



**CABINET**

**16<sup>TH</sup> JUNE 2016**

**AGENDA ITEM (7)**

**COMMUNITY INFRASTRUCTURE LEVY - PRELIMINARY DRAFT CHARGING SCHEDULE**

<b>Accountable Member</b>	Councillor NJW Parsons Deputy Leader and Cabinet Member for Forward Planning
<b>Accountable Officer</b>	James Brain Forward Planning Manager 01285 623519 james.brain@cotswold.gov.uk

<b>Purpose of Report</b>	To agree the Preliminary Draft Charging Schedule for Cotswold District for public consultation.
<b>Recommendation(s)</b>	<p>(a) That consultation be undertaken in respect of the 'Preliminary Draft Charging Schedule' (PDCS) attached at Appendix A to this report and its supporting documents in accordance with the statutory requirements of Regulation 15 of the Community Infrastructure Levy Regulations 2010 (as amended);</p> <p>(b) that the Head of Planning and Strategic Housing, in consultation with the Deputy Leader of the Council and Cabinet Member for Forward Planning be authorised to approve any minor amendments needed to prepare the PDCS and its supporting information for public consultation.</p>
<b>Reason(s) for Recommendation(s)</b>	To comply with the relevant provisions of the Planning Act 2008, and the Community Infrastructure Levy Regulations 2010 (as amended) in setting its Community Infrastructure Levy and to ensure that the Council secures an appropriate level of infrastructure provision to support new development.

<b>Ward(s) Affected</b>	All
<b>Key Decision</b>	Yes
<b>Recommendation to Council</b>	No

<b>Financial Implications</b>	The financial implications are explained in paragraphs 9.1 and 9.2 of this report
<b>Legal and Human Rights Implications</b>	None
<b>Environmental and Sustainability Implications</b>	None

<b>Human Resource Implications</b>	None
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<b>Key Risks</b>	<p>If the Council does not prepare and implement a CIL, it will not be able to collect developer contributions towards the funding gap for infrastructure which is needed to support new development, given the limitations on pooling of s106 planning constitutions.</p> <p>Additionally, a delay in consulting upon the Preliminary Draft Charging Schedule could affect the implementation of the Local Plan.</p> <p>Failure to submit the Draft Charging Schedule at or around the date of the Local Plan could result in the need to have a separate examination and, therefore, extra cost.</p>
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<b>Equalities Analysis</b>	An Equalities Impact Assessment has been prepared.
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<b>Related Decisions</b>	None
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<b>Background Documents</b>	Cabinet Report: Community Infrastructure Levy, 19 November 2015
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<b>Appendices</b>	<p><b>Appendix 'A'</b> - Cotswold District Preliminary Draft Charging Schedule - May 2016</p> <p><b>Appendix 'B'</b> - Cotswold District Whole Plan Viability Study April 2016 (N.B. Circulated as <b>stand-alone document with agenda</b>, with document Appendices available on the Council's Website) <a href="http://www.cotswold.gov.uk/media/1401822/Cotswold-Viability-Study-29416-APPENDICES.pdf">http://www.cotswold.gov.uk/media/1401822/Cotswold-Viability-Study-29416-APPENDICES.pdf</a></p> <p><b>Appendix 'C'</b> - Cotswold District Infrastructure Delivery Plan 2016 Update</p> <p><b>Appendix 'D'</b> - Cotswold IDP Update 2016 Infrastructure Funding Gap Analysis</p> <p><b>Appendix 'E'</b> - Equalities Impact Assessment</p>
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<b>Performance Management Follow Up</b>	Implement Cabinet decisions
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<b>Options for Joint Working</b>	Adjoining authorities in Gloucestershire and West Oxfordshire are at an advanced stage of preparing CIL. Under the Duty to Co-operate they will be contacted throughout the preparation of the Charging Schedule.
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<b>Background Information</b>	
1.	<u>General</u>
1.1	The Community Infrastructure Levy (CIL) has been introduced to complement Section 106 obligations and is a charge/tax that local planning authorities (as "Charging Authorities" and referred to as 'the Council' in this report) can levy on most new developments. It focuses on 'tariff-style' general infrastructure contributions that include, for example school places, open space, library provision, transport works, etc. CIL does not cover affordable housing contributions which will continue to be collected via the Section 106 process. CIL came into force in April 2010 and is gradually being rolled out by most local authorities across England.

1.2 CIL enables Charging Authorities to raise funds from new developments, in order to fund a wide range of infrastructure that is needed as a result of development. The CIL is a tariff-based approach, set out in a Charging Schedule, which indicates how much developers would be expected to contribute towards infrastructure. In setting the levy, the Council has to demonstrate that the charge is based on sound evidence and will not have a negative impact on the viability of development across the local authority area as a whole.

1.3 In setting the proposed CIL rates, the Council has had regard to several considerations but principally:-

- Whole Plan and CIL Viability Assessment - March 2016;
- the Infrastructure Delivery Plan;
- anticipated development as per the Council's baseline growth option being assessed for the Local Plan;
- input from stakeholders.

1.4 This evidence has helped assess development viability across the District, which includes testing the impacts of national and local planning policies and recommends CIL rates that will not render development unviable. It also assess infrastructure needed to deliver the local plan and identifies what infrastructure schemes the CIL can help to fund.

## 2. Setting the Levy

2.1 The rate of CIL is set by the Council and its preparation is governed by a statutory process set out in the Community Infrastructure Levy Regulations 2010 (the CIL Regulations, as amended). It is expressed as a charging schedule which is scrutinised by an independent examiner to assess whether the charge has regard to the evidence base and that the level of charge is reasonable and will not impact on Plan viability. As there is a very close link between preparing the Local Plan and preparing CIL, there are potential opportunities for the formal examinations for each document to be considered at the same time.

2.2 The Levy is expressed as a £ per square metre charge and can apply to:-

- developments of more than 100m<sup>2</sup> new floor space;
- developments of less than 100m<sup>2</sup> which result in the creation of one or more dwellings;
- the conversion of a building that is no longer in lawful use.

N.B. - there are types of development that are exempt from CIL, including Affordable Housing and Self and Custom Build.

2.3 The charge can be set either as single rate, which covers all types of development across the whole of an area, or as differential rates which cover different types of development and/or different areas.

2.4 The first step towards setting the levy is consultation upon a Preliminary Draft Charging Schedule (PDCS) and the Council is now ready to undertake that stage. In common with the informal Regulation 18 stage of consultation on the Local Plan, this PDCS is the first stage of preparing and testing the evidence and its expression as a rate of charge. There is a second stage of consultation which must be undertaken which takes account of amendments to the Charging Schedule resulting from the first stage of consultation and updated evidence. The Draft Charging Schedule (DCS), as this second document is known, will then be submitted for public examination in a similar way to the Local Plan.

2.5 CIL can only be introduced where there is a funding gap that needs to be bridged. The evidence to date identifies a funding gap i.e. there is a difference between sources of funding and that needed to provide the critical and essential infrastructure required to deliver the development proposed in the Local Plan.

2.6 Based on the critical and essential infrastructure identified to deliver the Local Plan the funding gap (excluding the Chesterton strategic site) is £9,830,272. It should be noted that this figure may change as further evidence becomes available as the Local Plan progresses. Analysis of the gap has taken into account of all reasonable sources of funding. In terms of bridging this gap the rates proposed in the Preliminary Draft Charging Schedule are:-

Proposed Rates of CIL	
Development Type	Maximum Rate of CIL
Residential <i>All development, including Sheltered Housing and Extra-care Housing but excluding the Chesterton Strategic Site</i>	£80/m <sup>2</sup>
Residential <i>Chesterton Strategic Site</i>	£0/m <sup>2</sup>
Retail Development	£60/m <sup>2</sup>
All Other Development	£0/m <sup>2</sup>

2.7 The scale of development on the Chesterton Strategic Site brings with it a significant list of infrastructural requirements, such as the need for a new school, new community facilities, highways improvements and the provision of new open space, to name a few. To ensure the site is contributing to the achievement of sustainable development, it will be necessary to deliver the full infrastructural requirements on site, or off-site where it can be shown to be directly related to the development.

2.8 The proposal for the Chesterton Strategic site to have a zero rate of CIL could provide the necessary certainty that all infrastructure, required to make the development acceptable in planning terms, will be delivered. Infrastructural requirements would therefore be set out in a detailed S106 agreement as part of an outline planning application.

### 3. CIL, Planning Obligations and Neighbourhood Planning

3.1 The CIL will work alongside planning obligations, known commonly as Section 106 Agreements, on planning applications to deliver infrastructure and make schemes acceptable in planning terms. The CIL will aid in delivering new infrastructure to support new development, while planning obligations will continue to be used to ensure that specific schemes can be considered acceptable in planning terms, securing matters such as affordable housing and site specific requirements.

3.2 New restrictions on existing planning obligations were introduced on 6<sup>th</sup> April 2015. These have limited the number of planning obligations that Local Planning Authorities can pool to deliver infrastructure to just five, with these needing to be for specific detailed schemes. The CIL has no such restrictions and can be collected on a range of developments and then 'pooled'. The pooled levy can then be spent on a range of infrastructure, providing greater flexibility in the delivery of local infrastructure.

3.3 Receipts from the CIL will also be passed back to the communities where development takes place. This 'meaningful proportion' as it is known, is 15% of CIL receipts capped at £100 per existing Council Tax-paying dwelling, or 25% of CIL receipts, uncapped, where a community has a Neighbourhood Plan or Neighbourhood Development Order in place.

3.4 The CIL Regulations ensure that developments are not charged twice for the same infrastructure type or project i.e. through both a Section 106 Agreement and a CIL charge, by restricting the extent of planning obligations. The Council is required to publish a list of infrastructure it intends to fund via CIL, which is known as the Regulation 123 list. This can be seen in Appendix 'B' of the PDCS.

#### 4. Optional Instalments and Exemptions Policies

4.1 The CIL Regulations allow the Council to make certain choices about how to implement the CIL.

4.2 The CIL Regulations allow the Council to introduce a phased payments procedure or instalments policy if it considers that to be appropriate, to allow payments of the CIL to be phased over different time scales. Currently, the Council is considering whether this approach is appropriate to collect the CIL payments in the District, and an instalments policy would need to be developed in the future, though it does not form part of the PDCS. Any such policy would be published at a later date.

4.3 The CIL Regulations allow the Council to accept payments in kind where appropriate in the form of land/infrastructure to offset the charge required by CIL. Such arrangements should only be accepted when they facilitate the provision of infrastructure to support the development of the area. Payments in kind are at the discretion of the Charging Authority and currently the Council is considering whether this approach is appropriate. If appropriate, a "payments in kind" policy would need to be developed in the future, though it does not form part of the PDCS. Any such policy would be published at a later date.

4.4 Discretionary Relief and Exceptional Circumstances Relief to CIL can also be provided at the Discretion of the Council. However, any such relief needs to form part of a discretionary relief policy and any such discretionary relief is not part of this stage of the development of the CIL, but may be published at a later date.

#### 5. Implications for the Council

5.1 Benefit - new restrictions on existing planning obligations such as Section 106 Agreements were introduced on 6<sup>th</sup> April 2015. These have limited the number of planning obligations the Council can pool to deliver infrastructure to just five, with these needing to be for specific detailed schemes. The CIL has no such restrictions and can be collected on a range of developments and then pooled. The pooled levy can then be spent on a range of infrastructure, proving greater flexibility in the delivery of local infrastructure.

5.2 Risk - of not consulting on the CIL PDCS in the same time frame as the Local Plan will lead to a delay in its implementation and the Council will incur additional costs for examination. This has implications for the Council's ability to obtain revenue from new developments in the District. In the long term, this will reduce the ability of the Council to provide critical and essential infrastructure required as a consequence of new development and increased pressure on local services.

5.3 Consideration should be made of whether to delay consultation to ensure the impact that the Starter Homes legislation may have on viability is known and taken into account. This legislation is contained in the Housing and Planning Act of May 2016. The Statutory Instrument has yet to be published (at the time of writing this report). It is Officer opinion that, as this is the first of a two part consultation, the PDCS should be consulted on alongside the Local Plan Submission Draft Reg. 19, as it is hoped there will be an opportunity to take account of the new Starter Homes policy and any other updated evidence prior to the next stage of consultation.

#### 6. Consultees and their Opinions

6.1 As part of developing the viability evidence for the CIL, an external consultation workshop has been held with Statutory Consultees, neighbouring local authorities, infrastructure providers and development industry representatives to share the assumptions and methodology for viability testing. In addition, a wide range of internal and external consultees have been interviewed for information relating to the Infrastructure Delivery Plan to determine whether a funding gap exists for essential infrastructure provision, which is needed to justify CIL charging.

6.2 In accordance with the Council's Statement of Community Involvement and the statutory regulations laid out for the preparation of development plan documents, the Council now needs to consult all interested parties on the PDCS.

6.3 Officers consider that the issues likely to emerge from consultation include:-

1. that the charging rate should be set at the limits of viability or has been set too high;
2. that a more complex structure of charging should be set such different charging zones, rates for different sizes and types of development, for example, employment uses;
3. why the Strategic Site at Chesterton is zero rated for CIL;
4. that the new Starter Homes legislation will impact on development viability and therefore impact on the proposed CIL rates;
5. that the draft Regulation 123 list is too high level and not detailed enough.

## 7. Timetable

7.1 To prepare and introduce the CIL, there are a number of stages that the charging authority must go through. These are summarised below along with an indicative timetable:-

### 7.2 CIL Timetable

	Key Milestone	Timescale
1	Complete essential evidence <ul style="list-style-type: none"> <li>• Infrastructure Delivery Plan</li> <li>• Whole Plan Viability study</li> </ul>	Completed
2	Prepare Preliminary Draft Charging Schedule	Completed
3	Cabinet decision	16th June 2016
4	Public consultation on Preferred Draft Charging Schedule	Summer 2016 (to coincide with consultation on Pre Submission Local Plan) for 6 weeks
5	Amend charging schedule in light of public consultation response	Summer 2016
6	Cabinet decision on Draft Charging Schedule	Autumn 2016
7	Publish Draft Charging Schedule for public consultation	Autumn 2016 for 4 weeks
8	Submit Draft Charging Schedule for Examination	Autumn 2016
9	Examination Hearings	To be confirmed by Planning Inspectorate
10	Inspector's report	To be confirmed by Planning Inspectorate
11	Adoption and implementation	Dependent on examination process

## 8. Resource/Financial Implications

8.1 In November 2014, the Cabinet approved an allocation of £250,000 in each of the 2014/15 and 2015/2016 financial years from the Council Priorities Fund for preparing the whole Local Plan, part of which was allocated to the CIL.

8.2 The costs involved in preparing for CIL so far relate to the commissioning of the IDP and its refresh (£39,876 to date) and the Whole Plan Viability Study (£13,363), which are both necessary for the preparation of the Local Plan. The Whole Plan Viability Study costs include the preparation of the Preliminary Draft Charging Schedule. A refresh of the Whole Plan Viability Study has been quoted at £3,200 and on-going consultant support costs will be charged at a daily rate. The number of days required is dependent on the number of representations received to the public consultation. Staff resources to project manage these studies to date has come from within the Local Plan Team. It is anticipated that, if the decision is confirmed to proceed with a CIL charging system, a dedicated planning resource will be required to project manage the work through the preparation, public consultation and formal examination process. The Regulations allow for the Council to recover the costs of CIL preparation, including the IDP and Viability Study, as well as the on-going administration costs, from CIL receipts.

9. Conclusion

For the reasons set out above, it is recommended that the Preferred Draft Charging Schedule be approved for consultation.

(END)