



SHEFFIELD CITY COUNCIL

Cabinet Report

Report of: Simon Green, Executive Director, Place

Report to: Cabinet

Date: 9 December 2015

Subject: Community Infrastructure Levy and Planning Obligations
Supplementary Planning Document

Author of Report: Shanza Shahzad (205 3074)

Key Decision: Yes

Reason Key Decision: The impact of the Community Infrastructure Levy (CIL) and planning obligations will have a significant effect on communities living/ working across the City, therefore impacting on more than two wards

Summary:

The CIL is a new way of seeking contributions from developers towards essential infrastructure that is required to support new development. The Council's Cabinet (15 April 2015) and Full Council (3 June 2015) have approved the adoption of the CIL Charging Schedule, and to charge CIL on qualifying developments receiving planning permission from 15 July 2015. These approvals also included an agreement to produce a Supplementary Planning Document (SPD) for CIL and the use of planning obligations. The purpose of the SPD is to clarify the interpretation of existing local plan policies and explain to developers the difference between CIL and site specific planning obligations, and outline the guidelines for when each would apply and how.

This Cabinet report seeks approval of the draft SPD that has been the subject of a public consultation from July to August 2015 and a representation period from 05

October to 2 November 2015, so that it can be adopted as a material consideration in the planning process to advise applicants and assess planning applications.

Reasons for Recommendations:

The Council has started to charge the CIL and this SPD is needed to provide clear and consistent guidance on the application of CIL and Planning Obligations.

Recommendations:

That Cabinet:

- Notes the previous approval of the City Council’s Cabinet (5 April 2015) and Full Council (3 June 2015) to adopt the CIL Charging Schedule and begin charging CIL from 15 July 2015.
 - Notes the agreement within the above mentioned approvals for the production of a Supplementary Planning Document (SPD) on CIL and Planning Obligations to be referred to Cabinet for subsequent approval following public consultation;
 - Notes all representations made in respect of the SPD at both stages of the consultation process and agrees the response taken by officers
 - Approve the CIL and Planning Obligations SPD to supplement the Local Plan as a material consideration in the planning process to advise applicants and assess planning applications.
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Background Papers:	5 April Cabinet Report on the Community Infrastructure Levy
	CIL and Planning Obligations Supplementary Planning Document
	CIL and Planning Obligations Supplementary Planning Document Consultation Report

Category of Report:	OPEN
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Statutory and Council Policy Checklist

Financial Implications
YES Cleared by Paul Schofield
Legal Implications
YES Cleared by Paul Bellingham
Equality of Opportunity Implications
NO
Tackling Health Inequalities Implications
NO
Human rights Implications
NO
Environmental and Sustainability implications
YES Cleared by Paul Billington
Economic impact
YES Cleared by Ed Highfield
Community safety implications
YES Cleared by Janet Sharpe
Human resources implications
NO
Property implications
NO
Area(s) affected
All
Relevant Cabinet Portfolio Lead
Leigh Bramall
Relevant Scrutiny Committee
Economic and Environmental Well-being
Is the item a matter which is reserved for approval by the City Council?
NO
Press release
NO

REPORT TO CABINET

SUPPLEMENTING THE IMPLEMENTATION OF THE COMMUNITY INFRASTRUCTURE LEVY

1. SUMMARY

- 1.1 The Council has adopted a new approach to Planning Obligations and developer contributions, in response to changes in national and local planning policy.
- 1.2 From 15 July 2015 the Council began charging a Community Infrastructure Levy (CIL) on qualifying new development. CIL is now the main mechanism to seek pooled developer contributions to help meet the city's strategic infrastructure needs. Legal agreements will, however, continue made under Section 106 (S.106) of the Town and Country Planning Act to help deliver affordable housing (where applicable and subject to viability) and to meet other site specific mitigation/ needs. In addition to these, Section 278 Highways Agreements may also be a requirement to make a development acceptable in planning and highways terms. The CIL and Planning Obligations SPD explains the changes to contributions resulting from the CIL what may still be required from developers in addition to CIL.

2 WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE

- 2.1 The benefits of a CIL were outlined in the CIL Cabinet Report (April 2015). This SPD provides guidance on the application of CIL and S106 Planning Obligations, enabling applicants to understand what the potential requirements could be when they apply for planning permission. The previous Cabinet Report explained that local communities will directly benefit from the retention of 15% of CIL receipts (known as the 'neighbourhood portion') to deliver infrastructure benefits within the local area.

3 OUTCOME AND SUSTAINABILITY

- 3.1 The National Planning Policy Framework (NPPF) recognises that a lack of infrastructure can be a significant barrier to investment, and that priorities for infrastructure provision should be identified. Sheffield is now charging the CIL and this SPD provides the guidelines on where CIL and S.106 Planning Obligations will apply.

4 BACKGROUND

The commitment to produce the SPD on CIL and Planning Obligations

- 4.1 As outlined in the CIL Cabinet Report (April 2015) an SPD is required as soon as possible after we start charging the CIL. As CIL will be the main source of

funding for the provision of most infrastructure required to serve new development, the Council needs to withdraw existing Supplementary Guidance and Interim Planning Guidance and replace them with new guidance that reflects the current position with the use of CIL and S.106 Planning Obligations.

4.2 The CIL and Planning Obligations SPD replaces:

- Education Provision Interim Planning Guidance (2014)
- Affordable Housing Interim Planning Guidance (2014)
- Open Space Provision in New Housing Development Supplementary Planning Guidance (2014 Update)
- Appendix 2 of the City Centre Living Supplementary Planning Guidance (2014 Update)
- Sheffield City Centre Breathing Spaces Strategy (2011)

Scope of the SPD

4.3 The CIL and Planning Obligations SPD supplements the Council's Local Plan, namely the policies of the Core Strategy¹ adopted in 2009 and the saved policies of the Unitary Development Plan. It will be used as a material consideration in the planning process to advise applicants and assess planning applications. Guideline GAH3 in the SPD is subject to future change as a result of a review of affordable housing policies that the Council is currently undertaking. Once the SPD is adopted, this will be reflected by making a statement on the Council's website accompanying the SPD document to this effect.

4.4 The SPD initially sets out the background to the CIL in terms of the legislative framework and policy guidance that applies, and explains the relationship between CIL, planning conditions and S.106 Planning Obligations. It then goes on to provide information on Local Plan requirements, with information on the Policy context, how such infrastructure will be provided i.e. through the use of CIL funds or S.106 Planning Obligations; followed by the relevant guidelines that will be applied.

4.5 The SPD specifically addresses the following infrastructure types:

- Highways/Strategic transport network improvements and Public transport
- Affordable Housing
- Education
- Community Facilities
- Health Facilities
- Open Space
- Public Art
- Renewable Energy and Carbon Reduction
- Flood Risk Management
- Air Quality

¹Sheffield City Council Core Strategy <https://www.sheffield.gov.uk/planning-and-city-development/planning-documents/local-plan/core-strategy.html>

- Waste Management

Timescales and Consultation

- 4.6 A draft of the CIL and Planning Obligations SPD was consulted upon for a statutory period of 4 weeks from Monday 6th July to Monday 3 Aug 2015. Consultation was online using the Council’s consultation management system ‘Citizen Space’ as a featured consultation. The Sheffield Local Plan contacts for the CIL were alerted on the 1 July 2015, alongside individuals who have signed up for planning alerts on the GovDelivery system. In addition to this, a link to the consultation was also provided on the planning pages for ‘What’s new’ and the CIL, and a general link to consultations using Citizen Space also features on the Council’s homepage.
- 4.7 A total of 14 organisations responded to the draft SPD. A range of general comments have been received alongside infrastructure specific comments, with a mix of support to the approach being taken, and some seeking further clarification and/ or amendments. A summary of the comments received with the officer responses to these are presented within the Consultation Report (a background paper to this Cabinet Report).
- 4.8 The changes made to the SPD in the light of the comments received are as follows:

Comment	Amendment made to the SPD
Education – details are sought on how S.106 Education contributions will be calculated (with a worked example), and clarification on what accommodation this applies to. Clarification is also sought on the definition of major residential development.	The relevant information from the 2014 Education Interim Planning Guidance has been included as it is still applicable. The definition has also been clarified.
Open Space – clarification is sought on the type of open space requirements for different types of development. Where reference is made to developers maintaining new open space it has been requested that this also includes maintenance enhancements to existing/ancillary facilities.	Details have been included to clarify open space requirements and a reference has also been made to ancillary facilities.
Flood risk management – clarity is being sought on types of development and that the requirements are only for mitigation.	This has been clarified.
Waste management – clarification is being sought that waste management is a strategic issue	This has been clarified.

4.9 For the majority of comments made on the draft, it is recommended that no changes are made to the SPD. These included those that supported the approach taken to various infrastructure requirements, and where issues and suggestions for priorities for CIL spending were raised, which is not an issue for the SPD. There were also several comments that were not agreed and a response has been provided within the Consultation Report outlining the reasons why. These include:

- Statements that the SPD is premature and that it should follow the adoption of the Local Plan. The response to this is that the SPD has been produced in order to reflect the change in approach to implementation that the CIL has brought to existing local plan policies (saved Unitary Development Plan (1998) and Core Strategy Policies (2009)).
- A reduction to 750 dwellings has been sought for the threshold for major residential development but no evidence has been provided to support this.
- It has been suggested that CIL should be negotiable if S.106 applies, but the Regulations do not allow the Local Authority to negotiate the level of CIL contribution.
- There are also a range of comments seeking specific costs and calculations for infrastructure types such as open space and public art, but it is not possible to provide these within the SPD as applications need to be assessed on their own merits.

4.10 An amendment has also been made to the SPD to remove references to the Vacant Building Credit from guideline GAH1. The information on Thresholds has also been removed in Section 4 of the SPD. This is in the light of a recent High Court verdict on the 31 July 2015 that ruled the Government's new Affordable Housing Policy (brought in on the 28 November 2014 by a Written Ministerial Statement and changes to the National Planning Policy Guidance) to be unlawful.

4.11 Following the consultation on the Draft SPD, we have also undertaken a statutory four week representation period where the public was provided with the opportunity to view and make representations on both the revised SPD and the Consultation Report. This was held from Monday 5 October to Monday 2 November 2015. Similar to the consultation on the draft SPD, the Sheffield Local Plan contacts for the CIL were alerted on the 2 October; alongside individuals who have signed up for planning alerts on the GovDelivery system. The representation documents were available online on the 'Adopting the CIL' webpage and paper copies were available at First Point Howden House.

4.12 A limited number of representations were made, these have been summarised in the table below with the officer response to each.

Comment	Officer response
<p>Sport England Through this consultation, Sport England have provided additional support for the approach taken to delivering open space through the SPD, particularly Guidelines GOS1 and GOS2. They note that it will be important to monitor the effectiveness of the approach and to build in a means of reviewing the SPD in response to any unforeseen issues and / or changes in circumstances</p> <p>Sport England have provided support for setting a major development threshold of 1,000 dwellings in Guideline GCF2 to provide consistency, but want to raise awareness of the localised impact of any developments which fall under the 1,000 dwelling threshold.</p>	<p>No changes are needed.</p> <p>It is considered that 1,000 dwellings is a reasonable threshold to make major residential development sustainable. No changes are needed.</p>
<p>Turley on behalf of Tata Steel UK Ltd Under Guideline GAH2, Tata Steel object to the setting of a single Transfer Price for Affordable Housing, and request that this is monitored and updated as necessary.</p> <p>Tata Steel also object to the inclusion of a mechanism allowing viability re-appraisals, and suggest that should the SPD continue to include reference to re-appraisal mechanisms, this should take account of advice contained within the RICS Financial Viability in Planning (1st edition, Guidance Note 2012). They suggest GAH2 needs additional text to set out when re-appraisals would be appropriate.</p> <p>Tata Steel also note that the evidence base underpinning GOS1 should be up-to-date, in line with the NPPF para. 73.</p> <p>Tata Steel suggest Guideline GFRM1 requires additional text, setting out the exact circumstances in which off-site flood mitigation measures are required e.g. where on-site flood risk management measures are not possible or appropriate,</p>	<p>The Transfer Price will be monitored. Therefore no change is needed.</p> <p>This would reduce flexibility in applying the mechanism, which must be agreed by both parties by way of a S.106 Agreement, and any re-appraisals would be undertaken in line with RICS guidance. Therefore no changes are proposed.</p> <p>No changes are needed</p> <p>Section 106 obligations will be used to deliver off-site flood mitigation. The Guideline already reflects the circumstances set out in Core Strategy Policy CS67 for off-site flood management measures, which is only in areas of a high probability flood zone. Therefore no</p>

	change is needed.
<p>DLP Planning Ltd on behalf of the University of Sheffield</p> <p>It is noted that the Council does not consider that the provision of student accommodation constitutes a charitable use. Clarification is being sought on the Council's position, and it is recognised that this is not an issue specifically for this SPD.</p>	As noted by DLP this is not an issue for this SPD, but is a legal issue that will need to be considered on a case by case basis depending on the circumstances. Therefore no change is needed.
<p>Natural England</p> <p>The earlier consultation response to the draft SPD has been referenced but no further comments were raised.</p>	These consultation comments have been addressed previously, please see the Consultation Report for details.

- 4.13 All representations made during this round of consultation have been carefully considered and, as outlined in the summary table above, it has not been considered necessary to make any changes to the SPD as a result.

Governance

- 4.14 This report does not require Cabinet to take any decisions on CIL spending at this stage. This will be determined at a later date as part of the Cabinet process for setting spending priorities and agreements on spending will be brought through the Capital Approvals process. CIL money is not expected to be collected in significant amounts until 2017.

Financial Implications

- 4.15 There are no specific financial implications associated with this SPD. Full details on the financial implications that CIL will have were outlined in the CIL Cabinet Report (April 2015). Specific capital investment proposals funded in whole or part by CIL will be brought through the Capital Approvals process for approval by Cabinet.

Legal Implications

- 4.16 This SPD has followed the statutory process as set out by the Town and Country Planning (Local Planning) (England) Regulations 2012 to enable its formal adoption to supplement the Council's Local Plan. Full details on the legal implications that CIL will have were outlined in the CIL Cabinet Report (April 2015).

Equality of Opportunity Implications

- 4.17 There are no specific equality of opportunity implications associated with this SPD. Full details on the implications that CIL will have were outlined in the CIL Cabinet Report (April 2015).

Tackling Health Inequalities Implications

- 4.18 The SPD sets out how the provision of health facilities through developer contributions will be addressed. However, it does not assess specifically

where and on what projects funds should be spent, as this is not the role of the SPD.

Human Rights Implications

- 4.19 The process for implementing a CIL including public consultation on the draft SPD conforms to national legislation that takes due account of human rights.

Environmental and Sustainability Implications

- 4.20 The National Planning Policy Framework² promotes sustainable development through three key dimensions, where the planning system has an economic, social and environmental role. Infrastructure cuts across all three of these roles and the CIL and site specific Planning Obligations will assist in the delivery of infrastructure to aid sustainable development.

Economic Impact

- 4.21 The CIL will have a positive economic impact in generating increased funding for infrastructure that can be used in a flexible and more efficient way. Planning Obligations will also be sought for affordable housing and other site specific requirements.
- 4.22 Full details on the economic impact that CIL will have were outlined in the CIL Cabinet Report (April 2015).

Community Safety Implications

- 4.23 Transport improvements are expected to be a significant item of infrastructure that will be delivered through CIL and road and pedestrian safety is a key element of transport improvements.

Human Resources Implications

- 4.24 There are no human resource implications associated with the adoption of the SPD. There are however, wider positive implications of putting CIL in place as outlined in the CIL Cabinet Report (April 2015).

Property Implications

- 4.25 There are no specific property implications associated with this SPD. Full details on the property implications that CIL will have were outlined in the CIL Cabinet Report (April 2015).

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 There are no alternative options appropriate, as an SPD is required to provide clarity and guidance on how CIL and Planning Obligations will be applied. Cabinet committed to the production of the SPD in April 2015.

6 REASONS FOR RECOMMENDATIONS

² *National Planning Policy Framework*. Communities and Local Government, March 2012 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

6.1 The Council has started to charge the CIL and this SPD is needed to provide clear and consistent guidance on the application of CIL and Planning Obligations.

7 RECOMMENDATIONS

7.1 That Cabinet:

- Notes the previous approval of Cabinet (5 April 2015) and Full Council (3 June 2015) to adopt the CIL Charging Schedule and begin charging CIL from 15 July 2015.
- Notes the agreement within the above mentioned approvals for the production of a Supplementary Planning Document (SPD) on CIL and Planning Obligations to be referred to Cabinet for subsequent approval following public consultation;
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