

**Meeting:** Council

**Date:** 11 May 2016

**Wards Affected:** All Wards

**Report Title:** Community Infrastructure Levy (CIL)

**Is the decision a key decision?** Yes

**When does the decision need to be implemented?** Immediately

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## **1. Proposal and Introduction**

- 1.1 This report sets out progress on preparing a Community Infrastructure Levy (CIL) and recommends that Torbay's proposed CIL Draft Charging Schedule (DCS) is submitted to the Planning Inspectorate for examination. The CIL proposals were the subject of public consultation in 2012, 2015 and 2016. The CIL Proposals have been amended following Mayor's Executive Group on 3<sup>rd</sup> March 2015, Policy Development Group on 9<sup>th</sup> March 2015 and a further review of viability by officers.
- 1.2 It is recommended that the Council levies CIL on some residential developments, and larger out of town centre retail developments, as set out in Section 2 below and Appendix 1. Other uses, such as employment and tourism would be zero rated. This approach retains S106 Obligations as the main way of funding infrastructure associated with major development in Future Growth Areas as defined in the Adopted Torbay Local Plan.
- 1.3 Following Submission, the Council's CIL charging schedule will be examined by an independent examiner (Planning Inspector). The Council is required to advertise the CIL examination and anyone who wishes is entitled to present evidence to the Examination. Following the CIL Examination, the inspector will recommend whether CIL can be introduced, including the need for changes. Following receipt of the Inspector's Report, CIL will need to be adopted by full Council.

## 2. Reason for Proposal

- 2.1 CIL is a levy on new floor space created by development. It is regulated by the Community Infrastructure Levy regulations 2010 (as amended). CIL must be set having regard to viability and cannot be used as a planning tool to influence the location of development. Regulation 14.1 (as amended) of the CIL Regulations requires charging authorities *“to strike the appropriate balance between desirability of funding infrastructure through a CIL and the potential effects of imposing a CIL on their area”*.
- 2.2 Torbay’s Draft Charging Schedule is supported by various viability studies and has been the subject of three public consultations. Details of these are set out in Appendix 1.
- 2.11 The Revised Draft Charging Schedule (as modified following consultation) sets the following rates for residential CIL. Charging Zones are set on the basis of broad viability.

Zone	Site size (£ per sq m)		
	1-3 dwellings	4-14 dwellings	15+ Dwellings
1. Built up areas within top 20% deprivation (Community Investment Areas+)*	Zero	£30	£30
2. Elsewhere in the built up area**	£30	£70	£70
3. Outside the built up area**	£70	£70	£140
4. Future Growth Area	£70	£70	Zero- S106 Obligations will be used to secure infrastructure funding.

Direct site impacts of development will be dealt with through planning conditions of S106/S278 agreements where necessary.

\* Based on the lower super output areas within the top 20% deprived areas in the Indices of Deprivation 2015.

\*\*The built up area is defined as the area not designated as Countryside area (Local Plan Policy C1) or Undeveloped Coast (Local Plan policy C2).

- 2.12 The Revised Draft Charging Schedule charges retail and food and drink developments (i.e. Uses Classes A1, A3, A4, and A5) of more than 300sq m in out of town centre locations CIL at the rate of £120 per sq m. This is based on likely viability and in this context The Willows is treated as an out of centre location.
- 2.13 CIL will be used on the South Devon Highway, for which there is a funding gap of nearly £20 million. It is also proposed to use CIL to offset the recreational impact of development upon the South Hams SAC (at Berry Head) arising from smaller developments. A “neighbourhood portion” of 15% of CIL, rising to 25% where Neighbourhood Plans have been made (i.e. adopted) must be spent in the area in which development arises. Further details are set out in Appendix 1.

### **3 Recommendation(s) / Proposed Decision**

- 3.1 That the Community Infrastructure Levy (CIL) Revised Draft Charging Schedule (with Modifications set out in Appendix 2 to the submitted report) be submitted to the Planning Inspectorate for independent examination in accordance with Regulation 19 of the CIL Regulations 2010 (as amended).
- 3.2 That the Executive Head of Business Services, in consultation with the Executive Lead for Planning, Transport and Housing, be given delegated authority to agree further minor modifications to CIL as deemed necessary to secure a recommendation for approval by the Independent Examiner.
- 3.3 That it be noted that following receipt of the Independent Examiner's Report, the Community Infrastructure Levy (CIL) Charging Schedule must be agreed by the Council.

### **Appendices**

Appendix 1: Supporting Information and Impact Assessment

Appendix 2: Draft Community Infrastructure Levy Charging Schedule (including proposed Modifications).

Appendix 3: CIL Residential Charging Zones Map

Appendix 4: CIL Commercial Charging Zones Map

Appendix 5: Consultation statement and summary of representations.

### **Background Documents**

Torbay Local Plan 2012-30 A landscape for success.

<http://www.torbay.gov.uk/newlocalplan>

Torbay CIL Viability Study –Economic Viability Update. Peter Brett Associates January 2016.

<http://www.torbay.gov.uk/index/yourservices/planning/strategicplanning/evidencebase.htm>

Community Infrastructure Regulations 2010 (as amended)

(National) Planning Practice Guidance Section ID 25

<http://planningguidance.communities.gov.uk/blog/guidance/community-infrastructure-levy/>