

AGENDA ITEM NO.

ARUN DISTRICT COUNCIL

**REPORT TO AND DECISION OF CABINET
ON 29 JULY 2019**

PART A : REPORT

SUBJECT: CIL Implementation and Request to Create CIL Officer Role

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PORTFOLIO AREA: Planning

EXECUTIVE SUMMARY:

The Council is preparing a CIL Charging Schedule which, once adopted and in effect, will be applied to new development on a £/sqm basis.

Based on an assessment of likely levels of development over the Arun Local Plan period (2020 to 2031), it is expected that the council could raise approximately £30million in CIL receipts to be spent on infrastructure required as a result of planned growth.

Subject to the outcomes of an independent Examination of the Arun CIL Draft Charging Schedule (DCS), the aim is to adopt a CIL Charging Schedule towards the end of 2019 and for the schedule to come into effect early 2020.

The aim of this report is to raise awareness of CIL and the implementation process.

Also, the report seeks agreement to forward fund a CIL Officer, at a total cost of £49,000 per annum. These costs will be recouped from year three of CIL coming into effect onwards.

RECOMMENDATIONS:

1. To agree to forward fund a CIL Officer post, at a total cost of £49,000 per annum, to sit within the Planning Policy Team, and that the post will be included in the budget for 2020/21 onwards.

If the officer is employed during 2019/2020, the post can be funded from the Corporate underspend.

It should be noted that the 2 year forward funded cost of the post will be recouped in year three from using up to 5% of CIL receipts received in years 1-3 of CIL being in effect. From year 4 onwards, the CIL Officer posts will be fully funded by CIL receipts.

BACKGROUND:

1. The Community Infrastructure Levy (CIL) was introduced by Part 11 of the Planning Act 2008 and detailed within the CIL Regulations 2010 (as amended) (the CIL Regulations).
2. Once it has been adopted and comes into effect within a Charging Authority (authorities that charge CIL), CIL acts as a tax on new development and works alongside the S106 planning obligations regime.
3. CIL is charged on a £ per square metre basis and is charged on development over 100 square metres (sqm). In the case of the creation of a new dwelling house, it is charged per sqm with no lower threshold.
4. The CIL receipts levied from new development must be used to deliver infrastructure projects required to support planned development.
5. Subject to Full Council's decision on 17 July 2019, the CIL DCS will be submitted on or around 31 July with Examination dates estimated to take place in the autumn.
6. If the DCS is approved by the Examiner, it will be taken to Full Council to be formally published and a date will be set to bring CIL into effect.
7. CIL implementation must be properly resourced to ensure income is not lost through missing cases, miscalculating liabilities, failing to defend appeals, or not pursuing non-payers.

ESTIMATED CIL INCOME

8. It is estimated, based on the proposed CIL rates within the DCS and the forecasted number of dwellings due to come forward in accordance with the Arun Local Plan (ALP), that the council could achieve £30million in CIL receipts from between 2020 to 2031.
9. The CIL Regulations require that Charging Authorities pass a proportion of CIL receipts on to the town and parish councils where development takes place. Towns and parishes with a 'made' neighbourhood plan, will receive 25% of the levy receipts and those without a 'made' neighbourhood plan receive 15% of levy receipts (capped at £100 per household within the parish/town council area).
10. Furthermore, the CIL Regulations allow charging authorities to apply CIL to administrative expenses incurred by it in connection with CIL as follows:
 - In years one to three, the council may use up to 5% of the levy receipts received in those three years to apply to administrative expenses incurred in the first three years and to costs incurred before the charging schedule was published.
 - In year four and each subsequent year, the total amount of CIL that may be applied to administrative expenses incurred during that year shall not exceed 5% of CIL collected in that year.
11. Table 1 below provides an illustration of the forecasted level of CIL receipts, and breaks this down into an annual average (taking into account the amount passed to town and parish councils and the amount which can be used in relation to the administration of CIL).

Table 1 – Estimated CIL Income and Spending Streams (All spending must be monitored and published annually by Charging Authorities)

Total CIL Income expected. Based on development forecasted between 2020 - 2031.	Annual CIL Income Expected (total/11 years) (£million).	Average annual CIL income passed to Town and Parish Councils (25% of CIL receipts)*	Average annual CIL receipts which may be used for administration to cover costs/expenses incurred by CIL (no more than 5% of total CIL receipts)	Remaining average annual CIL receipts to be spent by ADC on infrastructure *
£30 million	£2.72 million	£680,000	£136,000	£1.9 million

*this income can be pooled annually and spent, at a later date, on larger infrastructure projects or spent annually on smaller infrastructure projects.

12. It should be noted that the first three years of CIL coming into effect may not result in the average annual levels that would be expected from years four onwards.
13. This is because CIL payments can only be requested upon commencement of development (the maximum amount of time allowed between planning permission being granted and commencement is three years). This explains the reason for taking the 5% of CIL receipts from the first three years and then on an annual basis from year four onwards (as set out in paragraph 9 above).
14. The consequence of this is that any administrative costs incurred up to the end of year 2 must be forward funded.

WHAT DOES THE ADMINISTRATION OF CIL INVOLVE?

15. In effect, CIL is a tax and is charged strictly in accordance with the CIL Regulations.
16. The collection of CIL receipts involves numerous stages which require the submission and acknowledgement of statutory notices which must be accurate and prepared in accordance with the CIL Regulations.
17. Any deviation from the regulations (for example, a commencement notice being submitted after the commencement of development) will result in a surcharge, payable by the applicant, which the charging authority must administer and enforce.
18. Furthermore, in some cases, CIL liable developers will appeal CIL liabilities or surcharges. The appeal and enforcement processes add further complexity to the administration of CIL.
19. The implementation of CIL requires tasks that will change over time. For example prior to CIL coming into effect, workloads will focus on setting up IT systems, preparing statutory notices and developing a communications strategy. Upon implementation of CIL, the workload will focus increasingly on CIL charging processes and ensuring compliance with the CIL Regulations.
20. It should also be noted that as CIL workload increases, it is anticipated that the nature of S106 work will also change. In Arun, it is predicted that the number of S106 agreements will reduce as CIL is relied upon for all sites except for strategic housing allocations (which are zero rated due to the level of S106 costs required from these sites). However, there will be an increase in larger and more complex

S106 agreements required for the strategic housing allocations.

HOW DO OTHER AUTHORITIES RESOURCE THE ADMINISTRATION OF CIL?

21. In most cases (based on an understanding of CIL processes from seven example charging authorities), the administration of CIL sits within Planning Policy teams or within S106 and CIL Monitoring Teams. Furthermore, the collection of CIL requires input from a range of departments within the Charging Authority including Development Management; Legal; Local Land Charges; Finance and Communications. However, there must be one team responsible for coordinating liaison with each of these departments.
22. It is important that the administration of CIL and S106 is managed effectively to guarantee that income, to be spent on infrastructure to support planned growth in the district, is not lost for example through missing cases, miscalculating liabilities, failing to defend appeals, or not pursuing non-payers.
23. In order to understand how other authorities administer CIL, officers from Charging Authorities across the county were asked to provide examples of how they resource CIL. This is summarised in Background Paper 1.
24. Overall, research shows that the average resource given to CIL is approximately 1.75 Full Time Equivalent (FTE). In most cases, this consists of a CIL Officer and CIL support officer. In many cases, the CIL officer initially works within the Planning Policy Department or as part of a separate Infrastructure Team.

PLANNING CONTRIBUTION RELATED ROLES WITHIN PLANNING

25. Arun District Council's S106 obligations are currently monitored and administered by the "Planning Contributions and Data Analysis Officer". The officer deals with just over 100 active S106 agreements on a rolling basis and monitors the spending of around 300 planning obligations. It is expected that this role will continue to be needed as CIL comes into effect because Arun will continue to request high levels of S106 from the strategic sites. These large sites require complex S106 agreements and therefore significant resource is required to monitor them. This post is therefore supported by the Post Approval Implementation and Monitoring Officer which assists with monitoring non-financial S106 on strategic sites. Both of these roles sit within the Strategic Development Team.
26. There are commonalities across the S106 roles and the CIL roles in that they are recording and monitoring income required to support infrastructure. It is therefore proposed that the CIL Officer role will be based in the Planning Policy and Conservation Team but also work with the planning obligations and S106 monitoring roles until a time that a separate Infrastructure Team is required.
27. It is also proposed that the CIL Officer should be employed on a salary of up to scale 10 (subject to pay profiling and job evaluation) – this would amount to £49,000 per annum (including oncosts but not including market supplement). This scale is considered appropriate due to the level of management duties and technical knowledge and experience required of the post-holder.
28. For the first two years, this cost would have to be forward funded, alongside any costs incurred in the preparation of the CIL charging schedule and setting up IT systems.

COST BREAKDOWN

29. In the first two years of CIL coming into effect, the council would need to forward fund the CIL Officer salary. This totals up to £98,000 plus additional set up costs.

30. In year three, the council will be able to use 5% of the CIL receipts received in years 1 – 3 on administration costs and to pay for the costs incurred in the preparation of CIL. The 5% figure estimated to be received is £272,000¹.

31. The expenditure and set up costs prior to publication of CIL and for year 1-3 is approximately £220,000. This total covers:

- CIL Officer salary
- CIL spend up to the date of publication of the charging schedule on evidence base etc;
- Examination Costs
- IT software updates.

32. From year four onwards, the council can use 5% of CIL receipts on an annual basis to cover the CIL Officers, plus any costs associated with enforcement/appeal cases.

33. Additional funding can be spent on infrastructure projects to support planned development.

2. PROPOSAL(S):

To agree to forward fund a CIL Officer post to join the Planning Policy Team with a view to creating a CIL and S106 Infrastructure team which will sit in/across the Planning Policy and Strategic Development Teams.

3. OPTIONS:

1. Not to employ a CIL Officer. This will mean that the role of setting up the implementation of CIL will be left to officers who are under resource pressures to manage S106 monitoring and planning policy work. Without an efficient and well resourced CIL procedure in place, the council will take longer to implement CIL (there may be a longer delay between adoption of CIL and it coming into effect). Furthermore, the council will be at risk of missing out on CIL income through missing cases, miscalculating liabilities, failing to defend appeals, or not pursuing non-payers.

4. CONSULTATION:

Finance, Legal, Land Charges, Head of Planning, Director of Place

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		x
Relevant District Ward Councillors		x

¹ See table 1 above. Estimate of first three years CIL receipts is taken as two years worth of the annual average because it is normal for CIL receipts to be received more slowly in the first year due to commencement of CIL liable development taking time to come through.

Other groups/persons (please specify)		x
5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	x	
Legal	x	
Human Rights/Equality Impact Assessment		x
Community Safety including Section 17 of Crime & Disorder Act		x
Sustainability		x
Asset Management/Property/Land		x
Technology		x
Other (please explain)		
6. IMPLICATIONS: Cost implications – forward funding post for first three years.		

7. REASON FOR THE DECISION:
8. EFFECTIVE DATE OF THE DECISION: <i>Committee Services to insert</i>

9. BACKGROUND PAPERS: Background Paper 1 – Comparison of CIL Administration Methods
