



CABINET

13TH JUNE 2017

AGENDA ITEM (10)

COMMUNITY INFRASTRUCTURE LEVY - DRAFT CHARGING SCHEDULE

Accountable Member	Councillor NJW Parsons Deputy Leader of the Council and Cabinet Member for Forward Planning
Accountable Officer	James Brain Forward Planning Manager 01285 623519 james.brain@cotswold.gov.uk
Purpose of Report	To agree the Community Infrastructure Levy Draft Charging Schedule for Cotswold District, for submission to the Secretary of State for Communities and Local Government.
Recommendation(s)	<p>(a) That the Cotswold District Council Community Infrastructure Levy Charging Schedule and its supporting documents (attached at Appendices 'A', 'B' and 'C') be approved for formal submission to the Secretary of State in accordance with the statutory requirements of the Community Infrastructure Levy Regulations 2010 (as amended);</p> <p>(b) that the Deputy Leader of the Council and Cabinet Member for Forward Planning be authorised to approve further minor amendments, as necessary, prior to formal submission to the Secretary of State;</p> <p>(c) that the consultation on the Draft Regulation 123 List and the Draft Instalments Policy be noted.</p>
Reason(s) for Recommendation(s)	To ensure that the Council (i) complies with the relevant provisions of the Planning Act 2008, and the Community Infrastructure Levy Regulations 2010 (as amended) in setting its Community Infrastructure Levy (CIL) and (ii) secures an appropriate level of infrastructure provision to support new development.
Ward(s) Affected	All
Key Decision	Not applicable
Recommendation to Council	No

<p>Financial Implications</p>	<p>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 Local Development Framework earmarked reserve.</p> <p>Provision has been made with the Council's Medium Term Financial Strategy for the development of the Local Plan. Funding will be made available via the Council's Priorities Fund as the Local Plan work progresses to adoption.</p> <p>The costs involved in preparing for CIL so far relate to the commissioning of the Infrastructure Delivery Plan 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. Additionally, the update to the Whole Plan Viability Study, "<i>The Post PDCS Note October 2016</i>" was prepared for the Draft Charging Schedule (£3,028) and on-going 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.</p> <p>The number of days required from consultants is dependent on the number of representations received to the public consultation that the Inspector wishes to discuss at Examination. 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.</p> <p>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.</p>
<p>Legal and Human Rights Implications</p>	<p>The Council needs to ensure that it complies with the relevant provisions of the Planning Act 2008, and the Community Infrastructure Levy Regulations 2010 (as amended) in setting its Community Infrastructure Levy (CIL).</p>
<p>Environmental and Sustainability Implications</p>	<p>None</p>
<p>Human Resource Implications</p>	<p>Staffing resource implications are covered elsewhere in this report.</p>
<p>Key Risks</p>	<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 identified in the Local Plan, given the limitations on pooling of Section 106 planning contributions.</p> <p>Additionally, a delay in submitting the 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 submission could result in the need to have a separate examination and, therefore, additional cost.</p>

	<p>There is a risk of national CIL regulations changing up to and even during the CIL examination. The National Review of CIL was published in February 2017. This independent review of CIL and its relationship with Section 106 planning obligations found that the current system is not as fast, simple, certain or transparent as originally intended. The Government is now examining the options for reforming the system of developer contributions, including ensuring direct benefit for communities, and will make an announcement at the Autumn Budget 2017.</p> <p>Until the Government's announcement in the Autumn Budget 2017, there is no certainty as to the actual format of the changes, if indeed any are made. New regulations are likely to take at least two years to pass through parliament and come into force. Transitional arrangements will then be made for those Councils with an adopted CIL.</p>
Equalities Analysis	An Equalities Impact Assessment has been prepared.
Related Decisions	Cabinet - 20 th October 2016 - Community Infrastructure Levy - Draft Charging Schedule
Background Documents	<ul style="list-style-type: none"> i. Cotswold District Draft Charging Schedule (October 2016) ii. Cotswold District Preliminary Draft Charging Schedule (June 2016) iii. Cotswold District Infrastructure Delivery Plan (April 2016) iv. Cotswold District Whole Plan and CIL Viability Study (April 2016) v. Cotswold District Post PDCS Viability Note (October 2016) vi. Cotswold District Infrastructure Delivery Plan Funding Gap Analysis (April 2017)
Appendices	<p>Appendix 'A' - Cotswold District Community Infrastructure Levy: Draft Charging Schedule (October 2016)</p> <p>Appendix 'B' - Cotswold District CIL Draft Charging Schedule Consultation Statement (April 2017)</p> <p>Appendix 'C' - CIL : Draft Regulation 123 List (October 2016)</p> <p>Appendix 'D' - CIL: Draft Regulation 123 List Consultation Report (April 2017)</p> <p>Appendix 'E' - CIL : Draft Instalments Policy (October 2016)</p> <p>Appendix 'F' - CIL Topic Paper (with Q&As)</p> <p>N.B. THESE APPENDICES ARE CONTAINED WITHIN A STAND-ALONE DOCUMENT, WHICH IS ATTACHED TO THESE AGENDA PAPERS</p>
Performance Management Follow Up	Subject to Council approval, submit the CDC Community Infrastructure Levy Draft Charging Schedule, and its supporting documents, to the Secretary of State for public examination.

<p>Options for Joint Working</p>	<p>Adjoining authorities in Gloucestershire and West Oxfordshire are at an advanced stage of preparing CIL. Under the Duty to Co-operate, they have been contacted throughout the preparation of the Charging Schedule.</p> <p>The Council is investigating with neighbouring authorities how it might share resources and expertise to implement and manage the CIL once adopted.</p>
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<p>Background Information</p> <p>1. <u>General</u></p> <p>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. A copy of the CIL is attached at Appendix 'A'.</p> <p>1.2 The CIL enables the Council to raise funds from new development, in order to fund a wide range of infrastructure that is needed to help support development and deliver the Local Plan. The CIL is a tariff-based approach, set out in a Charging Schedule, which indicates how much developers would be required 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.</p> <p>1.3 The Council has a choice of 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.</p> <p>1.4 The CIL charge would apply to all development containing over 100 square metres (internal) floorspace, or a new dwelling of any size. There are some exemptions, for example charities, social housing and self-builds. It is paid as '£ per square metre' on net additional (internal) floorspace. Rates can vary by geographic area, use or size (or any combination of the three), based on viability. It becomes due when the development starts. The landowner is responsible for paying it to the Council.</p> <p>1.5 The Council needs to strike an appropriate balance between the desirability of funding infrastructure from CIL and the potential effects of the imposition of CIL on the economic viability of development across its area. There is a defined process for preparing the charge, and an independent examination to test the rates and robustness of the evidence.</p> <p>1.6 In setting the proposed CIL rates, the Council has had regard to several considerations, but principally:-</p> <ul style="list-style-type: none"> • representations made on the Draft Charging Schedule (October 2016); • post-PDCS Viability Note (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; • input from stakeholders.
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1.7 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 assesses infrastructure needed to deliver the Local Plan and identifies what infrastructure schemes the CIL can help to fund.

1.8 The proposed rates of CIL in the DCS are as follows:-

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 ²
Residential <i>Chesterton Strategic Site</i>	£0/m ²
Retail Development	£60/m ²
All Other Development	£0/m ²

2. The Cotswold District Council Community Infrastructure Levy : Draft Charging Schedule Consultation

2.1 At its meeting on 20th October 2016, the Cabinet approved the Draft Charging Schedule (DCS) and its supporting documents for consultation (Minute CAB.34 refers). This consultation took place over a period of four weeks starting Monday 31st October 2016 and closing on Monday 28th November 2016.

2.2 This report focuses on the responses to the DCS and its supporting evidence, as it is the DCS that is submitted to the Secretary of State and is subject to an Examination in Public.

2.3 This report will also note the consultation on the two following documents, which are not in themselves examined:-

- The Draft Infrastructure (Regulation 123) List (Document of Projects that will not be secured through Section 106 or Section 278) (October 2016) is considered to be appropriate available evidence and its submission is required at the examination;
- CIL: Draft Instalments Policy (October 2016) - which supports the implementation of CIL.

2.4 The Council received 138 representations from 20 contributing consultees to the DCS. The consultees were landowners, developers, Town and Parish Councils, members of the public and Gloucestershire County Council. The main issues raised include:-

- challenges to the viability evidence;
- opposition to the charge for Sheltered Housing and Extra Care housing;
- the zero rating for housing on the Chesterton Strategic Site;
- the charge for retail on the Chesterton Strategic Site;
- a request for more exemptions to the charge;
- a general misunderstanding on the content of the DCS - that it should contain more information and/or cover implementation and projects to be funded by CIL;
- support for CIL and the proposed charging rates.

2.5 A summary of the representations, and the Council's response, are attached at **Appendix 'B'**.

2.6 In considering these representations, Officers have had regard to the following principle - that the Focus of the Examination in Public examination is on:-

(i) whether the Council has proved the need for CIL through the IDP Funding Gap Analysis;

(ii) whether the correct balance between infrastructure provision and the impact of the amount of CIL on development viability has been balanced appropriately in accordance with Regulation 14 of the CIL regulations (as amended).

2.7 The need for CIL (point (i)) has been established and is set out in the IDP Update 2016. The funding gap has not been disputed in the consultation representations.

2.8 However, when considering point (ii), the rate of CIL is based on the Viability Assessment, and not the need for infrastructure. As is the case with all Local Planning Authorities who have introduced CIL, our evidence shows the CIL will not fund the whole gap. It is currently anticipated that £6,436,800 will be collected from CIL and the Council's proportion equates to £5,149,440 (with the balance being the neighbourhood proportion given to Town and Parish Councils). The total CIL will fund approximately 32% of the identified prioritised infrastructure over the Local Plan period and 40% of the identified gap. Again, these figures are consistent with other Local Planning Authorities. Working with GFirst, LEP, the County Council and Town/Parish Councils will be essential to deliver strategic infrastructure.

2.9 Most of the representations received on the DCS challenged the evidence underpinning the Viability Assessment as they believe the proposed rate of CIL is too high or shouldn't apply to their type of development. These representations have been assessed by the Consultants who prepared the Whole Plan Viability Assessment, HDH Planning Consultants, who do not consider that the points raised necessitate a review of the Charging Schedule prior to submission.

2.10 Other Representations

Many representations reflect a misunderstanding of the CIL legislation or have used the consultation to make representations on the Local Plan. As previously stated in the October 2016 report to the Cabinet, 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, including Town/Parish Councils, to ensure infrastructure supports the delivery of the Local Plan.

3. Supporting Document Consultation: Draft Regulation 123 List and Draft Instalments Policy

3.1 The Council consulted on these two supporting documents at the same time as the DCS. Whilst not subject to Examination in Public (EiP), they are supporting documents, the Draft Regulation 123 List is considered to be evidence, and therefore they are likely to be referred to during the DCS EiP. However, it is possible that the outcome of the EiP may affect the content of these documents, resulting in the need for revision and further consultation. A copy of the Draft Regulation 123 List and the Consultation Report is attached at **Appendices 'C' and 'D'**.

3.2 A summary of the consultation responses is as follows.

3.3 The Draft Regulation 123 List Consultation

3.3.1 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. The Council is required to publish a list of Infrastructure types/projects, known on the Regulation 123 List, which the Council intends will be, or may be, wholly or partly funded by CIL and will **not** be funded through S106 obligations and/or Section 278 Highway Agreement.

3.3.2 There were 25 representations made by 21 Consultees. The main issues raised included:-

- the Regulation 123 was noted or supported;
- objection was raised to certain infrastructure projects not appearing on the list, which would affect viability of development;
- additional projects or spending priorities were suggested;
- information requested that would not appear in the Regulation 123 List, including the need for a Supplementary Planning Document to be produced.

3.3.3 In considering these representations it should be noted that:-

- the Regulation 123 List is not a shopping list of projects, but contains projects that have been identified as being critical or essential for the delivery of the Local Plan (and where Section 106 or Section 278 funding is not going to be sought);
- projects can still be funded by CIL even though they do not appear on the List;
- if a project does appear on the List, it cannot be funded through Section 106 or Section 278 contributions; this means that the Council must work closely with the infrastructure delivery bodies, such as the County Council for example, who provide schools and roads, to ensure that funding for these projects is made by the correct type of developer contributions; therefore, if there is any uncertainty in how a project should be funded, it is better that it does not appear on the Regulation 123 List, which can make the List rather short and not provide the clarity that it was originally intended to;
- if a Council does not prepare a Regulation 123 List, then no Section 106 or Section 278 developer contributions can be collected;
- discussions with the infrastructure providers are on-going and, although the Draft Regulation 123 List will remain the same for submission, amendments may be necessary during or after the examination process.

3.4 Draft Instalments Policy

3.4.1 The CIL Regulations allow the Council to make certain choices about how to implement the CIL. Payment by instalments significantly assists with the cash-flow and viability of schemes, particularly on large schemes. Instalments are very similar to the Section 106 'triggers' approach but time based, 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.

3.4.2 There were 15 representations from 10 consultees. The main issues raised included:-

- support for the Instalments Policy as it assists with scheme viability;
- concern that a delay in obtaining CIL receipts will delay the provision of infrastructure, including that to be funded by local communities through the neighbourhood proportion;
- requests for the Instalments Policy to be altered, including lowering the proportion to be charged in the earlier stage payments to assist with scheme viability;
- miscellaneous comments not related to the Instalments Policy but to the Local Plan.

3.4.3 In considering these representations it should be noted that:-

- the Whole Plan and CIL Viability Assessment has assumed an Instalments Policy will be adopted;
- further discussion with our Infrastructure Partners, including with Town/Parish Councils, will be necessary to ensure implementation of projects are delivered in a timely fashion. Given the timescales for the adoption of CIL, this further discussion should take place once the Examination in Public of the Draft Charging Schedule has raised any potential issues that need addressing have been resolved.

4. Consultation and Engagement

4.1 Responses to the Preliminary Draft Charging Schedule consultation made clear the need for the Council to continue 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.

4.2 Therefore, the following events were held during the consultation period on the Draft Charging Schedule and its supporting documents:-

- a workshop for infrastructure providers and developers to further test assumptions and evidence and examine the funding mechanisms for the infrastructure identified in the IDP and Local Plan through either CIL or Section 106 and Section 278;
- a workshop for Town/Parish Councils to explain the CIL process and their role within it;
- two 'Drop-In' events, to be held at the Council Offices in Cirencester and Moreton-in-Marsh on 15th and 17th November 2017 respectively, where members of the public, or other interested parties, can view the DCS and ask Officers questions about it;
- the publication of information on the Council's Website.

4.3 Given the content of some representations made to the DCS, it is clear that the complexity of CIL necessitates further communication and engagement as it progresses through to implementation.

5. Timetable

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

	Key Milestone	Timescale
1	Complete essential evidence <ul style="list-style-type: none">• Infrastructure Delivery Plan• Whole Plan Viability study	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	Completed
7	Publish Draft Charging Schedule for public consultation	Completed
8	Council decision to Submit Draft Charging Schedule	13 th June 2017
9	Submit Draft Charging Schedule for Examination	TBC (no earlier than 16 th June)
10	Examination Hearings	To be confirmed by Planning Inspectorate (NB to be heard after the Local Plan EiP , expected Autumn 2017)
11	Inspector's report	To be confirmed by Planning Inspectorate
12	Adoption and implementation	Dependent on examination process

6. Next Stages

Subject to approval by the Council, the next stage is to formally submit the DCS and its supporting documents to the Secretary of State. The DCS will then be subject to an EiP, the timing of which is dependent on the Planning Inspectorate and the EiP of the Local Plan. It is expected that the CIL examination will follow immediately after the conclusions of the Local Plan examination hearings.

7. Conclusion

For the reasons set out above, Officers recommend that the Council approves the DCS and its supporting documents for submission to the Secretary of State.

(END)