

**Appendix A: Report to the Local Development  
Framework Group, 2 September 2019**



## Local Development Framework Group

Monday, 2 September 2019

## Community Infrastructure Levy

### Report of the Planning Policy Manager

#### 1. Purpose of report

- 1.1. The Borough Council is in the process of introducing a Community Infrastructure Levy (CIL) across the Borough. The purpose of CIL is to help support the provision of new infrastructure. In order to reach the point where the Council can consider adoption of CIL, there has been two formal stages of consultation on the proposed charging rates and an examination in public which was held on 20 March 2019. The Examiner in his report has recommended that the proposed charging rates across the Borough are appropriate, and will not undermine development viability.
- 1.2. At this point, the Council has to make a decision whether CIL is brought into force across the Borough, and from what date. It is for the Local Development Framework.

#### 2. Recommendation

The Local Development Framework Group RECOMMEND that Council:

- a) adopts the Community Infrastructure Levy Draft Charging Schedule, as set out in Annex 3 and Annex 4 of the Examiner's report, with it being brought into force on Monday 7 October 2019; and
- b) adopts the Community Infrastructure Levy Instalment Policy and Community Infrastructure Levy Payment in Kind Policy.

#### 3. Reasons for Recommendation

- 3.1 To ensure that the impacts of development are mitigated as far as possible through securing funding for improvements to infrastructure across the Borough.

## 4. Supporting Information

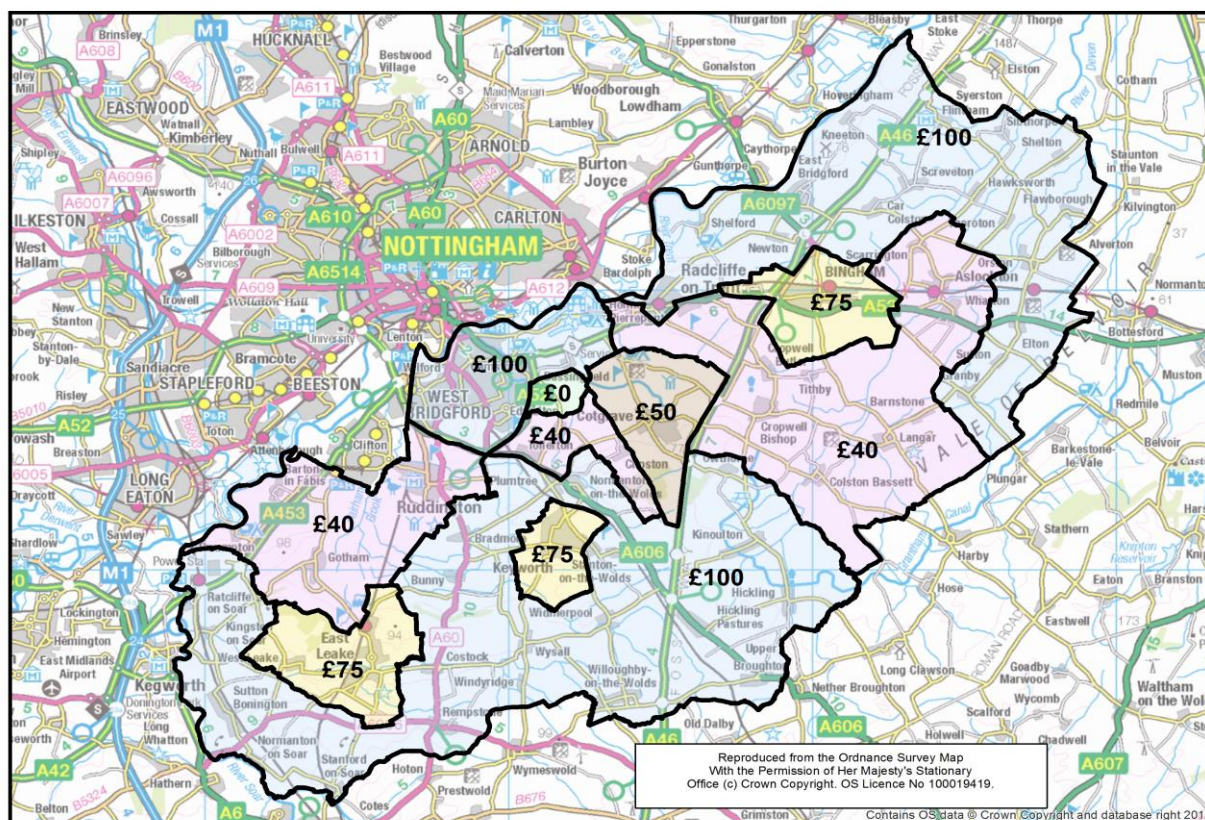
### CIL rates

- 4.1. The Community Infrastructure Levy (CIL) is a charge levied on new buildings and extensions to buildings according to their floor area and the money raised from the development helps to pay for the infrastructure to ensure the Borough grows sustainably. The levy applies to all development of 100m<sup>2</sup> or more, and to all dwellings where there is not mandatory relief.
- 4.2. In setting the CIL rate the Borough Council has aimed to strike an appropriate balance between:
  - The desirability of funding from CIL (in whole or part) the actual and expected estimated total cost of infrastructure required to support the development of its area; and
  - The potential effects of the imposition of CIL on the economic viability of development across its area.
- 4.3. Following on from two stages of consultation, the Borough Council submitted its CIL Draft Charging Schedule for examination on 14 December 2018. The examination took place from January to June 2019, with a hearing session taking place on 20 March 2019. Further details of the examination can be found at [www.rushcliffe.gov.uk/planningpolicy/cil/](http://www.rushcliffe.gov.uk/planningpolicy/cil/)
- 4.4. The examination focused upon whether the viability evidence that underpinned the proposed CIL rates is appropriate, and whether the proposed rates would put developments at risk. Following the hearing session and further correspondence between parties who attended the hearing session, the Examiner issued his report (**Appendix 1**). The Examiner concluded that the modified CIL Draft Charging Schedule, submitted during the course of the examination, provides an appropriate basis for the collection of the levy in the Borough. The proposed rates will not put developments at risk, and can be recommended for approval. The charging rates endorsed by the Examiner are set out in Table 1 and Figure 1.

**Table 1: Proposed Charging Rates**

Development type	Zone	CIL Rate per m <sup>2</sup>
Strategic Allocation East of Gamston/North of Tollerton	Zone 1	£0
Residential (use C3) excluding apartments.	Zone 2	£40
Residential (use C3) excluding apartments.	Zone 3	£50
Residential (use C3) excluding apartments.	Zone 4	£75
Residential (use C3) excluding apartments.	Zone 5	£100
General retail A1-A5 (excluding food supermarket)	Borough-wide	£50
Food supermarket A1	Borough-wide	£100
All other developments	Borough-wide	£0

**Figure 1: Proposed Residential Charging Rates**



- 4.5. As CIL is liable on the commencement of development it is unlikely that the Borough Council will benefit from any receipts within its first operational year, and that receipt of CIL will increase over time.
- 4.6. CIL is intended to sit alongside Section 106 planning obligations and other legal agreements in order to fund new infrastructure to support development. CIL and other means of securing developer contributions would operate together, on the basis that, generally, Section 106 agreements would be used to secure new infrastructure that is required to support individual development schemes (particularly on-site facilities) and CIL would be used to fund new infrastructure that is required to support a number of developments. It should be noted that Section 106 agreements will still be used to secure affordable housing where appropriate.
- 4.7. The introduction of CIL has been closely aligned to the progress of Local Plan Part 2. In order to justify the introduction of CIL, it is a requirement for the Local Planning Authority to prepare up to date infrastructure evidence. This evidence has been prepared jointly in support of both the CIL and Local Plan Part 2. The progression of CIL has been in parallel with the production of Local Plan Part 2.
- 4.8. The primary reason for progressing CIL was that under the legislation which applies to planning obligations, there were limits to the amount of S106 agreements that could be 'pooled' in order to provide for a single item of infrastructure. Changes to this legislation, which came into force on 1 September 2019, will remove pooling restrictions.
- 4.9. Despite the removal of pooling restrictions, there are other factors that still remain which support the introduction of CIL:
- There is no time limit to spend the Borough Council proportion of CIL receipts. S106 agreements typically have payback clauses within them should the money remain unspent within certain timeframes (normally between 7-10 years).
  - With the exception of certain exemptions, contributions will be received from all residential schemes, not just those of 15 dwellings and over.
  - Priority can be given to funding certain infrastructure requirements where these support growth and based upon, for example, whether a scheme is "shovel ready", the extent to which the scheme will support growth in the Borough and whether there is any other source of match funding available.
  - A proportion of CIL receipts has to be spent within the relevant community where the development takes place. In non-parished areas, it is the responsibility of the Borough Council to spend this element of CIL receipts on local infrastructure projects in consultation with the local community. In parished-areas the money is passed directly to parish councils for them to spend on local infrastructure projects. Parish councils in turn have to declare through an annual statement how much money they have received, what has been spent and what item of

infrastructure it has been spent on. Money has to be spent within 5 years of receipt or it has to be given back to the Borough Council.

- 4.10. It is therefore recommended that CIL should still be bought into force, and support of the LDF Group is sought on this basis. In order for CIL to be bought into force a decision has to be made at Full Council on 19 September 2019.
- 4.11. The proposed date from when CIL will apply to new planning permissions is proposed to be Monday 7 October 2019. There are reasons for not bringing CIL into force immediately after full council. Firstly, there are a number of procedural matters that need to be satisfied before implementation. Secondly, the system that will administer CIL needs testing before CIL can become operational.

**Spending the Levy**

- 4.12. CIL receipts can be spent on strategic infrastructure and local infrastructure. In addition, The Borough Council can retain up to 5% of monies received to fund the administration of CIL.

**Strategic Infrastructure**

- 4.13. 70-80% of CIL receipts will fund or part fund strategic infrastructure. CIL can be used for the provision, improvement, replacement, operation or maintenance of infrastructure. It can be spent both within and outside of the Borough to support development. Presently, there is a legal requirement to publish a list of infrastructure types that would be funded by the CIL (known as the regulation 123 list). There is also a requirement to provide supporting information which demonstrates that there is a need for new infrastructure to support growth and that there will be an infrastructure funding gap as a result of this growth. The Infrastructure Delivery Plans produced to support preparation of both the Local Plan Part 1: Core Strategy and the emerging Local Plan Part 2 were also used to support CIL preparation and to inform the CIL examination process. The following strategic infrastructure items are listed in the regulation 123 list:

**Table 2. Strategic infrastructure to be funded or part-funded through CIL**

Provision of Park and Ride along the A52 corridor and bus priority measures in West Bridgford.
Provision of or improvements to playing pitches and ancillary facilities.
Provision of or improvements to indoor leisure provision.
Provision of additional secondary school places across the Borough through new provision or extension to existing provision.
Provision of health facilities across the Borough through new provision or extension to existing provision.

- 4.14. The infrastructure items listed above will no longer be funded through S106 agreements should CIL be adopted, as this would amount to paying for the same infrastructure twice through different mechanisms.

- 4.15. Changes to legislation means that from December 2020, the list of what items will be funded through CIL must form part of an 'annual infrastructure statement'. This statement will have to list the types of infrastructure which the Council intends will be, or may be, wholly or partly funded by CIL. The annual statement will also have to include information on CIL receipts and expenditure, alongside the reporting of S106 obligations (both monetary and non-monetary). This may provide an opportunity to review the infrastructure list at this point.

### **Local Infrastructure**

- 4.16. In parished areas, CIL regulation 59A requires the Borough Council to pass on a proportion of CIL raised within each parish to them on a six monthly basis or at any other basis as agreed. A parish council can opt out of receiving any money and allow the Borough Council to spend these receipts on strategic infrastructure instead. The proportion passed on each year to parishes is 15% for CIL income raised within the parish. There is however a cap of £100 per council taxed dwelling in Parish. Therefore, if a parish contains 100 dwellings, then the most it can receive in any given year is £10,000. In unparished areas the Borough Council retains 15% of the income for it to spend on local infrastructure in consultation with the local community. Where any area (whether parished or unparished) is covered by a neighbourhood plan, the percentage either passed on or retained to spend on local infrastructure rises to 25% within each year.
- 4.17. This element of CIL can be spent on a wider array of infrastructure projects. This includes the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places upon an area.
- 4.18. The regulations defines local infrastructure where CIL can be spent as the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on an area. This definition is broader than what the majority of CIL receipts can be spent upon. In order to ensure transparency, the regulations require parish councils to declare, through an annual financial statement, how much CIL they hold, what has been spent, and on what item of infrastructure. In the case of parish councils, if the money is not spent by them within 5 years of receipt, then the Borough Council can request that the money is paid back to it to be spent on strategic infrastructure.
- 4.19. It is intended to produce further guidance for parish councils in relation to CIL receipts. A number of authorities have put together guides which can be used as a basis. Procedures for the allocating and spending CIL receipts in consultation with the local community will be developed in due course. When developing these procedures, officers will also consider the potential to ensure that 25% of CIL receipts can be made available across all of the Borough, rather than just those areas with the benefit of a neighbourhood plan.

### **Instalment Policy and Payment in Kind Policy**

- 4.20. The CIL liability will be confirmed when planning permission is issued. Therefore sites that already have the benefit of planning permission, both

Outline and Full, will not be liable to pay CIL. The trigger for payment is the commencement of development, with some payments being made through instalments. The proposed instalment policy formed part of the supporting documentation for the Draft Charging Schedule and is detailed at **Appendix 2**.

- 4.21. The regulations state that the Borough Council can accept land or buildings for infrastructure in lieu of a scheme paying for some or all of its liability, and that it should have a payment in kind policy in place. This policy also formed part of the supporting documentation for the Draft Charging Schedule and is detailed at **Appendix 3**.

## **5. Other Options Considered**

- 5.1. Cabinet considered a report on 10 July 2018 and approved the CIL draft charging schedule (Appendix A) and supporting documentation and delegated to the Executive Manager (Communities) in consultation with the Portfolio Holder for Housing, Planning and Waste Management, the final decision as to whether to proceed with the submission of a draft charging schedule, representations made and evidence base, together with any proposed modifications, forward to public examination.
- 5.2. There is an option not to adopt CIL. If CIL is not adopted, this would reduce the ability for the Borough Council to mitigate the impacts of new development on infrastructure.

## **6. Risks and Uncertainties**

- 6.1. Should the CIL be introduced, the income received is dependent on the state of the housing market and will vary year on year.

## **7. Implications**

### **7.1. Financial Implications**

7.1.1. There will be ongoing preparatory costs and running costs that are still yet to be fully quantified, together with officer time. Once CIL is implemented there will be management and administration costs. It is anticipated that, once CIL is fully generating receipts, these costs should be covered through the proportion of CIL receipts that the Borough Council is allowed to retain for such purposes.

### **7.2. Legal Implications**

7.2.1. CIL is a discretionary charge. Authorities intending to take up the CIL regime are required to prepare a charging schedule setting out the CIL rates applicable in their area (s.211 Planning Act 2008). The charging schedule must have regard to matters including the total cost of the infrastructure requiring funding from CIL, other sources of funding available and the potential effect of CIL on the viability of development in the area.

### **7.3. Equalities Implications**



7.3.1. There are considered to be no particular equality implications that need addressing from matters arising from this report.

#### 7.4. **Section 17 of the Crime and Disorder Act 1998 Implications**

7.4.1. There are no direct community safety implications arising from matters covered in this report.

#### 7.5. **Other implications**

7.5.1. There are no other implications arising from matters covered in this report which it is considered require further consideration.

### 8. **Link to Corporate Priorities**

8.1. The introduction of CIL will help support the Corporate Strategy themes of delivering economic growth to ensure a sustainable, prosperous and thriving local economy; and maintaining and enhancing our residents' quality of life through the provision of funding for infrastructure projects across the Borough.

### 9. **Recommendations**

The Local Development Framework Group RECOMMEND that Council

- c) adopts the Community Infrastructure Levy Draft Charging Schedule, as set out in Annex 3 and Annex 4 of the Examiner's report, with it being brought into force on Monday 7 October 2019.
- d) adopts the Community Infrastructure Levy Instalment Policy and Community Infrastructure Levy Payment in Kind Policy

<b>For more information contact:</b>	Phillip Marshall Principal Planning Officer <a href="mailto:pmarshall@rushcliffe.gov.uk">pmarshall@rushcliffe.gov.uk</a>
<b>Background papers available for Inspection:</b>	<i>None</i>
<b>List of appendices:</b>	Appendix 1: Report of the examination of Rushcliffe Borough Council Community Infrastructure Levy Draft Charging Schedule Appendix 2: Rushcliffe Community Infrastructure Levy Instalment Policy Appendix 3: Rushcliffe Community Infrastructure Levy Payment in Kind Policy