

CABINET MEMBERS DELEGATED DECISION

Open/Exempt		Would any decisions proposed :		
Any especially affected Wards ALL	Mandatory/	Be entirely within Cabinet's powers to decide YES/NO		
	Discretionary-/	Need to be recommendations to Council YES/NO		
	Operational	Is it a Key Decision YES/NO		
Lead Member: Cllr R Blunt E-mail: cllr.richard.Blunt@west-norfolk.gov.uk		Other Cabinet Members consulted: None		
		Other Members consulted: None		
Lead Officer: Alan Gomm E-mail: alan.gomm@west-norfolk.gov.uk Direct Dial: 01553 616237		Other Officers consulted: Executive Director Geoff Hall		
Financial Implications YES/NO	Policy/Personnel Implications YES/NO	Statutory Implications YES/NO	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/NO
If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is (are) paragraph(s) N/A				
Date meeting advertised: 21 st June 2017			Date of meeting decision to be taken: 28 th June 2017	
Deadline for Call-In: 5 th July 2017				

COMMUNITY INFRASTRUCTURE LEVY (CIL) - OPERATIONAL CLARIFICATION

Summary

We have been operating CIL for a number of months now and in so doing there are a number of matters which need to be clarified. Making changes will provide for a more efficient operation of the process.

1. To clarify the definition of Phased Development in relation to the Community Infrastructure Levy Regulations 2010 (as amended) and propose a process to meet the requirements of the legislation.
2. To seek approval for the protocol establishing how the Council will apply surcharges and interest to developers/landowners that fail to follow the CIL administrative requirements.
3. To simplify the process for administering the CIL on householder self build extension exemptions.

Recommendations

1. That CIL Phased Development formal process is adopted.
2. CIL Surcharges to be applied to all applications with no exceptions.
3. This authority no longer applies CIL to residential extensions

Reasons for Decision

1. To assist developers and encourage building in the borough
2. To provide clarity and consistency to enable the CIL officer to undertake the enforcement of the CIL process
3. There is an unnecessary administration process to be completed, since no CIL will be payable on extension, the overall administration of CIL will be simplified.

Background

CIL was implemented and has been in force since 15 February 2017. Since the adoption of CIL, it has come to light that there are an number of operational processes that need to be clarified.

1. Phased Development:

CIL must be paid within 60 days from commencement of development e.g. if a developer has 5 plots but only starts work on the 1st plot they will be required to pay CIL for all 5 plots within the specified period.

Our current process does not allow customers to submit phased development applications for full applications.

Due to a high number of smaller developers and lower house prices in some areas of the Borough with many sites could potentially be sold as plots for 'self-builders'. To enable us to assist developers and encourage building, there is a requirement to decide how the BCKLWN will administer phased developments.

Developers and architects have expressed concern that without the option to submit phased development commencements on building within the Borough, deliverability may be affected.

In order to assist developers and stagger the payment of CIL the proposal is that we ensure (through publicity and briefings) people are aware of the need to clearly outline the phased nature of their development. The detail arrangements would be that phased development is for a minimum of 2 plots per phase for planning applications with no more than 10 plots.

2. Surcharges

The CIL Regulation process requires a series of CIL Forms to be submitted in a prescribed order:

Applicant Developer Submission	CIL Officer Action/Response
Additional Information Form (Form 0)	Calculate CIL inform applicant/developer
Assumption of Liability (Form 1)	Acknowledge assumption

Exemption Forms	Notify application decision
Commencement Notice	Acknowledge commencement

Failure to follow the process creates significant additional administrative work for the CIL Officer and affects the speed and ease at which CIL revenue could be collected.

The CIL Officer communicates with customers, to try to negate the requirement to apply surcharges. However, there may be occasions when surcharges may be necessary. We wish to make clear the Borough Council position on surcharges.

3. Householder Self Build exemption

Our Charging Schedule sets a CIL rate of either £40 or £60 per square metre for residential development including extensions to domestic properties. An amendment to the CIL Regulations in February 2014 introduced an exemption to the CIL levy for domestic extensions.

As at 24 May 2017, 13 householder applications have been recorded as being CIL liable (potentially generating an income of £114,955.40) and relief has been granted on 9 of these (equating to £86,487.40). The applicant has until the commencement of development to claim relief, consequently the remainder could still claim relief.

There has been a total of 169 household applications determined between 15 February 2017 and 23 May 2017. All of these 169 applications had to be assessed to determine whether or not they were of a size to trigger CIL.

As such, the costs recovered are not offsetting the cost of pursuing this form of CIL and therefore to continue to apply this section of the legislation will result in a drain on the Council's resources.

A number of authorities including South Norfolk Council and Broadland District Council have resolved to no longer apply CIL to residential extensions in view of the high cost of implementing this part of the Regulation. The proposal is that we operate the same provision.

Options Considered

1. Phased Development

- 1) Do nothing.
- 2) Introduce the phased development possibility in a more obvious way.

2. Surcharges

- 1) Do not apply surcharges
 - Pros – No complaints
 - Cons – Surcharges can be used as an incentive to ensure that customers follow the process.

The main consequence of not following the CIL process will be that BCKLWN may be unable to secure payments without issuing a Stop Notice.

- 2) Apply surcharges

The CIL documentation should be amended replacing 'may incur a surcharge' to 'will incur a surcharge'.

No exceptions with surcharges applied in all cases.

- Pros – The CIL process should continue to be followed
 - Cons – We may receive some complaints
- 3) Apply surcharges on a case by case basis
- If a customer does not submit the required CIL forms or follow the process they can appeal the surcharge.
- Pro – Could appease customers and agents
 - Cons – The CIL process may not be followed as customers will be aware that we may not apply a surcharge.

3 Self Build Extension Exemptions

- 1) Continue to assess each householder planning application for extensions to determine whether it is a CIL liable development, issue liability notices and determine applications for relief.
- 2) Resolve to no longer administer self build extension exemptions.

Policy Implications

None.

Financial Implications

Phased development may reduce income as each plot could apply for a self-build exemption. This means that as long as the 'self-builder' does not sell or rent the property for 3 years we will not receive any funds from the development.

Developers may build houses plot by plot, selling them to fund the next plot. Phased developments of this type will incur the same CIL fee but we would receive the money over an extended period instead of within 60 days from commencement of the whole development. This will result in easing the burden on developers.

The introduction of **compulsory surcharges** will encourage the CIL processes to be followed ensuring that the CIL levy is paid in a timely manner.

If a surcharge is applied the monies raised will be placed in the Council's CIL fund and used to improve infrastructure within the Borough.

If we remove the requirement to administer **self build extension exemptions** there would be a significant reduction in processing time for officers, who currently have to identify CIL liable applications which includes the requirement to download drawings and undertake internal area measurements.

Personnel Implications

None

Statutory Considerations

1. Phased Development

CIL Regulation 8 – Time at which planning permission first permits development

In 2014 (Amendment 385) CIL Reg 8 changed, removing the wording 'Outline and Reserved Matters applications' and inserting the phrase 'Phased Planning Permission'.

The inclusion of the word 'phased development' on the planning proposal by applicants is sufficient to meet the CIL regulation requirements, and ease the burden for them in paying CIL.

2. Surcharges

The [CIL Regulations 2010](#) (as amended) state that we may apply surcharges as follows:

Surcharge for	Amount	CIL Regulation
<i>Failure to assume liability, where no-one has assumed liability and chargeable development has commenced</i>	<i>£50 on each person liable to pay CIL</i>	80
<i>Apportionment of liability, where the Council is required to apportion liability for CIL between those with a material interest in the land</i>	<i>£500 on each person liable to pay CIL</i>	81
<i>Failure to submit Notice of Chargeable Development</i>	<i>20% of the chargeable amount or £2500, whichever is lower</i>	82
<i>Failure to submit a Commencement Notice</i>	<i>20% of the chargeable amount or £2500, whichever is lower</i>	83
<i>Failure to notify the Council of a disqualifying events</i>	<i>20% of the chargeable amount or £2500, whichever is lower</i>	84
<i>Late payment</i>	<i>5% of the outstanding chargeable amount or £200, whichever is greater</i>	85
<i>Failure to comply with an Information Notice</i>	<i>20% of the relevant amount or £1000, whichever is lower</i>	86

It is considered that the surcharges awarded through the Regulations should provide sufficient scope to both caution against, and penalise failure to adhere to the CIL administration process.

Equality Impact Assessment (EIA)

(Pre screening report template attached)

Attached.

Risk Management Implications

	Risk	Likelihood	Impact	Mitigation
All 3 proposals	A team member may leave / Long term sickness absence	<i>Medium</i>	<i>High</i>	Re-appoint as soon as possible if budget restrictions permit. Alternatively, seek to re-deploy staff from within the Planning department.
Phased Development	Increased workload if large developments submit phased development commencement notices	<i>Medium</i>	<i>High</i>	Communicate process to agents, applicants and developers. Update webpages.
Phased Development	Increased workload if large developments (over 10 plots) submit notices plot by plot	Medium	High	Communicate process to agents, applicants and developers. Update webpages.
Surcharges	The CIL process is not being followed	Medium	High	Communicate process to agents, applicants and developers. CIL documentation to clearly define the payment process. Update webpages.
Surcharges	CIL Payments not received	High	High	Communicate process to agents, applicants and developers. CIL documentation to clearly define the payment process. Update webpages.
Extension Exemption	Changes to CIL legislation	High	Low	The Government have made it clear the desire to limit liabilities to householders by the 2014 Amendments to the Regulations. Keep the webpages and information provided to customers up to date.

Declarations of Interest / Dispensations Granted

None.

Background Papers

(Definition: Unpublished work relied on to a material extent in preparing the report that disclose facts or matters on which the report or an important part of the report is based. A copy of all background papers must be supplied to Democratic Services with the report for publishing with the agenda)

None.

Pre-Screening Equality Impact Assessment

Borough Council of
**King's Lynn &
West Norfolk**



Name of policy/service/function	Community Infrastructure Levy (CIL)				
Is this a new or existing policy/ service/function?	New / Existing (delete as appropriate)				
Brief summary/description of the main aims of the policy/service/function being screened. Please state if this policy/service rigidly constrained by statutory obligations	Phased development process to allow applicants to submit CIL commencement notices phase by phase for all applications types.				
Question	Answer				
1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service? Please tick the relevant box for each group. NB. Equality neutral means no negative impact on any group.		Positive	Negative	Neutral	Unsure
	Age			x	
	Disability			x	
	Gender			x	
	Gender Re-assignment			x	
	Marriage/civil partnership			x	
	Pregnancy & maternity			x	
	Race			x	
	Religion or belief			x	
	Sexual orientation			x	
	Other (eg low income)			x	
Question	Answer	Comments			
2. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another?	Yes/ No				
3. Could this policy/service be perceived as impacting on communities differently?	Yes/ No				
4. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?	Yes/ No				
5. Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions? If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section	Yes/ No	Actions:			
		Actions agreed by EWG member:			
Assessment completed by: Name Amanda Driver					
Job title CIL Monitoring and Compliance Officer	Date 14 June 2017				

Please Note: If there are any positive or negative impacts identified in question 1, or there any 'yes' responses to questions 2 – 4 a full impact assessment will be required.