

<b>Report to Council Meeting to be held on 22 August 2013</b>	<b>Electoral Ward Affected</b> All
<b>Report submitted by: Corporate Director Environment</b>	
<b>Community Infrastructure Levy</b>	

## 1. Summary

- 1.1 The Community Infrastructure Levy (CIL) is a charge on most forms of built development; it allows a charging authority to levy a charge on owners or developers carrying out built development so that they contribute to the costs of providing the infrastructure needed to support development of the area. It will fund infrastructure projects such as transport, education, leisure, health and open space provision.
- 1.2 The consultation on the draft charging schedule went to the Cabinet Member for Planning and Regulation for approval in July 2012 and then was reported to Cabinet Members in November 2012 and went through an Examination which was conducted by an Examiner from the Planning Inspectorate which took place on 23 and 24 April 2013.
- 1.3 This report covers the modifications suggested by the examiner and recommends adoption of the charging rates in line with his recommendations. It also recommends the introduction of an instalment policy and discretionary relief in exceptional circumstances.

## 2. Decision Required

- 2.1
  - a) It is recommended that Preston City Council (the charging authority) approves the Preston Community Infrastructure Levy Charging Schedule (as appended to this report at Appendix A) in accordance with S213 of the Planning Act 2008 to come into effect on the 1st September 2013.
  - b) It is recommended that Preston City Council introduce an instalment policy, as set out in Appendix B to this report, under the provision of Regulation 69B of the CIL Regulations 2010 (as amended) to come into effect from 1<sup>st</sup> September 2013.

## 3. Information

- 3.1 The Central Lancashire Authorities of Preston, South Ribble and Chorley have worked jointly to progress the Community Infrastructure Levy through the prescribed consultation stages to adoption. Although working collaboratively during this process, each authority is a charging authority and will approve its own charging schedule which sets out the charging rates for its own particular area.

- 3.2 Preparation of the charging schedule requires independent examination of the proposed charging rates. The examination was conducted by a Planning Inspector and took place on 23 and 24 April 2013.
- 3.3 The examiner's report was received on 24 June 2013 and made a number of modifications to the charging schedule to ensure compliance with the drafting requirements and allow the charging schedule to be approved.
- 3.4 Members will recall that the Community Infrastructure Levy (CIL) is a charge on most forms of built development; it allows a charging authority to levy a charge on owners or developers carrying out built development so that they contribute to the costs of providing the infrastructure needed to support development of the area. It will fund infrastructure projects such as transport, education, leisure and health which are set out in a published list; the Regulation 123 list. The levy will be charged at a rate of pounds per square metre, based upon net additional internal floorspace of any given development for uses identified in the Charging Schedule.
- 3.5 Although CIL will replace obligations under Section 106 of the Town and Country Planning Act 1990 in terms of 'off site infrastructure' associated with new built developments S106 will still apply particularly in relation to larger schemes to mitigate the impacts of that specific development subject to the following tests:
- a) It is necessary to make the development acceptable
  - b) It is directly related to the development
  - c) It is fairly and reasonably related in scale and kind to the development
- 3.6 Section 106 will also continue to apply to the securing of Affordable Housing.
- 3.7 There is a prescribed process to follow in order to progress the CIL rates to adoption. Two stages of consultation took place during 2012. The first was consultation on the Preliminary Draft Charging Schedules during January-March, followed by a further consultation during October-December in respect of the Draft Charging Schedules. The Schedules were then submitted to the Planning Inspectorate for Examination in February this year, with the Examination held over two days 23/24 April 2013.
- 3.8 The Examiner noted the Core Strategy had been adopted in July 2012 and that this sets out the main elements of growth that will be needed to be supported by further infrastructure. He concluded the figures clearly demonstrated the need to introduce the CIL to help deliver this infrastructure, while acknowledging that the proposed charges would not make a full contribution towards the likely funding gap. In stating this he did however conclude that the Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across three local authority areas. He therefore, with only two exceptions, supported the charging rates that were submitted for Examination:

Dwelling Houses

3.9 In respect of dwelling houses he concluded that the £65 levy rate is justified by available evidence and strikes an appropriate balance between helping to fund new infrastructure and its effect on the economic viability of dwelling houses across the three local authority areas.

Retail

3.10 In relation to retail, in concurring with the proposed rates, he agreed with the distinction between neighbourhood convenience stores, convenience stores and retail warehouse/retail parks both in terms of nature of use and viability. He added further clarification of his own in describing the nature of these uses for inclusion in Charging Schedules.

Apartments and ‘other uses’

3.11 Two areas the examiner did not support were a charge of £10 per sq.m. for apartments and £10 per sq.m. for ‘Other Uses’, which include such uses as comparison retail, light industrial, general industrial and storage and distribution. In respect of apartments he concluded the £10 rate would worsen an already untenable viability position, to a greater or lesser extent. He was unable to place any weight on brighter future market conditions over the lifetime of the plan as the CIL schedules must be based on present economic circumstances.

3.12 In relation to the ‘Other Uses’, he acknowledged that the low levy rate proposed for many developments will represent a very small proportion of the overall development costs, and for some schemes it may not be the determining factor in relation to viability, and noted that some of the uses in this category are presently being delivered ‘on the ground’. However, he concluded that while it may only slightly worsen the financial position of developments that are already unviable or only marginally viable, the charge would represent a threat to their viability and delivery.

3.13 As a consequence of the above the amended Charging Schedules, taking into account the changes recommended by the examiner to allow them to be approved, are set out in the table below.

<b>Development</b>	<b>CIL Charge</b>
Dwelling houses (excluding apartments)	£65 Sq.m.
Dwelling houses - Inner Preston Zone*	£35 Sq. m.
Apartments	£0 Sq.m.
Convenience retail (excluding neighbourhood convenience stores)	£160 Sq.m.

Retail warehouse, retail parks, and neighbourhood convenience stores	£40 Sq.m
Community uses	£0 Sq.m
All other uses	£0 Sq.m

\*The 'Inner Preston Zone' is shown on the map appended to the Preston Charging Schedule.

### Background

- 3.14 The Community Infrastructure Levy is a means by which developer contributions can be secured through the planning system and used towards the infrastructure that is needed to support it. New development will need to be supported by infrastructure and most developments will generate some impact on infrastructure. Developer contributions allow the financial gains that occur through the grant of planning permission to benefit the community by being used towards new or improved infrastructure provision. Ultimately it is the landowner who is liable for the CIL charge unless someone else serves an assumption of liability notice on the Council. The CIL charge is a Local Land Charge and is entered on the land charges register.
- 3.15 The Community Infrastructure Levy, if approved, will come into effect on 1<sup>st</sup> September 2013, which is the date when the South Ribble and Chorley charging schedules will also come into effect. Any liable development granted planning permission on or after that date will be charged the relevant CIL. Unlike S106 agreements CIL is not negotiable and it applies to a wide range of development including single dwelling houses of any size and any other development over the threshold size of 100 sq metres, including development permitted under the General Permitted Development Order. Unless falling into the categories exempt from CIL there is no option not to pay. Failure to pay CIL on time incurs surcharges and failure to pay at all can result in penalties up to imprisonment.
- 3.16 Development will potentially be liable for CIL if it:
- Is for a building into which people normally go
  - Involves new build of at least 100 sq.m gross internal area floorspace or
  - It involves the creation of one or more dwelling unit (including dwellings below the threshold)

The Council's Charging Schedule sets out which uses will be charged CIL.

- 3.17 There are some exemptions: affordable housing and development by charities for charitable purposes are automatically exempt. The CIL regulations also enable the Council to apply discretionary relief from CIL in exceptional circumstances. In order to do this the Council must first publish its intention to apply exceptional circumstances relief and there are a number of conditions set out in the regulations that must apply. Officers of the three Central Lancashire authorities are of the opinion that at present exceptional circumstances relief should not be applied. This can, however, be revisited at any time.
- 3.18 The regulations also allow CIL to be charged on an instalment basis. If the authority is going to allow instalments then an instalment policy has to be in place before the commencement of any development liable for CIL, otherwise the full charge is due 60 days from commencement. Officers have considered a draft instalment policy, a copy of which is attached to this report in Appendix B and members are requested to approve this policy.
- 3.19 CIL receipts are to be spent on infrastructure. The Planning Act 2008 provides a broad definition of infrastructure and states that it can include the following:
- Roads and other transport facilities
  - Flood defences
  - Schools and other educational facilities
  - Medical facilities
  - Sporting and recreational facilities;
  - Open spaces
- 3.20 The requirements for the implementation of CIL are extremely technical. Officers are working on a number of briefing notes covering the following:
- Administration and recovery of CIL
  - Penalties for late payment and failure to pay

- Who is liable to pay the CIL charge
- How CIL is paid
- When is CIL paid
- The Council's Instalment Policy
- Right of appeal
- Enforcement of CIL
- Payments to Parish, Town and Neighbourhood Councils
- Reporting requirements

#### **4. Implications**

- 4.1 **Financial:** There will be an initial financial cost involved in the implementation of CIL, including the upgrade of the I-Plan software (to calculate the CIL cost for each application) which has been accounted for in this years budget. Other associated costs would be the printing of the CIL document and staff time across all departments (legal, finance, planning, admin to collect monies and monitor and control the spending of these monies). Up to 5% of CIL receipts in any one year, however, can be used for administration so the opportunity exists to recover these costs. Special arrangements will need to be negotiated with Lancashire County Council in respect of City Deal.
- 4.2 **HR:** The application of CIL involves a large number of complex issues covering legal, financial and recovery issues as well as planning and infrastructure delivery. This may require the designation of an officer to deal specifically with CIL. The costs of this, however, can be met out of CIL as indicated in 4.1 above.

#### **5. Impact Assessment**

- 5.1 An Equality Impact Assessment is set out at Appendix C to this report.

#### **6. Impact Statement**

- 6.1
- i) Service Users: The CIL sets a realistic fair charge which supports the infrastructure needed to support, the development and arising from the demands of it.
  - ii) Council Plans and Services: The CIL will enable implementation of the Core Strategy by providing the necessary sustainable infrastructure to support its priorities.
  - iii) Fair Employment/Living Wage: There are no impacts in this regard.

#### **7. Reason for Inclusion in Part B, if Appropriate**

7.1 N/A

**Background Documents:**

Background documents open to inspection in accordance with Section 100D of the Local Government Act 1972:

The Planning Inspectorate – Report on the Examination of the Draft Community Infrastructure Levy Charging Schedules of Chorley Borough Council, Preston City Council and South Ribble Borough Council, June 2013  
<http://www.centrallancashire.com/new/content>

**Contact for further information:**

Christina                      90(6722)                      Environment  
Marginson

This page is intentionally left blank