

**Breckland Community Infrastructure Levy (CIL) – Preliminary draft
Charging Schedule**

Environmental Assessment of Plans and Programmes Regulations 2004

Regulation 9 - Statement of determination

1.1 This statement outlines the Council's determination under Regulation 9 (1) of The Environmental Assessment of Plans and Programmes Regulations 2004 on whether a Strategic Environmental Assessment (SEA) is required, for a Community Infrastructure Levy (CIL) Charging Schedule.

1.2 The requirement for SEA is assessed under Regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004.

Strategic Environmental Assessment

1.3 Under the requirements of the European Union Directive 2001/42/EC (Strategic Environmental Assessment (SEA) Directive) and Environmental Assessment of Plans and Programmes Regulations (2004) specific types of plans that set the framework for the future development consent of projects must be subject to an environmental assessment.

1.4 There are exceptions to this requirement for plans that determine the use of a small area at a local level and for minor modifications if it has been determined that the plan is unlikely to have significant environmental effects.

1.5 In accordance with the provisions of the SEA Directive and the Environmental Assessment of Plans and Programmes Regulations (2004) (Regulation 9(1)), the Council must determine if a plan requires an environmental assessment.

Sustainability Appraisal

1.6 Under separate legislation (the Planning and Compulsory Purchase Act 2004 and associated Regulations), the Council is required to carry out a Sustainability Appraisal (SA) for all Development Plan Documents. This considers the social and economic impacts of a plan as well as the environmental impacts.

1.7 In accordance with current Regulations (Town & Country Planning (Local Development)(England)(Amendment) Regulations 2009) SA is required for Development Plan Documents (DPD) but not other lower level documents.

The SEA Screening Process

1.8 The process for determining whether or not an SEA is required is called screening. In order to screen, it is necessary to determine if a plan will have significant environmental effects using the criteria set out in Annex II of the Directive and Schedule I of the Regulations. A determination cannot be made until the three statutory consultation bodies have been consulted: The Environment Agency, Natural England and English Heritage.

1.9 Within 28 days of making its determination, the authority must publish a statement, such as this one, setting out its decision. If it determines that an SEA is not required, the statement must include the reasons for this.

Background to the Community Infrastructure Levy

1.10 The ability of Local Authorities to secure payments from development to provide infrastructure needed to support growth is currently by planning obligations under Section 106 of the Town & Country Planning Act 1990.

1.11 The Community Infrastructure Levy (CIL) Regulations came into force on 6th April 2010 and set out how and when payments for infrastructure projects will be collected from developments in the future. The CIL Regulations make provision for adoption of a local CIL charging schedule which is used to determine payments, based on gross

internal floorspace after deducting any floorspace lost to demolition. However should a CIL charging schedule not be adopted by April 2014, then under the CIL Regulations the Borough Council's ability to seek S106 payments for infrastructure is considerably reduced.

1.12. The CIL Regulations make provision for differential charging rates across local authority areas and rates that vary according to land use and location is likely to be the case in Bracknell Forest with a CIL charging schedule giving borough wide coverage. Any variations in rates must be based solely on viability and cannot be used as a policy tool.

1.13. The Council plans to adopt a CIL charging schedule in 2013.

SEA Determination and Reasons for Determination

1.14. Before making a determination under Regulation 9(1), in accordance with Regulation 9(2) the three consultation bodies were consulted. The responses received are set out in Table 1.0 below:

| Consultation body | Response received from Consultation body |
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| <p>Natural England (Janet Nuttall) – 03.12.12</p> | <p>Thank you for your letter dated 29th October 2012, seeking Natural England's formal opinion as to whether SEA and HRA is required for its CIL Charging Schedule.</p> <p>As you know, Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.</p> <p>Unfortunately Natural England cannot legally give an opinion on whether an SEA is required for a particular plan or strategy, but rather at the screening stage identifies what risks there will be to our interests in the natural environment (as set out in the ODPM SEA Best Practice Guide).</p> <p>The SEA Screening Report identifies that the CIL is not a plan or programme but a financial tool. The CIL charge can be used to avoid impacts to N2K sites, for example by providing monies towards mitigation to off-set recreational impacts; however, it does not set the policy framework for individual projects or the framework for avoiding infrastructure and is therefore unlikely to give rise to significant environmental effects.</p> <p>Based on the above it seems reasonable to conclude that the Breckland CIL itself is unlikely to result in significant adverse environmental effect, including impact on N2K sites. It therefore seems unlikely that the plan will need to be subject to further detailed assessment, including Appropriate assessment. We would, of course, expect the CIL to include sufficient provision to enable the delivery of any infrastructure identified as necessary to mitigate adverse effects on the natural environment, including N2K sites.</p> |
| <p>Environment</p> | <p>I'm e-mailing in relation to your enquiry into the SEA / HRA</p> |

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| <p>Agency (Adam Ireland) – 03.12.12</p> | <p>Screening for the CIL Draft Charging Schedule. We are in agreement that the draft charging schedule, by it's nature of not defining development plans or projects, should NOT be required to be accompanied by an SEA or HRA report.</p> <p>I would like to take this opportunity to request that we be consulted on the proposed types of infrastructure to benefit from CIL funding. We are particularly keen to utilise this opportunity to investigate the potential for environmental improvements, especially in relation to issues of water quality and ecology. This would be through the identification of potential riverine improvements that could be delivered to meet EU Water Framework Directive aims (http://www.environment-agency.gov.uk/research/planning/33106.aspx).</p> <p>If you have any further queries then please do not hesitate to contact me.</p> |
| <p>English Heritage (Tom Gilbert-Wooldridge) – 03.12.12</p> | <p>I refer to your letter of 29 October 2012 and the enclosed Screening Opinion for the above document. For the purposes of this consultation, English Heritage will confine its advice to the question, “Is it likely to have a significant effect on the environment?” in respect of our area of concern, cultural heritage. Our comments are based on the information supplied with the Screening Opinion.</p> <p>The Screening Statement indicates that the Council considers that the charging schedule will not affect any ‘special natural characteristics or cultural heritage’ in the area. On the basis of the information supplied, and in the context of the criteria set out in Schedule 1 of the Environmental Assessment Regulations [Annex II of ‘SEA’ Directive], English Heritage believes that the preparation of a Strategic Environmental Assessment is not required in so far as it relates to cultural heritage matters. The views of the other two statutory consultation bodies should be taken into account before the overall decision on the need for an SEA is made.</p> <p>I should be pleased if you can send a copy of the determination as required by Regulation 11 of the Environmental Assessment of Plans and Programmes Regulations 2004.</p> <p>We should like to stress that this opinion is based on the information provided by you with your letter. To avoid any doubt, this does not reflect our obligation to provide further advice on later stages of the SA/SEA process and, potentially, object to specific proposals which may subsequently arise (either as a result of this consultation or in draft versions of the charging schedule) where we consider that there would be an adverse effect upon cultural heritage matters/</p> <p>We hope that the above comments are of assistance. Please let me know if you have any queries. We look forward to consultation on the draft charging schedule in due course.</p> |

Table 1.0 – Responses received from Statutory bodies.

Determination

1.16 This statement sets out the Council's determination under Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004 on whether or not a SEA is required for the Council's CIL Charging Schedule.

1.17. Appendix 1 sets out the process for determining if the CIL Charging Schedule will have significant environmental effects using the criteria set out in Annex II of the Directive and Schedule I of the Regulations.

1.18. On the basis of the screening process it is the Council's opinion that the CIL Charging Schedule does not require an SEA under the SEA Directive and The Environmental Assessment of Plans and Programmes Regulations (2004). This is because there will be no significant environmental effects arising from its implementation and that it supplements national guidance. The Council considers that CIL is a financial tool and does not set any policy framework. In making this determination the Council has had regard to Schedule I of the Regulations (see Appendix 1) and comments made by the Consultation Bodies (see table 1.0 above).

Appendix 1 – SEA screening for a CIL charging schedule

| Criteria (from Annex II of SEA Directive and Schedule I of Regulations) | Breckland Council's Response |
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| Characteristics of the plan or programme | |
| (a) The degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources. | The framework is set by national regulations on the use of charging schedules in the Community Infrastructure Levy Regulations 2010 (as amended). The charging schedule itself does not set the framework for future consents as this is the remit of higher level plans and individual projects. |
| (b) The degree to which the plan or programme influences other plans and programmes including those in a hierarchy. | The charging schedule is a financial tool to be applied to individual project consents. The charge is set outside of the plan making process and does not influence the content of plans or programmes. |
| (c) The relevance of the plan or programme for the integration of environmental considerations, in particular with a view to promoting sustainable development. | A CIL charge can be used to raise monies from individual development projects towards infrastructure which can aid the delivery of sustainable development. However, the charging schedule is not a plan or programme but a financial tool. |
| (d) Environmental problems relevant to the plan or programme. | Environmental problems within Breckland are already highlighted within the Core Strategy Scoping Report 2005 and the LDF Scoping Report 2010. However the charging schedule does not and cannot set policy guidance or interventions to deal with environmental problems. The charging schedule is only a tool by which to raise contributions from individual development projects, although monies raised can be spent on alleviating environmental problems if considered to be infrastructure. |
| (e) The relevance of the plan or programme for the implementation of Community (EU) legislation on the environment (for example, plans and programmes linked to waste management or water protection). | None |
| Characteristics of the effects and of the area likely to be affected | |
| (a) The probability, duration, frequency and reversibility of the effects. | A CIL charging schedule will not in itself set out, guide or bring forward development plans or projects. It will purely set out a charge which applies to individual consents. As such there is no mechanism for effects to arise from the charge itself, although individual infrastructure projects on which CIL monies will be spent may. However, such infrastructure projects are likely to be subject to environmental appraisal either as part of the plan making process or within individual consents |

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| (b) The cumulative nature of the effects | A CIL charge could be spent on a range of infrastructure projects, but does not in itself give consent for such projects or is a material consideration in the decision making process. As such, no cumulative effects arise from the charge itself, but as in (a) above, individual infrastructure projects on which CIL monies will be spent may. |
| (c) The transboundary nature of the effects | Given the geographic scope of the CIL charging schedule, it is considered that no transboundary effects will arise. |
| (d) The risks to human health or the environment (for example, due to accidents) | None |
| (e) The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected) | Although differential charges can be set for different areas of the Borough (and different types of development) a CIL charging schedule is likely to have borough wide coverage in some form or another. This will affect all planning applications for qualifying development across the borough, but only in terms of a charge raised not whether the project is acceptable in planning terms or not. |
| (f) The value and vulnerability of the area likely to be affected due to: i) Special natural characteristics or cultural heritage; ii) Exceeded environmental quality standards or limit values; iii) Intensive land-use. | Given the nature of the charging schedule: - i) None ii) None iii) None |
| (g) The effects on areas or landscapes which have recognised national, Community or international protection status. | Avoidance of impacts to the Breckland SPA/ SAC is dealt with in other documents produced by the Council. Whilst the CIL charge (at present) can be used to avoid impacts to Natura 2000 sites by providing monies towards mitigation which can off-set recreational impacts, the charging schedule itself is only a financial tool by which to raise monies. It does not set the policy framework for individual project consents or the framework for avoiding infrastructure. |