

16Report to: **Strategic Planning Committee**

Date of Meeting: 16 September 2020

Public Document: Yes

Exemption: None

Review date for release None



Subject: **Adoption and Implementation of the revised Community Infrastructure Levy Charging Schedule**

Purpose of report: To note the outcome of the recent Examination into the (revised) Community Infrastructure Levy (CIL) Draft Charging Schedule, and present the final version of the Charging Schedule for approval at Council. The report sets out the process for bringing the revised Charging Schedule into effect, including the date for when the new charges will apply.

Recommendation:

- 1. Note the outcome of the Examination into the Community Infrastructure Levy Draft Charging Schedule**
- 2. Recommend to Council that the revised Community Infrastructure Levy Charging Schedule attached at Appendix A is Approved with effect from 1 February 2021**

Reason for recommendation: To update Members on the recent CIL Draft Charging Schedule Examination, noting receipt of the Examiner's Report. Legislation requires that the Charging Schedule must be formally approved by a resolution of full council. The forthcoming date on when the revised Charging Schedule comes into effect (February 1, 2021) strikes a balance between providing sufficient notice to the development industry, and reflecting the viability evidence on levy rates and funding required to aid infrastructure delivery.

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Portfolio Holder: Portfolio Holder Strategic Planning

Financial implications: The long term financial implications are stated within the body of the report. At the 2019 year end an in year contribution of £3.4m brought the balance held within the CIL Reserve to £7.1m which is accounted for on an accruals basis. The total amount actually collected, ignoring instalments not yet paid, amounts to £5m.

Legal implications: The legal implications are as detailed in the report.

Equalities impact: Low Impact

Climate change: Low Impact

The rates in the CIL Charging Schedule achieve a balance between economic viability, and funding to deliver infrastructure. There is a low impact on climate change.

Risk:

Low Risk

The proposed CIL rates have been subject to independent Examination. The Examiner concluded that the rates are consistent with legislation and guidance by achieving a reasonable level of income to address a gap in infrastructure funding, whilst ensuring that a range of development remains viable across East Devon.

Links to background information:

- [Adopted CIL Charging Schedule](#)
- [Agenda for Strategic Planning Committee, 20 August 2019, item 7](#)
- [CIL Review and Cranbrook DPD Viability Study](#) and [Annexes](#)
- [East Devon Infrastructure Delivery Plan Review](#)
- [Cranbrook Infrastructure Delivery Plan \(Jan 2020\)](#)
- [Community Infrastructure Levy Planning Practice Guidance](#)
- [Draft CIL Charging Schedule Examiner's Report \(4 June 2020\)](#)
- [Community Infrastructure Levy Charging Schedule, for Approval – Appendix A](#)

Link to [Council Plan](#):

Outstanding Place and Environment
Outstanding Homes and Communities
Outstanding Economic Growth, Productivity, and Prosperity
Outstanding Council and Council Services

Report in full

1. Background

- 1.1 The Community Infrastructure Levy (CIL) can be imposed on new development by local planning authorities, and is a tool to help deliver infrastructure to support development. CIL is payable on development that creates net additional floor space, expressed as pounds per square metre. However, some development is exempt from paying CIL, for example if less than 100 square metres in size (apart from new dwellings), dwellings built by self/custom builders, social housing, and charitable development. The rate of CIL is set in a “charging schedule”.
- 1.2 The council adopted its current Charging Schedule in April 2016, and began charging CIL a few months later on 1 September 2016. The current Charging Schedule contains a charge for residential development, and retail development outside town centres and Cranbrook. All other non-residential uses do not pay CIL.
- 1.3 On adoption of the current Charging Schedule, the council made clear that an early review would be required. A key reason for doing so is to reflect the emerging Cranbrook Plan to ensure a consistent approach to infrastructure delivery at the town (i.e. section 106 planning obligations), and align the future growth of Cranbrook with a revised CIL charging zone – for example, if the current Charging Schedule continued to apply, “Grange” expansion area will be paying more CIL than the others, which clearly would not be justified.
- 1.4 This review began in 2017 and included preparation of a viability assessment which informed the proposed CIL rates. The subsequent revision of the Charging Schedule has reflected the emerging Cranbrook Plan, amended legislation, updated national policy and guidance, and latest evidence on development costs and values in East Devon.

- 1.5 When setting a CIL rate, a balance must be struck between the desirability of using CIL to fund infrastructure to support development, and the potential effects of CIL on development viability.
- 1.6 The infrastructure funding required for delivery of the Local Plan and emerging Cranbrook Plan amounts to some £371.3m, of which there is anticipated funding of £209.55m, leaving an overall infrastructure funding gap of around £161.75m. It is estimated that CIL receipts up to the year 2031 will total around £26.8m, making an important contribution to filling the infrastructure funding gap.
- 1.7 The potential effects on viability have been considered through the CIL Review and Cranbrook DPD Viability Study”, prepared by consultants Three Dragons with Ward Williams Associates. For selected case studies, this study establishes a residual value by subtracting all development costs (except for land purchase) from the value of the completed development (the Gross Development Value). The cost of land is then subtracted from the residual value to arrive at the theoretical maximum CIL charge. To allow for variations in costs and values between sites, and provide some safeguard if costs and values differ, the study applies a buffer (generally of around 50%) compared to the maximum theoretical CIL charge that could be applied. In most cases, the values from residential development enable CIL to be charged (apart from Cranbrook where a nil charge is recommended), but this is not the case for non-residential development where only retail outside town centres can sustain CIL.
- 1.8 In August 2019, Strategic Planning Committee resolved that the Draft Charging Schedule be published for consultation (following earlier consultation on a “preliminary draft”), and recommended to Council that this document be submitted to the Planning Inspectorate for Examination. The Draft Charging Schedule was subsequently submitted for Examination on 29 October 2019, with a hearing session taking place on 18 February 2020.
- 1.9 In early June 2020, we received the Examiner’s Report into the Examination – this concluded that the CIL Charging Schedule provides an appropriate basis for collecting the levy, with sufficient evidence showing that the levy is set at a level that will not put the overall development of the area at risk. The Examiner recommended that the Charging Schedule be approved without changes.

2. The revised Charging Schedule

- 2.1 Following receipt of the Examiner’s Report, the Charging Schedule in Appendix A sets out the charges that are recommended for approval, alongside maps showing where the charges apply (the “charging zones”).
- 2.2 In general, the proposed residential rates in the revised Charging Schedule are higher than the current adopted Charging Schedule (as index-linked), whilst the retail rate is less than half. The following table (Figure 1) compares the current CIL rates with the new rates that are recommended for approval.

Figure 1: Current CIL rates compared to proposed revised rates¹

Type and location of development	Current indexed CIL rate (per square metre)	Proposed new CIL rate (per square metre)
All development in Cranbrook	£84.12	£0
General residential development in Sidmouth and Budleigh Salterton	£154.63	£200

¹ Note that the comparison between the current and recommended rates is to inform the councils’ decision and that the use categories for the current CIL rate and proposed rate may not always be exactly the same – for example the current charging schedule refers to “residential” which the council has been implementing as a C3 use, which may or may not be directly comparable with the recommendations for sheltered/extra care which may be C2 or C3.

General residential development in the rest of East Devon	£98.96 (urban area) or £154.63 (rural area)	£150
Sheltered housing, extra care housing and care homes	£0-£154.63	£0
Rural Exception Sites	£154.63	£0
Strategic sites ²	£98.96	£100
Retail (out of centre) ³	£185.44	£84
All other non-residential uses	£0	£0

- 2.3 The Charging Schedule must be formally approved by a resolution of full council. Whilst the recommendation is that Council adopt the revised Charging Schedule, it is not required to do so. As stated in paragraph 1.3 above, a key reason for updating the Charging Schedule is to be consistent with the emerging Cranbrook Plan and infrastructure delivery at the town. The emerging Cranbrook Plan, currently at Examination, is based upon a zero CIL charge and infrastructure delivery through planning obligations. Therefore, not approving the revised Charging Schedule could prejudice progress on the Cranbrook Plan and delivery of infrastructure at the town more generally. Whilst it is likely that Covid-19 has had a short term impact on building rates, the long term effects on development viability are not known, so the pandemic should not prevent the council approving the new CIL rates. As noted, a substantial buffer has been applied in setting the rates.
- 2.4 Legislation also allows the council to stop charging CIL altogether. This would require an assessment of the effects of withdrawing CIL on the funding of infrastructure needs, a summary of measures to address this, and an assessment of how effective those measures will be. This assessment would then be subject to public consultation. As stated in paragraph 1.6, the estimated CIL receipts of around £26.8m will make an important contribution to filling the infrastructure funding gap. In addition, the proposed rates are based upon evidence that has been assessed through Examination, and recommended by the independent Examiner.
- 2.5 The existing Charging Schedule is accompanied by a “Regulation 123 list” setting out infrastructure projects or types of infrastructure that the council may fund using CIL receipts. These lists have now been abolished by the Government, and replaced with a requirement for the council to produce an “infrastructure funding statement” by December 31 every year (relating to the preceding period of April 1 to March 31). This statement will include:
- How much CIL the council has received and what we have spent it on
 - How much s106 the council has received and what we have spent it on
 - Which infrastructure projects and/or types of infrastructure we intend to spend CIL on
- 2.6 A separate report including our first annual infrastructure funding statement will be brought to Strategic Planning Committee.

3. Implementation

- 3.1 After approval of the revised Charging Schedule at Council, we can publish the Charging Schedule, and then proceed to implementing the new CIL charges. The date on which the

² Rate applies to residential development on strategic sites, as shown on the charging zone maps.

³ Retail is defined as all uses that fall within Classes A1, A2, A3, A4 and A5 of the Town and Country Planning (Use Classes) Order 1987 as amended, or any other order altering, amending or varying that Order, and related sui generis uses. The retail rate applies to qualifying floor space outside of Town Centre Shopping Areas as defined in the East Devon Local Plan 2013 to 2031, as shown on the charging zone maps.

new charges take effect is chosen by us, but must be at least one day after the date it is published.

- 3.2 There are several issues to think about in considering when to introduce the new charges. They should be brought in relatively swiftly as they reflect viability evidence on levy rates, and support the council's approach to infrastructure delivery, particularly at Cranbrook. The council already has software – "Exacom" – in place to administer CIL, and this will need to be updated with the new CIL charges and zones to which they apply. The council's website will also need to be amended in various places with information on the revised Charging Schedule. In addition, the development industry should be given sufficient notice so they are fully aware of the new charges.⁴
- 3.3 Taking the above factors into account, it is recommended the revised Charging Schedule takes effect on Monday 1 February 2021.

⁴ Nb. for developments which already have outline planning permission granted between 1 Sept 2016 and the day before the revised Charging Schedule being introduced, the reserved matters development will be calculated using the 'old' Charging Schedule.