

ITEM 8 Implementation of the Community Infrastructure Levy (CIL) and how it is working in practice

Report of the Head of Planning and Building(Portfolio: Planning)

Recommended:

That OSCOM endorse the progress made.

SUMMARY:

- Information on the financial outcomes of the first year of CIL charging.
- The proposed method of publishing a statutory annual CIL report within an existing document.
- An update on the ongoing work to develop a Spending Protocol to allow the Council to release CIL funds in a fair and consistent manner.
- Outline of the approach to conducting a review of CIL charges.

1 Introduction

- 1.1 This report is a result of a request from OSCOM regarding the implementation of the CIL and how it is working.
- 1.2 It sets out the operation of and outcomes of the first year of CIL charging and covers 4 main topics:
- 12 month review of CIL
 - Upcoming payments
 - Approach to spending
 - Internal audit of the CIL process

2 Background

- 2.1 The Council's CIL Charging Schedule came into effect on the 1st August 2016.
- 2.2 The adoption of the Charging Schedule allowed the Council to charge CIL on proposed development in line with the CIL Regulations 2010 (As amended).
- 2.3 Test Valley Borough Council's adopted CIL Charging Schedule is limited to Residential and Large Scale Retail development only. Large Scale Retail development is retail supermarket/superstores and retail warehouse development of a minimum 280 square metres of floorspace.

- 2.4 The Council has identified zones with different charging rates of CIL for residential development based on economic viability evidence. Strategic Sites allocated in the Local Plan are nil rated as infrastructure will be provided via Section 106 payments
- 2.5 Annex 1 shows the extent of each charging zone and the locations of our Strategic sites.
- 2.6 Please see the Council's CIL charging rates in the table below.

Development Type	Zone 1	Zone 2	Zone 3	Zone 4	Strategic sites ⁹
Residential	£175	£140	£105	£70	£0
Extra Care accommodation ¹⁰	£0	£0	£0	£0	£0
Retail supermarkets and superstores ¹¹ and retail warehouses ¹²	£180	£180	£180	£180	£0
Retail excluding supermarkets, superstores and retail warehouses	£0	£0	£0	£0	£0
Office, Industrial and Distribution	£0	£0	£0	£0	£0
Hotel	£0	£0	£0	£0	£0
Community use including non-residential institution	£0	£0	£0	£0	£0
Retirement living housing	£0	£0	£0	£0	£0
All other uses	£0	£0	£0	£0	£0

3 The aims of Test Valley Borough Council's CIL scheme

- 3.1 To secure funding for infrastructure that benefits the residents of Test Valley.
- 3.2 To identify the infrastructure that the Council intends to spend its CIL receipts on through the adopted Regulation 123 List.

- 3.3 To develop a Spending Protocol that will ensure that bids for CIL funding are assessed in a fair and consistent manner.

4 12 month review of CIL

- 4.1 Payments totalling £308,334.59 have been received between the 1st August 2016 and the 9th October 2017.

Application No	Parish	Receipt Amount
16/01051/VARN	Andover Town	5,740.00
16/01461/FULLN	Andover Town	34,580.00
16/02947/FULLN	Andover Town	8,855.00
16/03181/FULLS	Awbridge	33,906.25
16/02618/FULLS	Chilworth	11,340.00
16/00642/FULLS	Houghton	158,630.84
16/02746/FULLS	Romsey Town	7,840.00
16/01521/FULLS	Sherfield English	31,325.00
16/01564/FULLN	Vernham Dean	16,117.50

- 4.2 See annex 2 for more detailed information on payments received so far.
- 4.3 The initial months of charging are generally slow in terms of funding being received. Typically CIL receipts increase steadily over the first 3 years of charging. This is due to the transition from Section 106 and the need for new permissions to be implemented.
- 4.4 It is proposed that the first annual CIL monitoring report shall be included in the Authority's Monitoring Report (AMR) for 2016/2017 (this is published in December each year). This will include Test Valley Borough Council and Parish Councils CIL receipts and expenditure. The AMR is seen as the most suitable location for this information as it already includes information relating to Section 106 developer contributions.
- 4.5 At the Cabinet meeting of 13 January 2016 where the CIL Charging Schedule was adopted, reference was made to the CIL Inspectors report regarding the Council's commitment to reviewing CIL. The Inspector stated that the Council will review the Charging Schedule 'which will enable early action to be taken should there be any adverse effect on development viability.' ¹
- 4.6 It is anticipated that following the publication of Government's Autumn Budget, further legislative changes may be made taking into account the recommendations that came out of the independent CIL review in February of this year. We do not propose to review the current rates of CIL that are in the adopted TVBC CIL Charging Schedule until further legislation is made.

¹ CIL Examiner's report, 21 December 2015

- 4.7 Development viability is not being adversely affected by the rates set out in the CIL Charging Schedule. Since charging commenced on 1 August 2016, no challenges or complaints about the rates affecting development viability have been received. All demands for payment have been met and some developments have paid their entire CIL liability up front, even where they have the option to pay by instalments. Implementation and development rates also remain high.
- 4.8 If evidence was available that development viability was being affected by the amount of CIL being levied, the Council could consider a full review of the CIL rates. However as mentioned above, the introduction of our CIL Charging Schedule has had no adverse effect on development and it is not felt that a review is necessary at this stage.
- 4.9 The Autumn Budget is likely to contain both short and long term changes to CIL which may impact on any viability work undertaken.

5 Upcoming Payments

- 5.1 Payments totalling £361,996.25 have been secured and will be received in the coming year. These are payments where development has commenced and a Demand Notice has been issued but are subject to our Instalment Policy.

Application No	Parish	Amount outstanding
16/02866/FULLN	Abbotts Ann	18,060.00
16/01461/FULLN	Andover Town	34,580.00
16/02947/FULLN	Andover Town	8,855.00
16/03181/FULLS	Awbridge	101,718.75
16/02618/FULLS	Chilworth	11,340.00
17/01144/FULLN	Monxton	46,060.00
16/02746/FULLS	Romsey Town	7,840.00
16/01564/FULLN	Vernham Dean	16,117.50
16/02326/FULLN	Vernham Dean	6,825.00
17/00983/FULLS	Wellow	34,720.00
17/01389/FULLS	Wellow	75,880.00

- 5.2 The time taken to secure the full payment ranges from 60 days for amounts under £5,000 to 720 days for amounts over £250,000. The 720 days is for the full amount to be received over 4 instalments on large developments. This improves development viability by alleviating cash flow issues that developers may experience with large upfront payments.
- 5.3 See annex 2 for more detailed information on outstanding payments.

6 Spending approach

- 6.1 The CIL Project Board is developing a Spending Protocol that will ensure that bids for funding will be assessed and allocated in a fair and consistent manner.
- 6.2 A central guidance document for potential bidders will be available on the TVBC website to guide them through the process of applying for funding.
- 6.3 Examples of likely bidders are TVBC, Parish Councils or a partner organisation such as Hampshire County Council.
- 6.4 The following funds will be automatically allocated without the need for a bidding process:
- Neighbourhood portion of CIL – 15% of CIL receipts to be released to the Parish Council where the development took place.
 - Suitable Alternative Natural Greenspace (SANG) – SANGs land is included in the CIL Regulation 123 List. SANGs land is required for ecological mitigation. The CIL Spending Protocol currently being developed will enable the Council to determine how CIL receipts can be used to provide SANGs land.
 - Administration charge – Up to 5% of CIL receipts to be recouped by the Charging Authority to cover the costs of setting up and monitoring the levy.
- 6.4 The documents that form the Spending Protocol and bid process were presented to Cabinet on the 18th October 2017.

7 Internal Audit

- 7.1 The audit team conducted an internal review of the CIL process in April 2017. Two control weaknesses were identified during the process; the Head of Planning and Building did not have delegated authority to allocate and release CIL funds and that there was not an appropriate separation of duties between Planning and Finance during the period in which a Demand Notice and debtors invoice are issued.
- 7.2 The Demand Notice and Debtors Invoice issue has been resolved by ensuring Test Valleys payment information is only displayed on the debtors invoice raised by the Finance Service.
- 7.3 In order to address the control weakness identified by the audit process, we will seek delegated authority for the Head of Planning and Building to allocate and release CIL funds in accordance with the approved Spending Protocol process. It is intended that this will be included in a report to Cabinet later this year.

- 7.4 The level of delegation afforded to the Head of Planning and Building will be at a lower level than the current Section 106 scheme. All applications for CIL funds will be taken to Cabinet as opposed to only those of £25,000 or more for Section 106 fund requests.

- 7.5 The internal auditor concluded that there are substantial controls in place to ensure the effective monitoring of CIL.

8 Legal Implications

- 8.1 There are no legal implications.

9 Equality Issues

- 9.1 An equality impact assessment is not required as the issues covered do not raise any equality concerns.

10 Conclusion

- 10.1 The Council's CIL Charging Schedule has been working well since its introduction on the 1st August 2016.
- 10.2 There has been one request for a review of a chargeable amount and no appeals against chargeable amounts. The review was concluded and resulted in full payment from the applicant.
- 10.3 There has been no adverse impact on development coming forward with applicants implementing permissions and making payments without complaints or appeals. The number of applications received has also remained steady.
- 10.4 A Spending Protocol that will create a process by which TVBC can assess bids for CIL funding in a fair and consistent manner. These documents were presented to Cabinet on the 18th October 2017.
- 10.5 The internal auditor concluded that there are substantial control measures in place to ensure the effective monitoring of CIL.
- 10.6 The first Annual CIL Monitoring Report will be produced this year. It is proposed that this will be placed within the existing Authority's Monitoring Report published at the end of each calendar year.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
None			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	2		
Author:	Oliver McCarthy	Ext:	8176
File Ref:			
Report to:	Overview and Scrutiny Committee	Date:	26 July 2017