

ASSEMBLY

24 February 2015

Title: Community Infrastructure Levy – Change of Implementation Date	
Report of the Cabinet Member for Regeneration	
Open Report:	For Decision
Wards Affected: All	Key Decision: Yes
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Accountable Divisional Director: Jeremy Grint, Divisional Director of Regeneration	
Accountable Director: Chris Naylor, Chief Executive	
Summary <p>At its meeting on 25 November 2014 the Assembly adopted the LBBD Community Infrastructure Levy Charging Schedule and approved its implementation from 2 March 2015 (Minute 28 refers). Paragraph 2.2 of the previous report explained that the Council needs to take into account, when determining when to introduce its Community Infrastructure Levy (CIL), the impact on outstanding planning applications. It went on to explain that to enable negotiations on current applications to be concluded under the current system it is recommended that CIL is charged from 2 March 2015.</p> <p>Due to the complexity and need to secure the authorities best interests in the applications of Freshwharf Estate, Lymington Fields Phase 2, Gascoigne East and Merrielands Crescent it is recommended that the implementation date of CIL is put back to 3 April 2015. This will allow sufficient time to conclude these planning applications but still allow the borough's CIL to be implemented before the new restrictions on the use of S106 come in on 6 April 2015.</p>	
Recommendation(s) <p>The Assembly is recommended to revise the introduction date of the Community Infrastructure Levy rates from the previously agreed date of 2 March 2015 to 3 April 2015.</p>	
Reason(s) <p>The Community Infrastructure Levy will help deliver the borough's growth agenda by providing funding to pay for the infrastructure to support growth and by removing the need for many S106 agreements which currently cause delay in the planning process.</p>	

1. Introduction and Background

- 1.1 At its meeting on 25 November 2014 the Assembly adopted the LBB Community Infrastructure Levy Charging Schedule and approved its implementation from 2 March 2015 (Minute 28 refers). Paragraph 2.2 of the previous report explained that the Council needs to take into account, when determining when to introduce its CIL, the impact on outstanding planning applications. It went on to explain that to enable negotiations on current applications to be concluded under the current system it is recommended that CIL is charged from 2 March 2015.
- 1.2 The affected planning applications are Gascoigne East, Phase 2 Lymington Fields, Merriellands Crescent and Freshwharf Estate.

2. Proposal

- 2.1 The Gascoigne East application was approved by the Council's Development Control Board on 6 October 2014 and Lymington Fields Phase 2 was approved on 23 June 2014. Since then there have been protracted negotiations to agree the S106 agreements in both cases. The Merriellands Crescent and Freshwharf applications are due to go to the Council's Development Control Board on 9 March 2015. Both will have substantial S106 agreements. Whilst the Gascoigne and Lymington Field applications may be concluded by 2 March 2015 it is likely the Merriellands Crescent and Freshwharf Estate applications may not be.
- 2.2 Once CIL is implemented it is only possible to enter into S106 agreements for affordable housing and site specific infrastructure. Wider infrastructure such as education and transport must be funded by CIL. To complicate matters the Freshwharf Estate application is for a non-material amendment which is exempt from CIL. So in the case of the Freshwharf Estate, as it currently stands, the Council will not only lose the ability to secure contributions for school places from S106 but also CIL. The Council would be limited to securing S106 for affordable housing and site specific infrastructure. Therefore officers are recommending that the implementation of the borough's CIL is revised. However it cannot be revised beyond Monday 6 April 2015 as from this date, under the Community Infrastructure Levy Regulations 2010 as amended, a maximum of five S106 contributions can be pooled for any one item of infrastructure. This includes any S106 agreements agreed since 1 April 2010. In other words the Council needs to implement its CIL by 6 April 2015 in order to secure offsite contributions from development to fund the wider infrastructure impacts of new development. Officers are confident that all four of these applications will be concluded by this date and therefore are recommending that the implementation date for the borough's CIL be put back to Friday 3 April 2015.

3. Options Appraisal

- 3.1 If the implementation date for the borough's CIL is not put back, then the S106 agreements for two existing planning permissions, if not concluded by 2 March 2015, may need to be revisited and potentially taken back to the Council's Development Control Board. In addition the Council will lose the ability to secure any contributions for school places from the Freshwharf development either by S106 or CIL.

4. Consultation

- 4.1 The Council's Community Infrastructure Levy has been subject to comprehensive consultation as detailed in the previous report to 25 November 2014 Assembly.

5. Financial Implications

Implications completed by: Carl Tomlinson, Group Finance Manager

- 5.1 The proposal is for the commencement date for the charging of the Council's Community Infrastructure Levy (CIL) to be delayed from 2 March 2015 (as agreed by the Assembly on 25 November 2014) until 3 April 2015. This will enable the Authority to conclude Section 106 agreements in respect of four major planning applications, thereby maximising contributions from developers.
- 5.2 If the implementation date for the Borough's CIL is not put back, as far as the Freshwharf Estate planning application is concerned, the Council will lose the ability to secure a section 106 contribution in respect of school places. As the development is exempt from CIL, this would result in the loss of a considerable contribution towards the Borough's School Expansion Programme.
- 5.3 With regard to the section 106 agreements for the other planning applications mentioned in this report, if these are not concluded by 2 March 2014 and the CIL commencement date is not delayed, they may need to be revisited and potentially taken back to the Council's Development Control Board. This process would add considerable delays to the commencement of the schemes. Although these developments would not be exempt from CIL contributions, the Authority is likely to secure greater sums of money through the completion of section 106 agreements.

6. Legal Implications

Implications completed by: Paul Feild Senior Governance Lawyer

- 6.1 The Council acting through the Assembly may revise the date of introduction of the CIL. The measure proposed is a prudent step which best secures the interests of the authority.

7. Other Implications

- 7.1 **Risk Management** – Officers are confident that the four planning applications mentioned in this report can be concluded by 3 April 2015. However two of these planning applications will be determined on 9 March 2015 by the Council's Development Control Board and whilst they will be recommended for approval there is always a risk that the Board may take a contrary view.
- 7.2 **Corporate Policy and Customer Impact** – Putting back the implementation of CIL to 3 April 2015 will allow these four applications to be concluded and enable the intended S106 contributions and items to be secured to support these developments. This includes in particular substantial funds and land to mitigate the impact of these developments on school places.

- 7.3 **Safeguarding Children** – Putting back the implementation of CIL to 3 April will allow these four applications to be concluded and enable the intended S106 contributions and items to be secured to support these developments. This includes in particular substantial funds and land to mitigate the impact of these developments on school places.
- 7.4 **Property / Asset Issues** – The Council is a partner in the Gascoigne East development. Putting back the implementation date of CIL allows sufficient time for the S106 agreement to be completed. This avoids the unnecessary complication and delay of reviewing this agreement in the light of CIL charges and the possibility of having to report back to the Council's Development Control Board.

Background Papers Used in the Preparation of the Report: None

List of appendices: None