

This Report will be made public on 21 March 2023

Report Number **A/22/38**

To: Council
Date: 29th March 2023
Status: Non-Executive Decision
Responsible Officer: Lydia Morrison – Interim Director Corporate Services
Cabinet Member: David Monk – Leader of the Council

SUBJECT: Community Infrastructure Levy (CIL): adoption of the Council's Modified CIL Charging Schedule

SUMMARY:

The council adopted the Core Strategy Review (CSR) in March 2022, and so it has been necessary for the council to amend the adopted CIL Charging Schedule to bring it 'in step' with the adopted CSR, as well as amendments to the CIL Regulations.

The Community Infrastructure Levy (CIL) Regulations (2010) as amended, outlines the process for establishing a CIL scheme in an area. At its meeting of 20th July 2022, the Cabinet approved publication of the Draft Charging Schedule and associated documents for consultation (and public consultation took place between 22 August and 3 October 2022), and authorised the Council to submit the DCS and associated documents to the appointed external Examiner for independent examination in accordance with the CIL Regulations 2010 (as amended). The DCS was submitted for external Examination in November 2022, and the Examiner's report was received in February 2023.

Cabinet subsequently considered the outcome of the Examination at its meeting of 22nd March 2023, and as per the requirements of the Government's CIL Regulations, agreed a recommendation to submit the Modified CIL Charging Schedule for adoption by Council at its meeting of 29th March 2023.

RECOMMENDATIONS:

1. To receive and note report A/22/38.
2. To note the findings of the Examiner's report on the Council's CIL Draft Modified Charging Schedule.
3. To adopt the Council's Modified CIL Charging Schedule and set a commencement date for the continued collection of CIL under the new regime applicable from the 1st April 2023.

1. PURPOSE OF THIS REPORT

- 1.1 The continued collection of CIL will ensure that the Council continues to maximise collection of developer contributions toward infrastructure costs, as part of the planning process. It will operate in conjunction with a scaled back planning obligations regime, as set out by the CIL Regulations 2010 (as amended). CIL is a non-negotiable standard rate that developers will need to pay on different types of development in different parts of the district, as set out by the final draft of the Council's Charging Schedule (appendix 1).
- 1.2 The Charging Schedule has undergone a round of public consultation and was submitted for independent examination in public (EIP), in November 2022. Following consideration by the Examiner, the EIP was conducted by written representations, with this process concluding in February 2023. The Inspector's written report was delivered to the Council on Wednesday 22nd February 2023.

2. EIP EXAMINER'S REPORT

- 2.1 The Examiner's report concluded that the revised FHDC CIL Charging Schedule provides an appropriate basis for the continued collection of the levy in the District. Further to this the Examiner concluded that the Council had sufficient evidence to support the Charging Schedule and can show that rates are set at a level that will not put proposed developments at risk on grounds of viability.
- 2.2 The Examiner sets out his conclusions in paragraph 58 of his report, as repeated below:

58. I conclude that the MDCS for the Folkestone & Hythe Community Infrastructure Levy, submitted for examination on 24 November 2022, subject to making the modifications set out in Examiner's Modification EM1 in the appendix below, satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Charging Schedule be approved.

- 2.3 Examiner's modification EM1 is presented below. This modification has been incorporated with the final version of the DCS that is for consideration.

Modification that the examiner specifies so that the Charging Schedule may be approved:

Modification	Reference	Modification
EM1	Tables 1 and 2 CIL charges	Replace Tables 1 and 2 of the CIL charges in the MDCS with the Tables below

Table 1: CIL Charges for residential developments by zone

Development type	CIL rate (£ per sq m)			
	Zone A	Zone B	Zone C	Zone D
Residential development All development within Use Class C3	£0	£62.94	£125.88	£157.35
	£0			
Residential development on strategic site allocations	£0			

Notes:

The stated rates apply from 1 January 2023 and are subject to annual revision on the 1 January each year.

Strategic site allocations comprise:

- North Downs Garden Settlement (SS6 to SS9)
- Sellindge Strategy Phases 1 and 2 (CSD9)
- Folkestone Harbour & Seafront (SS10)
- Shorncliffe Garrison (SS11)
- New Romney Strategy (CSD8)
- Nickolls Quarry strategic allocation, Hythe (Figure 5.6)

Table 2. CIL charges for retail development

Zone	Retail Development	CIL Rate (£ per sq m)
Folkestone Town Centre Area	All convenience and comparison retail and other development akin to retail	£0
Otterpool Park strategic allocation	All convenience and comparison retail and other development akin to retail	£0
Rest of district	Supermarkets, superstores, and retail warehousing (net retail selling space of over 280 sq m) (a & b)	£125.88
Rest of district	Other large-scale development akin to retail (net retail selling space of over 280 sq m) (c)	£125.88
Rest of district	Other retail development and developments akin to retail (net retail selling space up to 280 sq m)	£0

3. CIL ADOPTION

- 3.1 Given the findings of the EIP Examiner's report, there are no reasons why the Council should not proceed to formal adoption of its revised CIL Charging Schedule, and supporting policies on CIL payments by instalments, and discretionary payments in kind, which mirror the CIL Charging Schedule adopted in August 2016. The CIL regulations require CIL to be adopted by Council. Therefore, following Cabinet consideration, it is recommended that the Council adopts CIL at its meeting of 29th March 2023, with the 1 April 2023 set as the start date for the collection of CIL, in accordance with Regulation 25 of the CIL Regulations 2010 (as amended).

4. RISK MANAGEMENT ISSUES

Perceived Risk	Seriousness	Likelihood	Preventative Action
Cabinet does not endorse the final draft of CIL Charging Schedule for adoption	5	1	Given Cabinet and full Council's endorsement of the approach through the recent adoption of the Core Strategy Review, this is not considered a high risk.

5. IMPLICATIONS

5.1 Legal Officer's Comments (NM)

The modified CIL charging schedule has been prepared, consulted upon and independently examined under the provisions of the CIL Regulations 2010 (as amended). There are no wider legal implications.

5.2 Finance Officer's Comments (LM)

There are no direct financial implications arising from this report.

5.3 Diversities and Equalities Implications (GE)

There are no equality and diversity implications directly arising from this report.

5.4 Climate Change (OF)

There are no climate implications arising from this report.

5.5 Communications (KA)

There are no communications implications arising directly from this report.

Reporting officer

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Appendices

Appendix 1: Community Infrastructure Levy Charging Schedule (for adoption) (April 2023)

Appendix 2: Infrastructure Funding Gap Statement (November 2022)

Appendix 3: FHDC Infrastructure Schedule (October 2022)

Appendix 4: FHDC CIL Viability Modelling Report (October 2022)

Appendix 5: Final report on the Examination of the Folkestone & Hythe District Council Community Infrastructure Levy Modified Draft Charging Schedule (March 2023)