



To: Executive Councillor for Planning and Climate Change: Councillor Tim Ward
Report by: Head of Planning Services
Relevant scrutiny committee: Development Plan Scrutiny Sub Committee 17/07/2012
Wards affected: All Wards

Community Infrastructure Levy – Project Plan Not a key decision

1. Executive summary

- 1.1 The Community Infrastructure Levy (CIL) powers came into force in April 2010. Essentially it allows local authorities to levy a charge on new development in their area. The money can be used to fund a wide range of infrastructure that is needed as a result of the development. This includes new or safer road schemes, flood defences, schools, hospitals and other health facilities, park improvements, green spaces, etc. A short briefing on CIL will be provided as part of the introduction of this item.
- 1.2 It was agreed at Development Plan Scrutiny Sub Committee on 22/03/2011, that the Council's CIL approach would be prepared and taken forward in parallel with the Local Plan review, with the intention of adopting a CIL Charging Schedule by April 2014. The purpose of this report is to inform the Committee of the project plan and timetable for the production of a CIL.

2. Recommendations

- 2.1 The report is being submitted to Development Plan Scrutiny Sub-Committee for prior consideration and comment before decision by the Executive Councillor for Planning and Climate Change.
- 2.2 The Executive Councillor is recommended to
 - 1) Agree the CIL Project Plan as set out in paragraphs 3.13 to 3.18 and Table 1 and 2.

3. Background

What is CIL?

- 3.1 The 2008 Planning Act established powers to create a Community Infrastructure Levy (CIL) in England and Wales. This came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010 (now amended by the Community Infrastructure Levy (Amendment) Regulations 2011). The Council committed to taking a Community Infrastructure Levy forward in parallel with a Local Plan Review at Development Plan Scrutiny Sub-Committee on 22-03-2011.
- 3.2 In order to mitigate the impact of new development the Council collects contributions towards infrastructure provision from new developments in the form of planning obligations, sometimes referred to as Section 106 Agreements. The CIL is a new system of collecting contributions towards development. The Planning Act 2008 provides a broad definition of infrastructure projects which can be funded by the levy, including transport, flood defences, schools, hospitals and other health and social care facilities. This definition is not exhaustive.
- 3.3 CIL is intended to supplement (not replace) other funding streams. A number of contributions will still be acquired through S.106 Planning Obligations. These include affordable housing requirements (although a government CIL consultation includes the possibility of including affordable housing within the scope of CIL)(both on-site and off-site) and site specific on site infrastructure. However, the government considers that the CIL is a more transparent and simple method of collecting funds for infrastructure to support development than the current system of planning obligations (S.106).
- 3.4 As such regulations restrict the use of Section 106 post 2014 to encourage local planning authorities to introduce a CIL. The restrictions mean that post April 2014 (or adoption of a CIL schedule, whichever is sooner) S.106 can only be used to mitigate site specific impacts of new development. In practice this means that post 2014 a local planning authority may only enter into five planning obligations to secure the same item of infrastructure. This seriously limits the ability to raise funds from S.106 post April 2014.
- 3.5 CIL allows local authorities to raise funds from developers, via a charging schedule, for a wide range of infrastructure. The levy takes the form of a standardised charge applied per square metre of new development. CIL breaks the direct link between development and infrastructure provision, which gives the Council and beneficiaries of CIL monies more flexibility over what infrastructure funding may be spent on. CIL monies can be spent on any identified infrastructure

need (unlike S.106 Agreements which require a direct link between the development and any infrastructure project).

- 3.6 The levy is based on economic viability and is intended to encourage development by creating a balance between collecting revenue to fund infrastructure and ensuring the rates are not so high that they discourage development. It will be important to demonstrate that any potential charging levels are reasonable and justified in terms of viability. The recent CIL examination at Huntingdonshire District Council and other examinations have highlighted the importance of having viability consultants with extensive knowledge of the financial workings of the development industry.
- 3.7 The charging schedule for CIL is set locally and is represented as a standard charge per square metre on the net impact of development. The levy is non-negotiable and will be applied to all relevant developments.
- 3.8 A Local Authority can implement different CIL charges based on specific charging zones but only if there is viability evidence to do so.
- 3.9 The Council, as charging authority, will impose charges at the point planning permission is granted. Charges would then be payable at commencement of development. Payment will be by the person that assumes liability for the levy (e.g. the developer). In the case of nobody claiming liability the responsibility will be on the landowner.
- 3.10 A local authority may introduce an instalment policy, otherwise payment of CIL in full is required within 60 days of the commencement date.
- 3.11 Exceptions to the levy include:
 - Charities that own part of the land and the development will be used wholly or mainly for charitable purposes;
 - Social housing; and,
 - The option of a levy waiver in exceptional circumstances that would have an unacceptable impact on the economic viability of a development.

Process overview

- 3.12 In order to introduce CIL the Council need to have an up to date development plan in place. As a result it has been agreed to take CIL forward in tandem with the Local Plan Review. This should help to ensure complementarity and effective use of resources. There are

three main strands of work that need to be progressed in order to adopt CIL

- Publication of a charging schedule
- Development of new administrative and accountancy processes
- Governance

Charging Schedule

3.13 The process for adopting CIL is guided by legislation. It involves a significant amount of evidence gathering to justify the approach taken, and several stages of public consultation. The process also involves an Examination by an independent Inspector. The main output from this area of work will be a CIL Charging Schedule, which sets out the charges per square metre and details of how the scheme will function.

3.14 The charging schedule will be supported by two main pieces of evidence:

- **Cambridge City and South Cambridgeshire District Council Infrastructure Delivery Study** – This work, which was funded through Cambridgeshire Horizons and is being carried out by Peter Brett Associates, is nearing completion and the final draft of this work will be presented to DPSSC in September for consideration. This work establishes infrastructure requirements, likely costs and likely funding, based on predicted levels of housing and employment growth. For the purposes of CIL it needs to demonstrate that there is a funding ‘gap’ that CIL will, in part, be used to fill.

It should be noted that this document will also be a key part of the evidence base (used to demonstrate deliverability) for the Local Plan.

- **The Local Plan and CIL Viability Assessment** – given that the NPPF places an increased emphasis on the need for viability in plan making, developing a comprehensive approach in relation to viability would have the advantage of strengthening the evidence base for the Local Plan and CIL, and it would also make effective use of resources.

As a result, the Council is currently seeking to commission suitably qualified consultants to undertake an economic viability assessment on the sites and scale of potential housing and commercial development in Cambridge.

In relation to CIL, this report will set out information on development viability across the city, and will help us to frame potential charging levels. It will be important to demonstrate that any CIL charging levels are reasonable and justified, as the inspector will focus on this issue at the CIL Examination. This work will also form part of the evidence base for the Local Plan, as it will establish the impact of affordable housing policy and any other policy standards (e.g. code for sustainable homes, minimum space standards, density policy) on the economic viability of development. Changes in market conditions or fluctuations in the economy could require that this work is refreshed and rechecked as the project progresses.

- 3.15 Once the evidence base is in place the Council must carry out two consultations, firstly on the *Preliminary Draft Charging Schedule* and then on the *Draft Charging Schedule*. These documents will be considered by Environment Scrutiny Committee prior to public consultation. The preliminary stage will set out the proposed charging levels for each type of development and any variations across the city. The consultation period is not prescribed but six weeks is recommended. The consultations will be carried out in tandem with other Local Plan consultations as far as possible.
- 3.16 After consideration has been given to representations on the preliminary stage a Draft Charging Schedule is produced and this needs to be consulted on for a minimum of four weeks.
- 3.17 Following consultation and any subsequent changes, the draft schedule can be submitted for examination by an independent inspector. This examination will take place following examination of the Local Plan and the Inspector's Report. This is to ensure that the evidence relating to infrastructure provision and delivery is found sound.
- 3.18 The charging schedule must be formally approved by a resolution of the full Council. The key milestones are outlined in Table 1. Although there is no fixed date, a review may be necessary every couple of years to ensure the charge remains relevant (i.e. does not put development at risk due to changing market circumstances).

Table 1 – CIL Charging Schedule – proposed timetable

Milestone/task	Date	Duration if known
<i>Evidence work</i>		
Infrastructure Delivery Study (to adopt as part of Local Plan and CIL evidence base)	September 2012 (DSPCC)	3 months
Update Infrastructure Study if necessary	September - December 2012	

Viability Assessment	September – December 2012	
Update viability work	As necessary pending results of consultations and market changes	
Charging Schedule		
Consultation on Preliminary Draft Charging Schedule (PDCS)	March - April 2013	6 weeks
Consultation on Draft Charging Schedule (DCS)	July 2013	4 weeks
Statement of Modifications to Draft Charging Schedule (if required)	Sept/Oct 2013	Publication for 4 weeks
Submission of Draft Charging Schedule to Examiner	November 2013	
Examination hearing (by independent inspector)	January – February 2014	2 to 5 days
Inspectors Report	Feb - March 2014	
Adoption at Full Council	April 2014	

Table 2 – Project Plan

Task	2012						2013										2014					
	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A
Infrastructure Study				+	+	+																
Viability Study											-	-						-				
CIL Charging Schedule									◆	◆			x	x			●		▽	▽	#	*

- + Update infrastructure work if necessary
- Update viability work if necessary
- ◆ Consultation on Preliminary Draft Charging Schedule (6 weeks)
- x Consultation on Draft Charging Schedule (4 weeks)
- Submission of Draft Charging Schedule
- ▽ Examination hearing (2 to 5 days)
- # Inspectors report
- * Adoption at full Council

Administrative Processes

- 3.19 The introduction of CIL will involve making some wide-ranging changes to the Council's internal processes and systems – potentially relating to finance, ICT, legal, planning, monitoring and enforcement.
- 3.20 There are a few authorities that have now adopted CIL or who are further through the process and lessons can be learnt from their experiences. There are some computer systems now available to cater for the extensive additional administration processes involved. Further investigations into these and how they will sit within our existing systems and S.106 monitoring will be ongoing.
- 3.21 There will be a requirement to set up new procedures for the collection of CIL through the planning application process, there will be enforcement issues for legal services, and implications for finance including collection, accounting and invoicing. A cross-departmental team has been established in relation to this where staff will be given responsibility for discreet areas of work under the umbrella of a project team. This work will be overseen by the Developer's Contribution Delivery Board, which includes key senior officers.

Governance

- 3.22 Significant new governance arrangements will need to be put in place prior to the adoption of any charging schedule. There is a need to ensure that any monies collected are spent in accordance with a 'priorities list' (known as a Regulation 123 list). This list will not be tested as part of the CIL Examination but should be informed by work that has been done on the prioritisation of infrastructure projects through the Infrastructure Delivery Study.
- 3.23 The detailed and important nature of the prioritisation work points to a transparent process to establish a governance arrangement and decision making mechanism. There is no prescribed method for doing this. Huntingdonshire District Council have recently adopted a CIL and have put arrangements in place through their Local Strategic Partnership for future decisions on infrastructure spending of CIL receipts to form part of an Annual Business Plan in the public domain. This will be agreed with key delivery partners, including key infrastructure providers and the County Council.
- 3.24 East Cambridgeshire District Council is in the process of developing a 'CIL Funding Strategy' (which will also consider other sources of funding). As part of this process it is intended to establish a joint ECDC and County Council Advisory Forum, but final decisions on spend will be made by the relevant District Council Committee.

3.25 Governance arrangements will need to include consultation with key stakeholders such as Cambridgeshire County Council and South Cambridgeshire District Council and will need to be in place prior to the adoption of the Local Plan and CIL in 2014. This is an area of work that will evolve as the project progresses and initial scoping of more detailed terms of reference for this work will be carried out. This strand of work would be likely to commence by late 2012/early 2013.

Meaningful Proportion

3.26 Related to project prioritisation this project will need to address issues with and identify methods of giving a 'meaningful proportion' of CIL back to communities. Although the government has yet to outline exactly what the 'meaningful proportion' will amount to it has the objective of strengthening the role and financial autonomy of neighbourhoods in order to give local communities more means to determine the shape of their area. The Council will need to retain a percentage of funds collected and engage with the local community to determine how to spend receipts. The current work on developer contributions and devolved decision making could provide a useful blueprint for this work.

Monitoring

3.27 The Council will have to publish annual reports detailing how money has been spent.

4. Implications

(a) Financial Implications

4.1 The move to CIL will maximise returns on funding for infrastructure projects over and above Section 106 returns, particularly given the increased limitations on the use of S.106 for strategic infrastructure post 2014.

4.2 For example, London Borough of Redbridge anticipate that CIL could generate approximately £2.5million per annum based on moderate growth projections of 500 new market homes per year. This compares to their best ever S106 result for 'CIL-type' infrastructure of £1.5million in 2007/08 at the height of the market.

4.3 CIL regulations allow for up to 5% of the charge to relate to administration/implementation costs.

(b) Staffing Implications (if not covered in Consultations Section)

4.4 There are no direct staffing implications from this report. Becoming a CIL charging authority will, however, involve officer time from Planning (including registration, development management and enforcement), Finance (collection, accounting, invoicing) and Legal (enforcement and input into charging schedule development).

(c) **Equal Opportunities Implications**

4.5 An Equalities Impact Assessment will be undertaken as part of developing CIL.

(d) **Environmental Implications**

4.6 There are no direct environmental implications arising from this report. Once introduced CIL will assist in the delivery of high quality sustainable new developments, alongside the protection and enhancement of the built and natural environments of the city. As such it is anticipated that CIL will have a positive climate change rating, although the precise nature of this positive impact will be dependent on the detailed proposals.

(e) **Consultation**

4.7 Appropriate consultation with residents and developers and other key stakeholders will be undertaken at key stages, as outlined above in Table 1.

(f) **Community Safety**

4.8 There are no direct community safety implications arising from this report.

5. **Background papers**

These background papers were used in the preparation of this report:

- Community Infrastructure Regulations 2010 and 2011
- Community Infrastructure Levy Guidance – DCLG 2010
- The Community Infrastructure Levy Summary – DCLG 2010
- The Community Infrastructure Levy An Overview – DCLG 2011
- Community Infrastructure Levy Relief – DCLG 2011
- Community Infrastructure Levy Collection and Enforcement DCLG 2011

6. **Inspection of papers**

To inspect the background papers or if you have a query on the report please contact:

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