

**SOLIHULL METROPOLITAN BOROUGH COUNCIL**

<b>Report to:</b>	Full Cabinet
<b>Meeting date:</b>	30 <sup>th</sup> September 2015
<b>Subject/Report Title:</b>	<b>COMMUNITY INFRASTRUCTURE LEVY</b>
<b>Report from:</b>	Cabinet Member for Managed Growth
<b>Report Author/Lead Contact Officer:</b>	Gary Palmer & Charlene Jones
<b>Wards affected:</b>	<input checked="" type="checkbox"/> All Wards <input type="checkbox"/> Bickenhill <input type="checkbox"/> Blythe <input type="checkbox"/> Castle Bromwich <input type="checkbox"/> Chelmsley Wood <input type="checkbox"/> Dorridge/Hockley Heath <input type="checkbox"/> Elmdon <input type="checkbox"/> Kingshurst/Fordbridge <input type="checkbox"/> Knowle <input type="checkbox"/> Lyndon <input type="checkbox"/> Meriden <input type="checkbox"/> Olton <input type="checkbox"/> Shirley East <input type="checkbox"/> Shirley South <input type="checkbox"/> Shirley West <input type="checkbox"/> Silhill <input type="checkbox"/> Smith's Wood <input type="checkbox"/> St Alphege
<b>Public/Private report:</b>	Public
<b>Exempt by virtue of Paragraph:</b>	N/A

<b>1. Purpose of Report</b>	
1.1	To update Cabinet on the Community Infrastructure Levy (CIL) Examination and seek approval for consultation on the Statement of Modifications to the Draft CIL Charging Schedule.
<b>2. Decision(s) Recommended</b>	
2.1	Approve the proposed Statement of Modifications to Draft CIL Charging Schedule (Appendix A) and supporting documentation (Appendices B-G) for consultation.
2.2	That it be delegated to the Director for Managed Growth to produce and publish

alongside the Statement of Modifications any explanatory documents necessary to explain or otherwise justify the Modifications and/or background and purpose of CIL.

### **3. Background**

- 3.1 The Community Infrastructure Levy allows local authorities to collect monies from new developments which are then used to fund new infrastructure to support the development of the area. CIL is intended to fill funding gaps that remain once existing sources have been taken into account. CIL rates (on the basis of pounds per square metre of new developments) are set out in a 'Charging Schedule'. Consultation on 'Preliminary' and 'Draft' Charging Schedules must take place and then the intended Charging Schedule is subject to independent examination.
- 3.2 Consultations on the emerging Charging Schedule were undertaken in 2013 and Full Cabinet on 10<sup>th</sup> April 2014 agreed a Draft Charging Schedule (DCS) to be submitted to the Planning Inspectorate for Examination.
- 3.3 The DCS was submitted in June 2014. However, due to the High Court challenge to the Local Plan, the Examination was suspended to await the outcome of the Court of Appeal decision on the legal challenge.
- 3.4 In March 2015 the Examiner (a Planning Inspector) agreed to re-open the Examination and hearings were scheduled for June 2015. In the intervening period, a new landowner had acquired the largest single site allocation within the Local Plan, Blythe Valley Park (BVP) (the Local Plan allocates to site to accommodate 600 dwellings). Given the new circumstances, the Inspector agreed to receive fresh evidence from the landowners, IM Properties (IMP). IMP submitted representations to the effect that they believed with the proposed CIL rate, the intended development at BVP would not be viable.
- 3.5 The hearings were held on 2<sup>nd</sup> June 2015, and the Inspector set 'homework' for the Council and IM Properties regarding further viability evidence on the site particulars of Blythe Valley Park, as well as documents to support the Draft Charging Schedule, such as draft Instalments Policy (see Appendices B-G).
- 3.6 Since the examination, IMP have submitted confidential cost information and viability appraisal of the intended development. This has been assessed by the Council's strategic land advisors (CBRE) who provided the Council with the original CIL viability study used to justify CIL rates across the Borough.
- 3.7 The further viability evidence from IMP has been used by CBRE to inform the preparation of an Addendum to the previous Viability Study for the Council. This is provided as Appendix B to this report.
- 3.8 The methodology for the viability study has remained the same – i.e. using a series of generic development scenarios to model viability with different CIL rates. An additional site has been included in the study that more closely reflects the intended development at BVP. This has included adjusting assumptions in the model regarding off plot infrastructure.
- 3.9 The increased costs associated with bringing forward residential development on a larger greenfield site such as Blythe Valley Park show that such a site would not support a CIL charge in addition to the planning policy requirements for affordable housing, transport links, education and open space provision.
- 3.10 The adjustments to the assumptions in the viability model described above are relatively modest and do not cover the full extent of 'additional' costs set out by IMP. By way of comparison it is worth noting that the assumption now included for off plot infrastructure is within a range given for such items in the 'Harman report'. This is

the report from the Local Housing Delivery Group (chaired by Sir John Harman) with representatives from the LGA and HBF. The report gives advice on viability testing of local plans. By way of further comparison it is noted that Birmingham City Council's recently approved CIL Charging Schedule includes a nil rate for the development of a 5,000 dwelling 'sustainable urban extension' at Langley which is to take place on land removed from the Green Belt as part of their development plan.

- 3.11 It is therefore recommended to amend the CIL Draft Charging Schedule, and introduce a nil rate for Blythe Valley Park for residential use classes C3 (dwellings) and C2 (Extra/residential care).
- 3.12 As a consequence of this proposed nil rate, it is also recommended to revise the Draft Regulation 123 list. The Regulation 123 list includes a list of projects which are intended to be funded via CIL. Whilst this doesn't bind the Council to using CIL monies on these projects, it does preclude the use of S106 agreements to secure the same infrastructure. This is to avoid 'double-dipping' of CIL receipts and Section 106 planning obligations for the same types of infrastructure. Therefore, an exception will have to be explicitly stated that funds for primary school provision, required as a result of development at Blythe Valley Park, would be agreed via Section 106 and not paid for by the general CIL pot. Elsewhere in the Borough, improvements to primary could still be made via CIL funds.
- 3.13 In setting a CIL rate the Council should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the Local Plan. The aim is to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential impact upon the economic viability of development across the area. Given the significant Local Plan allocation at BVP, the development of the site is a key part of the plan's development strategy.

#### **4. Evaluation of Alternative Option(s)**

- 4.1 The alternative options to the proposed nil rate for residential development at Blythe Valley Park are as follows:
- Continue with the CIL Draft Charging Schedule as submitted
  - Charge a lower rate for Blythe Valley Park
- 4.2 Given the new evidence and findings of the viability appraisal, not changing the rate for Blythe Valley Park and charging £150 per sqm on new dwellings, and £25 per sqm on Extra/Residential care, would likely render the site unviable and prevent the site coming forward for development.
- 4.3 Through the planning application process, the Council will still be able to negotiate section 106 & 278 agreements to secure infrastructure necessary to support the development at BVP. This could also include a phased approach to appraising development viability to reflect the timescale of the development coming forward in stages.
- 4.4 If the Council were to continue to pursue the rate set out in the DCS then the matter would have to be decided by the Examiner. He may either recommend a reduced or nil rate; or retain the charge at £150 per sqm.

#### **5. Reasons for Recommending Preferred Option**

- 5.1 The preferred option is considered to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential impact upon the economic viability of a key development site within the local plan.

## 6. Next steps

- 6.1 A Statement of Modifications and revised Draft Regulation 123 list would be subject to consultation. Consultees would only be invited to make comments about the proposed modifications and not re-open arguments on the rest of the CIL Draft Charging Schedule.
- 6.2 All responses to the consultation would be forwarded to the Examiner to inform his report. The Examiner can recommend that the draft charging schedule should be approved, rejected, or approved with specified modifications. The Examiner must give reasons for those recommendations.

### Timetable

September 2015 – Cabinet approval of Statement of Modifications

October 2015 – Consultation

November 2015 – Consultation responses submitted to Examiner

December 2015 – Examiner's Report

February 2016 – Full Council approval to adopt CIL

April 2016 – Start implementation of CIL

## 7. Scrutiny

- 7.1 None.

## 8. Implications

### 8.1 **Delivery of the Council's Priorities**

The options/proposals in this report will contribute to the delivery of the following Council Priorities:

- Improve Health and Wellbeing (*Infrastructure provision*)
- Managed Growth (*CIL Implementation; Local Plan Delivery*)
- Build Stronger Communities (*Infrastructure provision*)
- Deliver Value (*Maximise Council income*)

- 8.2 **Policy/Strategy Implications** – Progression to adoption of CIL Charging Schedule. Delivery of Local Plan residential site allocations.

- 8.3 **Meeting the duty to involve** - Statement of Modifications subject to statutory consultation of 4 weeks.

- 8.4 **Financial Implications** – The eventual adoption of CIL will bring monies to the Council that can be used to fund infrastructure delivery.

- 8.5 **Legal implications** - The ability to introduce a levy stems from the Planning Act 2008 and CIL Regulations 2010 (as amended).

- 8.6 **Risk Implications** - None

- 8.7 **Statutory Equality Duty** – A Fair Treatment Assessment (FTA) of the Draft Charging Schedule and Draft Regulation 123 list was undertaken to ensure that our duties under the Equality Act 2010 to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between communities, are met.

- 8.8 **Carbon Management/Environmental** - None

8.9 **Partner Organisations** - None

8.10 **Safeguarding/Corporate Parenting Implications** - None

8.11 **Customer Impact** - Those wishing to bring forward developments will be impacted upon with the introduction of CIL. However the legislation effectively requires that this impact is taken into account by giving due consideration to protecting the viability of developments taken as a whole. Residents and others that live, work or play in the area will benefit from CIL as it provides CIL to fund infrastructure projects that will generally be accessible to all.

8.12 **Other implications** - None

## **9. List of Appendices Referred to**

9.1 A – Proposed Statement of Modifications

9.2 B - CBRE Viability Study Addendum, September 2015

9.3 C – Draft Section 106 Policy Document

9.4 D – Revised Regulation 123 list for consultation

9.5 E – Negotiated Section 106 on Local Plan residential sites

9.6 F – Projected CIL Income

9.7 G – Revised Draft Instalments Policy

## **10. Background Papers Used to Compile this Report**

10.1 Cabinet Report and Appendices dated 10<sup>th</sup> April 2014

## **11. List of Other Relevant Documents**

11.1 Planning Practice Guidance (online resource)  
<http://planningguidance.planningportal.gov.uk/>