Changes to the role of s106s now limit the pooling of contributions for the infrastructure needed to support new development making introduction of a suitable CIL Charging Schedule vital to infrastructure delivery.
- iv) Without the introduction of CIL it will only be possible to pool a maximum of five s106 planning contributions for an item or type of infrastructure, thus reducing the Authority's ability to ensure that new development contributes proportionately to infrastructure provision. Without CIL we miss the opportunity to collect contributions and provide benefits to these areas.

1.8 Appendices:

Appendix 1: Proposed schedule of modifications to the CIL Draft Charging Schedule, January 2018

Appendix 2: CIL Draft Charging Schedule Comment and Response Schedule, January 2018

1.9 Contact officers:

Jackie Palmer, Planning Manager (0191 643 6336)
 Martin Craddock, Principal Planning Officer (0191 643 6329)
 Peter Slegg, Senior Planning Officer (0191 643 6308)
 Colin Macdonald, Regulatory Services Manager (0191 643 6620)
 Alison Campbell, Senior Business Partner (0191 643 7038)

1.10 Background information:

The following background information has been used in the compilation of this report and is available at the office of the author:

1. The Town and Country Planning Act, 1990
2. [Planning and Compulsory Purchase Act 2004.](#)
3. [Planning Act 2008.](#)
4. [Localism Act 2011](#)
5. [Town & Country Planning \(Local Planning\)\(England\) Regulations 2012.](#)
6. [The Community Infrastructure Levy Regulations 2010 \(as amended\)](#)
7. [The North Tyneside Local Development Scheme Cabinet Report \(October 2016\)](#)
8. [North Tyneside Local Plan Pre-Submission Draft \(2015\)](#)
9. [Community Infrastructure Levy: Preliminary Draft Charging Schedule Cabinet \(February 2017\)](#)
10. North Tyneside Draft Charging Schedule, February 2017
11. [Infrastructure Delivery Plan, Update 2017 and Infrastructure Delivery Schedule](#)
12. [North Tyneside Area Wide Viability Assessment](#)
13. [Publication of Draft Community Infrastructure Levy Charging Schedule and Draft Planning Obligations Supplementary Planning Document](#), Cabinet Report August 2017

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The staff, printing and other costs for consultation on the Draft Charging Schedule and undertaking examination on CIL will be met from within the existing Authority budgets.

The examination process will result in additional costs including appointment of an independent Planning Inspector. Provision was made for this as part of the 2016-17 Final Accounts.

Introduction of CIL is not expected to have an impact upon the overall financial position of the Authority as the primary outcome is expected to be an adjustment in the collection of planning gain in terms of use of s106 and CIL in parallel. The collection of developer contributions will provide capital income to the Authority to support investment in infrastructure that would be available in addition to the annual budget and investment plan.

2.2 Legal

The power to charge the CIL is contained within Part 11 (Section 205-225) of the Planning Act 2008 ("the Act") and the Community Infrastructure Levy Regulations 2010 (as amended) ("the CIL Regulations"). The CIL is defined as an imposition of a charge, with the aim that the CIL is to ensure costs incurred supporting the development of an area can be funded (wholly or partly) by owners or developers of land in a way that does not make development of the area economically unviable (Section 205(1) and (2) of the Act). Subject to certain exceptions, the CIL must be applied to supporting the development of the Authority's area by funding the provision, improvement, replacement, operation or maintenance of infrastructure (which may include infrastructure outside its area).

The use of s106 agreements, guided by a Planning Obligations SPD, is originally established in Section 106 of the Town and Country Planning Act 1990. S106 agreements are tied to mitigating the direct impacts of the specific development and must be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The Local Plan and its supporting documents forms part of the Authority's Policy Framework and is required to be formulated and progressed in compliance with the requirements of the Policy Framework Procedure Rules at section 4.7 of the Authority's Constitution. The CIL and Planning Obligations SPD do not form part of the Local Plan and therefore does not require approval in accordance with the Policy Framework Procedure and can be agreed by Cabinet.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Policy direction has been taken from the Mayor and Cabinet on the preparation of CIL and the Infrastructure Schedule. Engagement has been undertaken with the Local Plan Steering Group (which includes the Deputy Mayor and Cabinet Member for Housing and Transport) for both the need for the CIL, the proposed timetable for taking it forward and the proposed modifications. The Planning Team have also held internal consultation with a range of officers currently engaged in collecting and spending s106 monies within the Authority such as in the Education and Highways teams to obtain views on the impact of collecting funds via s106 and the CIL.

2.3.2 External Consultation/Engagement

At this time only Newcastle City Council and Gateshead Council have an adopted CIL (November 2016) in the North East. Through the on-going duty to cooperate requirements, this Authority has and will continue to liaise with these authorities to ensure consistency in approach and implementation.

Consultation pursuant to Regulation 15 of the CIL Regulations 2010 was undertaken between February and April 2017 on the CIL Preliminary Draft Charging Schedule (PDCS). Under that Regulation, the Authority must send a copy of the PDCS and invite representations from each of the consultation bodies (local planning authorities whose area is in or adjoins the Authority area and Parish Councils in the Authority's area). The Authority must also invite representations on the PDCS from persons who are resident or carrying on business in its area and as the Authority considers appropriate from voluntary bodies (some or all of whose activities benefit the Authority's area) and bodies which represent the interests of persons carrying on business in the Authority's area. The Authority received 9 responses and a schedule of comments received is included as an Appendix with this report.

Publication of the Draft Charging Schedule was agreed by Cabinet in August 2017 and the consultation period extended between August and October 2017. Consultation on the Draft Charging Schedule was subject to the same provisions as those undertaken for the Preliminary Draft Charging Schedule. All representation received at this stage are submitted for examination alongside the Authority's submitted Draft Charging Schedule.

2.4 Human rights

There are no human rights implications directly arising from this report.

2.5 Equalities and diversity

There are no direct implications arising from this report.

2.6 Risk management

The risks associated with the preparation and engagement on the Local Plan have previously been assessed. The risks identified have been added to the relevant risk register. They are being managed using the Authority's risk management process.

Failure to develop a CIL Charging Schedule would reduce the Authority's ability to ensure that new development contributes proportionately to infrastructure provision. Failure to adopt a CIL would mean that the Borough would be missing the opportunity to collect contributions and provide benefits to these areas. This would be further curtailed by the limitations associated with the pooling of s106s for the infrastructure needed to support new development.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report.

PART 3 - SIGN OFF

- Deputy Chief Executive ☒
- Head of Service ☒
- Mayor/Cabinet Member(s) ☒

- Chief Finance Officer ☒
- Monitoring Officer ☒
- Head of Corporate Strategy ☒