

Swindon Borough Council

Cabinet

Wednesday, 6 February 2013

Committee Room 6, Civic Offices
(Anticipated meeting room)

At 6.15 p.m. or at the Conclusion of the Cabinet Open Forum

Conservative Councillors

Roderick Bluh (Chair)
David Renard (Vice-Chair)
Mark Edwards
Fionuala Foley
Dale Heenan
Russell Holland
Brian Mattock
Garry Perkins
Vera Tomlinson
Keith Williams

Committee Officer: Ian Willcox (Telephone 01793 463601)
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Swindon, SN1 2JH (Telephone 01793 445500)

AGENDA

NOTE:

A Cabinet Open Forum is held at 6:00 p.m. prior to the start of each scheduled Cabinet Meeting. The Open Forum is similar to the 'public question time' that happens at most Council meetings but without the need for questions. It provides the chance to meet with Cabinet Members as well as Board Directors and Directors to discuss matters relevant to the Cabinet and its responsibilities. It provides an opportunity to raise issues and give views. The Forum will normally close at 6.30 pm and the Cabinet will then reconvene for the start of the formal Cabinet meeting. If the Open Forum completes its business earlier than anticipated then the Cabinet Meeting will commence at 6:15pm or at the Forum's conclusion.

PART 1 (PUBLIC ITEMS)

- 1. Apologies for Absence.**

2. Declarations of Interest.

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

3. Minutes. (Pages 1 - 18)

To receive the minutes of the meeting held on 12th December 2012.

4. Public Question Time.

See explanatory note below. Please phone the Committee Officer whose name and number appears at the top of this agenda if you need further guidance.

5. Exempt Items - Exclusion of Press and Public.

Certain items are expected to include the consideration of exempt information and the Cabinet is, therefore, recommended to resolve "That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to in the items listed below, on the grounds that they involve the likely disclosure of exempt information, as defined in the respective paragraph of Part 1 of Schedule 12A of the Act, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information".

<u>Item No.</u>	<u>Paragraph No.</u>
20	3

6. Outcome of Ofsted Inspection - Swindon's Fostering Service. BDC (CM: DR) (Pages 19 - 30)

7. Budget Management 2012/13. BDFRB (CM: ME) (Pages 31 - 44)

8. Special Expenses 2013/14. BDFRB (CM: ME) (Pages 45 - 54)

9. Budget 2013/14 and Beyond. BDFRB (CM: ME) (Pages 55 - 92)
Note: Appendix 6 is to follow.

10. Capital Programme and Treasury Strategy Statement 2013/14. BDFRB (CM: ME) (Pages 93 - 116)

11. Housing Revenue Account - Revenue and Capital Investment Budget 2013/14. BDSD (CM: RH) (Pages 117 - 140)

12. A Community Infrastructure Levy for Swindon. HP (CM: DH) (Pages 141 - 198)

13. City Deal Round 2. HCEA (CM: GP) (Pages 199 - 202)

14. Devolved Major Transport Scheme Funding - Establishment of the Swindon and Wiltshire Local Transport Body. HCEA (CM: KW) (Pages 203 - 226)

15. Swindon Borough Neighbourhood Planning Protocol. HP (CM: DH) (Pages 227 - 266)

16. Pay Policy Statement 2013/14. HPC (CM: FF) (Pages 267 - 280)

17. Events in Parks and Open Space Guidance. HPPS (CM: FF / VT)

(Pages 281 - 306)

18. Motion at Council - Green Waste Collections. HPPS (CM: FF)
(Pages 307 - 314)

19. Wichelstowe Development Delivery Strategy. BDTSP (CM: ME) OT; WW;
(Pages 315 - 324)

PART 2 (TO BE CONSIDERED WITHOUT THE PRESS AND PUBLIC PRESENT)

NOTIFICATION OF EXECUTIVE DECISIONS CONTAINING EXEMPT INFORMATION TO BE CONSIDERED IN PRIVATE AND AS A MATTER OF URGENCY (Pages 325 - 326)

**20. University Technical College Swindon - Building Contract and Use of
Contributory Council Funding.** HCEA (CM: DR) (Pages 327 - 336)

Date of Despatch: 29 January 2013

Key:

Officers:

CE	-	Chief Executive
BDL	-	Board Director Localities
BDTSP	-	Board Director Transformation and Strategic Projects
BDC	-	Board Director Commissioning (DCS/ DASS)
BDS	-	Board Director Service Delivery
BDFRB	-	Board Director Finance, Revenues, Benefits and Property
STPD	-	Stronger Together Programme Manager
DPH	-	Director of Public Health
DLDS	-	Director of Law and Democratic Services
HP	-	Head of Planning
HCEA	-	Head of Commissioning – Economy and Attainment
HPPS	-	Head of Public Protection and Streetsmart

Wards

OT	-	Old Town
WW	-	Wroughton and Wichelstowe

Cabinet Members Responsible for the Service Area concerned:

RB	-	Roderick Bluh	Leader of the Council and Chair of Cabinet
DR	-	David Renard	Deputy Leader of the Council and Cabinet Member for Children's Services
ME		Mark Edwards	Cabinet Member for Finance
FF	-	Fionuala Foley	Cabinet Member for Streetsmart and Corporate Services
DH	-	Dale Heenan	Cabinet Member for Strategic Planning and Sustainability
RH	-	Russell Holland	Cabinet Member for One Swindon, Localities and Housing
BM	-	Brian Mattock	Cabinet Member for Health and Adult Social Care
GP	-	Garry Perkins	Cabinet Member for Regeneration and Culture
VT	-	Vera Tomlinson	Cabinet Member for a Safer and Stronger Borough
KW	-	Keith Williams	Cabinet Member for Leisure and Strategic Transport

Public Question Time - Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.

Access Arrangements - The venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Officer, whose name appears at the top of this agenda, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

Key:

Officers:

Chief Executive	CE
Board Director: Law and Democratic Services	SD
Board Director: Planning and Strategic Projects	SD
Board Director: Community Development (DCS: DCS)	SD
Board Director: Social and Community Development	SD
Board Director: Finance, Revenue and Property	SD
Strategic Planning Programme Manager	SD
Director of Public Health	SD
Director of Law and Democratic Services	SD
Head of Planning	SD
Head of Commissioning - Economy and Environment	SD
Head of Public Protection and Sustainability	SD

Old Town

Wroughton and Westbury

Cabinet Members Responsible for the Service Area concerned:

Leader of the Council and Chair of Cabinet	Robert Birch	25
Deputy Leader of the Council and Cabinet Member for Children's Services	David Peters	26
Cabinet Member for Finance	Mark Edwards	27
Cabinet Member for Strategic Planning and Sustainability	Richard Foley	28
Cabinet Member for One Swindon Localities and Housing	Dale Hannan	29
Cabinet Member for Health and Adult Social Care	Russell Holland	30
Cabinet Member for Regeneration and Culture	Brian Mawson	31
Cabinet Member for Senior and Strategic Services	Gary Perkins	32
Cabinet Member for Leisure and Strategic Services	Vera Tomlinson	33
	Kath Williams	34

A Community Infrastructure Levy for Swindon

Cabinet

Date: 6th February 2013

Author:	Cabinet Member for Strategic Planning and Sustainability Head of Planning
Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 The Community Infrastructure Levy ('CIL') allows local planning authorities to raise funds from developers who are undertaking new building projects in their area. The funds raised will go towards infrastructure that is needed to support the growth of Swindon, such as schools and transport improvements.
- 1.2 Swindon Borough Council has completed a consultation on its Preliminary Draft Charging Schedule, and this report presents the findings and recommends key changes in light of the public comments and additional evidence gathered.

To present the Community Infrastructure Levy (CIL) Draft Charging Schedule and supporting documents for approval for public consultation and subsequent submission for independent Examination.

2. Recommendations

That Cabinet approves that:

- 2.1 A geographical 'zoning' approach is adopted for residential rate setting to ensure the maximum possible funds can be raised to pay for infrastructure in new communities
- 2.2 The Swindon Community Infrastructure Levy Draft Charging Schedule, supporting documents, and any other relevant evidence based documentation relied on in the preparation of the Draft Charging Schedule be subject to public consultation, in accordance with the arrangements set out in paragraphs 3.17 and 3.19.
- 2.3 The Head of Planning be authorised to undertake this consultation for a minimum period of six weeks.
- 2.4 The Head of Planning, in consultation with the Director of Law and Democratic Services and the Cabinet Member for Strategic Planning and Sustainability, be authorised to make factual or typographical amendments to the Draft Charging Schedule and associated documentation prior to consultation, including any that

Further information on the subject of this report can be obtained from Sarah Screen, 01793 466397, sscreen@swindon.gov.uk.

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may arise from ongoing evidence gathering prior to publication, where they do not alter the broad principles of the Schedule.

- 2.5 The Head of Planning, in consultation with the Director of Law and Democratic Services and the Cabinet Member for Strategic Planning and Sustainability, be authorised to undertake modifications to the Draft Charging Schedule (where necessary) following consultation prior to and/or subsequent to submission of the Draft Charging Schedule for examination.
- 2.6 The Head of Planning, in consultation with the Director of Law and Democratic Services, be authorised to submit the Draft Charging Schedule, and non-substantive modifications if appropriate, and supporting evidence for independent Examination.
- 2.7 Any additional evidence that may be needed to support the Draft Charging Schedule be produced by the Head of Planning and made available at Examination.

3. Background

- 3.1 The Council is preparing a Community Infrastructure Levy (CIL) to secure continued financial contributions from new development to help to fund infrastructure. It is anticipated that CIL will generate approximately £12million over the period to 2026 to help fund the Borough's infrastructure needs. This figure will not fill the Council's funding gap identified in the Infrastructure Delivery Plan, but it will make a contribution to it. Without CIL, we would not be able to generate the estimated £12 million contributions that it would bring in. Given the infrastructure funding gap that will exist even with the adoption of CIL, it will be necessary for the Council to put in place the process for prioritising the future allocation of CIL receipts.
- 3.2 In addition to CIL, financial contributions secured by way of planning obligations under section 106 agreements (s106) will continue to operate as a mechanism to help deliver site specific infrastructure. The bulk of the infrastructure within Swindon's New Communities (strategic sites) will continue to be delivered by way of s106. In addition, we will still be able to secure S106 contributions for development-specific infrastructure improvements on all schemes, where they are required.
- 3.3 The Council has already undertaken its first round of public consultation on the CIL and is required to undertake a second round of consultation before it can submit the CIL Draft Charging Schedule for independent Examination. This report summarises the consultation responses and how they have informed the Draft Charging Schedule.

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Legislative Changes

- 3.4 The Government has very recently amended legislation, regulations and guidance regarding CIL. We are now required to publish an explanation of how our approach balances the delivery of affordable housing and the cost of infrastructure that would continue to be funded through S106 obligations.

Inspectors' decisions

A number of Examinations of CIL Charging Schedules have taken place since we consulted on the Preliminary Draft Charging Schedule. Inspectors' Reports have highlighted a number of issues regarding the Charging Authorities' approaches to rate setting. Information contained within these reports, along with clarity on approach published by Government in December 2012, has led to a review of our approach, leading to the gathering of further evidence to inform its Draft Charging Schedule.

Consultation Responses

- 3.5 The Council received 36 representations during the Preliminary Draft Charging Schedule consultation, mainly from representatives of the development industry. The most important messages were that:
- The Levy on supermarket retail is too high.
 - The 850 dwelling threshold above which S106 would be used is too high or that the threshold approach is not appropriate.
 - The Levy for hotel use is not appropriate.
 - Traditional retail should not be charged a CIL rate.
 - Leisure use should not be charged a CIL rate.
 - CIL viability testing should reflect the affordable housing targets as set out in the draft Local Plan.

- 3.6 A full summary of representations received is provided at Annex 1.

Viability

- 3.7 In response to the recent changes in the Regulations and to the consultation outcomes, additional evidence has been gathered to inform the approach to the setting of rates for retail and residential development on the strategic sites (Swindon's New Communities).

Residential

- 3.8 This work has provided justification to adopt a geographical 'zoning' approach to residential rate setting using the New Communities development boundaries as set out in the draft Swindon Borough Local Plan 2026. In these areas CIL would

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be charged at £0 per sq.m, to allow full contributions to be negotiated through S106 for on-site and bespoke infrastructure.

Charges for Retail, Hotel and Leisure

- 3.9 Representations were received on the fragility of the retail sector and decline of the High Street. The original evidence by GVA indicated that Swindon Town Centre retail was marginally viable. However, with the continued rise in retail vacancy rates in the town centre, it has been concluded that the imposition of an additional financial burden has the potential to render new retail development in the Town Centre unviable. Similarly, with respect to hotel and leisure uses, the evidence indicates that viability is marginal for these uses and a small increase in costs of hotel and leisure schemes would render them unviable. The final drafted reports on these types of development will be complete in advance of consultation; however the evidence indicates strong support to justify the approach being taken. Any amendment to the Schedule would be anticipated to be minor, and should be delegated to the Head of Planning in consultation with the Director of Law and Democratic Services and the Cabinet Member for Strategic Planning and Sustainability.

Clarity of the Charge

- 3.10 Recent Inspectors' comments in CIL Examination Reports have highlighted the importance of ensuring that there is no ambiguity in definitions of the types of development that are CIL liable. Representations received commented that some of the definitions in the Preliminary Draft Charging Schedule were not appropriate. It is proposed, that our Charging Schedule should be simplified to avoid any accusations of ambiguity.

Draft Charging Schedule Framework

- 3.11 Taking all of these factors into account, it is proposed to use the following approach to rate setting;
- 3.11.1 Residential: The use of geographical boundaries to differentiate residential charge rates for new communities from the rest of the Borough. This replaces the previously consulted '850 dwelling threshold' and will cover all new communities as defined in the Draft Local Plan. This will split the Borough into two Zones for CIL Charging on residential development.
- 3.11.2 Retail: Simplifying the definition of retail and use of geographical boundaries to set differential rates. This results in the zero rating of retail within parts of Swindon Town Centre. This will split the Borough into two Zones for CIL Charging on retail development.

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3.11.3 Hotel and Leisure: The zero rating for hotel and leisure use Borough-wide is introduced, replacing the nominal charge in the Preliminary Draft Charging Schedule proposed.

3.12 The proposed CIL rates are set out below. The Draft Charging Schedule is available at Appendix 1:

<i>Development type</i>	<i>Proposed CIL rate per Sq. m.</i>
Residential Zone 1: Swindon's New Communities	£0*
Residential Zone 2: Rest of Borough (excluding New Communities)	£55
Retail Zone 1: Town Centre	£0
Retail Zone 2: Rest of Borough (excluding Town Centre)	£100
All other uses	£0

Notes

*In the Strategic Expansion Areas, developer contributions will continue to be secured by S106.

Residential is defined as any use falling within Class C3 of the Town & Country Planning Use Classes Order 1987 (as amended).

Retail is defined as any retail use falling within Class A of the Town & Country Planning Use Classes Order 1987 (as amended) including sui-generis uses i.e. Shops selling and/or displaying motor vehicles, retail warehouse clubs, launderettes, taxi or vehicle hire businesses, amusement centres, petrol filling stations.

Infrastructure Delivery and the Funding Gap

3.13 Government guidance requires us to demonstrate that a 'funding gap' exists, in order to justify the CIL charge. Swindon's Infrastructure Funding Gap Analysis is provided at Annex 2, and demonstrates that CIL receipts will be needed to help fund the infrastructure required to support the development proposed within the draft Swindon Borough Local Plan 2026.

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Regulation 123 List

- 3.14 Recent legislative changes require us to identify which types of infrastructure may continue to be funded by means of Section 106 Planning obligations and which types or items of infrastructure are proposed to be funded by CIL receipts.
- 3.15 This information must be provided in the form of a 'Regulation 123' list containing those projects or types of infrastructure that CIL receipts could be used to fund. The Draft Regulation 123 list at Annex 3 has been informed by the infrastructure priorities contained within the Council's 'Infrastructure Delivery Plan'. CIL is not expected to fund all of the projects on this list, but if a project is omitted, then CIL will not be able to contribute to it. After publication to support the Draft Charging Schedule consultation, any changes to the List are likely to need separate local consultation.
- 3.16 To inform the Examination, the Council is also required to set out how our planning policies and guidance will be updated to meet with new regulatory requirements over the use of Section 106 Planning obligations. A replacement for the Developer Contributions Development Control Guidance Note (November 2010) is currently in preparation. It will take the form of a Supplementary Planning Document 'SPD', which will be considered by the Planning Committee in the spring.

Next Steps

- 3.17 Upon approval, the Draft Charging Schedule and accompanying documents would be made available for public consultation for a minimum period of six weeks as soon as is practicable. Notification of the consultation would be distributed to a range of consultees, including developers, parish and community councils. The Draft Charging Schedule would be made available for inspection at the Council's Wat Tyler House reception, and on the Council's website. A public notice will be published in the local newspaper.
- 3.18 Following closure of the consultation, Officers will manage any responses received prior to submitting the Draft Charging Schedule and accompanying evidence for independent Examination. During this process, there may be a need for non-substantive modifications to be made to the charging schedule.
- 3.19 If the Inspector's report is in support of our proposed Charging Schedule, the Charging Schedule would be submitted to the Cabinet and Full Council for adoption. The CIL Project Programme Timetable is provided at Annex 4.

4. Alternative Options

- 4.1 The introduction of CIL is a decision to be taken by local authorities as its implementation is not compulsory. The Council could decide not to adopt CIL and

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continue to rely on negotiating individual Section 106 Agreements to deliver infrastructure. However, the inability to 'pool' Section 106 monies in the way we do now would result in diminishing returns meaning that we would lose out on an estimated £12 million with the consequence that essential infrastructure would not be delivered. Relying solely on Section 106 monies may also result in more legal challenges and will place a larger administrative burden on the Council in securing and managing legal agreements.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 The financial implications arising from publishing and consulting on the Swindon Borough CIL Draft Charging Schedule are to be met from existing budgets for 2012/2013.
- 5.2 The Regulations permit up to 5% of CIL receipts to be used to implement and administer CIL. Costs incurred in the preparation of the Swindon CIL can therefore be recovered from future CIL receipts.
- 5.3 CIL receipts will not fully mitigate against the reduction in the level of receipts that would previously have been expected through Section 106 Planning Obligations, and will not fund all schemes in the Regulation 123 List.
- 5.4 The main risk to the project is the ability to adopt CIL by 6 April 2014 (when Section 106 cannot be used to pool large numbers of contributions).
- 5.5 A recent Ministerial announcement indicates that 15% of CIL receipts are intended to go directly to the affected community, rising to 25% if that Community has an adopted Neighbourhood Plan (subject to detail). The Government has not yet announced how these monies should be disseminated to affected communities, and how these communities are comprised outside of parished areas.

Legal and Human Rights Implications

- 5.6 Legal and Human Rights considerations have been taken fully into account in compiling this report. It is considered that the recommendations of this report are compatible with Convention Rights.
- 5.7 The publication and adoption of the Community Infrastructure Levy is a process covered by the Planning Act 2008 (as amended by the Localism Act 2011) and associated CIL Regulations 2010 (as amended).

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All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.8 There are no direct staff implications arising from this report.
- 5.9 CIL receipts may help fund essential health, emergency services and other infrastructure in the Borough.

Links to One Swindon, Strategic Objectives, Plans and Policies

- 5.10 The Community Infrastructure Levy will have key role in implementing the Local Plan which in turn reflects the wider priorities of the Council contained within One Swindon and in particular 'I like where I live' and 'We can all benefit from a growing economy and a better Town Centre'.

Diversity Impact Assessment

- 5.11 A Diversity Impact Assessment (DIA) has been completed. No adverse or other significant issues were found. A copy of the DIA is available from the report author.

Risk Management

- 5.12 A Risk Assessment has been undertaken for this project. In addition, CIL is now the subject of internal audit to flag risks associated with the adoption programme.

6. Consultees

- 6.1 The Board, Finance, Revenues, Benefits and Property (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.
- 6.2 The Swindon Developers Delivery Panel (including FSL) has been consulted

7. Background Papers

Swindon Borough Local Plan 2026 Pre-submission Document December 2012

SBC CIL Preliminary Draft Charging Schedule Public Consultation 30th July (2012)

8. Appendices

Appendix 1: Community Infrastructure Levy: Draft Charging Schedule (January 2013)

Further information on the subject of this report can be obtained from Sarah Screen, 01793 466397, sscreen@swindon.gov.uk.

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Annexes

Annex 1: SBC Preliminary Draft Charging Schedule Representations Overview (February 2013)

Annex 2: Swindon Infrastructure Funding Gap Analysis 2013

Annex 3: Draft Regulation 123 list (2013)

Annex 4: CIL Project Programme Timetable

9. Key Decision/Decision in Forward Plan

- 9.1 This is a not a key decision (as the decision will be made by full Council) and is included in the Cabinet work Programme / Forward Plan for February 2013.

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