

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF PLANNING	PLANNING COMMITTEE	8 JUNE 2022	7
COMMUNITY INFRASTRUCTURE LEVY 2022			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The original objective of this report was to allow consideration of whether the Council should continue with the introduction a Community Infrastructure Levy (CIL) as previously agreed. However, on the 11th May 2022, as the report was nearing completion the Levelling Up and Regeneration Bill had its first reading in the House of Commons. This proposes a simple, non- negotiable, locally set Infrastructure Levy (IL) that will ensure that developers pay their fair share in order to deliver the infrastructure that communities need. Given that CIL will be replaced by IL it would not make sense for the Council to progress a CIL.

Therefore, it is recommended that the Council continues to use Section 106 agreements and progresses an IL when it is requested to do so.

To ensure members are aware of the full background, the explanation of the work done to date is included in a separate appendix to this report.

RECOMMENDATION

That no further work is carried out by the Council to progress the adoption of a Community Infrastructure Levy pending the implementation of the proposed Infrastructure Levy and that in the meantime, the Council continues to secure improvements to local infrastructure through Section 106 of the Town and Country Planning Act 1990.

SUMMARY OF PREVIOUS DECISIONS

Cabinet - 11 February 2015 - Community Infrastructure Levy (CIL); The preparation of a draft charging schedule and a Regulation 123 (infrastructure) list.

Cabinet RESOLVED to approve the preparation and progression of a Community Infrastructure Levy (CIL) through the prescribed consultation stages to adoption by the Council.

To approve the preparation of a Charging Schedule, which will set out the charging rates. The proposed charging rates will be subject to an independent examination, by an examiner from the Planning Inspectorate.

To approve the drafting of a Regulation 123 list of all the infrastructure types and projects that it is intended will be or may be, wholly or partly funded by CIL.

Cabinet resolved that a further report be prepared and presented to members once the above recommendations are achieved to approve the final proposals.

Development Management Committee - 15th June 2016

RECOMMENDATIONS

1. Further scenario testing be undertaken to demonstrate the effects of a CIL charge on development viability and also to consider the effect of an instalments policy on viability.
2. Undertake further work to allow an informed decision to be made about the benefits of the introduction of a CIL charging schedule in the Borough.
3. Following on from recommendations 1) and 2) above, issue the Preliminary Draft Charging Schedule (PDCS) for public consultation for six weeks, alongside the Publication Version of the Local Plan and the Infrastructure Delivery Plan, and report the results of the consultation to the Development Management Committee.

Planning Committee - 13th November 2019

The Information Report advised on the content of the 2019 Updated Regulations. Also, that work on the CIL would have to await the partial revision of the Local Plan as a CIL will need to have regard to any revisions to, and a revised viability assessment of, the local plan.

CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

REPORT

Introduction

1. The current Community Infrastructure Levy (CIL) is a charge which can be levied by local authorities on new development in their area. It is an important tool that local authorities can use to help them deliver the infrastructure needed to support development in their area. The CIL only applies in areas where a local authority has consulted on, and approved, a charging schedule which sets out its CIL rates and has published the schedule on its website. Most new development which creates net additional floorspace of 100 square metres or more, or creates a new dwelling, is potentially liable for CIL.
2. The charging authority should specify in their charging schedule what types of development are liable for CIL payments and the relevant rates for these development types. CIL rates are expressed as £ per square metre. In meeting the regulatory requirements, charging authorities should be able to show and explain how their proposed CIL rate will contribute towards the implementation of their Local Plan and support development across their area.
3. Charging authorities should think strategically in their use of the CIL to ensure that key infrastructure priorities are delivered to facilitate growth and economic benefit to the wider area. Other funding should be combined with the CIL to enable the delivery of strategic infrastructure, including social and environmental infrastructure, and facilitate the delivery of planned development.

The new Infrastructure Levy (IL)

4. The Planning for the Future White Paper August 2020 proposed that the CIL and the current system of other planning obligations will be reformed as a nationally set, value-based flat rate charge (the 'Infrastructure Levy'). The aim is for the new IL to raise more revenue than the current system and deliver as much, if not more, on-site affordable housing as at present. It was intended that the proposed reform would 'sweep away'

months of negotiation of Section 106 agreements and the need to consider site viability. However, there has been little news about the Planning White Paper until recently.

5. On the 11th May 2022 the Levelling Up and Regeneration Bill had its first reading in the House of Commons. The Bill proposes the replacement of the current system of developer contributions with a simple mandatory, and locally determined IL. The Bill sets out the framework for the new IL, although the detailed design will be delivered through regulations.
6. While details on the proposed Infrastructure Levy are not yet available, a Policy Paper on Levelling Up and Regeneration Provides further information. The IL will be charged on the value of the property when it is sold and applied above a minimum threshold. Levy rates and minimum thresholds will be set and collected locally, and local authorities will be able to set different rates within their area. The rates will be set as a percentage of gross development value rather than based on floorspace, as with the Community Infrastructure Levy at present.
7. It is intended that this will allow developers to price in the cost of contributions into the value of land, allow liabilities to respond to market conditions and remove the need for obligations to be renegotiated if the gross development value is lower than expected; while allowing local authorities to share in the uplift if gross development values are higher than anticipated. The government is committed to the Levy securing at least as much affordable housing as developer contributions do now. The Bill will set out the framework to enable this approach, with some of the details set out in regulations.

Alongside the Bill

8. Much of the detail will be set out in regulations, following consultation. Specifically, the regulations will:
 - Introduce a new 'right to require' to remove the role of negotiation in determining the levels of on-site affordable housing. This rebalances the inequality between developers and local authorities by allowing local authorities to determine the portion of the Levy they receive in-kind as on-site affordable homes.
 - Consider how the Levy should be applied to registered provider-led schemes.
 - Require developers to deliver infrastructure integral to the operation and physical design of a site – such as internal play areas or flood risk mitigation. Planning conditions and narrowly targeted Section 106 agreements will be used to make sure this type of infrastructure is delivered.
 - Detail the retained role for Section 106 agreements to support delivery of the largest sites. In these instances, infrastructure will be provided in kind and negotiated, but with the guarantee that the value of what is agreed will be no less than will be paid through the Levy.
 - Retain the neighbourhood share and administrative portion as currently occurs under the CIL.
 - Introduce the Levy through a 'test and learn' approach. This means it will be rolled out nationally over several years, allowing for careful monitoring and evaluation, in order to design the most effective system possible.
 - Sites permitted before the introduction of the new Levy will continue to be subject to their CIL and Section 106 requirements.

Conclusions

9. The recent progression of the Levelling Up and Regeneration Bill means that it would not make sense for Fylde Council to progress a CIL given its impending demise. It is currently unclear how the new IL would work as it is proposed to be introduced via a 'test and learn' approach. However, with such a significant change in legislation proposed, it is concluded that the Council should wait for the new system to be implemented as reflected in the recommendation.

IMPLICATIONS	
Finance	There is insufficient detail in the Levelling Up and Regeneration Bill to allow a detailed analysis of the financial implications to take place. The council will continue to receive s106 contributions from developers on a site-by-site basis until such time as an Infrastructure Levy is introduced.
Legal	It is assumed the IL has to be examined and legal agreements would have to be drawn up.
Community Safety	None
Human Rights and Equalities	The introduction of an IL could have an impact on affordable housing provision.
Sustainability and Environmental Impact	IL payments can be spent on the local environment so there could be a positive impact on the local environment.
Health & Safety and Risk Management	There is a risk that the Council could waste resources setting a up and CIL which would then have to be replaced by an IL. It would be less of a risk to wait for the new system to be implemented.

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Part 2 Report: The Preparation of a Community Infrastructure Levy Preliminary Draft Charging Schedule	October 2015	KM-CIL-PDCS-Part-Two-Report-Oct-15.pdf (fylde.gov.uk)
Community Infrastructure Levy Addendum Report	August 2016	FINAL-CIL-Update-Report-27-July-2016.pdf (fylde.gov.uk)
Draft Section 123 List	August 2016	KM-CIL-PDCS-Part-Two-Report-Oct-15.pdf (fylde.gov.uk)
Infrastructure Funding Statement	2020-21	Infrastructure-Funding-Statement-2020_21-1.pdf (fylde.gov.uk)
Five Year Housing Land Supply Statement	December 2021	Five-year-supply-statement-April-2021.pdf (fylde.gov.uk)
Planning for the Future White Paper	August 2020	Planning for the future (publishing.service.gov.uk)
Michael Gove Paves Way for Council Housing Explosion	April 2022	Michael Gove paves way for council housing explosion (telegraph.co.uk)
Policy Paper Levelling Up and Regeneration: further information	April 2022	Levelling Up and Regeneration: further information - GOV.UK (www.gov.uk)

Attached documents

Appendix 1 - Background and position paper (CIL progress to date)

Appendix 2 - Draft List of Infrastructure Projects that could be funded by a CIL