

PLYMOUTH CITY COUNCIL

Subject: Community Infrastructure Levy (CIL) – Draft
Charging Schedule

Committee: Cabinet

Date: 17 January 2012

Cabinet Member: Councillor Fry

CMT Member: Director of Place

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Ref: PH/CIL/2

Key Decision: Yes

Part: I

Executive Summary:

Cabinet considered a report on the Community Infrastructure Levy (CIL) and Plymouth Infrastructure Needs Assessment on 12 July 2011, where it agreed to approve the introduction of a Community Infrastructure Levy for Plymouth, along with a timetable for adopting a CIL Charging Schedule.

CIL is a new levy that local authorities in England and Wales can choose to charge on developments in their area to help fund infrastructure improvements. It was first introduced in April 2010 and is now a major plank of the localism agenda, with provisions identified in the Localism Act, and with detailed Regulations having been put in place to provide for its implementation.

The money raised through CIL can be used to support new development by funding infrastructure that the city, local communities and neighbourhoods need – for example, new road schemes, park improvements or improvements to local school capacity.

The CIL Regulations prescribe the process by which a CIL is introduced. A Preliminary Draft Charging Schedule (PDCS) must be published for consultation, followed by a Draft Charging Schedule, which sets out for consideration at an independent public examination the CIL charge/s that a charging authority is intending to apply to development in its area (expressed in £s per square metre). The Draft Charging Schedule can also be used to set out charging authorities' Instalments and Discretionary Relief in Exceptional Circumstances policies.

Plymouth's PDCS was published for consultation under delegated authority on 1 November 2011, with the consultation period ending on 13 December 2011. The main issues identified through the consultation process are detailed in paragraph 2.3 of the accompanying report.

In accordance with the 12 July 2011 Cabinet resolutions, authority is now sought for the publication of the Draft Charging Schedule for consultation, prior to its Public Examination. This will provide for consultees to make representations which can be heard by the Examiner if they so choose. These procedures are laid out in the CIL Regulations. Following Public Examination, receipt of and response to the Examiner's report, the Final CIL Charging Schedule can be adopted. This stage is likely to be reached in Summer 2012, with the CIL Charging Schedule subsequently coming into effect in Autumn 2012.

A copy of the proposed Draft CIL Charging Schedule is attached as the Appendix to this report.

The CIL Regulations make it clear that Charging Schedules must not put at serious risk the overall development of their area, and so evidence on development viability must underpin the level/s at which the levy is set. CIL charging authorities are required to use viability and infrastructure needs evidence to strike an appropriate balance between the desirability of funding infrastructure from the CIL and the potential effects of CIL upon the economic viability of development across their area. Plymouth's Draft Charging Schedule is underpinned by appropriate evidence and this will be made available to consultees alongside the Draft Charging Schedule.

Plymouth was selected to be one of a number of CIL implementation 'Frontrunners' by the Government Department for Communities and Local Government (CLG) in July 2011. CLG is anticipating Plymouth submitting its Draft CIL Charging Schedule for Examination by April 2012. We are on track to achieve this target.

It is the Government's intention that CIL regimes replace 'tariff-approaches' to Section 106 agreements, such as that currently operated by the Council. Indeed, once Plymouth's CIL becomes operational, the Council's tariff approach will be defunct. It is therefore necessary to undertake a second review of the Planning Obligations and Affordable Housing Supplementary Planning Document (SPD) to reflect these changes, and this is subject to a separate report to this meeting of Cabinet. The revised SPD is intended to provide clarity to developers on the operation of the planning obligations process once the CIL regime is operational.

Corporate Plan 2011-2014:

The report directly supports the Council's vision for the city as well as its priority for delivering growth. The Community Infrastructure Levy will deliver resources towards the infrastructure required to unlock the City's growth potential. CIL receipts can be used to:

- Help create the conditions for growth and therefore the achievement of sustainable growth in jobs and GVA (Level 1 indicators).
- Support the achievement of a good range of houses (Level 1 & 2 indicators).
- Secure provision for strategic and local infrastructure (Level 2 indicator).
- Address the environmental impacts of development (Level 2 indicator).

In addition, CIL receipts will support the Council's other three priorities in the following ways:

- 'Value for communities' - by ensuring that development contributes to and does not harm local communities, and by securing resources to help deliver improvements in communities.
- 'Raising aspirations' – particularly through securing additional resources that can support the wider learning infrastructure of the city.
- 'Reducing inequalities' – particularly through securing additional resources for infrastructure investments that improve community well-being.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

The introduction of CIL will ensure that the Council is able to continue to secure developer contributions to address the community infrastructure implications of development and the growth of the city. This could amount to a significant increase on what has historically been delivered through the Section 106 process.

The Council is able to charge an administration fee of up to 5% in levying CIL, and it is anticipated that the costs of preparing for and introducing CIL can be recouped from this fee.

Prior to the introduction of CIL cost pressures arising will in the first instance need to be met from Planning reserves. These cost pressures include the cost of the examination of the Draft Charging Schedule. If the set up costs include an option to acquire a new CIL database, a proposal for this will be subject to the capital approvals process, which will address any on-going revenue maintenance costs. Existing systems are being reviewed to develop the most cost-effective administration and monitoring system. The Department for Communities and Local Government may in future relax the 5% administration fee limit in certain circumstances.

CIL is subject to new enforcement procedures, and there will therefore be a requirement for new legal procedures to be put in place and acted upon.

Other Implications: e.g. Community Safety, Health and Safety, Risk Management, Equalities, Diversity and Community Cohesion:

The Community Infrastructure Levy may support the promotion of community safety or health and safety by, for example, assisting with the implementation of infrastructure that improves road safety, improves defences against flooding, improves healthcare provision, improves open space through better lighting, etc.

An Equalities Impact Assessment has been carried out and this confirms that, by having the effect of helping to mitigate the adverse impacts of development, the impacts of CIL are entirely positive in equalities terms.

The introduction of CIL offers the best prospect of optimising income generated from developer contributions whilst at the same time safeguarding the overall viability of development in the city. The current tariff-based approach to securing developer contributions through Section 106 Agreements is very constrained by the CIL Regulations, which in any case provide for the demise of such approaches by April 2014. CIL will therefore significantly reduce risks associated with Risk No. 80 identified on the Council's Strategic Risk Register (*Planning obligations – implications of new legal framework and current economic circumstances*).

Recommendations & Reasons for recommended action:

It is recommended that the Cabinet:

1. Approve the publication of the Draft CIL Charging Schedule for public consultation.

Reason: To ensure that the Draft Charging Schedule is published with appropriate authority, to ensure that Plymouth is well placed to continue to secure developer contributions towards meeting the infrastructure needs of the city, and to ensure that the Council meets Department of Communities and Local Government 'Frontrunner' expectations by providing for the submission of the Council's Charging Schedule for Examination by April 2012.

2. Delegate authority to the Assistant Director for Development & Regeneration (Planning Services), in consultation with the Portfolio Holder for Planning, Strategic Housing and Economic Development, to agree minor amendments to the Draft Charging Schedule in response to the consultation process, and to submit the Draft Charging Schedule and any requisite Statement of Modifications for Independent Public Examination.

Reason: To provide for Public Examination procedures to be expedited following public consultation.

3. Instruct officers to report the Final CIL Charging Schedule to Cabinet and Full Council for adoption following Public Examination.

Reason: To ensure that the final CIL Charging Schedule is adopted with appropriate authority, in accordance with the requirements of the CIL Regulations.

4. Instruct officers to present proposals for future review of the final CIL Charging Schedule to Cabinet when seeking approval for its adoption following Public Examination.

Reason: To ensure that procedures are in place to respond to changing economic circumstances.

Alternative options considered and reasons for recommended action:

The alternative would be to not introduce a Community Infrastructure Levy. This would leave the existing tariff approach in place until it was effectively made redundant after April 2014 by Regulation 123 of the Community Infrastructure Levy Regulations. This Regulation will remove the Council's ability to secure any significant level of pooled developer contributions to meeting the infrastructure costs arising from the growth of the city. It is therefore not recommended.

Background papers:

- 12 July 2011 Cabinet Report on CIL and the Plymouth Infrastructure Needs Assessment - <http://www.plymouth.gov.uk/modgov?modgovlink=http%3A%2F%2Fwww.plymouth.gov.uk%2FmgInternet%2FieListDocuments.aspx%3FCId%3D254%26amp%3BmId%3D4493%26amp%3BVer%3D4>
 - November 2011 Plymouth Preliminary Draft CIL Charging Schedule and supporting evidence base documentation – see <http://www.plymouth.gov.uk/homepage/environmentandplanning/planning/makingaplanningapp/communityinfrastructurelevy.htm>
 - Schedule of Consultation Responses to the November 2011 Plymouth Preliminary Draft CIL Charging Schedule – see <http://www.plymouth.gov.uk/homepage/environmentandplanning/planning/makingaplanningapp/communityinfrastructurelevy.htm>
 - CLG Community Infrastructure Levy: An Overview – May 2011 <http://www.communities.gov.uk/publications/planningandbuilding/communityinfrastructurelevymay11>
 - Community Infrastructure Regulations, April 2010 - <http://www.legislation.gov.uk/uksi/2010/948/contents/made>
 - Community Infrastructure Levy Amendment Regulations, February 2011 - <http://www.legislation.gov.uk/ukdsi/2011/9780111506301/contents>
 - CLG Community Infrastructure Levy Guidance: Charge Setting and Charging Schedule Procedures, March 2010 - <http://www.communities.gov.uk/publications/planningandbuilding/cilguidance>
 - Community Infrastructure Levy: Detailed Proposals and Draft Regulations for Reform – Consultation - <http://www.communities.gov.uk/publications/planningandbuilding/cilreformconsultation>
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Sign off:

Fin	SG/DevF11120 041.121211	Leg	JAR/13256A	HR	N/A	Corp Prop	N/A	IT	N/A	Strat Proc	N/A
Originating SMT Member: Paul Barnard Assistant Director for Development & Regeneration											

1.0 THE COMMUNITY INFRASTRUCTURE LEVY

- 1.1 The Community Infrastructure Levy (CIL) is a new charge that local authorities in England and Wales can choose to levy on development to help pay for the infrastructure that is required to mitigate the adverse impacts of, and thereby support the delivery of growth. The vision for Plymouth is to grow the city by around 50,000 people, and to deliver around 40,000 new jobs and 30,000 new homes. Significant investment in infrastructure will be required to accommodate this growth. CIL will provide one important source of funding to help provide this infrastructure.
- 1.2 Provision was made for the introduction of CIL by the Planning Act 2008, and it is now a major plank of the localism agenda, with further provisions identified in the Localism Act 2011.
- 1.3 Detailed Regulations have been put in place to provide for the implementation of CIL. These Regulations provide for an end to tariff-based approaches to Section 106 Agreements, such as that currently operated by the City Council. Once Plymouth's CIL becomes operational, the Council's tariff approach will be defunct. It is therefore necessary to undertake a parallel review of the Planning Obligations & Affordable Housing Supplementary Document, and that is subject to a separate report to this Cabinet meeting.
- 1.4 This report is concerned purely with the consideration of the Draft CIL Charging Schedule, which is the stage of the CIL process that we have now reached. The report does not consider other aspects of CIL at this time. However, in the lead up to the implementation of CIL, Cabinet will receive further reports in relation to its formal adoption and how CIL receipts will be used to meet city and local needs.

2.0 PRELIMINARY DRAFT CHARGING SCHEDULE

- 2.1 The CIL Regulations (as amended) prescribe the processes that must be followed by local authorities seeking to introduce a Community Infrastructure Levy. The first stage is to publish a Preliminary Draft Charging Schedule (PDCS) for consultation. This needs to be followed by the publication of a Draft Charging Schedule, which must be subject to Public Examination by independent examiner before the Final Charging Schedule can be adopted by resolution of Full Council.
- 2.2 Plymouth's PDCS was published for consultation on 1 November 2011, with the consultation period ending on 13 December 2011. The PDCS included proposed rates to be levied on different types of development in Plymouth.
- 2.3 The main issues and concerns raised through the consultation process were:
 - (i) The effect of the proposed £60m² CIL charge on small residential developments which have not previously been subject to the Plymouth Development Tariff (i.e. developments of under five units).
 - (ii) The relationship between CIL and regeneration in areas with low land values.
 - (iii) The proposed application of uniform rates across the city.

- (iv) The relationship between CIL and Section 106.
- (v) The potentially negative impact of the proposed £30m² rate on smaller retail developments and thereby the City Centre and town, district and local centres.
- (vi) The proposed application of the £100m² rate to food superstores / supermarkets.
- (vii) The implications of the proposed CIL rates for the provision of purpose-built student accommodation.
- (viii) The phasing of CIL payments in accordance with any Instalments Policy.
- (ix) The circumstances in which discretionary relief from CIL will be applied in Plymouth, and in which the CIL rates will be reviewed.

2.4 A detailed account of representations and detailed responses to these representations is provided in a Schedule of Consultation Responses to the November 2011 Plymouth Preliminary Draft CIL Charging Schedule, which is available as a background paper.

3.0 DRAFT CHARGING SCHEDULE

3.1 These issues and concerns have been taken into account in the preparation of the Draft Charging Schedule attached as Appendix I to this report, as has further refinement of the viability analysis undertaken to inform the Preliminary Draft Charging Schedule.

3.2 The Draft CIL Charging Schedule must be published for consultation, prior to its Public Examination. This is to enable consultees to make representations which can be heard by the Examiner if they so choose. Following Public Examination, receipt of and response to the Examiner's report, the Final CIL Charging Schedule can be adopted.

3.3 The Draft Charging Schedule includes a table of charges that are intended to apply to particular developments across the city. When it comes to residential development, it is proposed that charges should vary, depending on the number of residential units, on whether the units are part of a high-rise development, and on whether the units constitute purpose-built student accommodation. A higher rate is proposed for the development of food superstores / supermarkets. These different rates have been arrived at following extensive evidence gathering and development viability testing.

3.4 The key consideration in setting CIL charges is their impact on development viability. As with all other local authorities, we have used a Residual Land Value appraisal approach to assess the financial capacity of development to pay a CIL charge. In other words, we have tested the extent to which value is generated by a given development so as to pay a CIL charge. The development appraisals we have deployed reflect a wide range of development contingencies that a developer could encounter in Plymouth. We have worked closely with a property valuations specialist to establish these contingencies. They have included items such as the current and expected health of the local economy; the potential achievable rental or sales values; the cost of purchasing development land, and construction costs. By varying these elements across a number of development appraisals, we gained

insight into the sensitivities that different developments have in their capacity to pay a CIL charge.

- 3.5 In developing the Draft Charging Schedule we have taken a cautious approach, meaning that we have proposed CIL charges at levels at which we have confidence that there is an adequate financial “cushion” so as not to introduce a financial burden to the extent that it puts future development at risk. As is apparent, the local economy has slowed significantly over the past three years and there are few signs that the situation will improve in the near-term. This has translated directly into a decline in the viability of property development.
- 3.6 There are a number of development typologies for which the evidence base shows there is no capacity to pay a CIL charge. These include offices (and other employment-related use classes), some retail uses and hotels. In Plymouth, the weak economy is hitting these sectors particularly hard. We also concluded that for high rise residential developments, the high construction costs leave this category without the capacity to pay a CIL charge. With regard to the residential sector more generally, the evidence base provides the rationale for the charges proposed. We have established differential rates for residential developments based upon the requirement for them to provide affordable housing. The evidence shows that for smaller schemes which are not required to deliver affordable housing, there is a greater capacity to pay a CIL charge. Other development categories for which the evidence base shows there is capacity to pay a CIL charge include (non high-rise) purpose-built student accommodation and larger food retail developments.
- 3.7 Paragraph 2.3 above lists the main issues and concerns raised through the consultation on the Preliminary Draft Charging Schedule. These have been considered carefully in the preparation of the Draft Charging Schedule. The main amendments proposed are set out below:
- The proposed rate for non-high-rise C3 (residential) developments of fewer than 15 units has been reduced from £60m² in the PDCS to £50m² in the Draft Charging Schedule. This responds to concerns raised through representations about the effects of the £60m² rate on the viability of small developments, which have higher build costs in comparison to larger developments.
 - The proposed rate of £60m² for purpose-built student accommodation of less than 6 storeys remains as it was in the PDCS, with the exception that developments of 6 storeys or more will have a nil charge. This responds to evidence of significantly higher build costs for high rise development, and makes the approach to student accommodation consistent with that applied to low and high rise non-student residential development.
 - The proposed PDCS charge of £30m² for ‘A’ uses of less than 10,000ft² has been removed. This responds to refined viability analysis and representations that the imposition of such a charge is likely, in the current economic climate, to push such development unacceptably close to the margins of viability.

- Clarification has been introduced that the proposed £100m² charge for food superstores / supermarkets also applies to extensions to those stores. Additionally, the threshold is now expressed in square metres rather than square feet, and a definition has been included to make it clear that the provisions relate to superstores and supermarkets that may also sell non-food goods as part of their overall mix.

3.8 In response to other key issues raised through the PDCS consultation process:

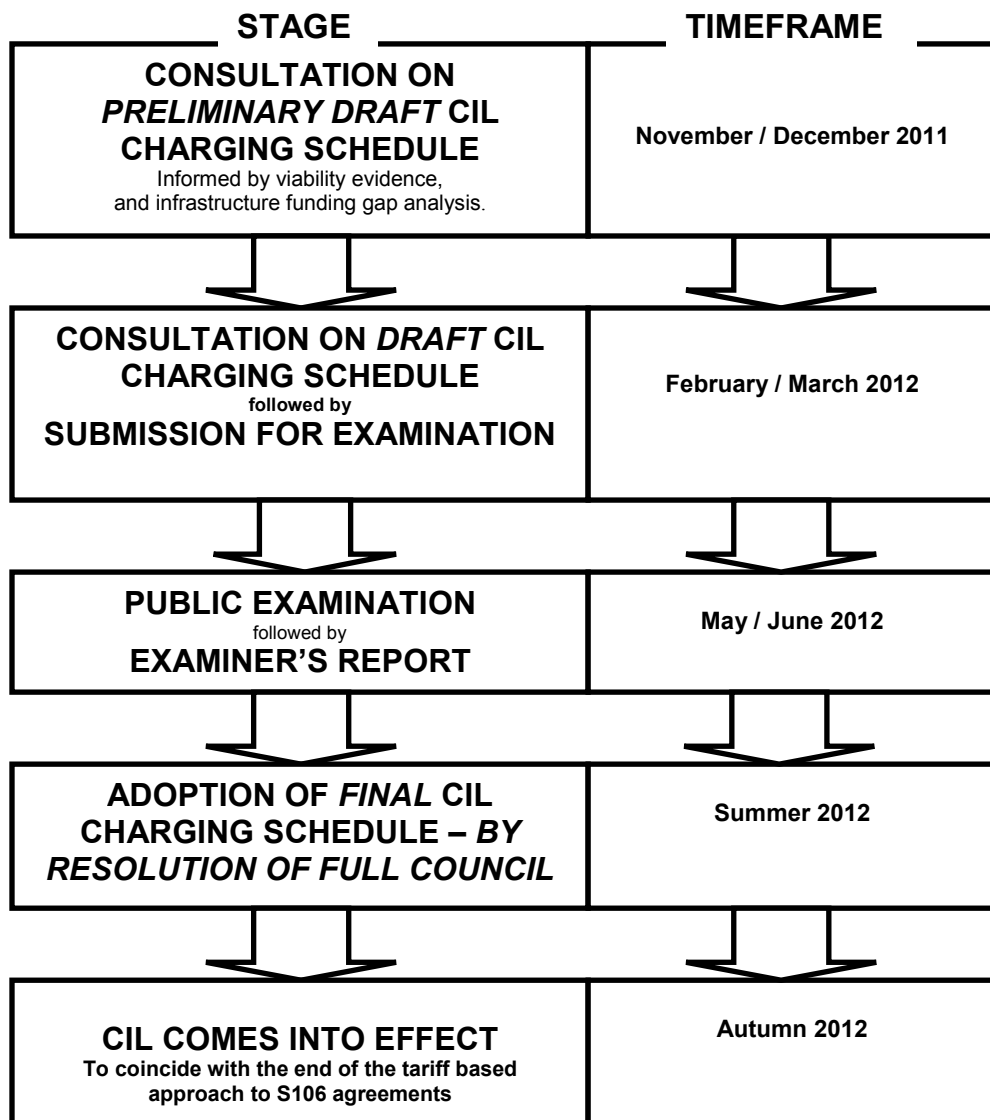
- Proposals for future review of the CIL Charging Schedule and the circumstances in which the provision of Discretionary Relief in Exceptional Circumstances will be considered will be presented to Cabinet when approval is sought for the adoption of the final Charging Schedule.
- It is not proposed to apply different rates in different geographical areas of the city. The rates proposed take full account of land values in the lowest value areas of the city and are not considered to compromise the viability of development in those areas. There is demonstrable evidence of developments being able to 'create value' in even the lowest value areas of the city.
- A separate report to Cabinet proposes consultation on amendments to the Planning Obligations and Affordable Housing SPD, and thereby addresses the relationship between CIL and Section 106 agreements.
- The Draft Charging Schedule incorporates a draft Instalments Policy. This is particularly important from the perspective of developers, in that the phasing of payments is critical to project cashflow, and thereby to securing development finance. By relating payments more closely with development revenue, the viability of schemes can be improved. The Instalments Policy has been drafted in consultation with Plymouth Regeneration Forum representatives and in the context of other authorities' proposed Instalments Policies.

4.0 **NEXT STEPS – THE PROCESS AND PROGRAMME FOR ADOPTING A COMMUNITY INFRASTRUCTURE LEVY**

- 4.1 Whilst the process for adopting a Final Charging Schedule has not changed since the 12 July 2011 Cabinet report, the programme has been amended to draw on the experience of the first examinations of other charging authorities' Draft Charging Schedules, which have provided clarity around timeframes and procedures. However, the overall timeframes for adoption and implementation of Plymouth's CIL are largely unchanged, with adoption of the Final Charging Schedule anticipated in Summer 2012, and with the Charging Schedule subsequently coming into effect in Autumn 2012.
- 4.2 The flowchart on the following page identifies the very broad process that needs to be followed in adopting Plymouth's CIL, along with indicative timeframes. Consultation with stakeholders on the Draft Charging Schedule will be the immediate focus, followed by Examination of the Draft Charging Schedule, and then adoption by resolution of the full Council. Further engagement will also take place with Council services to prepare for CIL implementation.

- 4.3 The flowchart does not identify all of the internal arrangements that will need to be made to accommodate CIL. For example, new administrative procedures need to be put in place to assess developments' CIL liability, a CIL-capable database will be implemented, new financial and accounting systems need to be put in place, and new legal compliance procedures need to be accommodated. Arrangements to administer and manage CIL will be put in place over the coming six to nine months.

IMPLEMENTING THE COMMUNITY INFRASTRUCTURE LEVY



APPENDIX I: DRAFT CIL CHARGING SCHEDULE

This Draft Charging Schedule sets out Plymouth City Council's Community Infrastructure Levy charging rates. These rates will apply uniformly across the City. It also incorporates a draft Instalments Policy relating to the payment of the levy.

Proposed CIL Rates

Plymouth's proposed CIL rates are as follows.

CIL RATES IN PLYMOUTH – in £s per square metre				
Development type	Rate	Development type	Rate	Notes
Residential Development:		Hotels	£0	*This rate includes the entire high rise development, including lower floors; however any low rise elements linked to but not structurally necessary to the high rise development will be liable to the relevant low rise rates. **For the purposes of this Charging Schedule, superstores/supermarkets are shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floor space as part of the overall mix of the unit.
• 15 units or more, non high-rise	£30	Cinemas and Commercial Leisure	£0	
• Less than 15 units, non high-rise	£50	Offices, Industrial Units, Storage and Distribution (B1/B2/B8)	£0	
• Purpose-built student accommodation, non high-rise	£60	Superstores / supermarkets** of 1000m ² gross internal floor area or more, including all extensions to such stores	£100	
• High rise residential & purpose built student accommodation – 6 storeys or more*	£0	All other retail uses, and financial & professional services, restaurants & cafes, drinking institutions, takeaways	£0	
Residential Institutions	£0	All Other Uses	£0	

Calculating the Chargeable Amount

The amount of CIL payable (the 'Chargeable Amount') will be calculated in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010, as amended.

The chargeable rate is set having regard to viability information, to ensure that the levy does not put at risk the overall development of the area. The rates will be updated annually for inflation, and will therefore be index linked to the national All-in Tender Price Index published from time to time by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors. If the BCIS ceases to publish the All-in Tender Price Index, the Retail Prices Index will be used instead.

Draft CIL Instalment Policy

Overview

Regulation 70 (7) of the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy (Amendment) Regulations 2011) sets a default of full payment of the Levy within 60 days of the commencement of development. The Regulations also enable a

Charging Authority to set an Instalment Policy that allows payments to be spread over longer periods.

The context for this proposed Instalments Policy is the Council's strong desire to support and enable development and economic growth in the city. The Council recognises the significant economic constraints upon development and investors at this time of economic downturn. It therefore proposes a policy that allows CIL payments to be phased, including payments over longer timescales for large scale projects. This provides for payments to be spread across the development process so that they are, where possible, synchronised with development progress and development cash flows.

The commencement date is the date given on the commencement notice as advised by the developer under CIL Regulation 67. A failure of the developer to notify the Council of a commencement date results in an automatic surcharge and removal of the privilege to utilise the Council's Instalment Policy.

Policy

The Community Infrastructure Levy is proposed to be payable by instalments as follows:-

Where the chargeable amount is less than £15,000	Full payment will be required within 90 days of the commencement date.
Where the chargeable amount is between £15,000 and £50,000	First instalment representing 25% of the chargeable amount will be required within 90 days of the commencement date. The second instalment representing 50% of the chargeable amount will be required within 270 days of the commencement date. The third instalment representing 25% of the chargeable amount will be required within 360 days of the commencement date.
Where the chargeable amount is over £50,000 but below £100,000	First instalment representing 25% of the chargeable amount will be required within 90 days of the commencement date. Second instalment representing 50% of the chargeable amount will be required within 360 days of the commencement date. Third instalment representing 25% of the chargeable amount will be required within 540 days of the commencement date.
Where the chargeable amount is £100,000 or above	First instalment representing 25% of the chargeable amount will be required within 90 days of the commencement date. Second instalment representing 25% of the chargeable amount will be required within 270 days of the commencement date. Third instalment representing 25% of the chargeable amount will be required within 540 days of the commencement date. The fourth instalment representing 25% of the chargeable amount will be required within 720 days of the commencement date.