



Committee and date

Cabinet:

8th June 2016

Item

Public

CIL Payment in-kind Policy Statement

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1. Summary

The purpose of this report is to gain Cabinet approval for the issue of a new policy statement to enable the Council to accept CIL in-kind infrastructure payments. The issue of this policy statement is recommended as a means of facilitating cost efficient infrastructure delivery.

Given the significant financial pressures facing the authority, a key principle behind the Council's Economic Growth service redesign and Planning Policy approach has been around creating the right conditions for sustainable growth through supporting, brokering and commissioning investment in infrastructure. It is recognised that no single delivery mechanism will be sufficient to deliver all the necessary infrastructure to support new development within Shropshire and a packaged approach is therefore being developed which seeks to prioritise needs and coordinate all appropriate delivery mechanisms.

As part of a suite of delivery mechanisms, this paper includes a new policy statement to enable Shropshire Council to take in-kind infrastructure payments, either in the form of land or provision of infrastructure. The policy statement sets strict guidelines on the use of this delivery mechanism, making clear that it is offered at Shropshire Council's discretion and must provide the most practical and efficient means of delivering an agreed and prioritised infrastructure requirement. The aim is to provide as flexible and responsive an approach, as possible, to infrastructure delivery, aimed at saving the Council both time and money.

2. Recommendations

- A. Cabinet agrees to the CIL payment in-kind policy statement (Appendix 1) and agrees for it to come into effect on the 13th June 2016.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1 In allowing CIL payments to be made through direct infrastructure provision, there is a risk that developers will regularly seek this form of contribution rather

than making a financial payment. This could significantly increase administrative burdens and slow down the planning process.

- 3.2 Whilst the requirement for this Cabinet paper and associated policy statement (Appendix 1) has arisen in response to the infrastructure opportunities associated with a specific development proposal, it is considered that the benefits of offering such a policy approach, as part of the implementation of CIL, outweighs the risks. Whilst the policy statement offers an 'in principle' agreement to the provision of in-kind infrastructure CIL payments, in lieu of a financial contribution, it *does not require* the Council to accept such payments. The policy statement sets out strict parameters for the circumstances in which the Council may consider any land or infrastructure payments and makes clear that any such agreement will be at the Council's discretion based on whether such a provision offers a time or cost efficiency to the Council.

4. Financial Implications

Impact on CIL revenue

- 4.1 Any CIL payments made through the provision of land or in-kind infrastructure will inevitably result in a reduction in the amount of financial contributions available through CIL for infrastructure delivery. In particular, this could pose a risk to the Council's ability to make Neighbourhood Fund payments, since the CIL Regulations place a requirement on the CIL Charging Authority to pass a 'meaningful proportion' of the CIL monies direct to the relevant Town or Parish Council.
- 4.2 The policy statement associated with this paper makes clear that in-kind infrastructure payments will only be considered in lieu of a financial CIL payment where the infrastructure to be provided is related to a project listed in the Councils Regulation 123 List as being suitable for in-kind payment. Therefore, in addition to any in-kind payments being at the Council's discretion, the annual CIL 123 List provides a clear and transparent framework for those infrastructure items considered suitable for such a delivery mechanism. The CIL 123 list is informed by the annual Place Plan Review Cycle which places significant onus on Town and Parish Councils to prioritise their communities' infrastructure needs and priorities. As such, any items identified as being suitable for in-kind payment will be informed by local community engagement through the Place Plan process.
- 4.3 In support of Shropshire's localised planning approach, it is important that any infrastructure payment in-kind proposals are discussed with the local Town or Parish Council prior to any formal agreement with Shropshire Council. The policy statement sets a condition that confirmation is provided from the relevant Town or Parish Council that the Neighbourhood Fund payment, due from the CIL liable development, has been fulfilled through the in-kind contribution. Alternatively, the applicant will need to meet the Neighbourhood Fund requirement through a financial payment.

Ongoing revenue implications

- 4.4 Given significant existing financial pressures, it is vital that any in-kind infrastructure payments do not result in ongoing and unsustainable revenue costs to the Council or partner organisations, particularly in relation to ongoing maintenance.
- 4.5 The policy statement and in-kind guidance notes (Appendix 2) make clear that an agreement in writing will be established between the CIL liable party and Shropshire Council. This legal contract will include arrangements for any ongoing maintenance and will seek to ensure Shropshire Council's liabilities are kept to a minimum. The cost of establishing the agreement will be borne by the liable party.

5. Background

- 5.1 The CIL Regulations 2010 allow collecting authorities to accept land as part of the CIL payment due in respect of a development. Those Regulations were amended in 2014 to extend this provision (Regulations 73A & 73B) to allow payment through the provision of infrastructure. If a Council wishes to accept infrastructure payments in its area, it must issue a document stating this and publish the document on the Council website making clear the date from which it is effective.
- 5.2 The Council adopted a CIL Charging Schedule in November 2011 to become effective from 1st January 2012. Whilst the Council has been collecting financial contributions since this date, until now the Council has received no requests from developers for payments to be made through the provision of land or in kind infrastructure provision.
- 5.4 This paper and associated policy statement therefore provides the mechanism by which to enable Shropshire Council to accept such infrastructure payments. CIL Regulation 73B specifies the measures a Council must take to allow infrastructure payments in its area; namely to issue a document giving notice of its willingness to accept payments. The document attached at Appendix 1 complies with the requirements of Regulation 73B and it is proposed to issue this statement, to publish it on the Council's website and to make it available at the Council offices and main libraries throughout the county.
- 5.5 However, it should be noted that there are strict criteria for the payment of CIL in this way, as set out in the policy statement. Whilst this policy statement sets out the Council's agreement in principle to infrastructure payments, there is nothing in the CIL regulations which states that having adopted the policy, the Council must accept an infrastructure payment in lieu of a financial CIL payment. The acceptance of infrastructure is therefore at the Council's discretion and must be related to the provision of prioritised infrastructure within the Councils Annual CIL List (see Cabinet Paper from 8th June 2016).
- 5.6 The Director of Commissioning already has delegated authority to implement CIL, following the adoption of Shropshire's CIL Charging Schedule by Full Council on 24th November 2011. This delegation includes the operation of CIL on a day to day basis alongside implementing this new policy statement to make decisions, where

appropriate, around infrastructure payments in-kind. In accordance with the Council's Constitution (Part 8), the Director of Commissioning has made and will keep up to date appropriate onward delegations to officers, to deal with individual CIL matters.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

- Community Infrastructure Levy Charging Schedule – Council, 24th November 2011
- Place Plan Review and Community Infrastructure Levy 123 List update – Cabinet, 29th July 2015
- Community Infrastructure Levy 123 List 2016 Update- Cabinet, 8th June 2016

Cabinet Member (Portfolio Holder)

Councillor Mal Price, Portfolio Holder for Planning, Housing and Regulatory Services and Environment

Councillor Steve Charmley, Deputy Leader, Portfolio Holder for Business and Economy

Local Member

All

Appendices

Appendix 1- Shropshire Council Community Infrastructure Levy (CIL) Payment in-kind policy statement

Appendix 2- Community Infrastructure Levy Guidance Note for Payment in-kind-Provision of land or infrastructure