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11 January 2016

To: Councillor Robert Turner, Portfolio Holder

Henry Batchelor  
Kevin Cuffley

Aidan Van de Weyer

Opposition Spokesman  
Scrutiny and Overview Committee  
Monitor  
Opposition Spokesman

Dear Sir / Madam

You are invited to attend the next meeting of **PLANNING PORTFOLIO HOLDER'S MEETING**, which will be held in **MONKFIELD ROOM, FIRST FLOOR** at South Cambridgeshire Hall on **TUESDAY, 12 JANUARY 2016 at 2.00 p.m.**

Yours faithfully  
**JEAN HUNTER**  
Chief Executive

**Requests for a large print agenda must be received at least 48 hours before the meeting.**

#### **AGENDA**

**5 (a) Communities and Local Government Community Infrastructure Levy (CIL) review**

This item was not included on the agenda published on 4 January 2016. However, if the Council is going to feed into the Government's working group, a response should be agreed by 14 January, and it is not therefore possible to defer consideration until the next scheduled Planning Portfolio Holder meeting on 10 February 2016. The Planning Portfolio Holder and Chairman of the Scrutiny and Overview Committee have agreed that this item should be admitted as a late agenda item on the grounds of its urgency.

Appendix A (The DCLG Consultation document) is available by following this link:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/478123/151118\\_CIL\\_questionnaire\\_template\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478123/151118_CIL_questionnaire_template_final.pdf)

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**Report To:** Planning Portfolio Holder  
**Lead Officer:** Director – Planning and New Communities

12 January 2016

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## Communities and Local Government Community Infrastructure Levy (CIL) review

### Purpose

1. To agree the Council's response to a Government consultation seeking views on a review of the Community Infrastructure Levy (CIL).
2. This is not a key decision because it is securing the Portfolio Holder's endorsement as to the Council's consultation response, rather than creating new policy itself.

### Recommendations

3. It is recommended that the Portfolio Holder approves the draft response as per Appendix B and further provides delegated authority to the Director of Planning and New Communities to submit the response on behalf of the Council.

### Background

4. The Government confirmed in November 2015 would task an independent group with conducting a review of the Community Infrastructure Levy.
5. The group (which first met on 12 November 2015) will assess the extent to which CIL does or can provide an effective mechanism for funding infrastructure, and to recommend changes that would improve its operation in support of the Government's wider housing and growth objectives.
6. On 19 November 2015 CLG launched a consultation seeking views from a wide range of people.
7. The closing date for responses is 15 January 2015.
8. The group is independent and chaired by Liz Peace pro bono. The other members of the CIL review group are Andrew Whitaker (Home Builders Federation), Gilian MacInnes (Planning Advisory Service), Tom Dobson (Quod Planning), Steve Dennington (LB Croydon) and Michael Gallimore (Hogan Lovells) and Councillor John Fuller, Leader of South Norfolk District Council. Secretariat is being provided by DCLG.
9. By the end of March 2016, the Group will prepare a report for the Minister for Housing and Planning to consider. The report will include:
  - I. an assessment of whether CIL is meeting its objectives and any recommendations for future change;
  - II. an assessment of the relationship between CIL and Section 106, and how this is working in practice;
  - III. an analysis of the operation of the CIL system and specific recommendations of how it could be improved;

- IV. an assessment of how CIL is deployed by local authorities both to deliver infrastructure and to support community engagement

### Considerations

10. The Community Infrastructure Levy was introduced in April 2010. It sought to provide a faster, fairer, more certain and transparent means of collecting developer contributions to infrastructure than individually-negotiated Section 106 planning obligations.
11. Many aspects of the consultation relate to issues that charging authorities face. As such many questions simply do not relate to South Cambridgeshire District Council, as this Council has so far been prevented from introducing a CIL.
12. South Cambridgeshire District Council submitted its draft charging schedule to the Planning Inspectorate for examination in October 2014, following several years of evidence gathering with regards infrastructure and viability. Unfortunately as a result of delays to the local plan examination the Council has been told it is unable to undertake the examination and therefore adopt a CIL charge.
13. Although there have been suggestions (including from the Planning Advisory Service) that the adoption of a CIL is not necessarily predicated on an up to date development plan being in place, this is not clearly expressed in Government guidance and the Local Plan inspector has herself raised concerns about the Council's ability to introduce CIL ahead of the Local Plan.
14. The consequence is that the Council is continuing to rely upon the use of planning obligations (i.e. section 106 agreements) to secure necessary infrastructure. From April 2015 CIL Regulation 123 has prevented the Council from securing more than 5 contributions towards a type or piece of infrastructure and as such the experience of this Council is that service providers are simply unable to respond fully to planning application consultations in desired timescales. This issue is exacerbated having regard to the high number of windfall applications the Council is currently facing.
15. The thrust of the Council's response is on the basis of the inability to introduce a CIL at this time, despite being an area of high growth, and the challenges that service providers are facing in light of pooling restrictions.
16. Any new legislation or guidance introduced by Government will have an effect on the Council's decision making process (regarding CIL) and resourcing.
17. The key points highlighted in the draft response to the consultation are:
  - (a) Expectation that s106 Agreements will continue to remain significant sources of funding for infrastructure because the submitted Local Plan includes three new settlements and other strategic growth sites, which are proposed to be CIL exempt.
  - (b) CIL is expected to generate £16m over the period 2017 – 31
  - (c) The contribution of City Deal and other funding to infrastructure requirements
  - (d) The impact of the CIL regulations upon s106 funding for parish council and County Council schemes
  - (e) The potential impact of CIL exemptions for affordable and self-build housing schemes
  - (f) The complexity of the CIL Regulations
  - (g) Developing interest in Neighbourhood Plans from parish councils.
  - (h) Delays to the Local Plan affecting implementation of CIL

### **Options**

18. (i) To approve the consultation response as currently drafted
- (ii) To propose an alternative response to the consultation

### **Conclusion**

19. The Council has not yet introduced CIL, and therefore the consultation response is based upon our submitted CIL Schedule and its approach rather than direct experience of CIL in practice.
20. The proposed response highlights the issues that are faced by the Council, our partners and parish councils; and the approach we have taken towards both CIL and s106 Agreements.

### **Background Papers**

APPENDIX A: CLG Consultation

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/478123/151118\\_CIL\\_questionnaire\\_template\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478123/151118_CIL_questionnaire_template_final.pdf)

APPENDIX B: DRAFT SOUTH CAMBRIDGESHIRE RESPONSE

**Report Author:** James Fisher – Section 106 Officer  
Telephone: (01954) 713217

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**Draft South Cambridgeshire response**

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/478123/151118\\_CIL\\_questionnaire\\_template\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478123/151118_CIL_questionnaire_template_final.pdf)

**Please provide the following general background:**

**a. Brief description of your interest and involvement in CIL.**

South Cambridgeshire District Council is a local planning authority/CIL charging authority operating in a 2 tier local government system. We worked closely with Cambridge City Council as we prepared our evidence base and schedule, as we have shared sites and strategy. We have also liaised with our neighbour Huntindonshire District Council as it was a CIL pathfinder.

**b. If a local authority, the precise stage you have reached in the CIL process.**

South Cambridgeshire District Council submitted its draft charging schedule to the Planning Inspectorate for examination in October 2014 with the expectation that the examination would be held in 2015 following the completion of the examination into the new Local Plan, which was submitted in March 2014. The same Inspector has been appointed to both examinations. As a result of delays to the local plan examination the Council explored with the Inspector whether the CIL examination could be brought forward but that it looks unlikely in view of the links between the two. Therefore the adoption of a CIL charge has been delayed.

As the Council is not currently charging CIL it has not responded to certain questions within the questionnaire relating to the operation of CIL.

**c. If a developer/consultant, some indication of the number of different CIL processes you have been involved in, in relation to both:**

- 1. the setting of CIL rates, and**
- 2. payment of CIL for specific developments including details of the land use and the scale and type of development.**

N/A

**On Infrastructure:**

**i. To what extent is CIL contributing, or will it contribute, to infrastructure to support development and is that infrastructure being delivered?**

The development strategy for South Cambridgeshire District Council focuses a significant amount of growth on strategic sites, including urban extensions to Cambridge and three new settlements. The growth strategy in the new submitted Local Plan has been aligned with Cambridge City Council's Local Plan and strategic issues are being considered through joint hearings at the Local Plan examinations.

The Council is taking the approach in its CIL charging schedule to exempt strategic sites and to propose to secure infrastructure through Section 106 contributions. Therefore both S106 and CIL will be important in delivering infrastructure to support growth.

The Council would expect the greater part of contributions to infrastructure delivery over the plan period to 2031 to be from S106 contributions from the strategic sites, however it is also expected that CIL receipts will generate circa £16m in over the plan period (to 2031).

**ii. Has the role of the Planning Authority changed with the introduction of CIL and if so where has this worked most effectively?**

N/A as CIL not yet adopted.

**iii. How are large items of essential infrastructure critical for key sites or growth locations being secured in the CIL and s.106 system?**

See question i above.

South Cambridgeshire District Council is not currently charging CIL, and the strategy that has been submitted for examination is on the basis that growth sites would be exempt from CIL, with all necessary infrastructure being delivered through a section 106 agreement. The reason for this is 2 fold:

- a) This approach provides certainty to the service providers that relevant infrastructure (i.e. a primary school) will be delivered at the agreed point in time
- b) This approach allows the local planning authority and developer to more effectively negotiate s106/affordable housing in viability terms without a further complication of the complex tax system, that is CIL.

**iv. What role are CIL and s.106 playing alongside other sources of infrastructure funding and could changes to CIL (e.g. the ability to borrow against it or in kind contributions) allow it to be more effective?**

The Council has a track record of securing funding for infrastructure from a variety of sources including its City Deal, and other external funding routes. The Greater Cambridge City Deal was signed in June 2014, and brings potentially £500m for infrastructure investment. In addition, the Council has occasionally forward-funded particular projects against future developer contributions, for example, a pumping station for the new town of Northstowe. The Council works with the Local Enterprise Partnership on Growth Deal funding, and has recently had three sites included in a Wave 2 Enterprise Zone.

**v. What has been the impact of pooling restrictions? Is there a difference between authorities which have adopted CIL and authorities which have not adopted CIL?**

Since January 2010, the Council's development management policies secured contributions from all housing developments (down to single dwelling schemes) towards Parish Council projects. This system worked very well. As well as being fully transparent and flexible to viability considerations, it enabled Parish Councils to acquire land for recreation purposes and renovate village halls that were not fit to accommodate new growth. The effect of CIL Regulation 123(3) is such that these contributions can no longer be secured where they would involve the pooling of contributions from more than five developments. As such,



many of our Parish Councils are now simply unable to secure sufficient money to deliver the necessary facilities to take significant development through a number of smaller individual schemes.

There has also been an impact on the provision of some major pieces of infrastructure where there have already been five contributions secured under the previous policy when the number of contributions was unrestricted. For example, the County Council can no longer secure contributions towards the provision of new Household Waste Recycling Centres that cover a wider area. Service providers are also increasingly concerned that the grant of planning permission does not guarantee development coming forward, and there is a potential risk that projects may not be fully funded.

In the interim period before the adoption of CIL, the Council is responding to the challenging situation by identifying very specific schemes and aiming for them to be 100% funded if possible through specific developments. This in turn presents further challenges such as viability and therefore affordable housing levels.

South Cambridgeshire District Council is experiencing a significant level of growth in terms of planned development, including windfall development, and also speculative applications arising from the lack of a demonstrable 5 year land supply. Without CIL being in place, the Council has to spend considerable time weighing up the impact of such unplanned development, consulting with service providers to identify infrastructure to support development and agreeing individual s106 packages prior to determining applications.

**vi. What impact do exemptions and reliefs have on delivering infrastructure?**

There is a risk that the lack of CIL funding from affordable housing and self-build developments will make local support harder to secure for such applications due to lack of contributions to improve local facilities and fund infrastructure gaps.

**vii. How are local authorities who have not adopted CIL making provision for infrastructure and how effective are these approaches?**

See answer to v. above. The Council's interim approach pending adoption of CIL is to continue to use s106 appropriately to provide mitigation and meet infrastructure requirements. We take a strong partnership approach with our neighbouring authorities, working with City Deal partners and the Local Enterprise Partnership. The Cambridgeshire Joint Strategic Planning Unit is preparing a countywide infrastructure study to help provide a coordinated approach to infrastructure delivery and prioritisation.

**On Viability**

**viii. Has a lack of viability resulted in a failure to develop a CIL?**

No. The Council intends to implement its submitted CIL as soon as possible.

**ix. Have viability concerns resulted in a low CIL level and has this had an adverse impact on the delivery of infrastructure to support development?**

No.

**x. Are there appropriate tools available for establishing viability? Would standardisation using just one methodology be helpful or feasible?**

The Council considers that the approach to CIL viability is now well established (through CIL examinations) and does not necessarily require any further Government guidance.

In terms of site specific viability, current considerations include Planning Practice Guidance, RICS Financial viability in planning publication and Appeal decisions. We use expert advisers who use national best practice based on NPPG and RICS, but individual site circumstances can mean there is still a need to negotiate on planning applications to address site specific issues, for example, when local businesses are relocating. We therefore question the value of a single prescribed methodology.

**xi. Do you have specific examples where non-viability on account of CIL has prevented development?**

N/A

**xii. Is CIL impacting on affordable housing provision?**

N/A

**xiii. In setting a CIL Charging Schedule has the development community played their part and been properly consulted on issues of local viability?**

The Council considers that the majority of local agents demonstrate an understanding of CIL and consequences for sites that they may be promoting. We are conscious that, like ourselves, some charging authorities have sometimes found it difficult to engage housebuilders with the detail in rate setting (where information such as build costs and land transactions are vital) and therefore high level assumptions have often been made by consultants representing the Council.

**On Charge-setting:**

**xiv. Is the EIP process suitably robust?**

N/A

**xv. Should there be a requirement to review charging schedules at set times, if so when and why?**

There needs to be local flexibility to review CIL as necessary, although this should be within a national framework for monitoring the implementation of CIL and its impact upon development delivery. The backstop is that CIL reviews are aligned to Local Plan reviews. As CIL should not be set at the margins of viability there should be sufficient flexibility to continue to enable development if sales values decline. Further if the viability of a particular site was prejudiced then there are already mechanisms that would allow it to come forward (including a relaxation of other planning policies or CIL exemptions).

**xvi. Should partial reviews (eg. types of use or location) be possible?**

Subject to seeing the detail, this would appear to be logical as the introduction and review of CIL at present is (a) time consuming and (b) costly to the charging authority.

**On CIL Regulations and Guidance:**

**xvii. Are the CIL regulations and guidance easy to use and understand?**

There are elements of the CIL Regulations that are far from easy to understand, and anyone who is not an expert struggles to fully understand them. Furthermore the Regulations and the amendments (of which there are currently 5) all need to be read through to interpret each Regulation. We would welcome being able to rely on one set of Regulations when the charging schedule is adopted.

The guidance contained in the Planning Practice Guidance and that available on the Planning Portal is helpful.

**xviii. Are there improvements that could be made to the arrangements for collecting and spending CIL?**

No comment ahead of adopting our CIL.

**On Neighbourhood issues:**

**xix. How have the requirements for the Neighbourhood proportion of CIL been implemented?**

There is growing interest in preparing Neighbourhood Plans in the district since the announcement.

**xx. Is this encouraging communities' to support development?**

It is too early for us to say, however, the CIL payments are less than our former tariff system and our parishes know they will get less funding for local services and facilities under CIL. The growing interest in Neighbourhood Plans is likely to be influenced by the extra 10% CIL funding that will be paid in the event that a NP is in place, although it is too early to say how much growth will come through this source.

**Finally, on the overall system**

**xxi. Has the introduction of CIL made the system for securing developer contributions and delivering infrastructure simpler, fairer, more predictable, transparent and efficient?**

It is hoped that the adoption of our CIL will help to simplify securing developer contributions for eligible development. It would be helpful for Government to explore ways that the adoption of CIL could be fast tracked in cases where it becomes intertwined with lengthy Local Plan examinations.

**xxii. Is the relationship between CIL and s.106 fit for purpose and how is this working in practice?**

Our preferred approach is outlined in our submitted CIL, and remains to be tested through examination and in practice.

**xxiii. Is there a better way of funding the infrastructure needed to support development?**

The Council would be interested to discuss this question, and to hear what others propose.