

## MAIDSTONE BOROUGH COUNCIL

### Planning, Transport and Development Overview & Scrutiny Committee

#### MINUTES OF THE MEETING HELD ON TUESDAY 15 OCTOBER 2013

**Present:** Councillors Chittenden, Mrs Gooch, Lusty,  
McLoughlin, Ross, Watson, de Wiggondene and  
Mrs Wilson (Vice-Chairman).

35. THE COMMITTEE TO CONSIDER WHETHER ALL ITEMS ON THE AGENDA SHOULD BE WEB-CAST.

**RESOLVED:** That the meeting would not be web-cast due to technical issues; there being no sound being available with the broadcast.

36. APOLOGIES.

It was noted that that apologies for absence had been received from Councillors Collins and Munford.

37. NOTIFICATION OF SUBSTITUTE MEMBERS.

It was noted that Councillor Lusty was substituting for Councillor Collins.

38. NOTIFICATION OF VISITING MEMBERS/WITNESSES.

There were no Visiting Members.

39. DISCLOSURES BY MEMBERS AND OFFICERS.

There were no disclosures.

40. TO CONSIDER WHETHER ANY ITEMS SHOULD BE TAKEN IN PRIVATE BECAUSE OF THE POSSIBLE DISCLOSURE OF EXEMPT INFORMATION.

**RESOLVED:** That all items on the agenda be taken in public as proposed.

41. MINUTES OF THE MEETINGS HELD ON 20 AUGUST, 17 SEPTEMBER AND 26 SEPTEMBER 2013.

**RESOLVED:** That the minutes of the meetings held on 20 August, 17 September and 26 September be agreed as a correct record and duly signed.

42. COMMUNITY INFRASTRUCTURE LEVY

Rob Jarman, Head of Planning and Development and Darren Bridgett, Principal Planning Officer introduced the report on Community Infrastructure Levy. The Committee was informed that what was being presented was an interim report on the Community Infrastructure Levy (CIL) and the balance of costs, costs that local policy might place on development. The proposed costs that council was seeking to implement through its plan, based on viability testing would include:

- Affordable housing
- CIL contributions
- Section 106 (S106) contributions; and
- Sustainable construction standards

Mr Bridgett highlighted the following points to the Committee:

- CIL did not replace S106, it could work alongside it;
- CIL was calculated by per metre squared;
- It was paid at the outset of a relevant development;
- Viability evidence was to be used to develop CIL in line with regulation;
- S106 could still be used but there were now restrictions in place;
- Regulation 122 in relation to S106 stated the obligation had to be:
  - 'necessary to make the development acceptable in planning terms'
  - 'directly related to the development' and
  - 'fairly and reasonably related in scale and kind to the development'
- The prime funding mechanism would be CIL, however the council might not want to set a high CIL rate if S106 could be used. This would be assessed as part of the viability assessment undertaken for developments.

The Committee questioned the process for determining the level of CIL to be charged. Mr Jarman explained that the starting point for CIL was arriving at a housing target, once that was agreed the ideal sequence of events would be for housing distribution to be addressed i.e. where development would be situated, followed by requirements for infrastructure and amenities. He informed the Committee that CIL would marry up with the Infrastructure Delivery Plan (IDP) and Integrated Transport Strategy (ITS) in time.

In response to Member's questions it was explained that once set, the CIL rate was fixed, it was not flexible but it could be reviewed, although this would involve a lengthy consultation process. Payments could not be reduced. The set CIL rate would be dependent on the type of development, or the location of the development, and would be charged by per metre squared.

It was explained that Peter Brett Associates had undertaken the Viability Assessment and the CIL rate would be based on this evidence. In line with this a lower rate would be charged for affordable housing and the redevelopment of Brownfield sites; 15%, based on viability evidence.

Viability evidence also underpins the affordable housing targets for greenfield and garden land – urban and urban periphery – 30%; and rural and rural settlements – 40%.

Members sought clarification on the 'lifetime' of S106 and CIL payments. With regards to S106 payments it was explained that Maidstone Borough Council's liability started at the end of the payment and was ongoing for a five year period to ensure the money was spent correctly. CIL was also a one off, upfront payment, but there would be no time limit. The Council could, at its discretion use a payment schedule, as is common practice with councils that have already adopted a CIL.

The Committee considered Parish Councils and Neighbourhood groups and their entitlement to a proportion of CIL funding. It considered the way in which S106 payments reflected the community need rather than the parish boundaries. Members questioned whether or not Parish Councils and Neighbourhood groups would have to spend CIL payments in line with the list of relevant infrastructure (the guidelines for which were included in the report). The Committee requested that further information be provided to it on the percentage distribution of CIL payments across the borough and how this will be managed equitably and fairly.

Members recommended the dissemination of accurate information on the Community Infrastructure Levy (CIL), by the Council, particularly in areas of the borough where there was no parish council, or recognised neighbourhood forum.

A member questioned whether or not a site where the CIL payment did not match the infrastructure requirement should be considered a viable site, and development allowed. Mr Jarman explained that the NPPF provided guidelines for obstacle planning or positive planning, however severity had to be demonstrated.

It was explained that the list infrastructure priorities for residential and non residential developments had gone to Cabinet in March. There was no limit to this list described, it was not prioritised. However, if the list was exhaustive it would close down developer contributions coming from S106, meaning that the council might have less flexibility if developers claim viability implications for their proposal. It might work better on a few, big projects.

The Committee considered recommendation 1 in the officer's report. Members sought clarification on the timescale and process going forward for CIL. Officers explained that it would be a speedy process once the housing figure had been agreed, once the housing target had been agreed the list of relevant infrastructure would also be considered. The timetable was that CIL would run alongside the Local Plan with both being submitted and adopted at the same time. It was emphasised that the Council had ensure the CIL charge was correct to ensure development did not go elsewhere (because of viability implications).

The Committee was informed that it was highly unlikely that Government would fund the gap that CIL did not cover, however local pinch point funding (government funding to support economic growth by tackling barriers on the local highway network that may be restricting the movement of goods and people<sup>i</sup>) and the New Homes Bonus as well as S106 could go toward infrastructure, among others. An estimate could not be given of the cost of infrastructure in totality.

Members commended officers on the progress made so far and asked that it be updated again in the New Year, including information on what the CIL rate might be and comparable CIL rates in other areas.

The Committee considered the second recommendation set out in the report. Members raised concerns about the ambiguity in the wording. It felt that what was presented to it was a methodology. It requested that this word be added to the recommendation for clarity and that the list of relevant infrastructure the methodology would be determining be included as part of the recommendation.

**RESOLVED:**

- a) That the Committee agree the recommendations, as set out at 1.2.2 and 1.2.3 of the report, subject to the following amended rewording of recommendation 2: That the PTD OSC recommends that the Cabinet Member for Planning, Transport and Development approves the methodology for guidelines for determining which infrastructure is included on the list of relevant infrastructure as follows:
- If it is strategic infrastructure;
  - If the cost of the infrastructure is significant;
  - If the number of development sites that should contribute to specific infrastructure exceeds the s106 pooling limit;
  - If infrastructure contributions are determined by set standards;
  - If the delivery of infrastructure is necessary before development proceeds; and
  - If applications are being submitted that require infrastructure based mitigation before the adoption of CIL.
- b) The Committee requests that further information be provided to it on the percentage distribution of CILs payments across the borough and how this will be managed equitably and fairly, especially with regards the relationship between those areas covered by ward councillors, parishes and/or residents associations and those areas where the only representation is through ward Councillors;

Furthermore, the Committee recommends the dissemination of accurate information on the Community Infrastructure Levy (CIL), by the Council, particularly in areas of the borough where there is no parish council, neighbourhood, resident or community group representation; and

- c) That a progress update on CIL be provided to the Committee at its meeting on 21 January 2014. This should include further information on what the CIL rate may be and comparable rates from other areas.

43. FUTURE WORK PROGRAMME.

The Committee considered its future work programme and its training needs particularly in relation to the Local Plan documents.

Members felt that they would benefit from a training session on CIL before it returned to the Committee in the New Year. Members stipulated that training sessions should be as close to the meeting date as possible.

The Committee were reminded to contact the Scrutiny officer for research, support and to highlight any other training needs.

**RESOLVED:** That a training session on CIL be provided to the Committee in preparation of its January meeting

44. DURATION OF MEETING.

6.30pm to 8.40pm

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<sup>i</sup> <https://www.gov.uk/government/collections/local-pinch-point-fund>