

BATH & NORTH EAST SOMERSET COUNCIL

CABINET 11TH FEBRUARY 2015

UPDATE REPORT

THE ISSUES

1.1 This report updates the dispatched Cabinet report on the B&NES Community Infrastructure Levy (CIL). The update addresses two key issues;

- a) The CIL Charging Schedule: Since the Cabinet report was dispatched, Examiner's report has been published and he proposes three modifications to the Charging Schedule, and
- b) The Regulation 123 List: the above changes to the charging schedule have knock on implications for the Regulation 123 List. Also in relation to the Reg 123 List, transitional arrangements to take account of planning applications that may not yet be concluded before the 6th April deadline when CIL is due to come into effect

2. THE EXAMINER'S MODIFICATIONS

2.1 The Examiner concluded that, subject to three modifications, the B&NES draft CIL Charging Schedule provides an appropriate basis for the collection of the levy in the area. If the Council wants to approve the CIL, then it must accept the inspector's modifications. The three modifications required to the Schedule relate to;

- a more precise definition of development types for older persons' accommodation;
- more precise definition of student housing; and
- to the creation of a zero rated charging zone for Bath Western Riverside. The Examiner's modifications are highlighted in Attachment 1

Specialised, Extra Care & Retirement Accommodation

2.2 In terms of Specialised, Extra Care and Retirement Accommodation the Council's draft Charging Schedule proposed a £50/m² in urban extension areas and £100/m² charge elsewhere. During the Examination, evidence showed that schemes with higher non-saleable floorspace such as treatment rooms may have an impact on development viability. The surplus value available to make a CIL payments decreases in line with increases in the percentage of communal floorspace.

2.3 The examiner acknowledges the additional cost associated with communal spaces. Higher than 30% non-saleable space would become more challenging or would render developments unviable. Therefore he recommended excluding the schemes that provide

non-saleable floorspace in excess of 30% of Gross Internal Area. Schemes that provide non-saleable floorspace less than of 30% of Gross Internal Area would still warrant a charge of £50/m² or 100/m² accordingly.

Student accommodation

- 2.4 The degree to which student accommodation can absorb CIL is largely dependent on the rent levels set. There is a significant differential between rents in the private sector and the University Sector (with sub market rent). Student housing let at commercial rents can absorb a higher charge than at the sub-market rents. The submitted draft charging schedule took account of this difference in viability with a nil charge for 'on-campus' schemes and a £200 /m² charge for 'off-campus' schemes.
- 2.5 However, it is accepted that some schemes off campus can charge sub-market rates. In order to reflect the evidence more closely and make the intention clear, the Examiner recommends replacing the on-campus vs. off-campus nomenclature with more specific reference to viability and has modified the wording to a £nil charge for schemes with *sub-market* rents and £200/m² for schemes with *market* rents.

Bath Western Riverside (BWR)

- 2.6 At the Hearings, the developer's representative explained that circumstances regarding BWR had changed which may result in a new planning application being submitted. Any new permission would fall under the CIL regime and the developer representative was of the view that this would cause significant viability issues.
- 2.7 Given the strategic significance of BWR to the Core Strategy, the Examiner has asked the Council and BWR developer to prepare a Statement of Common Ground. The Statement was prepared setting out the viability issues and acknowledges that the development (including appropriate infrastructure provision such as a new primary school) will be most effectively delivered through the s.106 mechanism if a new planning application were to be submitted.
- 2.8 The Examiner had considered the evidence submitted and recommends a nil charge for all development within the current BWR scheme. The charging zone plan is shown on page 7 of the Attachment 1.
- 2.9 Even though no CIL will be raised through the BWR development, there is no change in the projected CIL income because the sites with extant planning permissions are outside the CIL regime and were not included in the CIL projection.
- 2.10 Therefore, Attachment 1 to this update report incorporates the above changes and replaces Attachment 1 in the original report.

3. REGULATION 123 LIST

- 3.1 The report to Cabinet recommends approval of the Regulation 123 List. This list sets out the broad categories of infrastructure that CIL will fund wholly or in part. It is required in order to distinguish infrastructure that will be funded by CIL from that which will be funded by Section 106 contributions. The Council must not charge developers twice for the same infrastructure.

- 3.2 The Examiner’s modifications to the Charging Schedule in relation to BWR must also be reflected in the Regulation 123 list . It is recommended that this modified list is agreed.
- 3.3 Therefore, Attachment 2 to this update report incorporates the above changes and replaces Attachment 2 in the original report
- 3.4 The Cabinet report also seeks delegated authority to make minor amendments to the Regulation 123 List. In the transition from Section 106 contributions to CIL, there may be some live planning applications where Section 106 agreements will be negotiated and agreed before CIL comes into effect on 6th April 2015. However, in the event that these negotiations are only finalised after the 6th April deadline, there may be a need to amend the Reg 123 list to reflect the negotiated Section 106 agreement. Such cases are likely to be unusual and only relate to a few live schemes, primarily the MoD sites. In such cases, it is recommended that the delegation to amend the Reg 123 List is extended to cover such instances for a time limited period.
- 3.5 The recommendation below is therefore in addition to those set out in the original report.

4. RECOMMENDATION

- 4.1 That Cabinet grants delegated authority to the Divisional Director for Development, in conjunction with Cabinet Member for Homes and Planning, to amend the Regulation 123 List in the event that any current planning applications fail to be concluded until after 6th April in order to ensure the timely provision of the necessary infrastructure and that there is no overlap between CIL charges and Section 106 contributions.

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