

# Cabinet

12 March 2024

## Community Infrastructure Levy – Exceptional Circumstances Policy for the Purbeck area

### For Decision

**Portfolio Holder:** Cllr D Walsh, Planning

**Local Councillor(s):** ALL

**Executive Director:** Jan Britton, Executive Lead for Place

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**Report Status:** Public Exemption paragraph not required

### Brief Summary:

The Purbeck Community Infrastructure Levy (CIL) charging schedule is one of four adopted CIL charging schedules operated by Dorset Council as the Charging Authority. The charging schedules enable Dorset Council to secure financial contributions from development to support the delivery of infrastructure.

The adopted charging schedule for Purbeck has operated since 2014. Each year the charging schedule rates are adjusted to take account of inflation and changing build costs. The rise in construction costs and land values has meant a steady uplift in the rates over the course of the last eight years but despite the rise, many development sites through the Adopted Purbeck Local Plan Part 1 and Swanage Local Plan have come forward successfully when charged CIL.

Since 2019, a revised charging schedule for Purbeck has been under examination alongside the examination draft Purbeck Local Plan (2018-2034). In most areas, the revised charging rates proposed through the replacement schedule are lower than those in the adopted charging schedule.

The revised draft charging schedule has been based on viability evidence developed prior to examination submission and proposes the introduction of a bespoke charging arrangement to help facilitate the delivery of sites allocated in the draft Purbeck Local Plan.

With rising infrastructure demands, it is estimated that the draft charging schedule will not provide sufficient CIL income to meet strategic infrastructure needs across Dorset. It is also predicted that a continuation of the adopted charging schedule could render allocated sites in the emerging Purbeck Local Plan unviable.

With the adopted charging schedule having a proven track record of facilitating development, it is recommended that Dorset Council continues to operate the existing charging schedule until a Dorset-wide charging schedule is adopted, and withdraws the draft Community Infrastructure Levy charging schedule from examination by the Planning Inspectorate.

To ensure that the continued operation of the adopted charging schedule does not undermine the delivery of allocated development sites identified in the Purbeck Local Plan, it is recommended that Dorset Council introduces an Exceptional Circumstances Relief policy – a discretionary form of CIL relief available through the CIL regulations where charging authorities may offer relief from the levy in exceptional circumstances where a person responsible for a specific scheme cannot afford to pay the levy, provided certain conditions and criteria are met.

**Recommendation:**

That Dorset Council withdraws the draft revised Community Infrastructure Levy charging schedule from public examination.

That an Exceptional Circumstances Relief policy for the Purbeck charging area as set out in Appendix A is agreed, and authority be given to publish the policy in order to operate exceptional circumstances relief for that area.

That the Head of Planning is given delegated authority to determine applications for exceptional circumstances relief.

**Reason for Recommendation:**

**1. Report**

1.1 Community Infrastructure Levy (CIL) operates as a planning tool to support the delivery of infrastructure which is required as result of development. Across Dorset Council, four charging areas currently operate, each with its own [adopted charging schedule](#). These charging

schedules adopted by the relevant predecessor councils prior to Local Government Reorganisation in April 2019.

- 1.2 The levy requires a person responsible for a particular development scheme to pay a financial charge, which is non-negotiable. Financial charges differ by charging area and apply to different forms of development. The charge is based on the net additional floorspace created through the development.
- 1.3 Community Infrastructure Levy has close ties to the production and operation of Local Plans. The National Planning Policy Framework (NPPF) requires that plans should set out the contributions expected from development. Such policies should not undermine the delivery of the local plan.
- 1.4 At present, the local plans adopted by the predecessor councils have been carried forward as policies which Dorset Council uses when assessing planning applications. These existing adopted local plans will remain as the statutory development plans for their areas until replaced by a new Dorset Council Local Plan. However, separate to this, the Purbeck Local Plan (Part 1) is being reviewed, with examination of the plan having commenced in January 2019.
- 1.5 Examination hearings have taken place for the Purbeck Plan along with a series of consultations on modifications. The Purbeck Plan Review examination is expected to conclude in Spring 2024, with adoption in Summer 2024.
- 1.6 The Purbeck Local Plan contributes to at least three of the council's strategic priorities: driving economic prosperity through safeguarding key employment sites; encouraging development, particularly housing, in sustainable locations; and protecting our natural environment. Completing the examination of the Purbeck Local Plan will enable the release of land for planned housing development and help meet identified housing need. Without the land being released for development, housing delivery targets for Purbeck, and more widely Dorset, may not be met, leading to a presumption in favour of sustainable development, and a weakening of the plan-led system.
- 1.7 [A revised CIL charging schedule for Purbeck](#) has been prepared alongside the review of the Purbeck Local Plan. The schedule was submitted for examination in 2019. Examination hearings for the CIL charging schedule are currently programmed to follow the conclusion of the Purbeck Plan

examination. The viability evidence that underpins the proposed revised CIL charging schedule is however now five years old, meaning that this evidence is no longer up to date. Updated evidence is likely to be required for the examination of the charging schedule.

- 1.8 Differential rates are set across the charging area. In relation to the sites covered by the exceptional circumstances relief policy set out in this report, the revised charging schedule rates are lower than the adopted charging schedule rates. The revised draft charging schedule is based on viability evidence developed prior to examination submission in 2019 and proposes the introduction of charging arrangement whereby sites allocated in the draft Purbeck Local Plan are zero-rated (£0) or pay a low rate of CIL and are expected to provide site specific infrastructure and some habitats mitigation through section 106 legal agreements. This approach reflects the additional site/development costs of larger strategic sites, the requirements for sites of a certain size to deliver bespoke habitat regulations mitigation and the introduction of additional planning obligations in the draft Purbeck Local Plan (2018-2034) (compared with the adopted Purbeck Local Plan Part 1). The additional requirements for all sites include an educational contribution, a health contribution, and accessibility requirements M4(2). With the exception of the Rural Centre and Upton areas, the revised draft CIL charging schedule would maintain the CIL charging rates for infill and windfall development at the same levels as those in the current charging schedule adopted in 2014 without the addition of the subsequent annual indexing uplift.
- 1.9 These measures were intended to support the delivery of allocated sites, but in the reality of a much-changed financial environment, they are likely to result in a significant reduction in overall CIL income reducing the ability for Dorset Council to deliver strategic infrastructure needs.
- 1.10 With the data and assumptions used to inform the draft charging schedule now regarded as out of date, it would take considerable time, money and resources to update the draft charging schedule. The council would need to publicise this evidence and give interested parties the opportunity to make comments on this evidence as part of the examination process. There is a possibility that the updated evidence would no longer justify the proposed charging schedule which guided the planning policies and development strategies in the emerging local plan. Updating the evidence and continuing with the charging schedule's examination is likely to cause delay and could undermine the adoption of the Purbeck Local Plan.

- 1.11 To avoid delay and maintain the delivery of the Purbeck Local Plan development strategy, an exceptional circumstances relief policy for CIL is proposed which will allow the larger allocated development sites to come forward as soon as the Purbeck Local Plan is adopted. This would have the benefit of helping the council meet the housing target for the area, rather than the delay and additional cost that would result from updating and adopting a new CIL charging schedule for Purbeck ahead of a new Dorset CIL charging schedule.
- 1.12 Exceptional circumstances relief is a form of [discretionary CIL relief](#) charging authorities can introduce to consider applications for relief in exceptional circumstances where a person responsible for a specific scheme can't afford to pay the levy. This form of relief is commonplace amongst charging authorities. Elsewhere in Dorset, exceptional circumstances relief was established for the Weymouth & Portland charging area in 2016 to support the transition to a CIL regime following implementation.
- 1.13 Conditions apply to whether relief can be granted:
- a section 106 legal agreement must exist in relation to the planning permission permitting the chargeable development; and
  - the charging authority must consider that paying the full levy would have an unacceptable impact on the development's viability.
- 1.14 Appendix A sets out Dorset Council's proposed exceptional circumstances relief policy for the Purbeck area. It is written under the framework of Purbeck Local Plan Policy V1 – the Purbeck Local Plan Spatial Strategy for Sustainable Communities. As such, the availability of CIL relief will be explicitly limited to the sites identified in this policy as well as neighbourhood plan allocations of around 50 dwellings or more and extra care facilities at Wool and Moreton Station / Redbridge Pit. Exceptional Circumstances Relief can only be applied for where development has not commenced.
- 1.15 Where exceptional circumstances relief is applied for, an independent economic viability assessment will be required to demonstrate how the levy has an unacceptable impact on the viability of development. This assessment will need to be undertaken by an independent person in agreement with the Council.

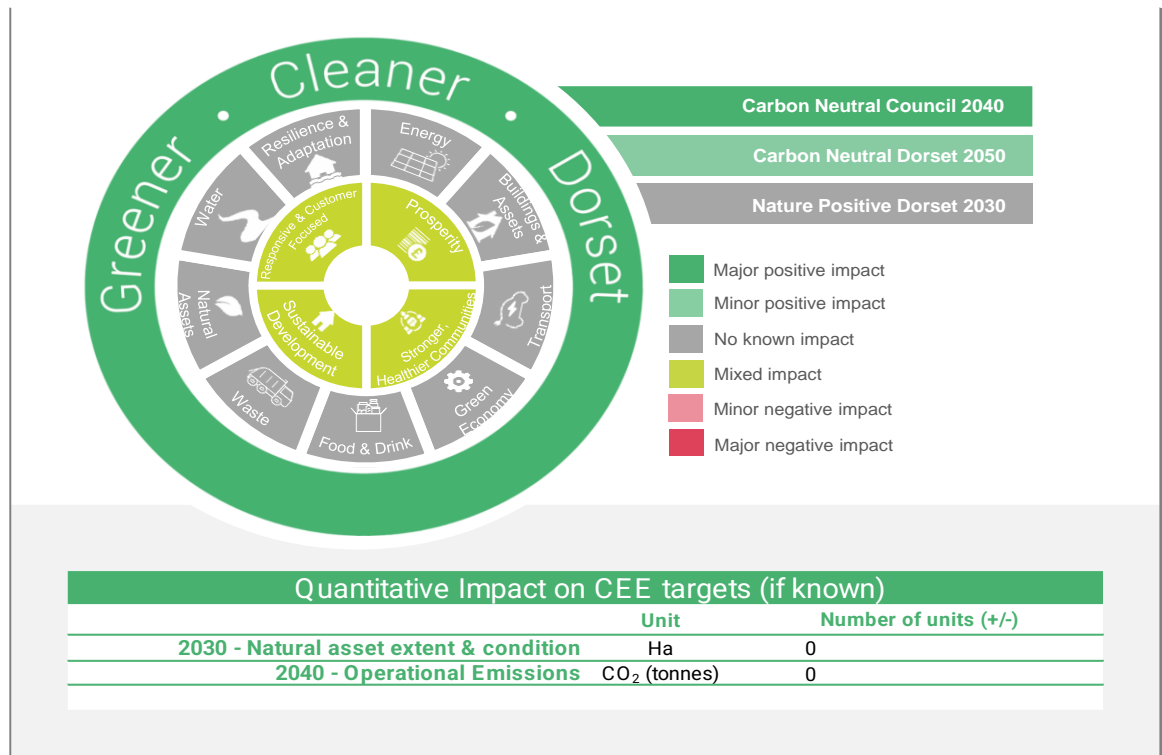
- 1.16 Relief may be granted for all or part of the liability in relation to chargeable development. This can mean the whole development or part of a scheme where a development proceeds in phases as separate chargeable developments.
- 1.17 Even when exceptional circumstances relief is available, each case will be considered individually, and it is at Dorset Council's discretion to apply relief in that case or not.
- 1.18 It is proposed that the policy will come into effect at a date agreed by the Head of Planning in consultation with the Portfolio Holder for Planning. The earliest point at which this will occur is post-adoption of the Purbeck Local Plan.

## **2. Financial Implications**

- 2.1 Where granted, exceptional circumstances relief can result in a reduction or total loss of CIL on a chargeable development. Potential losses will be limited to those sites allocated for new homes through the policy in the emerging Purbeck Local Plan where the revised CIL charging schedule was proposing a specific charging rate.
- 2.2 The introduction of this policy would avoid further expenditure on updated viability evidence, as well as costs associated with the continued examination of the CIL charging schedule including consultation and hearing sessions, whilst securing housing land supply and supporting delivery of homes in this part of Dorset.

## **3. Natural Environment, Climate & Ecology Implications**

- 3.1 Where justified, the application of exceptional circumstances relief will enable the delivery of site-specific environmental measures/infrastructure for local plan housing allocations whilst allowing the council to apply the existing CIL charging rate elsewhere. Receipts collected through the existing CIL charging scheme will contribute to strategic infrastructure relating to the natural environment and climate change.



#### 4. Well-being and Health Implications

4.1 Where justified, the application of exceptional circumstances relief will enable delivery of site-specific infrastructure to support health and wellbeing of those occupiers of local plan housing allocations whilst allowing the council to apply the existing CIL charging rate elsewhere.

#### 5. Other Implications

5.1 The grant of full or partial relief from CIL could still result in residual viability concerns. This may have a bearing on the proportion of affordable housing and other site-specific s106 requirements being negotiated downwards. Engagement with representatives of site allocations has helped inform the report and processes herein.

5.2 Officers will review the implications of this decision over the course of time.

#### 6. Risk Assessment

6.1 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

**7. Equalities Impact Assessment**

- 7.1 The recommendation to withdraw the draft charging schedule from examination and introduce the exceptional circumstances policy is not expected to have a bearing on protected characteristics. The recommendation is purely an operational decision linked to the ongoing examination of planning policy documents for Purbeck.

**8. Appendices**

Appendix A - Proposed CIL Exceptional Circumstances Relief Policy

Appendix B - Accessible Impact Assessment & Table of Recommendations

**9. Background Papers**

Purbeck Community Infrastructure Levy Adopted Charging Schedule (2014)

Purbeck Community Infrastructure Levy Draft Charging Schedule (2019)

**10. Report Sign Off**

- 11.1 This report has been through the internal report clearance process and has been signed off by the Director for Legal and Democratic (Monitoring Officer), the Executive Director for Corporate Development (Section 151 Officer) and the appropriate Portfolio Holder(s)