

CABINET	AGENDA ITEM No. 7
16 JULY 2018	PUBLIC REPORT

Report of:	Annette Joyce - Service Director – Environment and Economy Growth and Regeneration	
Cabinet Member(s) responsible:	Cllr Hiller, Cabinet Member for Growth, Planning, Housing and Economic Development.	
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UPDATED REG 123 LIST AND COMMUNITY INFRASTRUCTURE LEVY SUPPORTING POLICIES

R E C O M M E N D A T I O N S	
FROM: Corporate Director of Growth and Regeneration	Deadline date: 16 July 2018
It is recommended that Cabinet approves the set of Community Infrastructure Levy Supporting Policies Documents including Regulation 123 List for a targeted consultation.	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to Cabinet following an officer review of the current policy documents and a recommendation that they be updated. The relevant Cabinet Member (Councillor Peter Hiller, Cabinet Member for Growth, Planning, Housing and Economic Development) has endorsed the putting forward of a report.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to seek the approval for the purpose of public consultation on the revised Community Infrastructure Levy Supporting Policies Document, the draft revised Regulation 123 List, and the revised Governance Proposals.
- 2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.4, 'To promote the Council's corporate and key strategies and Peterborough's Community Strategy and approve strategies and cross-cutting programmes not included within the Council's major policy and budget framework.'

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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4. BACKGROUND AND KEY ISSUES

- 4.1 Peterborough City Council adopted a Community Infrastructure Levy (CIL) on 15 April 2015 following a number of consultations and an Examination in Public. The Levy was formally brought into effect from 24 April 2015. In simple terms, CIL provides a clear levy that can be charged for each square metre of floor area in eligible new developments. CIL allows funds from multiple developments to be pooled to subsequently deliver strategic infrastructure.

- 4.2 How much a developer must pay depends on what type of development it is, what part of the district it is located in, and the total floorspace being constructed. All of these details are set out in the CIL 'Charging Schedule'. The Charging Schedule can only be changed following extensive reconsultation, updated evidence gathering and independent examination, a process which typically would take 2-3 years to undertake and be a significant resource undertaking. Officers best estimate is that, even if such an extensive review of the Charging Schedule is undertaken, the net effect is not likely to be significant i.e. it is unlikely that the rates set out on the Charging Schedule would materially alter, particularly as the rates get updated each year in line with inflation. As such, there is **no proposal** to commence a full review of the CIL Charging Schedule (though this will continue to be monitored).
- 4.3 However, in addition to the Charging Schedule, in April 2015 Council also adopted a number of supporting CIL related policy documents and guidance. In addition, on 7 November 2016, Cabinet agreed internal 'governance arrangements' for spending CIL. It is these supporting documents which have been reviewed, and considered appropriate to update. The full set of supporting documents and policies are:
- Regulation 123 List;
 - Instalment Policy;
 - Payment in Kind Policy;
 - Statement of Exceptional Circumstances Relief; and
 - PCC CIL Governance Proposals
- 4.4 Of the above, the Regulation 123 (R123) List is the most important (see more details below) and it is this policy that is proposed to be revised. In doing so, this is the primary reason why the other related policies above also need a refresh, in order to avoid duplication, ensure consistency and be fully up to date.
- 4.5 The R123 List contains infrastructure types or specific projects for which other types of developer contributions (or 'planning obligations') will not be sought, but for which CIL money collected may be spent. A Local Planning Authority can include as much or as little as it sees fit on the Reg 123 List, but it is important to ensure that inclusion of infrastructure on the list does not preclude the ability to secure any funding through other planning obligations where they are 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.
- 4.6 To put it another way, a R123 List is seen by many (especially the general public) as having the primary role of setting out what infrastructure any CIL money collected might be spent on. However, arguably, its primary role is actually to confirm what infrastructure will not be sought from other developer contributions. On a day to day basis, it is the latter purpose for which the R123 List is used by developers and planning officers.
- 4.7 As well as the R123 List, other locally-defined CIL policies relating to payment installments, payment in kind (such as through provision of land or directly delivering a specific piece of infrastructure) and exceptional circumstances for relief of payments were wrapped up in the April 2015 council agreed 'Community Infrastructure Levy Supporting Policies Document'. It is proposed to retain this umbrella document for these supporting policies, except for the R123 List which is proposed to be separated into its own entity to assist with clarity for customers, and reflecting its importance and more day-to-day use.
- 4.8 Separately, the CIL Governance Proposals document was adopted by Cabinet in November 2016 and contains details about how the Council administers and reports on the spending of CIL funds. These governance proposals have been reviewed by officers are not proposed for material amendment. However, for consistency with amendments to other policy documents, it also requires some minor amendments and is, therefore, being refreshed and readoption sought.
- 4.9 Of all the changes, Members attention is therefore drawn to the updating of the R123 List. The

changes seek to provide greater definition of what infrastructure is included or excluded from the R123 List, making it clearer for applicants as to what may or may not be sought through other planning obligations. The current (2015) R123 List contained eleven infrastructure types which were quite broad. The revised recommended R123 List proposes the introduction of further detail, being more specific about what is included on the List and what is excluded. Being precise about what is expected will help to avoid unnecessary debate (and potential legal challenges), ensure CIL funds are targeted where intended and, overall, help ensure that the necessary supportive infrastructure is delivered.

- 4.10 The net effect of the changes to R123 List is that whilst developers will not pay any different CIL Levy (because the Charging Schedule is not being amended), developers might end up contributing more through wider developer contributions for certain types of necessary infrastructure, because such types of infrastructure are no longer on the R123 List. These changes are limited and likely to only result in additional 'in kind' payments (such as provision of land for infrastructure). The vast majority of new developments will see no difference. The Council will also continue to need to comply with regulations and national policy and will need to ensure that, in seeking planning obligations on top of any CIL levy, it does not undermine viability.

5. CONSULTATION

- 5.1 Consultation with Council departments and other infrastructure providers has taken place in order to inform the revision of the R123 List. Planning and Environment Protection Committee (3 July) and Growth, Environment and Resources Scrutiny Committee (4 July) have also considered the items in this report, and their views will be reported orally to Cabinet.

- 5.2 Subject to Cabinet approval, it is recommended that all of the appended documents should be consulted upon (targeted consultation with, for example, the developers forum and parish councils) before being taken back to Cabinet in the autumn or winter for adoption.

6. ANTICIPATED OUTCOMES OR IMPACT

- 6.1 The amended document will help to ensure that Peterborough City Council maximises contributions towards the infrastructure necessary to support the growth occurring, whilst ensuring that development remains viable. It is anticipated that Cabinet will endorse the updated documents as attached for consultation. The documents will be brought back to Cabinet for adoption, taking into account any findings of the consultation.

7. REASON FOR THE RECOMMENDATION

- 7.1 The adoption of these documents are recommended as it will assist Peterborough City Council in delivering the necessary infrastructure to support growth in the city and in the surrounding areas, in accordance with the adopted CIL Charging Schedule.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 Do not update the documents - this was rejected as the documents are in need of a refresh and, in particular, the R123 List needs updating for clarity and to ensure the successful securing of necessary infrastructure from new development.

Do a full refresh of the CIL Charging Schedule - this was rejected because the Charging Schedule can only be changed following extensive reconsultation, updated evidence gathering and independent examination, a process which typically would take 2-3 years to undertake and be a significant resource undertaking. Officers best estimate is that, even if such an extensive review of the Charging Schedule is undertaken, the net effect is not likely to be significant i.e. it is unlikely that the rates set out on the Charging Schedule would materially alter, particularly as the rates get updated each year in line with inflation.

9. IMPLICATIONS

Financial Implications

- 9.1 None directly. However, the adoption of this revised documents may result in some additional funds or land being secured from development, to be spent/utilised for infrastructure, to better support growth.

Legal Implications

- 9.2 Preparation of a CIL charging schedule and associated policy documents is heavily prescribed through legislation, particularly the Community Infrastructure Levy Regulations (2010) (as amended). Officers have adhered to such legislation in updating the documents referred in this item.

Equalities Implications

- 9.3 None.

10. BACKGROUND DOCUMENTS

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

- 10.1
- Community Infrastructure Levy Charging Schedule (April 2015)
 - Community Infrastructure Levy Supporting Policies Document (April 2015)
 - Developer Contributions Supplementary Planning Document (April 2015)
 - Developer Contributions Supplementary Planning Document (approved by Cabinet for consultation on 15 January 2018)

11. APPENDICES

- 11.1 Appendix A - Community Infrastructure Levy Supporting Policies Document.
Appendix B - Regulation 123 List.
Appendix C - Community Infrastructure Levy Governance Proposals.