

SUBJECT:	Community Infrastructure Levy (CIL)
REPORT OF:	Cllr John Read / Cllr Peter Martin
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WARD/S AFFECTED	All or specify individual wards affected by the item of report

1. Purpose of Report

The purpose of this report is to seek the agreement of the Cabinet to consult on the Community Infrastructure Levy Preliminary Draft Charging Schedule with the aim to consult later this year.

RECOMMENDATION to Cabinet

- 1. To agree to consult on Community Infrastructure Levy Preliminary Draft Charging Schedule.**

2. Reasons for Recommendations

- 2.1 In 2010 the Government introduced the Community Infrastructure Levy (CIL) as the preferred mechanism for securing developer contributions towards infrastructure to support growth in an area. The regulations which introduced CIL also require planning obligations to be scaled back to cover only site-specific obligations. The Community Infrastructure Levy (CIL) is a tool for local authorities to help deliver infrastructure to support new development. CIL is a mandatory charge levied on new developments that involve an increase of 100m² or more of additional floor space, or that involves the creation of a new residential unit.
- 2.2 The District Councils are in the process of producing a new combined Local Plan 2036. It is therefore prudent to introduce CIL at the current time so that it can be demonstrated how the CIL and associated Regulation 123 list will support delivery of the Local Plan 2036.

3. Content of Report

- 3.1 The Community Infrastructure Levy is a tariff in the form of a standard charge on new development, which is set by the District Councils to help the funding of infrastructure. It is intended to supplement, or top up, other sources of funding to widen infrastructure delivery.
- 3.2 Most development has some impact on infrastructure and should contribute to the cost of providing or improving infrastructure. The principle behind CIL is for those who benefit financially from a planning permission to pay towards the cost of funding the infrastructure needed to support development.
- 3.3 CIL will improve the Councils' ability to mitigate the cumulative impacts on infrastructure from most developments; unlike the former system of planning obligations which tended to affect mainly larger developments. Being charged on a per square metre basis, CIL charges will be proportional to the scale of the development. In investing in the infrastructure of the area, CIL is expected to have a positive economic effect on development in the medium to long term.

- 3.4 The Councils can set CIL rates in a Charging Schedule and can implement these, having undertaken two stages of consultation and an Examination in Public followed by adoption. The 2014 amendments to CIL Regulations Part 3, Regulation 14 mean that when setting CIL rates, the Councils must strike an appropriate balance between the desirability to fund infrastructure through CIL and the potential effect (taken as a whole) of the levy on the economic viability of development in the area where CIL charges apply. When considering infrastructure costs, the Council needs to estimate the cost of infrastructure to support development and take into account other sources of funding.
- 3.5 Regulation 13 of the CIL Regulations 2010 (as amended) makes provision for the setting of differential rates for different geographical areas, different development types/uses, and development size or a combination of them. Any differential rate should be justified by economic viability evidence.
- 3.6 The term 'taken as a whole' indicates that economic viability evidence is used to show that CIL rates can be borne by most development across the Districts. It does not mean that CIL rates can be borne by each and every development. The Councils are using emerging evidence in the Economic Viability Study to inform appropriate CIL rates.

Why introduce Community Infrastructure Levy?

- 3.7 The Councils are in the process of producing the new Local Plan 2036. The Charging Schedule and associated Regulation 123 list will demonstrate how the Local Plan can be delivered and so it is helpful to ensure the Charging Schedule is examined by the Planning Inspectorate (PINS) at the same time as the Local Plan 2036.

Background evidence to support the Preliminary Draft Charging Schedule (PDCS)

- 3.8 The following documents are being produced and will be available for the consultation stage of the PDCS:
- A draft Infrastructure Delivery Plan which sets out infrastructure requirements to support the delivery of the Local Plan 2036. The draft will be informed by the Buckinghamshire Infrastructure Strategy.
 - An Economic Viability Study is being undertaken by consultants and is an important piece of evidence to assist in determining the most appropriate level for the CIL tariff. It considers burdens placed upon new development through the new Local Plan's policies, such as affordable housing requirements and renewable energy.
 - An Infrastructure Funding Gap which will compare the likely CIL income from anticipated new developments with the cost of infrastructure that has been initially identified in the draft Infrastructure Delivery Plan. It is anticipated that CIL will not generate sufficient funds to pay for all the infrastructure identified. The Councils' intention is set the CIL rates to ensure that CIL can make a meaningful and needed contribution to the infrastructure needs across the two Districts.
- 3.9 Initial indications from the Economic Viability Study show that a charge of £150/m² (retail uses, housing, Houses in Multiple Occupation) and £35/m² (employment, hotels, institutions, assembly and leisure and other uses) is, generally, viable for development. This will undergo further sensitivity testing.

The CIL rates proposed in the Preliminary Draft Charging Schedule

- 3.10 The CIL regulations and the National Planning Practice Guidance (NPPG) specify that in setting their levies charging authorities should strike a balance between the need to fund infrastructure and the potential effects of the imposition of CIL on the economic viability of development across their areas. The overarching aim of CIL is to enable the delivery of growth, therefore, CIL should not be set too high.
- 3.11 In determining the appropriate CIL rates, consideration must be had for the financial burden this places on developers in combination with other requirements notably affordable housing provision. Affordable housing is a key priority for both Councils and therefore, through the development of Local Plan 2036 policy approach, affordable housing provision will be maintained and CIL rates will be set at a level that ensures the full affordable housing requirement can generally be achieved.
- 3.12 The infrastructure needs for strategic developments are often more complex and at a grander scale than for smaller sites. For these developments it is also important that funding is in place to deliver their key infrastructure as it will enable development of sites critical to Districts' housing and employment growth. The Councils are proposing a nil CIL rate for strategic sites larger than a particular threshold of number of C3 dwellings or certain site area (hectares) – both to be confirmed.
- 3.13 The proposed CIL rates are shown in the table below which also lists strategic sites subject to nil CIL charges. These strategic sites are expected to contribute towards infrastructure through S106 agreements.

3.14 The Economic Viability Study assesses the viability of development in Chiltern and South Bucks. The Study shows that the ability of development to support a CIL charge varies by type of development. CIL will be charged in pounds sterling (£) at differential rates according to the type of development set out in the schedule below:

Development type (Use Class)	CIL Rate/m2
Retail (A1-A5)	£150
Employment (B1 Business, B2 General industrial, B8 Storage or distribution)	£35
Hotels and Residential Institutions (C1, C2 and C2a)	£35
Housing and HMOs (C3 and C4)	£150
Non-residential institutions and Assembly and leisure (D1-D2)	£35
All development types unless otherwise in this table	£35
Strategic sites - larger than a particular threshold of C3 dwellings or site area (tbc)	£0
C3 includes all self-contained accommodation, including elderly and sheltered accommodation	

CIL rates will undergo further sensitivity testing through the Economic Viability.

CIL and Section 106 and the Regulation 123 List

- 3.15 CIL is the Government's preferred method for collecting pooled contributions to fund infrastructure. There remains a need for S106 obligations, but they must be restricted to the regulation of development and in particular site specific mitigation as their use relates to acceptability of a proposal in planning terms. S106 obligations continue to be the primary mechanism for securing affordable housing through the planning system.
- 3.16 The Regulation 123 list of the Community Infrastructure Levy (CIL) Regulations is a list of infrastructure that will be, or may be, wholly or partly funded by CIL. The effect of the list is to restrict the use of S106 Planning Obligations for infrastructure that will be funded in whole or in part by the CIL. This is to ensure no duplication or double charging towards the same infrastructure project.
- 3.17 The content of the Regulation 123 list will vary between authorities according to their circumstances and their requirements. For some authorities, where there are specific large scale pieces of infrastructure necessary to unlock development across the area, the Regulation 123 list could be very limited and focussed. In other areas where infrastructure requirements result from incremental increases in demand across the board, their list is likely to be more general in nature, enabling them to respond flexibly.
- 3.18 The Regulations require Authorities to publish a draft of their Regulation 123 list in advance of a CIL examination. Through the consultation on the PDCS, the Councils will be asking for opinions on the scope of the Regulation 123 list.

CIL and Section 106 on strategic sites

- 3.19 The PDCS proposes that on strategic sites S106 will be used rather than CIL. Such sites are likely to have major and expensive infrastructure demands which need to be delivered early to enable development to proceed. Where this is the case (and the statutory tests can be met) it is more likely that S106 obligations will be the appropriate delivery mechanism.
- 3.20 S106 could be used to fund specific transport works or other infrastructure such as educational and leisure needs arising as a result of the particular development. These contributions could be pooled with a maximum of four other S106 contributions to the same infrastructure project so careful application of S106 would be required. Contributions could not be combined with CIL spend or on other District wide infrastructure projects.
- 3.21 The case for excluding strategic sites from the CIL regime and using Section 106 procedures in its place will form part of the wider consultation on the PDCS. This reflects the nature of these large scale developments, the piecemeal way that large sites are developed over a number of years, and the need for the delivery of up front infrastructure.
- 3.22 The Regulation 123 list would therefore be reduced in scope to exclude specific strategic infrastructure associated with strategic sites and wider housing and economic growth. The emerging Local Plan will have a policy setting out that sites above a threshold (to be determined) would make contributions through S106 not CIL.

The Neighbourhood Portion of the CIL receipts

- 3.23 CIL receipts are split into 3 portions. 80% of the CIL receipts must be used for "*funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of the area*". 5% of the CIL receipts are spent on administration of the process.
- 3.24 The remaining 15% is known as the Neighbourhood Portion. Where the CIL receipt derives from a development within the area covered by a '*made*' Neighbourhood Plan that proportion is up to 25%. There is a cap of £100 (indexed) per dwelling within the area per financial year.
- 3.25 The CIL regulations allow for the Neighbourhood Portion of levy receipts to be used for a slightly wider range of things than the rest of the levy, namely:
- the provision, improvement, replacement, operation or maintenance of infrastructure; or
 - anything else that is concerned with addressing the demands that development places on an area.
- 3.26 All Councils must pass over the Neighbourhood Proportion of levy receipts from development where there is an accountable body. In Chiltern and South Bucks the areas are fully covered by Parish or Town Councils. In this circumstance the money (subject to the cap) would be passed to the relevant Parish or Town Council. The Planning Practice Guidance recommends that the District Council and the receiving Parish or Town Council should engage and work closely to agree with them how best to spend these funds.
- 3.27 There are provisions for the recovery of CIL monies by the District Council if a Parish or Town Council do not spend the Neighbourhood Portion of CIL receipts within 5 years of receiving it.

4. Consultation

- 4.1 Consultation on the Preliminary Draft Charging Schedule will take place for 6 weeks and is likely to be in November / December 2018.
- 4.2 The Councils will consult groups including developers, planning agents, stakeholders, Parish Councils, Residents Groups, the County Council, adjoining Councils, infrastructure providers and other likely interested parties. The consultation will be undertaken in line with the Statement of Community Involvement (SCI).
- 4.3 Likely stages of the process:

Preliminary Draft Charging Schedule (PDCS) Consultation (Reg 15)	Nov/Dec 2018
Draft Charging Schedule (DCS) Consultation (Reg 16)	Feb/Mar 2019
Submit Charging Schedule (CS) to Secretary of State alongside the new Local Plan 2036 (Reg 19)	July 2018
Examination by an independent Inspector (PINS) alongside the	Jan 2019

Local Plan 2036	
Adopt CIL Charging Schedule	June 2020
Update / publish new Supplementary Planning Document	June 2020

5. Options (if any)

- 5.1 Do not Introduce Community Infrastructure Levy. This is not recommended as it is important that infrastructure to support the sustainable growth of the Districts is provided in a timely way. CIL is the only mechanism which allows funding for infrastructure to be collected from sites of up to 10 homes. It is also a clear and consistent mechanism for collecting developer contributions which provide certainty to the development industry.

6. Corporate Implications

- 6.1 If the CIL Charging Schedule is adopted this will create a revenue stream to allow the Councils to invest in the infrastructure necessary to support the growth of the Districts.

7. Links to Council Policy Objectives

- 7.1 The implementation of the Community Infrastructure Levy (CIL) will assist in the delivery of:

- Key Theme 1: Thriving Economy
- Key Theme 2: Sustainable Environment
- Key Theme 5: Cohesive and Strong Communities

Key Objectives available here:

<http://www.chiltern.gov.uk/Aims-and-Objectives>

<http://www.southbucks.gov.uk/prioritiesandperformance>

8. Next Step

- 8.1 This will move through to be signed off by both Cabinets and Joint Members Working Group and the key stage will be consultation in November 2018 as referred to in 4.3 above.

Background Papers:	None other than referred to in the report.
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