



SHEFFIELD CITY COUNCIL Cabinet Report

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Report of: Executive Director, Place

Date: 28 September 2011

Subject: COMMUNITY INFRASTRUCTURE LEVY (CIL)

Author of Report: Peter Rainford (35897)

Summary:

Local authorities are authorised to set a levy on new development, known as a Community Infrastructure Levy (or CIL). The purpose of the CIL is to contribute to the cost of infrastructure needed by development required to deliver the city's overall aspirations and strategy.

It is essential that such a levy does not prejudice the development of the city. Viability is a key consideration. But the benefits of setting a CIL are considerable and it is recommended that the Cabinet support it in principle and approve making preparations for setting one.

Reasons for Recommendations

A CIL is recommended on grounds of transparency, efficiency, strategic effectiveness, predictability and the scaling back of the previous provision for developer contributions towards necessary infrastructure (see section 5).

Recommendations:

That Cabinet:

- Agrees in principle to the setting of a Community Infrastructure Levy
 - Approves the making of preparations for setting a Levy, having due regard to the need for infrastructure to support development in the city and city region and not to put at serious risk the overall development of the area.
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Background Papers:

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial Implications	
YES/NO	Cleared by Paul Schofield (see section 8)
Legal Implications	
YES	Julian Ward (see section 9)
Equality of Opportunity Implications	
YES	Ian Oldershaw (see section 10)
Tackling Health Inequalities Implications	
NO	
Human rights Implications	
NO	
Environmental and Sustainability implications	
YES (section 12)	
Economic impact	
YES (section 5)	
Community safety implications	
NO	
Human resources implications	
NO	
Property implications	
NO	
Area(s) affected	
All (section 11)	
Relevant Cabinet Portfolio Leader	
Helen Mirfin Boukouris	
Relevant Scrutiny Committee if decision called in	
Economic and Environmental Well-being	
Is the item a matter which is reserved for approval by the City Council?	
NO	
Press release	
YES	

28 SEPTEMBER 2011

COMMUNITY INFRASTRUCTURE LEVY (CIL): MATCHING DEVELOPMENT NEEDS AND DEVELOPER CONTRIBUTIONS

1 SUMMARY

- 1.1 Local authorities are authorised to set a levy on new development, known as a Community Infrastructure Levy (or CIL). The purpose of the CIL is to contribute to the cost of infrastructure needed by development required to deliver the city's overall aspirations and strategy.
- 1.2 It is essential that such a levy does not prejudice the overall development of the city. Viability is a key consideration. But the benefits of setting a CIL are considerable and it is recommended that the Cabinet support it in principle and approve making preparations for setting one.

2 WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE

- 2.1 New homes and workplaces need a wide range of other networks and services to support them, known, generally, as 'infrastructure'. This includes energy and water supplies, transport, telecommunications, waste services and flood defences. It also includes green space and provision for education, health, emergency services and other community facilities. For the most part, these are funded from private investment or public spending. However, there are sometimes funding gaps and if this means that necessary infrastructure cannot be provided it could hold up building new homes and places of work.
- 2.2 The Government now allows the Council to set a levy (known as a Community Infrastructure Levy, or CIL, for short) to pay for necessary infrastructure that could not be funded by other means. We recommend that we set a CIL for Sheffield, though it must be at a level that does not put development of the city at risk. We still have to decide more precisely how the money would be spent because there would not be enough for everything we want. But the CIL could be very important for providing essential transport, school places, green space and other infrastructure needed to support new homes and jobs.

3 OUTCOME AND SUSTAINABILITY

- 3.1 The outcome of the recommendation is that the ambitions of the City Strategy, the Corporate Plan and the Sheffield Development Framework are supported by the infrastructure that they need. Although the CIL would only be enough to pay for a small part of the city's new infrastructure, it would help to ensure that development is not prevented because other, more mainstream, funding is not available. It could, therefore, make a key contribution to releasing development potential.

3.2 The CIL would be set at a level that would be economically sustainable and by releasing capacity it would mean that we make the best use of scarce resources. In deciding priorities, it is envisaged that account would be taken of social factors, including quality of life and equal opportunities. In the same way, it would contribute the city's aspirations for reducing carbon emissions and creating resilience to change in the long term.

4 BACKGROUND

4.1 Infrastructure is provided by a wide range of organisations including private utility companies, the City Council and other statutory bodies. Investment and funding come from a wide range of sources. Sheffield has generally been fortunate in the matching up of new homes and jobs and the infrastructure that they require.

4.2 However, there are occasions when it is necessary to make sure that particular infrastructure needs will be met before planning permission can be given for development. In such cases, we have authority to negotiate contributions and enter into a legal agreement (known as a section 106 agreement as it is authorised by section 106 of the Town and Country Planning Act 1990). Such contributions have been used, for example, to provide green space and school places needed by new developments.

4.3 Strictly speaking, these contributions should be directly related to the development that is proposed and necessary for permission to be given. However, increasingly, local planning authorities have used the opportunity to set tariffs, to be paid by all developers to meet particular infrastructure needs over a wider area. Our requirement for contributions towards open space for new housing developments has been the main example. Such contributions have made a significant difference to the city. £17 millions have been raised through section 106 payments over the past 14 years, from approximately 500 sites, mainly for open space.

4.4 To encourage a more strategic view of infrastructure and meeting the needs of development, Local Development Frameworks are now required to cater for infrastructure as a major issue, and it would feature strongly in the Core Strategy, the main spatial planning document in the Sheffield Development Framework (SDF). In Sheffield's case the Core Strategy was largely completed before this requirement was set out but it still shows broadly how infrastructure needs would be met. However, it is envisaged that infrastructure will have a higher profile in the forthcoming City Policies and Sites document of the SDF. This will include a policy setting out broad priorities for developer contributions towards infrastructure.

4.5 At the same time the system for collecting developer contributions has changed radically with the introduction of the CIL. Local authorities were authorised to charge these by the Planning Act 2008 but the regulations came out later and there was then uncertainty about the implications of a change in administration. However, the Coalition Government confirmed support for

continuing it, though with a few modifications. This would replace any existing tariff systems for developer contributions.

- 4.6 We are also now expected to produce an 'Infrastructure Delivery Plan' to provide an evidence base to inform a CIL and more strategic policy. It would show how infrastructure needs are proposed to be met, where the gaps are likely to be, where funding is still required, and, as far as possible, how the gaps will be filled. An early draft document was produced by the Sheffield First Partnership in April 2011. Further work is being undertaken jointly with officers across a range of Council services and in consultation with other partners. The initial conclusions (updated in some cases) are outlined in the Annex to this report.

5 COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 5.1 The initial response to the possibility of setting a CIL is often one of concern about a deterrent effect on development and the risk of being undercut by competing areas. However, as of May 2011, it was reported that nearly 70% of local authorities were intending to adopt a CIL and the remainder were still unsure rather than opposed. There are several reasons why so many are already proposing to adopt a CIL.
- 5.2 Firstly, by setting contributions in advance, developers and landowners can take account of them as a predictable development cost. It will be negotiated for specific sites only in exceptional circumstances (see paragraph 5.13 below). As the system becomes established it will influence the price that developers pay for land and will ensure that landowners who benefit from their land having development value also effectively contribute to infrastructure needed to make development possible. As the system becomes established it will be less likely to affect the viability of new developments, though viability will be more of an issue in the early years.
- 5.3 Secondly, the CIL would be charged on all but very small sizes of development, so would take in more schemes than the current section 106 process, which is only negotiated on 6% of planning applications nationally. Negotiating on individual sites is time-consuming and so it is not realistic to obtain contributions from all developments (including small ones). The single levy means that all development (in effect, any building that people can enter) will contribute, saving time in negotiating and broadening the base for contributions. Payment of the CIL will not be voluntary or, for the most part, negotiable.
- 5.4 Thirdly, the CIL means it is possible to predict more accurately how much money will be available from developer contributions. This contributes to taking a more strategic and joined-up view of infrastructure provision. Clarity about the scale of funds to expect from developer contributions will help in managing expectations and informing bids from other sources. It is too early to say with accuracy what the likely income from CIL may be, as this will depend on future rates of development and the level at which the CIL is set. However, a rough estimate based on the lowest past rates of development and a modest CIL contribution suggests that housing developments alone

could be expected to contribute at least £4 million per year. This is higher than the largest section 106 receipts received in any single year; £3 million in 2006 and very much larger than the average of around £1.2 million a year (see paragraphs 4.2 to 4.3 above).

- 5.5 Fourthly, the CIL breaks the link between the development contributing and the infrastructure that is funded. This allows a much more strategic approach to infrastructure funding than at present. Development in areas with a strong market can then contribute to infrastructure in areas of greater need.
- 5.6 Fifthly, and very significantly, in under three years' time (from April 2014) we will no longer be permitted to pool contributions from more than five developments. At present, we rely very much on payments from developers being put into a common pot. But from 2014 the direct link between an individual development and the infrastructure it requires will be much strengthened. So, for example, it would prevent much of the current pooling of open space and education contributions. The message is clear – if we want to pool contributions then it should be across the board through a transparently set CIL.
- 5.7 Concerns have been expressed about a possible deterrent effect of a CIL and that is understandable at a time of fragile economic recovery. However, most of these are readily addressed, in the following ways.
- 5.8 The key to not deterring development will be the level or levels at which a CIL is set. In the words of the Government's guidance, "Charging authorities wishing to introduce the levy should propose a rate which does not put at serious risk the overall development of their area". This requires a significant amount of work to be done on the viability of development. There would also be opportunities for members of the business community to contribute to the process. The charge may vary between types of development, reflecting their different yields, so superstores and manufacturing development, for example, might pay quite different levels to reflect differences in viability. In the same way, the rate might vary between areas, reflecting geographical variations in viability.
- 5.9 The system allows significant flexibility. A cautious approach would probably be advisable until economic prospects look more promising but a revised CIL could be set after an interval, as and when the economy strengthens, to help provide infrastructure needed to support the growth.
- 5.10 The risks of being undercut by neighbouring districts will be much reduced by working with them. Some of the infrastructure required will cut across district boundaries, especially for transport, and some co-operation will be necessary. The Local Enterprise Partnership will have an interest in ensuring that funding is available for schemes needed to support its economic objectives and it may be in the interests of some local authorities to pool some CIL income for cross-boundary schemes that would benefit more than one district.
- 5.11 The new system will have challenges as well as benefits. It will still be possible to negotiate old-style section 106 contributions for specific

developments but we will not be allowed to negotiate them for infrastructure on our published list of schemes that would be fundable from CIL money. We would need to be clear at any one time about what would be funded through each method.

- 5.12 In particular, it is expected that section 106 contributions would still be used to pay for affordable housing and the level at which the CIL is set will affect how much affordable housing will be delivered (whether on site or through a contribution to off-site development). The city's target for affordable housing is 40% of units though, in practice, a lower level is usually negotiated, to reflect viability. Once a CIL is in place, this would need to be taken into account when negotiating contributions for affordable housing.
- 5.13 The one situation where relief may be negotiated on payment of a CIL is where the combined effect of the CIL and section 106 contributions for essential site-specific infrastructure would make a scheme unviable. This eventuality is not expected to occur very often and, even then, the sum agreed would not be less than the required CIL payment.
- 5.14 The CIL will enable the collection of more funds than the section 106 system but the demands on it are certain to outstrip what we can viably require of new developments. This makes it very important to have a clear basis for prioritising. This is taken up in section 6 below.
- 5.15 We will be required to allocate a 'meaningful proportion' of CIL revenues raised in each neighbourhood back to that neighbourhood, to help it manage the impacts of development. The Government is about to consult on what it considers to be 'meaningful' and the resulting proportion could be written into regulations ## update if consultation starts before report goes to Cabinet ##.

6 SCOPE OF FUNDING THROUGH A COMMUNITY INFRASTRUCTURE LEVY

- 6.1 It is already clear that a CIL that meets viability criteria will not fund all the potential demands on it. It is proposed to indicate broad priorities for the city in the forthcoming City Policies and Sites document of the Sheffield Development Framework. This will identify the criteria for selecting and prioritising schemes for CIL funding and very broadly what the main types of scheme are likely to be.
- 6.2 In the first place, it is proposed that the CIL would be used only to invest in new or improved infrastructure that is essential for the delivery of outcomes already proposed, after public scrutiny, in the Sheffield Development Framework or proposed locally to meet requirements where the development takes place. Also, CIL would only be used for schemes that could not be financed from other sources and that could be delivered within a reasonable timescale. It is not a supplement to mainstream funding or, in most circumstances, a means of replacing infrastructure that could and should be provided through other budgets.

6.3 It would still be necessary to prioritise the non-local schemes and it is suggested that schemes should be chosen that would contribute most to a combination of:

- a. releasing potential for regeneration
- b. meeting the city's housing or employment land targets
- c. maximising the benefits from scarce resources
- d. enhancing quality of life and equal opportunities
- e. reducing carbon emissions
- f. creating resilience to change in the long-term.

6.4 Some benefits would follow from more than one of these criteria, so, for example, improvements to air quality might lead to positive scores for quality of life but might also arise from infrastructure that reduces carbon emissions. A significant part of CIL funds might be used for sustainable transport, green space and spending on schools required because of new development. (Currently, most of the money goes just to green space.) Once a CIL is proposed we will be required to state on our website what schemes would be funded from this source (and, so, would not be covered by section 106 funding). This will help in managing expectations whilst leaving flexibility to respond to respond to new needs or opportunities that could not have been identified when the level of the CIL was originally formulated. This gives us a lot of flexibility after the CIL is set.

7 PREPARING FOR A COMMUNITY INFRASTRUCTURE LEVY

7.1 A broad process has been set out for adopting a CIL. We will have to produce what is known as a 'Charging Schedule', which sets out the levy per square metre for each type of development and area. It will be necessary to demonstrate that:

- a. The sum is needed to provide necessary infrastructure – the Infrastructure Delivery Plan will be a principal source of evidence
- b. The charges would be viable in each case.

7.2 This will require some background documentation. The evidence about need would be indicative and we would be free to vary the published list of the schemes that would be supported through CIL payments. The Infrastructure Delivery Plan will identify the current and likely future levels of provision of infrastructure. It will identify standards for provision and will use projections to identify likely future deficits. This will inform us of future infrastructure needs that would have to be addressed by the CIL.

7.3 The first stage of the formal CIL process is to produce a Preliminary Draft Charging Schedule followed by a 6-week public consultation. A Draft Charging Schedule would then be brought to Cabinet incorporating amendments following the preliminary consultation. There would be an opportunity for final representations after which it would be subject to public examination. This process will take some time and precise dates will depend on resource availability and the scale and nature of consultation responses. The programme is also fitted around key stages for taking the Sheffield

Development Framework's City Policies and Sites document and Proposals Map to statutory adoption. Initial work suggests that it will be possible to adopt by the summer of 2013 and we will make every effort to bring this forward.

- 7.4 Coordination of infrastructure requirements and delivery will need to take place at the city region level. Work is already in hand to establish joint working between officers in the city region, and the results of infrastructure work will be reported to the Local Enterprise Partnership (LEP) when appropriate. Alongside this, specific joint working with Rotherham on cross-boundary issues is proposed. Initial feedback suggests that Rotherham officers are expecting to adopt CIL within a similar timeframe to that sketched out above.
- 7.5 A mechanism will need to have been implemented for administering the CIL. This will be the subject of a further report to Cabinet.

8 FINANCIAL IMPLICATIONS

- 8.1 A cost will be incurred in preparing a Charging Schedule, including gathering evidence on need and assessing viability but this will be covered in the first place by staff already budgeted for. There may be resource implications for the programming of the work. There would be a strong case for funding from the Local Growth Fund, as infrastructure delivered through CIL payments could be a major contributor to delivering new homes. It would yield significant financial benefits for the city (compare the indicative £4 millions per year with the average £1.2 millions from section 106 contributions).
- 8.2 Implementing the system will require some resources, e.g. managing the process, collecting, accounting and monitoring spending, and enforcement should developers fail to pay once the development has started. We will be able to use up to 5% of the money raised for administering the system (up to £200,000 per year from the indicative £4 millions). This also allows us to recover retrospectively the cost of preparatory work for the CIL. By way of comparison, we currently include 3% for administration of section 106 contributions for open space (up to a maximum of £3,000). With the new system, administration would be a component of all payments and there are likely to be scale economies. The higher proportion of 5% for the CIL allows a significant margin for additional work associated with the more comprehensive system, including preparing and updating the Infrastructure Delivery Plan and the Charging Schedule.
- 8.3 The final decision on the allocation of the CIL will be referred to Members either through the Council's Annual Budget setting or monthly budget monitoring report.

9 LEGAL IMPLICATIONS

- 9.1 The Council will be required to comply with the CIL legislation, as set out in the Community Infrastructure Levy Regulations 2010 No. 948.

10 EQUAL OPPORTUNITIES

- 10.1 The priorities for spending CIL receipts will specifically take account of the needs of disadvantaged groups, and equal opportunities issues will be foremost in identifying priorities for the Charging Schedule (see paragraph 6.3). An initial Equality Impact Assessment has been conducted and concludes that the proposal should be of universal positive benefit to all local people regardless of age, sex, race, faith, disability, sexuality, etc. However, certain communities, e.g. the disabled, carers and the young, could particularly benefit from the proposals. No negative equality impacts have been identified to date.

11 AREAS AFFECTED

- 11.1 The CIL would apply to the whole of Sheffield. There may be variations in charges between different locations, and a meaningful proportion of CIL receipts will be spent within the area in which the development occurs (see paragraph 5.14). It could also be used to contribute to schemes, e.g. transport, required to support strategic priorities of the Sheffield City Region.

12 ENVIRONMENTAL SUSTAINABILITY

- 12.1 Environmental and sustainability issues would be important in determining the priorities for spending CIL receipts, particularly through creating resilience to change in the long-term, maximising benefits from scarce resources, reducing carbon emissions and enhancing quality of life (see paragraph 6.3).

13 COMMUNITY SAFETY AND HUMAN RIGHTS IMPLICATIONS

- 13.1 Community safety and human rights issues will be addressed through the criteria for setting priorities listed in paragraph 6.3, particularly through enhancing quality of life and equal opportunities.

14 CONCLUSIONS

- 14.1 There is a need to provide new and improved infrastructure to meet the City's aspirations for new homes and jobs.
- 14.2 Developers will be required to make suitable contributions to infrastructure. The most appropriate way to achieve this in the future will be through the new Community Infrastructure Levy (CIL).
- 14.3 The new legislation means that there is an effective deadline for implementing CIL, which is the end of March 2014. After this time, the Council will no longer be able to pool developer contributions towards the provision of major infrastructure projects, such as new green space, school places or transport schemes. For this reason it is necessary for the Council to begin preparation to implement the CIL as soon as possible.

14.4 It is anticipated there will be significant financial and operational benefits to the Council and developers.

15 RECOMMENDATIONS

It is recommended that Cabinet:

15.1 Agrees in principle to the setting of a Community Infrastructure Levy

15.2 Approves the making of preparations for setting a Levy, having due regard to the need for infrastructure to support development in the city and city region and not to put at serious risk the overall development of the area.

ANNEX

THE CURRENT POSITION AND THE INFRASTRUCTURE DELIVERY PLAN

1. The early draft Infrastructure Plan produced by the Sheffield First Partnership in April 2011 provides a starting point for identifying infrastructure proposals. Further work is being undertaken jointly with officers across a range of Council services and in consultation with other partners. The initial conclusions (updated in some cases) were as follows.
2. In the short and medium term, most needs for **water, energy and communications technology** would be satisfied, with exceptions in the case of sewerage capacity in parts of Mosborough and Stocksbridge and electricity distribution in the City Centre. The Sheffield Energy and Water Infrastructure Study (2009) indicates that the total projected utility investment needed to deliver the development proposed in the Core Strategy (to 2026) is £42.7 million (not including the cost of improvements to the telecommunications networks). Most of the loading is electricity infrastructure provision and concentrated in the City Centre.
3. **Green energy** infrastructure is at a relatively early stage of development in the city but scope has been identified for fuller use of the District Heating System and generation of decentralised energy. The draft concludes that investment in green infrastructure will help to meet the targets for carbon reduction currently set in the City.
4. Resource efficiency is emerging as a key issue for Sheffield, maximising energy efficiency and waste management for **carbon reduction** across the city. Sufficient capacity is reported in terms of municipal waste collections although investment in new technology and infrastructure will be needed to manage waste streams for energy generation and heat recovery.
5. All infrastructure should contribute, wherever possible, to the long-term sustainability of the City to enable Sheffield to be more **resilient** to extreme weather events and impacts linked to climate change, such as heat waves, freezing temperatures and increased flooding. Proposed investment in infrastructure specifically to reduce flood risk is currently relatively localised (e.g. near the River Don in the City Centre and Meadowhall) but the Council is working with partners on a comprehensive defence scheme for the Lower Don Valley and for upstream storage along river valleys to reduce the need for defences.
6. **Transport** will be a critical concern for achieving our economic ambitions but will receive reduced central funding. Of the major proposed schemes, we now know that the Bus Rapid Transit (BRT) North scheme for the Don Valley is being progressed by the Government for further evaluation but not the Penistone Road Improvement proposals. The Tinsley Link is being pursued through a combination of central funding and contributions from developers. Other schemes are, at best, likely to be significantly delayed. The Local Transport Plan (LTP) 3, published in March 2011, prioritises interventions and supports the case for bids but other sources of funding may be needed for delivering the strategy for development in the city.

7. **Green space** despite identified shortages in Central Sheffield and some areas of the West and North, there is generally sufficient quantity of green space to meet the needs of communities. However, there is an acknowledged need to raise the quality of open spaces and the linkages between them across the city (particularly the Lower Don Valley) so that they can better address local and citywide needs in terms of recreation and health, biodiversity, regeneration, flood risk mitigation and climate change. Spaces that are currently of poor quality, poorly structured and offer little encouragement for community use or opportunities for active recreation or children's play can become a source of nuisance and antisocial behaviour rather than of community pride.
8. **Health facilities** appear to be broadly adequate citywide with no significant shortfalls evident though implications for health inequalities need to be addressed.
9. Based on anticipated future housing development, the **schools** service anticipates shortages in primary and secondary provision in some areas of the city. The number of children and young people in Sheffield is increasing, particularly intensifying demand for school places in the North East and South Community Assembly areas. There are priority maintenance issues for schools, particularly primary schools with significantly less capital available – the amount allocated for all Local Authority maintained schools in Sheffield is just under £1.5 million, a significant reduction from the average of £8m allocated annually over the previous 3 years.
10. **Emergency services** are seeking ways to become more responsive and are looking to co-location rather than major new premises. The fire service has moved into new premises and the police have recently moved from two City Centre locations to one. The opportunity for co-location of services is a strong message from key public sector agencies. Work is currently on going to develop this further with key partners.
11. The draft document concluded that a long term vision and delivery plan is essential to prepare for future challenges. Infrastructure needs to be planned in a **strategic and proactive** manner. The current pattern of funding to support infrastructure is fragmented across national, regional and local levels and across government departments, their agencies and the many funding streams that exist within them. So, it is essential that investment is planned in a joined-up and coherent way by providers, working together when needed and targeting investment to where it is needed most.
12. The need is not only for new infrastructure. Maintenance and investment in **existing infrastructure** is essential to ensure it is fit for purpose without having to resort to building additional provision. In many cases the level of infrastructure provision is adequate but it is of poor quality and not functioning as well as it could be, for example, education, transport and highways, parks and green space.
13. The position is always changing and the draft already needs significant **updating** and a greater focus on priorities and long-term strategy. Work on this update is currently in hand and will play a potentially very important part in managing assets, prioritising and resourcing projects and securing developer contributions.