

Report

Full Council



Part 1

Date: 26 April 2016

Item No:

Subject **Community Infrastructure Levy (CIL) for Newport**

Purpose To seek approval for proposals for a Community Infrastructure Levy for Newport to be submitted to the Planning Inspectorate for independent examination. Full Council are invited to approve:

- a) The Newport Draft CIL Changing Schedule (Appendix A)
- b) Draft Charging Schedule – Report of Consultation (Appendix B)
- c) Draft Infrastructure Development Plan & Infrastructure/Regulation 123 List (Appendix C)

Author Planning Policy Manager

Ward All

Summary CIL is a new charging mechanism for securing contributions from developers. It is a levy that will apply to certain types of new development. The CIL rates will be set out in a Charging Schedule and therefore developers will know exactly what they will be expected to pay. The CIL rates, once set, are effectively non-negotiable; therefore lengthy negotiations over planning contributions between the local planning authority and developers are expected to decrease. Section 106 contributions for affordable housing and other site specific infrastructure will still be sought.

In setting the CIL rates, the Council must submit its proposals and evidence to the Planning Inspectorate to undergo independent examination.

Proposal **Full Council approves the above documents to be submitted to the Planning Inspectorate for independent examination.**

Action by Head of Regeneration, Investment and Housing

Timetable Immediate

This report was prepared after consultation with:

- Cabinet Member for Regeneration and Investment
- Head of Finance (Chief Finance Officer)
- Head of Law and Regulations (Monitoring Officer)
- Head of People and Business Change

Signed

1. BACKGROUND

- 1.1 The Planning Act 2008 provides for the introduction of the Community Infrastructure Levy (CIL). The detail of how the CIL works is set out in the Community Infrastructure Levy Regulations 2010, which came into force in April 2010.
- 1.2 The UK Government's intention is to ensure that the CIL and S106 are used to complement one another as methods of securing infrastructure and community benefit. CIL is intended to be used for general infrastructure contributions, whilst S106 obligations will still be used for site-specific mitigation.

2. COMMUNITY INFRASTRUCTURE LEVY

2.1 What kind of development is CIL liable?

- 2.1.1 The levy may be payable on development which creates net additional floor space, where the gross internal area of new build exceeds 100 square metres. However, that limit does not apply to new houses or flats, and a charge can be levied on a single house or flat of any size, unless it is built by a 'self-builder'.

2.2 What kind of development does not pay the CIL?

- 2.2.1 The following do not pay the CIL:

- development of less than 100 square metres, unless this is a whole house, in which case the levy is payable;
- houses, flats, residential annexes and residential extensions which are built by 'self-builders';
- social housing/affordable housing;
- charitable development;
- buildings into which people do not normally go;
- buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery;
- structures which are not buildings, such as pylons and wind turbines;
- specified types of development which the Council have decided should be subject to a 'zero' rate and specified as such in the Charging Schedule;
- vacant buildings brought back into the same use;
- where the levy liability is calculated to be less than £50, the chargeable amount is deemed to be zero so no levy is due;
- mezzanine floors of less than 200 square metres, inserted into an existing building, are not liable for the levy unless they form part of a wider planning permission that seeks to provide other works as well.

2.3 How does the levy relate to planning permission?

- The levy is charged on new development
- The levy may also be payable on permitted development
- Development which is the subject of a Lawful Development Certificate may be liable for the levy, depending on the circumstances.
- Where a planning permission is phased, each phase of the development is treated as if it were a separate chargeable development for levy purposes. This may apply to schemes which have full planning permission, as well as to outline permissions

2.4 **CIL Infrastructure Plan**

- 2.4.1 The Council must identify the total cost of infrastructure it wishes to fund (wholly or partly) through the levy. In doing so, it must consider what additional infrastructure is needed to support development, and what other sources of funding are available. As such, evidence of a 'funding gap' must be demonstrated to justify a CIL.
- 2.4.2 Infrastructure needs and associated costs will be identified in an Infrastructure Plan (known as a Regulation 123 List), alongside known site-specific S106 items.
- 2.4.3 CIL will provide a 'contribution' towards the overall provision, improvement, replacement, operation and maintenance of 'city-wide' projects or 'types' of infrastructure (that support the LDP). Examples include roads and transport facilities, flood defences, educational facilities, sporting and recreational facilities, open spaces that are required to support development in the LDP. Whilst core public funding will fund most infrastructure, CIL will provide 'additional' funding. The Regulation 123 List will be continually reviewed to reflect corporate priorities.
- 2.4.4 There is no direct link between a development's requirements for infrastructure provision and the spending of the CIL the development generates.

2.5 **CIL Charging Schedule**

- 2.5.1 Having confirmed an infrastructure need, an economic viability assessment must be undertaken regarding the potential effects of the imposition of the CIL on the economic viability of the area. This will be achieved by assessing local land values. The resulting Charging Schedule (expressed in pounds per square metre) may have differential rates according to geographical sub-areas and/or specific land use classes.

2.6 **Charging Schedule Consultation**

- 2.6.1 A Charging Schedule is prepared and adopted as follows:
- the Council prepares its evidence base in order to prepare its draft levy rates;
 - the Council prepares a Preliminary Draft Charging Schedule and publishes this for consultation
 - the Council then prepares and publishes a Draft Charging Schedule – a period of further consultation based on this draft,
 - an independent person (the "Examiner") examines the Charging Schedule in public;
 - the Examiner's recommendations are published;
 - the Council considers the Examiner's recommendations;
 - the Council approves the Charging Schedule.

2.7 **CIL Adoption**

- 2.7.1 The CIL will only apply to development following formal adoption. There shall be no 'double-charging' for infrastructure from both Section 106 and CIL. As such, the Council cannot seek S106 contributions towards items that are on the Regulation 123 List.
- 2.7.2 CIL will operate in addition to Section 106, the use of which will be scaled-back to site specific mitigation works, 'in-kind' on-site provision and affordable housing.

2.8 CIL Expenditure

- 2.8.1 The Council will need to establish what Regulation 123 List infrastructure projects are prioritised. CIL has more flexibility in terms of expenditure when compared with Section 106, in that CIL contributions collected from a development in one part of Newport could be spent on infrastructure in a completely different part of the city. As long as the necessary infrastructure appears on the Regulation 123 List, then the expenditure is legitimate. The Regulation 123 List can also be updated as and when needed.
- 2.8.2 15% of CIL revenues, derived from development within a defined Community Council area must be passed on to that specific Community Council. The funds can be spent on a wider range of items than the general CIL funds, including:
- The provision, improvement, replacement, operation or maintenance of infrastructure; or
 - Anything else that is concerned with addressing the demands that development places on an area.
- 2.8.3 Communities without Community Councils are still eligible for funds. The Council is able to release funds following public consultation.

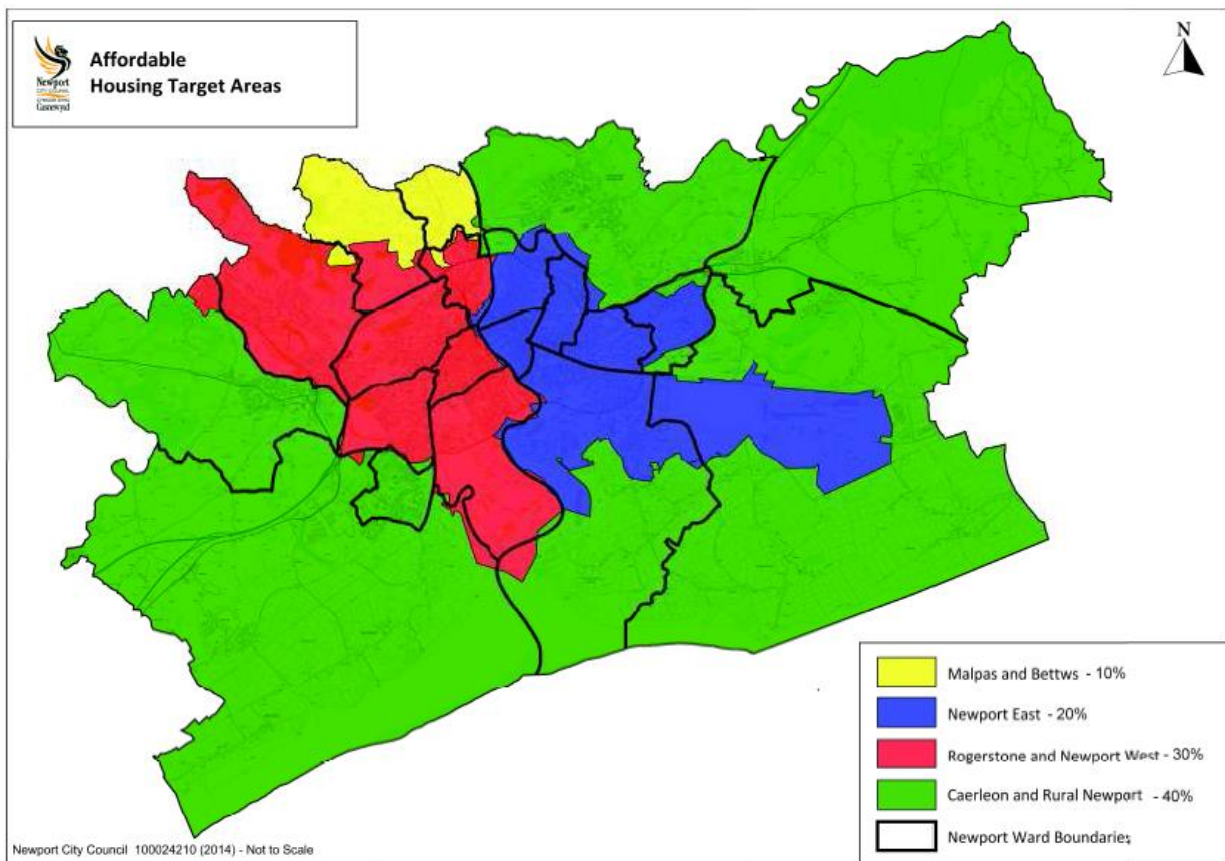
2.9 April 2015

- 2.9.1 To encourage authorities to implement CIL, the UK Government is restricting the use of S106 obligations.
- 2.9.2 If five or more 'pooled' S106 obligations (identified in signed agreements) are identified for either a 'specific' infrastructure project (e.g. Turner St Play Ground) or 'type' of infrastructure (e.g. General Education needs), no more S106 obligations may be collected in respect of those uses. The five obligations also include unimplemented consents. This obviously has implications on the ability to maximise planning obligation contributions through the S106 mechanism and officers will need to be more astute with respect to negotiating S106 prior to the adoption of CIL.

3. NEWPORT CIL

3.1 Methodology

- 3.1.1 Newport City Council has commissioned 'Nationwide CIL Service' to produce a viability report for Newport and to recommend a CIL charging schedule. The study assesses the viability of residential development and commercial sites taking into account all relevant factors. Existing housing submarket areas have been considered along with their different affordable housing requirements (as determined by the Local Development Plan – please see figure below).



3.1.2 The study tested a variety of different mixed residential and commercial development scenarios considered likely to emerge in Newport. The study also considered the differences in land value for brownfield and greenfield development. The main report 'Newport CIL Viability Assessment October 2015' is available to view online by click [here](#).

3.2 Viability Findings

3.2.1 The table below identifies the maximum residential CIL rates that are affordable in each submarket group area. In general, the table indicates that the areas with the lowest affordable housing requirements are potentially able to afford higher CIL rates. The payment of a CIL for apartments anywhere in Newport is deemed to be unviable.

Maximum Residential CIL Rates per sqm					
Affordable Housing Zone & Base Land Value	Mixed Residential Development	Medium Sized Mixed Development	Intermediate Mixed Development	Small Housing Development	Town Centre Apartments
Malpas & Bettws (10% affordable housing zone)					
Greenfield	£139	£135	£134	£151	-£211
Brownfield	£105	£101	£101	£118	-£228
Newport East (20% affordable housing zone)					
Greenfield	£108	£101	£98	£120	-£266
Brownfield	£72	£65	£63	£85	-£282
Rog/Newport West (30% affordable housing zone)					
Greenfield	£76	£65	£62	88	-£320
Brownfield	£39	£29	£26	£52	-£336
Caerleon/Rural (40% affordable housing zone)					
Greenfield	£122	£113	£110	£136	-£242
Brownfield	£85	£77	£75	£101	-£258

3.2.2 The results illustrate maximum potential CIL rates which could be applied without threatening the economic viability of the development. The appraisals are necessarily generic tests which do not make allowances for site specific abnormal costs. Therefore it is recommended that the set CIL rates are set within the identified viability margins to take account of these unknown factors. The types of development expected in each location are also considered. As a result, the recommended CIL rates are:

Residential CIL	
Apartments	£0
Malpas & Bettws	£60sqm
Newport East	£45sqm
Rogerstone/Newport West	£20sqm
Caerleon/Rural	£60sqm

Commercial CIL	
General Retail A1-A3 (excluding food supermarket)	£50sqm
Food Supermarket A1 (less than 3000sqm)	£100sqm
Food Supermarket A1 (3000sqm plus)	£150sqm
All Non Residential Uses excluding retail	£0sqm

3.2.3 The recommended CIL rates do vary from the absolute maximum that could potentially be achieved, but as noted above, flexibility needs to be built into the rates to make allowances for site specific abnormal costs. In comparison to other South East Wales authorities, Caerphilly and Merthyr have adopted CIL rates. Caerphilly's maximum residential rate is £40sqm and maximum retail is £100sqm and Merthyr's maximum residential rate is £25sqm and maximum retail is £100sqm. Cardiff is at an earlier preliminary stage of CIL and is proposing £100sqm for residential and £250sqm maximum for retail. Newport's recommended CIL rates are therefore higher than Caerphilly and Merthyr, but lower than Cardiff. Based on land values and property prices, this is where you would expect Newport to sit in comparison to these other authorities. Therefore, based on the economic evidence and comparisons to other authorities in the area, the recommended CIL rates are considered reasonable.

- 3.2.4 Public consultation on the proposed CIL rates and background evidence has taken place over the summer 2015 and winter 2016. Representations received during the latest round of consultation (Draft Charging Schedule) along with the proposed officer response are available to view in Appendix B.
- 3.2.5 No other forms of development are expected to be viable enough to afford a CIL charge. Therefore the CIL will only apply to residential (with the exception of apartments) and retail development. Affordable housing will not pay any CIL. Commercial (B use class) development will not pay CIL, however S106 contributions can be sought if they are necessary to make the development acceptable in planning terms.
- 3.2.6 The Council's CIL Draft Charging Schedule is available to view in Appendix A. This document is designed to be user friendly for developers in helping them to understand exactly what they would be expected to pay. The Draft Charging Schedule also includes a draft instalments policy to indicate when CIL money would be collected.

3.3 **Newport Infrastructure List**

- 3.3.1 As part of the CIL process, the Council must devise a list of infrastructure that is necessary to support growth up to 2026, known as the Regulation 123 List. The Council must estimate the total cost of the infrastructure and then this is used as a guide throughout the process to demonstrate that a CIL should be introduced. The Council's Draft Infrastructure Plan and Regulation 123 List is available to view in Appendix C.

4. **Next Steps**

- 4.1 Should Full Council approve the Newport Draft Charging Schedule, the next step would be for the Council to submit this and the supporting background documents to the Planning Inspectorate to undergo examination.
- 4.2 Following examination, the Inspector will make their recommendations in a report. The recommendations will then be considered and Full Council will be invited to adopt CIL. CIL charges will only be applicable to new development following adoption.

5. **Financial Summary:**

- 5.1 Overall, the CIL is expected to increase the contributions collected by the Council compared to the current approach. At present, S106 contributions for education and leisure are not sought on the small housing schemes of fewer than 5 units. In conjunction with the recent affordable housing supplementary planning guidance, contributions from CIL and affordable housing will now be sought on schemes as small as a single unit. For example, a scheme of four 4-bed units in Caerleon (of 110m² each) would have paid no S106 contributions in the past. However, with the projected CIL rates and affordable housing contributions, the Council would now be seeking a contribution of £38,718 per dwelling or £154,872 for the whole scheme.
- 5.2 For medium schemes (up to 500 units), CIL is still expected to increase income. In evidence presented during the LDP examination, the average S106 cost per market unit for medium sized schemes was calculated at £2,877. In the majority of cases, CIL will bring in more than this. The table below gives an idea of approximate costs for dwellings across the 4 submarket areas:

Dwelling Type	Malpas & Bettws	Newport East	Rogerstone & Newport West	Caerleon & Rural Newport
CIL Rate	£60sqm	£45sqm	£20sqm	£60sqm
2 Bed House (83 sqm)	£4,980	£3,735	£1,660	£4,980
3 Bed House (94 sqm)	£5,640	£4,230	£1,880	£5,640
4 Bed House	£6,600	£4,950	£2,200	£6,600

- 5.3 Whereas it is accepted that the Rogerstone/Newport West (red) is likely to be lower than the current S106 average, when the affordable housing contributions are added, contributions from this area will be considerably more than the £2,877 average. Contributions expected from the other 3 submarket areas are well in excess of the current S106 average. Therefore, overall, CIL contributions are expected to be significantly more than the S106 currently collected.
- 5.4 For larger schemes (over 500 units) which may require their own primary school for example and other onsite infrastructure; these schemes will still pay the CIL rate but they will also be expected to provide the new primary school as well. Therefore the Council will not lose out financially. If the cost of CIL and S106 for onsite infrastructure potentially makes the development unviable, then the Council, if needed, can reduce the level of affordable housing required.
- 5.5 In terms of CIL revenue, the Consultant has estimated expected growth across the 4 submarket areas over the LDP plan period (2011-2026). By 2026, it is expected that CIL receipts will total approximately £8.4m for residential schemes. S106 contributions for affordable housing and other site specific infrastructure will be collected in addition to this figure. CIL revenue from retail schemes is more difficult to estimate as the LDP does not make any specific allocations for retail development. Therefore any CIL money collected from retail development would be in addition to the £8.4m. If CIL was not implemented, the amount of developer contributions the Council might expect (based on the average cost) would be lower and likely to be between £6 and £7million, but potentially with the restrictions on pooling, this might prove difficult to achieve.

6. Risks:

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
CIL is set at a level which is too low and reduces the Council's ability to fund infrastructure	M	L	The Council is working with a consultant to develop a meaningful CIL that will not stifle growth and will allow the Council to fund infrastructure. The rates have been through two rounds of consultation and will be subject to a public examination.	Planning Policy Manager
CIL is set at a level which is too high and stifles growth.	H	L	The Council is working with a consultant to develop a meaningful CIL that will not stifle growth and will allow the Council to fund infrastructure. The rates have been through two rounds of consultation and will be subject to a public examination.	Planning Policy Manager
Delays with the implementation of CIL	M	M	Following submission, the Council will work with the Planning Inspectorate to avoid unnecessary delays.	Planning Policy Manager
Renegotiation of S106 requirements following CIL	M	M	The viability testing has made allowances for S106 contributions, affordable housing levels as well as the	Planning Policy Manager

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
implementation (developers seeking reduced affordable housing levels)			proposed CIL. The recommended rates are considered to be affordable and reasonable.	

* Taking account of proposed mitigation measures

7. Links to Council Policies and Priorities

- 7.1 The Local Development Plan is one of the statutory plans the Council has to prepare. It determines Newport's land use policies for the next fifteen years. The CIL charging schedule is intrinsically linked to the LDP as the CIL is the mechanism for collecting contributions to fund the growth within the LDP.
- 7.2 The Newport Single Integrated Plan (SIP) is the defining statement of strategic planning intent for the next 3 years. It identifies key priorities for improving the City, including Health and Wellbeing and Safe and Cohesive Communities. A CIL will collect developer contributions that will help to deliver infrastructure that will assist to deliver priorities.
- 7.3 Newport City Council has five corporate objectives including a Fairer City, Greener and Healthier City and Safer City. The CIL will help deliver the corporate objectives by collecting contributions from developers and providing infrastructure that will help deliver the corporate objectives.

8. Options available

- 8.1 The options available are:
- Approve the CIL rates and supporting documents for submission to the Planning Inspectorate;
 - Make amendments to the CIL rates and supporting documents and release for further public consultation;
 - Not to submit the CIL rates and either scrap completely or start again.

9. Preferred Option and Why

- 9.1 Option A is the preferred option for the reasons outlined in this report. The rates proposed will not stifle growth but will increase the contributions developers will pay to the Council for necessary infrastructure.

10. Comments of Head of Finance - Chief Financial Officer

- 10.1 The implementation of CIL is expected to generate additional capital funds to be used on infrastructure improvements across the city. The key elements that are vital to the success of CIL are a realistic and achievable Regulation 123 List and a sensible schedule of rates, so responsible officers will need to monitor both closely. Liaison with Finance officers will be necessary in order to appropriately plan capital expenditure in line with corporate infrastructure priorities as CIL funds are received.
- 10.2 The implementation of CIL has gone through public consultations and this report is asking Full Council to approve the CIL for independent examination.

- 10.3 When properties are built there will be additional pressures on Council services but, if implemented properly, the CIL should generate significantly more financial resource for the Council than S106 alone, maximising opportunities for infrastructure development. Contributions receivable from developers under CIL will need to be monitored and set aside to be used as specified.

11. Comments of Head of Law and Standards - Monitoring Officer

- 11.1 The proposed action is in accordance with the Council's statutory powers under the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010. In accordance with the Act and the Regulations, full Council is required to formally approve the draft Infrastructure Development Plan (Regulation 123 List) and the draft Charging Schedule, for submission to the Planning Inspectorate for public examination. Following the Inspector's report, the final Regulation 123 List and CIL Charging Schedule will be reported back to full Council for formal adoption. The draft List and Charging Schedule have been the subject of formal consultation, as required by the Regulations, and the outcome of the consultation is set out in the Report at Appendix B. The draft charges have also been prepared by independent consultants, having regard to the need to strike a balance between maximising costs to ensure that infrastructure needs are met but not stifling future growth due to unviable charges.

12. Staffing Implications: Comments of Head of People and Business Change

- 12.1 The proposed rates for the Community Infrastructure Levy have been set in consultation with an expert advisor at a level which balances raising sufficient infrastructure contributions without being excessive and stifling investment. Comparisons with South Wales authorities (where CIL have been adopted) indicate the proposed rates for Newport are set at a level that could be expected for a regional city, that is higher than Merthyr and Caerphilly but lower than Cardiff. The proposed CIL rates are predicted to result in a significant increase in income for infrastructure and potentially offer more flexibility in how the funds can be utilised across the city compared to the existing S106 framework. It is for full Council to decide whether it considers the proposed rates to be appropriate for Newport.

13. Comments of Cabinet Member

- 13.1 Cabinet Member has approved the CIL rates and supporting documents.

14. Local issues

- 14.1 CIL will apply to the whole of Newport.

15. Scrutiny Committees

- 15.1 The proposed CIL rates have not been subjected to any Scrutiny Committee.

16. Equalities Impact Assessment

- 16.1 An Equalities Impact Assessment for a Newport Community Infrastructure Levy has been carried out.

17. Children and Families (Wales) Measure

- 17.1 Although no targeted consultation takes place specifically aimed at children and young people, consultation on the CIL was open to all of our citizens regardless of their age.

18. Consultation

- 18.1 The Newport CIL has been through 2 rounds of public consultation. The preliminary draft charging schedule went out to public consultation for six weeks starting in June 2015 and the draft charging schedule went out to public consultation for six weeks starting in January 2016.

19. List of Appendices

- a) The Newport Draft CIL Charging Schedule
- b) Draft Charging Schedule – Report of Consultation
- c) Regulation 123 Infrastructure List



Appendix A - Draft
Charging Schedule A



Appendix B - Draft
Charging Schedule - f



Appendix C -
Newport Draft Infras