

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF PLANNING POLICY SUB-COMMITTEE on 27 February 2019

PART A : REPORT

SUBJECT: CIL Update Report

REPORT AUTHOR: Nicki Faulkner, Principal Planner

DATE: 28th January 2019

EXTN: x 37645

PORTFOLIO AREA: Planning

EXECUTIVE SUMMARY:

This report provides a summary of the responses received from the Preliminary Draft Charging Schedule (PDCS) consultation which ran from 10 December 2018 to 21 January 2019).

The responses received as part of the PDCS consultation have informed the preparation of a proposed Draft Charging Schedule. The proposed DCS, along with a draft infrastructure list (a list of infrastructure which will be funded by CIL, once CIL is adopted), is presented to this committee for noting.

Finally, the officer response to the Government's technical consultation – *Reforming Developer Contributions*, which includes proposed changes to the Community Infrastructure Regulations 2010 (as amended), is provided for noting.

RECOMMENDATIONS:

That the Planning Policy Sub-Committee:

1. Notes the summary of responses received as part of the Preliminary Draft Charging Schedule consultation.
2. Agrees that the Draft Charging Schedule (March 2019) is published for public consultation (under Reg. 16 of the CIL Regulations 2010 as amended) from Thursday 21st March 2019 until 5pm Thursday 2nd May 2019.
3. Notes the officer response to the Government's Technical Consultation on Reforming Developer Contributions (December 2018)

1. BACKGROUND:

- 1.1 The consultation on the Arun Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS) ran from 10th December 2018 – 21st January 2019.

1.2 As part of the consultation, the Council received 34 comments from 28 respondents. A summary table of the comments received, and the actions resulting from the responses, is provided in Background Paper 1. A more detailed response to one representation has been prepared to address challenges made to the viability evidence. This can be found in Background Paper 1a. In general, comments focused on the following points:

- Technical points of clarification relating to the viability and infrastructure evidence; exemptions and relief; the CIL zone maps and; the instalments policy.
- Concern regarding the infrastructure funding gap and questions regarding the total amount of CIL and S106 that may be received from development.
- Questions regarding the role of S106 and concern that the strategic sites will not be paying CIL.
- Points were raised relating to the types of development that may be liable for a CIL charge. For example, care homes should not be included in the definition of “older people’s housing”.
- Requests for a draft infrastructure list (setting out which types of infrastructure will be funded by CIL)

1.3 The comments received through the consultation have been addressed in the table (see the “ADC response” column). In some cases, changes have been made to the PDCS as a result of the comments, and subsequently incorporated into the Draft Charging Schedule (DCS) 2019. These can be found in Background Paper 2. It should be noted that where concern exists regarding the strategic sites not paying CIL, it is not the case that these sites are excused from paying developer contributions. These sites will pay high levels of S106 contributions and will deliver all required infrastructure as set out in the Arun Local Plan policies and supporting infrastructure evidence.

1.4 Where responses have challenged the viability evidence used to prepare the PDCS, the consultants HDH Planning Ltd. that prepared the CIL Viability Update 2018 report, have provided advice. The consultants have not identified any challenges to the evidence which would support a change to the proposed rates.

1.5 A number of responses received commented on the soundness and accuracy of the infrastructure evidence used to prepare the PDCS (the Infrastructure Capacity Study and Delivery Plan, 2017 (ICSDP)). In particular, a number of comments received were from community groups that identify that a shortfall in funding would remain after the introduction of CIL, so the CIL rate should be increased. The CIL Guidance explains that to prepare a sound CIL charging schedule, the charging authority must focus upon showing that an aggregate funding gap exists, which will justify the preparation of a charging schedule. It is not the aim of the CIL charging schedule to address the funding gap in full.

1.6 Furthermore, in terms of the accuracy of the infrastructure evidence, the CIL Guidance emphasises that it is not always possible to pinpoint all forms of funding beyond the short-term, therefore gaps in data is inevitable despite best efforts to provide detailed funding information. The Planning Inspector for the Arun Local Plan (ALP) wrote in his report that *infrastructure evidence is subject to constant changes as the Local*

Plan is being implemented (paragraph 197). Therefore, there is always an element of estimation when identifying a total infrastructure funding gap.

1.7 It is recognised that further updates to the ICSDP are required and this work is currently in progress. The updates will include the following:

- Completing the funding secured columns in relation to those strategic sites that have recently been granted planning permission;
- Secondary education contribution requirements from strategic sites are currently under discussion with WSCC. Updates will be available shortly but are not available at the time of writing this report.
- The distribution of costs for junction mitigation schemes across the strategic housing allocations. Work is currently emerging and will be available shortly but are not available at the time of writing this report.
- Draft costs for delivery of public open space, built sports facilities and playing pitches on strategic sites will be made available through the emerging Supplementary Planning Document (SDP). Updates will be made once the SDP has been agreed for consultation.

1.8 Where updates to the ICSDP are required as a result of the emerging information, these will be incorporated into the infrastructure evidence in time to support the proposed DCS consultation. The evidence will be made available on the Arun website (www.arun.gov.uk/cil) throughout the consultation period. As set out above, regular updates are unavoidable due to the nature of infrastructure delivery.

2. THE INFRASTRUCTURE LIST

2.1 The ICSDP has also been used to prepare an infrastructure list. This list is also known as the Regulation 123 list as it relates to the CIL Regulations 2010. The list sets out all items of infrastructure that the charging authority will wholly or partly fund with CIL, and not S106. The approach taken to preparing the list is that all infrastructure requirements generated by the strategic sites (off site and on site mitigation measures, including cumulative impacts arising from the impact of the strategic sites) will be funded by S106. For all non-strategic sites, the off-site infrastructure requirements will be funded by S106 planning obligations (off-site infrastructure will be funded by CIL). The infrastructure list can be found in Background Paper 3.

2.2 It is estimated that CIL receipts will generate approximately £30 million (based on a review of deliverable Housing and Employment Land Availability Assessment (HELAA) sites and their locations in relation to the proposed CIL zones). However, it should be noted that 5% of this income (after the first three years of implementation) may be used by the Council to fund the administration of CIL. Furthermore, in many cases, where parishes have 'made' neighbourhood plans, 25% of receipts will be passed to that Parish or Town Council. Where the Parish or Town Council does not have a 'made' neighbourhood plan, 15% of the CIL receipts in that area will be passed to the Parish or Town Council (capped at £100 per Council Tax dwelling in that area).

3. DRAFT CHARGING SCHEDULE – NEXT STEPS

3.1 The CIL Regulations require that a CIL Charging Schedule undergoes two rounds of public consultation before it is submitted for Examination. The second round of consultation is called “publication of the draft charging schedule”. This means that, subject to the Council agreeing to submit the draft charging schedule, all representations received at this consultation stage will be sent to the CIL examiner. Furthermore, any person/organisation making a representation on the DCS will be given the opportunity to request the right to be heard by the examiner. It is proposed that the draft charging schedule consultation will commence on Thursday 21st March 2019 until 5pm Thursday 2nd May 2019.

3.2 Following this round of consultation, representations will be summarised and if essential modifications are required, these will be made and clearly set out in a schedule of modifications. A final DCS (with or without a schedule of draft Modifications) will then be brought before this sub-committee to recommend to full council that the DCS is submitted for examination in accordance with Regulation 19 of the CIL Regulations, 2010. Subject to timescales being met, officers are aiming to submit the DCS on 31st July 2019.

4. GOVERNMENT TECHNICAL CONSULTATION ON CHANGES TO CIL REGULATIONS

4.1 The Government have recently carried out a technical consultation on reforms to developer contributions. This consultation focused on technical implementation of the reforms and includes proposed draft regulations, making the following changes to the CIL Regulations 2010 (as amended):

- Removing the statutory requirement for charging authorities to undertake two rounds of public consultation in the preparation and revision of a charging schedule;
- Removing the pooling restrictions on S106 agreements (currently S106 money can only be collected 5 times for one infrastructure type of project);
- Removal of Regulation 123 which requires the preparation of an infrastructure list (and restricts S106 and CIL being spent on the same infrastructure project or item).
- Introduction of the requirement on charging authorities to consult on the withdrawal of an adopted charging schedule which requires the authority to provide financial information to prove that CIL does not result in a financial benefit to the charging authority and;
- The introduction of the requirement for all contribution receiving authorities (S106 and/or CIL) to complete an Infrastructure Funding Statement on an annual basis and submit it to the government and make it publically available.

4.2 The officer response to the consultation is provided in Background Paper 4. The consultation is positive, in particular, the proposal to remove S106 pooling restrictions. However, some questions are raised regarding the practicalities involved in preparing the Infrastructure Funding Statements in terms of receiving detailed information from service providers regarding spending details.

2. PROPOSAL(S):

That the Planning Policy Sub-Committee agree that the Draft Charging Schedule is published for public consultation from Thursday 21st March 2019 until 5pm Thursday 2nd May 2019. The consultation document will be supported by viability and infrastructure evidence as well as a draft infrastructure list (the Reg. 123 list).

3. OPTIONS:

Not to consult on the Draft Charging Schedule.

4. CONSULTATION:

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

The adoption of a CIL Charging schedule following successful consultation and examination will ensure that financial contributions can be legally secured following planning approvals for qualifying types of development and landuses in order to address the off-site cumulative impacts of development across the District to ensure that development is delivered sustainably with necessary supporting infrastructure.

7. REASON FOR THE DECISION:

To ensure that development is delivered sustainably with necessary supporting infrastructure.

9. BACKGROUND PAPERS:

Remember to list background papers and insert required links

Background Paper 1: Summary of Responses received from PDCS

Background Paper 1a: Response to Representation PDCS19

Background Paper 2: Draft Charging Schedule March 2019

Background Paper 3: Draft Infrastructure List (Reg. 123 list)

Background Paper 4: Officer response to the MHCLG Technical Consultation Reforming Developer Contributions.