

<b>CABINET</b>	<b>AGENDA ITEM No. 4</b>
<b>30 JUNE 2014</b>	<b>PUBLIC REPORT</b>

Cabinet Member(s) responsible:	Cllr Marco Cereste - Leader of the Council and Cabinet Member for Growth, Strategic Planning, Housing, Economic Development and Business Engagement	
Contact Officer(s):	Simon Machen Director of Growth and Regeneration Gemma Wildman Principal Planning Officer	Tel. 863824

## **PETERBOROUGH COMMUNITY INFRASTRUCTURE LEVY (CIL) – DRAFT CHARGING SCHEDULE**

R E C O M M E N D A T I O N S	
<b>FROM</b> : Director of Growth and Regeneration	<b>Deadline date</b> : Full Council 23 July 2014
<p>1. That Cabinet recommends the Peterborough Community Infrastructure levy (CIL) Draft Charging Schedule to Council for approval for the purposes of public consultation and Submission of Draft Charging Schedule and associated material to Planning Inspectorate for Examination in Public; and</p> <p>2. That Cabinet approve the Infrastructure Delivery Schedule Update 2014 (See Appendix E).</p>	

### **1. ORIGIN OF REPORT**

- 1.1 This report is submitted to Cabinet following approval of a Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS) on 24 September 2012, and following six weeks public consultation and further evidence gathering including viability assessment since that date.

### **2. PURPOSE AND REASON FOR REPORT**

- 2.1 The purpose of this report is to enable Cabinet to consider and recommend to Council the Peterborough Draft Charging Schedule. If it is approved by Council, it will be published for public consultation and then submitted to the Secretary of State who will appoint an independent Planning Inspector to carry out an Examination in Public.
- 2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.1, 'to take collective responsibility for the delivery of all strategic Executive functions within the Council's Major Policy and Budget Framework and lead the Council's overall improvement programmes to deliver excellent services'.

### **3. TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	<b>YES</b>	If Yes, date for relevant Cabinet Meeting	30 June 2014
Date for relevant Council meeting	Full Council 23 July 2014	Date for submission to Government Dept <i>(please specify which Government Dept)</i>	N/A

## 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 (CIL) which, once consulted upon, approved through independent examination and adopted by Council, will replace the current Peterborough Planning Obligations Implementation Scheme (POIS). This report reminds Cabinet about CIL, how it will work, and the timetable for adopting and implementing a CIL before April 2015.

### **COMMUNITY INFRASTRUCTURE LEVY (CIL)**

- 4.2 Before a CIL Charging Schedule is adopted it must go through two formal rounds of consultation, followed by an independent examination. The first round, known as the Preliminary Draft Charging Schedule stage, occurred in Nov/Dec 2012.
- 4.4 The second round, known as the Draft Charging Schedule stage, is proposed for August/September 2014 and precedes an independent examination later in 2014. A successful examination would allow adoption of the Peterborough CIL Charging Schedule by council by April 2015.
- 4.5 April 2015 is a key date. From April 2015 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<sup>1</sup> tariff-based system unlawful from April 2015 and a CIL will become the only available mechanism to pool funds. At the same time as the CIL is adopted in Peterborough, it will be necessary to revoke the existing POIS Supplementary Planning Document.
- 4.6 The CIL Proposed Draft Charging Schedule (Appendix A) sets out '£ rates per sq m' for different development types that are liable to pay the charge (usually all new dwellings and most new floorspace over 100m<sup>2</sup> for buildings which are normally occupied by persons).
- 4.7 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. A supporting viability study has been commissioned which forms the basis of the proposed CIL Charging Schedule rates. CIL cannot be used as a policy mechanism i.e. you cannot: set artificially low rates in order to attract development, or too high rates if this would make the majority or specific types of development unviable.
- 4.8 The Community Infrastructure Levy Regulation 2010 ( as amended) ("the Regulations"), which have been subject to regular amendments over the past few years, now allow for differential rates to be set by geographical zone, by land use, by scale of development or a combination of those approaches (this has not always been the case). 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 proposed Draft Charging Schedule utilises these options. (See Appendix A)
- 4.9 Officers recommend that Discretionary Charitable Relief and Discretionary Relief for Discount Market Sale developments is not included in our policy, because of the complexity and infrequent likely use of such relief.
- 4.10 Officers do recommend that the Council includes the use of Discretionary Relief for Exceptional Circumstances and a local Instalments Policy to help developers spread the cost of CIL liability payment.

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<sup>1</sup> POIS – Peterborough Planning Obligations Implementation Scheme SPD (Feb 2010)

4.11 These recommendations on various optional 'Reliefs' are not unusual or controversial, and are in line with other councils.

4.13 A number of points raised in the first consultation have been considered, leading to recommended changes to the proposed Draft Charging Schedule. The significant recommended changes are:-

- A charge rate of £NIL/sq m for all business development (B1 to B8 uses).

The PDCS rate (previously) was £10/sq m.

*The £10/sq m charge was a cause of concern by a number of representors during the first round of consultation. It also tended to contradict the published viability evidence. This matter has now been addressed and the rate is comparable with neighbouring authorities (see Appendix C).*

- Introduction of three geographical charge zones across Peterborough for residential development. The zones reflect the broadly different residential values across Peterborough, and the significant S106 obligations that will remain for development of strategic sites. It is recommended in total that there should be three different charge rate zones. These are mapped in Appendix B.

*The lack of property value distinction across Peterborough, notably from east to west, was raised and queried by a number of people at the previous round of consultation. The proposed charging zones are more sensitive and reflective of the differences. This is considered to be fair and evidence based.*

- The CIL charge for a typical single three bed house in a small-scale development scheme is likely to range from £12,600 in the higher charge area to £9,000 in the lower charge area. Recognising the increased S106 obligations for developments involving 15 or more dwellings (e.g. affordable homes provision), the rate for a three bed house on a site of 15 or more dwellings is likely to range from £6,300 to £1,350 dependent on location.

This compares with the current city-wide POIS charge of £6,000 for a three bed house.

- The proposed retail charge rates are generally lower than those set out at the earlier stage of consultation (PDCS stage), reflecting latest evidence and best practice nationally.

*The rates proposed in the earlier version were amongst the highest nationally, provoking many related comments. The new rates and types are considered to be more reasonable and appropriate in all respects.*

- The spending of CIL funds

*This topic engaged many persons, even though it is not a matter for the CIL examination process nor adoption. The matter is addressed below.*

4.14 Over the past year, work to fully understand the cost implications of planning policy developer contributions and the likely interaction between S106 planning obligations and CIL has been undertaken. This work was passed to consultants Peter Brett Associates who have re-run the CIL Development Viability Study to determine proposed CIL charge rates for the Draft Charging Schedule. The refreshed CIL Development Viability Study can be viewed at Appendix F.

## **DEVELOPER CONTRIBUTIONS**

- 4.15 The Council expects new development to contribute to site related and other infrastructure needs through a combination of the following mechanisms:-
- Planning **conditions** (Site/development related)
  - Planning **obligations** to secure developer contributions or works in kind e.g. s106 Agreements or Unilateral Undertakings (site/development related)
  - Peterborough Community Infrastructure Levy (**CIL**) (Strategic, local and city wide requirements)
- 4.16 Although CIL will replace some elements of S106 planning obligations, S106 obligations will still play an important on-going site specific role. They will be used for site-specific infrastructure or mitigation required to make a development acceptable in planning terms. The principle is that all eligible developments must pay a CIL as well as any site specific requirement to be secured through S106 obligations.
- 4.17 For clarity and transparency, it is important to identify the relationship between S106 obligations and CIL; and to make clear the circumstances when each will or will not be used. This inevitably involves making choices about which infrastructure types or projects will be funded from S106 obligations or CIL.
- 4.18 The relationship between S106 and CIL will be set out clearly in the Draft Developer Contributions Supplementary Planning Document (SPD) which is currently under preparation. This SPD will be presented to Cabinet on 28 July 2014. If the SPD is approved by Cabinet it will be made available in draft for consultation alongside the CIL Draft Charging Schedule, though it will not be required to pass through an examination. A summary of this relationship is set out in Appendix H.
- 4.19 The SPD will be presented to Planning and Environment Protection Committee on Thursday 8 July and Sustainable Growth and Environment Capital Scrutiny Committee on 17 July 2014.

## **DRAFT CIL REGULATION 123 LIST**

- 4.20 The Regulation 123 List lists all known infrastructure projects or types that could be funded in whole or in part by CIL funds. The relationship between S106 and CIL is also influential in shaping the CIL Regulation 123 List, a list that needs to be made available alongside the CIL Draft Charging Schedule at the time of examination. (See Appendix D).

The most important point to note about the Regulation 123 list is that if an infrastructure type or project is listed as being fundable via CIL, then the Council is not able to fund such infrastructure type or project via S106.

## **VIABILITY AND THE 'FUNDING GAP'**

- 4.21 In order for Charging Authorities (Peterborough City Council in this instance) to justify setting a CIL, they need to demonstrate that CIL rates will not make overall development of the area unviable (which is the purpose of the CIL Development Viability Study); but also demonstrate that they have an '*infrastructure funding gap*'.
- 4.22 The '*infrastructure funding gap*' is calculated by taking into account what infrastructure will be funded by S106 obligations, other available internal and external funding sources and forecast CIL revenue. In simple terms, forecast CIL revenue must not be greater than the costed items in the CIL Regulation 123 List.

## **Forecast CIL Revenue 2015-2031**

- 4.23 Forecast CIL revenue is approximately **£29 million** over the sixteen year period to 2031 (i.e. £1.8 million per annum on average, but this will vary considerably year to year). This figure

assumes that the Great Haddon proposal has permission before the CIL Charging Schedule is adopted. (following the resolution to grant planning permission by Planning Committee).

- 4.24 This forecast income is notably less than the £67 million forecast at the previous draft PDCS stage. This is due to the combined effect of a) generally lower charge rates, b) reducing the charge rate to NIL for commercial development (each on viability study evidence) and c) significant new planning applications having progressed since the PDCS stage, such as the Great Haddon employment area and the Great Haddon urban extension, for which S106 contributions of £3.3million and £75million have been secured and negotiated respectively (and hence will not pay CIL).

### **SPENDING CIL RECEIPTS**

- 4.25 The updated CIL Regulations in 2013 were helpful in this respect, in that they specified the previously vague 'minimum meaningful proportion' to be passed to Parish Councils. This is highlighted below.

CIL Revenue split	Proportion of total where development has taken place
'Meaningful Proportion' for neighbourhoods	15% capped at £100 per existing council tax dwelling
Neighbourhoods with an adopted Neighbourhood Plan	25% uncapped

- 4.26 For communities without a Parish Council the 15% incentive still remains. In such areas (usually wards in urban areas) the charging authority will retain the Levy receipts but should engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. The governance of how this will be achieved has yet to be determined, but is not a matter subject to CIL examination, and will be subject to a future report

### **Proposed CIL funding split.**

- 4.27 For the remaining CIL revenue it is proposed that the funds will be managed by the charging authority (Peterborough City Council), along the same lines as POIS contributions are currently managed, with the broad funding split as indicated below.

Remaining CIL Revenue will be provisionally split across the themes as indicated below Precise governance arrangements yet to be agreed.	
Transport	30%
Education & Skills	40%
Community Infrastructure	10%
Utilities Services	5%
Emergency Services / Health & Well Being	5%
Environmental Sustainability	10%
Total	100%

- 4.28 To help explain this information, a user-friendly guide titled: 'How CIL may work in Peterborough: A Simple Guide' will also be published.

### **Infrastructure Delivery Schedule**

- 4.29 The Peterborough Infrastructure Delivery Schedule (IDS) (see Appendix E) identifies infrastructure projects that will support the sustainable growth of the city to 2026 and beyond. The projects are grouped into the following themes:

- Community Infrastructure
- Transport

- Environmental Sustainability
- Health and wellbeing
- Skills and Education
- Emergency Services
- Utilities and Services

- 4.30 Cabinet approved an earlier version of IDS in September 2012 alongside the PDCS. The IDS has been updated to reflect the latest known position and to help inform the Draft Charging Schedule.
- 4.31 The projects have been provided by Council departments and partners, and predominantly reflect projects already agreed and evidenced through other plans and strategies, such as the Peterborough Core Strategy and Local Transport Plan 3. Importantly, the projects are considered to have at least a reasonable prospect of being delivered and avoids a 'wish list' of projects that are unlikely to be ever delivered.
- 4.32 The Infrastructure Delivery Schedule is a 'work in progress' that is continually being reviewed and updated to reflect our latest growth programme. This list is correct at 2 June 2014. It should not be seen as a fixed or exhaustive list, nor should it be read to mean every project will definitely be delivered or delivered at a specific time. Projects can and will change at any time, and the Schedule will be updated accordingly. It will be fully refreshed and agreed by Cabinet annually, each summer, and be made available on the Council's website.

## **5. CONSULTATION**

- 5.1 The Regulations require a minimum of four weeks public consultation on the proposed Draft Charging Schedule. Subject to approval at Full Council (in July 2014), the CIL Draft Charging Schedule will be available for public consultation in August/September 2014. Normally, only developers / agents respond to such consultation, rather than the general public. However, anybody is free to make comments should they wish.
- 5.2 The CIL Draft Charging Schedule 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.
- 5.3 We anticipate that there will be some level of public interest in the proposals being set out in the Peterborough CIL Draft Charging Schedule, particularly from landowners, businesses and developers. Comments (or representations as they are known) received during the consultation period (July-August 2014) will be collated and reported in a Consultation Statement. All representations will be considered by a Planning Inspector alongside the other CIL documentation required to be submitted October for independent examination.
- 5.4 Whilst we anticipate some debate, particularly around the technical details relating to our viability calculations / 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 the current operational procedures in place in Peterborough with the combination of POIS and S106 obligations being used in tandem. In short, CIL will simply replace POIS.

## **6. REASONS FOR RECOMMENDATIONS**

- 6.1 Government has introduced changes to the way developer contributions can be collected and spent. Charging Authorities have the option of adopting a CIL. From April 2015, the use of our existing methodology for collecting and pooling developer contributions (POIS) will become unlawful and so unless a CIL is adopted, the collection and use of developer contributions will be severely limited from that date. Adopting a CIL will introduce a

recognised system that is used by other authorities; provide a fairer system for ensuring developer contributions are made by small and large developments alike in a proportionate manner; and a simpler more direct way of directly passing back contributions to the communities within which the development has taken place.

## **7. ALTERNATIVE OPTIONS CONSIDERED**

- 7.1 The option to not adopt a CIL has been considered and rejected. This option may have been acceptable if, for example, Peterborough was only expecting very minimal growth over the plan period and the majority of that growth could be dealt with through the limited pooling of contributions for strategic infrastructure. This would have made the adoption of a CIL superfluous. Since Peterborough will continue to deliver a significant number of homes and jobs over the plan period this option was rejected.
- 7.2 The option of alternative Levy rates have been rejected, as the ones proposed are based on robust evidence.

## **8. IMPLICATIONS**

- 9.1 **Legal Implications** – The proposed documentation have been prepared and will be consulted on in accordance with the regulations and statutory guidance issued by national government. There are legal implications relating to the implementation, monitoring and enforcement of the CIL once adopted and implemented.
- 9.2 **Financial Implications** – There are financial implications in terms of the way we collect, administer and spend CIL receipts, as set out in this report.
- 9.3 **Human Resources** – Can be delivered within existing resources but will potentially require additional training and changes to existing work practises.
- 9.4 **Equality & Diversity** – The changes will have a positive impact on our customers and help to ensure continued investment in infrastructure considered critical to maintaining and creating sustainable communities.

## **9. NEXT STEPS**

- **23 July 2014** - Full Council asked to approve CIL DCS for the purpose of public consultation and examination.
- **August / Sept 2014** – 4 weeks public consultation.
- **October 2014** - submit CIL Draft Charging Schedule
- **December 2014 (estimate)** – Independent Examination
- **March/April 2015** - Full Council Meeting for formal Adoption once any amendments proposed by the examiner have been addressed.

## **10. APPENDICES**

- Appendix A: Proposed Draft Charging Schedule
- Appendix B: Map showing Proposed Residential Development Charging Zones.
- Appendix C: Draft Charging Schedule Supporting Document
- Appendix D: Draft Regulation 123 List
- Appendix E: Peterborough Infrastructure Delivery Schedule (IDS) June 2014
- Appendix F: Peterborough City Council CIL viability assessment April 2014
- Appendix G: Neighbouring Authorities – CIL Charges.
- Appendix H: The Proposed Relationship between S106 and CIL in Peterborough

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