

**Agenda Item No:** 7

**Report to:** Cabinet

**Date of Meeting:** 2 December 2013

**Report Title:** Community Infrastructure Levy

**Report By:** Monica Adams Acton  
Head of Regeneration and Planning Policy

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### **Purpose of Report**

To report on the outcome of a study concerning the viability of introducing Community Infrastructure Levy (CIL) charging to Hastings.

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### **Recommendation(s)**

- 1. To receive the results of the Community Infrastructure Levy study for Hastings.**
- 2. To agree not to progress CIL charging at this time.**
- 3. To agree to monitor changes in house prices in order to determine when it may be appropriate to reconsider pursuing CIL.**

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### **Reasons for Recommendations**

In order to further review the possible implementation of a CIL charging system.

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## Introduction – CIL & Section 106 Agreements

1. The Community Infrastructure Levy (CIL) is a new levy that local authorities in England and Wales can choose to charge on new developments in their area. The money is intended to fund infrastructure that the Council, local community and neighbourhood need - for example highway investment and park improvements. The system applies to most new buildings and charges are based on the size and type of the new development.
2. Authorities wishing to introduce CIL should propose rates which do not put at serious risk the overall development of their area. CIL must be based solely on economic viability considerations and should not be used to further planning policy or political objectives.
3. CIL rates are set in £ per square metre on the net increase in floorspace of any development. All new dwellings will be subject to CIL and any other development over 100 sq metres gross internal floor area (subject to minor exceptions). A charging authority may set a fixed rate of CIL or differential rates for different types of development and different locations. Some categories or location may be zero rated dependent upon economic viability evidence.
4. The rates are published in a charging schedule which would be subject to public consultation and independent examination. The rates of CIL that are charged must relate to the infrastructure funding deficit - the funding gap between the total cost of required infrastructure and the infrastructure delivered or financed by external partners and agencies. Once the CIL rates are set, like any tax, they must be applied and cannot be set aside even if they impact on the viability of a development. This therefore reduces flexibility and results in greater rigidity.
5. Currently contributions for development infrastructure such as highway infrastructure, child play provision and affordable housing are obtained from legal agreements attached to planning consents; these are known as Section 106 agreements. The obligations are agreed following negotiation and they are based on planning policy requirements but take account of the viability of the development. The developer is obligated to comply with what is contained in such an agreement in order to allow the development proceed. The scope of planning obligations obtained via Section 106 agreements will be limited after April 2015 as a result of the introduction of CIL.
6. After April 2015 the regulations restrict the local use of planning obligations for pooled contributions towards items that may be funded by CIL. Pooled contributions from a number of sites can be used to say fund highway infrastructure such as a road. In future these will be restricted to five separate planning obligations for an item of infrastructure that is not locally intended to be funded by CIL which rules out double counting. At present affordable housing contributions cannot be obtained through CIL so they will continue to be obtained using Section 106 agreements.
7. All planning obligations obtained under Section 106 agreements for development capable of being charged the levy must meet three statutory tests:

- necessary to make the development acceptable in planning terms
  - directly related to the development
  - fairly and reasonably related in scale and kind to the development.
8. We would be able to more or less achieve much of what we have achieved in the past using planning obligations from Section 106 agreements, provided they meet the above tests and restrictions. There is still the option of not proceeding with CIL at this time and relying on planning obligations for each development site through Section 106 agreements. Where CIL is implemented it offers the opportunity for Councils to gain contributions above 106 obligations, where the right market conditions and values exist. CIL contributions once set become a fixed requirement when development proceeds and cannot be negotiated. This is therefore different to Section 106 agreements which are negotiated on a site by site basis and can be the subject of renegotiation if circumstances change.

## Commentary – the CIL Study findings

9. Nationwide CIL Service, were contracted to undertake a study to assess the ability of different categories of development in Hastings to make CIL contributions. The Study assessed the costs and value of development and having made an allowance for a reasonable developers' profit return, determined whether any additional margin is available for CIL contributions.
10. The residential viability testing illustrated that Hastings is currently experiencing very challenging economic circumstances. The study indicated that Greenfield development could potentially yield significant amounts of CIL if a flexible approach to affordable housing delivery is adopted. However, the Borough is a relatively constrained urban area where the majority of development is likely to emerge from brownfield sites.
11. The viability appraisal indicated that only apartment development and starter housing was capable of yielding CIL on brownfield sites and then only if affordable housing delivery was reduced to 10%. The planning policy requirements for affordable housing under the new Planning Strategy are for brownfield sites 25% of developments of 15 dwellings (20% for 5-14 dwellings and 10% for 1 to 4 dwellings). This would therefore reduce the opportunity to obtain affordable housing significantly.
12. For housing developments on greenfield sites where the policy seeks 40% affordable housing for developments of 10 dwellings a CIL charge would not be viable and affordable housing requirements would need to be reduced to between 10 and 20%.
13. The overriding conclusion for residential properties is that the relatively low sales value of open market residential property will make it very difficult to introduce CIL without significantly reducing affordable housing policy targets contained in the Planning Strategy.
14. The Study found that most categories of commercial development are not sufficiently viable in current market circumstances in Hastings to be capable of

accommodating CIL payments in both greenfield and brownfield development scenarios with the exception of food supermarket and general retailing.

## Conclusions, Options and Recommendations

15. The main conclusion of the Study found that the economic viability of most forms of development is marginal in current market circumstances. Only some retail development demonstrates any viability margin from which CIL charges might be extracted. The affordable housing delivery targets for the Council make it difficult to introduce residential CIL charges in the current economic climate. However, some sensitivity analysis has been undertaken to illustrate the impact of a 10% increase in house prices on the economic viability of development. This analysis shows that such a change in the market may enable significant rates of CIL to be levied whilst maintaining the Council's affordable housing targets.
16. Therefore, in the current circumstances it is recommended to delay the introduction of CIL and re-assess the position after the anticipated upturn in the housing market in the next couple of years. The alternative option would be to accept significantly lower amounts of affordable housing delivered from private development by in the order of a third to a half although it is very difficult to make accurate predictions. This would probably mean setting aside the affordable housing policy until viability improved. It is not recommended that such reduced levels of affordable housing are accepted.
17. In the meantime, if the introduction of CIL is delayed, the Council can continue to use Section 106 agreements to obtain planning obligations to deliver key transport and play provision within the constraints to be imposed on pooled contributions outlined in paragraph 3 of this report. Affordable housing will also continue to be achieved using Section 106 agreements.
18. The requirements would need to be broken down into specific projects that can be included into future Section 106 agreements based on a maximum of 5 separate contributions to each project. In practical terms this exercise will be relatively straightforward for larger sites which have the critical mass to fund their own infrastructure. But will be more challenging for a number of smaller sites.
19. It is recommended that CIL not be pursued at this time, but that changes in house prices in Hastings are monitored in order to determine when it may be appropriate to reconsider pursuing CIL

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### Wards Affected

All

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### Area(s) Affected

All

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## Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	Yes
Human Rights Act	No
Organisational Consequences	Yes
Local People's Views	No

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## Background Information

Hastings Borough Council Community Infrastructure Levy Viability Assessment,  
August 2013

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## Officer to Contact

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