

**REPORT TO:** Environment and Urban Renewal  
Policy and Performance Board

**DATE:** 19<sup>th</sup> November 2014

**REPORTING OFFICER:** Strategic Director – Policy and Resources

**PORTFOLIO:** Physical Environment

**SUBJECT:** Community Infrastructure Levy (CIL)

**WARDS:** Boroughwide

## **1.0 PURPOSE OF THE REPORT**

- 1.1 This report provides the Board with an update on the Community Infrastructure Levy (CIL) investigatory work undertaken to establish if a CIL financial charge on new development is viable in Halton. The investigatory work is now complete and concludes that CIL is viable in Halton. CIL is a mechanism for charging developers a set fee to provide physical infrastructure in the local authority area. The CIL charge is in £ per m<sup>2</sup> and varies between types of development (housing, offices etc) and geographic areas.
- 1.2 This report is accompanied by a presentation, to be given on the night of the meeting, to provide Members with more detail on the results of the viability work that has been undertaken.
- 1.3 Further work is now required to set the specific CIL rates to be levied on development, as this information underpins the preparation of a CIL Charging Schedule for Halton. Before CIL can be levied on development, a Charging Schedule must be independently examined and then formally adopted by the Council.
- 1.4 Members will be aware of a previous PPB report on CIL (January 2013). That report remains current in terms of detailed background. The only significant change is that the Government has delayed the scaling back of the use of Section 106 agreements until April 2015.

## **2.0 RECOMMENDATION: That**

- 1. the accompanying presentation be received;**
- 2. the Board supports the preparation and adoption of a CIL Charging Schedule for Halton targeted at residential development in the viable areas of Halton; and**
- 3. a report is made to the Council's Executive promoting the preparation and adoption of a formal CIL Charging Schedule.**

### **3.0 SUPPORTING INFORMATION**

- 3.1 CIL is a new charge that local authorities have the power to levy on most types of new development in their areas to fund infrastructure required to support growth. Charges are based on the size and type of development proposed. CIL will not replace mainstream funding sources (for example highways or education funding direct from government departments). Evidence of the need for infrastructure and development viability is required when setting the charge. Once set and adopted, CIL will be mandatory for developers to pay.
- 3.2 The advantage of CIL is that it provides a fairly flexible fund to contribute to infrastructure provision. However, due to local land values and development viability issues, CIL will not generate sufficient funds to exhaustively deliver every item of infrastructure that is within the Council's Infrastructure Plan that accompanies the Core Strategy. Infrastructure will have to be carefully prioritised so that the 'Regulation 123 list' (the list of infrastructure items CIL can be spent on) is a short-list of key items (see paragraph 3.10). Critically, CIL represents a funding stream that the Council cannot access unless it formally adopts a CIL Charging Schedule.
- 3.3 Members will be aware of the existing powers the Council has to enter into legal agreements with developers under Section 106 of the Town and Country Planning Act 1990, to seek contributions from developers to mitigate negative development impacts and facilitate development which might otherwise not occur. The Community Infrastructure Levy Regulations 2010 (the CIL Regulations) have changed the way in which planning obligations can be sought through Section 106 Agreements. Whilst CIL is an optional charge the CIL<sup>1</sup> Regulations which came into force on 6 April 2010 significantly limit the use of Section 106 agreements after April 2015. After this date, no more than five developer contributions can be pooled per infrastructure item (the five will include any agreements commenced from 6 April 2010). These restrictions would make Section 106 impractical as a source of developer contributions for strategic infrastructure.
- 3.4 CIL will sit alongside other financial opportunities for infrastructure such as Tax Increment Financing (TIF), New Homes Bonus, a reduced Section 106 mechanism and Section 278 for highway works.
- 3.5 Whilst it is the Government's intention to replace Section 106 contributions for general types of community infrastructure, Section 106 agreements will still be used for site-specific mitigation measures that are required to make a development acceptable, including affordable housing.

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<sup>1</sup> CIL Regulation 2010 Regulation 42  
CIL Regulations 2010 Regulation 6(1) and 40(6)

- 3.6 In the absence of CIL, there is every prospect that it will be increasingly difficult to fund the infrastructure necessary to deal with future development in Halton, although it must be acknowledged that CIL also brings significant administration and legal responsibilities including the enforcement of non-payment. Halton Borough Council would be responsible for setting the CIL charge, collecting the Levy and allocating the Levy for spending.
- 3.7 Viability work has now established that CIL is viable in Halton i.e. that development can afford to pay a CIL charge, in addition to other development costs and still provide enough incentive for developers to undertake projects. The ability of development to sustain a CIL charge will relate to the development type, for example residential development in some areas is able to sustain a CIL charge whilst employment development would not be viable in the current market and as such would be subject to a CIL charge of zero. Further viability work is now required to establish and test appropriate CIL charge rates resulting in the preparation and adoption of a formal CIL charging schedule for Halton.

**What is Community Infrastructure Levy?**

- 3.8 The CIL is a mechanism for charging developers a set fee to provide infrastructure in the local authority area. Section 216 of the Planning Act 2008, as amended by Regulation 63 of the CIL Regulations defines 'Infrastructure' for the purpose of CIL as including:
- a) Roads and other transport facilities;
  - b) Flood defences;
  - c) Schools and other educational facilities;
  - d) Medical facilities;
  - e) Sporting and recreational facilities; and
  - f) Open spaces.
- 3.9 The CIL schedule is prepared and set by the local authority. In setting the charging system the Council will need to consider the total costs of infrastructure provision resulting from development within Halton (as set out in the Core Strategy) against existing funding streams and the viability of that development. CIL will also rationalise the land uses that will be subject to the charge, with all types of land use being potentially liable. It should be noted that the CIL would not be a standardised charge paid by all types of development. The CIL will be a schedule setting out differential rates reflecting the size, nature and viability of land uses across Halton.
- 3.10 The Council must publish a list of infrastructure that it intends to spend its CIL receipts on. This list is known as 'the Regulation 123 list'. This list can be updated as appropriate in response to changing priorities.

## **4.0 POLICY IMPLICATIONS**

- 4.1 The effect of tightening up of the parameters for using S106 obligations will result in a significant reduction in infrastructure delivered through obligations, especially after the deadline date of 6th April 2015. As a result the overall impact of not pursuing CIL would be the loss of developer contributions toward the provision of necessary infrastructure in Halton. It should be noted that in the last 5 years alone, over £8 million has been secured through S106 Agreements for infrastructure provision in Halton. Furthermore, the Council has been increasingly successful in negotiating infrastructure funding and provision through Section 106, such that it represents an important source of funding for infrastructure in Halton.
- 4.2 In view of the regulations restricting what can be secured through Section 106 Agreements, not pursuing CIL would mean that the Council would not receive these contributions, nor realise the infrastructure that these contributions provide. This could result in a significant mismatch in development and infrastructure provision that could lead to severe pressure on some infrastructure areas and unsustainable growth.
- 4.3 **Specific Policy Implications**  
Viability research has established that CIL is viable in some areas of Halton i.e. that development can afford to pay a CIL charge, in addition to other development costs, and still provide enough incentive for developers to undertake projects. The ability of development to sustain a CIL charge will relate to the development type, for example residential development in some areas is able to sustain a CIL charge whilst employment development would not be viable in the current market and as such would be subject to a CIL charge of zero. Further viability work is now required to establish and test appropriate CIL charge rates resulting in the preparation of a formal CIL charging schedule for Halton.
- 4.4 Within Halton it is proposed to levy a charge on specific zones / areas, together with specific development types, for example residential development on areas of greenfield land only. Those areas that are either regeneration areas or have low property values, and therefore weak viability, would be subject to a zero charge. Aside from residential, other development types (office, industrial, retail) cannot yield CIL charges without compromising viability. Retail warehousing is an exception to this, however in order to encourage development it is proposed that this would also attract a £0 rate CIL. It is therefore proposed that only residential schemes within higher value areas would be subject to a levy under CIL.
- 4.5 CIL needs to be considered alongside other policy 'asks'. Affordable housing requires consideration. Core Strategy Policy CS13 seeks, for residential schemes on 10 units or more, that 25% of the units are affordable. The viability research suggests that this policy requirement may make development unviable when combined with CIL, even in the

high value areas. However Policy CS13 does allow the affordable housing contribution to be reduced where credible evidence is provided by the developer to demonstrate a negative impact on viability. Therefore the net impact of adopting CIL could be the reduced delivery of affordable housing units, but the advantage would be a more flexible CIL fund to be spent on infrastructure in Halton. In practice the viability of schemes that are subject to CIL would be examined on a case by case basis.

- 4.6 Once set and adopted, CIL will be mandatory for all developers to pay, there is no discretion to waive payment. However, this aspect could encourage investment in the existing urban area. The proposed CIL for Halton would target greenfield residential development only and therefore those developers who are seeking to release greenfield land do so at a premium. The CIL fund could then be used to deliver brownfield land development, provided the proposed works qualify as 'infrastructure' and appear on the Councils Regulation 123 list.

## **5.0 OTHER IMPLICATIONS**

- 5.1 The key non-policy implications of producing a CIL Charging Schedule relate to resources. The production of this document will be undertaken by officers in the Policy and Development Services Division.
- 5.2 Aside from the financial implications of producing material for public consultations and examination, it may be necessary to use valuation consultancy services for specialist expertise on viability. The financial implications of the above can be met from within existing budgets.
- 5.3 The CIL Regulations make clear that there is no requirement to undertake a Sustainability Appraisal and Strategic Environmental Assessment to support the introduction of a CIL charging schedule.

## **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

The introduction of CIL will be to provide for a wide range of supporting infrastructure across the Borough to assist future development proposals. CIL will be important in supporting many aspects of the Core Strategy, Corporate Plan and Sustainable Community Strategy.

### **6.1 Children & Young People in Halton**

No specific implications identified.

### **6.2 Employment, Learning & Skills in Halton**

No specific implications identified.

### **6.3 A Healthy Halton**

No specific implications identified.

### **6.4 A Safer Halton**

No specific implications identified.

## 6.5 Halton's Urban Renewal

The CIL Charging Schedule will be a key tool in bringing forward development on sites in the urban area by securing funding for the necessary infrastructure.

## 7.0 RISK ANALYSIS

- 7.1 If the opportunity to prepare a CIL Charging Schedule is not examined thoroughly now, there is risk of failing to deliver the development the Borough needs, through a lack of the necessary supporting infrastructure.
- 7.2 There is also a risk of a loss of significant funds to the Council which could potentially be generated by the Levy.
- 7.3 The Regulations allow up to 5% of local CIL receipts to be applied to administrative expenses, to fund, for example, collection of the levy.

## 8.0 EQUALITY AND DIVERSITY ISSUES

- 8.1 The Council seeks to ensure that the benefits of growth are shared among all local communities, including those covered by the protected characteristics identified in the Equalities Act. Choices around community infrastructure can be expected to affect communities in different ways.
- 8.2 The strategic implications of growth, and the positive and negative impacts that could arise, are considered in an equalities impact assessment (EIA) attached to the Core Strategy. The CIL is a mechanism to fund and provide the infrastructure necessary to deliver the spatial vision of the Core Strategy, and so at a policy level the impacts are covered in that Core Strategy EIA.

## 9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
<a href="#">Part 11 of The Planning Act 2008</a> (as amended by <a href="#">Part 6 of the Localism Act 2011</a> )	Municipal Building, Widnes	Tim Gibbs
The <a href="#">Community Infrastructure Levy Regulations 2010</a> came into force on 6 April 2010	Municipal Building, Widnes	Tim Gibbs
The <a href="#">Community Infrastructure Levy (Amendment) Regulations 2011</a> came into force on 6 April 2011.	Municipal Building, Widnes	Tim Gibbs
<a href="#">The Local Authorities (Contracting Out of Community Infrastructure Levy Functions) Order 2011</a> came into force on 7 December 2011.	Municipal Building, Widnes	Tim Gibbs
Halton Core Strategy Local Plan	Municipal Building, Widnes	Tim Gibbs

Document	Place of Inspection	Contact Officer
Halton Infrastructure Delivery Plan	Municipal Building, Widnes	Tim Gibbs

## **APPENDIX 1 – OTHER NW LA CIL CHARGES:**

**Note – This table is included for interest of other Local Authorities CIL Charges. Any charges levied in Halton MUST be based on local viability evidence and this work still needs to be undertaken to establish a draft Charging Schedule.**

Local authority	CIL status	Date	Residential Charges	Retail/Commercial Charges	Others
<a href="#">Bolton</a>	13/05/2013	Draft Charging Schedule Published	Residential and student accommodation developments are to be charged £45 per square metre. Affordable housing will not be charged.	Supermarket developments are to be charged £135 per square metre. Retail Warehouse developments are to be charged £45 per square metre.	All other uses are to be charged £5 per square metre. Except for health community and emergency services facilities which will be £0
<a href="#">Chorley (Central Lancashire)</a>	16/07/2013	Adopted	Dwelling house developments will be charged £65 per square metre.	Convenience retail developments (excluding neighbourhood convenience stores) will be charged £160 per square metre. Retail warehouse, retail parks and neighbourhood convenience stores will be charged £40 per square metre.	No charge for all other uses.
<a href="#">Preston (Central Lancashire)</a>	22/08/2013	Adopted	Two dwelling house development charging zones with rates of £65 and £35 per square metre. Apartments will not be charged CIL.	Convenience retail (excluding neighbourhood convenience stores) will be charged £160 per square metre. Retail warehouse, retail park and neighbourhood convenience stores will be charged £40 per square metre.	No charge for all other uses.
<a href="#">South Lakeland</a>	18/09/2014	Draft Charging	Three residential charging zones with	Two supermarket and retail	No charge for all other uses.

		Schedule Published	rates of £50, £20 and £0 per square metre. Two sheltered and retirement housing development charging zones with rates of £50 and £0 per square metre. Agricultural workers dwellings will not be charged.	warehouse development charging zones with rates of £150 and £0 per square metre.	
<a href="#">South Ribble (Central Lancashire)</a>	24/07/2013	Adopted	Dwelling house developments will be charged £65 per square metre. No charge for apartment developments.	Convenience retail (excluding neighbourhood convenience stores) will be charged £160 per square metre. Retail warehouse, retail park and neighbourhood convenience stores will be charged £40 per square metre.	No charge for all other uses.
<a href="#">Trafford</a>	26/03/2014	Adopted	Three private market house development zones with rates of £20, £40 and £80 per square metre. Two apartment development zones with rates of £65 and £0 per square metre. Hotel developments will be charged £10 per square metre.	Two charging zones for supermarket developments with rates of £225 and £0 per square metre. Retail warehouse developments will be charged £75 per square metre. No charge for office, industry and warehouse developments.	Leisure developments will be charged £10 per square metre. No charge for all other uses.
<a href="#">West Lancashire</a>	23/08/2014	Adopted	Two residential charging zones with rates of £85 and £0 per square metre. No charge for essential rural worker dwellings or apartment developments.	Two convenience retail developments with rates of £160 and £0 per square metre. Two food and drink developments (A3, A4 and A5) with rates of £90 and £0 per square metre.	No charge for all other uses.
<a href="#">Wigan</a>	24/07/2014	Draft Charging Schedule Published	Three residential charging zones with rates of £65, £40 and £20 per square metre.	Supermarkets and superstores developments will be charged £150 per square metre. Retail warehouse developments will be charged £50 per square metre. Retail	No charge for all other uses.

				developments (A3-A5) will be charged £10 per square metre.	
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