

## **CABINET**

**12 FEBRUARY 2013**

### **COMMUNITY INFRASTRUCTURE LEVY**

Portfolio Holder: Councillor Jane Chitty, Strategic Development and Economic Growth

Report from: Robin Cooper, Director of Regeneration, Community and Culture

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#### **Summary**

The Community Infrastructure Levy (CIL) allows local authorities in England and Wales to raise funds from developers undertaking new building projects. The money can be used to fund infrastructure required within the Council's area.

In January 2012 Cabinet approved work commencing to enable the Council to achieve CIL Charging Authority status. This report seeks approval to commence consultation on a preliminary draft charging schedule.

#### **1. Budget and Policy Framework**

- 1.1 In accordance with the Planning Act 2008 the final adoption of a CIL Charging Schedule is a matter for Council.
- 1.2 It is probable that should a CIL be introduced, it will raise more income from new development than the current mechanism of Section 106 obligations.
- 1.3 CIL is also related to the Local Development Framework (LDF, part of the Policy Framework) and the LDF must be progressed to a certain stage before a CIL can be considered.

#### **2. Background**

- 2.1 CIL is a levy that local authorities (known as Charging Authorities after adoption of CIL) can choose to apply to new developments in their area. The levy can apply to every new dwelling and commercial development, and can

only be spent on providing infrastructure to support the development within that authority's area. This is designed to encourage growth in development.

- 2.2 After 6 April 2014 the use of pooled contributions collected through Section 106 obligations will be limited for all authorities. For those authorities adopting the CIL, the restrictions will come into place on its adoption. This is consistent with the principle that the method of future collection of pooled contributions for infrastructure should be CIL.
- 2.3 In January 2012 Cabinet approved work commencing to achieve CIL Charging Authority status (decision number 4/2012).
- 2.4 In November 2012 Members were invited to a presentation on how work is progressing on CIL.
- 2.5 Guidance from the Department for Communities and Local Government requires that a "meaningful proportion" of CIL should be paid to neighbourhoods. Details of how these arrangements would work in practice are not yet clear, but the Planning Minister has recently advised that "Neighbourhoods that take a proactive approach by drawing up a neighbourhood development plan, and securing the consent of local people in a referendum, will receive 25% of the revenues from the Community Infrastructure Levy arising from the development that they choose to accept. This cash boost will be paid directly to parish and town councils and can be used to back the community's priorities for example to re-roof a village hall, refurbish a municipal pool or take over a community pub. Neighbourhoods without a neighbourhood development plan but where the levy is still charged will still receive a capped 15% share of the levy revenue arising from development in their area."
- 2.6. "The neighbourhood funding element will be passed to parish councils in accordance with a timetable agreed between the local planning authority and local council. Where the money is transferred to a parish council they will decide how the money will be spent – although they will be expected to work with the local planning authority. Where the money stays with the local planning authority (in areas without a parish) the local planning authority will engage with the communities where the development has happened to agree how best to spend this money".
- 2.7 The Community Infrastructure Levy Regulations 2010 set out the procedures required for a Council to become a Charging Authority (CA). This procedure includes a consultation exercise on a "preliminary draft charging schedule". The CIL rates the Council intends to charge on different types of development, based on a viability assessment, are set out at Appendix 2.
- 2.8 Subject to Cabinet approval this consultation will commence on about 1 March 2013.
- 2.9 Representations received will be published on line with the Council's responses.

- 2.10 A “draft charging schedule”, which takes into account representations received relating to the “preliminary draft charging schedule” will then be published and consulted on (second consultation) prior to public examination.
- 2.11 The Inspector at the public examination will decide whether the viability assessment, and evidence of an infrastructure gap, support the draft charging schedule.
- 2.12 The overall timetable towards proposed adoption of a CIL Charging Schedule is set out in Appendix 1.
- 2.13 A Diversity Impact Assessment screening assessment was undertaken in March 2012 (Appendix 3) on current proposals. This will be reviewed during the consultation process.

### **3. Options**

- 3.1 Cabinet approved work commencing on CIL in January 2012.

### **4. Resource required**

- 4.1 The work of producing a CIL Charging Schedule is mainly being carried out via existing staff resource, but funding has been reserved to cover associated costs including the public examination.

### **5 Advice and analysis**

- 5.1 To enable Medway Council to become a CIL CA, it is necessary to undertake consultation on a preliminary draft charging schedule, consultation on a draft charging schedule and a public examination.
- 5.2 Following the public examination and the Inspector approval of the draft charging schedule, a report will be submitted to Council in about early 2014, seeking adoption of CIL.
- 5.3 Consultation will include developers, agents, Parish Councils, Kent County Council and other adjoining local authorities.
- 5.4 The Regeneration, Community and Culture Overview & Scrutiny Committee will be included in the consultation.

## 6. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Procedures are not carried out to achieve CIL Charging Authority status	Section 106 agreements will be scaled back in April 2014. If CIL not adopted, there would no mechanism to collect developer contributions at the level currently received	Follow procedures required under CIL Regulations, including consultation exercises and public examination	B2

## 7. Financial and legal implications

- 7.1 It is probable that CIL will raise more income from new development than the current mechanism of Section 106 obligations.
- 7.2 The legal implications are set out in the body of the report.

## 8. Recommendations

- 8.1 That consultation on a “preliminary draft charging schedule” based on the rates set out in Appendix 2, takes place in Spring 2013.
- 8.2 That the Director of Regeneration, Community and Culture, in consultation with the Portfolio Holder for Strategic Development and Economic Growth is given delegated authority to agree the detailed wording in the consultation document.

## 9. Reason for decision

- 9.1 To enable a mechanism to be in place by April 2014 to collect CIL contributions from developers to support development.

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### Background papers

CLG Community Infrastructure Levy Regulations 2010

<http://www.legislation.gov.uk/all?title=Community%20Infrastructure%20Regulations%202010>

CLG Community Infrastructure Levy Guidance : charge setting and charging schedule procedures 2010 <https://www.gov.uk/government/publications/community-infrastructure-levy-guidance-charges>

C LG Community Infrastructure Levy: an overview, May 2011

<https://www.gov.uk/government/publications/community-infrastructure-levy-overview>

CLG Community Infrastructure Levy Relief Information Document, May 2011

<https://www.gov.uk/government/publications/community-infrastructure-levy-relief-guidance>

CLG Community Infrastructure Levy – collection and enforcement, October 2011

<https://www.gov.uk/government/publications/community-infrastructure-levy-collection-and-enforcement-guidance>

CLG Community Infrastructure Levy Guidance, December 2012

<https://www.gov.uk/government/publications/community-infrastructure-levy-guidance>



**Appendix 1****CIL indicative timetable**

Consultation on preliminary draft charging schedule (6 weeks)	March – mid April 2013
Consultation with Regeneration, Community and Culture Overview & Scrutiny Committee	11 April 2013
Representations/responses published on line	May 2013
Cabinet	11 June 2013
Consultation on Draft Charging Schedule (6 weeks)	June – mid July 2013
Submission for CIL examination	August 2013
Public Examination	October 2013
RCC Overview & Scrutiny Committee	12 December 2013
Cabinet	14 January 2014
Approval for adoption at Full Council	23 January 2014
Adoption of CIL Charging Authority status	1 April 2014

**Preliminary draft charging schedule**

Medway Council is seeking your views on the preliminary draft charging schedule below, and whether you support the suggested charges as appropriate. Your comments will be reviewed and taken into account when finalising a draft charging schedule for approval by Full Council.

For residential development, the area covered by Medway Council has been split into 2 zones.

- Zone A covers higher value areas (St Mary’s Island, Rochester Riverside, South Rainham, Hempstead, Wigmore and rural areas)
- Zone B covers lower value areas (Chatham West, Rochester, Chatham South and East, Strood, Gillingham North and West)

Charges in each zone apply to 2 sizes of development – up to and including 14 dwellings, and 15 dwellings and above.

This methodology takes into account affordable housing requirements on developments of 15 dwellings and above.

Charges per m<sup>2</sup> of internal floorspace:

**Residential :**

<i>area</i>	<i>Charge per m<sup>2</sup></i>
Zone A : 15 dwellings and above	£150
Zone A : up to and including 14 dwellings	£200
Zone B : 15 dwellings and above	£50
Zone B : up to and including 14 dwellings	£150

**Other development:**

Edge of town / out of town superstore type development	£75
Other retail (except superstores)	£0
All other types of development, including education, care homes and health facilities	£0



## Diversity Impact Assessment

Directorate  RCC	Name of Function or Policy or Major Service Change  For Medway Council to become a Community Infrastructure Levy (CIL) Charging Authority (CA)		
Officer responsible for assessment  Jill King, Section 106 Officer	Date of assessment  28 March 2012	New or existing?  New	
<b>Defining what is being assessed</b>			
1. Briefly describe the purpose and objectives	Section 106 (S106) agreements are legal agreements with developers which ensure obligations, including financial contributions, are made by the developer to address the impact of the development. Medway Council requests S106 contributions on developments of 10 dwellings or more. From April 2014 S106s are being scaled back. The Community Infrastructure Levy is a charge to a developer for each dwelling (and some extensions) and commercial development. The Levy must be at an appropriate level which will not deter development and can be spent on any infrastructure; it does not have to relate to the development which is generating the levy. Medway Council is committed to becoming a CIL CA prior to April 2014.		
2. Who is intended to benefit, and in what way?	The CIL will pay for infrastructure to encourage growth within Medway. This should benefit all residents in the area. A % of the levy received will go to local groups, including Parish Councils; this funding can be spent on any infrastructure the neighbourhood group/Parish Council feels would most benefit their communities.		
3. What outcomes are wanted?	This funding stream will meet some of the priority infrastructure required. This could be transport, broadband, open space, etc.		
4. What factors/forces could contribute/detract from the outcomes?	Contribute That the levy is set at an appropriate rate to encourage development and provide a funding stream to support major infrastructure projects	Detract That the levy is set too high and would deter further development in Medway	
5. Who are the main stakeholders?	Developers, Medway Council services, Parish Councils, neighbourhood groups, residents		
6. Who implements this and who is responsible?	The CIL project group is working to enable Medway to become a CA. A charging schedule will be produced and after consultation will go through a public examination. When it is		

	adopted the CIL will be charged on every new dwelling / commercial development identified within the schedule. A strategic board will be set up to approve expenditure.
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<b>Assessing impact</b>		
7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial/ethnic groups</i> ?		Brief statement of main issue
	NO	
What evidence exists for this?	After Medway Council becomes a CA, CIL will be payable by anyone wishing to develop a site in Medway which is covered by the charging schedule	
8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i> ?		Brief statement of main issue
	NO	
What evidence exists for this?	After Medway Council becomes a CA, CIL will be payable by anyone wishing to develop a site in Medway which is covered by the charging schedule	
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i> ?		Brief statement of main issue
	NO	
What evidence exists for this?	After Medway Council becomes a CA, CIL will be payable by anyone wishing to develop a site in Medway which is covered by the charging schedule	
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i> ?		Brief statement of main issue
	NO	
What evidence exists for this?	After Medway Council becomes a CA, CIL will be payable by anyone wishing to develop a site in Medway which is covered by the charging schedule	
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i> ?		Brief statement of main issue
	NO	
What evidence exists for this?	After Medway Council becomes a CA, CIL will be payable by anyone wishing to develop a site in Medway which is covered by the charging schedule	
12. Are there concerns there <u>could</u> be a differential impact due to people's <i>age</i> ?		Brief statement of main issue
	NO	
What evidence exists for this?	After Medway Council becomes a CA, CIL will be payable by anyone wishing to develop a site in Medway which is covered	

	by the charging schedule	
13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i> ?		Brief statement of main issue
	NO	
What evidence exists for this?	After Medway Council becomes a CA, CIL will be payable by anyone wishing to develop a site in Medway which is covered by the charging schedule	
14. Are there any <i>other</i> groups that would find it difficult to access/make use of the function (e.g. speakers of other languages; people with caring responsibilities or dependants; those with an offending past; or people living in rural areas)?		If yes, which group(s)?
	NO	
What evidence exists for this?	After Medway Council becomes a CA, CIL will be payable by anyone wishing to develop a site in Medway which is covered by the charging schedule, which could become available in other formats/languages.	
15. Are there concerns there <u>could</u> be a have a differential impact due to <i>multiple discriminations</i> (e.g. disability and age)?		Brief statement of main issue
	NO	
What evidence exists for this?	After Medway Council becomes a CA, CIL will be payable by anyone wishing to develop a site in Medway which is covered by the charging schedule	

### Conclusions & recommendation

16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?		Brief statement of main issue
	NO	
Recommendation to proceed to a full impact assessment?		
NO	This function/ policy/ service change complies with the requirements of the legislation and there is evidence to show this is the case.	

### Planning ahead: Reminders for the next review

Date of next review	March 2015 at which time CIL should have been implemented for at least one year
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Areas to check at next review (e.g. new census information, new legislation due)	Has the levy generated more development?  Review what the neighbourhood groups/Parish Council have planned for their CIL funding?	
Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?		
Signed (completing officer/service manager)	Date	
Signed (service manager/Assistant Director)	Date	