

Meeting of the Cabinet – 8th February 2012

Report of the Director of the Urban Environment

Community Infrastructure Levy

Purpose of Report

1. To seek cabinet approval for the preparation of a Community Infrastructure Levy (CIL) for the Borough to be in place by April 2014.

Background

2. The Community Infrastructure Levy (CIL) came into force in April 2010, through the Community Infrastructure Levy Regulations 2010. The regulations allow Local Authorities in England and Wales to raise funds from developers undertaking new building projects in their area. Dudley Metropolitan Borough Council has the power to charge the levy and is therefore known as a 'charging authority'. The money raised from these developments can be used to support a wide range of infrastructure that is needed as a result of development. This can include a range of infrastructure including road schemes, care facilities, health facilities, schools and park improvements.
3. The CIL is considered to be a fairer and faster more certain route for developers. In producing a CIL, levy rates will be set based on the evidential work required to identify funding gaps, together with findings from consultation with local communities. This will provide developers with much more certainty upfront about how much money they will be expected to contribute. Some types of developments will be exempt such as charities and affordable housing together with developments subject to economic viability issues and what rate the levy will be set at. In addition a meaningful proportion is to be spent on local infrastructure determined in consultation with neighbourhoods. There is therefore a critical role for ward members in this process.
4. The CIL charging schedule will need to tie in with the plans that the Borough is drawing up for physical development in the area and have regard to the gaps in infrastructure provision (and the available funding) needed to support that development. Large scale growth is proposed for Dudley Borough, which requires strategic investment in supporting infrastructure. Some of this is large scale, and future limitations on pooling Section 106 contributions limits funding options via this route.
5. When setting the levy the Local Authority will be required to strike an appropriate balance between the desirability of the infrastructure required and the effect of that charge on the viability of development and regeneration as a whole. This means it is likely through the use of CIL rather than planning obligations that more developments will become viable across the Borough, as viability is an inherent consideration of setting the levy. There is a process to follow set down

by the CIL regulations when evidencing and preparing a CIL. On adoption of the CIL it would be required to be periodically monitored to ensure that it remains appropriate and up to date.

6. Although CIL remains optional, the regulations limit the scope of what the Council can seek under Planning Obligations after April 2014. The use and scope of planning obligations will after this point, be considerably scaled back significantly reducing the levels of development contributions for infrastructure. As a result, the overall impact of not adopting a CIL would be a considerable reduction in developer contributions toward the provision of necessary infrastructure in Dudley Borough to support growth. This could lead to severe pressure on some infrastructure areas and unsustainable growth. It could even prevent growth. Overall the long term implications for not preparing CIL significantly outweigh the short term cost and resource implications for the Council preparing it.
7. Currently, Dudley Metropolitan Borough Council has an adopted Supplementary Planning Document on Planning Obligations which essentially sets out in a transparent way what the Council expects from developers in the form of planning obligations. Provision of a CIL does not remove planning obligations in their entirety but does fundamentally restrict what can be requested to affordable housing and localised infrastructure only. The SPD on planning obligations will need to be amended accordingly when CIL is adopted.

Finance

8. Adopting the CIL approach will involve altering the method of achieving infrastructure contributions through development. The Local Authority's use of the section 106 process will be much reduced with CIL replacing it in many areas. Charging Authorities will be able to use the funds from the levy to recover the costs of administering the levy, the regulations permit up to 5% of the total receipts to be spent on administering the levy.
9. There is currently a budget of £40,700 for the Planning Obligations Officer's salary and administration costs, which is wholly funded by Developers' contributions. Over the past three financial years, S106 receipts have ranged between £51,100 in 2008/09 to £625,000 in 2009/10.

Law

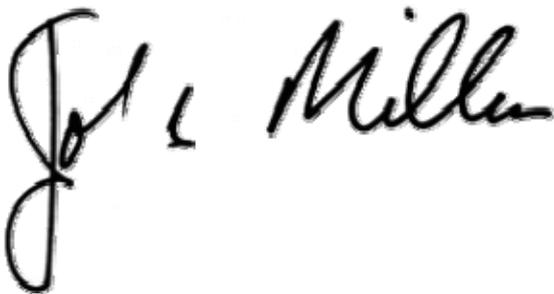
10. The CIL came into force on the 6th April 2010 through the Community Infrastructure Levy Regulations (now amended in 2011). The Planning Act 2008 provides a wide definition of the infrastructure which can be funded by the levy, including flood defences, schools, transport and social care facilities (list is not exclusive). On the adoption of the levy the regulations restrict the local planning authority use of planning obligations for pooled contributions that may be funded by the levy. Affordable housing is not currently capable of being funded by the levy and will be continued to be collected through traditional planning obligations. The provisions of Circular 05/05 Planning Obligations remain where they relate to the wider principles of Planning Obligations and the three tests set out in circular for seeking obligations, namely: -
 - a) Necessary to make the development acceptable in planning terms;
 - b) Directly related to the development; and
 - c) Fairly and reasonably related in scale and kind to the development,are now mandatory as opposed to advisory guidance tests.

Equality Impact

11. The proposals take into account the Council's commitment to equality. The adoption by the local planning authority of a CIL regime will ensure that the mitigation and benefits of development are addressed across the Borough. This will include meeting the needs of children and young people by seeking to provide sufficient facilities for them as well as having a positive effect for future generations.

Recommendation

12. It is recommended that the Cabinet approve the preparation of a Community Infrastructure Levy for the Borough to be in place prior to April 2014.



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List of Background Papers

Community Infrastructure levy: an Overview
(<http://www.communities.gov.uk/publications/planningandbuilding/communityinfrastructurelevymay11>)

Community Infrastructure Levy (Amendment) Regulations 2011
(<http://www.legislation.gov.uk/uksi/2011/987/made>)

Circular 05/05 Planning Obligations