



To: Executive Councillor for Planning and Climate Change: Councillor Tim Ward  
Report by: Head of Planning Services  
Relevant scrutiny committee: Environment 12/03/2013 Scrutiny Committee  
Wards affected: All

## **Community Infrastructure Levy – Preliminary Draft Charging Schedule Non-Key Decision**

### **1. Executive summary**

- 1.1 The purpose of this report is to update members on the work that is being undertaken to prepare a Community Infrastructure Levy (CIL) for Cambridge and seek approval that a Preliminary Draft Charging Schedule is published for public consultation in March.
- 1.2 A copy of the Draft CIL Viability Assessment and a copy of the Draft Preliminary Draft Charging Schedule are attached as Appendices to this report.

### **2. Recommendations**

- 2.1 The Executive Councillor is recommended to:
  - Endorse the Cambridge CIL Viability Assessment (attached as Appendix 2 to this report) as background evidence to support the proposed Preliminary Draft Charging Schedule; and,
  - Approve the publication of the Cambridge Preliminary Draft Charging Schedule (attached as Appendix 1 to this report) for a six-week consultation period between 18 March 2013 and 29 April 2013, subject to any amendments Members may wish to make.

### **3. Background**

- 3.1 The Community Infrastructure Levy (CIL) is a charge that local authorities can levy on all new development in their area to fund infrastructure improvements related to new development. The 2008 Planning Act established powers to create a CIL in England and

Wales. This came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010 [now amended by the CIL (Amendment) Regulations 2011, the CIL (Amendment) Regulations 2012 and the CIL (Amendment) Regulations 2013]. 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.

- 3.2 The Council committed to taking a CIL forward in parallel with its Local Plan Review at Development Plan Scrutiny Sub-Committee on 22-03-2011. A Project Plan for the CIL was agreed at Development Plan Scrutiny Sub Committee on 17-07-2012.
- 3.3 The 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 and site specific infrastructure necessary to make a development acceptable in planning terms.
- 3.4 The government considers that the CIL is a more transparent and simpler method of collecting funds for infrastructure to support development than the current system of planning obligations (S.106). As such, regulations restrict the use of Section 106 planning obligations post 2014 to encourage local planning authorities to introduce a CIL. The restrictions mean that post April 2014 (or adoption of a CIL charging schedule, whichever is sooner) tariff based approaches to S.106, such as that operated by the Council, will become inoperable. Regulations state that post 2014 a local planning authority may only enter into five planning obligations to secure funding for the same item of infrastructure. This seriously limits the ability of a Council to raise funds from S.106 post April 2014.
- 3.5 The CIL takes the form of a charge per square metre of additional floorspace (new build or extensions) and can be charged on most new developments. The CIL breaks the direct relational link between development and infrastructure provision (that exists under the s.106 system), which gives the Council and other beneficiaries of CIL funds more flexibility over what infrastructure funding may be spent on. Funds received through the CIL can be spent on any identified infrastructure need.
- 3.6 CIL will give developers and businesses more certainty at the start of the development process as to the overall amount of money a development will require to mitigate the impacts of infrastructure.
- 3.7 Before the Council can start charging CIL, it first needs to prepare and adopt a CIL Charging Schedule. Publication of the Preliminary Draft

Charging Schedule is the first step in a 12 – 15 month statutory process towards adopting a sound CIL charging schedule.

### **Evidence Base**

3.8 The CIL Regulations require that in order to set a CIL Charging Schedule, the Council must have an appropriate evidence base to support the proposed levy. In order to adopt a sound charging schedule the Council must:

- Have an up to date Local Plan for the area;
- Identify a funding gap in local infrastructure needs and quantify its extent;
- Demonstrate the proposed CIL rates will not unduly affect the viability of planned development across the city;
- Produce a draft list of projects (R.123 List) or types of infrastructure it intends to fund in whole or in part through the CIL at the CIL examination;
- Consider the implications for the existing planning obligations strategy;
- Consider the issues around discretionary relief from the CIL and the potential to have a CIL instalments policy. There are two types of discretionary relief, Charitable Relief and Exceptional Circumstances Relief. These issues do not strictly need to be decided until after CIL is adopted but it is considered prudent to set out the Council's intentions early to give people an opportunity to comment on them; and,
- Consider how the statutory 'meaningful proportion' funding that is to be distributed to neighbourhoods will work.

### **An up to date Local Plan for the area**

3.9 It is set out in the National Planning Policy Framework that, where practical, levy charges should be worked up and tested alongside the Local Plan. This approach is being followed in Cambridge.

### **An Infrastructure Funding Gap**

3.10 The Council has, in collaboration with South Cambridgeshire District Council, produced the Cambridge and South Cambridgeshire Infrastructure Delivery Study (IDS)(Background document to this report). The document serves a dual purpose as it is also a key part of the evidence base for both the Cambridge City and South

Cambridgeshire Local Plan Reviews. Objectively assessed infrastructure requirements will be one of the key soundness tests at Local Plan Examination.

- 3.11 The IDS considers what additional infrastructure is needed in the Cambridge City and South Cambridgeshire areas to support development and what other funding sources are available (for example, core Government funding for infrastructure, which will continue following the introduction of a levy, anticipated section 106 agreements and anticipated necessary highway improvement schemes funded by anyone other than the charging authority) based on appropriate available evidence.
- 3.12 The Council endorsed the IDS for use as an evidence base document for both the review of the Cambridge Local Plan and the Cambridge Community Infrastructure Levy (CIL) at Development Plan Scrutiny Sub Committee on 11/09/2012.
- 3.13 The IDS calculates that the total cost of infrastructure provision in Cambridge and South Cambridgeshire is likely to be in the region of £2.2bn (see below). The infrastructure funding gap identified for Cambridge is £1.8bn. This adequately demonstrates that a CIL is required and justified within Cambridge and South Cambridgeshire.

### Infrastructure Funding Gap

	Infrastructure Requirements	Funding (Public)	Funding (Private)	Infrastructure Funding Gap
<b>Infrastructure requirements within Cambridge</b>	£234,324,845	£16,520,000	£31,948,239	£185,856,606
<b>Infrastructure Requirements South Cambridgeshire District Council</b>	£484,729,965	£39,750,000	£32,732,371	£412,247,594
<b>Infrastructure Requirements (Cross Boundary Sites)*</b>	£198,653,046	£7,430,000	£81,716,643	£109,506,403
<b>Strategic Infrastructure *</b>	£1,293,920,000	£92,300,000	£79,846,531	£1,121,773,469
<b>Total</b>	<b>£2,211,627,856</b>	<b>£156,000,000</b>	<b>£226,243,784</b>	<b>£1,829,384,072</b>

\*Both Local Authorities

3.14 It should be noted here that the planned provision of development and subsequent infrastructure requirements continue to evolve as work on the Cambridge Local Plan Review and the South Cambridgeshire Local Plan Review progresses. Planned growth levels are not likely to change to the point that the aggregate funding gap is reduced to a point where a CIL would not be justifiable. However the IDS will be updated to reflect changes in planned growth before a Draft Local Plan and a Draft CIL Charging Schedule are published for consultation in Summer 2013.

**Viability Evidence - CIL rates should not unduly affect the viability of planned development across the city**

3.15 The CIL Regulations require that consideration be given to ‘the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area’. The NPPF states (para 175) that where CIL is to be introduced, the development and consideration of the rate should be undertaken as part of the same exercise of viability testing as the Local Plan wherever possible.

3.16 Viability consultants Dixon Searle LLP (DSP) were commissioned to undertake viability modeling work on proposed development across Cambridge. This piece of work will also examine the viability of the Strategic Housing Land Availability Assessment (SHLAA) and emerging Local Plan policies. The Cambridge CIL Viability Assessment should be read in conjunction with this report and is attached at Appendix 2.

3.17 The consultants used a residual land value appraisal approach to assess the financial capacity of a range of residential and non-residential development scenarios in Cambridge to pay a CIL charge. Put simply, the residual land value (RLV) produced by a potential development is calculated by subtracting the costs of achieving that development from the revenue generated by the completed scheme (the gross development value – GDV). The residual valuation technique has been used to run appraisals on residential and commercial/non residential scheme typologies representing development scenarios that are relevant to the emerging development plan and could come forward in Cambridge City.

3.18 The methodology DSP used follows a standard development appraisal, using assumptions (worked up in consultation with the development industry) on land values, build costs, sales values and planning policy considerations (40% affordable housing, high quality design standards). The methodology has been through successful CIL examinations with other authorities.

3.19 Dixon Searle LLP will give a presentation to Environment Scrutiny Committee on the key findings and recommendations of the CIL Viability Assessment but to summarise the consultants have found that it is viable at the current time to levy a CIL charge on new residential development, retail development and student accommodation development.

3.20 When discussing levying CIL rates it is important to bear in mind some overriding messages from the Government and CIL front runners:

- Keep it simple – Increasing the complexity of the charge makes CIL calculation and collection increasingly difficult
- The CIL charge is mandatory, if it makes development unviable then development may not go ahead. Therefore authorities should carefully consider at what level they set the CIL charge to avoid making desired development unviable.
- Bear in mind the type of development that is likely to come forward in the next three to five years, the standard time frame of a charging schedule before it is reassessed.

3.21 The consultant's key findings and officers recommendations are outlined below.

3.22 **Residential development** - The headline finding is that suitable overall parameters for charging CIL in the City were found to be between £100/sq.m to £150/sq.m. Within those parameters the consultants suggest that there are two possible approaches to charging a CIL on residential:

- A single city wide residential rate not exceeding £125/sq.m
- Differential residential charging rates based on three zones with three different rates of £100/sq.m (north east and east of the city), £125/sq.m (northwest and south west) and £150/sq.m (Market and Newnham)

3.23 Further detail on both approaches is contained in the consultants report but it is worth bearing in mind that a differential charging approach across a small city like Cambridge could get quite complicated, unwieldy and difficult to administer. It is also the case that there is not much planned growth in the higher value area and so a higher charge in that area would be of little value.

3.24 Officers recommendation, taking into account advice from government, frontrunners and also taking the emerging development strategy into account, is to have a single city wide residential charging rate of £125/sq.m

- 3.25 **Retail** - Parameters for retail charging are recommended in the range of £0/sq.m to £125/sq.m so that a rate or rates within that range could be selected/aligned to the balance of supply. At £0/sq.m to £75/sq metre a charging rate would be responsive to city centre comparison retail and out of centre smaller convenience stores. At the upper end of these parameters, £125/sq.m, retail warehousing, supermarkets, and new city centre convenience shop development have the potential to be more viable. Further detail is contained in the Viability Assessment which is attached as an appendix to this report.
- 3.26 Officers recommend a single approach based on a retail rate set at the relatively low level of £75/sq.m. The type of retail development that is most relevant to plan delivery, city centre comparison retail, informs this rate.
- 3.27 **Student accommodation** – DSP recommends consideration of a student housing CIL charging rate of not more than £125/sq.m and this is supported by officers.
- 3.28 **Other non-residential uses:** The viability assessment concludes that in the current depressed market conditions many commercial uses would not be viable if a CIL charge was applied to them at this time.
- 3.29 Based on the research findings and guidance officers recommendations for Cambridge City’s CIL Preliminary Draft Charging Schedule are presented in the table below:

#### **PRELIMINARY DRAFT CHARGING SCHEDULE**

<b>Use</b>	<b>Charge £/sq.m</b>
Residential (C3; C4 including sheltered accommodation)	£125
Retail (A1 – A5 and sui generic uses akin to retail*)	£75
Student Accommodation	£125
All other development including B, C1, C2 and D Class Uses.	£0

\* sui generis akin to retail includes petrol filling stations; shops selling and/or displaying motor vehicles; retail warehouse clubs.

#### **A Draft list of Projects (R.123) – Governance Arrangements**

- 3.30 CIL will not generate sufficient funding to pay for the entire infrastructure needs across the authority area. The Council will need to set out its intentions for how revenue raised from the levy will be

spent on its website through an infrastructure project list known as the 'R.123 list'. A draft version of the R123 list will need to be produced alongside the submission charging schedule at CIL examination in early 2014. The purpose of publishing this list at the CIL Examination is to provide transparency on what the Council intends to fund through the levy.

- 3.31 The decision as to which infrastructure projects receive CIL funding will ultimately lie with the Council but will require input from the County Council and other key stakeholders. Governance arrangements need to be put in place to guide this process. There will need to be a joint forum between the City Council, the County Council and other key stakeholders. Other authorities have used existing arrangements (e.g. Local Strategic Partnerships in Huntingdonshire). In our case there are a number of joint bodies that also include SCDC and there is a good case for the two districts to work together with the City Council in co-ordinating the new system. These options will come back for member consideration later.
- 3.32 Latest CIL guidance (December 2012) introduces a clear thread between Local Plan making evidence on Infrastructure need (The IDS), the evidence on the aggregate infrastructure gap that proves the need for CIL (The IDS), and the draft regulation 123 list, now required at CIL examination, that sets out the charging authorities spending plans. The starting point for the prioritisation of projects to go on the Draft R.123 list should therefore be the Infrastructure Delivery Study.
- 3.33 We are not required to consult on the Draft R.123 list prior to the CIL Examination but guidance states that once adopted any changes to the list should be subject to appropriate consultation. Work is ongoing in the area and officers are looking at potential options for governance arrangements, the result of which will be the subject of a future report to members.

### **S.106 and CIL**

- 3.34 As already stated the CIL Regulations provide for an end to tariff based approaches to S.106 Agreements.
- 3.35 However, although CIL replaces some elements of Planning Obligations, 'Section 106' Agreements will still be used for site-specific infrastructure or mitigation required to make development acceptable in planning terms. This could include the provision of affordable housing, local open space, access roads, habitat protection etc. In addition, on very large developments this will also extend to strategic infrastructure such as new schools, primary healthcare, strategic highway and transportation improvements as they are needed as part of the development. The principle is that all eligible developments



must pay a CIL as well as any site-specific requirement to be secured through Section 106 Agreements.

- 3.36 It will be necessary to undertake a parallel review of the Councils Planning Obligations SPD to reflect these changes. The revised SPD would provide clarity to developers on the operation of the planning obligations process once the CIL regime is operational.

### **Discretionary Relief from CIL**

- 3.37 The regulations allow Charging Authorities to permit discretionary relief from CIL (e.g. where a reduced or nil payment may be accepted). These cases are likely to be rare but could include the following:
- Development by charities for investment activities (as defined by Regulation 44)
  - Development by charities where relief would normally constitute State Aid (as defined in Regulation 45)
  - Where the city council considers there are exceptional circumstances to justify relief (as defined in Regulation 55).

### ***Discretionary Charitable Relief***

- 3.38 There has been very little take up of this policy option from other authorities. Of the ten Local Authorities that have started charging CIL only one has chosen to offer discretionary charitable relief.
- 3.39 Mandatory relief exists for charitable organisations/institutions within the CIL Regulations. At this stage the need for a discretionary relief in addition to mandatory relief is not considered justifiable and moreover, would impose an additional level of complexity in the administration and management of the CIL charge. A policy to this kind could be introduced at any stage however and this position can be kept under review.

### ***Exceptional Circumstances***

- 3.40 Exceptional Circumstances relief can only be granted if a planning obligation of greater value than the chargeable amount has been entered into in respect of the planning permission that permits the chargeable development and the Charging Authority considers that payment of the levy would have an unacceptable impact on the economic viability of development. In such cases a developer would be expected to demonstrate this (as set out in Regulation 57) via an 'open book' approach with an agreed independent valuer (paid for by the developer). Relief can also only be granted if it does not constitute 'notifiable state aid' (as defined in European Law).

3.41 There has been a mixed uptake on this policy option. Roughly one third of local authorities that propose to introduce a CIL propose to offer exceptional circumstances. The circumstances in which a policy of this nature would be likely to be used would be extremely rare given that the CIL rate is set based on viability evidence. The benefits of such a policy are that it may provide some flexibility on how CIL is applied but it would almost certainly add a complexity to the administration of the charge. The Draft PDCS proposes not to introduce an exceptional circumstances policy as it would add unnecessary complexity to the charge but states that this is something that could be kept under review and a policy of this nature could be introduced at any stage once a CIL is adopted.

### ***An Instalments policy***

3.42 Regulation 69B of the amended Community Infrastructure Regulations (2011) permits a charging authority to allow persons liable to pay CIL to do so by instalments following the publication of an instalment policy. There is no requirement to publish an instalments policy prior to adopting a charging schedule, or indeed at all. However, in the absence of an instalments policy the CIL must be paid in full within 60 day of the commencement of the CIL liable development.

3.43 To offset development industry concerns the consultation document states the intention of the Council to have an instalments policy for CIL and gives the development an opportunity to comment on how they would like such a policy to take shape in accordance with Regulation 69B.

### **The 'Meaningful Proportion'**

3.44 A capped 15% proportion of CIL revenue will need to be spent on locally determined infrastructure, in areas where development takes place. This will rise to 25% for those areas with an adopted neighbourhood plan in place. The Council currently operates an approach to devolution of S.106. Area Committees are used as a vehicle to devolve money received through S.106 agreements to fund locally determined infrastructure projects. Projects which receive funding are determined by the Area Committees in consultation with the neighbourhoods.

3.45 This process will provide a useful template for managing the CIL 'meaningful proportion'.

## Next Steps

- 3.46 Consultation on a Preliminary Draft Charging Schedule would be the first step in a 12 to 15 month statutory process towards adoption of a CIL Charging Schedule. The key dates in this process are outlined below:

Stage	Timetable
Consultation on Preliminary Draft Charging Schedule (PDCS)	March - April 2013 (6 weeks)
Consultation on Draft Charging Schedule (DCS)	Summer 2013 (4 weeks)
Submission of Draft Charging Schedule to Examiner	January/February 2014
Examination hearing (by independent inspector)	Spring 2014
Adoption at Full Council	Spring 2014

## 4. Implications

### (a) Financial Implications

- 4.1 It is difficult to accurately forecast CIL receipts due to the complicated nature of levying the new charge and how often landowners will pursue CIL exemptions. Revenues will depend on the volume, rate of build and type of new development undertaken. The main generator of CIL revenue will be residential development. An estimate, based on the development strategy emerging through the Local Plan Review, is that, in Cambridge City, CIL will generate in the region of between £12m - £15m (subject to further modelling) from residential development over the plan period to 2031.
- 4.2 Initial analysis (subject to further modelling) indicates that total contributions received through CIL could equate to roughly two thirds of the contributions that would have been secured through S.106 for the same amount of development; it could also amount to as much or even more than would have been secured through S.106. This will be largely dependent on the type of development that comes forward as CIL is not liable on changes of use, mezzanine floors, charitable development, where there is no net gain in floorspace, affordable housing, and in the Case of Cambridge where the use proposed is not

residential, retail or student accommodation. An analysis of 187 S.106 Agreements signed in Cambridge between 2010 and 2012 shows that only 103 of them would have been CIL liable.

- 4.3 There will be an ongoing requirement to monitor and review the Charging Schedule, which could trigger the need for further specialist viability modelling should market conditions change significantly.

(b) **Staffing Implications**

- 4.2 CIL can be delivered within existing resources. However, on adoption there needs to be mechanisms in place to collect CIL. It is a fairly complex and heavily regulated collection process with liability notices, demand notices, stop notices, procedures for appeal, instalments policies, procedures for claiming relief etc built in. There are potential resource implications for Development Management, IT, Finance and Legal.

- 4.3 Up to 5% of CIL can be retained for administration. Officers are carrying out more detailed scoping work on what might be required in this area.

(c) **Equal Opportunities Implications**

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

(d) **Environmental Implications**

- 4.5 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) **Procurement**

- 4.6 There are no direct procurement implications arising from this report. The implementation of CIL may however necessitate additional training and potentially software.

(f) **Consultation and communication**

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

(g) **Community Safety**

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

## 5. **Background papers**

Cambridge and South Cambridgeshire Infrastructure Delivery Study, Peter Brett Associates on behalf of Cambridge City Council, September 2012, <https://www.cambridge.gov.uk/public/ldf/CIL/Appendix%20B%20-%20Infrastructure%20Delivery%20Study%20FINAL%20REPORT%20and%20Appendices.pdf>

CIL frequently asked questions, December 2012, Planning Advisory Service <http://www.pas.gov.uk/pas/core/page.do?pagelD=1242969>

Community Infrastructure Levy Guidance, December 2012, DCLG <https://www.gov.uk/government/publications/community-infrastructure-levy-guidance>

Community Infrastructure Levy – Collection and Enforcement, Information Document, October 2011, DCLG <https://www.gov.uk/government/publications/community-infrastructure-levy-collection-and-enforcement-guidance>

Community Infrastructure Levy Relief – Information Document, May 2011, DCLG <https://www.gov.uk/government/publications/community-infrastructure-levy-relief-guidance>

The Community Infrastructure Levy Regulations 2010, <http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>

The Community Infrastructure Levy (Amendment) Regulations 2011, <http://www.legislation.gov.uk/uksi/2011/987/contents/made>

The Community Infrastructure Levy (Amendment) Regulations 2012, <http://www.legislation.gov.uk/ukdsi/2012/9780111529270>

## 6. Appendices

Appendix 1 – Cambridge CIL Consultation Document – incorporating the Preliminary Draft CIL Charging Schedule

Appendix 2 – Cambridge City Council Community Infrastructure Levy Viability Assessment

## 7. Inspection of papers

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

Author's Name: [Brendan Troy](#)  
Author's Phone Number: [01223 457442](tel:01223457442)  
Author's Email: [Brendan.troy@cambridge.gov.uk](mailto:Brendan.troy@cambridge.gov.uk)