

SUSTAINABLE GROWTH AND ENVIRONMENT CAPITAL SCRUTINY COMMITTEE	Agenda Item No. 7
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Report of the Executive Director of Operations

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PETERBOROUGH ‘COMMUNITY INFRASTRUCTURE LEVY (CIL) – PRELIMINARY DRAFT CHARGING SCHEDULE (PDCS)’ AND INFRASTRUCTURE DELIVERY SCHEDULE (IDS)

1. PURPOSE

- 1.1 This report is submitted to this Committee for information and comment. The purpose of the report is to draw attention to important proposed changes to the way in which we collect and administer Developer Contributions in the light of recent statutory and regulatory changes instigated at the national scale.

2. RECOMMENDATIONS

- 2.1 The Committee is invited to provide comment in relation to the proposals set out in this document.

3. LINKS TO THE SUSTAINABLE COMMUNITY STRATEGY

- 3.1 The CIL and associated matters cut across all four priorities of the SCS. Without infrastructure, or the funds to deliver infrastructure, none of the priorities could be achieved.

4. BACKGROUND

- 4.1 A number of changes to the way Local Authorities can collect and distribute Developer Contributions have and are being implemented. These changes are being driven by Legislative and Statutory changes at the national level. In order to continue to secure Developer Contributions for investment in infrastructure, considered critical to accommodate our growth targets and maintain sustainable communities, we need to make changes to our existing systems and processes. The main thrust of these changes is through the adoption of a Community Infrastructure Levy which, once consulted upon, approved through independent examination and adopted by Council, will replace the current Planning Obligations Implementation Scheme (POIS). This report sets out proposals, for comment, to adopt a CIL and various associated documents, processes and mechanisms for collecting and administering Developer Contributions going forwards.

5. KEY ISSUES

5.1 CIL

The CIL is a new nationally based optional approach to securing developer contributions (financial or in-kind contributions e.g. land) which, if adopted by the city council, will largely be replacing the current S106/POIS tariff-based system which will become unworkable for funding the majority of large infrastructure projects from April 2014 due to recently introduced legal limitations on the use of planning obligations¹, and the 'pooling' of contributions in particular.

It is important to note at this stage that CIL will not be a radical new initiative in Peterborough. It is very similar to the existing POIS system we have successfully had in place in Peterborough for the past few years, i.e. a 'levy' placed on development, a similar set of '£' rates, and a similar proposed spending arrangement. It is not therefore anticipated to cause undue concern by the vast majority of developers and investors in the city.

Cabinet endorsed work to research into the potential for adopting a CIL on 8 February 2010. In order to set a CIL in Peterborough we need to consult on and ultimately adopt a CIL Charging Schedule. In order to be in a position to do this we have commissioned consultants (Roger Tym and Partners) to undertake a development viability study² and we have undertaken work internally to refresh and update our approach to Infrastructure Planning. This latter work is required to both demonstrate we have a valid need for developer contributions towards infrastructure to support growth and that we have a realistic idea of what infrastructure is necessary to accommodate this growth.

There are a number of important points to note about the CIL:

- First, from April 2014 it will be unlawful for Local Authorities to pool contributions from more than 5 planning obligations secured via Section 106 agreements for funding any single infrastructure project. In effect, this makes our current S106/POIS tariff-based system unlawful from April 2014 and a CIL will become the only available mechanism to pool funds.
- Second, the setting of a CIL charge for development must be based on viability grounds (and backed up by the demonstration of an infrastructure funding gap) as opposed to being used as a policy mechanism i.e. you can not set artificially low rates in order to attract development, nor too high if this would make the majority or specific types of development unviable.
- Third, differential rates can be set by geographical zone, by land use, or by both. Zero rates can also be set where viability evidence shows that development across the area would be unviable because of the imposition of a charge. The statutory guidance is clear that Charging Authorities should avoid 'undue complexity' when setting rates and should seek to achieve an 'appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development'³.
- Fourth, the drivers for seeking contributions are:
 - to mitigate for additional pressures placed on existing infrastructure;
 - to help fund infrastructure needs arising from development;
 - to ensure infrastructure is in place to attract private investment in Peterborough; and
 - to help ensure we deliver sustainable communities.

¹ Regulations 122 and 123 of the CIL Regulations 2010.

² Peterborough City Council Community Infrastructure Levy Study, Roger Tym and Partners, May 2012.

³ DCLG (March 2010) *CIL Charge Setting and Charging Schedule Procedures* (10)

- Fifth, if adopted, the levy will become a fixed, non-negotiable charge placed on all applicable development.
- Sixth, money collected through a CIL is not as limited in terms of how it is spent (unlike Section 106). This will provide a simple process which is flexible, predictable and transparent.
- Seventh, three forms of Discretionary Relief are available to Charging Authorities (CAs) in addition to mandatory relief set out in the regulations. These are **Discretionary Charitable Relief**, **Discretionary Relief for Exceptional Circumstances** and the ability to adopt an alternative **Instalments Policy**⁴ than that set out in the original CIL Regulations⁵. Although these elements do not strictly need to be decided upon until after a CIL is adopted, it is considered prudent to set out our intentions as early on in the CIL adoption process as possible and give people an opportunity to comment on them. It is the officers' view that the **Discretionary Charitable Relief** is not included in our policy, because of the complexity and infrequent likely use of such relief, but we do take advantage of the other two forms of relief. Full details are in the Draft Preliminary Draft Charging Schedule.

The proposed charges in Peterborough are set out in Table 1 below:

Table 1: Proposed Preliminary Draft Charging Schedule (PDCS)

Use	CIL charge (per sq m)
Private market houses on:	
(i) Sites where no affordable housing provision is secured via a S106 Planning Obligation	£110
(ii) Sites of up to 799 units where affordable housing provision is secured via a S106 Planning Obligation	£75
(iii) Strategic Development Sites (800 plus residential units)	£30
Apartments or flats with*/without** affordable housing requirement	£10*/£50**
Retail development:	
(a) All Comparison*/Convenience** retail development unless covered by (b) or (c)	£175*/£400**
(b) All retail development within the City Centre Primary Shopping Area	£10
(c) All retail development below 280 sq m (net additional floorspace) within a District or Local Centre	£10
Public/institutional facilities as follows: education, health, community and emergency services	£0
All other chargeable development	£10

The PDCS will, by law, be consulted upon in public before it can be drafted into the 'Draft Charging Schedule (DCS)' (which is also required, by law, to go through a second round of public consultation plus independent examination before being adopted by Full Council).

5.2 **INFRASTRUCTURE DELIVERY SCHEDULE (IDS)**

In order for Charging Authorities (Peterborough City Council in this instance) to justify setting a CIL, they not only need to demonstrate that CIL rates will not make overall development of the area unviable (which is the purpose of the CIL Viability Study⁶), but they also need to demonstrate they have an 'Infrastructure Funding Gap' larger than the amount they anticipate securing through the imposition of a CIL. This provides the 'moral' justification (although it is

⁴ Regulation 69B of the CIL (Amendment) Regulations 2011.

⁵ Regulation 70 of the CIL Regulations 2010.

⁶ Peterborough City Council Community Infrastructure Levy Study, Roger Tym and Partners, May 2012.

also required as part of the evidence base for examination) for seeking contributions from the private development sector to contribute towards infrastructure provision.

In order to demonstrate an **Infrastructure Funding Gap** it is first necessary to demonstrate an understanding of the infrastructure requirements of the area covering the plan period and where the likely sources of funding for these items will come from. This has largely been achieved through the work to adopt the Integrated Development Programme, adopted by Cabinet in 2009, but has required a significant level of updating and refreshing since then.

Once all possible sources of public funding have been identified and quantified, the gap between what can be publicly funded and what is required overall to accommodate the growth planned over the plan period (to 2026) is referred to as the 'gap'.

A schedule of infrastructure projects is provided in Appendix 3, along with their estimated costs and anticipated source/s of funding.

In summary, we are currently able to demonstrate a rough⁷ 'infrastructure funding gap' across all relevant 'Thematic Areas' of approximately £1.5 Billion over the period 2011-2026 which is far in excess of what is required to justify the anticipated CIL revenue income of approximately £70 Million over the same period from implementing the current proposed CIL Charging Schedule.

The Infrastructure Delivery Schedule at Appendix 3 continues to be worked on, with a refined version presented to Cabinet on 24 September. The aim is to have a definitive and robustly evidence based infrastructure delivery schedule prepared in time for public consultation anticipated in October to December 2012. Any infrastructure projects which do not have appropriate justification/evidence base will unfortunately not make it onto the list to be presented for independent examination scheduled for 2013. Ultimately, once CIL is adopted and running, only projects on the schedule will be able to access CIL funds.

It is intended that the Infrastructure Delivery Schedule is refreshed and agreed by Cabinet annually, in summer, in order to keep it up to date, supported by the council and in order to inform the autumn/winter round of corporate financial planning decisions.

5.3 **SPENDING CIL RECEIPTS**

Whilst not required by law to be part of the CIL adoption/consultation process, agreement on how we decide corporately to allocate the CIL funds once they begin to accrue is a crucial part of the governance arrangements relating to the administration of our Infrastructure Delivery Plans/Commitments. Taking forward the current Council agreed 'POIS Split' (Appendix 1) formed the starting point of the options⁸.

A user-friendly guide titled: 'How CIL may work in Peterborough: A Simple Guide' will also be published on the city council website and is provided in Appendix 4 to this report.

Work to prepare a 'split' for the CIL pot was undertaken by the IDS Working Group and the current proposal is as follows:

Table 2: Proposed CIL funding split.

Transport	28%
Education & Skills	38%
Community Infrastructure	9%
Utilities & Services	5%
Emergency Services	5%
Environmental Sustainability	5%
Health & Wellbeing	5%

⁷ It is only a 'rough estimate' as it includes an element of S106 which still needs to be sifted out of the overall figure.

⁸ Note that the 'Infrastructure Type' (POIS) and 'Thematic Areas' (IDS) differ slightly.

'Meaningful Proportion' for neighbourhoods as set out in CAP's	5%
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One of the key changes from the original POIS approach has been the introduction of a 5% contribution to 'neighbourhoods'. This is in keeping with the Localism Act 2011 requirement for a 'meaningful proportion' of CIL funds to be given to local communities.

5.4 **HOW WILL THE 'MEANINGFUL PROPORTION' CONTRIBUTION TO NEIGHBOURHOODS WORK?**

The ability of the council to invest flexibly in services, facilities and resources in our neighbourhoods has been restricted to those areas where tangible growth has attracted a direct planning contribution. This has the effect of benefitting areas of growth over other areas where perhaps growth is less viable. In recent years we have tried to address this through, for example, maximising the delegations to Neighbourhood Committees so that service delivery can be shaped and influenced by communities. However, this goes only so far in tackling some of the more deep-rooted or entrenched issues, spatial or otherwise, where more significant and real investment would have a greater effect.

There is likely to be an opportunity to effectively top-slice CIL contributions by 5% with the specific purpose of forming a flexible fund to invest in communities. Our estimations suggest that this could amount to a figure in the region of £220k per annum. This development coincides with the drafting of our Community Action Plans (CAPs), which set out the social and economic issues in neighbourhoods and begins to suggest actions that address those issues. The plans themselves are overseen by each Neighbourhood Committee but will provide a robust evidence based set of recommendations and actions, and so our proposal is that investment into neighbourhoods from the 5% pot will be made in direct support of these actions. We propose that the pot is managed and allocated as flexibly as possible on both revenue and capital projects, with the overall budget remaining under the control of the Neighbourhood Managers in the same way that the current allocation is of £25k per Neighbourhood Committee.

6. **IMPLICATIONS**

- 6.1 We anticipate that there will be a significant level of district-wide public interest in the proposals being set out in the PDCS, particularly from landowners, businesses and developers. As this is only a preliminary consultation we will be collating all comments and amending the Preliminary Draft Charging Schedule in the light of relevant comments prior to submitting it for independent examination in late 2013. Whilst we anticipate possible debate, particularly around the technical details relating to our viability calculations and assumptions and hence the level at which we set charges for different types of development; we are confident that we have robust evidence to underpin our proposals. The important message to get across is that the sum total of the costs being placed on developers and landowners through this mechanism is not dissimilar to our current POIS which the CIL will be replacing.
- 6.2 **Legal Implications** – The proposed changes have been prepared and will be consulted on in accordance with the regulations and statutory guidance issued by national government. There are legal implications arising from the changes relating to the implementation, monitoring and enforcement of the CIL once adopted and implemented.
- 6.3 **Financial Implications** – There are financial implications in terms of the way we collect, administer and spend CIL receipts.
- 6.4 **Human Resources** – Can be delivered within existing resources but will potentially require additional training and changes to existing work practises.
- 6.5 **Equality & Diversity** – The changes will have a positive impact on our customers and help to ensure continued investment in infrastructure considered critical to maintaining sustainable communities.

7. **CONSULTATION**

- 7.1 The Regulations require a minimum of 6 weeks public consultation on the proposed Preliminary Draft Charging Schedule. Subject to approval at Cabinet on the 24 September, the PDCS will be put out for public consultation towards the end of 2012.
- 7.2 The CIL PDCS and supporting documentation (particularly the Infrastructure Delivery Schedule) have been prepared by working closely with infrastructure providers across the board. This documentation has been considered by a wide range of consultees.
- 7.3 The Rural Scrutiny Commission Panel was also given a high level briefing on the implications of these emerging changes on the 16 July 2012.

8. NEXT STEPS

- 8.1
- 24 September 2012 – Cabinet asked to approve the CIL PDCS for the purpose of public consultation.
 - Autumn/Winter 2012 – 6 weeks public consultation.
 - Spring/Summer 2013 – 4 weeks public consultation on CIL DCS (following internal approvals process similar to that for PDCS).
 - Autumn/Winter 2013 – Independent Examination of the CIL DCS and presentation at the next appropriate Full Council Meeting for formal Adoption once any amendments proposed by the examiner have been addressed.

9. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 9.1
- Community Infrastructure Levy Regulations (2010) and Amendment Regulations (2011), The Stationary Office
 - CIL Charge Setting and Charging Schedule Procedures, DCLG (2010)
 - Peterborough City Council Community Infrastructure Levy Study, Roger Tym and Partners (2012)
 - CIL Relief: Information Document, DCLG (2011)
 - CIL Collection and Enforcement: Information Document, DCLG (2011)
 - Planning Act 2008, The Stationary Office (2008)
 - Localism Act 2011, The Stationary Office (2011)
 - Planning Policy Statement 12: creating strong safe and prosperous communities through local spatial planning, DCLG (2008)
 - National Planning Policy Framework, DCLG (2012)
 - Peterborough Core Strategy, Peterborough City Council (2011)
 - Peterborough Planning Obligations Implementation Scheme SPD (2010)
 - Peterborough Sustainable Community Strategy, GPP (2008)
 - Peterborough Integrated Development Programme, Peterborough City Council (2009)
 - Peterborough Infrastructure Delivery Schedule (2012)
 - Peterborough CIL Preliminary Draft Charging Schedule: Consultation Document, Peterborough City Council (2012).

10. APPENDICES

- 10.1
- Appendix 1: POIS Split (see below).
- 10.2 **Separate PDF documents provided alongside this report:**
- Appendix 2: Peterborough CIL Consultation Document – Incorporating the Preliminary Draft Charging Schedule.
 - Appendix 3: Peterborough Infrastructure Delivery Schedule – Project List (Note: Colour Table).
 - Appendix 4: ‘How CIL may work in Peterborough: A Simple Guide’.