

**Name of meeting:** Cabinet  
**Date:** 19<sup>th</sup> January 2021  
**Title of report:** Community Infrastructure Levy - next steps

**Purpose of report:** In light of proposals to reform the national planning system, this item is to enable the Cabinet to debate the next steps in relation to the Kirklees Community Infrastructure Levy including an officer recommendation not to adopt the Community Infrastructure Levy Charging Schedule at this stage.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes (this affects more than one electoral ward)
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u>	Key Decision - Yes
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name	David Shepherd - 21.12.20
Is it also signed off by the Service Director for Finance?	Eamonn Croston - 21.12.20
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft - 23.12.20
Cabinet member <u>portfolio</u>	Cllr McBride

**Electoral wards affected:** All

**Ward councillors consulted:**

**The following ward councillors have been consulted / briefed on this item:**

- Cllr McBride, Cllr Mather and Cllr Scott briefings (23<sup>rd</sup> November 2020)
- Leadership Management Team (cabinet members) (7<sup>th</sup> December 2020)
- Planning Committee Chairs:
  - Cllr Steve Hall (9<sup>th</sup> December 2020)
  - Cllr Terry Lyons (15<sup>th</sup> December 2020)

**Public or private:** Public

**Has GDPR been considered?** Yes, there is no personal information contained in this report.

## 1. Summary

The government has announced that it will abolish the Community Infrastructure Levy (CIL) and replace it with a nationally-set infrastructure levy. With this in mind, this report proposes not adopting the Community Infrastructure Levy Charging Schedule in Kirklees at this stage.

Prior to the pandemic, Kirklees Council was proposing the adoption of a Community Infrastructure Levy Charging Schedule in Summer 2020. The levy is one method of securing money from developers and channelling it into a Kirklees-wide infrastructure fund.

The decision not to adopt the CIL Charging Schedule (the document which would implement CIL) also takes into account a change in the planning rules which now allow contributions from developers to be pooled together and used to help fund infrastructure proposals to reduce the impacts of developments. The council will also continue to seek funding from the West Yorkshire Combined Authority to fund large scale infrastructure improvements.

The council may seek to re-visit CIL in future, should the government stance change. Were that to be the case, the council would again consult the community and update its evidence to determine the most appropriate approach to support the economic recovery of the district.

## 2. Information required to take a decision

### Background

The council submitted the CIL Charging Schedule to the Secretary of State in April 2017 alongside the Local Plan. The CIL examination hearings took place in September 2019 and concluded with a report from the Examiner (Inspector) in January 2020. The Examiner's Report concluded that the council could proceed to adopt the CIL Charging Schedule subject to a range of modifications.

Following the receipt of the Examiner's Report, the initial intention was to proceed to adopt CIL by mid-2020 including incorporating a transitional period prior to the implementation of CIL. The disruption caused by the pandemic delayed this process and a range of factors since have now resulted in concerns about the implementation of the CIL Charging Schedule.

A significant factor is the recent 'Planning for the Future' White Paper which set out the government's intention to abolish CIL and replace it with a nationally-set Infrastructure Levy. Although this approach is contained in a White Paper rather than set out in law, this does show the intentions of the government to move away from the local CIL process. This raises concerns about the short-term nature of CIL if it was to be adopted in Kirklees at this stage. This includes the resource implications of setting up governance structures to determine CIL spending, and the fact that there would need to be a transitional period prior to the implementation of CIL.

One of the key driving forces behind initially pursuing CIL in Kirklees was the introduction of legislation meaning S106 contributions (the mechanism by which planning applications secure funding to mitigate the impact of developments) could not be pooled from more than 5 planning applications to pay for any one infrastructure scheme. This caused concerns at the time especially when seeking to fund larger infrastructure proposals and CIL provided a solution to this issue. This restriction on the pooling of S106 contributions was lifted on 1<sup>st</sup> September 2019 so the contributions from more than 5 planning applications can be pooled towards an infrastructure proposal.

The ongoing pandemic situation has also raised concerns how this may impact on the development industry, the housing market and the economic recovery of the district. Officers therefore have concerns about the impacts of this on the CIL viability evidence which informed the Examiner's decisions (which is almost 18 months old), in addition to the fact that the Examiner's Report itself was issued almost 12 months ago. These factors alongside the diminished returns from CIL as time passes (due to planning applications being granted in the absence of CIL) makes the adoption of CIL less beneficial than it was at the start of the year. In

addition, as CIL would be non-negotiable there is a risk of adverse impacts on other elements of planning applications which would still be negotiable such as affordable housing.

It should be noted that the CIL examination process closed at the point the council received the Examiner's report therefore there is no option to re-open the examination at this point to consider revised evidence.

### Options

Options at this stage are to proceed with the adoption of the Community Infrastructure Levy Charging Schedule or not to adopt the Community Infrastructure Levy Charging Schedule. When balancing these factors, the officer recommendation is not to adopt CIL at this stage. Depending on the outcome of the 'Planning for the Future' White Paper and once the economic implications of the pandemic are more clear regarding the development industry and the potential support needed to facilitate the recovery, the Cabinet may decide to revisit CIL in the future. Given the passage of time, at that point there would need to be a new CIL process including revised viability evidence, community consultation and a further examination in public.

### **Expected outcomes**

The Local Planning Authority will continue to secure funding towards infrastructure improvements through the planning applications process (known as Section 106 funding) where improvements are required to make the proposal acceptable in planning terms. This includes contributions to open space, education and road infrastructure where appropriate. The council will also continue to work with the West Yorkshire Combined Authority to fund significant infrastructure across the district as well as submitting funding bids to national government as funding is made available.

The CIL process states that a '*meaningful proportion*' of CIL raised in an area must be spent on local infrastructure priorities. This is set at 15% for most areas but for areas with an adopted Neighbourhood Development Plan this increases to 25%. Although there are no adopted Neighbourhood Development Plans in Kirklees, a number of plans have reached an advanced stage. In the case of not adopting CIL, there would not be a specific proportion of CIL assigned although the planning applications process will still be able to secure S106 funding from developers, which would be spent on projects in the local area to mitigate the impacts of developments. The council will continue to consult with the community and elected members through the planning applications process.

There are benefits of the non-adoption of CIL for small and medium sized developers as this will reduce their burdens especially relating to funding strategic infrastructure. Developers proposing more significant sized sites will still be expected to contribute to larger scale infrastructure to mitigate the impacts of their proposals and make their scheme acceptable in planning terms.

## **3. Implications for the Council**

### **• Working with People**

The Local Planning Authority will continue to consult communities on planning applications and is still able to secure S106 funding to mitigate the impacts of planning applications to make them acceptable in planning terms. The meaningful proportion of CIL (15%, or 25%) will not be available for local infrastructure priorities however local infrastructure priorities will continue to be supported through the planning system and other council funding streams / initiatives

### **• Working with Partners**

Small and medium sized developers are likely to benefit from the proposal not to adopt CIL at this stage. This is because many small schemes may not have significant implications for strategic infrastructure so they will not be required to fund such infrastructure. The planning system will instead focus on the direct implications of these proposals and how the council can secure such funding from the developer to mitigate impacts locally.

### **• Place Based Working**

The planning applications process will continue to seek the views of local communities affected by planning applications. The current process of securing S106 funding from developers through this process will continue. Elected members at planning committee can also seek to reflect local

priorities through their role in the planning process. The council will report on S106 income and spending in the new annual Infrastructure Funding Statement.

- **Climate Change and Air Quality**

No change to emissions - The scale of development is set out in the Local Plan whereas the CIL was a way to fund infrastructure improvements. As set out earlier, where necessary to make the scheme acceptable in planning terms, Section 106 income can still be obtained from the developer which may relate to climate change and air quality mitigation.

- **Improving outcomes for children**

There will be no impact.

- **Other**

**Financial implications:**

- It should be noted that if the implementation of CIL was to proceed there is a risk that some sites may not be developed and that others may be granted permission during a transitional period prior to CIL being applied, both of which would reduce the council's income from CIL.
- The overall financial implications relating to the proposed nationally-set Infrastructure Levy will be known when the government release further details.

**Communications:**

- A press release was issued on 17<sup>th</sup> December 2020 alongside the Key Decision Notice for this item
- Officers have also ensured there is clear communication with Neighbourhood Plan Bodies in relation to this decision and will communicate with the community about the non-adoption of CIL.

**Do you need an Integrated Impact Assessment (IIA)?**

An Integrated Impact Assessment (Stage 1) has been undertaken in relation to the non-adoption of the Community Infrastructure Levy. This showed that a Stage 2 assessment was not required. The Integrated Impact Assessment can be viewed at: <https://www.kirklees.gov.uk/beta/delivering-services/integrated-impact-assessments.aspx>

**4. Consultees and their opinions**

Cllr McBride, Cllr Mather and Cllr Scott were briefed on 23<sup>rd</sup> November 2020 and Leadership Management Team (cabinet members) were briefed on 7<sup>th</sup> December 2020. In these sessions, members agreed with the proposed approach relating to the non-adoption of the Community Infrastructure Levy at this stage on the basis of the proposed government intentions to abolish CIL and replace it with a nationally-set Infrastructure Levy. Planning Committee Chairs have also been briefed.

**5. Next steps and timelines**

If the Cabinet decide not to adopt CIL the council will inform all relevant parties who were involved in the CIL process or have indicated an interest in progress of CIL. As stated earlier, through the planning applications process the council will continue to seek developer contributions where these are justified in seeking to mitigate the impacts of developments. This process will continue to include public consultation and where applicable, member involvement through the planning committee decision making process. The council will also continue to seek funding from the West Yorkshire Combined Authority to fund large scale infrastructure improvements.

6. **Officer recommendations and reasons**

*Officer recommendation* – officers recommend a decision not to proceed to adoption of the CIL (Community Infrastructure Levy Charging Schedule) at this stage and re-consider the implementation of CIL at a later date depending on national government policy intentions and economic circumstances.

*Reason:* Based on the changes set out in the Planning for the Future White paper and other changing circumstances set out in this report, officers recommend that CIL is not taken to adoption at this stage. Depending on the outcome of the Planning for the Future White Paper, whether to revisit CIL can be a future Cabinet decision. At that point there would need to be a new CIL process including revised viability evidence, community consultation and a further examination in public.

7. **Cabinet Portfolio Holder's recommendations**

Cllr McBride was briefed on 23<sup>rd</sup> November 2020 and Cllr McBride supports the officer recommendation that the Cabinet should not seek to adopt the CIL Charging Schedule at this stage.

8. **Contact officer**

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9. **Background Papers and History of Decisions**

- Extraordinary Council meeting (12<sup>th</sup> October 2016) where the decision was made to submit the Community Infrastructure Levy Charging Schedule for independent examination (<https://democracy.kirklees.gov.uk/ieListDocuments.aspx?CId=534&MId=5200>)
- Details of the CIL process to date (<https://www.kirklees.gov.uk/beta/planning-policy/community-infrastructure-levy.aspx>)
- CIL Examiner's Report (10<sup>th</sup> January 2020) (<https://www.kirklees.gov.uk/beta/planning-policy/pdf/examiners-final-report.pdf>)

10. **Service Director responsible**

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