



CABINET

14TH FEBRUARY 2019

AGENDA ITEM (9)

COMMUNITY INFRASTRUCTURE LEVY

Accountable Member	Councillor NJW Parsons Cabinet Member for Forward Planning
Accountable Officer	James Brain Forward Planning Manager 01285 623000 James.brain@cotswold.gov.uk
Purpose of Report	To consider procuring new software and creating two new posts to support the effective monitoring and administration of the Community Infrastructure Levy (CIL) and Section 106 agreements.
Recommendations	<p>(a) That the procurement of dedicated CIL and S106 monitoring software (including annual maintenance costs of £9,000) be approved;</p> <p>(b) that additional funding be awarded to the Publica contract to fund the recruitment of one senior officer and one technical support officer (both permanent contracts) to operate CIL and monitor S106 agreements;</p> <p>(c) that funding for recommendations (a) and (b) be met from earmarked revenue reserves until income from CIL for administration of the Levy fully funds on-going revenue costs;</p> <p>(d) that the Council be recommended to implement the Levy with effect from 1st October 2019;</p> <p>(e) that the Council be recommended to grant delegated authority to the Deputy Leader and Cabinet Member for Forward Planning to make necessary and consequential amendments to the CIL Charging Schedule and supporting documents to reflect recommendation (d).</p>
Reason(s) for Recommendation(s)	To ensure that the Council: <p>(i) complies with the relevant provisions of the Planning Act 2008, and the CIL Regulations 2010 (as amended) when administering its CIL; and</p> <p>(ii) secures an appropriate level of infrastructure provision to support new development identified in the Cotswold District Local Plan (2011 to 2031).</p>
Ward(s) Affected	All
Key Decision	Yes

Recommendation to Council	Yes, in part
Financial Implications	<p>To deliver a wholly new regime will require new ways of working. A new set of skills and competencies are required that focus on regulatory compliance, financial and legal administration and delivering new infrastructure. This paper outlines these costs.</p> <p>The Regulations allow for the Council to recover the costs of CIL preparation, including the Infrastructure Delivery Plan (IDP) and Viability Study, as well as the on-going administration costs, from CIL receipts. Based on current estimates, it is unlikely that CIL will be cost neutral for several years. However, CIL receipts will provide an increasing contribution over time. The CIL is a long-term investment, which is critical to the delivery of the Local Plan and maintaining a five year housing land supply.</p>
Legal and Human Rights Implications	The Council's CIL Charging Schedule complies with the requirements of Part 11 of the Planning Act 2008 (as amended) and the CIL Regulations 2010 (as amended).
Environmental and Sustainability Implications	Placing a levy on new development helps the Council to secure an appropriate level of infrastructure provision and help deliver the Cotswold District Local Plan (2011 to 2031).
Human Resource Implications	Implementing CIL requires additional specialist staffing resources that are not currently available within Publica.
Key Risks	<p>If the Council does not implement a CIL, the Council will find it increasingly more difficult to fund infrastructure. This would directly impact the delivery of the Cotswold District Local Plan (2011 to 2031), which is predicated on CIL helping to deliver identified infrastructure requirements.</p> <p>A recent audit identified this to be a <i>"high corporate risk and a high inherent risk that the Council is unable to adequately monitor the conditions of S106 Agreements, which could lead to financial loss, legal objections and reputational damage."</i></p> <p>The date on which the Council will implement CIL is dependent on adequate resources being available.</p> <p>The report reflects the opportunity to share costs with West Oxfordshire District Council (WODC) from 2020/2021; however, there is a risk that WODC does not agree to share the costs. The figures also assume WODC benefits from an efficient public examination process and are able to adopt/charge CIL in 2020.</p>
Equalities Impact Assessment	An Equalities Impact Assessment was prepared to support the CIL charging schedule.
Related Decisions	<ul style="list-style-type: none"> (i) Council 3rd August 2018: Community Infrastructure Levy - Charging Schedule adoption (ii) Council 13th June 2017: Community Infrastructure Levy - Draft Charging Schedule (iii) Cabinet 20th October 2016: Community Infrastructure Levy - Draft Charging Schedule

Background Documents	<p>(i) Cotswold District Infrastructure Delivery Plan (April 2016)</p> <p>(ii) Cotswold District Whole Plan and CIL Viability Study (April 2016)</p> <p>(iii) Cotswold District Preliminary Draft Charging Schedule (June 2016)</p> <p>(iv) Cotswold District Draft Charging Schedule (October 2016)</p> <p>(v) Cotswold District Post PDCS Viability Note (October 2016)</p> <p>(vi) Cotswold District Infrastructure Delivery Plan Funding Gap Analysis (April 2017)</p>
Appendices	<p>Appendix 'A' - CIL Forecast for Cotswold District (2016-2031) as of May 2016</p> <p>Appendix 'B' - CIL Forecast for Cotswold District (2019-2031) as of April 2018</p> <p>Appendix 'C' - Implementation and ongoing operating costs</p> <p>Appendix 'D' - Revenue vs Cost</p>

Options for Joint Working	<p>WODC aim to adopt CIL Charging Schedule in 2020 but has agreed, in principle, to split the set up costs equally.</p> <p>There are further opportunities for economies of scale, which would enable WODC and the Forest of Dean (FoD) to fast track implementation of their CILs.</p> <p>Demanding CIL regulations provide an additional impetus for joint working.</p>
Performance Management Follow Up	<p>(i) Implement Cabinet decision(s).</p> <p>[(ii) Thereafter, to be reviewed following adoption of WODC CIL and/or publication of CDC's annual CIL Financial Statement, whichever is sooner.</p>

<p>Background Information</p> <p>1. At a Special Council Meeting on 3rd August 2018, the Council adopted the CIL Charging Schedule (and supporting documents) and agreed to implement CIL from 1st April 2019. The Special Council report stated that additional resource was likely to be required and that a report would be prepared setting out how best to implement and administer CIL.</p> <p>CIL Review</p> <p>2. This report summarises the findings of a recent review that assessed the practicalities and feasibility of setting up and operating CIL. The review focussed on the following themes:</p> <ul style="list-style-type: none"> • Systems/Software; • Sources of Revenue; • Operating costs. <p>3. The review highlighted several details that provide useful context to the recommendations:</p> <ul style="list-style-type: none"> • The delivery of the Cotswold District Local Plan is dependent on CIL and S106 funded infrastructure; • There are opportunities and benefits to jointly operate CIL with West Oxfordshire and the Forest of Dean;

- CIL adds additional processes to the planning application process;
- There will be a time lag between the Council granting permission and levies collected;
- Assumptions made about expected income is dependent on many factors beyond the Council's control. For example, the availability of finance to fund developer proposals.
- Regulations are complex and often change;
- Project management/tracking and accuracy is essential;
- An audit identified an urgent need to improve the monitoring of S106 agreements;
- Administering CIL and monitoring S106 agreements requires various expertise (finance, planning, legal, enforcement and prosecution);
- There is no capacity or specialist expertise within the Council or its partner organisations to operate CIL currently; and
- Implementing CIL provides a mechanism for monitoring Self Build development, a requirement placed on all English LPAs.

System/Software

4. Neighbouring LPAs were interviewed to ascertain how they operated CIL. Enquiries focussed on system/software and staffing resources.

5. Discussions highlighted the benefits of procuring a dedicated system over an in-house spreadsheet system. It was generally agreed that a dedicated system provided the following benefits over an in-house spreadsheet system:

- process automation;
- back office support and system updates (especially useful when regulations change);
- the ability to link with other Council systems; and
- the ability to monitor S106 agreements and self-build applications.

6. In autumn 2018, we investigated developing our own dedicated CIL/S106 system for the partner Councils and found that whilst it is technically feasible, the cost would be the equivalent of procuring three off-the-shelf systems. It would also require a team of developers at least 15 weeks to build and test the system.

7. Advice highlighted the importance of providing sufficient time to recruit and train staff, and set up and test the IT software, before going live. Practitioners recommend a transition period of at least six months, before charging the levy, is a sensible and robust timeframe.

8. Interviews have highlighted the need to strike a good balance between staffing resources and the ICT system. It is generally accepted amongst CIL practitioners that the more automation a system provides the less time the LPA has to spend on manual data entry.

CIL Receipt and S106 Monitoring Fee Revenue

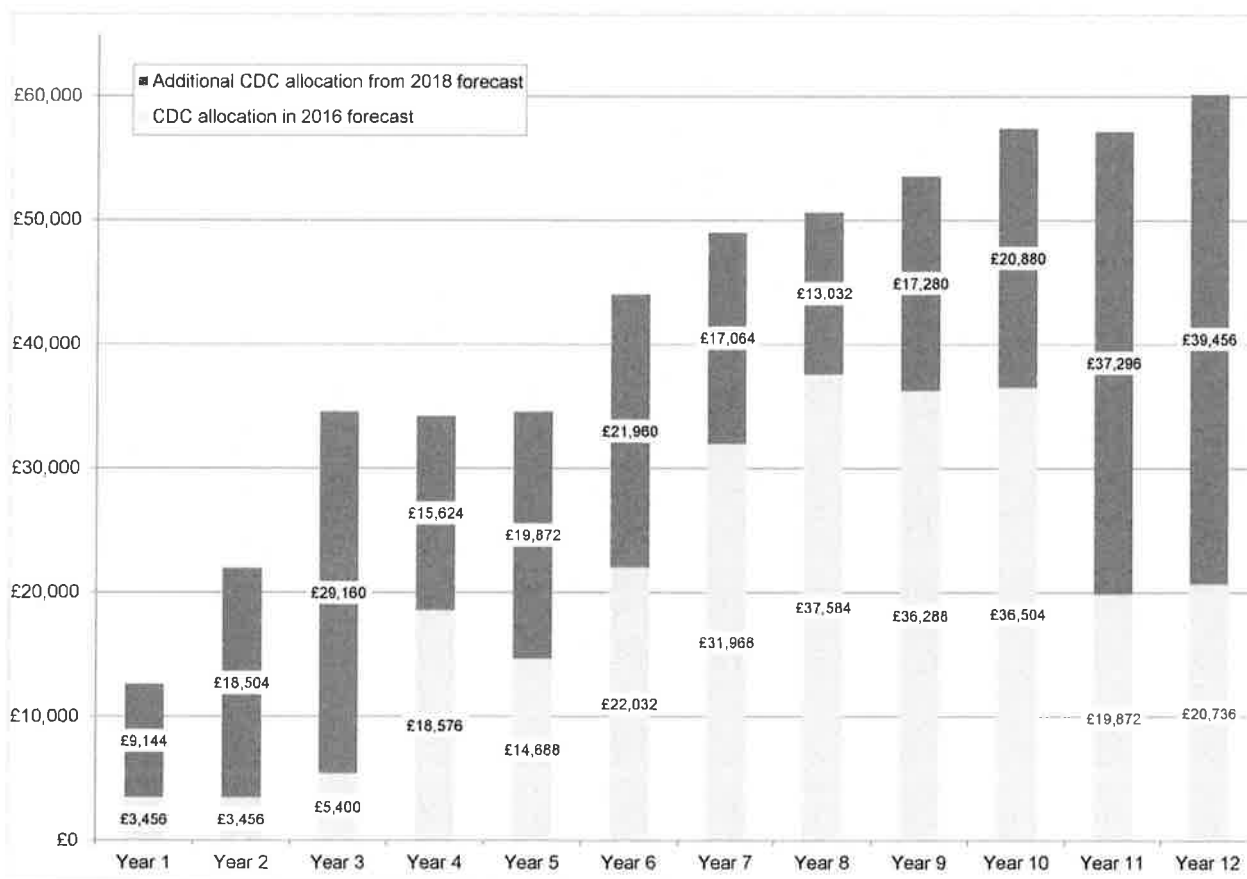
9. The *Infrastructure Delivery Plan GAP Analysis* paper establishes the CIL revenue forecast. Given the paper was published in 2016, the forecast has been updated to take account of the latest housing projections and the adopted Local Plan.

10. The 2016 and 2018 CIL revenue forecasts from new housing development are provided at **Appendix A and B**. A summary of the 2018 forecast is provided in Table 1 and Figure 1.

Table 1: Comparison between CIL liable housing growth estimations (from April 2019)

Year	Cotswold estimated total CIL liable dwelling completions from April 2019	Difference between no. of CIL liable dwellings from 2016 and 2018 estimations	Cotswold estimated CIL revenue (2018 estimate)		Difference between CIL revenue from 2016 and 2018 estimations	
			Total (£)	CDC Admin Allocation (£)	Total (£)	CDC Allocation (£)
1	35	+25	252,000	12,600	+182,880	+9,144
2	61	+51	439,200	21,960	+370,080	+18,504
3	96	+81	691,200	34,560	+583,200	+29,160
4	95	+43	684,000	34,200	+312,480	+15,624
5	96	+55	691,200	34,560	+397,440	+19,872
6	122	+61	879,840	43,992	+439,200	+21,960
7	136	+47	980,640	49,032	+341,280	+17,064
8	141	+37	1,012,320	50,616	+260,640	+13,032
9	149	+48	1,071,360	53,568	+345,600	+17,280
10	159	+58	1,147,680	57,384	+417,600	+20,880
11	159	+104	1,143,360	57,168	+745,920	+37,296
12	167	+109	1,203,840	60,192	+789,120	+39,456

Figure 1: CIL revenue forecast – CDC administration allocation



11. The updated forecast finds that total CIL revenue between April 2019 and March 2031 increases from approximately £6.4 million to £10.2 million (+58%).

12. The forecast does not factor in CIL revenue that could be generated as a result of:

- CIL revenue from sources other than new housing: residential extensions, retail developments, some extra care housing developments and residential annexes;
- Resubmitted planning applications that would become CIL liable;
- Local Plan site allocations delivering more housing than forecast;
- S106 monitoring fees, including from the Chesterton strategic site; and
- Potential additional housing (e.g. RAF Fairford and housing need beyond 2031).

13. Table 2 summarises the estimated future revenue towards the CIL administration and S106 monitoring staff resource and IT system requirements. It also highlights the lag between planning applications being granted and levies being collected.

Table 2: Estimated future revenue (from 1 April 2019)

	Year 1	Year 2	Year 3
Cotswold revenue			
CIL revenue forecast from new dwellings*	£12,600	£21,960	£34,560
Estimated S106 monitoring fees	+£	+£	+£

* Plus additional CIL revenue from sources other than new housing

CIL operating costs

14. Factors relating to operating costs are twofold; 1) system; and 2) staffing resources. Operating costs are provided at **Appendix C**.

15. The dedicated IT system costs £27,500. There would be an annual maintenance cost of £6,750 in 2019 and £9,000 per annum thereafter

16. The cost in 2019 for the permanent Senior Officer would be £39,469 and the Technical Support Officer would be £24,862. Both positions would be shared with WODC, although this is subject to agreement with WODC.

17. The proposal strikes a balance between resources and costs. It is anticipated that the CDC will be up and running for at least six months before resources would need to be focused on implementing the WODC CIL; allowing for a phased implementation.

18. The Senior Officer role would be responsible for managing the implementation of Cotswold and West Oxfordshire CILs and establish governance arrangements. The position would be to:

19. The Senior CIL/S106 Officer would:

- a) manage the implementation of CIL at CDC and WOx and establish governance arrangements;
- b) coordinate and work on CIL administration and monitoring of S106 agreements and Self Build schemes;
- c) prepare the annual Financial Statement;
- d) support inquiries and public examinations;
- e) improve processes and produce evidence – in line with Local Plan reviews; and
- f) produce supplementary planning documents, customer guidance notes and provide training for local communities.

20. Resources would be reviewed following the adoption of the WODC CIL to ensure sufficient resources are available to operate to both CILs

21. It would be beneficial to review resources following the adoption of the West Oxfordshire CIL to ensure sufficient resources are available to operate to both CILs. A suitable trigger point could be the adoption of the West Oxfordshire Charging Schedule.

Revenue vs Cost

22. **Appendix D** summaries forecast CIL revenue from new housing delivery vs costs. It excludes the additional potential sources of revenue discussed at paragraph 13. The forecast indicates it will take approximately six years before annual CIL revenue exceeds annual CIL costs. Cumulatively, it will take over ten years for CIL to become cost neutral. The data assumes CIL will go live on 1 April 2019.

23. CDC will fund full staffing costs associated with setting up and operating CIL in year one (2019/2020), although Appendix D reflects the opportunity for CDC to share costs with West Oxfordshire from year two onwards (in line with their projected adoption of CIL).

24. One-off funding has previously been identified to implement CIL and S106 monitoring. This funding will support the procurement of a dedicated system, running costs and staffing costs. Additional funding is required to the Planning Services budget to support and formalise the longer term costs of operating CIL and monitoring S106 agreements and Self Build applications. It is proposed that this funding is found from earmarked reserves until CIL administration becomes self-financing.

Outcomes and Benefits

25. The recommendations will enable Cotswold DC to place a levy on new development, which will help to fund infrastructure required to deliver the Cotswold District Local Plan (2011 to 2031). The benefits are delivered by:

- a) Increased operational efficiency and service delivery - the additional resources (staffing and system) would enable the Council to implement CIL effectively and efficiently. It would also enable the monitoring of S106 agreements and Self Build applications; ensuring infrastructure is delivered on time. It will also provide a visibly better service.
- b) Improved Service Resilience - experience gained in Cotswold would be used to implement CIL effectively and efficiently in WODC. Additional resource will reduce the risk of delays in the planning application process caused by CIL.
- c) Cost effectiveness - Sharing resources helps to reduce the financial burden on each council. There is also potential for FOD or additional authorities to join administration at a later date, which would deliver further cost benefits.
- d) Delivering new infrastructure – levying a charge on new development is expected to deliver approximately £10 million by 2031, in addition to contributions from S106 agreements (e.g. Land South of Chesterton, Cirencester). Town and Parish Councils will also share between 15-25% of levies collected from developments in their area.
- e) Increased purchasing power / leverage - CIL funds can be used to match fund other sources of government and non-government funds (e.g. the Local Enterprise Partnership) to help secure and deliver infrastructure.
- f) More certainty and greater flexibility - unlike S106 agreements, CIL is non-negotiable. S106 agreements will still be used to secure infrastructure directly related to the application site (e.g. a new road access) and the delivery of affordable homes. CIL funds can be spent on strategic priorities and, unlike S106 agreements, they are not tied to the application. This is within the context that the Local Plan identifies critical and essential infrastructure that are required to deliver allocated development.

Options and Impacts

26. Do not implement CIL and S106 and self-build monitoring - this risks being unable to provide the essential and critical infrastructure needed to deliver the Local Plan. It would also prevent associated outcomes and benefits from being delivered.
27. Do Nothing - given that CIL is due to go live on the 1 April 2019, this approach would likely delay the planning application process, particularly validation, which would impact on the determination of applications within the statutory deadlines. There would be no expertise to provide guidance and support to officers and customers. There would be no system in place

to administrate CIL or monitor S106 agreements and Self Build schemes.

28. Use existing resources within Planning Services (across CDC and WOX) to build and operate a CIL and S106 monitoring system – Some expertise exists (S106 monitoring) that should prove useful when introducing new processes, however there is no identified capacity within the Planning Services to build and operate a new system that is also capable of monitor S106 agreements and Self Build applications.

29. Procure system and employ two CIL officers with Planning Services and go live April 2019 – This would deliver the outcomes and benefits however, there are only eight weeks until CIL goes live and therefore it is highly unlikely that a new system and resources can be delivered in time.

A drawback of procuring a dedicated system over a manual spreadsheet system or developing a bespoke in-house system is that each authority is required to procure its own dedicated system. Future reviews of CDC and WODC planning systems would provide an ideal opportunity to review the CIL systems.

30. Procure IT system and employ two CIL officers with Planning Services but defer the date that the levy is set to be charged – This approach would support the delivery of CIL although the deferment will reduce the amount of levy collected in year one (and possibly years two and three – due to the lag between planning permission and development). It is likely revenue would be lost but the scale of the loss is dependent on the amount of time the deferment is for.

In particular, the Development Management team has highlighted three planning applications that have been submitted or are expected to be submitted imminently (67, 76 and 250 dwellings). These are all Local Plan allocations, which are shown in the CIL revenue forecast for delivering housing later in the forecast. Development Management will aim to determine these applications within the 13 week timeframe. Given that CIL is liable at the point planning permission is granted, if CIL is delayed then there is a risk that CIL will not be collected for some or all of these developments. However, S106 agreements can still be entered into with the applicant where mitigation is required to make the development acceptable in planning terms¹.

31. Options include:

- a) Deferring CIL for 3 months - Insufficient time to recruit and set up system. One quarter of the financial year revenue will be lost. Some potential of securing levies against planning applications identified in paragraph 29.
- b) Deferring CIL for 6 months - Sufficient time to recruit and set up system, however half of a financial year will be lost and only limited potential of securing levies against planning applications identified in paragraph 29.
- c) Deferring CIL for 12 months - Sufficient time to recruit and set up system, however a full financial year of CIL revenue would be lost and planning applications identified in paragraph 29 would most likely be determined before the levy goes live.

(END)

¹ National Planning Policy Framework paragraph 56 and Regulation 122(2) of the CIL Regulations 2010