

Taunton Deane Borough Council

Executive – 5 February 2014

Introduction of the Community Infrastructure Levy (CIL) in Taunton Deane – Regulation 123 List and Governance Arrangements

Report of the Policy Lead Officer

(This matter is the responsibility of Executive Councillor Edwards)

1.0 Executive Summary

The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and is intended to replace Section 106 as the main means of funding infrastructure associated with new development. The Council has previously agreed to adopt CIL in Taunton Deane with effect from 1 April 2014, and it adopted a Charging Schedule in December 2013. Under Regulation 123 of the CIL Regulations, it needs to publish a list of infrastructure that it intends to fund wholly or partly using CIL receipts. The Council also needs to establish governance mechanisms for spending and distribution of the receipts.

2.0 Background

- 2.1 The Planning Act 2008 made provision for local authorities to raise a levy from development to fund essential infrastructure, and the Community Infrastructure Levy Regulations came into force on 6th April 2010. It is intended that CIL will largely replace S106 agreements as the main means of securing contributions from developers towards essential infrastructure.
- 2.2 The Council has progressed its proposals for CIL through to the Examination stage, at which they were endorsed by the Examiner. At its meeting on 10th December 2013, the Council formally approved the introduction of the Community Infrastructure Levy in Taunton Deane with effect from 1st April 2014.
- 2.3 Under Regulation 123 of the CIL Regulations, the Council is required to publish a list of the projects that it intends to finance, in whole or in part, using CIL receipts. The purpose of the list is to ensure that developers do not end up paying twice for the same piece of infrastructure – items on the list are not permitted to receive funding via S106. The Executive agreed on 13th November 2013 that a further report would be prepared setting out a draft Regulation 123 list for consideration and approval by Members, together with the governance arrangements for managing the spending of CIL receipts.

2.4 The draft Regulation 123 list has now been prepared, and has been considered by the LDF Steering Group prior to it being brought forward for formal approval and adoption by the Council.

3.0 Regulation 123 List

3.1 The proposed Regulation 123 List for Taunton Deane is attached to this report as Appendix 1. The list has been the subject of internal discussion between Taunton Deane officers and by the Council's LDF Steering Group. It has also been shared with representatives from Somerset County Council and the Environment Agency.

3.2 It will be noticed that the proposed list is general in nature, and does not identify specific schemes by name. This is largely because of uncertainties as to which measures will come forward at what time, and to avoid the need to constantly review the list as priorities change. It is also because, if the Council identifies specific schemes, it could imply that CIL money would not be used to fund others in the same category.

3.3 Certain items are specifically not included on the list because it has been assumed that they will continue to be funded via S106 agreements. These are basically essential on-site requirements: children's play, immediate highway access, and travel planning measures.

3.4 Affordable housing is not within the scope of CIL and will continue to be delivered through S106 agreements. This explains why it is not included on the Regulation 123 List.

3.5 The inclusion of types of measure on the list does not necessarily mean that CIL would be their only source of funding. Whilst S106 money could not be used, in some cases there would (for example) be the possibility of grant funding; in others, the Council could choose to use its New Homes Bonus receipts or include a scheme in its capital programme.

3.6 The list is not set out on the page in any priority order; however, the measures included are believed to be those most important for delivery of the Council's Core Strategy. There is also one item where the Council needs to complete projects that have secured partial funding via S106 (Community Halls).

3.7 The Council will need to publish the Regulation 123 List on its website in time for the introduction of CIL on 1 April. The list can and will need to be reviewed on a regular basis, and an annual report on the collection, management and distribution of the CIL receipts will also need to be prepared.

4.0 Governance Arrangements

4.1 Delivering infrastructure is one of the major challenges facing the Council in support of its growth agenda. Receipts from CIL and New Homes Bonus are likely to be the two largest sources of external funding for this.

- 4.2 The Council needs to have a process to determine how the CIL receipts should be spent, to agree on the timing of spend and to arrange the distribution of funds to partner organisations. It may also be necessary for the Council to directly commission certain items of infrastructure that will be funded through CIL.
- 4.3 There will be a need to set up governance arrangements to oversee the collection and spending of CIL receipts and delivery of the infrastructure. Current thoughts are that this should take the form of a 'governance board' made up of Members to which an officer group would report. As well as Members with planning experience, the LDF Steering Group has suggested that the governance board should also include representation from local Members.
- 4.4 In areas with unitary local government, all decisions can be negotiated and agreed within one group of elected Members. In Taunton Deane, as well as Borough councillors it will also be reasonable to involve County Council Members, specifically those with responsibility for spending on transport and education, which will be major elements of infrastructure to be delivered using CIL receipts. The Environment Agency should also be represented and on occasions possibly the Highways Agency. It is suggested that the precise composition of the Board be delegated to the Portfolio Holder for Planning and Transportation.
- 4.5 Spending CIL receipts will count as capital expenditure. Consideration is therefore needed as to how the Council would give approval for the spending of CIL monies. It appears unduly cumbersome to require every individual spend on every project to be approved by the Executive and Full Council – this is not something that is required with S106. The Council's Strategic Finance Officer is currently exploring options to resolve this issue, looking at best practice amongst the limited number of other Councils who have already implemented CIL.
- 4.6 The LDF Steering Group has requested that a briefing for Members be held on the issue of developer contributions under CIL and how the system is expected to operate. This will be arranged for later in the year.
- 4.7 Under Regulation 59A of the Community Infrastructure Levy (Amendment) Regulations 2013, the Council is required to pass 25% of CIL receipts to the parish council in areas where there is a neighbourhood plan in place, and where there is no neighbourhood plan in place, 15% of CIL receipts up to a maximum of £100 per extant dwelling. Payments to parish councils have to be made in money and cannot be in the form of land that a developer may have offered in lieu of cash. The Council will need to take account of the impact of this in the way it manages infrastructure spending.
- 5.0 Links to Corporate Aims
- 5.1 The funding that will be obtained through the introduction of CIL is fundamental to delivering the Council's objectives for tackling deprivation and sustainability community development, regeneration and climate change. At

present, under the Regulations, CIL cannot be spent on providing affordable housing.

6.0 Environmental Implications

6.1 There are no direct environmental implications.

7.0 Community Safety Implications

7.1 There are no identified community safety implications.

8.0 Equalities Impact

8.1 No separate Equalities Impact Assessment has been carried out as CIL is essentially a mechanism, rather than a proposal in its own right.

9.0 Risk Management

9.1 There is a risk is that the decision process for the spending on infrastructure is no longer linked to the decision to allow development. Thus the delivery of infrastructure and the delivery of development could become disconnected. Great care will be needed to ensure that this does not happen.

10.0 Finance Comments

10.1 Any comments received will be reported orally at the meeting.

11.0 Partnership Implications

11.1 The Council will need to work in partnership with a range of other organisations to deliver the proposals using CIL receipts.

12.0 Recommendations

12.1 The Executive is requested to endorse:

1. The Regulation 123 List.
2. The suggested governance arrangements for the delivery of infrastructure and spending of CIL receipts; specifically, the proposed governance board.

12.2 That the Executive's decision on the Regulation 123 List is forwarded to Full Council with a recommendation that the list be formally adopted.

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**Taunton Deane draft Regulation 123 List:
Infrastructure to be delivered partly or
wholly by CIL**

April 2014

TDBC Draft Regulation 123 List

In accordance with the Planning Act (2008) as amended by the Localism Act (2011) and the Community Infrastructure Levy Regulations (2010) as amended.

The list set out below identifies the types of infrastructure and/or specific infrastructure projects to which CIL receipts raised by Taunton Deane Borough Council as the Charging Authority could be applied:

Education

Statutory education, including but not limited to:

- Early years learning
- Primary School provision
- Secondary School provision, including Post-16 education
- Special Schools

Transport

- Strategic transport improvements associated with the growth of Taunton and Wellington

Community Development

- Sport and recreation (excluding children's play)
- Community Halls, places of assembly and other community facilities
- Arts and Culture
- Green Infrastructure

Taunton Town Centre Regeneration

Schemes as defined in the Taunton Town Centre Area Action Plan, including:

- Firepool Infrastructure
- Town Centre Enhancements

Surface Water and Flood Risk Mitigation

- Strategic works only (i.e. excluding mitigation of surface water run-off back to greenfield)

This Regulation 123 List will take effect from 1st April 2014. It will be reviewed annually.