

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Leader and Cabinet

27 June 2013

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COMMUNITY INFRASTRUCTURE LEVY PRELIMINARY DRAFT CHARGING SCHEDULE

Purpose

1. This report is to inform Cabinet of the progress being made in respect of the Community Infrastructure Levy (CIL) and seek approval for the Council to consult on the Preliminary Draft Charging Schedule (PDCS).
2. This is a key decision because
 - it is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates.
 - it is likely to be significant in terms of its effects on communities living or working in an area of the District comprising two or more wards

and it was first published in the 8 March 2013 Forward Plan.

Recommendation

3. Cabinet is requested to
 - (a) note the interim viability report at attached as **Appendix A** and
 - (b) approve the Community Infrastructure Levy Preliminary Draft Charging Schedule (PDCS) shown in **paragraph 39 below** for consultation under the emerging Local Plan.

Reasons for recommendation

4. This approach accords with the National Planning Policy Framework and CIL guidance recommending that charging authorities work up CIL and the Local Plan alongside one another. The Council now has all the relevant information required to undertake this consultation that will run at the same period as the Local Plan consultation between the dates of 19 July and 30 September 2013.

Background

5. The CIL is a new charge which local authorities in England and Wales are empowered to charge on most types of new development in their area. It was introduced by the Planning Act 2008 and the Community Infrastructure Levy (CIL) Regulations came into force in April 2010.
6. CIL is levied on new buildings excluding those into which 'people do not normally go' (CIL Regulation 6) and rates are based on simple formulae on a per square metre basis and is based on the net impact of development. Affordable housing is exempt from CIL.

7. Whilst CIL will to a large extent replace the use of tariff style section 106 policies, the Local Planning authority may still secure contributions towards local infrastructure so long as the following tests are satisfied:
 - (a) Necessary to make the development acceptable in planning terms
 - (b) Directly related to the development, and
 - (c) Fairly and reasonably related in scale and kind to the development.
8. On 3 July 2012 the Planning Policy and Localism Portfolio holder approved the CIL project plan in respect of the adoption of a CIL charging schedule. Since that date, officers have been compiling the necessary evidence to comply with the CIL Regulations and are now seeking approval to consult on the PDCS.
9. The CIL project has since transferred to the Planning and Economic Development Portfolio Holder.
10. The Council has received a joint infrastructure delivery study with Cambridge City Council undertaken by Peter Brett Associates, An executive summary is shown at **Appendix B**, which identifies the infrastructure needs of the District and other potential funding sources. The study demonstrates a significant funding gap and therefore provides a justification for the Council charging CIL. The study is being updated to relate directly to specific infrastructure items based on the new Local Plan.
11. Ahead of the consultation on the Draft Charging Schedule the Council is required to have identified for publication a list of infrastructure items (commonly known as a Regulation 123 list) that the Council intends funding in whole or in part through CIL receipts.
12. Government is currently consulting on another set of amendments to the Regulations. One proposal is to defer the restriction of pooled planning obligations from April 2014 to April 2015. It is expected that the outcome of the Government consultation will be announced in the autumn. This will present the Council with an opportunity to review its overall approach to CIL at the same time as the responses to the PDCS.
13. A second proposal of the consultation is to change the test from the charging authority (i) aiming to strike an appropriate balance to that of (ii) requiring it to strike an appropriate balance. This subtle change may put additional emphasis on the evidence that is put to the examiner.
14. As CIL is non-negotiable should the Council wish to encourage some developments in the District it will be other planning policies (notably affordable housing) that are reduced to increase viability.
15. The Regulations allow the charging authority to retain up to 5% of receipts to pay for the cost of administering CIL.
16. As both a charging and collecting authority the District Council will have a significantly greater control of money resulting from development as, under the existing section 106 system, monies are ordinarily allocated and paid directly to service providers.
17. The Regulations are in all likelihood going to be amended in 2014 to require charging authorities to pass on a defined amount of money to Parish Councils set at 15% where no Neighbourhood Development Plan is in place and 25% where one is in place.

18. The CIL Regulations require the charging authority to undertake consultations with a wide range of consultees. All submissions and the Council responses to each representation will be published on the CIL website following the consultation.

Considerations

19. The recommendation is to adopt CIL under the emerging Local Plan in accordance with the National Planning Policy Framework and CIL guidance. This also ensures that the CIL evidence is more robust with the Council assessing both future policies and location of development to help inform the PDCS. A separate viability assessment will be published alongside the Local Plan.
20. CIL Regulation 123 as currently drafted states that the Council would be unable to secure more than 5 planning obligations to fund one piece of infrastructure after 6 April 2014. A CLG consultation that ran during spring 2013 on further CIL reforms proposes to defer this date to April 2015 to enable Councils to get CIL in place. The Council will continue to secure financial contributions through section 106 agreements to fund infrastructure.

Viability Evidence

21. The Regulations require a charging authority to use 'appropriate available evidence to inform the draft charging schedule'. A charging authority's proposed levy rates should be reasonable given the available evidence, but there is no requirement for a proposed rate to exactly mirror the evidence'.
22. Guidance also states that CIL rates are required to positively contribute towards and not threaten the relevant plan, however, the Regulations also accept that some developments will be rendered unviable due to the imposition of CIL.
23. It is considered that appropriate evidence can take three forms:
- (a) desktop exercise undertaken by independent viability expert using recognised methodology,
 - (b) assessment of monies raised through section 106 agreements from a wide range of recent developments, and
 - (c) assessment of the CIL levies taken forward and adopted by neighbouring authorities.

This Council is undertaking all three of the above exercises to inform the proposed rates.

24. The Council has received an interim viability report, shown at **Appendix A** undertaken by Dixon Searle Partnership (DSP), which demonstrates the level of which they believe CIL may be applied across the District. A final viability report will be published at the time of the consultation and be a matter for that consultation.
25. A residential rate of up to £125 psm has been confirmed as being viable across the majority of the village development sites that are being proposed through the Local Plan. In accordance with guidance CIL should not be set at the margins of viability and it is recommended that a buffer is allowed for in charging schedules in the event of further uncertainty and fluctuations in the housing market. It is therefore suggested that a residential CIL rate of £100 psm is consulted on through the PDCS.

26. DSP have suggested that the Council apply a CIL rate of £125 for supermarkets and retail warehousing developments.
27. The viability evidence does not demonstrate that this level of CIL could be applied across all retail development and, like many other authorities, the recommendation is to apply a lesser CIL rate for small convenience based retailing and potentially other forms of comparison retailing. DSP have confirmed that this rate should be anywhere up to £75 psm. It is proposed to consult on a rate of £50 psm and to review this based on detailed responses from the development industry. The definition of what constitutes small convenience based retailing will be confirmed ahead of publication of the PDCS but several authorities to date have successfully adopted a split retail rate based on a threshold of 280 square metres, above which restrictions on Sunday trading apply thereby defining the type of retail operation.
28. Members will note that the PDCS does not include a charge for business use. Whilst the desktop appraisals demonstrated that there was insufficient evidence to apply a CIL to these type of development this does in no way prevent the District as Local Planning authority securing monies through section 106 agreement towards (for example) public transport of highways improvements so long as the request satisfies the relevant tests. CIL will also be subject to a regular review therefore a CIL will be applied to this use in future if it is considered to be viable at that point.
29. All guidance on CIL regulations recommend that charging authorities implement the most simple and transparent charging schedule. Whilst there is evidence to suggest that some parts of the District should perhaps levy lower and indeed higher rates than those proposed, it is considered that there is insufficient hard evidence to determine where such a line would be drawn should the District apply multiple charging zones.
30. With the exception of one area of land adjacent to the East of Cambridge, and strategic development sites, officers are recommending one single CIL zone that applies to the entire District. Both Cambridge City and South Cambridgeshire are taking a site forward referred to as land at North of Teversham Drift that was previously contained within the Cambridge East site allocation. As this site would come forward as one providing housing and facilities within both authorities, it is sensible for the area that is within South Cambridgeshire to have a CIL that exactly mirrors that being proposed by Cambridge City.
31. The CIL Regulations Guidance states that charging authorities should prepare evidence as to amounts of money received historically through section 106 agreements for comparison purposes. This exercise has demonstrated that many agreements secured a greater level of contribution thereby suggesting that the proposed rates are both justifiable and defensible.
32. The Regulations require the charging authority to have regard to representations made in respect of the PDCS ahead of a consultation on the Draft Charging Schedule. If representations unequivocally demonstrate that the proposed rates would have a detrimental impact on development industry in South Cambridgeshire the Council would have the option of changing the proposed rates ahead of consulting on the draft charging schedule.
33. If the Local Plan consultation results in substantive changes in the proposed policy, the Council will undertake further viability work for the purpose of CIL and subject to these changes may choose to undertake a second Preliminary Draft Charging Schedule consultation.

Strategic developments

34. In some cases, charging authorities could treat a major strategic site as a separate geographical zone where it is supported by robust evidence on economic viability. The Council considers that it is completely appropriate to pursue a solution for
- (a) existing allocated strategic sites under the current plan, and
 - (b) future strategic sites under the emerging plan such that its infrastructure needs are met entirely through planning obligations.

These sites are:

- (a) Northstowe,
- (b) Darwin Green II (formerly known as NIABII)
- (c) Wing (formerly known as land at Cambridge East)
- (d) Waterbeach
- (e) Cambourne West, and
- (f) Bourn airfield

the first three being allocated sites in the existing Local Plan.

35. This approach allows the Local Planning authority together with service providers to enter into a meaningful negotiation with applicants, without first having regard to a significant tax deduction which may or may not be used to fund infrastructure that the particular development requires.
36. The approach to allocating strategic sites is further illustrated by the fact that recent CIL examinations have confirmed that when assessing CIL viability, a charging authority has to assume a policy compliant level of affordable housing is being delivered. Phase 1 of Northstowe will deliver 20% affordable housing. Officers therefore consider that there would be a difficulty in justifying any level of CIL at examination.

Neighbouring Districts

37. Huntingdonshire District Council has been charging CIL since 2012 and has adopted a residential rate of £85 per square metre. Huntingdonshire require 40% affordable housing but the threshold is 15 dwellings in larger settlements but 3 dwellings in smaller villages. The planning policy adopted by Huntingdonshire is on the basis that section 106 contributions are not secure on sites of less than 200 dwellings.
38. East Cambridgeshire have introduced a residential CIL with three charging zones:
- (a) Littleport and Soham £40
 - (b) Ely £70
 - (c) Rest of District £90

East Cambridgeshire's affordable housing policy is at a threshold of 3 dwellings and requires 40% in the South of the District and 30% in the North of the District. Both Huntingdonshire and East Cambridgeshire successfully defended these rates at an examination in public and, given the affluent nature of South Cambridgeshire and buoyant housing market, this gives officers confidence as to the rates being proposed.

39. Cambridge City Council has recently completed their PDCS which proposes a residential CIL of £125 per square metre.
40. The South Cambridgeshire Preliminary Draft Charging Schedule is as follows:

Development type	Rate per square metre
Residential All District except where defined below	£100
Residential Land at Northstowe, Darwin Green II, Wing, Waterbeach, Cambourne West, Bourn airfield	£0
Residential Land at North of Teversham Drift	£125
Retail warehousing / Large supermarket*	£125
Small convenience*	£50
All other uses	£0

* Definition to be confirmed ahead of the PDCS consultation

Options

41. The following options are available:
- (a) Approve the Draft Preliminary Draft Charging Schedule to be taken forward under the emerging Local Plan (recommended option)
 - (b) Approve the Draft Preliminary Draft Charging Schedule to be taken forward under the existing Core Strategy
 - (c) Approve an alternative Preliminary Draft Charging Schedule

Implications

42. Financial	<p>CIL will effectively provide an alternative funding stream from new development in the District. To a large extent it will replace the use of planning obligations and money raised from section 106 agreements. The Council as charging and collecting authority will have greater control and responsibility for this money, unlike under the current use of section 106 agreements where the County Council (for example) is a direct recipient of funding.</p> <p>The Council will be required to fund the cost of the CIL examination. If the examination is undertaken with the new Local Plan then a saving would be achieved.</p>
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Legal	<p>The Charging Schedule may only be adopted where the schedule has been through public consultation and receives a recommendation for adoption (with or without modification) from an inspector following an examination in public. The schedule must be based on relevant up to date information.</p> <p>The implementation of CIL will require the development of a legally compliant charging system and will require monitoring and enforcement to ensure payments are made. An appeals process will need to be in place and how CIL is spent will need to be a matter of public record in order to comply with the CIL Regulations.</p> <p>The recommendations contained within this report are the first stage of the process towards adoption of the charging schedule. The results of the consultation and further stages in moving towards adoption of a charging schedule will be the subject of further reports.</p>
Staffing	No implications arising directly from this report
Risk Management	The Council is at risk from securing money through section 106 agreements if Government does not amend the Regulations to defer the restriction on pooled contributions until April 2015 and a CIL charging schedule is not in place by April 2014.
Equality and Diversity	See Equality Impact Assessment (EqIA) Screening Form
Equality Impact Assessment completed	<p>Yes</p> <p>An Equality Impact Assessment (EqIA) Screening Form has been completed and is available to Members.</p>
Climate Change	Not applicable

Consultations

43. Ahead of producing the viability evidence a workshop was held on 6 December 2012 at South Cambs Hall for all local agents, developers and stakeholders to gather information specific to South Cambridgeshire. Unfortunately, and as anticipated, representatives from the development industry were largely unprepared to share too much information at that early stage. It is considered that more information will be submitted to the Council following the publication of the PDCS.
44. South Cambridgeshire is represented on two local CIL groups, Cambridgeshire authorities and Bedfordshire and Hertfordshire authorities. This allows South Cambridgeshire officers to share ideas and obtain views from other Councils in establishing best practice and the most appropriate solution for this authority.

Consultation with Children and Young People

45. The Youth Council have been updated on the CIL project through the relevant Development Officer and were invited to make comments. At the time of publication no comments were received.

Effect on Strategic Aims

46. Corporate Plan 2013-2018: The Three 'A's:

Aims

- We will listen to and engage with residents, parishes and businesses to ensure we deliver first class services and value for money
- We will work with partners to create opportunities for employment, enterprise, education and world-leading innovation

Approaches

- Promoting economic growth through effective planning policies
- Planning for timely infrastructure to support developments
- Maximising benefits to the community from new developments

Council actions

- A7. Ensure the South Cambridgeshire Local Plan and Community Infrastructure framework are based on effective engagement
- B6. Work with partners to deliver an effective, collaborative approach to strategic planning, transport and drainage
- B7. Ensure the effective delivery of Northstowe and other new communities

Conclusions / Summary

47. The Community Infrastructure Levy is a corporate project that is reaching the first key milestone on the path to adoption. The Council now has in place two compelling pieces of evidence being the Infrastructure Delivery Study and viability evidence sufficient to justify introducing CIL and at the appropriate rate.
48. Officers are therefore asking for Cabinet approval such that consultation on the Preliminary Draft Charging Schedule can take place.

Background Papers: the following background papers were used in the preparation of this report:

Appendix A - Interim viability report June 2013 Dixon Searle Partnership

Appendix B - Infrastructure Delivery Study September 2012 Peter Brett Associates

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