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HAVANT BOROUGH COUNCIL

CABINET

30th JANUARY 2019

**COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING
SCHEDULE**

DAVID HAYWARD (PLANNING POLICY MANAGER)

FOR DECISION

Cabinet Lead for Communities, Development and Housing

Key Decision: Yes

1.0 Purpose of Report

- 1.1 To seek approval for the Community Infrastructure Levy (CIL) Draft Charging Schedule and to carry out public consultation, as required by the CIL Regulations, prior to submission for independent Examination.

2.0 Recommendations

- 2.1 That the Cabinet recommends to Full Council that it:

- a) Notes the findings of the Infrastructure Delivery Plan, the Local Plan and CIL Viability Study (available at <https://www.havant.gov.uk/localplan/evidence-base>);
- b) Approves the publication of the CIL Draft Charging Schedule Consultation document (Appendix 1);
- c) Approves the consultation on the Draft Charging Schedule from 4th February to 18th March 2019;
- d) Approves the submission of the Draft Charging Schedule and the necessary supporting documents for independent Examination following the consultation;
- e) Delegates authority to the Planning Policy Manager, in consultation with the Cabinet Lead for Communities, Development and Housing to make any necessary amendments to the Draft Charging Schedule and supporting consultation documents. These shall be limited to factual updates, correction of minor errors, grammatical, typographical, formatting and graphic design changes and shall not change the meaning of the material.

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3.0 Summary

- 3.1 The Council has been charging CIL since 1 August 2013. Now the preparation of the Havant Borough Local Plan 2036 and supporting evidence has triggered the need to review the CIL Charging Schedule. This is to ensure that the policies and proposals in the Plan remain viable when costs such as affordable housing provision and contributions to the Solent Recreation Mitigation Strategy are taken into account in addition to the CIL requirement.
- 3.2 The Local Plan and CIL Viability Study indicates that with the levels of affordable housing as proposed in the Pre-Submission Local Plan the existing CIL charges for residential development, as indexed, are appropriate. Also, that the continuation of the existing different charges applied according to the area of the Borough (Local Planning areas based on groups of wards) broadly reflects the viability in the typically lower value areas.
- 3.3 For retail development the Viability Study appraisals found that large scale developments (retail warehouses and food stores) could support a charge closer to the higher level of the residential charge. However, the Study reported that any charge on small scale retail units could have a potentially damaging effect on their viability.
- 3.4 Other types of development tested, including employment developments, hotels, community facilities and care homes were found not to be able to support a CIL charge for reasons of viability so a continuation of the nil-rating (£0/sqm) is recommended.
- 3.5 For the Southleigh Strategic Site, the Viability Study found that applying the standard borough CIL on top of the emerging site-specific costs and development mitigation requirements means that to have reasonable viability the development area should be a nil rated zone.

4.0 The Draft Charging Schedule

Background

- 4.1 The CIL Regulations¹ set out the requirements in terms of the process to be followed and the matters that should be taken into account. Those matters include specific types of evidence: (a) the gap between the total estimated costs of infrastructure needed to support development of the area and actual or estimated sources of funding; and (b) demonstration that the imposition of CIL would not make development across the borough unviable.
- 4.2 Following Councillor input, the Council is pursuing an approach whereby affordable housing provision is maximised, and a CIL rate set accordingly. This also confirmed a clear preference to ensure that affordable housing meets a genuine local housing need (this is reflected in the approach within the proposed Pre-Submission Havant Borough Local Plan 2036).
- 4.3 As a result, the approach to CIL has been directly influenced and shaped by the proposed Affordable Housing Policy, and the findings for the CIL review in the

¹ CIL Regulations 2010, as amended by the 2011, 2012, 2013, 2014 and 2015 Regulations.

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Viability Study have been informed by a 30% affordable housing requirement, which has been identified as a realistic target on most development sites, with a 20% requirement in town centres based on the lower viability of such previously developed sites.

- 4.4 Other aspects of the Local Plan have also been taken into consideration in the Viability Study including the charge to mitigate the impact on the Solent SPAs of increased visitor pressure arising from housebuilding through the Solent Recreation Mitigation Strategy which increased from 1st April 2018² and the enhanced accessibility standards.

Draft Charging Schedule Document

- 4.5 The Draft Charging Schedule is the second stage of public consultation and takes account of responses received to the Preliminary Draft Charging Schedule (PDCS), of which there were four. These were either expressions of support for particular elements of the PDCS, that certain types of development are proposed to be zero rated (i.e. no charge); or respondents were requesting particular types of development, or specific schemes, be added to the Regulation 123 List. A summary and analysis of the representations is set out in the Statement of Consultation, published on the CIL page of the Council's website.
- 4.6 The Draft Charging Schedule document attached at Appendix A of Appendix 1 explains CIL in more detail, the background to the revision of the Charging Schedule including the outcome of the viability assessments (undertaken by the Dixon Searle Partnership for the Council). The document also summarises the funding gap for the indicative infrastructure requirements for the borough and includes answers to some Frequently Asked Questions with links to sources of further information.
- 4.7 For the Southleigh Strategic Site, although a slight positive surplus is indicated prior to the application of CIL at the current levels the headroom is marginal especially given the early stage in the master-planning process for this development. This indicates that there is greater value to be gained through the use of planning obligations than through the application of CIL in achieving the necessary accompanying infrastructure, as has been the experience with similar strategic developments elsewhere in Hampshire.
- 4.8 For the rest of the borough, no changes to the current CIL charges for residential development; other than applying indexation (i.e. effectively resetting the CIL rate to the current indexed rate), are deemed necessary subject to the affordable housing targets included in the Pre-Submission Local Plan as expressed above. However, changes are recommended for retail uses: to increase the charge for large scale developments, closer to the higher level of the residential charge; and to make no charge on small scale retail units.

² The [Solent Recreation Mitigation Strategy](#) was endorsed by the PUSH Joint Committee in December 2017 and approved by the Council's Cabinet on 8 February 2018.

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Regulation 123 List

- 4.9 Regulation 123 of the CIL Regulations³ provides for charging authorities, i.e. the Council, to set out a list of those projects or types of infrastructure that it intends to fund, or may fund, through the CIL. Where the Regulation 123 List includes project specific infrastructure, planning obligations should not be sought in relation to that infrastructure. This is to avoid a developer being double charged.
- 4.10 The Regulation 123 list, attached at Appendix B of Appendix 1, has been updated following the implementation of CIL in the borough. This streamlines the list. The result of this is not to necessarily restrict what CIL can be spent on but instead increases what Section 106 agreements can be used for. The provision of infrastructure through a Section 106 planning obligation must be directly related to the development in question. However, the proposed changes to the Regulation 123 List increase the scope of what can be secured in this manner.

Consultation and Next Steps

- 4.11 Consultation on the Draft CIL Charging Schedule would take place alongside the proposed consultation on the Pre-Submission Havant Borough Plan 2036.
- 4.12 The CIL Regulations⁴ require that prior to submitting a Draft Charging Schedule for examination (in accordance with section 212 of the Planning Act 2008) the Council must make the Draft Charging Schedule, together with the relevant evidence, available for inspection (at the Council's offices and on its website) and invite comments ('representations') during a specified period which must not be less than four weeks.
- 4.13 All comments, or 'representations', made during the consultation period will be submitted, along with the Draft Charging Schedule and its supporting evidence, for a formal independent examination as soon as practicable.

Conclusion

- 4.14 The evidence supporting the Draft Charging Schedule indicates that with the requirements for affordable housing as proposed in the Pre-Submission Local Plan the CIL charges as currently applied (with indexation) represent the upper levels that residential development can support. For retail developments, only large scale units are proposed to be charged with small scale retail and other types of development being zero rated. For the area of the proposed Southleigh Strategic Site a zero rate of CIL is recommended in favour of reliance on planning obligations for the infrastructure provision.

5.0 Implications

- 5.1 **Resources:** The CIL Regulations currently allow up to 5% of income from the Levy to be used for administration purposes, which includes the costs associated with preparing the Charging Schedule, collecting the CIL and enforcement action for non-payment.

³ CIL Regulations 2010, as amended by the 2011, 2013 and 2014 Regulations.

⁴ CIL Regulations 2010, Regulation 16.

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- 5.2 **Legal:** This Draft Charging Schedule has been prepared in accordance with the Planning Act 2008 (Part 11), the CIL Regulations 2010 (as amended), the National Planning Policy Framework and the Planning Practice Guidance.
- 5.3 **Strategy:** The review of the CIL Charging Schedule is necessary to support the implementation of the Havant Borough Local Plan 2036, which is a key strategy and delivery mechanism for the Corporate Strategy.
- 5.4 **Risks:** Not collecting CIL would result in a loss of funding towards the costs of infrastructure as restrictions have been placed on the use of planning obligations (S106) and highway agreements (S278). The CIL will be spent on infrastructure the provision of which is needed to support development. If infrastructure cannot be funded undue pressure will be placed on existing infrastructure to the detriment of existing users and residents' amenity, and the environment. The government is currently consulting on proposed changes to the CIL Regulations which may be brought into force prior to the examination of the Draft Charging Schedule, or prior to approval of the Charging Schedule following examination. As currently proposed, the changes should provide greater flexibility to the Council by removing restrictions on the use of S106 and imposed by Regulation 123⁵.
- 5.5 **Communications:** Public consultation will take place on the Draft Charging Schedule. Those making representations have a right to be heard at the public examination.
- 5.6 **For the Community:** As a charge on development, the CIL is intended to ease the impact of new development on communities. As the borough has no Parish Councils, the Council may spend the CIL anywhere within its area; however, the Council has identified 'the Neighbourhood Portion' (15%) to be directed to local projects in consultation with local communities in accordance with the adopted Spending Decision Protocol.
- 5.7 **The Integrated Impact Assessment (IIA):** Has been completed and shows that the consultation on the Draft Charging Schedule will not lead to a disproportionate impact on any specific element of the community.
- 6.0 Consultation**
- 6.1 The consultation that is proposed on the Draft Charging Schedule is the second of two consultation stages that are required by statute in preparing a revised Charging Schedule prior to submission for examination.
- 6.2 The Draft Charging Schedule takes account of consultation responses received on the Preliminary Draft Charging Schedule.

Appendix 1: CIL Draft Charging Schedule Consultation document

⁵ [Reforming developer contributions: Technical consultation on draft regulations – Ministry of Housing, Communities and Local Government \(December 2018\)](#)

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Background Papers:

[CIL Charging Schedule \(February 2013\)](#)

[CIL Regulation 123 List](#)

Infrastructure Delivery Plan Update (December 2018) – Havant Borough Council

Denvilles-Emsworth Masterplan Viability Appraisal – GVA (October 2017)

Local Plan and CIL Viability Study Draft Report (DSP v6) – Dixon Searle Partnership (November 2017)

Statement of Consultation: Report of consultation undertaken on the Preliminary Draft Charging Schedule under Regulation 15 of the CIL Regulations 2010

Local Plan and CIL Viability Study Final Report (v7) - Dixon Searle Partnership (January 2019)

Agreed and signed off by:

For Head of Legal Services: Sara Bryan - 21st January 2019

For Head of Finance: Andrew Clarke – 21st January 2019

Director of Regeneration and Place: Simon Jenkins – 17th January 2019

Cabinet Lead for Communities, Development and Housing: Cllr Leah Turner – 18th January 2019

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