

Report of Corporate Director of Place
Portfolio of the Executive Member for Finance and Performance

Community Infrastructure Levy Update

Summary

1. Since 2010, authorities in England and Wales have been empowered to establish a Community Infrastructure Levy (CIL) to help pay for infrastructure to support development, such as schools, green infrastructure and sustainable transport. On 16 June 2022, City of York Council's Executive agreed introduce a CIL in York to support the implementation of the emerging Local Plan.
2. This report provides information about CIL and an update on progress implementing a CIL for York. It explains:
 - What CIL is and how it differs to S106.
 - The Council's emerging thinking on CIL implementation, including timelines for consultation.

Background

3. The Community Infrastructure Levy (CIL) provides a mechanism to collect funding from development. It is intended to help ensure infrastructure to support development envisaged is delivered in the right time and in the right place. Infrastructure that can be funded by CIL includes transport infrastructure, flood defences, schools, hospitals, and other health and social care facilities, open spaces, cultural and sports facilities, district heating schemes and other community safety facilities.

4. Before any CIL can be collected and spent, there is a defined process for setting CIL rates which is set out in the CIL Regulations 2010 (as amended). CIL rates must be identified in a CIL Charging Schedule. The proposed rates must be consulted on through publication of a Draft Charging Schedule which must then be subject to an examination led by an independent person. This public examination process is to allow scrutiny of the charges and the supporting evidence. The supporting evidence will need to demonstrate that:
 - The CIL charge(s) proposed are viable for development including for different types or development of areas.
 - There is an infrastructure funding that justifies charging a CIL, drawing on infrastructure evidence associated with the Local Plan.
5. The rates identified in any Charging Schedule arise from a technical exercise on the viability of development as required by Regulations; rates must not be set based on policy decisions about the desirability, or otherwise, of a particular use.
6. A CIL examination does not consider the way in which CIL is spent or the governance processes associated with allocating CIL receipts to projects. This is for the charging authority to define and in the case of York, its Executive. However, there *are* rules for the way in which CIL must be used and these are defined in legislation. This includes a clear legal requirement for CIL to be spent on infrastructure to support development in York. A proportion to be allocated to neighbourhood priorities for funding which can be wider than just on infrastructure but must be used to address the demands that development places on the area. CIL cannot therefore remedy existing funding deficits or matters unrelated to development.

Key Information and Progress Update

What is the CIL and how does it differ from Section 106 funding?

4. CIL is a fixed charge per square metre on most development of 100 square metres or more, or a new dwelling of any size. It is calculated using standard formulae set out in the Regulations. CIL rates must be set out in a Charging Schedule. An example of a CIL charging schedule is shown in Figure 1. There are exceptions and reliefs from payment of CIL provided for in the Regulations, and available by application. The reliefs

can apply to affordable housing, most charitable developments, self-build homes and residential annexes.

- While the CIL sum a developer is liable to pay is calculated at the time of a planning permission, CIL is only payable when a development has commenced. The CIL payment is index linked to a BCIS index from the year the CIL charge was adopted to the year the charge is applied (meaning that this can be higher or lower than the rates shown in a CIL Charging Schedule). Like the charge itself, this indexation calculation is defined in the Regulations.

Use	Proposed CIL Charge per sq. m.
<p>Private Market Houses (excl. apartments)</p> <p>Low value areas Moderate value areas High value areas</p>	<p>£10 £35 £50</p>
<p>Supermarket</p> <p>Supermarkets are large convenience-led stores where the majority of custom is from people doing their main weekly food shop. As such, they provide a very wide range of convenience goods, often along with some element of comparison goods. In addition to this, the key characteristics of the way a supermarket is used include:</p> <ul style="list-style-type: none"> - The area used for the sale of goods will generally be above 500 sq. m. - The majority of customers will use a trolley to gather a large number of products; - The majority of customers will access the store by car, using the large adjacent car parks provided; - Servicing is generally undertaken via a dedicated service area, rather than from the street. 	<p>£110</p>
<p>Retail Warehouse</p> <p>Retail warehouses are usually large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods. They can be stand-alone units, but are also often developed as part of retail parks. In either case, they are usually located outside of existing town centres and cater mainly for car-borne customers. As such, they usually have large adjacent, dedicated surface parking.</p>	<p>£60</p>
<p>Public/Institutional Facilities as follows: education, health, community and emergency services</p>	<p>£0</p>
<p>All other chargeable development (incl. apartments)</p>	<p>£0</p>

Figure 1: Example of CIL Charges (maps showing value areas are in the charging schedule)
Source: Selby District Council Charging Schedule, 2015 (which came into effect 01 January 2016)

6. CIL receipts go into a single funding pot which is further split up into the following 'pots' CIL. The split is as follows:

- 75 to 85 % of CIL receipts must be applied to infrastructure to support the development of a charging area (but excluding affordable housing which continue to be secured through Section 106).
- 15% to 25% of CIL receipts must be applied to neighbourhood priorities as set out in Figure 2.
- Up to 5% of CIL receipts can be used cover administration costs associated with the administration of CIL.

Parish council	Neighbourhood plan	Levy
✓	✓	25% uncapped, paid to parish each year
✓	x	15% capped at £100/dwelling (indexed for inflation), paid to parish each year
x	✓	25% uncapped, local authority consults with community about how funds can be used, including to support priorities set out in neighbourhood plans
x	x	15% capped at £100/dwelling (indexed for inflation), local authority consults with community to agree how best to spend the neighbourhood funding

Figure 2: CIL Neighbourhood Funding

Source: National Planning Practice Guidance on Community Infrastructure Levy, Paragraph 145, Referenced 23-145-20190901

7. Importantly, and in common with Section 106, the purpose of CIL is to address the impacts of development and not to address existing funding deficits or demand unrelated to development. But there are some differences. Unlike Section 106 CIL is *non-negotiable* and fixed charge; once the rate is set through the Charging Schedule, that is the rate that must be applied to development. Section 106 legal agreements identify the specific project or works that any contributions are to be spent on. CIL is not secured through a legal agreement with these restrictions. It is a financial contribution paid into a single pot for the Council to apply to infrastructure as set out in paragraph 6 above. This allows more strategic application of funding compared to Section 106.
8. The CIL and Section 106 can be used alongside each other where the legal requirements set out in the Regulations are met. In very simple terms, CIL has a particular role in meeting the cumulative demand arising from development overall, including smaller scale development, but there will still be a role for Section 106 even when CIL is adopted. Section 106 will therefore continue to be used to secure affordable housing and other site-specific infrastructure even when CIL comes into effect in York.
9. As reported to Executive on 16 June 2022, on large-scale strategic sites where a larger proportion on developer contributions will be secured through Section 106 (such as where onsite school is required), the CIL contribution is likely to be lower. But there may be instances where the CIL portion of the total developer contributions 'pie' is larger than the Section 106 contributions for smaller developments or certain non-residential uses.

What progress has been made since Executive in introducing a CIL?

10. Since the meeting of Executive in June 2022, in the context of the Local Plan examination, further viability testing of strategic sites and student housing has been undertaken. Building on this work, the Council intend to appoint a specialist consultant to assess the help set the appropriate CIL for York. This will include advice on the extent to which this should be varied by use or area. Such variances must be based on evidence on viability.
11. Officers have also continued to engage officers internally, for example, the Council's transport policy and schools place planning officers, as well as external partner organisations, such as health providers. This continues the engagement associated with work on the emerging Local

Plan. The purpose of this engagement, in the context of CIL, is to continue to collate evidence on infrastructure needs, costs and timelines. This evidence will be updated and analysed to identify the infrastructure funding gap which will be examined as part of the Charging Schedule examination.

12. Work has not yet commenced on a policy for CIL allocation and spend as the first step is to get a CIL charge in place. Furthermore, until the CIL charging schedule has been adopted in in operation, no CIL can be collected. It will also take some time of appreciable CIL receipts to build up. Decisions on allocation and spend are therefore not less than 18 to 24 months away. The policy for CIL spend once adopted (and any processes for allocation associated with this) will be designed to demonstrably comply with the relevant legislation on the use of CIL.

What are the approaches to neighbourhood funding within unparished areas, before Executive taking a decision on this?

13. As explained above, CIL receipts are some way off as they are on a Charging Schedule being adopted – and payments accruing after this. Therefore, the approaches to the spend of CIL, including for unparished neighbourhood areas, are yet to be developed in detail. It anticipated work will commence next year in parallel with work on the Charging Schedule. This will be led by officers from Place Directorate. It will involve conversations with communities in central York as well as Parish Council on CIL allocation and spend approaches (and the systems needed to support these).
14. An advantage of being a relatively late adopter of a CIL is the opportunity to learn from good practice elsewhere in Yorkshire but also further afield; for example, London is largely unparished, b early adopters of CIL (ut boroughs were early adopters of CIL (with adoption clustered around 2012 to 2015). A number of models of neighbourhood CIL funding practices have emerged in London and elsewhere in the country, these have included:
 - A crowdfunding approach, for example, [‘Crowd Fund Portsmouth’](#)
 - A ‘community chest’ approach allowing bidding for projects through defined funding rounds
 - Using funding alongside ward budget programmes.
15. Officers will engage with the national Planning Advisory Service (PAS) to access advice on best practice. This is to ensure that in line with the

expectations of Executive and members of the Local Plan Working Group, that is parity between parished and unparished areas as far as possible within the scope of the Regulations.

What is the emerging thinking on the Draft Charging Schedule CIL prior to going to further consultation?

16. Further work is ongoing to determine the appropriate CIL rates – developing the viability analysis undertaken associated with the Local Plan. Because CIL is non-negotiable, it cannot be discounted on a case by case basis in the context of individual planning applications. Developers will need to be able to pay for CIL, but also meet our Local Plan affordable housing targets and sustainable design standards so permission can be granted in line with emerging Local Plan policies.
17. It is important that CIL is set at a level that is appropriate to fund much needed infrastructure, but does not put development at risk. Developers also need to make a profit, or they simply will not invest in housing (and affordable housing) and commercial development in York. National planning guidance makes it clear that when deciding the CIL rates, a charging authority must strike an appropriate balance between additional investment to support development and the potential effect on the viability of developments.

What is the timeline and details the process for the formal consultation on the draft charging schedule?

18. As reported to Executive on 16 June 2022, it was intended that a Draft Charging Schedule would be ready for consultation in Autumn 2022. However, the need to consult on modifications to the Local Plan arising from the examination hearings, means that this is now likely to be in early 2023. This will be in parallel with consultation on proposed modifications on the Local Plan.

Consultation

19. The CIL Regulations 2010 (as amended) set out a clear requirement for consultation on the Draft CIL Charging Schedule in addition to a public independent examination of the proposed charges. This Draft Charging Schedule, setting out proposed rates, will be subject to approval by

Executive and consultation with the Local Plan working group ahead of formal consultation.

Council Plan

20. As well as supporting delivery of the emerging Local Plan, introduction of a CIL for York will contribute to the attainment of 'Creating homes and world-class infrastructure' outcome, as set out in the Council Plan 2019-2023 (Making History, Building Communities) and indirectly support other objectives.

Implications

21. This report is for information. Implications for the decision were addressed in the 16 June 2022 report to Executive on this subject.
- **Financial** – None identified
 - **Human Resources (HR)** – None identified
 - **Equalities** – None identified
 - **Legal** – None identified
 - **Crime and Disorder** – None identified
 - **Property** – None identified

Risk Management

7. This report is for information. Implications for the decision were addressed in the 16 June 2022 report to Executive on this subject.

Recommendations

8. To note the content of this report.

9. Contact Details:

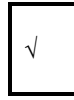
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**Report
Approved**



Date 10.10.22

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

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