

AGENDA ITEM
REPORT TO COUNCIL
21ST JANUARY 2015
REPORT OF CORPORATE
MANAGEMENT TEAM

Community Infrastructure Levy - Preliminary Draft Charging Schedule – Approval For Consultation

SUMMARY

A new planning charge came into force under the previous Government on 6th April 2010 under the Community Infrastructure Levy (CIL) Regulations 2010. It allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. The money can be used to fund a wide range of infrastructure that is needed as a result of development. This includes transport schemes, flood defences; schools, hospitals and other health and social care facilities, parks, green spaces and leisure centres.

In July 2011, the Council resolved to adopt the CIL as the principal means of funding infrastructure. However it requires the setting of a Levy which reflects the costs of the infrastructure, is proportionate, is sound and robust, and has been subject to consultation and testing by an independent Examiner.

The setting of the Levy requires the preparation of a Preliminary Draft Charging Schedule and evidence base documents, and that these are published for consultation. Following consultation and any amendments, the resultant document, known as the Draft Charging Schedule is submitted for independent examination and if approved, adopted and implemented by the Council.

The Community Infrastructure Levy Viability Assessment sets out the proposed charging rates and justification for those rates. Information in respect of the Infrastructure Funding Gap identifies projects and gaps in funding which justifies setting a Charging Schedule, a draft Regulation 123 List which sets out those projects or types of infrastructure which will be funded by the CIL and confirms Council's approach in this respect. The Preliminary Draft Charging Schedule sets out the CIL rates and approach to setting the CIL Charge, our approach to a future Relief and Instalment Policy, and the relationship between CIL and Section 106. The infrastructure planning work currently identifies a total cost of £229,925,000 to 2030 and the funding gap is £190,981,000.

It is envisaged that further reports be taken to Cabinet, in due course, to agree the Draft Charging Schedule for consultation, to report on the outcome of that consultation and documents to be submitted for Independent Examination. A final review and update of the CIL evidence base Consideration will also need to be given, at a later date, to the method by which spending priorities will be determined.

RECOMMENDATIONS

DETAIL

It is recommended that Council: -

1. Note the contents of this report;
2. Endorse Stockton's CIL Economic Viability Study and Charging Zones
3. Agree the Charging Rates in the report and the attached Preliminary Draft Charging Schedule and Draft Regulation 123 list
4. Agree that the Council undertake consultation on the Preliminary Draft Charging Schedule, Charging Zone Map and Draft Regulation 123 List
5. Agree that delegated powers be granted to the Head of Planning in consultation with the Cabinet Member for Regeneration and Transport to make minor amendments to consultation documents as necessary prior to consultation;
6. Agree that further reports be taken, in due course, to report on the outcome of the consultation on the Preliminary Draft Charging Schedule and subsequent modifications, agree a Draft Charging Schedule for consultation, to report on the outcome of that consultation, and to agree to documents prior to Examination in Public.

Introduction

1. In July 2011, Cabinet resolved that the Council proceed to adopt the Community Infrastructure Levy as the principal means by which developer contributions towards infrastructure will be collected in the Borough, and that the necessary viability assessment be undertaken to inform the setting of a charging schedule.
2. This action is necessary because the Community Infrastructure Regulations 2010 Regulations scale back the use of S106 planning obligations to those
 - (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
3. Further to this, after April 2015, the use of planning obligations is further restricted such that no more than five contributions can fund 'a project or type of infrastructure'. In practice this means S106 can only be used to mitigate the direct impact of development and that CIL should be used to obtain developer contributions to fund strategic infrastructure.
4. The first stage towards adoption of a Charging Schedule is the production of a Preliminary Draft Charging Schedule for consultation purposes. This will be followed by consultation on a Draft Charging Schedule and then examination by an independent examiner. This may take the form of a hearing if persons request the right to be heard. After examination, the Inspector may approve, reject or modify a Draft Charging Schedule. The Council can then go forward to adopt the Schedule by a resolution of the Full Council. The Council will also publish a list of the infrastructure projects or types of infrastructure that the Council intends will or may be funded by the Levy.
5. Regulation 14 of the Community Infrastructure Regulations sets out that '*a charging authority must strike an appropriate balance between the desirability of funding the CIL (in whole or part) the ...cost of infrastructure required to support the development of its area... and....the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area. Furthermore, that a charging authority should use appropriate available evidence to inform their draft charging schedule...and that the*

proposed rate or rates should be reasonable, given the available evidence, but there is no requirement for a proposed rate to exactly mirror the evidence... there is some room for pragmatism.'

6. The statutory guidance sets the delivery of development firmly in the context of implementing the Core Strategy and Local Plan. This is linked to the plan viability requirements of the National Planning Policy Framework, where it is made clear that independent examiners should establish that '*evidence has been provided that shows the proposed rate (or rates) would not threaten delivery of the relevant Plan as a whole.*' The rates need to be robust, and should be set acknowledging that economic circumstances and land values could change significantly during the lifetime of a charging schedule.
7. Charging authorities can set differential rates by geographical area, and by use of buildings, or both, also by 'intended gross internal area of buildings' or by the 'intended number of dwellings or units'. However, the rates must reflect differences in viability, not on policy boundaries. The guidance also points out that there are benefits in keeping a single rate, because this would avoid undue complexity.
8. The proposed CIL rates are put forward as representing an appropriate balance for Stockton on Tees to strike between the need to raise money to support sustainable communities and the need to ensure that development viability and affordable housing yields are maintained.

Preliminary Draft Charging Schedule Supporting Documents

Community Infrastructure Levy Viability Study

3. The Council commissioned viability assessment work to help inform the setting of the charging schedule. The study assessed the viability of the key developments that are likely to come forward in the plan period – residential, retail, industry and warehousing and office uses. It also looked at the evidence for any geographical differentiation in those rates over the Borough. The findings, conclusions and recommendations are set out below.

Development Viability

4. Development viability is the relationship between the value generated by a development and the costs associated with developing the site. The development value (the Gross Development Value) is calculated by assessing total sales and/or capitalised rental income from developments and those values are based, where available, comparable market information, using average figures based on the type of development that the plan is seeking to bring forward. Where possible, specific evidence from existing uses are used after adjustment to take into account types of land use, form of property, scale, location, rents and yields. In respect of development costs, the assessment uses all costs of development including build costs, known abnormal costs, cumulative costs of policy requirements and standards, finance costs and professional, project management sales and legal costs. In terms of the costs of land, land values are current, and they reflect emerging policy requirements and planning obligations in all cases. Assumptions have also been made about the costs of a competitive return to willing developers and landowners. A competitive return is the price at which a reasonable land owner would be willing to sell their land for development. This work show whether there is sufficient scope for introducing a levy before development as well as giving a competitive return, whilst providing a buffer or margin, so that the levy rate is able to support development when economic circumstances adjust.

Residential Viability

5. The viability assessment for residential sites assumed policy levels 15% affordable housing alongside a basic S106 cost of £500, on a range of 12 greenfield and brownfield sites typologies in two distinct value areas. A higher value zone which includes Wynyard, the rural areas to the west, Yarm, Eaglescliffe and rural areas to the south, and Ingleby Barwick. The lower zone encompasses the rest of the Borough. The assessments modelled sites with yields 5, 25, and 100 units at a density of 35 per hectare. Further to this, three strategic sites (without planning permission at the time of testing) were tested - Harrowgate Lane, Yarm Back Lane and Wynyard Expansion area.
6. In the high value zones, the study recommends a rate could be charged alongside a requirement for 15% affordable housing (in line with Regeneration and Environment Local Plan policy H40.2). The study advises that in the current market conditions five of those scenarios would not have sufficient scope to charge the levy, and those are within the lower value zone, and even with a 0% affordable housing requirement there is insufficient scope for a levy charge. For the strategic sites that remain without planning permission, a relatively low charge is recommended whilst maintaining a requirement for 15 % affordable housing. Table 1 below sets out the recommended rates.

Table 1: Recommended Residential CIL Rates

Development Location	Affordable Housing	CIL Charge (per sq.m)
Lower Value Area	0%	£0
Higher Value Area	15%	£40
Strategic Sites	15%	£25

Non-Residential Developments

Retail

7. The viability study looked at both comparison and convenience retail development.

Definition of those uses are given below:

- A convenience unit is a shop or store selling wholly or mainly everyday essentials including food, drinks, newspapers/magazines and confectionary.
- A comparison unit is a shop or store selling wholly or mainly goods which are not everyday essentials such as clothing, footwear, household and recreational goods.
- Those stores which sell a mixture of goods are categorised according to the main use.

8. Given the relatively low incidence of retail development and therefore a lack of comparable data, the assessment uses information on local rent and yields, and evidence outside the Borough. The assessment tested the following hypothetical schemes: (The figures used relate to the gross internal area (GIA) of those developments)

Convenience retailing:

- A larger out of town centre grocery store of 4,000 sq. m
- An in town grocery store of 450 sq. m

Comparison retailing:

- A 6,000 sq. m scheme in an in-town high street scheme
- A 4,000 sq. m retail warehouse scheme

9. The assumptions draw from recent transaction data and tested assumptions against data drawn from local agents who are active in the Stockton on Tees market.
10. The assessment reveals that High Street comparison development would not have scope to pay CIL, but retail warehousing and convenience retailing could pay a CIL charge. The recommendations are shown in Table 2 below:

Table 2: Recommended Retail CIL Rates

Development Type	Recommended Rate (per sq.m)
Retail – wholly or mainly Convenience	£145
Retail Warehousing	£75
Retail – wholly or mainly Comparison	£0

Industrial and Warehousing

11. Industrial and warehousing development are considered together as a single building use, covering uses classes B1c (light industrial) and B8 (warehousing and distribution). There is little evidence of new build coming forwards, and it is difficult for private sector developers to fund speculative space. A scheme of 4,000 sq.m was assessed, and this could be let as a whole unit or in 1000 sq.m units. The appraisal found that over the Borough there is no potential for sustaining a CIL charge and therefore a £0 rate should be set.

Office

12. Office space has been appraised as two hypothetical separate office locations and types, on the understanding that the office market is very small, and no appetite for speculative development. The schemes are a 4,000 sq.m scheme – a typical 2-3 storey business park style scheme and a town centre office scheme of 6,000 sq.m. The appraisal found that there is little scope for setting a CIL charge for this type of development. A CIL rate of £0 is recommended.

Education, Health and Community Facilities

13. The assessment under this category includes, amongst others:
 - Schools, including free schools
 - Community facilities, including community halls, community arts centres and libraries
 - Medical facilities and
 - Emergency services facilities
14. Although a number of these facilities may be delivered in the Borough over the plan period, and may be CIL liable, the viability study advises a £0 rate for the following viability related reasons:
 - Completed developments of these types are not commercial in nature, and do not have a site value and from a commercial point of view are not viable.
 - Non state education projects generally have charitable status, and they will be exempt from CIL, so there is little point setting a CIL rate for this type of use.
15. Although primary care facilities, most commonly occupied by GPs practice, have a commercial market, the research that informed the assessment concluded that the land values generated are not significant. Whilst privately funded health provision might be developed, this is not likely to be significant. Given that these developments are not

commercially driven, the study advises that there is no evidence that would justify a charge, and no evidence that there is any value to capture. A rate of £0 per sq.m is recommended.

Peripheral Uses

16. This category of development comprises those uses that are not key, nor central to the delivery of the Core Strategy and Local Plan. These uses might be scrapyards, taxi offices, nightclubs and launderettes for instance. Frequently this type of use is in smaller premises, and development with a GIA of less than 100m² and subject of a change of use is exempt from a CIL charge. Viability assessments of this type are usually quite specialist and would be relatively speculative, and individual viability testing for peripheral uses is not considered feasible or helpful. The study recommends a £0 CIL rate for all other uses.

CIL Income

17. To estimate CIL income we have looked at two propositions. The first one assumes that all of Stockton's housing supply will attract a CIL charge at the suggested rates within the viability study. In practice, planning permission has been granted for some of the allocation sites and planning payments will be secured through section 106 agreements. This scenario is relevant as it assumes that many of these sites will be resubmitted to cater for alterations to detailed proposals to react to changing market conditions – this is especially relevant in the case of strategic sites with long term delivery times.
18. Historical S106 data suggests that agreements have in the main resulted in an average income of £3,840 per dwelling. The average CIL income is based on an average 3 bed which would generate £3,600 in the high value CIL Zone. The CIL income is non-negotiable, and would not as such put delivery at risk. The second proposition assumes that CIL will only be applied to homes yet to secure planning permission in the plan period.
19. The two amounts are as follows
- Maximum CIL income over the plan period assuming all future allocations, including the allowance for windfalls will be CIL liable (excluding those sites that are intended for affordable housing) = £12,842,500
 - Minimum CIL income over the plan period assuming that only houses yet to receive planning permissions incur the charge = £6,853,500

These figures are estimates, and it should be born in mind that the CIL guidance is being regularly amended and updated by Government, which impacts on the Council's ability to collect. It should be stressed that the CIL charge is largely instead of S106 rather than additional income to section 106 receipts.

Conclusions and Recommendations

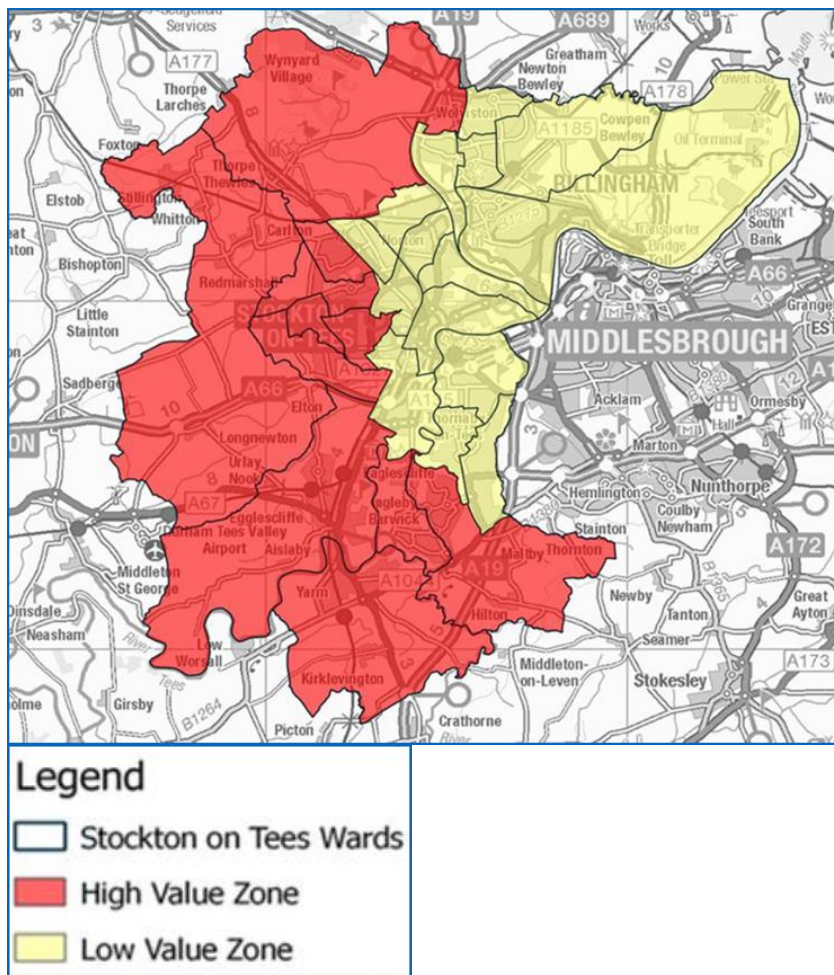
20. The CIL Viability Study recommends that the following charges will not put the overall development in the area at serious risk and that they could be introduced in Stockton's Preliminary Draft Charging Schedule:

Table 3: Recommended CIL Charging Rates per sq. m

Development	CIL Charge (£ per sq.m)
Residential (lower value zone)	£0
Residential (high value zone)	£40
Strategic Sites	£25
Retail - Wholly or mainly convenience	£145
Retail - Warehousing	£75
Retail – Wholly or mainly comparison	£0
All other uses not separately defined	£0

21. Alongside the CIL rates an OS based map showing the boundaries of the value zones for residential development would form part of the Preliminary Draft Charging Schedule, also the retail definitions set out above. This document is attached at **Appendix 1**.

Map 1: Proposed CIL Residential Charging Zones



Infrastructure Funding Gap

22. The Council is required to identify an infrastructure funding gap that CIL could help to satisfy in order to justify setting a CIL in the Borough. Amongst those schemes identified in the infrastructure planning work which accompanies the Local Plan are a number that could be part or wholly funded by CIL revenues and this is sufficient to justify the CIL.

Draft Regulation 123 List

23. The Community Infrastructure Levy (CIL) Regulation 123 provides for a CIL Charging Authority (Stockton on Tees Borough Council) to publish a list (“R123 List”) of infrastructure that will be, or may be, wholly or partly funded by Community Infrastructure Levy.
24. The Draft Regulation 123 List is attached to the report at **Appendix 2** and forms part of the consultation on the Preliminary Draft Charging Schedule. This list is to ensure there would be no duplication or double charging towards the same infrastructure project. It sets out that CIL can be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure to support the development in Stockton.

25. Further to this it sets out that :

- The Council will review the List at least once a year to ensure it remains up to date, as part of the monitoring and review regime, and that any changes will be subject to appropriate consultation
- The inclusion of a specific infrastructure project on the R123 list does not commit the Council to fund the project (either in whole or in part)
- The List will, post the adoption of CIL, be reviewed and the Council will determine which projects on the R123 list will be reviewed and selected for funding in light of CIL receipts
- The order of items on the List does not imply a preference or priority, given that spending priorities are not yet identified
- The R123 List does not identify priorities for spending within it, or any apportionment of the CIL funds across the Borough
- The Council will work with local communities and parish/town councils to agree local priorities for spend
- Confirms that Section 106 agreements will be used fund specific items of infrastructure and other measures that are needed to make development acceptable in planning terms

Future CIL Work Programme

26. It is envisaged that further reports be taken to Cabinet, in due course, to advise on the results of the consultation of the Preliminary Draft Charging Schedule and any modifications, and to agree a resulting Draft Charging Schedule for consultation.
27. Consideration will also need to be given, at a later date, to the method by which spending priorities will be determined. This is because adoption of the Levy would mean that specific infrastructure projects would no longer be generally identified and thus developer funding would be 'allocated' at the time individual planning applications are considered. Those considerations would also need to take account of the fact that the regulations permit up to 5% of the revenue arising from the levy to be used on administrative expenses, and that the Council would be able to pass money to other bodies to help deliver infrastructure for example, those delivering health facilities.
28. Implementation of the CIL also commits the Council to producing an annual report detailing how much revenue has been raised in the previous financial year, how much has been spent both by the Council and local communities, and what infrastructure has been funded.

Other Work

29. Prior to examination, a review of the Planning Obligations SPD is required. This is to make sure that the funding formulae, that are included in those SPD's to deal with specific types of infrastructure, are still needed. Further work, amongst others, will address in further update and detail the infrastructure funding gap, a further update of the Infrastructure Schedule prior to examination, a paper on the history and performance of Stockton's Section 106 agreements.
30. Cabinet will consider the item on 15th January 2015 and a copy of the relevant minute extract will be forwarded in due course.

FINANCIAL IMPLICATIONS

The Council will have to consider funding plans for infrastructure, as in the future; only a maximum of five obligations under Section 106 of the Town and Country Planning Act 1990 (as amended) can be used on the same scheme. A proportion of the revenue arising from the levy can be used to cover initial set-up and administrative costs. Joint consultations and independent examination with the Regeneration and Environment Local Plan will reduce set up costs. The Infrastructure Delivery Plan required used as evidence to prepare the schedule of CIL projects could be used for corporate infrastructure planning and to support the Core Strategy and other Development Plan work. Adoption of CIL entails a commitment to monitor and review; this may in turn lead to a revision of the Charging Schedule with costs similar to those at set-up.

Depending on the type of infrastructure items to be funded, levy receipts may reduce financial pressure on the Council as service provider.

CIL receipts will vary over the life of the Regeneration and Environment Local Plan, although that is variable, with many of the site allocations having planning permission and therefore no charge before the CIL is implemented. Site specific infrastructure will continue to be secured by Section 106, and many residential and retail developments contributing to infrastructure, where they may not have done so previously.

The Council will decide how the CIL funds are spent to meet the Borough's infrastructure needs. The Regulation 123 list and other sources will guide priorities over the life of the plan and charging schedule.

LEGAL IMPLICATIONS

Section 206 of the Planning Act 2008 (as amended by the Localism Act 2011) confers the power to charge CIL on certain bodies known as charging authorities and the Community Infrastructure Levy Regulations 2010 provide that this Council is such a body. In order to be able to charge CIL, the Council must adopt a charging schedule setting out the rates that will apply.

The Community Infrastructure Levy Regulations of 2010 (as amended by through the amendment Regulations 2011, 2012, 2013 and 2014 (SI2011/987, 2012/2975, 203/982 and 2014/385)) The draft charging schedule must be subject to public scrutiny, consulted upon, be open to representation and then submitted for independent examination. Even if the Council decides not to proceed with the charging schedule the powers which exist currently under Section 106 of the Town and Country Planning Act 1990 (as amended) will be restricted from April 2015. The policy tests of Circular 05/2005 have been made statutory by CIL Regulation 122, such that they cannot be pooled to fund general infrastructure, furthermore in April 2015 restrictions will be put into place which restrict contributions to no more than five to '*fund a project or type of infrastructure*' (Regulation 123(3)). The amendment regulations require Council to pass 25% of CIL revenues to town and parish councils with a Neighbourhood Plan and up to 15% of receipts to those communities without such a plan, subject to a limit of £100 per dwelling. The National Planning Practice guidance on CIL (NPPG CIL) issued under S221 of the Planning Act 2008 is the relevant statutory guidance, and the authority must have regard to the guidance.

The Charging Schedule will sit within the Local Development Framework but not form part of the statutory development plan not will it require inclusion within the Local Development Scheme. The Council will be responsible for the collection and administration of funds in accordance with the CIL Regulations.

RISK ASSESSMENT

From April 2015, the Council will face major restrictions on pooling of developer contributions. It is imperative therefore that the CIL is introduced as soon as possible, that draft rates, the charging schedule and evidence base are endorsed and agreement is given to the first round of consultations on the Preliminary Draft Charging Schedule and supporting documents.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

Economic Regeneration and Transport - The CIL will provide contributions towards the cost of infrastructure, which in turn will assist in economic regeneration. Transport, highway and environmental infrastructure are, in appropriate cases, eligible for CIL support.

Safer Communities - Crime prevention measures may be eligible for CIL support.

Children and Young People - See 'Healthier Communities and Adults'.

Healthier Communities and Adults - Financial support for infrastructure will help to facilitate and support development and implement the policies in the Core Strategy and Regeneration and Environment Local Plan. It will contribute to the Tees Valley being a place where present and future generations have a high quality of life and where all members of the community have the opportunity to realise their full potential through the provision of a vibrant economy, a safe and healthy environment and dynamic educational and cultural resources

Environment and Housing - See 'Healthier Communities and Adults'

Supporting Themes: -

Stronger Communities - See 'Healthier Communities and Adults'

Older Adults - See 'Healthier Communities and Adults'

Arts Leisure and Culture - See 'Healthier Communities and Adults'

EQUALITIES IMPACT ASSESSMENT

The Assessment reveals that the effect of the CIL will be neutral with scope for a positive impact dependent on the range of infrastructure that will be funded by the Levy. The Levy has no links/relationship to a particular group that could be potentially discriminatory.

CONSULTATION INCLUDING WARD/COUNCILLORS

No consultation has taken place with specific ward councillors as the CIL affects the whole entire Borough. An informal workshop in respect of the draft CIL Viability Study aimed at developers, consultants and local Registered Providers of affordable housing has taken place. The report recommends seeks agreement to consultation and publicity with residents and businesses, which would be carried out in accordance with the CIL Regulations during the period February and March 2015.

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Education related: No

Background Papers:

- Community Infrastructure Levy Regulations 2010
- Community Infrastructure Levy (Amendment) Regulations 2011, 2012, 2013 and 2014
- The Planning Act 2008
- Localism Bill 2010-2011

- Community Infrastructure Levy Final Impact Assessment, DCLG, February 2010
- National Planning Practice Guidance on CIL (NPPG CIL)

Ward(s) and Ward Councillors: **ALL WARDS AND WARD COUNCILLORS**

Property: **N/A**