



**CABINET**

**20<sup>TH</sup> OCTOBER 2016**

**AGENDA ITEM (9)**

**COMMUNITY INFRASTRUCTURE LEVY - 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 Community Infrastructure Levy Draft Charging Schedule for Cotswold District for public consultation.
<b>Recommendation(s)</b>	<p>(a) That consultation be undertaken in respect of the "Draft Charging Schedule" (DCS) at Appendix 'A' to this report and its supporting documents in accordance with the statutory requirements of the Community Infrastructure Levy Regulations 2010 (as amended);</p> <p>(b) that the Head of Planning and Strategic Planning, in consultation with the Deputy Leader of the Council and Cabinet Member for Forward Planning, be authorised to make any minor amendments needed to prepare the DCS and its supporting information for public consultation;</p> <p>(c) that, following the DCS consultation, the Cabinet and the Council authorise the Cotswold District Council Community Infrastructure Levy Charging Schedule to be formally submitted to the Secretary of State in accordance with the statutory requirements of the Community Infrastructure Levy Regulations 2010 (as amended).</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>	There are significant but unavoidable cost implications associated with the publication and submission of the CIL, particularly the subsequent examination process. These will be funded from the Council Priorities Fund earmarked reserve.
<b>Legal and Human Rights Implications</b>	None
<b>Environmental and Sustainability Implications</b>	None
<b>Human Resource Implications</b>	None

<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 that is needed to support new development; given the limitations on pooling of s106 planning contributions.</p> <p>Additionally, a delay in consulting upon the Draft Charging Schedule could affect the implementation of the Local Plan.</p> <p>Failure to submit the 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> <p>There is a risk of national CIL regulations changing up to and even during the CIL examination. The CIL review panel is due to report back to the Government shortly with a range of suggestions, which the government may or may not act upon.</p>
<b>Equalities Analysis</b>	An Equalities Impact Assessment has been prepared.

<b>Related Decisions</b>	Cabinet 16 <sup>th</sup> June 2016: Community Infrastructure Levy Preliminary Draft Charging Schedule
<b>Background Documents</b>	Cabinet Report: Community Infrastructure Levy, 19 November 2015
<b>Appendices</b>	<p><b>Appendix 'A'</b> - Cotswold District Draft Charging Schedule;</p> <p><b>Appendix 'B'</b> - Implementation policies;</p> <p><b>Appendix 'C'</b> -Draft Regulation 123 list - to be presented at the Cabinet Meeting;</p> <p><b>Appendix 'D'</b> - CIL topic paper (with Q&amp;As) - to be presented at the Cabinet Meeting;</p> <p><b>Appendix 'E'</b> - Cotswold District CIL Consultation Statement.</p>

<b>Performance Management Follow Up</b>	Implement the Cabinet's decisions
---	-----------------------------------

<b>Options for Joint Working</b>	<p>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.</p> <p>The Council is investigating with neighbouring authorities how it</p>
----------------------------------	---

might share resources and expertise to implement and manage the CIL once adopted.

## **Background Information**

### **1. General**

1.1 The Community Infrastructure Levy (CIL) has been introduced to complement section 106 (S106) 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 which will continue to be a S106 obligation. Site specific infrastructure requirement will also continue to be negotiated for and collected via the S106 processes.

1.2 The CIL enables Charging Authorities to raise funds from new development, 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 The Council has a choice whether to have CIL or not. However, since April 2015, all local planning authorities and highway authorities are unable to pool S106 payments where there have been five or more contributions since April 2010.

1.4 To set a CIL the Council needs to:

- a) demonstrate that you need funding for infrastructure to support your development (a funding gap)- this proves you need a CIL; evidence that the amount you are going to charge CIL at is not so high as to undermine the delivery of the growth strategy for the area.

1.5 The Draft Charging Schedule (DCS) is further supported by an implementation policy paper, a draft regulation 123 list, a CIL topic paper, a consultation statement and Post-PDCS note on Viability.

### **2. Preliminary Draft Charging Schedule (PDCS) Consultation**

2.1 The PDCS consultation was published for a period of six weeks starting Monday 27<sup>th</sup> June and closing on Monday 8<sup>th</sup> August 2016.

2.2 The Council received 99 comments from 34 consultees to the PDCS consultation. These comments were received either electronically by e-mail or through the Council's online consultation portal or by letter. All representations made to the Council during the consultation period are available to view online via the Council's Local Plan consultation portal<sup>1</sup>.

2.3 Representations were made by local residents, Town and Parish Councils, Councillors, the County Council, Developers, Care/Retirement Home Providers, Infrastructure and Utilities companies, a School, Environmental Groups and Landowners.

2.4 Some of the key issues arising from the PDCS consultation were:

- There was support for the Adoption of CIL as it provides certainty and clarity for developers and councils;
- The zero rating of the Chesterton Strategic Site. There was support for this on the grounds of bringing clarity and certainty. There were also objections to this zero rating on the grounds that Chesterton should contribute to infrastructure across the District;
- Other objections to the Charging Rates included the charging of rural businesses, rural retail

<sup>1</sup> [http://consult.cotswold.gov.uk/portal/fp/cil/cil\\_preliminary\\_draft\\_charging\\_schedule](http://consult.cotswold.gov.uk/portal/fp/cil/cil_preliminary_draft_charging_schedule)

and town centre retail uses, the rate charged for sheltered and extra care housing and the single rate of the residential charge on the grounds that a more complicated one for different zones and different sized developments should be introduced. Also, it was proposed that a new charging category for hotels be included;

- Comments on the Draft Reg. 123 list were that it is too broad brush, requires more detail of schemes to prevent double charging of CIL and s106. Additions to the list were suggested.
- There was support for the future inclusion of a Discretionary Relief Policy, Social Housing Relief Policy, Instalment Policy and the clarity this will provide;
- There was support of the Meaningful Proportion to be given to Town and Parish Councils, but requests made for more information on this and that the Council give a higher amount than that prescribed in the Regulations;
- There was a desire for more information to be published on the implementation of CIL, including how the Council will work with local Communities, Town and Parish Councils and the County Council to deliver infrastructure projects, as well as the triggers for reviewing CIL in the future.

2.5 Specific technical comments on the IDP and Whole Plan Viability Studies include issues relating to assumptions made in the methodology. In particular, comments raised concerns that the viability assessment doesn't consider all policies in the Submission Draft Local Plan (Regulation 19), residential property values are too high in some areas and land value assumptions require additional evidence to support approach.

2.6 These comments have been reviewed and analysed in a supplementary post-PDCS note. With regards to the viability assessment, the main areas of difference are the housing, economy and infrastructure policies. The supplementary paper finds that the Draft Submission Local Plan (Reg.19) policies are unlikely to adversely impact on viability. Equally the supplementary paper finds the existing approaches used to establish residential property values and land values are appropriate and consistent with national planning policy and guidance.

2.7 Within the statement of consultation document attached at **Appendix 'E'**, representations have been collated into a 'Table of Representations', with each representation and the Council's response, as the Charging Authority, shown. The representations will inform the next stage of the CIL process, which is called the Draft Charging Schedule.

2.8 There remains a need to continue to engage with a wide spectrum of interested parties to ensure the CIL framework is better understood across the District. The Council is committed to directly engage with the development industry and infrastructure providers to ensure infrastructure supports the delivery of the Local Plan.

### 3. The Draft Charging Schedule (DCS)

3.1 The charge would apply to all development containing over 100 square metres (internal) floorspace, or a new dwelling of any size. There are some exemptions e.g. charities; social housing and self-builds. It is paid as '£ per square metre' on net additional (internal) floorspace. Rates can vary by geographic area or use (or both) based on viability. It becomes due when the development starts. The landowner is responsible for paying it to the local planning authority who are called the 'charging authority' and who set the CIL.

3.2 Charging authorities need to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the imposition of the levy upon the economic viability of development across their area. There is a defined process for preparing the charge and an independent examination to test the rates and robustness of the evidence.

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

- Post-PDCS Viability update (October 2016);
- Representations made to the PDCS consultation (June to August 2016);
- 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;
- PDCS consultation representations; and
- Input from stakeholders.

3.4 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.

3.5 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.

3.6 Based on the critical and essential infrastructure identified to deliver the Local Plan the funding gap (excluding the Chesterton strategic site) is £16,267,072. Chesterton has identified infrastructure cost of approximately £28 million which will be negotiated for as part of site specific S106 obligations. 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, evidence continues to support the rates proposed in the PDCS. They are as follows:

<b>Table 1: Proposed Rates of CIL</b>	
<b>Development Type</b>	<b>Maximum Rate of CIL</b>
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>

3.7 As is the case with all local planning authorities who have introduced CIL, our own evidence shows the CIL fund will not fund the whole gap and it is currently anticipated that £6,436,800 will be collected from CIL and the Council's proportion equates to £5,149,440. The CIL will fund approximately 25% of the identified infrastructure over the Plan period and 32% of the identified gap. Again these figures are consistent with other local planning authorities. Working with Gfirst LEP, County and Parish Councils will be essential to deliver strategic infrastructure.

3.8 Receipts of funds from CIL are very low upon the introduction as monies is only received after the commencement of development which can be several years after planning permission is granted. Therefore, in the first three years the Cotswold CIL will be active the amount of CIL monies received is estimated to be £196,992 (£55,296 in year one, £55,296 in year two and £86,400 in year three). In years four and five the Council estimates to receive £297,216 and £235,008, respectively. The total for the first five years in estimated to be £729,216.

#### 4. Planning Obligations and Neighbourhood Planning

4.1 Pooling restrictions limit 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'.

4.2 The levy can then be spent on a range of infrastructure, providing greater flexibility in the delivery of local infrastructure. 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.

## 5. Regulation 123 List

5.1 The CIL Regulations ensure that developments are not charged twice for the same infrastructure type or project i.e. through both a S06 agreement and a CIL charge, by restricting the extent of planning obligations. To ensure duplication in the collection of contributions does not take place the Council is required to publish a list of projects, known on the Regulation 123 list, which will **not** be funded through S106 and/or S278 obligations. The list is not a shopping list of infrastructure projects. The Reg 123 list is attached at **Appendix 'C'**.

## 6. Implementation of Decisions

6.1 The CIL Regulations allow the Council to make certain choices about how to implement the CIL, in particular:

- a) Exceptional circumstances relief;
- b) discretionary social housing relief;
- c) Discretionary charity relief;
- d) Payment in kind – Land or Infrastructure; and
- e) Phased payments.

6.2 Consideration has been given to each of the provisions, with reference to our local circumstances and recommendations are set out below.

### ***a) Exceptional circumstances relief***

6.3 It is recommended the Council do not introduce exceptional circumstances relief. The viability assessment indicated that a cautious approach to the CIL rate setting has been taken which will be robust throughout the economic cycle. Should there be any potential future issues with viability and delivery -exceptional circumstances relief can be 'switched on'.

### ***b) Discretionary social housing relief***

6.4 It is recommended the Council do not introduce discretionary social housing relief as there is already mandatory social housing relief given by the CIL regulations, discretionary relief is at the expense of infrastructure. The Council has a significant infrastructure funding gap and in the early years limited CIL income and it will focus on infrastructure to facilitate the growth of the area and therefore should not 'switch on' discretionary social housing relief at this time.

### ***c) Discretionary Charity Relief***

6.5 It is recommended the Council do not introduce discretionary charity relief. There is already mandatory charity relief given by the CIL regulations, discretionary relief is at the expense of infrastructure. The Council has a significant infrastructure funding gap and in the early years limited CIL income. At this time the focus with need to focus on infrastructure to facilitate the growth and therefore should not 'switch on' discretionary charity relief at this time.

### ***d) Payment in Kind (Land and Infrastructure)***

6.6 The Council is still reviewing whether to consider accepting land payments in kind. Initially it is recommended the Council do not introduce infrastructure payments as this mechanism is not currently considered to be an effective approach to delivering infrastructure to support development. Infrastructure payments can be reviewed if there are changes to this mechanism.

### ***e) Payment by instalments***

6.7 It is recommended that the Council introduce an instalments policy to aid cash flow, viability and deliverability of developments. The Council should consult upon the Instalments Policy in the Whole Plan Viability Study as part of this consultation. Payment by instalments significantly assists with the cashflow and viability of schemes particularly on large schemes. Instalments are very similar to the S106 'triggers' approach, which allows the developer to receive money from selling part of the scheme in advance of paying the next tranche of CIL. Instalment policies do not affect the overall amount of CIL collected from a scheme. The viability assessment has assumed instalments. It should be noted the instalments policy can be changed but must give with notice.

## 7. Consultation and Engagement

7.1 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.

7.2 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 DCS.

7.3 The CIL is a complex topic and as such the Council continues to communicate and engage with relevant parties to explain why the Council is seeking to adopt a CIL and what this means for the delivery of infrastructure in the Cotswolds. **Appendix 'D'** provides a helpful resource to explain the process and its links to the Local Plan; it also includes answers to commonly asked questions.

7.4 A developer workshop, which will include local infrastructure providers and authorities, will be held during the consultation period to continue to test assumptions evidence and ensure infrastructure identified in IDP and Local Plan are appropriate. A drop in event will also be held for members of the public to help explain the CIL process.

## 8. Timetable

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

Table 2 : CIL Timetable

	<b>Key Milestone</b>	<b>Timescale</b>
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	Completed
4	Public consultation on Preliminary Draft Charging Schedule	Completed
5	Amend charging schedule in light of public consultation response	Completed
6	Cabinet decision on Draft Charging Schedule	20 October 2016
7	Publish Draft Charging Schedule for public consultation	October/November 2016 (for 4 weeks)
8	Submit Draft Charging Schedule for Examination	Early 2017
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

## 9. Resource/Financial Implications

9.1 The costs involved in preparing for CIL so far relate to the commissioning of the IDP and its refresh (£36,000 to date) and the Whole Plan Viability Study (£13,363), both of which are necessary for the preparation of the Local Plan. A refresh of the Whole Plan Viability Study has been quoted at £3,200 and ongoing consultant support costs will be charged at a daily rate. The Council is working with a leading expert within the CIL industry to support the delivery of the CIL at examination and importantly to assist the Council to establish systems and processes to implement the CIL when

adopted in 2017.

9.2 The number of days required from consultants 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.

9.3 The Regulations allow for the Council to recover the costs of CIL preparation, including the IDP and Viability Study, as well as the ongoing administration costs, from CIL receipts.

#### 10. Next stages

10.1 Depending on the issues raised to the DCS consultation, Officers will make informed judgements and report back to the Cabinet and the Council as to whether the CIL should be formally submitted to the Secretary of State or whether any additional work is needed.

#### 11. Conclusion

For the reasons set out above, Officers recommend the Council approves the Draft Charging Schedule for consultation.

(END)