



**Report to: Council, 16<sup>th</sup> May 2017**

**Report of: Managing Director**

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**Subject: WORCESTER COMMUNITY INFRASTRUCTURE LEVY (CIL) - ADOPTION OF CIL CHARGING SCHEDULE, REGULATION 123 LIST AND ASSOCIATED CIL POLICIES**

**1. Recommendation**

**1.1 That the Council:**

- (a) **Notes the content of the examiner's report on the joint examination of the South Worcestershire CIL Charging Schedules (Appendix 1) and agrees the modifications in the report that are considered necessary to make the Charging Schedules sound.**
- (b) **Adopts the amended CIL Charging Schedule (Appendix 3), as set out in (a) above as the appropriate basis for charging CIL in Worcester.**
- (c) **Adopts the Regulation 123 List and the instalment policy (Appendix 3) alongside the Worcester CIL Charging Schedule in (b).**
- (d) **Agrees that CIL will be implemented from Monday 4 September 2017.**
- (e) **Agrees the revised South Worcestershire Joint Advisory Panel Terms of Reference (Appendix 4) relating to CIL expenditure governance arrangements.**

**1.2 Delegate authority to the Corporate Director Place, in consultation with the Chair of the Place and Economic Development Sub Committee, to undertake the final stages associated with the formal adoption and implementation of CIL, including any minor textual changes to documents in the interest of clarity and accuracy.**

**2. Background**

**2.1** The Worcester Community Infrastructure Levy (CIL) Charging Schedule sets out the proposed rates of CIL to be charged on different types of new qualifying development in Worcester. Consistent with The Planning Act 2008 and The Community Infrastructure Levy Regulations 2010 (as amended) it is informed by the following evidence; the South Worcestershire Development Plan 2016 (SWDP); South Worcestershire Infrastructure Delivery Plan; and a series of development viability assessments prepared by HDH Planning and Development.

**2.2** The preparation of the CIL Charging Schedules has been undertaken jointly between the South Worcestershire Councils (SWCs), with the support of Worcestershire County Council, in accordance with the above legislation.

Although each of the SWCs will be adopting CIL on a separate basis joint working on CIL formally started in September 2013, with further rounds of consultation and supporting evidence updates in 2015, and 2016. The final CIL documentation was submitted to the Planning Inspectorate for examination in July 2016. A public hearing into the CIL was held at The Guildhall in Worcester on 29 November 2016, overseen by the independent examiner Mr Roger Clews, and his report was received in January 2017 (**Appendix 1**).

- 2.3 The examiner's report concluded that, subject to some minor modifications, the charging schedule provides an appropriate basis for the collection of CIL in Worcester. Further to the examination the examiner's minor modifications recommendations to the CIL were advertised, and at the same time the SWCs took the opportunity to consult on a revised Regulation 123 List from 13 February to 27 March 2017. The responses to this final consultation stage, with officer recommendations are set out in **Appendix 2**.
- 2.4 As a result of this process Worcester is now in a position to adopt the Charging Schedule, Regulation 123 List and instalment policy and implement CIL in Worcester (**Appendix 3**). Subject to the approval of the recommendations, in this report, the charging of CIL will commence on Monday 4 September 2017 on all liable development granted planning permission on or after that date.
- 2.5 The parish and town councils where CIL receipts are raised will receive 15% (capped at £100 per registered council tax dwelling in the parish in any one financial year) of revenue from development within their areas to spend on local infrastructure projects. This rises to 25% (uncapped) where neighbourhood plans have been adopted by the council. Upon receipt of any CIL monies from development within parishes the council will transfer the local allocation every six months to the relevant parish/town council inline with the regulations. Similar arrangements would apply should a neighbourhood form successfully promote a neighbourhood plan to adoption in an un-parished area. Procedures will be put in place subsequent to the adoption of CIL for the governance arrangements for CIL monies.
- 2.6 The adoption of CIL will be supported by an implementation process, to collect the levy, as well as a governance framework for the expenditure of CIL income and to distribute monies. It is proposed that the South Worcestershire Joint Advisory Panel (JAP) will perform a role in the latter process, and revised JAP Terms of Reference are also attached to this report (**Appendix 4**) for the approval of Council.

### **3. Preferred Option**

- 3.1 To proceed to adopt the Worcester CIL Charging Schedule and the other supporting documents set out in the recommendations above.
- 3.2 Adoption of the Worcester CIL Charging Schedule, Regulation 123 List and Instalment policy will ensure the council can become a CIL Charging Authority and implement and collect CIL. Arrangements are being put in place on a corporate basis to implement CIL from Monday 4 September 2017 supported by the appropriate governance arrangements for the SWCs. This will ensure that Worcester, within viability constraints, can maximise developer contributions for the infrastructure that is needed to support sustainable growth in the district alongside the SWDP.

## **4. Alternative Options Considered**

4.1 Not to adopt CIL and rely on other types of developer contributions, principally Section 106 agreements to secure infrastructure to support future developments and the implementation of the SWDP. Since April 2010 there have been restrictions on the use of Section 106 agreements which limits the number of agreements that can be pooled to fund a single infrastructure project. The Regulation 123 list makes clear what infrastructure will be funded by Section 106 Agreements and what infrastructure could be funded from CIL receipts. As Worcester can only collect CIL from new retail and student accommodation the adoption of CIL will not place any additional restrictions on the collection of Section 106 developer contributions from the vast majority of developments. It is therefore likely that any CIL liable development will provide additional infrastructure funding and not impact negatively on the ability to maximise developer contributions from both CIL and Section 106 agreements.

## **5. Implications**

### **5.1 Financial and Budgetary Implications**

5.1.1 Given the limited number of CIL compliant applications that are expected upon implementation of CIL, the processing, collection and governance of CIL receipts can be absorbed into existing resources without any implications. The CIL regulations also allow for 5% of receipts to be retained to cover a charging authority's administration costs.

5.1.2 Overall it has been estimated that CIL is only likely to return £5-6million across the SWDP area to 2030, although future unanticipated windfall development in charging areas may increase this amount. It is unlikely that Worcester will collect substantive amounts of CIL funding.

### **5.2 Legal and Governance Implications**

5.2.1 In terms of a process for the collection of CIL and its expenditure, officers are still working on putting in place detailed arrangements. However, the process will include the following key steps:

- a. Amend validation requirements for all planning applications to ensure that the appropriate CIL documentation is submitted by all applicants when submitting their proposals.
- b. Set up internal processes for establishing CIL liability and advising applicants accordingly. This will include subsequent monitoring and payment triggers, collection of contributions and enforcement in the event of non payment. It is not intended to establish additional dedicated officer resources at this stage to handle CIL although costs associated with absorbing this work will be met through the 5% administration allowance.
- c. Monitor payments due and received and expenditure made (to be reported to the JAP on a regular basis).
- d. Criteria will be established to assess the proposed release of CIL income which addresses proposals from partner authorities, infrastructure providers and community groups. The criteria for assessment will place particular emphasis on the availability and leverage of match funding or added value arising from the use of CIL, this will include any CIL passed to parish and town councils.

The criteria will be presented to the JAP for endorsement at a subsequent meeting.

- e. The JAP will be presented with reports setting out proposals / bids for the release of CIL income with associated officer recommendations. Recommendations will be brought forward through assessment undertaken by an officer Working Group, including the heads of planning for the SWCs (or their substitutes) and input from Worcestershire County Council officers depending upon the nature of the infrastructure investment proposed.
- f. On consideration of recommendations set out in e) the JAP will recommend the release (or not) of CIL income for the projects identified to the relevant council or councils where pooling of CIL income is proposed.
- g. Each SWC will report and decide upon the JAP's recommendations to its own council within the requirements of its own governance arrangements and committee structures.
- h. Each SWC will advise the JAP of the council's decision, the release of CIL monies and the implementation of the project / infrastructure provided.
- i. Where one or more SWC does not agree to the recommended release of CIL income for pooled infrastructure projects, it may be preferable for the proposal to be referred back to JAP for consideration in the light of the council's concerns.
- j. The JAP will report CIL monitoring information and progress with collection and expenditure of CIL income to the south Worcestershire councils and Worcestershire County Council on an annual basis.

5.2.2 Appendix 4 to this report sets out the necessary amendments to the Panel's Terms of Reference to accommodate the above role with respect to CIL. The changes also take the opportunity to update the Terms of Reference now that the SWDP has been adopted and to clarify a number of procedural issues such as the election of the JAP's vice chairman.

5.2.3 Whilst the JAP does not have any executive powers or responsibilities it is suggested that the Terms of Reference include a specific provision to make clear that whilst the JAP may recommend support for a particular infrastructure project or investment, the implementation of such recommendations will be dependent upon formal decisions of the SWCs.

### 5.3 Risk Implications

5.3.1 The principal risks of adopting CIL are; increased difficulty when negotiating developer contributions, legislative change, and delays in determining planning applications immediately after the adoption date.

5.3.2 CIL regulations seek to ensure that developers are not forced to pay for the same infrastructure twice, once via CIL and once via a Section 106 agreement. As Worcester will only be seeking CIL contributions from a very limited number of developments the scope for disputes between planning officers and developers leading to delays is also limited. The Regulation 123 list also makes clear which infrastructure is to be funded via CIL and Section 106 agreements.

- 5.3.3 The Government has appointed an expert panel to undertake a review of CIL and the recommendations were recently published<sup>1</sup>. There is no timetable however for the implementation of any changes and as reform of CIL has been discussed for several years it is considered that nothing would be gained by delaying the adoption of CIL until it is clear what changes are proposed.
- 5.3.4 All CIL liable applications determined after the date of adopting CIL will require a CIL liability notice as well as the other information required for all applications such as a completed application form. Requests for missing CIL liability notices may delay the determination of some applications. The City Council has advertised the planned adoption of CIL on the planning pages of its website for some time and standard CIL liability notices are available on websites such as the Planning Portal. Officers will ensure that all applicants are aware of the need for a CIL liability notice in good time for these notices to be submitted before the planned adoption date of 4 September 2017.
- 5.4 Corporate/Policy Implications  
The implications for Worcester of adopting and implementing CIL will principally relate to planning applications and permissions for retail development and purpose built student accommodation, as all other types of development are zero rated for CIL within the city boundary.
- 5.5 Equality Implications  
There are no equality implications of adopting CIL.
- 5.6 Human Resources Implications  
As CIL liable planning applications approved after the 4 September will require the completion of a CIL liability notice and will need to be monitored to ensure CIL is paid the adoption of CIL will require some staff resource. It is considered that this can be absorbed by the existing planning officers with some minor changes to working practices.
- 5.7 Health and Safety Implications  
There are no health and safety implications of adopting CIL.

**Ward(s):** All  
**Contact Officer:** Adrian Becker – Tel 01905 722545, Email: adrian.becker@worcester.gov.uk

#### **Appendices**

**Appendix 1** Examiners Report  
**Appendix 2** Regulation 123 List consultation responses  
**Appendix 3** Worcester CIL Charging Schedule and Regulation 123 List  
**Appendix 4** Revised Joint Advisory Panel Terms of reference

**Background Papers:** None

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<sup>1</sup> A New Approach to developer Contributions – A Report by the CIL Review Team (submitted October 2016)