

Cabinet (Extraordinary Meeting)

19 November 2018

Present: Mrs N Redfearn (Elected Mayor) (in the Chair)
Councillors G Bell, S Cox, S Day, P Earley,
R Glindon, M Hall, C Johnson and C B Pickard

In Attendance: D Bavaird (Business Sector) and R Layton (North
Tyneside Joint Trade Union Committee)

CAB65/11/18 Apologies

Apologies for absence were received from Councillor C Burdis.

CAB66/11/18 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations reported.

CAB67/11/18 Approval of the North Tyneside Community Infrastructure Levy Charging Schedule, Infrastructure List and Instalments Policy (All Wards)

Cabinet received a report on the final proposed Community Infrastructure Levy (CIL) Charging Schedule and was requested to consider recommending it to Full Council for adoption. The report also sought Cabinet approval for a policy to allow payment by instalments for larger CIL charges and a list of infrastructure, known as a Regulation 123 List, which identified projects that the Authority would no longer seek to fund through planning obligations secured by s106 agreements.

Following implementation of CIL in North Tyneside, for infrastructure that was not intended to be funded through the charge, the Authority would continue to seek planning obligations secured through s106 agreements, in accordance with the Planning Obligations Supplementary Planning Document dated March 2018.

Restrictions on the use of planning obligations included limiting the pooling of more than five s106 agreements to fund a single infrastructure project or type of infrastructure and requiring each planning obligation to be directly related to each planning application. This meant the Authority could not rely on the use of s106 agreements alone to support its infrastructure requirements.

In contrast to planning obligations, CIL was charged as a flat rate financial charge per square metre. Local Authorities may choose to levy this charge on a range of developments, as set out within an approved CIL Charging Schedule from a single home for residential schemes, excluding affordable housing, and any other development that resulted in an internal gross floor area of over 100m².

The funding collected through CIL from new development could help pay for strategic and local infrastructure that supported the requirements for growth identified within an area's Local Plan. CIL was not subject to any of the limitations

that were in place for use of planning obligations, in that there was no restriction on the number of CIL payments which could fund a particular infrastructure project.

To avoid charging development and the associated necessary infrastructure twice through CIL and s106 for the same infrastructure, an Authority with an adopted CIL could not seek planning obligations for any development that was prescribed in a Regulation 123 List. If an Authority that had implemented CIL had not also published a Regulation 123 List it would not be able to seek any planning obligations from development in addition to the CIL charge.

Once implemented the CIL was applied to all liable development and it must be paid in order for such development to progress lawfully. Reflecting this, its preparation and the evidence necessary to inform CIL was governed by a statutory process. In particular this aimed to ensure that the proposed CIL would be necessary to meet a defined infrastructure funding gap in the area, and that the level of charge proposed would strike an appropriate balance between closing that funding gap and allowing otherwise viable development to continue to proceed.

The supporting evidence to the Local Plan had included an Infrastructure Delivery Plan (IDP) for the Borough and proposed Strategic Allocations at Murton Gap and Killingworth Moor. The IDP Update 2018 considered the future infrastructure requirements arising from anticipated growth and proposed development and had informed the assessment of potential funding requirements that informed CIL. Preparation of the IDP had included consultation with internal and external consultees involved in the delivery and management of local infrastructure. Potential infrastructure projects were identified across a broad range of infrastructure / service areas as outlined in the report.

The IDP update 2018 identified over 98 potential infrastructure projects that would support the overall growth of the Borough. Some projects were considered to be critical to ensuring sustainable growth whilst others were identified as important or desirable. This list of projects demonstrated the total funding gap that funding secured through CIL would assist in meeting but did not represent an Authority commitment to secure their delivery. As proposals for development came forward, funding towards the projects within the IDP may be secured through a combination of CIL, site specific planning obligations or external public and private funding opportunities that may arise.

The proposed Regulation 123 List for North Tyneside had been published for consultation in September 2017 and subsequently submitted to the Planning Inspectorate to inform examination of the Draft Charging Schedule. The CIL Regulation 123 List proposed for approval was included at Appendix 1 to the report.

The infrastructure identified included use of CIL to support delivery of the Authority's key priorities around education, health and wellbeing, and sustainable travel. The Area Wide Viability Assessment 2018 provided an assessment of the implications of funding infrastructure through a CIL charge rather than the use of planning obligations. This demonstrated the CIL charge with continued use of planning obligations for other forms of infrastructure could be applied without harming the ability of viable development to proceed.

Where development was liable to make a CIL payment the Regulations set out standard periods in days, within which payments must be made, based upon the level of the charge. The greatest standard charge identified related to payments of over £40,000 that must be made in four equal instalments within 60, 120, 180 and 240 days from the commencement of development. For larger developments subject to CIL charges that may be hundreds of thousands or millions of pounds. This standard period for making payments could have serious implications for cashflow and consequently the viability of development.

In recognition of this the Regulations as amended made additional provision for Authorities to introduce a local instalments policy specific to the proposed CIL charge and economic viability of development in the area. For North Tyneside the proposed CIL charging rates for the Authority had been subject to a revised instalments policy that created additional payment thresholds allowing charges above £1.5m to be paid over a period of 1,260 days from commencement.

CIL payments were index linked from the year that CIL was introduced to the year that planning permissions were granted. The index used was the national All-in Tender Price Index published by the Build Cost Information Service, thus demonstrating the Authority would not be at a disadvantage for allowing increased instalment dates.

The instalments policy set out at Appendix 2 to the report had been identified with reference to the implications of the proposed charging schedule upon the viability of development. It had consequently been integral to demonstrating that the identified CIL charging rates were capable of being introduced without harming the delivery of viable development within the area.

The proposed charging schedule for North Tyneside had now been subject to two rounds of consultation in February 2017 and in September 2018 and had been scrutinised through a formal examination process.

The proposed CIL Charging Schedule was included at Table 1 of Appendix 5 to the report, which identified development types that would be liable for a CIL charge. The North Tyneside CIL included a range of charging zones across the Borough to reflect the economic viability of development. For residential development this included a substantial area that was zero rated. Within the urban area two rates of £19 and £24 per square metre were identified whilst for the remaining area of the Borough two rates of £47 and £68.60 were identified.

The Final Report of the Independent Examiner was set out at Appendix 3 to the report. The Examiner had recommended a number of modifications that should be considered to the Draft Charging Schedule, as outlined in the report.

The final proposed CIL Charging Schedule included a number of additional modifications to the supporting text included within the Charging Schedule submitted for examination in May 2018 and the modifications identified by the Examiner. These additional modifications did not amend any aspect of the proposed CIL Charging Schedule itself, included at Table 1 of the schedule or the geographic zones that it related to. They were proposed to ensure the final CIL Charging Schedule document

was suitable for publication and on-going use in future years. A schedule of all the additional modifications made to the submitted CIL Draft Charging Schedule was included at Appendix 4 to the report.

The proposed North Tyneside CIL Charging Schedule included at Appendix 5 of the report incorporated all the identified modifications, including the recommended changes advised by the Examiner.

Following the Full Council's approval of the Charging Schedule, the Authority was also required to identify within the published Schedule when the charge would be implemented. An implementation date of Monday 14 January 2019 was proposed, which would provide a reasonable period in which to advise potential applicants that a formal resolution had been reached to implement CIL and enable final procedural arrangements for the monitoring of CIL liable development, and collection of payments to be resolved. The Authority was also required to give notice by local advertisement of the approval of the charging schedule, and a proposed statement to this effect was included at Appendix 6 to the report.

The governance of CIL and the funds collected would fall under the provisions of the wider governance arrangement for collection and spending of planning obligations agreed by Cabinet on 14 May 2018. This assigned oversight of the planning obligations process to the Authority's Investment Programme Board (IPB).

The IPB would be updated on a regular basis on the value of future CIL contributions, and CIL payments received to date. In accordance with the Authority's strategic priorities for infrastructure investment, the IPB would be invited to implement delivery of specific projects identified on the Regulation 123 List as sufficient funding was collected and became available.

The following decision options were available for consideration by Cabinet:

Option 1 - agree with the recommendations as set out at paragraph 1.2 of the report.

Option 2 - decline to approve the recommendations in paragraph 1.2 of the report and request the Head of Environment, Housing and Leisure in consultation with the Deputy Mayor and the Senior Manager: Legal Services to review the proposed Regulation 123 List, Instalments Policy and CIL Charging Schedule.

Resolved that (1) it be noted that the Independent Examiner's report to the Authority concludes that the Community Infrastructure Levy (CIL) Charging Schedule, with modifications, provides an appropriate basis for collection of the levy; (2) the CIL Charging Schedule with modifications be referred to Full Council for approval, adoption and subsequent publication; and, if approved the charges identified in the Charging Schedule be levied against liable development from 14 January 2019; (3) the CIL Infrastructure List (the Regulation 123 List) and the Instalments Policy (under Regulation 69B) be approved, to take effect upon approval and implementation of the CIL Charging Schedule; and (4) the relevant Head of Service, in consultation with the Head of Environment, Housing and Leisure, the Head of Resources, the Cabinet Member for Finance and

Resources, the Deputy Mayor and other relevant Cabinet Members, be authorised to implement the CIL to deliver the proposed infrastructure projects.

(Reason for decision - The development of a CIL Charging Schedule enables the Authority to ensure that new development contributes proportionately to strategic infrastructure provision. The charging schedule proposed is set at a level that reflects the priority infrastructure the Authority can best deliver via the mechanism of CIL payments and has been tested as economically viable.

Changes to the role of s106s now limit the pooling of contributions for the infrastructure needed to support new development making the introduction of a suitable CIL Charging Schedule vital to infrastructure delivery. Without the introduction of CIL it will only be possible to pool a maximum of five s106 planning contributions for an item or type of infrastructure, thus reducing the Authority's ability to ensure that new development contributes proportionately to infrastructure provision and would present a missed opportunity to collect contributions and provide benefits to these areas).

CAB68/11/18 Date and Time of Next Meeting

Monday 26 November 2018 at 6.00pm (Ordinary Meeting)

Minutes published on Thursday 22 November 2018.

The decision in relation to the CIL charging schedule is a matter for Full Council and will be determined at the Council meeting on 22 November 2018. The remaining decisions contained within these Minutes may be implemented (unless called in by 3 Non-Executive Members for consideration by the Overview, Scrutiny and Policy Development Committee) immediately following the expiry of the call-in period; i.e. 5.00pm on Thursday 29 November 2018.